

SPICe**The Information Centre**
An t-Ionad Fiosrachaidh

Social Justice and Social Security Committee

**20th Meeting, 2022 (Session 6), Thursday
23 June 2022**

Inquiry into low income and debt problems – Further information on costs of bankruptcy and recovery of public sector debts

Purpose of this briefing

The purpose of this briefing is to provide the Committee with further information on:

- costs to the Accountant in Bankruptcy of removing the fees for bankruptcy
- the proportion of money owed to public sector creditors that relates to official error

Accountant in Bankruptcy fees

The Committee was interested in the costs associated with reducing or removing fees for applying for bankruptcy.

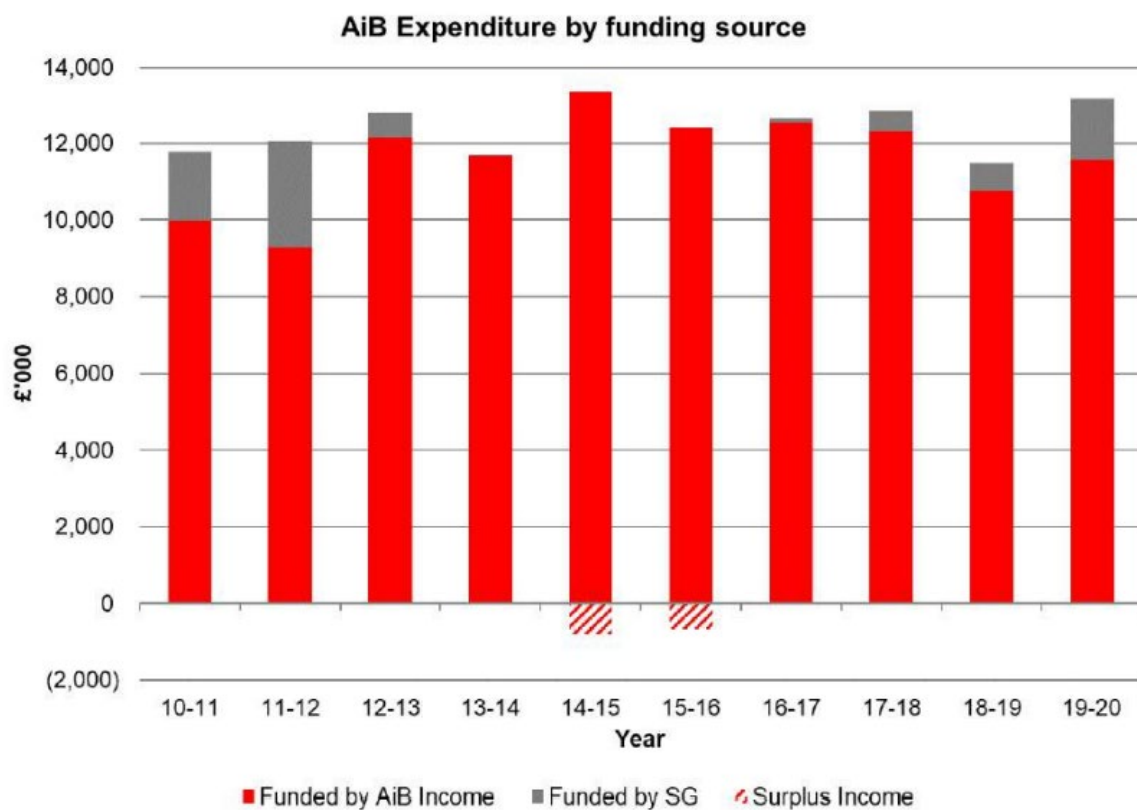
Bankruptcy fees were reduced – and exemptions for people receiving certain social security benefits introduced – as a response to the pandemic. The changes were made permanent in 2021. For Minimal Asset Process bankruptcy (for people with low income and few assets), the fee was reduced from £90 to £50 from May 2020. For full administration bankruptcy, the fee was reduced from £200 to £150.

The latest accounts available for the Accountant in Bankruptcy (AiB) are from 2019-20. They don't contain much information about income streams or costs broken down by statutory debt solution.

We do know that the average cost of administering a bankruptcy in 2019-20 was £406¹. This is not broken down between Minimal Asset Process bankruptcies and full administration bankruptcies.

The Accountant in Bankruptcy has provided further information about average costs of administering bankruptcies in a letter to the Committee. Provisional figures from 2021/22 suggest that the average cost to the Accountant in Bankruptcy of administering a full administration bankruptcy was £2,850. Income received was £1,260, giving an average loss of £1,590 per case.

The 2019-20 accounts contain a graph showing the varying extent of Scottish Government subsidy to the work of the Accountant in Bankruptcy over the past ten years.



Source: Accountant in Bankruptcy (2020) [Annual Report and Accounts 2019-2020](#). Page 55.

Loss of income if bankruptcy fees were removed

The Accountant in Bankruptcy has written to the Committee giving the income generated from bankruptcy fees between 2017/18 and 2021/22. These figures use the actual fee income, so reflect the higher charges before May 2020.

¹ Accountant in Bankruptcy (2020) [Annual Report and Accounts 2019-2020](#). Page 32.

The calculations below are an attempt to estimate what the loss of income would have been over the past four years had the current fee structure been in place. As explained above, the current fee structure provides for exemptions for people claiming certain social security benefits, as well as a reduction in fees for all other applicants.

[Statistics published by the AiB](#)² show that, over the financial year 2021-22, 82% of Minimal Asset Process bankruptcies did not pay an application fee. The same figures show that, over the financial year 2021-22, 54% of full administration bankruptcies did not pay an application fee.

If we use these figures as a rough benchmark, it is possible to estimate what loss of income might have been over the preceding few years for a full fee exemption – under the current fee structure – for bankruptcy applications.

It is important to note that the fee for applying for bankruptcy is not the only fee charged by the AiB. The AiB generates income by charging fees for asset realisation in bankruptcy (eg. the sale of a house) as well. However, these fees come from the income available to creditors rather than being a cost to people applying for bankruptcy.

The AiB charges fees for other types of work too, such as auditing work carried out by trustees in Protected Trust Deeds.

So, the AiB would still be able to generate fee income, even if the fee for applying for bankruptcy was removed. However, because the fee does not cover the full cost of work on a bankruptcy in most cases, the actual cost to the AiB of processing bankruptcies is likely to be greater than the income lost.

The calculations below are based on the current fee for a Minimal Asset Process bankruptcy of £50. In practice though, the fee was £90 before May 2020.

Table 1: estimated loss of income to the Accountant in Bankruptcy from removing the fee for Minimal Asset Process bankruptcies 2018-19 to 2021-22

Year	Total number of debtor applications for bankruptcy	Of which Minimal Asset Process bankruptcies	Estimated loss of income from removing application fee
2018/19	3,869	2,181	£19,600
2019/20	3,833	2,020	£18,200
2020/21	2,167	1,514	£13,600
2021/22*	2,169	1,539	£13,900

*Actual figures available for the number of MAP bankruptcies not paying a fee.

² Accountant in Bankruptcy (2022) [Scottish Statutory Debt Solutions Statistics: Quarterly edition](#). See 2021-22 Quarter 4, excel tables, Table 2.

The calculations below are based on the current fee for full administration bankruptcy of £150. In practice though, the fee was £200 before May 2020.

Table 2: estimated loss of income to the Accountant in Bankruptcy from removing the fee for full administration bankruptcies 2018-19 to 2021-22

Year	Total number of debtor applications for bankruptcy	Of which full administration bankruptcies	Estimated loss of income from removing application fee
2018/19	3,869	1,688	£116,500
2019/20	3,833	1,813	£125,100
2020/21	2,167	653	£45,100
2021/22*	2,169	630	£43,500

*Actual figures available for the number of full administration bankruptcies not paying a fee.

Table 3: total estimated loss of income to the Accountant in Bankruptcy from removing fees for all debtor applications for bankruptcy

2018/19	2019/20	2020/21	2021/22
£136,100	£143,300	£58,700	£57,400

The number of bankruptcies reduced during the pandemic. The costs to the AiB of removing the fee can therefore be expected to increase because bankruptcy numbers are expected to increase in the short to medium term. This is because of the economic impact of the pandemic and the cost-of-living crisis.

Separately, as the Accountant in Bankruptcy alluded to in evidence on 26 May 2022, more people may decide to apply for bankruptcy if the cost for doing so is removed.

Money owed to public sector creditors due to official error

The Committee was also interested in finding out what proportion of the money owed by individuals to public sector creditors was due to errors on behalf of the public body.

SPICe has been unable to track down this information for most public sector creditors. The only relevant information identified breaks down [social security benefit overpayments by fraud, official error and claimant error](#).

The Department for Work and Pensions defines fraud as cases where:

- the conditions for receipt of benefit are not being met

- the claimant can reasonably be expected to be aware of the effect on entitlement
- benefit stops or reduces as a result of a review.

Note that this goes well beyond the legal definition of fraud.

The estimates for “fraud” and error in the financial year 2021-22 are presented below, in £ millions.

Table 4: “Fraud” and error in payment of certain social security benefits in 2021/22, in £ millions

	All benefits	Universal Credit	Housing Benefit
“Fraud”	6,500	5,250	540
Claimant error	1,500	400	260
Official error	700	270	70
Total “fraud” and error	8,600	5,920	860
Total benefit expenditure	215,800	40,400	16,500
“Fraud” and error as a percentage of expenditure	4%	15%	5%

Source: Department for Work and Pensions (2022) [Fraud and Error in the benefits system: financial year 2021 to 22 estimates](#). See Tables: Fraud and error in the benefits system, 2021 to 2022 estimates (XLS), table 1.

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13 June 2022

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