

Accountant in Bankruptcy consultation on Returning Funds to the Free Advice Sector (Building a Better Debt Arrangement Scheme)

Response from Citizens Advice Scotland

August 2019

Citizens Advice Scotland (CAS), our 59 member Citizen Advice Bureaux (CAB) and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone.

In 2017-18 the Citizens Advice Service network helped over 295,100 clients in Scotland and dealt with almost 800,000 advice issues. With support from the network clients had financial gains of over £138 million and our self-help website Advice in Scotland received approximately 3.2 million page views.

Introduction

Citizens Advice Scotland (CAS) welcomes the opportunity to respond to the Accountant in Bankruptcy's consultation on returning funds to the free advice sector. CAS has supported recent developments in the Debt Arrangement Scheme, both in a cross sector working group and in the 2018 consultation. In the consultation we supported the proposals to increase payment distribution fees, for the Accountant in Bankruptcy to become the payments distributor (PD) of last resort and for the free advice sector, and for the AiB to return funds to the free advice sector after its costs have been paid¹.

The consultation offers a number of options for returning funds to the sector, which we have summarised for our members as follows:

- I. The funds are held by the AiB and paid on a pro rata basis (dependent on number of cases submitted) to free sector organisations who nominate the AiB as payment distributor.
- II. The funds are held in a 'Trust fund' by the AiB for organisations to "make a case" to receive funding for promoting or increasing the delivery of DAS.
- III. Similar to option ii, the funds are held by the AiB but funding decisions will be made by an Independent Panel instead.
- IV. The funds are held centrally by Scottish Government to be ring fenced and allocated only to organisations delivering DAS, via the Scottish Legal Aid Board (SLAB)
- V. The funds are passed to the Scottish Government for general money advice support and spent in line with their priorities

¹ <https://www.cas.org.uk/publications/cas-response-building-better-debt-arrangement-scheme-consultation>

Survey

In order to inform our response to this consultation we surveyed our members between the 2nd and 26th of July. We had 33 responses to our survey from advisers and bureau managers and we believe that this represents a good cross section of our 59 members.

First, to set some context to our response, not all of the members who responded are submitting DAS cases. However we also have a number of bureaux who say they have submitted in excess of 40 applications in the last year.

How many DAS application has your bureau submitted in the last year?	Number of respondents
None	5
0-2	2
3-4	7
5-10	4
11-20	3
21-40	5
More than 40	7

We asked respondents about funding the advice sector from the Debt Arrangement Scheme. 88% of respondents who answered the question "agreed" or "strongly agreed" with the principle of paying money back to the free advice sector from payment distribution for the Debt Arrangement Scheme.

Do you agree that money from payment distribution for the debt arrangement scheme should be paid back to support the free advice sector?	Number of respondents
Strongly disagree	1
Disagree	0
Neutral	2
Agree	4
Strongly agree	18
Skipped	8

We also asked whether members would be likely to use the AiB or a commercial debt advice provider as PD. Of those that expressed an opinion, 79% were likely or very likely to use the AiB as PD, and 64% unlikely or very unlikely to use the commercial sector.

	Very unlikely	Unlikely	Neutral	Likely	Very likely
Would use the AiB as a payment distributor?	0%	0%	21%	29%	50%
Would use a commercial DAS provider as a payment distributor?	12%	52%	28%	4%	4%

Respondents were asked to rate the 5 options outlined by the AiB on a scale of 1 to 5 (with 1 being the most favoured option and 5 the least). Stronger preferences were shown for options V and I. Option IV divided respondents equally.

Options	Respondents' preferred option	Respondents' who were neutral	Respondents' least preferred option
i. The funds are held by the AiB and paid on a pro rata basis (dependent on number of cases submitted) to free sector organisations who nominate the AiB as payment distributor.	10 (48%)	4 (19%)	7 (33%)
ii. The funds are held in a 'Trust fund' by the AiB for organisations to "make a case" to receive funding for promoting or increasing the delivery of DAS.	7 (32%)	3 (14%)	12 (54%)
iii. Similar to option ii, the funds are held by the AiB but funding decisions will be made by an Independent Panel instead.	6 (29%)	10 (48%)	5 (24%)
iv. The funds are held centrally by Scottish Government to be ring fenced and allocated only to organisations delivering DAS, via the Scottish Legal Aid Board (SLAB)	10 (48%)	1 (5%)	10 (48%)
v. The funds are passed to the Scottish Government for general money advice support and spent in line with their priorities	13 (54%)	5 (21%)	6 (25%)

Conclusions

Our survey confirms that a significant majority of our members are in favour of funding the free advice sector from the AiB's payment distribution surplus. This result is hardly surprising given that the CAB service does not receive any "fair-share" funding from the credit industry and is wholly reliant on a shrinking local authority and grant funding pot. **However, it is vital that the proposed new funding does not put our members in conflict with their clients' interests; nor should it compromise their independence and impartiality.**

Our survey also suggests that the majority of our members would prefer to use the AiB as PD. This is in line with what was originally proposed in the 2018 workshops and consultation. However, we note that there has been a shift in emphasis from the AiB in recent communications towards there being an open PD market for CAB clients. CAS is concerned that any arrangements with commercial PDs could undermine the independence of our members. We think that the AiB should have consulted more clearly on an open PD market **for the free debt advice sector** in the 2018 consultation if this was always their intention. The result of this shift in emphasis is that the AiB is putting an expectation on to the free advice sector to give clients additional choice within an already complex process of arranging a DPP. We anticipate this choice could become a barrier as clients will not know who to choose, nor will the choice be meaningful if the client does not actually benefit from it anyway. We therefore think that the AiB should not be passing the decision and liability for PD choice to clients and their advisers. We believe that the only way to preserve the true independence of our network and free advice generally is for the AiB to be the first and only choice of PD for CABx. If that is not possible then the choice of PD must continue to sit with the AiB as it does now; the AiB could select a commercial PD from its own panel or act as PD of last resort where no other PD will. The AiB would also be far better placed to negotiate commercial terms with PDs than individual Citizens Advice Bureaux and local authorities, as they could offer the PDs cases in sufficient numbers, aggregated from multiple sources, to be a viable commercial proposition.

Our network is divided on how the funding from the AiB's surplus DAS payment distribution money should be repaid. In our survey the strongest support was for option V, i.e. paying the funds to the Scottish government for general debt advice; however options I and IV were individually close runners up and taken together would indicate that many respondents would be keen on the funds supporting DAS work. We think that a direct connection between a member submitting a DAS case and receiving funding could lead some to question the bureau's impartiality. For this reason, we would rule out option I and back option IV, which keeps the funding at arm's length from the bureau, but places it within a body that our members are already used to dealing with for grant funding. Our concern with option 5 is that this money could be used to replace existing funding streams for debt advice, resulting in no overall increase in funding for the sector to help people in need of advice.

Finally, we think the additional funding generated should support not only providers of the DAS scheme, but also free debt advice generally. This would ensure that all our members are able to support and improve their debt service, even in areas where DAS is not a viable option due to deprivation, low income and unstable employment. To ensure applying for the funding does not become an industry, we would recommend a simple form, objective criteria and an open and



transparent assessment process. CAS would be happy to assist the AiB with developing the application process.

To summarise, CAS would like the AiB to be PD of first and only choice for the CAB network **or** for the AiB to make the choice of the PD for CAB cases from a panel. We think the funding generated from the AiB's PD work should be paid to SLAB to distribute and that it should not be used to support DAS exclusively, so that all free advice sector agencies can benefit.

RESPONDENT INFORMATION FORM

Please note that this form must be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation

Organisation Name

Citizens Advice Scotland

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Holmyard

Forename

Mike

2. Postal Address

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3. Permissions – I am responding as an...

Individual <input type="checkbox"/>	Organisation <input checked="" type="checkbox"/>
(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)? Please tick as appropriate:	The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).



<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis:</p> <p>Please tick ONE of the following boxes</p> <p>Yes, make my response, name and address all available <input type="checkbox"/></p> <p>or</p> <p>Yes, make my response available, but not my name and address <input type="checkbox"/></p> <p>or</p> <p>Yes, make my response and name available, but not my address</p>	<p>Are you content for your response to be made available?</p> <p>Please tick as appropriate</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Please return your response to Lisa.LedinghamPark@aib.gsi.gov.uk or Lisa Ledingham-Park, DAS Team Leader, AiB, 1 Pennyburn Road, Kilwinning, Ayrshire, KA13 6SA by 20 August 2019.</p>	