



MaPS DAPA Scheme Newsletter

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September 2021

Welcome to the September Newsletter. It is hard to believe that already we are halfway through the 21-22 grant year. Whilst the outcome of the current MaPS Commissioning is unknown, what is known is that the quality of debt advice will remain a priority.

Good progress continues to be made by Scheme Participants and this was evident in the last round of Recipient Level DAPA where there was a clear reduction in the number of cases where detriment was identified. Whilst it is clear that there is still some work to do, it is also great to see improvements in Case Recording, which is key in evidencing the advice that has been provided to the client. There is a lot of good practice within the Debt Advice sector and we have included an article within this newsletter to share some of the good practice that we are now regularly seeing.

The Sector should be proud of the progress that has been made in raising the quality of debt advice. When one reflects on the last year and the difficulties organisations have faced with the pandemic, the progress that has been made is commendable. Things that were previously missed are now regularly being evidenced and this is reflective in the improving DAPA scores. In working together to improve quality, we are all a step closer in ensuring that no matter where in the Country a client seeks Debt Advice, that they will receive the same high quality service.



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The Scheme sees many support new and experienced advisers with the frontline delivery of debt advice. These are recorded within the Assessment designed and developed reports for each assessment. The Assessment Money and Pensions Summary Report contains the top 5 areas of Good Practice viewed across each sample that has been assessed. We will cover some examples of good practice within this article.

supported by the Money and Pensions Service (MaPS) and the wider sector. These can be found in the Good Practice Toolkit ([Good Practice Toolkit – Raising the Standards of Debt Advice](#) (debtquality.org.uk)).

A range of templates, letters, prompt lists, and checklists that can be viewed as good practice to identify the clients next steps and

actions at the start of the Confirmation of Advice letter. This ensures that the client can view the steps that they need to take at the beginning of the Confirmation of Advice letter and is an easy point of reference.

Many organisations now use a client agreement/Customer Charter to set out the roles and boundaries of the organisation and what is expected of the client. This is explained to the client and a copy provided. Some organisations also get the client to sign the agreement to confirm their understanding.

During the Coronavirus pandemic, many organisations have been able to reduce their lead time from the initial enquiry to the clients appointment to less than one week. It is appreciated that during busier periods that this may not be possible however whilst it is being done, the Scheme will view this as

good practice as it ensures that clients are being assisted and advised within a short time of contacting the organisation. It is well known that debt clients are often reactive to creditor contact and so this helps minimise stress on clients. This helps alleviate the debt issues quickly whilst the client is able to engage with the Adviser. The Scheme has also seen an increase in direct contact details of Advisers being provided to clients and again it is acknowledged that this is also a likely impact of the Coronavirus pandemic when Advisers were working remotely from home. This direct contact enables clients to speak directly to Advisers and also for Advisers to deal with client queries more promptly as they are not coming through a third party.

The DAPA Scheme criteria itself also captures good practice i.e. Financial Capability advice, Charitable Assistance, Tax Code Checking, Sign-

posting, amongst others. With the good practice that are captured within the criteria, if these are found to be Not Met the overall score will be affected. The Scheme will always note it as an Area of Development where good practice criteria's have been marked as Not Met. Any good practice criteria noted in the good practice section will always be findings which are over and above the Scheme criteria.



Dear DAPA



Where a client presents us with a parking penalty issued by the council and bailiffs have been instructed to collect the debt- my understanding is that the debt becomes a priority debt as bailiffs have been instructed. CPAG has not listed this as a priority debt but I would treat this as a priority debt due to enforcement action. Please can you confirm the DAPA's position on this?

We take our classification of debts from the Debt Advice Handbook. In the online version, it states 'Penalty charges recoverable through the Traffic Enforcement Centre in Northampton, outlined below, are non-priority debts' ([Ask CPAG | Traffic penalties](#)). Consequently, the Scheme would view these debts as non-priority. If the debt was to be classified as a priority debt then the Scheme would mark this as an Area for Improvement. The Scheme views the advice given to the client about that debt, e.g. the possible enforcement sanctions and the different ways to deal with the debt etc. as more important than the debt classification.

Dear DAPA

Where a client is entered into Breathing Space (BS) but there is no evidence that BS was advised upon in the case record at all, we are unsure how to assess the file. We have thought of two possible ways but would appreciate your input on this: 7.7(a),(b),(c),(d) – not met and all AOC's, (e) and (f) – N/A, (g) and (h) – not met and both AOC's. Alternatively, 7.7(a) not met and AOC, and the rest are n/a .

As no advice at all has been provided to the client on Breathing Space the Scheme would mark 7.7 as NOT Met/ AOC and the rest of that section on Breathing Space as N/A. This ensures no dual counting.

Dear DAPA

In the case where a client doesn't want to change their bank account to a safe bank account, but has, for example, a loan or credit card with that bank and they want to make a reduced offer to that loan or credit card - are we able to do this on the client's behalf if we have warned them about the bank's right to set off and their first right of appropriation? And the client is happy to proceed knowing the risks? Also, would it make a difference if the debt had already defaulted and was sold on to a debt collection agency as opposed to a debt collection agency recovering on behalf of the original creditor?

The Scheme would accept the organisation acting on the clients behalf if there is evidence that full and accurate advice was provided on the risks in their chosen action. If the debt had been sold on, the bank would have lost their right to offset and so the risk would not be there in that scenario.

Dear DAPA

Does the fact the overall advice letter was generally tailored and comprehensive override the requirement to attach and evidence tailoring of any fact sheets / additional generic resources provided to the client?

Factsheets are an acceptable method of confirming advice in writing to clients. However, where standard fact sheets are provided to clients, the DAPA Scheme will expect these to be tailored to the individual circumstances of both the client and the issues presented. Factsheets generally deal with many issues and therefore need to be tailored to the client's particular circumstances as it is likely that part of the factsheet may not be applicable to the client. Factsheets are designed to provide information and are not the equivalent of actually providing advice. The Scheme therefore looks for evidence within the case record that the Adviser not only went through the factsheet with the client, but also which parts were discussed. This can be evidenced by various methods including retaining a copy of the factsheet on the case file with a highlight against the sections discussed, and/or noting the sections discussed within the case notes e.g. advised client on factsheet Y, including paragraphs 1, 2, 3, 7, 9, and 10, all other paragraphs not relevant. Additional notes should be added where relevant. Consequently the MaPS DAPA Scheme would expect factsheets to be tailored if they are being used to confirm advice given to the client. If the factsheet is not being relied upon for advising the client- e.g. the client has been advised fully and the advice is tailored in a copy of the case notes and/or confirmation of advice letter then the factsheet can be treated as providing information. It would assist, if this was the case, that it is confirmed within the case notes, otherwise it may not be clear on what basis the factsheet had been provided to the client. Even where the factsheet is being provided as information it would be considered by the Scheme whether the information in the factsheet could confuse the client with irrelevant or contradictory information which is not applicable to the client. Your organisation may consider that all information given to the client should be tailored to the client's situation, this is to ensure the client receives tailored advice relevant to their situation. However that is a decision for your organisation.

Dear DAPA

Client has a Magistrates Court Fine with bailiffs. The consequences for non-payment or options for dealing with it were not discussed. The case file was passed to a third-party to deal with the fine and the bailiffs were instructed to cease recovery and arrangements were made to repay the fine via UC. As this has an arrangement in place which was evidenced in the case file, is this now an Area of Concern rather than a Potential Detriment?

The Scheme would view this as an Area of Concern as the bailiffs were not holding the debt any longer and as there was a deduction from UC. The client still needs to be advised on the possible consequences of non-payment if the UC deduction was to stop.



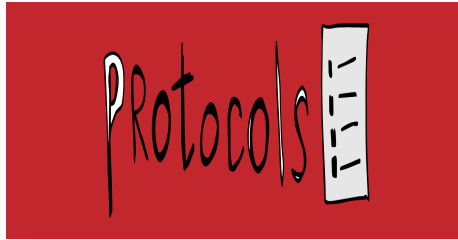
Pre-Action Protocols

Pre-Action Protocols are codes of practice which all parties are expected to follow prior to any court action being commenced. They are part of the Civil Procedure Rules and can be found here <https://www.justice.gov.uk/courts/procedure-rules/civil/protocol>.

There are many of these Pre-Action Protocols, however, the three most common that are seen are:

- The Pre-Action Protocol for Debt Claims
- The Pre-Action Protocol for Possession Claims by Social Landlords
- The Pre-Action Protocol for Possession Claims based on Mortgage or Home Purchase Plan Arrears in Respect of Residential Property

The Scheme expects that advice be provided on the relevant Pre-Action Protocol in all relevant cases. Where this advice is not recorded as being provided, consideration will be made to the stage of enforcement and debt type. In relation to the Pre-Action Protocol for Debt Claims, if Court Action is likely or imminent,



missed recorded advice on this matter would be detailed as an Area of Concern. If there are no debts close to County Court proceedings, then missed advice on the Pre-Action Protocol for Debt Claims would be recorded as an Area of Improvement.

As both rent arrears and mortgage arrears are classified as priority debts due to the consequences of non-payment, therefore, missed advice on the Pre-Action Protocol for Possession Claims by Social Landlords or the Pre-Action Protocol for Possession Claims based on Mortgage or Home Purchase Plan Arrears in Respect of Residential Property would be recorded as an Area of Concern. In both situations this would be noted under Comprehensive Advice – Consequences of Non-Payment (7.4(c) CW / 3.8(c) AO).

Consideration will be made to the facts of the case, as well as the stage

of enforcement when assessing the level of advice that the Scheme expects on Pre-Action Protocols. Key areas would include advice on the letter of claim, timeframes to respond and the creditor's obligations prior to commencing court action.

As always, the CPAG Debt Advice Handbook is a useful tool to reference for further information on Pre-Action Protocols and this can be accessed online via AskCPAG (<https://askcpag.org.uk/?id=-216873>).

Some organisations choose to refer to a factsheet or written information sources when providing advice on Pre-Action Protocols which is perfectly acceptable. However, it is important to ensure that if a factsheet is provided to the client, it is recorded in the case notes that the factsheet was discussed with the client. If the factsheet was not discussed with the client and/or the sections were not noted as discussed with the client, then this is providing information rather than specialist debt advice. Please see the DAPA Scheme Newsletter February 2020 for further information on this matter.

Timely Advice

The Scheme expects that advice be given to a client in a timely manner. This ensures the client will have the knowledge to deal with their situation expeditiously.

This differs from case recording issues, although they may be linked, in that under this criteria, the Scheme is looking at when the advice was given not when it is recorded. The client should be made aware of their rights and responsibilities to be able to resolve their debt situation at the earliest opportunity. Delays in providing this advice may have, or

have the potential to have, an adverse effect on the client's situation. This could result in further enforcement action being taken or additional fees/charges being applied to the client's debts.

When assessing a case where an Internal/Independent File Review (IFR) has been completed prior to the closing date, this will be considered as part of the Case File. However, where the IFR identifies corrective action, consideration will be made as to when the follow up advice was provided, and if this was in a timely

manner in relation to the client's situation. If it is deemed that the advice was not provided in a timely manner i.e. at the appropriate time in the client journey, then this will result in either an Area of Concern or an Area for Improvement, dependent upon the advice missed and when the advice was given.



Spotlight— Case Notes vs Confirmation of Advice letter

In several of the Scheme’s newsletters, there have been a number of articles regarding confirmation of advice letters. In the February 2020 Newsletter there were articles on Confirmation of Advice (COA)— Language Barriers and Confirmation of Advice— Tailored Fact Sheets, in the August 2020 Newsletter there was an article on Confirmation of Advice for vulnerable clients and in the June 2021 Newsletter there was an article on Confirmation of Advice letters.

The Scheme has seen an increase in the number of organisations using their confirmation of advice letters as their case notes. It is appreciated why organisations are doing this. It can be viewed as an efficient use of the adviser’s time as one document confirms the advice given to the client and does not require the adviser to separately record details of the interview with the client. If the Confirmation of Advice letter is used in the case notes that means the letter is confirming the verbal advice given to the client.

As the Confirmation of Advice letter is confirming the verbal advice given to the client, because it is contained within the case notes this will have an effect on how the DAPA Scheme considers the statements contained within the case notes. Consequently, if there is advice in the case notes as part of the Confirmation of Advice

letter which is not tailored to the client’s individual circumstances (as per CONC 8.3.2 (1) (b)) then this will have the effect of a NOT MET and an Area of Concern under Criteria 3.8(f) Advice only or 7.4(f) Casework appropriate to the client’s individual situation. It is important that advice given to a client is tailored to their individual circumstances, in order to enable them to make an informed decision and resolve their particular situation. Case records should be appropriately tailored so that they accurately reflect the advice that was given to the individual client. Passages or sections which are irrelevant to the particular client should be deleted to avoid confusion. Also, as the Confirmation of Advice letter was not tailored to the client’s individual circumstances, this would also be Not Met and an Area for Improvement under Criteria 4.3 where appropriate (i.e. where there is complex advice or where vulnerabilities are identified) or 10.5 Casework in all cases.

Information should be tailored to the client’s specific circumstances and written in language the client can understand, avoiding jargon and technical terms. These should summarise the problem(s), issue(s) discussed, advice given, options discussed and next steps. Examples of written information resources include a Confirmation of Advice

letter, copy of Case Record, Tailored Fact Sheet or a combination of these. Confirmation of advice should be given to the client in a written format in advice only cases when the advice is complex, or the client is vulnerable. Confirmation of advice can take the form of a tailored letter, or a copy of a detailed case note or a tailored factsheet or a combination of these. If a copy of the case notes is given to the client please ensure that they are written in plain language, avoiding jargon and if any abbreviations are used then they are explained to the client so the client can understand them.

Where written information resources are used, these should be amended to reflect the particular circumstances of the client. These need to be appropriately tailored so that they accurately reflect the advice that was given to the individual client. Untailored confirmation of advice documents will be treated as giving information rather than giving specialist debt advice.

The Scheme is frequently asked how much is enough for the Confirmation of Advice letter. It is not about the length, and never has been. The length of the Confirmation of Advice letter cannot be specified as it will vary case by case. The guidance contained within this article will provide a general overview to guide on what the DAPA Scheme is looking for.

Recipient Level DAPA (RLD) Top 5 Area’s of Concern across all Participants

This data has been taken from the most recent round of Recipient Level DAPA Assessments (July 2021), with the graph below showing the top 5 most common themes in relation to Area’s for Concern seen by the DAPA Scheme.

