



The Debt Arrangement Scheme Improving Access

Report on Public Consultation

April 2010

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Ministerial Foreword

The Debt Arrangement Scheme (DAS) was introduced in November 2004 by the Debt Arrangement and Attachment (Scotland) Act 2002. DAS is a debt management tool which allows those who enter the scheme to repay their debts in full over an extended period of time. Since inception, the number of people participating in DAS has been lower than anticipated. As a result, changes were made to the scheme in June 2007 which allowed charges and interest on debts in a debt payment programme to be frozen.

A review conducted during 2008 concluded that DAS worked well for those who were able to access the scheme. However, it highlighted that, despite the improvement in uptake as a result of the 2007 changes, the number of people entering DAS was still lower than anticipated and that access to the scheme varied greatly across the country. The purpose of the 2009 DAS consultation was to collect views on the scheme, with a view to developing and improving access to it.

In the current financial climate, many people are finding themselves in a situation where they are unable to repay their debts in full as they fall due. The Scottish Government has a responsibility to support the people of Scotland by providing mechanisms to allow them to take control of their debt.

I am therefore grateful to all those who took the time to contribute to the consultation, to assist us in developing an improved mechanism to assist the people of Scotland.

Background

The Debt Arrangement Scheme (DAS) was introduced in November 2004 as a debt management tool which was designed to allow debtors to repay multiple debts over an extended period, through a formal Debt Payment Programme (DPP), free from the threat of legal action or diligence from their creditors. Applications for the scheme must be submitted through an approved money adviser.

The uptake in DAS has not been as high as was originally projected. To encourage increased participation, the Bankruptcy and Diligence etc. (Scotland) Act 2007 introduced changes to the scheme on 30 June 2007. These changes included the freezing of charges and interest on debts included in a DPP.

A review of the scheme following the changes was carried out during 2008, and the report has been made available on the website of the Accountant in Bankruptcy (AiB) at: <http://www.aib.gov.uk/News/releases/2008/11/24164909>

Responding to the results of the review and contributions from stakeholders, the Scottish Government felt that the need for change was sufficiently clear. A number of separate meetings and workshops were held with representatives from the money advice sector, approved money advisers, creditors and debtors. Regulations were introduced which were intended to overcome the problems highlighted in the review. These regulations were subsequently revoked and a decision was made to formally consult on DAS prior to introducing further modifications.

The purpose of the 2009 consultation was to seek views from the public and interested parties to help shape the future of DAS. The consultation was conducted by the Accountant in Bankruptcy (AiB) on behalf of the Scottish Government.

Comments were sought on the following: -

- Access to DAS
- Administration
- Consent Rules and Fair and Reasonableness
- Debt Payment Programmes
- Joint and Several Liabilities
- Single Debts
- Payment Distribution

The consultation ran from 22 September 2009 to 14 December 2009. All published responses are available in the Scottish Government Library.

An analysis of the responses to the consultation questionnaire is shown in Annex A.

A breakdown of the respondents is shown in Annex B.

A list of organisations who responded is shown in Annex C.

Overview

In general, respondents were supportive of the Debt Arrangement Scheme but recognised that changes were required.

The main options for change were as follows:

- Money advisers who provide DAS should have some form of accreditation and DAS training should remain an essential element of the accreditation process;
- The DAS administrator should take on more of the administration duties currently carried out by the approved money advisers;
- The DAS administrator should take on the function of carrying out annual reviews;
- Where the DAS administrator receives a proposal that is evidently not fair and reasonable, the debtor should be given an opportunity to amend the proposal;
- The DAS administrator should be provided with additional information to explain why a Debt Payment Programme (DPP) is likely to last for more than 10 years (or some other specified period);
- All payments should be distributed to creditors on a pro rata basis;
- Joint DPPs for debtors with joint obligations for at least one debt should be introduced; and
- Debtors should be able to propose a DPP that includes only one debt.

Respondents did **not** support proposals which included:

- Debtors applying for a DPP without having obtained advice;
- Debtors being able to apply for a DPP online;
- The timescales for creditors' response being increased to 35 days;
- Limiting the duration of a DPP; or
- A minimum total payment per month in a DPP.

Evaluation

There were 51 responses to the consultation. A list of those who responded is shown in Annex C. Responses were from various sectors, including insolvency practitioners and creditors, however, the majority were from the advice sector. A number of responses were very thorough and included detailed comments.

1. Access to DAS

The majority of respondents agreed that accreditation and training is essential to ensure the consistency and quality of DAS related advice. Over half of the respondents (29) do not agree that DAS applications should only be made by approved money advisers.

The British Bankers Association commented that “ applications for DPPs must be accompanied by money advice in order to ensure that a debtor’s financial circumstances have been adequately assessed. It is crucial that the money adviser has sufficient knowledge of all available debt remedies so that the most appropriate is chosen.”

As an alternative to approved money advisers, several respondents suggested that organisations should be accredited, rather than the individuals. DAS training should, however, remain an essential element of any accreditation process. Respondents further suggested that organisations should then provide training for staff and they would need to ensure that quality controls were in place. Some respondents raised concerns about professionals, such as insolvency practitioners, being able to submit applications and suggested that there is no incentive for them to promote the scheme.

Overall agreement was given that debtors should not be able to apply for a DPP without having first obtained advice. Little over a quarter (13) of respondents thought a debtor should be able to apply for a DPP online. Of these respondents, the majority qualified this by stating that the debtor should have received advice prior to submitting an online application.

A respondent said “It is essential debtors seek advice before applying for a DPP so they do not commit to a scheme they cannot afford and so the scheme continues to be respected. Ensuring payments are sustainable benefits debtors and creditors alike. Allowing people to apply themselves presumes a level of financial literacy many may think they have but most do not.”

2. Administration

The vast majority of respondents (47) favoured the DAS administrator taking on more of the administration duties as this would allow money advisers to have more time available to advise clients. However, there was no discussion or exploration as to how this further role should be funded. Respondents further suggested that creditors would benefit from having a single point of contact. Of those respondents, 25 favoured the DAS administrator taking on the administration duties after the programme has been approved. A significant number, however, (19) felt that the DAS administrator should administer the DPPs from the application stage.

A respondent stated that "The pre-application stage is when you get to know your clients and their situation so it's best if the adviser deals with that stage of the process. The DAS administration staff never meet the clients. However, tasks like informing creditors of the approval, or otherwise of a DPP, or completion or revocation of a DPP don't require the personal touch, so the DAS administration can do them. Variations should be initiated by the adviser then carried through by the DAS administration."

Although the majority of respondents (37) favoured the continuation of annual reviews as they provide a check point to ensure that debtors are continuing to make payments, those who disagreed suggested that the onus should be on the debtor to contact their adviser if their circumstances change.

The consensus was that, should there be an annual review, the DAS administrator should take on this function. Several respondents, however, qualified this by suggesting that if there were any changes in circumstances then the debtor should be referred back to their adviser. Other respondents raised concerns about confusing the debtor if too many people are in contact, i.e. only the adviser should have contact with the debtor not the DAS administrator.

The Money Advice Trust commented "It also seems sensible for the DAS administrator to take on the responsibility for initiating annual reviews. These could be a paper exercise as long as the debtor's circumstances have not changed, but it would be appropriate to refer the debtor back for money advice in the event of significant changes."

3. Consent Rules and Fair and Reasonableness

The majority of respondents (31) were not in favour of an increase for creditor's response time. Some suggested that an increase may be detrimental to the debtor where a creditor is considering sequestration as a mechanism to recover monies due. Some of the creditor respondents recognised the advantages of harmonising the response time with that available to creditors when considering trust deeds.

R3 responded "We accept that larger creditors may find it easier to set up their systems to deal with a standard response time. However this will result in a longer delay before the DPP is either approved or rejected, which may be regarded as undesirable where there is a moratorium in place or where there is a pending sequestration which has been continued to allow the option of a DPP to be explored."

The majority (37) opinion was that the DAS administrator should not be able to consider whether a programme is fair and reasonable where the consent or deemed consent is given by ALL of the creditors. 30 respondents said that there should not be defined entry criteria to allow the DAS administrator to assess whether a proposal is fair and reasonable prior to seeking the consent of creditors. Respondents generally expressed the view that it is for the creditor, not the DAS administrator, to decide whether or not to consent to the proposal.

A respondent said "We oppose setting such entry criteria as we believe that it would be difficult to devise criteria with sufficient flexibility to ensure that clients have fair access to the scheme. Each case is based upon an individual and we believe that it would be impossible to come up with 'one size fits all' criteria and that any attempt to do so would lead to unfair exclusion. This would result in people who have no other option having no access to DAS".

Many respondents (30) were of the opinion that the debtor should be given a 'second chance' to amend a proposal that is evidently not fair and reasonable. However, respondents also noted that the adviser should be putting the most appropriate proposal forward in the first place, and where this is rejected, it is unlikely that the debtor will be able to afford an amended proposal.

4. Debt Payment Programmes

The majority of respondents favoured the current flexibility of DAS and opposed introducing limits on duration and/or monthly payments, with a strong emphasis being placed upon DPPs being assessed on a case by case basis. Many respondents did acknowledge that excessively long DPPs were unfavourable to creditors, and observed that this may suggest that DAS is not the most appropriate debt relief mechanism for that debtor. On the other hand, some respondents see a DPP as providing the most favourable return for creditors and it should, therefore, be the creditor's decision whether to allow the DPP, rather than prescribed limits dictating this.

The overall consensus (30 respondents) opposed limitations being placed on the duration of a DPP. Of those who were in favour of introducing a limit (19 respondents), just over half favoured a 10 year limit. The majority of all respondents (30) agreed that the DAS administrator should be provided with additional information to explain why a DPP will last more than 10 years.

The Royal Bank of Scotland stated that *"We believe there is merit in specifying a time period for debt remedy solution to avoid long term open ended plans with low repayments."*

A quarter of respondents were in favour of a minimum total monthly payment, with 35 respondents not in favour. Overall agreement (40 respondents) was given that payments should be made to creditors on a *pro rata* basis, although respondents did emphasise that this is not always possible due to the minimum £1 per creditor payment limit imposed by some payments distributors.

West of Scotland Approved Money Advisor Information Exchange said *"All payments should be distributed to creditors on a pro rata basis. This is an accepted practice having almost the status of an industry standard within the credit industry. This practice has been prevalent within this field for many decades and we are unaware of anyone having any difficulty with it. In addition were differing rates to be applied to creditors it would mean the debts ending at different dates which would cause confusion for the debtor."*

27 respondents agreed that the DAS administrator should be required to make more use of discretionary conditions. This included all creditor respondents. However, 19 respondents were not in favour and 5 respondents did not give an opinion.

5. Joint and Several Liabilities

The general view towards introducing joint DPPs was that this would be welcome in principle. Respondents would generally like to know more about how this would work in practice.

Western Isles Citizens Advice Service said that "Joint DPPs would help most couples who have had to take out joint debts and are jointly and severally liable. What is the point in having one of a couple stress free when the other is worried sick? Makes more sense to have joint DPPs."

6. Single Debts

The majority of respondents (36) would welcome the introduction of DPPs for a single debt but acknowledged that debtors should initially try to come to an arrangement with their creditor prior to signing a DPP. Some respondents commented that this could potentially abolish the need for Time Orders under the consumer credit legislation and/or Time to Pay Orders/Directions under the Debtors (Scotland) Act 1987.

7. Payment Distribution

The respondent's views on Payments Distribution were split with some respondents expressing little interest in this aspect and others stating that they are happy with the current service but would welcome a tendering process to achieve a reduced fee.

Law Society of Scotland commented that "The DAS is intended to be a "cost free" or "low cost process". To that end, achieving the best value must be a desired result and a tender process would ensure transparency as to costs."

Some respondents would welcome a reduced fee but at the same time expressed concerns that the DAS administrator may not have the resources or capacity to take on this function.

Dumfries & Galloway CAB stated that "If only one company is responsible for distribution it restricts choice. Having competition for business encourages a better level of service for both debtors and creditors."

Next Steps

Although the responses to the consultation have identified areas for change, there are still differing views on some aspects of the scheme. To assist us to further clarify these different views, respondents and other interested parties will be invited to attend a series of DAS workshops.

These workshops will examine the practicalities around the changes supported by respondents as well as clarify areas of disagreement. The workshops will allow respondents to expand on the information they provided in their response to the consultation. It will also allow respondents to consider other, possibly opposing, points of view.

Following the workshop sessions, draft regulations will be instructed which will be circulated to all interested parties. Further comment will be sought.

Once the regulations have been agreed, guidance notes, training materials, IT systems and other DAS related information will be updated to reflect the changes.

Annex A

Analysis of Responses to the Consultation Questionnaire

1. Access to DAS

Question 1a

Should applications for DPPs only be made by approved money advisers?

Yes: 20
No: 29
No Answer: 2

Citizens Advice Scotland – “While advisers accept that there are potential difficulties in some areas that prevent people being able to access the scheme, nevertheless there remains strong support for the gateway, with the majority wishing to retain this as a route into DAS.” **BUT** “Accreditation of individual advisers has been put into place to ensure consistency of advice as well as quality of advice. Advisers felt however, that while ensuring quality of advice was essential to successful operation of the scheme, consideration could be given to agency or organisation approval rather than individual approval. In this way, the gateway could be opened up to many more money advisers provided the agency or organisation could ensure that appropriate quality assurance systems were in place.”

Consumer Credit Counselling Service – “To ensure consistency and quality of advice, it would be better to approve organisations as opposed to individual advisers. Such organisations should be equipped to provide in-depth advice for those with debt problems, recommend the most appropriate solution, taking account of all the circumstances and ensuring full understanding of whatever solution is proposed. DPP could be one of the solutions available to the adviser in organisations or agencies so approved. This should ensure that DPPs are more widely available.”

Question 1b

Should some form of accreditation be required?

Yes: 41
No: 6
No Answer: 4

Campbell Dallas – “In order to maintain a high standard of advice provision, that is uniform throughout the country and to encourage a commitment from advisers, some form of accreditation should remain. This may also discourage any potential market sector which isn't primarily focused on a debtor's best interests.”

Question 1c

Should DAS training remain an essential element of any accreditation process?

Yes: 39
No: 7
No Answer: 5

West of Scotland Approved Money Advisers Information Exchange - "We believe that clients will always need some form of front line professional support given the complexity of DAS. This support should be provided by professionals who have received training in DAS. Training is essential and whichever scheme is adopted must make training mandatory for advisors who facilitate access to the scheme. In addition the organisation employing the professional should be accredited in some way. This would accord with similar approaches adopted in relation to the Mortgage to Rent and Home Owner's protection Scheme where prospective clients are required to consult a Money Advisor. If the scheme does not require a money advisor or professional support then Advisors names should not be required on the forms"

Question 1d

If the approved money adviser route is no longer essential, who should be able to submit applications for DPPs?

Any money adviser in the free money advice sector	18
Individuals who are certified to deliver the scheme	24
Any organisation certified to deliver DAS	35
Professionals e.g. accountants, insolvency practitioners and lawyers	10
Other	5

Respondents ticked as many options as appropriate

Of those suggesting 'other', the majority favoured the debtor being able to submit the application while one respondent suggested that the DAS administrator could submit the application following a referral from a money adviser.

Question 1e

Should debtors be able to apply for a DPP without having obtained advice?

Yes: 4
No: 45
No Answer: 2

Scottish Association of Law Centres – "We believe that debtors should be given every encouragement to be advised by a money adviser before submitting an application for a debt payment programme, however absence of official approval should not be a bar to submission."

Royal Bank of Scotland – "We believe that money advice is fundamental to ensuring that customers select the best option for their circumstances as DAS is only one of a suite of

debt remedy solutions available to customers and it is vital that the appropriate solution is given dependent on the customers needs.

We would not therefore support the proposal for customers to be able to apply for a DAS directly having had no money advice on options available including assistance with reviewing their circumstances, income maximisation and how to accurately complete application process including validations required.”

Question 1f

Should debtors be able to make direct applications for a DPP online?

Yes: 13

No: 33

No Answer: 5

Dundee City Council (Creditor) – “providing the debtor has had some money advice prior to applying. With an online process there must be adequate checks in place to confirm a debtor’s suitability for a DPP and verification of income & expenditure.”

Money Advice Scotland – “No, if they have however sought advice first and have made informed choices/decisions then it could be yes.”

2. Administration

Question 2a

Should the DAS administrator take on more of the administration duties currently carried out by the approved money advisers?

Yes: 47
No: 2
No Answer: 2

Question 2b

If the DAS administrator takes on more of the administration of DPPs, at what point in the process should the DAS administrator take on this function?

The DAS Administrator should administer DPPs from the application stage including the notification to creditors of proposal. 19

The DAS administrator should administer programmes after the DPP has been approved 25

Other 2

5 respondents did not answer this question.

2 creditors supported option 1 and 4 creditors supported option two. One creditor could see the merits in both.

British Bankers Association – “We believe that after the money adviser has submitted the DPP on behalf of the debtor, the DAS administrator should then take on the administrative duties and contact relevant creditors. This would benefit creditors by providing a central point of contact. It should also help to standardise correspondence and allow the DAS administrator to review applications to ensure that all appropriate documentation has been completed.”

Question 2c

Should there continue to be annual reviews of DPPs?

Yes: 37
No: 9
No Answer: 5

British Bankers Association – “Annual reviews are needed to monitor any changes to the debtor's circumstances so that repayment plans can be adjusted accordingly.”

Campbell Dallas – “As creditors are not entitled to an updated financial statement or increased payment offer on an annual basis under DAS, an annual review is merely to

ensure the debtor is managing their DPP properly, paying continuing liabilities etc. It would be a more efficient system for the responsibility to be passed back to debtors - they could make contact with their adviser if they encounter difficulties.”

Question 2d

If yes, should the DAS administrator take responsibility for this function?

Yes: 31
No: 9
No Answer: 11

Gregory Pennington Ltd – “The DAS administrator does not have money or debt advice experience and it would therefore be inappropriate for them to be attempting to fulfil this function. Duplicating contact with the client could also result in confusion or contradictory information which would not be helpful to either the client or the money/debt adviser. The impartiality of this function could also not be maintained as the DAS administrator is policy maker and arbitrator and it would therefore be unreasonable for the DAS administrator to propose (albeit at review stage) and potentially arbitrate (in the event of creditor challenge) on their own financial assessment.”

Citizens Advice Scotland – “Advisers considered that it would ease their burden if the DAS administrator sent the initial letter out to the client, but if their had been any changes in circumstances the debtor should be asked to revert back to the adviser”

3. Consent Rules & Fair and Reasonableness

Question 3a

Should the timescale for creditors response be increased from 21 days to 35 days?

Yes: 16
No: 31
No Answer: 4

3 out of 7 creditor respondents supported this.

Campbell Dallas – “in all probability, 21 days is not enough time for most creditor organisations to respond to Form 4s. If the current arrangements remain (i.e. Form 4s sent by recorded delivery post to non-dedicated addresses), it would be fairer for the creditors for the timescale to increase to 35 days. In my experience, many DPPs have become automatically approved because creditors fail to respond in time.”

Question 3b

Should the DAS administrator be able to consider whether a programme is fair and reasonable where the consent or deemed consent is given by **ALL** of the creditors?

Yes: 9
No: 37
No Answer: 5

“The DAS Administrator should not adopt this outdated paternalistic role of deciding what it thinks is in the interests of the relevant parties. If the DAS administrator 'nannies' the creditors there will be no incentive for the creditors to increase their participation in the Scheme.”

Question 3c

Should the entry criteria for DAS be defined to enable the DAS administrator to assess whether the proposal is fair and reasonable prior to seeking the consent of creditors?

Yes: 15
No: 30
No Answer: 6

“Time limits and minimum contribution levels would help advisers advising of the option of a DPP to clients.”

Question 3d

Where the DAS administrator receives a proposal that is evidently **not** fair and reasonable, should the debtor be given an opportunity to amend the proposal?

Yes: 30
No: 13
No Answer: 8

4 of the 7 creditor respondents supported this.

British Bankers Association - “The onus should be on the adviser to administer the appropriate level of rigor to mitigate proposals that are not fair and reasonable. If the proposal is rejected, the customer should not be disadvantaged and should be given an opportunity to make any necessary amendments. Under such circumstances, it is important that AiB go back to the adviser with feedback and training so that in future they do not submit proposals that are neither fair nor reasonable. Creditors should be able to continue with enforcement actions until a correct DAS application has been submitted.”

“The money adviser will have assessed the situation to see if they think it's fair and reasonable. If the debtor can produce extra funds, why didn't they in the first place.”

4. Debt Payment Programmes

Duration and Payment Amounts

Question 4a

Should there be a limit on the duration of a DPP?

Yes: 19
No: 30
No Answer: 2

6 of the 7 creditor respondents answered yes.

R3 - "We do not consider that there should be a statutory maximum limit on the duration of a DPP as this restricts flexibility and choice and may have the effect of excluding certain debtors from this option. The same proposal was made in relation to protected trust deeds and rejected for those reasons and it is suggested that these reasons are equally valid here.

Question 4b

If yes, what do you consider to be a reasonable maximum period for a DPP?

5 years	3
10 years	10
15 years	3
Other	3

The 19 respondents answering yes to question 4a provided a response to this question.

Question 4c

Should the DAS administrator be provided with additional information to explain why a DPP is likely to last for more than 10 years (or some other specified period)?

Yes:	30
No:	10
No Answer:	11

Question 4d

Should there be a required minimum total payment per month in a DPP?

Yes:	14
No:	35
No Answer:	2

One of the creditor respondents did not favour this option as they favoured a maximum term with pro rata payments being made.

Question 4e

If yes, what should the minimum total payment per month be?

Under £20	1
£20 - £50	0
£51 - £100	4
Other	9

The 14 respondents answering yes to question 4d provided a response to this question.

Suggestions under 'other' included £1, £50, £100 and a suggestion that the minimum total payment per month should be a percentage of the total debt.

Question 4f

Should all payments in DPPs be distributed to creditors on a pro rata basis?

Yes: 40
No: 7
No Answer: 4

R3 - "We do not consider this should be prescribed in the legislation, as different approaches may be appropriate in different circumstances and we believe that this should be a matter for the creditors and that the necessary flexibility should be retained. Alternatively, pro rata distribution could be prescribed as the default position but subject to specific contrary provision in appropriate cases."

Question 4g

Should there be a prescribed minimum payment per month, per creditor?

Yes: 18
No: 31
No Answer: 2

15 of the 18 respondents supporting this also favoured payment being made on a pro rata basis.

2 creditors did not support this

West of Scotland Approved Money Advisor Information Exchange – "There should be no prescribed minimum payment to individual creditors as this would not allow for pro rata payments."

Question 4h

If yes, what amount should be required per creditor, per month?

Under £5 6
£5 5
£5.50 - £10 1
Other 6

The 18 respondents answering yes to question 4h provided a response to this question.

Question 4i

Should there be both a minimum monthly payment and a maximum period for a DPP to combat low payments in excessively long DPPs?

Yes: 12

No: 34
No Answer: 5

6 of the 7 creditor respondents answered yes.

General Comment on Part 4 questions

Association of British Credit Unions Limited - "While as creditors, credit unions are keen to recover outstanding loans in DPPs in as short a time frame as possible, we also recognise that imposing a strict maximum duration for a DPP may exclude many more debtors from accessing DAS and push them towards Trust Deeds or bankruptcy, which as discussed previously, would be a negative outcome for both the member and the credit union."

Discretionary Conditions

Question 4j

Should the DAS administrator be required to make more use of discretionary conditions? For example, where a debtor has an expected future lump sum or anticipated additional income to put towards their DPP.

Yes: 27
No: 19
No Answer: 5

All creditor respondents supported this.

Campbell Dallas - "I think that if a DPP proposal meets minimum monthly payment amounts and maximum repayment terms and where creditors have consented/deemed to have consented, there is no need for the DAS administrator to make more use of discretionary conditions in anything other than the current minority of cases. It seems unnecessary intervention in cases where all parties seem reasonably happy."

British Bankers Association – "We agree with the proposal for DAS administrators to make more use of discretionary conditions. Currently discretionary conditions are only applied in a minority of cases. When a debtor has had a change in circumstances, for instance, come into receipt of unexpected finance, it is important that the DAS administrator be notified and this used towards the DPP."

5. Joint and Several Liability

Question 5a

Should joint DPPs for debtors with joint obligations for at least one debt be introduced?

Yes: 42
No: 7
No Answer: 2

Only one creditor representative did not support this.

The Law Society of Scotland – “The problem of joint and several debts is prevalent in sequestrations and trust deeds. A husband and wife do not have a "joint estate" merely by virtue of the fact that they incur liabilities jointly and severally. Introducing a joint DPP would merely add a level of complexity that is not warranted by the perceived problem.”

6. Single Debts

Question 6a

Should debtors be able to propose a DPP that includes only one debt?

Yes: 36
No: 13
No Answer: 2

“Clients may have one very large individual debt and I do not see why they should be put at a disadvantage because they do not have more debt. In fact one debt may exceed the total balance of another debtor's DPP so this rule seems arbitrary.”

R3 – “If there is only a single debt, any restructuring of that debt is properly a matter for the debtor and that creditor. The result of this proposal would be that the debtor could effectively impose his or her proposals on the creditor by proposing a DPP which, even if objected to by the creditor, could be approved by the DAS administrator over the objection of the creditor. We do not consider that this is appropriate. Options such as the DPP (and protected trust deeds) are designed to allow the debtor to enter into a binding agreement with his or her creditors where the majority of those creditors agree and it is appropriate for the wishes of the minority to be overridden in the general interest. They are not designed to coerce one single creditor. If it is considered that there should be an option to do this but the existing provisions for time to pay directions and orders are inadequate, consideration should be given to introducing an appropriate separate mechanism for achieving this.”

7. Payments Distribution

Question 7a

Should the DAS administrator invite applications to tender for this role with a view to achieving best value and improve returns for creditors?

Yes: 22
No: 22
No Answer: 7

Question 7b

Should the DAS administrator take on the role of payments distributor with a view to achieving best value and improve returns for creditors?

Yes: 26
No: 18
No Answer: 7

British Bankers Association – “We believe it would be more effective if AiB takes on the role of payments distributor as it would be beneficial for creditors to have a central point of contact. This would complement AiB’s greater involvement in the administration of DAS.”

Carrington Dean – “Conflict of interest. Systems would be unable to deal with the volume of payments. Increased cost to the public purse through funding additional staff and training for AiB. Current distributors are working well.”

Annex B

Breakdown of Respondents

<i>Respondent's capacity</i>	<i>No. of Responses</i>
Advice Sector	26
Creditor	7
Individual	3
Insolvency Practitioner	3
Legal Body	0
Professional Body	3
Statutory Body	2
Other	7
<i>TOTAL</i>	<i>51</i>

Please Note, where respondents have responded in more than one capacity, their primary capacity has been selected for the purpose of the above table.

Annex C

List of Organisations which responded

Aberdeenshire Council
Angus Council
Association of British Credit Unions Limited
British Bankers' Association
Callcredit Information Group
Campbell Dallas
Carrington Dean Group Ltd
CHAI Advice Service
Citizens Advice Scotland
City of Edinburgh Council
Committee of Scottish Clearing Bankers
Consumer Credit Counselling Service
Dumfries & Galloway Citizens Advice Service
Dundee City Council
East Renfrewshire Council
Fife Money Advice Partnership
First Credit Ltd
Glasgow City Council
Gregory Pennington Ltd
Highland Council
HM Revenue & Customs
Law Society of Scotland
Lloyds Banking Group plc
Maryhill CAB
Money Advice Scotland
Money Advice Trust
Moray Council Trading Standards
North Ayrshire Council
North Lanarkshire Council
PKF (UK) LLP
R3 Scottish Technical Committee
Renfrewshire Council
Royal Bank of Scotland
Scottish Association of Law Centres
Scottish Youth Parliament
South Ayrshire Council
South Lanarkshire Council
West Dunbartonshire Council
West of Scotland Approved Money Advisor Information Exchange