



## Department for Business, Innovation & Skills

### **A Sharia-compliant alternative finance product for student – consultation response form**

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **12/06/2014**.

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**Organisation (if applicable):** Christian Concern and Christian Legal Centre

Christian Concern is a policy and legal resource centre that identifies changes in policy and law that will affect the Christian heritage of our nation. The team of lawyers and advisers at Christian Concern conduct research into, and campaign on, legislation and policy changes that may affect Christian freedoms or the moral values of the UK. Christian Concern reaches a mailing list of over 60,000 supporters.

[www.christianconcern.com](http://www.christianconcern.com)

Christian Concern is linked to a sister and separate organisation, the Christian Legal Centre, which takes up cases affecting Christian freedoms.

[www.christianlegalcentre.com](http://www.christianlegalcentre.com)

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	Advisory/consultancy
	Academia
	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

**Question 1 (refer to relevant paragraph numbers in consultation document)**

**To what extent, if any, are you aware that students with religious objections to the charging of interest have been affected by the changes in tuition fees and student loans? Please illustrate your answer with any specific examples you may have**

☐ No impact      ☐ some impact      ☐ large impact      ☐ Not sure

Comments:

We strongly disagree with the provision of sharia-compliant finance (SCF) in the UK. SCF has very little to do with the consciences of ordinary Muslim citizens, and is effectively an entity that has been introduced by the Islamic lobby worldwide as a means of Islamisation. The Barnabas Fund (*Barnabas Aid*, *infra*, at p. iv. See also Alexiev, *supra*, between fns. 19 and 20) has recognised that SCF uses Islamist interpretations of sharia law and that by treating these principles as if they were common to all Muslims, the **British Government has empowered Islamists**.<sup>1</sup> The Fund has also emphasised the pressure that individual Muslims are likely to face to make use of sharia-compliant products, thus perpetuating the cycle of Islamisation in the UK.<sup>2</sup> The recent so-called “Trojan horse” inquiry, which found evidence of Islamic fundamentalist teaching in at least five schools in Birmingham, would indicate very clearly that the aims and objectives of those who advocate Islamic finance are more political than religious.

It is well recognised that sharia law, which is given credibility by sharia-compliant products, does not treat Muslims and non-Muslims equally, and nor does it afford equal status to men and women. Furthermore, sharia law, when practised, is viewed as supreme and dominant in all affairs of mankind, and is regarded as beyond challenge and question. Sharia law is an Islamic legal system which claims to supersede all human laws, parliaments and democracies, and when in conflict with parliamentary legislation, demands that it remains supreme and dominant. In 2003, the European Court of Human Rights ruled that sharia law was “*incompatible with the fundamental principles of democracy as set forth in the Convention... Principles such as pluralism in the political sphere or the constant evolution of public freedoms have no place in it.*”<sup>3</sup> According to the Court, it was difficult to declare respect for democracy and human rights while at the same time supporting a regime based on sharia. Even Britain’s Highest Court ruled in 2008 that sharia law was ‘arbitrary and discriminatory’ and had “no place for equal rights between men and women.”<sup>4</sup> If the Government continues to

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<sup>1</sup> Barnabas Aid, *infra*, at p. iv. See also Alexiev, *supra*, between fns. 19 and 20.

<sup>2</sup> *Ibid.*

<sup>3</sup> <http://associationline.org/guidebook/action/read/chapter/7/section/jurisprudence/decision/212>

<sup>4</sup> <http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd081022/leban-1.htm>

accommodate SCF, it will lend sharia law the credibility that it does not deserve, as well as facilitating its spread and influence across Britain.

Whilst it is necessary to seek peaceful coexistence and mutual respect with Muslims, reconciliation should be based on realism and an awareness of the complex issues involved in traditional Islam. Traditional Islam is effectively an all-encompassing socio-political ideology, which seeks to regulate all aspects of the life of the believer, and which differs significantly from the Judaeo-Christian traditions and values that underpin our nation. Though we are told that Islam means Salam, or 'peace', the Koranic definition does not mean peace - it means surrender and submission to Islam.<sup>5</sup> Koranic teaching clearly instructs believers around the world to strive to establish an Islamic State, if necessary by coercive or forceful means.<sup>6</sup> Toward this end, the accommodation of SCF products would effectively amount to capitulation to Islam by the UK Government, as well as assist in furthering the aims and objectives of militant Muslims and Islamists in Britain.

SCF products cannot be designed or managed by non-Muslims; instead, each company or Government that wishes to offer such products must comply with the directives of a board of sharia scholars known as a Sharia Supervisory Board or Committee (SSB). This entails submission to the supposedly superior authority and jurisdiction of a group of (usually Islamist clerics) whose extramural activities have often included advocating or sponsoring terrorism.<sup>7</sup> In fact, there are a number of well-documented cases in which sharia-compliant financial institutions were reported as funding terrorist activities through "Islamic charities"<sup>8</sup>. There is a worrying reluctance on the part of the Government, however to acknowledge the link between terrorism and Islamic ideology.

Parliamentary legislation regulating student loans has not historically included any provision for conscientious objections, with countless Muslim students in the UK taking advantage of such loans year on year. As such, it would be odd for the UK to introduce special clauses for a minority within a minority. Furthermore, offering an alternative form of finance exclusively for Muslim students would introduce a discriminatory policy that is based on Muslim and non-Muslim categories. Giving preferential treatment to Muslim students is contrary to the values of fairness and equality which are hallmarks of the British democratic tradition.

There is no agreement between Islamic scholars on the issue of interest-based loans, and many agree that traditional student loans are not incompatible with Islamic law. Furthermore, the Supreme Courts of Pakistan

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<sup>5</sup> Sura 49 v 14, Sura 3 v 83

<sup>6</sup> Sura 9 v 5

<sup>7</sup> <http://www.breitbart.com/Big-Peace/2011/09/25/Sharia-Compliant-Finance-And-How-We-Are-Funding-Jihad-in-the-Heartland> and <http://www.shariahfinancewatch.org/blog/about-shariah-finance/>

<sup>8</sup> <http://www.shariahfinancewatch.org/blog/about-shariah-finance/>

and the UAE have both passed rulings permitting interests in banks, therefore invalidating the claim that Muslims are forbidden to make use of interest-based loans.<sup>9</sup>

## Questions 2

**Do you believe that there would be demand among students and potential students for an alternative finance product which was Sharia-compliant?**

☐ Yes      ☐ No      ☐ Not sure

Comments:

No. As mentioned earlier, countless British Muslims access traditional student finance loans year on year, and many Islamic scholars agree that such loans are not incompatible with sharia law.<sup>10</sup> The Supreme Courts of Pakistan and the UAE have both passed rulings permitting interests in banks, therefore invalidating the claim that Muslims are forbidden from making use of interest-based loans.<sup>11</sup> A working paper conducted by the World Bank has shown that it was mainly Muslim respondents in Sub-Saharan Africa who stated religion to be a barrier in financing whilst Muslims in other parts of the world stated cost and distance to be barriers.<sup>12</sup>

The Government has stated in its own consultation document<sup>13</sup> that it only has “some evidence” that Muslim students may be deterred from entering higher education because of their inability to fund such education through a loan. To date, the Government has not presented any robust evidence of a popular demand for a special SCF product among Muslim students. The Muslim student body is not a homogenous group with a general consensus on this issue; there is division between Sunni and Shia sects, and within each sect, there is difference of opinion between scholars.

## Questions 3

**Q3: Do you believe that students will be satisfied with the opinion of a Sharia advisory committee as to the Sharia-compliance of an alternative finance product?**

☐ Yes      ☐ No      ☐ Not sure

Comments:

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<sup>9</sup>ShameelaChinoy, 'Interest-Free Banking: the Legal Aspects of Islamic Financial Transactions', (1995) 10(12) Journal of International Banking Law, 522-523.

<sup>10</sup> <http://www.askthescholar.com/question-details.aspx?qstID=21744>

<sup>11</sup>ShameelaChinoy, 'Interest-Free Banking: the Legal Aspects of Islamic Financial Transactions', (1995) 10(12) Journal of International Banking Law, 522-523.

<sup>12</sup> <http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-6642>

<sup>13</sup> Page 8

As mentioned above, there is no consensus between Islamic scholars on the issue of interest-based loans, and neither is there any way of verifying whether or not a particular financial product is 'sharia-compliant'. The new system will be based entirely on the opinions of a sharia advisory committee, which may or may not be representative of the different views of Muslim students.

#### Questions 4

**Q4: Do you believe that students whose faith has resulted in concerns about the interest rate on traditional loans would find this alternative finance product acceptable? If not please provide an explanation.**

☐ Yes      ☐ No      ☐ Not sure

Comments

We do not believe it is possible to create a SCF product which would be acceptable to all Muslim students. As mentioned earlier, there is no agreement within the Muslim community, or between Islamic scholars, on the issue of interest-based loans, and neither is there any way of verifying whether or not a particular financial product is 'sharia-compliant'. The new system will be based entirely on the opinions of a sharia advisory committee, which may or may not be representative of the different views of Muslim students.

Furthermore, it creates a 'preferential' tier of funding when such funding should be equal and available to all under the rule of British law and not sharia.

Additionally, Muslim students will face at least four dilemmas if offered this alternative form of finance, which may act as a deterrent to accessing the proposed new scheme. Firstly, the Access to Learning Fund only accepts requests from undergraduates who have applied for their full maintenance loan entitlement. Secondly, if students wish to open a student account with the interest-free overdraft service, banks demand to see verification of a maintenance loan. Thirdly, certain charitable trusts specifically reject students who are permitted to obtain a maintenance loan. Fourthly, if a student is permitted to apply for welfare benefits, the Benefits Agency will presume that the individual has obtained their loan and will decrease the benefit entitlement accordingly.

#### Questions 5

**Q5: Do you believe that the working of the proposed alternative finance product would be understandable to students?**

☐ Yes      ☐ No      ☐ Not sure

Comments:

There are obstacles for students accessing the proposed alternative SCF product as outlined in our answer to Question 4, which may not be fully recognised or understood by Muslim students. The complexity of the process, in addition to the absence of a consensus within the Muslim community on this issue, means that many students may be confused as to whether or not the product conflicts with their religious observance.

## Questions 6

**Q6: Do you believe it will be clear to students why this alternative finance product is Sharia-compliant? If not please provide an explanation**

☐ Yes      ☐ No      ☐ Not sure

Comments:

As indicated earlier, there is no agreement within the Muslim community, or between Islamic scholars, on the issue of interest-based loans, and neither is there any way of verifying that a particular financial product is 'sharia-compliant'. The new system will be based entirely on the opinions of a sharia advisory committee, which may or may not be representative of the different views of Muslim students.

There should be one system for all students wholly compliant with British law and not subject to the 'whim' of a 'sharia advisory body'.

How is it proposed that a 'sharia advisory body' would be appointed, monitored and held subject to British law?

## Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

The Government has not made a convincing case for a popular demand among Muslim students for sharia-compliant student loans as a means of funding higher education. As highlighted in our comments to Question 1, sharia law is undemocratic and discriminatory, and does not comply with the values of fairness and equality enshrined in British law. If the Government continues to accommodate SCF, it will lend sharia law the credibility that it does not deserve, as well as facilitating its spread and influence across Britain.

Thank you for your views on this consultation.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply: Yes

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes

☐ No

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