

ECONOMY, ENERGY AND FAIR WORK COMMITTEE

Debt Arrangement Scheme (Scotland) Amendment Regulations 2019

SUBMISSION FROM: COLIN MURDOCH, DIRECTOR, MURRAY STEWART FRASER LIMITED

I participated during 2018 and 2019 in the DAS 2018: Regulatory Review Working Group for the potential further development of DAS as a formal debt solution in Scotland.

Just to provide some background:

- I am Chartered Accountant, Licensed Insolvency Practitioner, and Director/Shareholder at Murray Stewart Fraser Limited, a small debt solutions business based in Renfrewshire.
- I am licensed to act as an Insolvency Practitioner in the UK by the Institute of Chartered Accountants of Scotland. In addition, Murray Stewart Fraser Limited is approved as a Continuing Money Advisor (“CMA”).
- I have been working full time in the Scottish insolvency market since 1995.
- I passed JIEB in 2003 and have been licenced to act as an Insolvency Practitioner since 2006.

In terms of DAS as a formal debt solution, I have provided these services to clients over the last seven years and I am committed to utilising the solution where appropriate and relevant. I have personally acted as a CMA in almost 300 DAS proposals.

In terms of outcomes from the working group, the subsequent consultation process, and now the proposed DAS Amendment Regulations 2019, I can comment as follows:

The proposed changes to the payment distributor function, including the AiB acting for the free advice sector (and CMA’s if they wish to use this) should assist in providing consumers with enhanced choice of who they are working with, as well as potentially joining up the interaction between CMA’s and Payment Distributors (“PD’s”).

I do think that CMA’s should be given the choice of whether they wish to extend their current role to include that of a PD, with the option of the client and/or the CMA appointing the PD or the AiB as PD if they wish.

The proposed changes to fees are bold (with creditor returns moving from a minimum of 90% to 78%), however, if DAS is to continue to evolve and develop these changes should be welcomed subject to a few alterations noted below. While these will ultimately result in fees being funded from the returns to creditors it should in my view:

- Lead to an increased use of DAS. My own organisation currently assists over 160 DAS clients. However, this is only a small proportion of potential clients over the last few years who have approached us for help but didn’t proceed. While there are a number of reasons why clients do not progress, a significant number relate to the costs of the

process. While these clients should in theory then utilise the services of the free sector, however this isn't always possible due to financial resources and capacity constraints within the free sector.

- Lead to more Insolvency Practitioners and other relevant parties being willing to provide CMA services;
- Make fees being charged consistent with the other formal debt solutions in Scotland (Sequestration and Protected Trust Deeds). At present DAS is the only option for an individual to repay their debts in full (assuming the DPP will not last more than 12 years), but these individuals are potentially "penalised" by using a CMA who will charge them fees for these services.
- For clients who are considering DAS as well as PTD, these changes should result in DAS being a more appropriate option. If more individuals opt for DAS rather than PTD, this would lead to higher returns to their creditors.
- In terms of the proposed fees, while the time costs involved in setting up any DAS are usually significant, the proposed fee levels in my view are acceptable and fair for all relevant parties.
- I would, however, propose that the fees outlined in the new regulations be changed to:
 - A Payment Distributor Fee;
 - A Money Adviser Fee; and
 - An AIB Administration Fee

I also welcome the AiB proposing to offer a PD function for the free advice sector and CMA's (if they wish to use this). My understanding is that the AiB have indicated the likely cost for this service will be 5% (of the 20% available) and will be fixed at this for an initial three-year period. Given time and costs involved in obtaining the relevant FCA permissions, I would be proposing to utilise the AiB's services for PD and would anticipate that a number of existing CMA's will do the same.

The other proposed changes regarding streamlining the administration process will assist greatly, saving valuable time and money which can be applied elsewhere. In terms of the proposed payment break for emergencies, again this will reinforce that help is available for individuals to repay their debts.

Thank you for considering my response.