

DAS – 4 years on – an effective tool or just another blunt instrument

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DAS – 4 years on

- Aims of the session –
 - Brief History of DAS
 - Issues in practice
 - Is DAS fit for purpose or not?
 - What can we do collectively to make it work?

Purpose of DAS

*“The debt arrangement scheme will offer a positive opportunity and means for the **managed repayment of multiple personal debts** with protection against enforcement action and sequestration.....”*

The Deputy Minister for Justice (Hugh Henry)

History of DAS

- A statutory debt arrangement scheme first proposed in 1985.
- Striking the Balance: set up to “find a workable yet humane alternative to poindings and warrant sale”
- Debt Arrangement and Attachment (Scotland) Act 2002 Part 1 Introduced DAS
- DAS Regulations – November 2004

Changes made to DAS

- Changes made to the Regulations to enable interest to be frozen
- Removal of the need for “fee chargers” to advise of free services
- Certification and approval changed from 2 to 3 years
- From 1 January 2009 organisations will have to sign up to the Scottish National standards

DAS

Another tool in the toolkit for
debtors to manage their debts?

Purpose of DAS

- Encourage money advice
- Early intervention
- Avoid Court Action
- Stabilise debtor's situation
- Stop Diligence
- Deal with ongoing liabilities
- To allow debtors to make payments on a regular basis

Potential Clients

- Habitually resident in Scotland
- More than 1 debt (which can be to same creditor)
- Excess Income
- Homeowners but not exclusively
- Useful for certain professions e.g policemen, armed forces
- When other options not available

DAS Who's who

- Debtor/ Creditor
- Approved Money Adviser
- DAS Administrator
- Payment Distributor
- Guidance for Money Advisers (The Guidance)
- Code of Practice (The Code) and to be replaced by Scottish National Standards

Approved Adviser

- Regulations state who may not be approved
- Must meet training and competence requirements set by MATRICS
- Must present cases for assessment – initially 6 cases then spot check of 3 at 6,18, and 34 months
- Organisation and individual must sign up to the Scottish National standards
- Approved advisers “shall have regard to” the Guidance for Money Advisers (The Guidance)

Guidance for Money Advisers (The Guidance)

- Guidance has been produced which sets out how a money adviser will operate the new DAS scheme
- It clarifies the Regulations and the intent of the Regulations

Scottish National Standards

- Operational quality assurance framework
- Includes reference to both the adviser and the organisation
- Case audits are carried out
- Agencies who want to provide DAS will have to sign-up to the standards or “working towards” them.

Issues in practice

- Volume of Debt Payment Programmes
- Length of Programmes
- Numbers of Approved Advisers – not every local authority covered
- Not enough knowledge within the credit industry and others about the scheme, especially with English based creditors

Issues in practice

- Creditors and Local authorities don't all operate the same policies when dealing with DPP applications
- Completion of DPP applications and negotiation is very time consuming
- Certification process may be onerous in terms of time taken to complete cases

Issues in practice

- Some money advisers are unconvinced DAS provides a solution to debt problems
- We don't know the long term effects of DAS in terms of credit rating
- We can already see that the new 1 year bankruptcy figures have escalated by comparison to last year's figures
- Lack of promotion?
- CREDIT CRUNCH – will DAS provide the option?!!!

Is DAS fit for the purpose?

- Yes and No
 - It is a debt a management tool which is useful for some debtors, but many more could benefit
 - It has perhaps limited application because other solutions like Protected Trust Deed may be more attractive as there is debt relief and shorter programme
 - As more people are likely to incur debt problems because of the credit crunch and perhaps lose their home, then DAS could be a viable option

Is DAS fit for the purpose?

- It does provide a very effective tool in terms of being a diligence stopper
- It hooks people into “money advice” which is quality assured through the certification and approval scheme

What can we do collectively to make this work better?

- Support for the advisers from managers and from the top of organisations
- Recognition that money advice has a place within a statutory framework
- Improved collaboration between local authorities, credit industry, debt collectors and money advisers
- Raised awareness of the credit industry

What can we do collectively to make this work better?

- If you are not an approved adviser, attend training and apply to become an approved money adviser
- Share good and best practice
- Trailblaze the scheme where it has worked for debtors, and, we know that it has!
- Put a toe in the water or better still dive in!

So is it an effective tool or blunt instrument?

- It has been effective for those who are in the scheme, and possibly saved re-possession
- It has given a return to the creditors
- When the debt is paid off interest is frozen
- Don't believe that it is a blunt instrument but could be sharpened up if more people can access it!

How to sharpen the tool!

- More advisers becoming approved
- Improved promotion of DAS as a remedy
- Making certain that DAS is the viable option and not something else such as a Protected Trust deed
- Making certain that the client knows how long it will run and if circumstances change all might not be lost!