Welcome to our third edition of the Supervision Standard.

Our newsletter is proving to be a helpful guide for Trustees and their staff and we’d like to thank everyone who has provided us with feedback so far.

If you have any suggestions for content to include in future editions, please contact Head of Adjudication and Trustee Supervision Fiona Coyle.

In this edition:

- Annual report and accounts
- Quarterly Stats
- Trustee Accounts update & helpful tips
- Adjudication and Supervision update & reminders
- Bankruptcy Restrictions update
The Accountant in bankruptcy has published their 2018-19 Annual Report and Accounts on 18 September 2019. Here are some key figures around bankruptcy supervision.

In 2018-19, 85.3% of all awards of bankruptcies were cases where The Accountant was appointed as trustee. In the remaining 14.7% of cases, an IP was the nominated trustee.

The number of cases where The Accountant was appointed as trustee was 4,155, increased from 3,865 in 2017-18. The number of cases where an IP was appointed trustee decreased from 779 to 718.

In 2018-19 there were 5,615 bankruptcies discharged (based on discharge of the trustee), a 16.1% decrease on the previous year.

<table>
<thead>
<tr>
<th>Annual Statistics released</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>2017-18</td>
</tr>
<tr>
<td>In dependence at start of year (live cases)</td>
</tr>
<tr>
<td>New awards</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Less:</td>
</tr>
<tr>
<td>Recalls/disposals/discharges</td>
</tr>
<tr>
<td>Bankruptcies concluded by discharge of the trustee in which:</td>
</tr>
<tr>
<td>No dividend was payable to creditors</td>
</tr>
<tr>
<td>Dividend payable to preferred creditors only</td>
</tr>
<tr>
<td>Dividend payable to ordinary creditors</td>
</tr>
<tr>
<td>Discharged MAP cases</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Cases in dependence at end of year (31 March)</td>
</tr>
</tbody>
</table>

Of the bankruptcies concluded by discharge of the permanent trustee, 70.7% resulted in no dividend payable to creditors and 29.2% resulted in a dividend payable to ordinary creditors only. This includes cases where a dividend could be payable and therefore excludes MAP cases.

If all bankruptcy cases that concluded by discharge of the trustee in 2018-19 are considered, including MAP cases, a dividend was paid to ordinary creditors in 18.9% of cases.
Bankruptcies wound up by division of funds following the trustee's discharge during, 2017-18 and 2018-19

<table>
<thead>
<tr>
<th>Dividend payable to</th>
<th>2017-18</th>
<th>2018-19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preferred creditors only</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Ordinary creditors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than 25p per £</td>
<td>964</td>
<td>603</td>
</tr>
<tr>
<td>Between 25p and 50p per £</td>
<td>247</td>
<td>135</td>
</tr>
<tr>
<td>Between 50p and 75p per £</td>
<td>106</td>
<td>77</td>
</tr>
<tr>
<td>Between 75p and 99p per £</td>
<td>62</td>
<td>48</td>
</tr>
<tr>
<td>100p per £ plus interest</td>
<td>243</td>
<td>195</td>
</tr>
<tr>
<td><strong>Sub Total</strong></td>
<td><strong>1,622</strong></td>
<td><strong>1,058</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,631</strong></td>
<td><strong>1,060</strong></td>
</tr>
</tbody>
</table>

56.9% of cases where ordinary creditor dividends are paid were paid at less than 25 pence in the pound, which is less than 59.4% in 2017-18. The table also shows that 18.4% were paid at 100 pence in the pound plus interest, which is more than the 15.0% in 2017-18.

<table>
<thead>
<tr>
<th>Cases concluded</th>
<th>AiB as trustee</th>
<th>Private sector trustees</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>By permanent trustee discharge</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of which:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>With dividend payable to preferred or ordinary creditor</td>
<td>1,273</td>
<td>793</td>
</tr>
<tr>
<td>No dividend to any class of creditor</td>
<td>1,631</td>
<td>1,185</td>
</tr>
<tr>
<td><strong>Average dividend (pence in the £)</strong></td>
<td><strong>22.9</strong></td>
<td><strong>21.3</strong></td>
</tr>
</tbody>
</table>

A total of around £18.0 million was repaid to creditors. Where AiB was trustee, around £8.6 million was repaid and £9.5 million was repaid where a private sector trustee had been in place.

Overall, the average dividend paid to ordinary creditors was 19.3 pence in the £.

In 2018-19 there was a decrease in BROs granted.

<table>
<thead>
<tr>
<th></th>
<th>2017-18</th>
<th>2018-19</th>
</tr>
</thead>
<tbody>
<tr>
<td>BROs granted</td>
<td>19</td>
<td>16</td>
</tr>
<tr>
<td>BRO applications pending at year end</td>
<td>160</td>
<td>106</td>
</tr>
</tbody>
</table>

Read the full report here

There were 3,466 personal insolvencies (bankruptcies and protected trust deeds (PTDs)) in 201920 Q2, 389 more than in 201819 Q2 (see chart 1).

**Awards of bankruptcy**

There were 1,178 bankruptcies awarded in 201920 Q2, a 1.6% increase when compared with 2018-19 Q2.

Of the 1,178 awards of bankruptcy, 81.5% came from debtor applications. The remaining bankruptcies came from creditor petitions (18.4%) and one trust deed petition (0.1%).

<table>
<thead>
<tr>
<th></th>
<th>2018-19</th>
<th>2019-20 (p)</th>
<th>2018-20 Q2 compared with 2018-19 Q2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bankruptcies</td>
<td>1,247</td>
<td>1,193</td>
<td>1.6%</td>
</tr>
<tr>
<td>Protected trust deeds</td>
<td>1,969</td>
<td>2,333</td>
<td>19.4%</td>
</tr>
<tr>
<td><strong>Total personal insolvencies</strong></td>
<td>3,216</td>
<td>3,526</td>
<td>12.6%</td>
</tr>
<tr>
<td>Approved DPP under DAS</td>
<td>646</td>
<td>736</td>
<td>18.1%</td>
</tr>
<tr>
<td>Amount repaid under DAS (£ million)</td>
<td>9.4</td>
<td>9.3</td>
<td>-2.0%</td>
</tr>
<tr>
<td><strong>Total corporate insolvencies</strong></td>
<td>245</td>
<td>239</td>
<td>1.3%</td>
</tr>
</tbody>
</table>

r: Previously published figures have been revised.
p: Figures for 2019-20 will remain provisional until validation following the end of the financial year.

**Case administration**

The Accountant was appointed trustee in 1,012 cases awarded, 85.9% of bankruptcies for the quarter.

**Bankruptcies discharged**

In 2019-20 Q2, there were 998 debtors discharged and 1,162 trustees discharged.

View the full statistical release
Update from the Accounts Team

Final reconciliation

You may be aware of the final reconciliation function on BASYS.

When a final account has been determined, a paper copy of the final reconciliation will be generated in the account, however you can view the reconciliation on BASYS in any account period. This will indicate statutory fees raised that have not been settled and trustee’s fees determined but not taken to date.

In the account you are working on, click on ‘final reconciliation’ at the bottom of the screen.

![Final Reconciliation](image)

Please note, if it is a final account, within the final reconciliation screen, you should complete the relevant sections with any income or outlays expected to be received/raised after the end date of the account.

Any provision made for outlays will pull through onto the final determination and will be taken into consideration along with any further income to then show the balance of funds. If it is a final account, the trustee’s final fee will be restricted to the funds in hand and will show a breakdown of the calculation.

For more helpful information on the Accounts Process on BASYS, please see the [BASYS user guide](#).

Adjudication and Scheme of Division timelines

As per Section 49 of the Bankruptcy (Scotland) Act 1985 and Section 126 of the Bankruptcy (Scotland) Act 2016, adjudications are to be carried out no later than four weeks before the end of an accounting period.

Therefore, Trustees should ensure the Scheme of Division account is set to end four weeks after the adjudication takes place, and submitted within the statutory two week period, providing no reviews or appeals are received in respect of the adjudication.
As a significant proportion of accounts are being uploaded to BASYS without a covering letter, case administration updates are not being supplied along with the account. It would be helpful if a case update is recorded on the notes section in BASYS or uploaded with the account, especially if assets are to be realised to explain the steps being taken to expedite realisation.

Sections 13 and 14 of SIP9 (Scotland) specify the type of information that should be provided to AiB in support of accounts:

13. When seeking approval for his or her remuneration, an office holder should provide sufficient supporting information to enable the approving body, having regard to all the circumstances of the case, to make an informed judgement as to whether the remuneration sought is reasonable. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought.

14. An office holder should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed. Where the remuneration is on a time costs basis, an office holder should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable.

Remember if you are looking to accelerate an accounting period due to the account type being a ‘Scheme of Division’ or a ‘Final’, there is no need to make a request to AiB.

You can change the account period on BASYS by clicking ‘update’ at the bottom of the account and changing the Account Type to either ‘Scheme of Division’ or ‘Final’. Then click on ‘update accounting period’ at the bottom of the account you wish to accelerate and enter the new accounting period end date.

For more helpful information on the Accounts Process on BASYS, please see the BASYS user guide.

Extension requests must be made before the end date of the account. If the request is not made prior to the end date, an account must be submitted for the period before the submission end date.

When submitting an extension request, please provide as many details as possible to explain the reason for the extension, and/or a copy of your latest 6-monthly case review. As per our article in Edition 2, extension requests will not be considered without this information.
IPA have issued a reminder to Trustees of the fee caps imposed by Section 29 of the Financial Guidance and Claims Act 2018:

20% of the amount recovered in a satisfactory claim and zero where nothing has been recovered (whether or not a claim has been made or concluded).

The cap applies to fee agreements entered into from 10 July 2018 (for firms solely operating in Scotland – 1 April 2019, as per FCA Guidance). Any invoices received for agreements after this date, which have been charged incorrectly, will be restricted by AiB in line with this guidance.

Taxation of legal accounts

In our first edition we explained that the Act requires all accounts, in respect of legal services incurred by the Trustee, to be submitted to the auditor of the court for taxation, however under certain circumstances the Trustee can make a request to waive such requirement.

If your account includes legal fees, please ensure a statement is provided confirming:

● The Trustee is not an associate of the person who has provided the legal services, and
● The Trustee finds the legal expenses to be reasonable and the amount of the legal invoice has been agreed by the trustee and the legal agent entitled to payment.

A detailed breakdown of the legal work carried out should also be provided. This will prevent any delay in determining your account if the information is submitted with the account.

Deferred fees

Trustees may wish to note that they are able to defer the fixing of part of their fee until a later date, it does not need to be the full amount.

To defer a fee on BASYS, select ‘Remuneration fee to be deferred’ from the drop down menu. If part of the fee is to be fixed in the period, please make sure you enter the amount to be fixed in a separate entry for part of the fee that has to be deferred and enter a note in the description box as shown below.
Trustee tips and best practice

Trustee Accounts team

Uploading supporting documents

Where possible, it would be helpful if any supporting documents for accounts are uploaded as a single attachment.

Bank charges

Trustees should be mindful when opening sequestration bank accounts that incur bank charges in order to prevent any unnecessary costs to the sequestration.

Trustee Accounts e-mail notifications

BASYS has the functionality to issue an email notification when a trustee account is determined, extended, accelerated or returned. If this is of interest to you, please email the Trustee Accounts mailbox with the email address to which you would like the notifications to be sent. Please note only one email can be assigned per trustee.

Account amendments

Please make sure any amendments to your account by AiB are adjusted at your end, are placed in the sederunt book and reflected in the next account submitted. If you do not agree with the amendments, please contact the auditor to discuss prior to submitting your next account.

Restrictions to Trustee’s remuneration

When restrictions to the Trustee’s remuneration have been made by AiB, and the Trustee disagrees with the restrictions, further information/evidence should be provided at the earliest opportunity, and no later than 4 weeks after the date of the determination. Consideration will be made to either issuing an amended determination (if within the 6-week period after the accounting period) or amending a future request to fix the remuneration of a subsequent accounting period.

Legal fees to re-open cases

Trustees should give consideration to the costs of instructing legal agents to re-open cases, it may be more economical and beneficial to the sequestration if the Trustee were to make the application to court.
If payment to creditors has been made by cheque, please ensure you keep a copy as we require this as evidence of the dividend payment. A signed receipt from the creditor is also an acceptable proof of payment by cheque or BACS. Please forward such evidence when submitting your account.

Evidence of outlays

Please remember to provide copies of original invoices as evidence of outlays, internal vouchers are not sufficient and outlays cannot be determined without the appropriate evidence.

Notes to Court (Re-open)

When making an application to court to re-open a case, it would be helpful if a copy of this is uploaded to the case on BASYS or sent to AiB. This will save time when the interlocutor is received as we will not need to request this prior to taking action on the interlocutor.

Scheme of Division on BASYS

You may now continue using the Scheme of Division on BASYS. We apologise for any inconvenience that was caused during the period of time this service was unavailable.

If you require assistance on completing a Scheme of Division on BASYS, you can find details of the process in our User Guide or alternatively call the Accounts Team and we can talk you through the steps or answer any questions you may have.

Selling on behalf of the secured lender

As mentioned in our previous edition, a Dear Trustee letter has been issued in respect of the procedure to follow when selling on behalf of the secured lender. As advised in the letter, the entries relating to the sale of the property in these cases should be listed separately.

BASYS training

AiB staff are available to provide training on all things BASYS. If you or your staff would find this useful, we can attend your office or alternatively you can visit and sit within the team(s).

If you would like us to arrange some training, please contact us and we can arrange a suitable date. We will be happy to share the benefits of using BASYS and answer any questions or concerns you may have.
Update from the Adjudication and Supervision Team

**Debtor Contribution Order Variations**

Please ensure a copy of the CFS is included with all Debtor Contribution Order (DCO) variation applications to evidence the debtor's change in circumstances.

Following a review of a Debtor Contribution Order (DCO), the AiB Review Team will write to the Trustee to advise of the outcome and whether a review has been upheld. The Trustee should then submit a new variation form showing the revised amount to the AiB.

**BASYS Notifications**

A number of Trustees have shown interest in receiving BASYS notifications on completion of a decision. Please advise via email to the Adjudication and Supervision Team mailbox whether this is something your office may be interested in.

**Debtor Addresses**

If a debtor changes address during the course of the bankruptcy, please ensure BASYS is updated to reflect the debtor's current address. To do this:

Click ‘update debtor contact’ at the bottom of the Insolvency case screen and enter all the relevant up to date details.

**Reminders**

- **Retrospective Appendix Ls**

  Please clearly state on your Appendix L application whether the action is retrospective. AiB will not provide a response to these applications, however they should be submitted in all cases for audit purposes.

- **Debtor Discharge reports**

  A recent exercise was carried out to review outstanding debtor discharge reports. AiB will be running another exercise in early 2020. Trustees are reminded that debtor discharge reports should be submitted without delay after the date which is 10 months after the date on which sequestration is awarded as per Section 137(4) of the Bankruptcy (Scotland) Act 2016.
An application for a Bankruptcy Restriction Investigation (BRI) should be submitted via BASYS. The BASYS user guide provides step by step instructions on how to create and submit an application. If you require permissions to enable you to use BASYS, please contact the Bankruptcy Restrictions Team and we can arrange this for you.

We would also be happy to carry out training on our BASYS processes. If you think that training would help, please get in touch.

There have been several updates to the Bankruptcy Restriction Investigation (BRI) section on BASYS. Below, is some helpful information for when ‘Creating a Bankruptcy Restriction Investigation’:

‘Applicant Name’

• This section should be populated with the name of the Trustee/Provider.

‘Address’

• The address should be the address of the Trustee/Provider office.

‘Section of the Act’

• There was a recent enhancement to BASYS which added details of Section 156 of the Bankruptcy (Scotland) Act 2016, which allow the relevant section of the Act to be selected. When selecting the appropriate section of the Act, please scroll down and select all of the grounds you require. BASYS will allow you to select more than one ground, if applicable.

If you need to contact the Bankruptcy Restriction Team (BRT), please forward any correspondence to us via the Team mailbox. Please see the email address below:

BRT@aib.gov.uk

You may remember in the past having to email the Adjudication and Supervision Team, however, this has changed and any queries regarding Bankruptcy Restriction Orders (BROs) should be sent direct to the Bankruptcy Restriction Team, who will be happy to help.
Another responsibility of the Bankruptcy Restrictions Team is Suspected Offence Reports. (SORs)

We have been working with our IT Team to introduce an area on BASYS where SORs can be uploaded directly.

This is in the final stages of development and it is anticipated that this functionality should be available soon.

In the meantime, if you are submitting a Suspected Offence Report, please send this via our team mailbox.

AiB does not investigate Suspected Offence Reports. Our role is to review the application and information provided by the Trustee/Provider prior to making a decision on whether to forward it to the Crown Office. The Crown Office make the final decision on the application, therefore, it will be helpful if the information below is included in the Suspected Offence Report.

- Detail which statute has been contravened
- Evidence of the offence.
- Details of two witnesses who can, and are willing to, identify the debtor if required, should the case go to court.

Useful documents

Notes for Guidance 2016
BASYS User Guide for Trustee Accounts
BASYS User Guide for Adjudication and Supervision
Dear Trustee letters

Do you have news, content suggestions or feedback about the new Supervision Standard?

Contact Head of Adjudication and Supervision, Fiona Coyle
Thank you for taking the time to read our newsletter.

If you would like to discuss anything further or have any content suggestions for future editions or even some feedback, please contact

Head of Adjudication and Supervision, Fiona Coyle