Let's make better DROs

Grassroots debt advisers respond to the Insolvency Service *Debt Relief Orders: Consultation on changes to the monetary eligibility criteria*

February 2021

Who are we?

We Are Debt Advisers is a grassroots campaign formed in November 2020, made up of advisers working on the frontline, and our supporters. It is an independent voice for the workers who do this difficult job every day, many of us with decades of experience. Successful improvement in debt advice depends on listening to practitioners, yet we are rarely consulted when policy and legislation affecting us and our clients is decided.

We work in local authorities, Citizens Advice, housing associations, and many more organisations. Some of the agencies we work for are large, specialist providers of debt advice. Others are based in local communities and form part of wider support to help people get back to work, or deal with health and other problems. We are all part of a well-trained, qualified and highly dedicated workforce, working across the country to help people in debt keep their heads above water.

We believe that the people doing the job are best placed to understand how DROs work for clients and advisers.

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We Are Debt Advisers is supported by the **Centre for Responsible Credit** (CfRC) which has helped us with a web presence and campaign assistance.

Responses to consultation questions

We conducted an online meeting on 1 February 2021 with over 140 frontline debt advisers to discuss the government's proposals and Debt Relief Orders in general. This response is based on comments and discussion at that meeting.

1: Do you agree that changes to the eligibility criteria for DROs are necessary? Please state your reasons.

Yes. The majority of debt advisers agreed that the eligibility criteria as they stand exclude too many people from being able to access a Debt Relief Order.

However, even with the proposed changes, there remains a large section of debtors who would remain excluded. These include:

- homeowners (with or without equity in their homes)
- those with debts above the limit
- those with cars valued at more than £1,000 (despite the 'other' asset value being increased, which is very rarely a problem at its current level), and
- debtors who simply cannot afford to pay the fee, even in instalments.

Although the Government has calculated that there may be around 15,500 more DROs per year as a result of the proposed changes, the Money and Pensions Service suggests that 3 million more people will need debt advice by the end of 2021 due to indebtedness arising as a result of the pandemic. It is unfortunately clear that the proposed measures will fall short of addressing debt relief for the majority of those in debt.

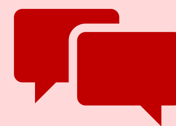
2: Do you agree with the proposed increases to the debt (to £30,000), asset (to £2,000) and surplus income (to £100) levels? If not, what do you think they should be? Please state your reasons.

Out of 91 debt advisers answering a poll on this question at our meeting, **92% agreed** in principle with the proposed increases to the debt, asset and surplus income. However, this was overall deemed not to go far enough.

Our attendees agreed that it made little sense to increase the asset value to £2,000 but leave the car value at £1,000 - a valuation that has not changed since 2009.

It was pointed out that a car is essential for people in employment, (e.g. care workers and delivery drivers), families with children, people with care responsibilities outside of their own household etc., and people are quite rightly reluctant to sell a reliable vehicle in order to purchase one valued at less than £1,000, which is likely to be old, environmentally unfriendly, and unreliable, giving rise to expensive repair costs.

Frontline voices



The debt limit

'Just get rid of the debt limit! Why are people on low income only expected to have debts below a certain level? Anyone can have a change in circumstances and fall on hard times! It would also make the whole process easier for intermediaries :)'

The asset limit

'Some clients will not do a DRO if they think they will lose a reliable vehicle, and have to risk buying a cheaper vehicle below £1K and possibly have (to) spend thousands on repairs'

The disposable income limit

'I've had many discussions like this with clients, they have to decide to put their plans for improving their lives on hold'

'Who benefits? It isn't just the person in debt, but the whole family that is kept in poverty'

Attendees were asked to place in order the factors that **most often prevent people from accessing DROs** (1 being the highest occurring factor):

1	**The total debt limit**
2	**The vehicle asset limit**
3	**The £90 fee**
4	**The surplus income limit**
5	**Exclusion of certain debts (e.g. student loans)**
6	**The general asset limit**

From the above, it is clear that the general asset limit is not usually a problem. By the time individuals are asking for help from a debt adviser, they have usually exhausted any savings or sold off any valuables in their attempt to manage their debt.

Disposable income - raising to £100 per month

Although this is welcomed, there was support for the underpinning calculation of 'surplus income' to be reviewed. This is based on the **Standard Financial Statement** 'trigger figures' which are currently anchored by the ONS' Living Costs and Food Survey and reflect only the actual spend of the bottom income quintile.

It is a fact that debtors, working or not, struggle to make ends meet on what may appear to be 'reasonable' incomes, but with increased living costs the current 'trigger' figures are simply unrealistic and suggest that anyone accessing a Debt Relief Order must be living in abject poverty, as opposed to simply being unable to service their debts.

In order to be a viable option, the Government should understand that living expenses have increased for many during the Covid pandemic and continue to do so. The price of food, petrol, water, Council Tax and utilities are rising at pace. **The Standard Financial Statement must reflect the reality of people's financial situations, particularly post-Covid and post-Brexit**.

We believe the eligibility criteria should be changed as follows:

1. **Abolish the total debt limit**
2. **Include all liabilities, even when they are not listed (as in bankruptcy)**
3. **Reset the maximum vehicle value to £3,000 (as it currently is in Scotland)**
4. **Abolish the fee**
5. **Increase the monthly disposable income limit to £100 per month, but review and increase the spending guidelines on the Standard Financial Statement**

While we appreciate that the above may seem radical, it simply brings Debt Relief Orders more into line with bankruptcy rules and enables many more people in unmanageable debt to escape the misery and stress of life in perpetual debt.

Our proposals would provide a fresh start for those who would otherwise be paying token amounts to keep the creditors at bay, or simply tearing up letters unopened and/or hiding from bailiffs. Along with the undeniable improvement in mental health, these individuals could then afford to spend money on themselves, and their families, which can only have a positive impact on the economy as a whole.

The insolvency system in England and Wales is not cohesive at the moment and too many individuals are lured into inappropriate and ineffective debt 'solutions' by lead generators promising to wipe out percentages of debt, but in doing so can actually keep those individuals in debt for much longer than is necessary.

We believe that personal insolvency should be seen as a social good, with positive effects for society, the economy, the health service and the wellbeing of individuals.

3: Do the proposed changes strike the right balance between ensuring that the most vulnerable individuals are able to access low-cost debt relief at the same time protecting the interests of creditors by maintaining the 'can pay, will pay' ethos? Would these levels of assets lead to a return to creditors in another debt relief solution? Please state your reasons.

This is a difficult question to answer as **not all creditors are alike,** and their interests are similarly varied.

As an example, take Council Tax arrears - a debt that is written off in a DRO once it reaches 'reminder 2 stage' and the full balance for the current year becomes due - and compare this with a debt, sold by the original lender at something like nine pence in the pound and already written off by the original creditor, but now due to a debt purchasing company. Can these interests be considered with equal concern?

Then consider a **social fund debt**, from which there is no relief, yet arguably causes the most hardship for an indebted claimant whose benefits are reduced beyond subsistence level to repay them. These debts have different implications for both creditors and debtors, so it is difficult to consider protecting creditors' interests as a single concept, when vulnerable individuals are genuinely struggling to feed their families and heat their homes.

Then there is the question of **low-cost debt relief** for vulnerable clients. Our clients are vulnerable in varied ways - financially vulnerable, always - but a majority are also dealing with mental and physical health problems, relationship breakdowns, financial abuse, loss of employment etc (and that was pre-Covid). If we consider that every debt client is vulnerable in some manner then, for some, the £90 fee is possible, but for most it is unaffordable and presents a barrier to much needed relief.

The Government might also consider the **positive implications** for the health service if more people could access debt relief. Debt causes anxiety and depression, and in some unfortunate cases, suicide. The relief felt by individuals who are provided with a way out of their unmanageable debt cannot be understated. It is a lifeline. It helps people sleep at night.

According to the National Audit Office report in 2018, around 8% of over-indebted individuals will be more likely to experience anxiety or depression, with each of these creating an additional cost for health services of around £300 per year. However, the National Audit Office also pointed out that the cost of treating people with mental health disorders could include social care as well as health services and that there were also wider economic costs, for example in respect of employment, associated with the mental health problems caused by over-indebtedness. When factoring these into its calculations the wider costs rose to £11,100 per person per year.

The National Audit Office also found that 2.85% of over-indebted individuals would be more likely to move into, or remain in, state-subsidised housing creating additional costs for the taxpayer of £9,739 per year.

Expanding access to Debt Relief Orders therefore has much wider social benefits, and these can outweigh those of individual creditors. A robust social impact assessment is required and we are concerned that the Insolvency Service has not published a draft of this for scrutiny as part of this consultation.

Why are so many DRO applications started but abandoned?

We asked our attendees to tell us what the issues were with their 'abandoned DROs' - whereby the client had chosen to apply for a DRO but did not submit the application. The answers:

General problems

- Clients unable to raise the fee. **No disposable income.**
- **DWP/HMRC** - inability to easily obtain information about historic overpayment debts - no points of contact for clients or intermediaries, HMRC/DWP Debt Management not answering calls, delays in responding to letters (again, an issue before Covid but even worse since). **Lack of cohesion between HMRC and DWP – debts passed from HMRC to UC for collection – UC cannot give answers to claimants or intermediaries as to what the debts are and how much is owing.**
- The fear that **backdated benefit** awards possible within the moratorium due to delays in dealing with a claim or appeal will lead to revocation of the DRO
- **Credit reports**
    - Difficulties obtaining further identification documents if they are requested. Clients not having these documents, post issues etc
    - Accuracy - different creditors report to different credit referencing agencies
    - Not all creditors report all of the accounts they hold
    - Obtaining details of County Court Judgments - very little information given so contact with Northampton Business Centre necessary – time consuming and causes further delays
    - 6 year record of DRO can and does cause an issue with obtaining housing
- **Car valuations** - very limited choices now to obtain a valuation for both advisers and clients. Parkers Price Guide has changed their valuation model which no longer takes account of condition
- Obtaining **up to date information from creditors**, particularly utility creditors. Clients afraid to contact creditors, creditors not responding to advisers' enquiries
- **Debts materialising post-approval**. Creditors do not always disclose all the accounts they hold.
- **Hire purchase costs** may be declined after submission of DRO
- **Rent arrears**
    - leaves clients vulnerable to eviction
    - landlords/social landlords do not write off the debt but hold as a 'blacklisting' mechanism

- Delays in above leading to client **disengagement**
- **Bank accounts** - banks refusing to open basic accounts, automatically offering current accounts with overdrafts, then refusing the application due to poor credit rating
- **DRO in past 6 years** - despite the presence on a credit file, credit is still easily obtainable from the higher interest lenders, leading to more unmanageable debt

Covid-related issues

- Difficulties obtaining creditor details/Experian passwords due to post
- Clients worried about being made **redundant**, receiving redundancy payment during DRO - enough to revoke a DRO but not enough to deal with debts and may be needed for living costs while looking for work.
- Loss of **face-to-face** help for especially vulnerable clients for whom other methods (phone, email) are not suitable.

Proposed solutions:

- **Consider the length of the moratorium - would 3-6 months be enough? Is it needed at all if it only serves to discourage people from improving their circumstances?**
- **Give debt advisers access to credit referencing agencies' reports**
- **Appoint contacts at DWP Debt Management and HMRC specifically to address these queries (which would not be needed if all liabilities were included, as in bankruptcy)**
- **Give debt advisers access to a vehicle valuation system**
- **Work with credit referencing companies to discuss the impact of a DRO on a person's credit score. Is it fair to mark someone down because they have taken a legal and responsible approach to dealing with their indebtedness?**
- **Change the policy on backdated benefit payments - exclude as capital?**

Frontline voices

'The 6-year impact on credit file stops some people from accessing housing; private landlords will not let to people [with DROS] and there are not enough Housing Assoc. Properties'

'Too much pressure on vulnerable clients to know details of all of their debts - DWP debts and HMRC o/p are an issue'

4: Do you think that Government should aim to implement and commence any changes to the monetary limits for DROs to coincide with the introduction of breathing space in 2021? Please state your reasons.

The sooner the changes are implemented, the better.

Breathing Space is another matter of serious concern and we have made representations direct to HM Treasury to highlight these matters[1].

5: Do you think there are any other impacts that should be considered? Please state your reasons.

The impact on debt advisers must be considered. In order to apply for a DRO, there must be qualified debt advisers who are Approved Intermediaries. There are things the Government could do to help debt advisers to help individuals.

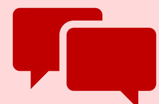
Amend the DRO Portal to show us how much of the fee has been paid. Clients forget what they have paid, we don't know unless they tell us. Some assume we know, leading to a delay in submission.

The majority of our attendees work under **Money and Pension Service (MaPS)** contracts, which are known for being 'admin-heavy' to the extent that debt advisers struggle to provide a client-focussed service. 'Confirmation of advice' letters can run into double-figured pages which unfortunately means the clients are less likely to read them.

We propose that the Insolvency Service works with the Financial Conduct Authority and MaPS to review and refine the rules/guidance so that the interaction between debt advisers and individuals maximises the efficacy of the service and promotes better working conditions for these debt advisers.

It follows that **funding of debt advice** also needs to be reviewed and improved. On the whole, debt advisers are not well paid for the jobs they do, and a DRO requires a lot of work - as detailed above - that would be a burdensome cost for the Insolvency Service, and therefore the tax-payer. Yet debt advisers are not well paid, despite their expertise, qualifications, professionalism and hard work.

Frontline voices



'Agree with that point, the process is extremely onerous and admin heavy and as debt advisers, our time is valuable and could be better utilised'

[1] https://wearedebtadvisers.uk/news/read-our-new-briefing-for-a-better-breathing-space

6: Are there any other comments you would like to make?

Advisers noted that many of our clients approach them for help to apply for a DRO due to a **failed debt management plan (DMP)** or **Individual Voluntary Arrangement (IVA).** This is due to the providers of these giving bad advice, not advising on all suitable options and/or setting payments too high, leading to failure.

This is a huge problem for this sector where clients are misadvised purposefully because there is no money to be made from a client applying for a DRO when compared to an IVA provider's set-up fees or DMP provider's 'fair-share' income.

We suggest that as and when the DRO eligibility criteria is changed, all DMP and IVA providers must be required to reassess eligibility for a DRO and refer their 'customers' to the appropriate agency.