

das

Digest

Building a better Debt Arrangement Scheme

New Debt Arrangement Scheme consultation goes live

The [Building a Better DAS consultation](#) paper was published on 1 November 2018 and will run for 12 weeks until 24 January 2019.

This consultation builds on the previous [DAS: The Way Forward](#) paper published in March 2018 and subsequent discussions within a DAS regulatory review working group held this summer.

[DAS: The Way Forward](#) was published in response to the 2016 and 2017 Debt Arrangement Scheme (DAS) consultations and detailed proposed policy changes to legislation.

These improvements were subsequently introduced by the Debt Arrangement Scheme (Scotland) Amendment Regulations 2018 which came into force on Monday 29 October 2018 and are detailed [later](#) in this newsletter.

The document also identified further potential changes aimed at enhancing the DAS process and the DAS 2018: Regulatory Review Working Group was set up to discuss and inform opinion on the key areas.

The group featured stakeholders engaged at a strategic level in the DAS process and considered options for increasing uptake of DAS and to reduce the bureaucracy associated with the DAS process.

Outcomes from the group discussions have informed AiB of a recommended direction of travel which has informed the [Building a Better DAS consultation paper](#).

The discussion papers and minutes from the group meetings were published on the [AiB website](#) along with a conclusion paper summarising the outcomes.

Feedback from the group helped AiB identify a range of options to improve existing DAS processes, leading to the launch of the [Building a Better DAS consultation paper](#).

The consultation focuses on specific topics for discussion, so you may wish to refer to [DAS: The Way Forward](#) for additional background information.

We would be grateful for as many responses to the consultation as possible, and if you have any comments or questions, please contact [Lisa Ledingham-Park](#) or [Kelly Donohoe](#).



DAS 2018 consultation proposals

The DAS 2018 consultation explores how we may build on the recent DAS changes by:

Proposed changes to DAS payments distribution

- Allow money advisers to select the payments distributor, on behalf of their clients
- AiB to act as payments distributor where an alternative is not selected or where an existing payments distributor is unable to act
- Extending the continuing money adviser role to include payments distribution responsibility, where relevant permissions are held, allowing them to offer a holistic approach for their clients

A new DAS fee structure

- Introduce a total capped fee, which includes money adviser fee (where applicable), payments distributor fee and AiB administration fee
- Where AiB is payments distributor, fees paid to AiB should be returned to the public sector advice community (after AiB's own costs are covered)



Measures to make DAS more flexible

- Introduce a flexible payment break option to address short-term crisis

Reducing bureaucratic process

- Introduce deemed consent for variations, as there currently is for new cases
- Automatic approvals for variations that will reduce the term of the debt payment programme
- Allow AiB to submit variation proposals on behalf of debtors, where it will result in a positive outcome for the debt payment programme, for example the duration being reduced

[Access the consultation document](#)



on a positive note...

DAS amended regulations now in force

New legislation commenced 29 October 2018

The legislation for the introduction of The Debt Arrangement Scheme (Scotland) Amendment Regulations 2018 came into force on 29 October 2018.

The regulations approved by parliament and signed by Jamie Hepburn MSP, Minister for Business Fair Work and Skills, allow for a more sustainable and flexible scheme, making it more accessible for those struggling with debt.

A list of the regulatory changes which came into force on 29 October 2018 are listed below:

Regulation 4 - Correction of accidental errors

The DAS Administrator will be able to remedy accidental errors by a third party where incorrect information was provided.

Example: A revocation on the basis of a debtor not paying their continuing liability being found incorrect as the local authority hadn't processed the payments timeously.

Regulation 5 - Approved money adviser: Financial Conduct Authority compliance

Provides clarification regarding continuing money adviser compliance with FCA regulation.

Regulation 6 - DAS Register: information which need not be included

The DAS Register will be brought in line with the Register of Insolvencies, in respect of case sensitivity for vulnerable individuals.

This will follow the same guidance in place for a sequestration in allowing a debtor to withhold their address from the DAS Register. In these circumstances the address will either be the DAS Administrator or the address of the continuing money adviser, where applicable.

Money advisers can notify the DAS Administrator of any legitimate reasons for certain details of the debtor being withheld or treated sensitively for the purpose of the DAS register by completing the sensitivity obligation at section 2(f) of the DAS Form 1. A template of the revised Form 1 can be found on the AiB website or within the Help section of DASH.

Regulation 7 - Continuing money adviser's fee: disclosure

The continuing money adviser's fee must be declared on the DAS Form 1 and DASH will be updated to include a field in which the fee must be recorded.

DAS amended regulations continued

Regulation 8 - Common financial tool: exclusion of rent arrears and mortgage arrears

A debtor on the advice of their money adviser, may omit a debt which is in relation to rent or mortgage arrears in respect of the debtor's sole or main residence.

The debt excluded from the debt payment programme must be declared on DASH and the DAS Form 1, as stipulated at Schedule 2 Part 3.

Payments towards the debt will need to be recorded in the statement of income and expenditure.

Regulation 8 and Schedule A1 - Common financial tool: debtor's contribution

A debtor's income and expenditure must be assessed using the Common Financial Tool. However, the debtor will not be required to pay their full surplus income to their debt payment programme if they choose not to and the proposal is accepted by their creditors.

Regulation 9 - Business Debt Arrangement Scheme: application for approval

Provision added for single debt Business DAS debt payment programmes.

Regulation 10 - Joint debt payment programme: terminology

Updates terminology in terms of eligibility criteria for joint debt payment programmes.

Regulation 11 - Discretionary conditions: sole or main residence

A debtor may include the sale, remortgage or any other condition regarding their sole or main residence, as a discretionary condition attached to their debt payment programme.

Regulation 12 - Business Debt Arrangement Scheme: protection from diligence or sequestration

Reaffirms the protection from diligence or sequestration in relation to Business DAS.

Regulation 13 - Notification by continuing money adviser: recall of arrestment, approval or rejection of variation

For continuity of process and administration, in cases where there is a continuing money adviser, they will issue the outcome notification circular letters for the variation process.

The DAS Administrator will continue to do this in public sector cases.

The continuing money adviser will also be required to notify the employer, where a debtor is paying their debt payment programme via an employment payment instruction.

DAS amended regulations continued

Regulation 14 - Accessing further credit

Aligning DAS with sequestration to allow a debtor to incur up to £2000 debt without informing or requiring approval from the DAS Administrator. This only applies where the debtor does not already have additional debt over £1000.

Regulation 15 - Business Debt Arrangement Scheme: payment break

Inclusion of payment breaks in Business DAS cases. Payment breaks can be applied where the term of the debt payment programme will not be extended beyond a total period of 60 months.

Regulation 16 - Grounds for variation: change in household circumstances, reduction in benefits

Introduces new grounds for payment break variation being “a reduction in social security benefits or tax credits (or both)”.

Regulation 17 - Approval of variation: discharge of liability on compensation

Allow variations to be automatically approved where a creditor is applying compensation.

Regulation 18 - Forms

Amendments to DAS Forms, as set out in the schedules contained within the Debt Arrangement Scheme (Scotland) Amendment Regulations 2018.

The template DAS forms on the AiB website have been updated with these amendments.

Regulation 19 - Savings and transitional arrangements

Details of savings and transitional arrangements in respect of existing debt payment programmes and those where an application for approval has been made on or after 29 October 2018.

All DAS and DASH guidance documents have been updated to reflect the changes and further updates. If you have any queries, please contact the [DAS team](#).

A copy of the legislation can be read here [The Debt Arrangement Scheme \(Scotland\) Amendment Regulations 2018](#)



eDEN

Accountant **in** Bankruptcy

EDEN update



eDEN

Accountant **in** Bankruptcy

Development of eDEN is progressing well and all requirement gathering workshops are finalised. The next release of the system is expected at the end of November and this will allow a training site to be completed which will be released to the external stakeholder group for feedback.

A creditor workshop showcasing eDEN took place on 14 November in Glasgow. If you have suggestions for other locations for workshops to be held please email **Brian Kennedy** indicating which location would be preferable. The presentation will typically last 90 minutes.

If you'd like to discuss the project or request a visit, please contact Project Manager, **Brian Kennedy**.

Latest DAS stats

The latest statistics from AiB were published on 24 October 2018 for the second quarter of 2018-19 (July to September 2018)

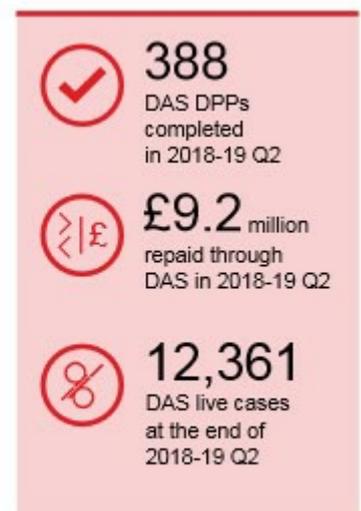
In 2018-19 Q2, there were 638 approved debt payment programmes under DAS compared with 662 approved in 2017-18 Q2.

In the second quarter of 2018-19, 670 applications for a DAS debt payment programme were received by AiB. In the same quarter, 17 applications were rejected.

In the second quarter of 2018-19, 561 applications to vary a DPP under DAS were approved while 18 were rejected. The number of approved variations was 4.5% of live DAS cases.

A total of 253 applications to revoke a DAS debt payment programme were approved in the 2018-19 Q2 and 189 were rejected. Overall, 244 or 2.0% of live DAS cases were revoked during 2018-19 Q2.

There were 388 completed DAS debt payment programmes in 2018-19 Q2, a 8.7% decrease when compared with 2017-18 Q2.



DAS case reviews and decisions

Fair and reasonable

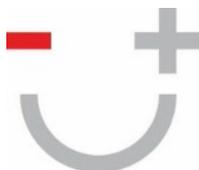
Case A

- Total debt £53,835.30. Proposed debt payment programme 18 years
- The non-consenting creditor was owed 9.86% of the debt and objected to the proposal as the term was too long
- The DAS administrator rejected the debt payment programme as it was not considered to be fair and reasonable
- The money adviser requested a review on behalf of the debtor which was after the expiry of the review timescale. The money adviser requested the review be considered as one of the debtors worked away from home
- The debtors had reviewed their financial statement and made some adjustments to it resulting in them being able to slightly increase their monthly payment reducing the term of the debt payment programme to 15 years
- The review request was rejected as it was received outwith the timescale



Case B

- Total debt £26,368.44. Proposed debt payment programme 14 years, nine months
- The money adviser proposed a discretionary condition for the debtors income to be reviewed monthly and any commission received paid to the debt payment programme
- The non-consenting creditor was owed 100% of the debt and objected to the proposal as the debtor had realisable assets, poor compliance history and the term was too long
- The DAS Administrator approved the debt payment programme with the proposed discretionary condition as it was considered to be fair and reasonable
- The creditor requested a review of this decision on the same grounds as their original objection to the programme
- The review request was not upheld
- The reviewing officer took on board the comments made by the creditor, however, they believed the debtor should be given the opportunity to comply with the debt payment programme and pay their debt
- If there was future non-compliance the case would be considered for revocation



Revocations

Case A

- Revocation action was started by the DAS Administrator as the debtor had missed all scheduled payments since commencement of the debt payment programme
- The debtor did not respond to the proposal to revoke the debt payment programme
- The DAS administrator revoked the programme
- The debtor submitted a request for the decision to be reviewed, citing the reason for missing payments was due to several expensive bills and other monthly commitments
- The review request was not upheld
- The reviewing officer considered the debtor's comments but did not deem expensive bills and overspend in other areas was an allowable reason to not make the monthly payment to the debt payment programme
- It was agreed the DAS Administrator's decision to revoke the programme was correct.

Case B

- Revocation action was started by the DAS Administrator due to missed payments
- Previous revocation action for missed payments had been rejected
- Since the previous revocation action was rejected, the debtor had missed a further eight payments, but had made five ad hoc payments
- The debtor did not respond to the proposal to revoke the debt payment programme and the payments distributor confirmed that an issue with the direct debit had been resolved
- The DAS administrator revoked the debt payment programme
- Money adviser submitted a request for review on behalf of the debtor
- The debtor advises they did not receive the correspondence proposing to revoke the debt payment programme and this is the reason they did not respond to the proposal. Debtor further advises there had been issues with a bank account specifically set up to pay liabilities. The debtor states despite being in touch with the DAS administrator and the payments distributor they were never made aware of the missed payment and confirmed they have the funds available to pay the missed payments and would like to pay the outstanding sums
- The reviewing officer considered the information provided and upheld the review as the debtor is holding sufficient funds to meet the missed payments
- A substitute determination was issued with a discretionary condition stating the debtor must make full payment of the last four missed payments within two weeks of the approval letter

Variations

Case A

- Six months into a six year debt payment programme
- Money adviser applied for a six month payment break due to a change in the debtor's employment resulting in a reduction of more than 50% of the disposable income
- A creditor holding 5.84% of the total debt objected to the proposal as their balance was incorrect
- The continuing money adviser advised the reason for the drop in disposable income was due to the debtor returning to their regular income. The debtor was in a temporary position when they applied for the debt payment programme and failed to disclose this to the adviser therefore the grounds for a payment break were not met
- The payment break was rejected
- The debtor submitted a review request and provided confirmation of the dates their extra hours started and ceased. They stated they were unaware when the hours were going to stop, by which time the debt payment programme was already in place
- The debtor also stated they were looking for other employment to increase their income so they could meet the agreed payments to the debt payment programme
- The reviewing officer considered the comments made by the debtor, however, as the income had decreased and there was no guarantee that the debtor will find employment to continue the payments, they did not consider that a payment break was fair and reasonable for all parties
- The review was not upheld





DASH MESSAGES



round up of the messages on DASH since the last issue of the DAS Digest:

DAS Amendment Regulations 2018 – Posted 10/10/2018

The Debt Arrangement Scheme (Scotland) Amendment Regulations 2018 came into force on 29 October 2018.

We have published a document on the AiB website detailing the changes being introduced and you can find it on the [AiB website](#).

Completing income and expenditures for joint debt payment programmes from 29/10/2018 – Posted 26/10/2018

Due to regulation changes coming into force on Monday 29 October 2018 changes have been made to the Creditor Proposal Letters on DASH. Due to these changes when submitting a joint application one joint Income and Expenditure should be filled out on the DAS case under the details of the first debtor, no values should be input on the income and expenditure for the joint debtor.

Reminder to money advisers: re partial settlements – Posted 24/10/2018

When submitting a partial settlement application, please can you ensure that you call the DAS team in order for them to be prioritised. Failure to adhere to this may result in the application being rejected, but to the balances being incorrect. [26 Oct 2018]

Reminder : Confirmation of debt levels – Posted 08/10/2018

Money advisers should be aware that the procedure for confirming levels of debt not changed. In the first instance money advisers should confirm debt level through DASH, where possible. If however this is not possible due to creditors who are not using DASH, the Money Advisers should be adding the details in the debt tab within the DPP. This information should no longer be placed in the notes section or anywhere else on DASH. Information to be provided is:

i) the date the debt was checked;

ii) how it was checked;
iii) the name and department of the creditor contact who confirmed the details.

Please note that if money adviser have stated that the level of debt was approved by letter can they state that the level was a confirmation of debt letter or a statement. Please be advised that automated service and statements should only be used if all the above avenues have been explored.

Internet browser – Posted 27/09/2018

We are aware that users who access DASH using the Internet Explorer web browser are experiencing issues with the system, for example, tabs not being visible unless the cursor hovers above them.

We are investigating this and in the meantime, we suggest that users access DASH using a different web browser, for example, Microsoft Edge. We apologise for any inconvenience this may cause you.

CMA - Variation Proposal Letters – Posted 21/09/2018

Reminder that when issuing proposal letters for payment break that the correct letter is named "Payment break acknowledgement". Also when issuing any letters please make sure that you pick the correct DPP date in the letters tab.

To Money Adviser re creditors entered on DASH – Posted 29/08/2018

Please note that when you are entering a debt in a debt payment programme application, you must enter the creditor that owns the debt and not a collection agency.

For example if the debt is for council tax arrears the council should be added as the creditor on DASH and not the sheriff officer collecting the debt.

Should you require any further information please contact the DAS team at das@aib.gsi.gov.uk or on 0300 200 2770.

AiB Customer Survey goes live

How Are We Doing?



AiB is inviting all of its customers to make their voices heard as it launches its latest customer survey.

Independent research consultancy Ashbrook Research & Consultancy is conducting the customer satisfaction survey on our behalf. The survey will target those that have used our services recently, including money advisers, insolvency practitioners, payment distributors and people currently in a DAS DPP, are bankrupt or in a protected trust deed.

AiB and its external providers and agents endeavour to provide a service that meets the needs of customers, treating everyone with dignity and respect. While the online questionnaire is being proactively sent to survey participants, everyone who has had dealings with AiB is invited to have their say.

Money advisers have already been contacted to participate, but if you want to highlight any issues, please use this link and [complete the survey](#).

The online questionnaire will focus on your experience of engaging and interacting with AiB and details of specific cases will **not** be discussed.

All completed questionnaires will be automatically sent to Ashbrook Consultancy, maintaining privacy and autonomy for those taking part in the survey, ensuring identities and views expressed will be anonymous and confidential.

It will not be possible for Ashbrook or AiB to identify any participant. Results from the survey will help inform AiB's approach to dealing with stakeholders and, ultimately, shape how AiB delivers its services to its customers. Participants are invited to submit their views by no later than 23 November.



Changes to the DAS team

With the development of eDEN progressing at a rate of knots and plans to release an eDEN training site in November 2018, Amanda Gardiner from the DAS team is transferring to the Efficiencies and Technology team to assist.

Amanda will be responsible for testing the new system and working with our system developers to help ensure the success of eDEN. I'm sure you'll join us in wishing Amanda all the best with this task.

Neal Currie will be taking over Amanda's responsibilities in the DAS team, including decision making and system testing for DASH and eDEN. He will be very busy with the upcoming changes being introduced with the 2018 amendment regulations but the team has no doubt Neal will take this all in his stride.



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Please provide any feedback on this newsletter to the **DAS team**.

Tel: 0300 200 2770

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