

**Chris Kenny**  
**Chief Executive**



***Please quote Our Ref on all correspondence***

**Our Ref: CK/AA**

**Your Ref:**

9 November 2023

Ms Kaukab Stewart MSP  
Convenor  
Equalities, Human Rights and Civil Justice Committee  
Scottish Parliament

Established in 1902

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*Sent via email*

Dear Convenor,

Thank you for the opportunity to give evidence to your Committee on 7 November. I write to add one point on the practical problems that retention of a 10% legal ownership limit for Alternative Business Structures (ABS) would cause, expanding the points made by the witness panel, in my personal submission and also that of my company, MDDUS.

The rationale for the creation of ABSs has always been that they would encourage innovation in business models and the new entry of a very wide diversity of providers into the market, as well as potentially bolstering the financial position of existing players. The Bill addresses the latter point, but is inimical to the former.

The 10% rule positively prevents market entry by non-charitable not-for-profit organisations, local authorities, universities and others, all of which have successfully used the ABS model in England and Wales. In Scotland, such bodies, many of whom have significant numbers of legal staff with specialist expertise, would be forced to alter their existing operating models and enter into partnerships purely to meet the requirements of the legislation rather than the needs of consumers.

To use my current organisation purely as a hypothetical reductio ad absurdum example. Almost a quarter of our 220 staff are lawyers, a significant number of our medical and dental staff also hold relevant legal qualifications, we manage our finances to the standards of a regulated Solvency2 general insurer and have both Scottish and English trained lawyers on our Board. But, as a mutual, our owners are our 62,000 current and retired members. So, were we an organisation of our scale and nature ever to be minded to consider applying for ABS authorisation, it would have to set up a wholly new separate organisation and find a legal partner willing to take on 10% of the business - or find a way to bring 6200 lawyers into our membership overnight!

The provision clearly fails to pass any conceivable policy or practicality test and should be removed without delay.

Yours sincerely

Chris Kenny