



Building a Better Debt Arrangement Scheme:

Returning funds to the Free Advice Sector

Consultation 2019

Report and Summary of Responses

Report on Public Consultation

Contents

1. Background.....	3
2. Building a better Debt Arrangement Scheme.....	3
3. Returning Funds to the free advice sector	3
4. Purpose of this report	4
5. Executive Summary of Responses	4
5.1 AiB Payments Distribution.....	4
5.2 Summary of Responses	5
5.3 Options Breakdown	5
6. Evaluation	7
7. Conclusion	7
1. Breakdown of Respondents	8
2. Consultation Response Results.....	8
2.1 Option 1	8
2.2 Option 2	10
2.3 Option 3	11
2.4 Option 4	12
2.5 Option 5	13
Annex 2: List of Respondents.....	16



1. Background

The Debt Arrangement Scheme (DAS) has grown in success since its introduction in 2004, becoming a vital part of the Scottish debt management system and an effective statutory alternative to insolvency or debt consolidation. From 2011, when significant changes were made to the scheme, to the end of 2018-19 almost £250 million of debt has been repaid through DAS.

Accountant in Bankruptcy (AiB) consulted on making changes to DAS in 2016 and asked further questions in a supplementary consultation in 2017. The legislative changes and vision set out in "[DAS: The Way Forward](#)", published in March 2018, detailed our response to these consultations. Since then, AiB successfully implemented [The Debt Arrangement Scheme \(Scotland\) Amendment Regulations 2018](#), which came into force on 29 October 2018.

2. Building a better Debt Arrangement Scheme

AiB's "Building a better Debt Arrangement Scheme" consultation launched on 31 October 2018 and closed on 24 January 2019. It contained proposals which were developed after careful consideration of feedback provided by the 2018 DAS Regulatory Review Working Group ('the Group') and AiB's 2018 stakeholder events. The full response to the 2018 consultation can be found [here](#).

A significant majority of respondents to the consultation agreed that AiB should offer a payments distribution (PD) service. This approach should enhance the resilience of the PD process, mitigating the risk of any organisation either no longer offering DAS, or having their FCA payments distribution permissions removed, as AiB would be able to step in to discharge their payments distribution responsibilities if necessary.

3. Returning Funds to the free advice sector

The 2018 consultation response paper noted that, where AiB is nominated as PD from the free to client sector (such as public sector money advice organisations), it will charge the statutory administration fee for the function but will only seek to recover its costs. Any excess funds will be reinvested in the free to client advice sector.

The thinking behind these proposals is that the DAS administration process requires significant money adviser administrative effort in managing the process from application to completion, incorporating any changes of circumstances along the

way. In recognition of the effort involved supporting DAS, AiB identified an opportunity to enhance the funding available to the free advice sector by allocating any surplus funds generated by AiB's payments distribution service to them.

The revised payments distribution arrangements will allow the success of DAS to contribute to the cost of advice provision, widening access to the scheme by increasing the number of free sector advisers. There is a strong correlation between the availability of advisers in a particular area and the number of DAS applications from that area, suggesting as much as possible should be done to enable more free advice to be provided if DAS is to reach all the people who need it.

After publishing the 2019 consultation and taking on board stakeholder feedback, AiB published a supplementary discussion paper with information on how the AiB PD function could work. This paper can be found [here](#).

4. Purpose of this report

This report provides a summary of the responses to the questions raised in the 2019 consultation. In addition to these responses, the Minister also considers all feedback and comments given by the respondents, to help inform how excess funds generated from the proposed AiB DAS PD process can be returned to the free advice sector.

5. Executive Summary of Responses

Between 28 May 2019 and 20 August 2019, the Scottish Government consulted on how funds generated from AiB's proposed payment distribution (PD) service may be returned to public sector advice organisations. As mentioned in paragraph 2 above, respondents to AiB's 2018 ["Building a better Debt Arrangement Scheme"](#) previously indicated their support of the proposal for AiB to offer a PD service to enhance the resilience of process. The individual responses to the consultation have been published on the Scottish Government consultation page and can be found [here](#).

5.1 AiB Payments Distribution

The 2018 consultation response paper noted that, where AiB is nominated as PD from the free to client sector, it will charge the proposed 20% statutory administration fee for this function but will only seek to recover its costs. Any excess funds will be reinvested in the free to client advice sector (largely Citizens Advice Bureaux and Local Authority money advice units). The 2019 consultation sought views from stakeholders on how this process should operate and identified five potential options.

5.2 Summary of Responses

In total, 19 responses were received. One respondent did not express a preference for any of the provided options, whilst two selected either option 4 or 5. The percentages are based on the 19 preferences expressed. A summary of responses is provided in Graph 1 below:

Graph 1



5.3 Options Breakdown

The five options and the responses received are summarised below:

Option 1: Funds held by AiB and allocated to free sector organisation who nominate AiB as PD

25% of respondents favoured this option

Here, the funds ingathered would be allocated to the individual organisations on a pro rata basis dependent on the number of DAS cases that organisation is responsible for.

Option 2: 'Trust fund' held by AiB

- 0 respondents favoured this option

Here, AiB would retain and ring-fence the funds in a 'trust fund'. Disbursement would follow a business case presented to AiB from organisations/individuals demonstrating how they will use the funds to promote/increase their delivery of DAS. The decision on allocating the funds would be AiB's.

Option 3: Funds held by AiB – decisions made by Independent Panel

- 15% of respondents favoured this option

Similarly to option 2, AiB would retain and ring-fence the funds in a 'trust fund'. However, an independent panel would be appointed to assess bids and decide on how monies should be allocated. If the panel are drawn from the free advice sector, they would be expected to use their knowledge and expertise to identify areas which would benefit most from additional funding.

Option 4: Funds held centrally by Scottish Government for DAS use only

- 20% of respondents favoured this option

Two respondents favoured this option exclusively. Two respondents chose "either 4 or 5", so have been allocated two votes each.

In this option, AiB would not retain the funds but would remit all funds to the Scottish Government on an annual basis. The funds would be ring-fenced to ensure they are allocated to free to client advice organisations delivering DAS.

Option 5: Funds passed to Scottish Government for general money advice support

- 40% of respondents favoured this option

Five respondents favoured this option exclusively. Two respondents chose "either 4 or 5", so have been allocated two votes each.

This option is similar to option 4 in that the funds are remitted to Scottish Government, but would not be ring-fenced for the provision/promotion of DAS. Instead, the funds would be used for general money advice support.

6. Evaluation

Although no overarching consensus was reached across the responses, it is clear that Options 1 and 5 are the most favoured. Option 1 links funding being returned directly to organisations responsible for the administration of DAS Debt Payment Programmes. This option will help offset some of the costs incurred in maintaining DAS case-loads. The process would be simple to administer and the methodology would be entirely objective, based on a share of excess funds generated from the AiB payments distribution service.

Option 5 will allow funds to be allocated generally across the free advice sector. This model does not allow the excess funds from the AiB payments distribution service to be attributed directly to the provision of DAS, but would be intended to supplement other available funding for the provision of money advice.

There are advantages and disadvantages to the approaches of Options 1 and 5, evidenced by the support for both options in the consultation. A list of the respondents and more detailed evaluation can be found in [Annex 1](#) of this document. This includes comments from some respondents and we have attributed these comments to the individual/organisation where they have given permission for us to do so.

7. Conclusion

After considering the consultation responses carefully, the Minister has concluded that the best approach to adopt is to allow organisations to choose between options 1 and 5.

This approach will allow individual organisations who wish the funds generated by their DAS caseloads to be returned directly to them, to choose this option. Those who do not wish to adopt this approach can elect to have the funds generated from their cases to be remitted to the Scottish Government to augment the funding of money advice in Scotland across the public sector and third sector.

The Minister believes this approach is a fair reflection of the responses received in the consultation and will ensure that the interests of the sector as a whole will be safeguarded.

Annex 1 – Detailed Analysis of Consultation Responses

1. Breakdown of Respondents

The majority of respondents were from within the free advice sector, with responses also being received from a continuing money adviser (CMA) and a recognised professional body (RPB).

Stakeholder Group	Responses
Public Sector Money Adviser	15
Free to Client Charity	2
Continuing Money Adviser	1
Recognised Professional Body	1

2. Consultation Response Results

During discussions preceding the Building a Better DAS consultation, AiB took stakeholder feedback on how returning funds to the free to client sector might work. These discussions and feedback formed the basis of the five options presented in the consultation. Respondents were asked to comment on each of the options, or offer an alternative as a solution.

The options are set out below along with the comments from respondents which have been duly considered.

2.1 Option 1

Funds held by AiB and allocated to free sector organisation who nominate AiB as PD

For this option, funds would be held by AiB and would be allocated to all those money advice organisations in the free sector who have nominated AiB as PD. Funds would be allocated on a pro rata basis dependent on the number of DAS cases that organisation is responsible for.

The benefits of this approach are that it clearly links funding going back to the organisations in recognition of the costs incurred in maintaining DAS. It would be simple to administer and the methodology would be entirely objective.

The main risk identified is a perception that this could create an incentive for advisers to steer clients into a DAS when another option may be more suitable.

Other feedback is that organisations dealing with a small number of DAS cases may not want to receive small sums as it would require a disproportionate administrative effort to oversee.

This option was favoured by 5 of the 19 respondents who believe this would enhance already stretched services with the provision of DAS.

Response breakdown by stakeholder group:

Stakeholder Group	Responses
Public Sector Money Adviser	4
Free to Client Charity	1
Continuing Money Adviser	0
Recognised Professional Body	0

"We believe the fees should be returned to the money advice agency that is administering the cases. It is they that have set the case up and administered it, and bear the burden of the employee costs involved in doing this."

"I believe the suggestion that giving the fees directly to the organisation may incentivise them to mis-advise clients is inappropriate in the context of these regulations, considering no such concerns have been raised in relation to private firms."

"...further investment back into the sector can not only help with budget difficulties but enhance already stretched services allowing more clients to be seen more quickly."

Citizens Advice and Rights Fife

Summary

There are clear advantages and disadvantages to the approach of Option 1. It is understandable that advisers believe it is only fair that they be financially reimbursed for the costs incurred of delivering DAS. However, the Minister also recognises this option may not be conducive to some organisations' business models for accepting funding. Also, some organisations do not wish to receive small amounts if they have a small DAS caseload.

After careful consideration of the consultation responses, the Minister has decided that individual organisations who wish the funding generated by their DAS caseloads to be refunded directly to them, can choose this option.

2.2 Option 2

'Trust fund' held by AiB

In this option, AiB would essentially ring-fence the funds available from the statutory fees after its costs have been recovered. These funds would be held by AiB in a 'trust fund' and money advice organisations in the free sector would be asked to present a business case to AiB for funds to be released, demonstrating how they will use the funds to promote/increase their delivery of DAS. AiB would then take a decision on releasing the funds.

No respondents favoured this option.

"It will become too costly to manage for the small pots of funds involved, particularly in the early years of the scheme."

StepChange Debt Charity Scotland

Summary

As no respondents believed this option would be viable, the Minister does not propose proceeding with this option.

2.3 Option 3

Funds held by AiB – decisions made by Independent Panel

Here, funds would be held by AiB and an independent panel, drawn from the free advice sector, would be appointed by the Scottish Government to assess bids for funding and decide how the monies should be allocated.

The benefits identified include decisions on the allocation of funds being made by experts in the field, leading to best use of funds.

A risk identified from taking this approach is that the bidding process could be administratively heavy for organisations applying for funding. Also, if funding is allocated one year but not the next, this could result in challenges for organisations providing DAS.

This option was favoured by 3 respondents.

Response breakdown by stakeholder group:

Stakeholder Group	Responses
Public Sector Money Adviser	3
Free to Client Charity	0
Continuing Money Adviser	0
Recognised Professional Body	0

"We agree that decisions being made through an independent decision making process will most likely lead to better use of the available funds."

Dumfries and Galloway Citizens Advice Service

On the other hand, concerns were raised about how this process would be managed.

"It will cause difficulties in the sector of which organisations should be on the Panel and what are the terms and conditions of how the funds are allocated."

StepChange Debt Charity Scotland

Summary

Although there was some support for this option, we believe the arguments in favour of options 1 and 5 are more convincing. The Minister does not propose to proceed with this option.

2.4 Option 4

Funds held centrally by Scottish Government for DAS use only

AiB would remit all available funds to the Scottish Government on an annual basis and these would be ring-fenced for free advice sector organisations delivering DAS. The Scottish Legal Aid Board (SLAB) allocate funds to a number of areas, including Debt Advice and could potentially manage this funding on behalf of the Scottish Government.

Having an independent body distribute funds may increase the perception of fairness, providing assurance that funding will be allocated to organisations actively involved in DAS. Another benefit would be that the existing mechanism is already known to those likely to apply.

This risks include the lack of certainty over the likely level of funding, which may be more challenging for an organisation such as SLAB to manage. Also, the funding allocation process would be dependent on that organisation's future decision on resources and priorities. This option does not allow for advisers to apply for funding to assist with general advice provision, as it is exclusively ring-fenced for the provision of DAS.

This option was favoured by 4 respondents. Citizens Advice Scotland surveyed their members and whilst the strongest support was for option 5, the organisation has backed option 4 believing funding will be placed with a body that their members are already used to dealing with for grant funding.

Response breakdown by stakeholder group:

Stakeholder Group	Responses
Public Sector Money Adviser	3
Free to Client Charity	0
Continuing Money Adviser	0
Recognised Professional Body	1

“The free advice sector has an established relationship with SLAB, not only in terms of funding but in terms of their audit function for the Scottish National Standards for information and Advice Providers. This option seems the most cost-effective (mechanism already in place for the distribution of funding) sensible, practical and fair because it would be independent of both DAS and Scottish Government and the funding would be returned to those advice agencies undertaking the DAS work.”

Perth and Kinross Council

“The funding would be additional to existing funding already being distributed to free debt advice organisations and therefore the marginal effectiveness of the additional funding is likely to be greater than under options i to iii.”

ICAS

Summary

Although there was some support for this option, the Minister believes the arguments in favour of options 1 and 5 are more convincing. Option 1 allows advisers to receive some funding which their cases generate, and option 5 allows advisers to apply for funding to assist with general money advice or project work. Option 4, like options 2 and 3, could be perceived as being too narrow in restricting funding for the provision of DAS. The Minister does not propose to proceed with this option.

2.5 Option 5

Funds passed to Scottish Government for general money advice support

AiB would remit the available funds to the Scottish Government to be used for general money advice support. The funds would be disbursed using the mechanisms set down by SG.

The benefits from taking this approach would include bringing together disparate funding schemes to prevent third sector organisations facing multiple bidding and

reporting processes and there would be no additional burden on AiB or the advice sector.

The risks include funding note being ring-fenced to be used to support DAS and if funds are not being returned to source, this may be perceived as being unfair to advisers delivering DAS and creditors who are paying the fees which generate these funds.

Option 5 had generated the most support, with 40% of the selected options being favoured by 8 respondents.

After careful consideration, the Minister has decided that where organisations do not opt to receive funding directly, these funds will be remitted to the Scottish Government to be used for general money advice support.

Response breakdown by stakeholder group:

Stakeholder Group	Responses
Public Sector Money Adviser	6
Free to Client Charity	0
Continuing Money Adviser	1
Recognised Professional Body	1

“...organisations who are both larger and working out of more affluent areas are possibly more likely to be dealing with clients who have disposable income allowing them to seek DAS as a possible option to their debts. Other organisation [sic] who do not have a high uptake of DAS cases should not be penalised in terms of funding for the number of DPP's they do or do not submit.”

Individual Respondent – Free Sector Money Adviser



“We are of the view that the changes should have a redistributive effect by making funding available to organisations who are dealing primarily with clients in the most difficult circumstances, whether or not DAS is the eventual outcome. By remitting these funds to Scottish Government, this means that decisions around funding of the free sector could be taken in the round.”

Money Advice Scotland

Annex 2: List of Respondents

No.	Respondent Name
1	Private Individual
2	Private Individual
3	Citizens Advice & Rights Fife
4	J3 Debt Solutions Limited
5	Private Individual
6	Private Individual
7	Southwest Aberdeenshire Citizens Advice Bureau
8	Aberdeenshire Tackling Poverty & Inequalities Group
9	Stirling Council
10	Aberdeen City Council
11	Dumfries & Galloway Citizens Advice Service
12	Glasgow City Council
13	ICAS
14	StepChange Debt Charity Scotland
15	City of Edinburgh Council Advice Shop
16	Money Advice Scotland
17	Inverclyde HSCP Advice Services
18	Perth & Kinross Council
19	Citizens Advice Scotland