MONEY ADVICE TRUST

BUSINESS DEBTLINE NATIONAL DEBTLINE WISER ADVISER

Consultation Response:

Insolvency Service DROs: Changes to the monetary eligibility criteria

Response by the Money Advice Trust

Date: February 2021

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2020, our National Debtline and Business Debtline advisers provided help to more than 161,560 people by phone and webchat, with 1.86 million visits to our advice websites.

In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2020 we delivered this free training to over 920 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

Financial limits

We welcome the Insolvency Service proposals to increase the financial limits for eligibility for a DRO.

- ✓ We are in agreement that changes to the eligibility criteria for DROs are necessary. The current debt limit of £20,000 is a barrier for many who would benefit from a DRO. This would be a very timely increase in the debt limit and assist the majority of our clients. **We would welcome an increase to £30,000** but believe there is a case for an even higher limit, particularly given the higher levels of debt experienced by many self-employed people.

- ✓ We agree that the £1,000 asset limit for DROs could be increased to reflect the additional numbers of people who have fallen into debt unexpectedly due to the Covid-19 outbreak. **We have suggested an asset limit of £3,000** would be a reasonable adjustment to make at this time.

- ✓ We are **particularly pleased** to see the proposal to amend the rules to allow an applicant to retain up to **£100 a month surplus income**. This proposal will allow many more of our clients to qualify for a DRO and not have to go bankrupt or into a low value IVA instead.

- ✓ It would be a missed opportunity if the Insolvency Service fails to include an increase in the car assets level as part of this consultation. The £1,000 vehicle asset level needs to be re-evaluated. This has not been increased for some time and can be a major barrier to eligibility for a DRO for our clients who work and need a reliable car for commuting and transport to school and so on. Based on the average value of a car reported by National Debtline and Business Debtline clients, **we would suggest a £3,000 vehicle asset level would be reasonable**.

- ✓ After these changes are in place, the Insolvency Service should require IPs to audit their existing IVAs to ensure that their clients are not struggling on with IVA payments every month when they could be eligible for debt relief via a DRO instead.

- ✓ Importantly, the Insolvency Service should use this opportunity to build an **automatic annual uprating** of all of the eligibility limits for DROs into the regulations – that is, an automatic annual uprating, index-linking DRO limits to the Consumer Price Index (CPI). This will enable the limits to rise in a gradual way that reflects changes in the costs of living and will prevent a repeat of the current situation where limits have become wildly out of sync with realities on the ground.

We believe that **these changes should be put in place as soon as possible.** We agree that it would make sense to tie in the changes to the implementation of the statutory Breathing Space scheme in May 2021.

Further reforms to DROs

We would like to see the Insolvency Service address the outstanding issues with DROs that remain unresolved by these proposals. We set out many of these other issues in our recent *Debt options in the new normal* briefing.[1] Options that should be considered include the following.

- ✓ **The £90 DRO fee could be waived for an extended temporary period of 12 months for all applicants** – and for those on income-related benefits, this waiver could be put in place on a permanent basis.
- ✓ There could be a **temporary suspension of rules preventing people from taking a DRO for a second time** if they have entered a DRO in the last six years.
- ✓ The DRO regulations could be amended to allow applications to **include missing or overlooked debts retrospectively**.
- ✓ Given rising **rent arrears** due to the impact of Covid-19, the Insolvency Service could give greater flexibility and allow people to prioritise paying back their rent arrears within their DRO budget as an allowable expense.

Beyond changes to individual insolvency options, we remain of the view that the Government should commission a full review of the debt options available to people in financial difficulty – to ensure that no one is allowed to fall through the cracks in a framework that has evolved in a piecemeal fashion over several decades. This call is echoed in the Woolard review recommendations[2] which we have referenced below. Such a debt options review should be in addition to bringing forward as soon as is practically possible the introduction of the government's forthcoming Statutory Debt Repayment Plans.

[1] Money Advice Trust, Debt options in the new normal, October 2020
[2] FCA, Woolard Review, February 2021

Responses to individual questions

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

We are in agreement that changes to the eligibility criteria for DROs are necessary. The current debt limit of £20,000 is a barrier for many who would benefit from a DRO. This would be a very timely increase in the debt limit and assist the majority of our clients.

The £20,000 debt limit for applying for a DRO should be increased to a higher amount – such as the £30,000 limit suggested – to prevent people with next to no assets and very little available income being forced instead into bankruptcy. However, we note that our Business Debtline clients have considerably higher amounts of debt outstanding, from running small businesses and we believe there is a case for a limit even higher than £30,000 to reflect this.

We would note that it makes little difference how much debt someone has if they have no available income with which to pay it back and no realisable assets that they can use. In addition, where someone has no surplus income or assets, there is no benefit in making them choose a bankruptcy application route that attracts a higher fee which they will not be able to afford to pay. Presumably, the higher fee is chargeable because it is felt that there is a higher cost to the Insolvency Service for administering a full bankruptcy. Therefore, it makes sense for anyone who has little available income to pay back their debts, and few assets, to go down the substantially cheaper option of a DRO both from the perspective of the client and the Insolvency Service. This saves the Insolvency Service both financial resources and time which they can dedicate to complex bankruptcy cases where there are substantial assets to consider.

We agree that the £1,000 asset limit for DROs could be increased to reflect the additional numbers of people who have fallen into debt unexpectedly due to the Covid-19 outbreak. We recently suggested a figure of £3,000 in our report *Debt options in the new normal*.[3] The statutory total asset limit is already £2,000 in Scotland under the Minimal Assets Process bankruptcy and this limit is under review.

We are particularly pleased to see the proposal to amend the rules to allow an applicant to retain up to £100 a month surplus income. This proposal will allow many more of our clients to qualify for a DRO and not have to go bankrupt or into a low value IVA instead. It will also have a beneficial effect on household finances, allowing a more individual and flexible approach to household spending and the potential to build up a household emergency savings buffer. This could be invaluable to people struggling to build up financial resilience on lower incomes where they already have few assets to fall back

[3] Money Advice Trust, Debt options in the new normal, October 2020

on. This proposal sets a very positive precedent for other debt options and should resonate with creditors and regulatory bodies.

We would hope that the Insolvency Service can also include an increase in the car assets level. This has not been increased for some time and can be a major barrier to eligibility for a DRO for clients who work and need a reliable car for commuting and transport to school and so on. A car worth £1,000 is less likely to be reliable and is likely to be more expensive to run. As a consequence, this can potentially undermine the sustainability of the household budget due to extra repairs and running costs.

We believe that these changes should be put in place as soon as possible. We agree that it makes sense to tie in the changes to the implementation of the statutory Breathing Space scheme in May 2021. This will greatly enhance the options available to debt advisers to assist our clients once they are in Breathing Space.

Question 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.

In tackling this question, we have examined our service data to see what our client profile might look like for a variety of factors that might influence their ability to access a DRO. For National Debtline the proportion of clients recorded as living in rented accommodation in 2020 stood at 68%. For Business Debtline over the same period, 50% of clients were in rented accommodation.[4] This means the majority of our clients, particularly those who contact National Debtline, could potentially be eligible for a DRO depending upon their level of debts, assets and surplus income.

Household annual income

A snapshot of our client profiles for 2020 showed the following household incomes.[5] As can be seen, a substantial majority of our clients are on very low annual incomes.

National Debtline

- ✓ 69% have an annual household income of below £20,000.
- ✓ 31% have an annual household income of over £20,000.

Business Debtline

- ✓ 63% have an annual household income of below £20,000.
- ✓ 37% have an annual household income of over £20,000.

[4] Source: Client data, 2020 aggregate. Based on 54,404 National Debtline clients and 22,143 Business Debtline clients where information is available.
[5] Source: Client data, 2020. National Debtline sample = 356 clients. Business Debtline sample = 736 clients.

Surplus income on a Standard Financial Statement budget

We also explored how much surplus income our clients might have and again looked at a snapshot of client profiles for 2020.[6] As we demonstrate below, many of our clients simply do not have any available income at all once they have paid their essential household bills.

However, a sizeable proportion have between £50 and £100 in monthly surplus income and would potentially benefit from an increase in the available income level for eligibility for a DRO. We would point out that the Standard Financial Statement (SFS) is not a budget that provides – by any means – for anything like a generous lifestyle, as the spending guidelines are based on the lower quintiles of data taken from the annual ONS Food and Living Costs survey. This means that expanding the surplus income boundaries to allow a client to apply for a DRO should merely have a beneficial effect on low-income households and their ability to be flexible with their budget. As we have said, this could include the potential to build up a household emergency savings buffer and financial resilience.

Proportion of clients with a deficit budget

- ✓ National Debtline 37% of clients
- ✓ Business Debtline 56% of clients

Clients between £0 and £50 surplus income

- ✓ National Debtline 25% of clients
- ✓ Business Debtline 7% of clients

Clients between £50 and £100 surplus income

- ✓ National Debtline 6% of clients
- ✓ Business Debtline 6% of clients

Monthly savings in a Standard Financial Statement budget

As you will be aware, the Standard Financial Statement allows a small element of savings to be built into a budget where possible. We were able to look in detail at a snapshot of our clients for 2020.[7] The proportion of clients able to put aside a small amount each month from their budget is shown below.

- ✓ At National Debtline, 40% of clients were able to save monthly with the average saving amount of £13.73. **Clients in such a position would take an average of 6.5 months to save the £90 DRO fee.**

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[6] Source: Client data, 2020. National Debtline sample = 356 clients. Business Debtline sample = 736 clients.

[7] Client data, 2020. National Debtline sample = 356 clients. Business Debtline sample = 736 clients.

- At Business Debtline, 26% of clients were able to save monthly with the average saving amount of £15.60. **Clients in such a position would taken an average of 5.77 months to save the £90 DRO fee.**

This would suggest that 60% of National Debtline clients and 74% of Business Debtline clients would be unable to save up any money from their budgets for the DRO fee – and those who are able to save, typically are in a position to save so little that they would take several months to afford the fee – even if there were no unexpected costs that arose in the meantime.

When this is combined with the numbers of our clients with deficit budgets, this would suggest that a substantial proportion of our clients currently struggle to raise the money to pay for a DRO where they are eligible for one.

Debt levels

At National Debtline and Business Debtline the proportion of clients reported on our CRM in 2020 as having a particular level of debt is set out in the charts below.[8] From the charts below, it can be seen that for National Debtline an extra 6% of clients might potentially qualify for a DRO if the limit is £30,000. For Business Debtline this would potentially increase by 14% of clients. **Therefore, a debt limit of £30,000 would potentially include up to a theoretical maximum of 93% of National Debtline clients and 68% of Business Debtline clients.** We would suggest that the differences reflect the comparatively larger amount of business debts for a small business. There is a case for a debt limit even higher than £30,000, to reflect this difference.

National Debtline

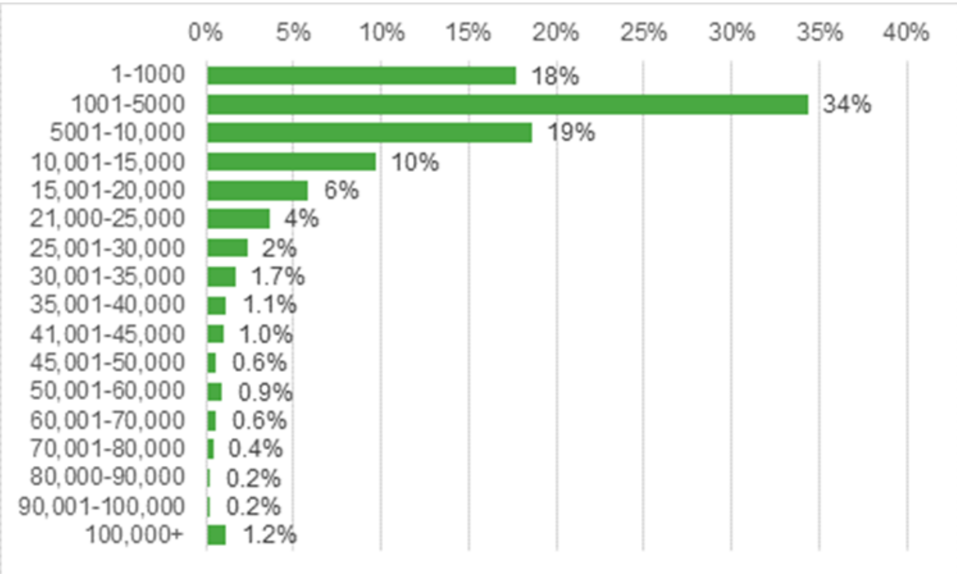

Figure 1: Debt levels (£) of National Debtline clients 2020

[8] Source: Client data, 2020 aggregate. Based on 53,455 National Debtline clients and 22,676 Business Debtline clients where information is available.

Business Debtline

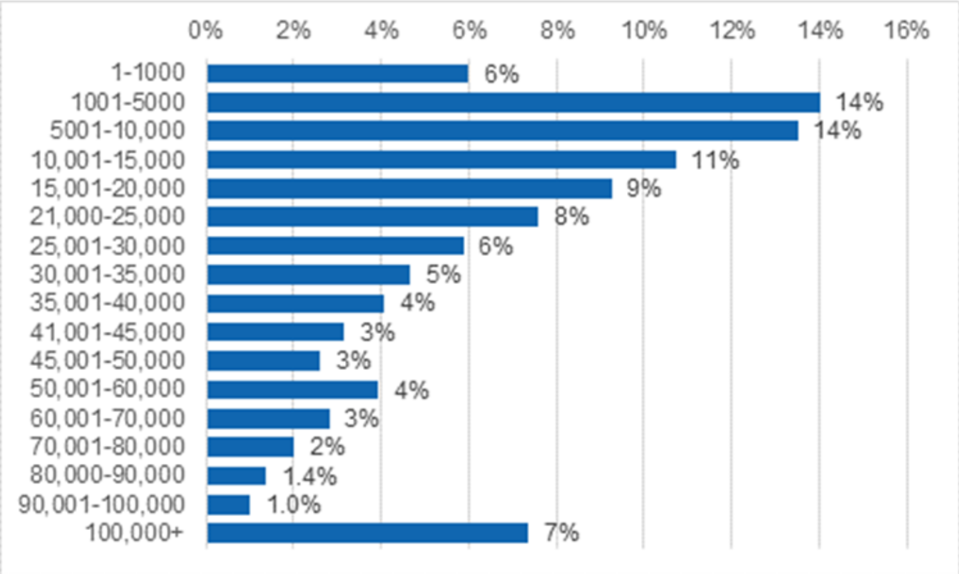

Figure 2: Debt levels (£) of Business Debtline clients 2020

Asset levels

We were able to ascertain the types of assets that our clients reported in 2020 across both services as recorded on our CRM.[9] Please note this analysis only shows clients who are not homeowners but did have some assets to report (the majority of our clients do not have any assets at all).

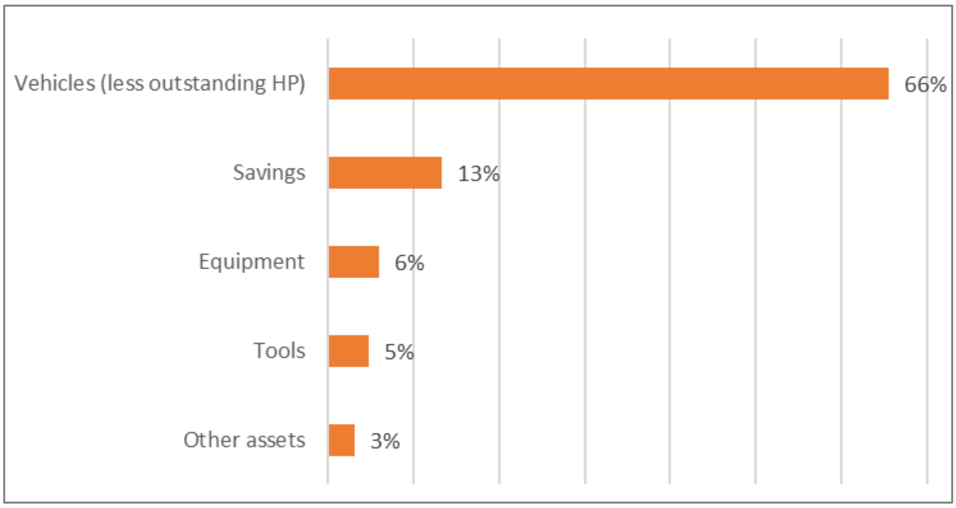

Figure 3: Asset types held by National Debtline and Business Debtline clients who have assets excluding homeowners, 2020

[9] Source: Client data, 2020 aggregate. Based on 12,215 assets recorded for 10,767 National Debtline clients and 12,932 assets recorded for 8,796 Business Debtline clients where information is available (excluding clients with online source).

National Debtline

Our data showed that the average value of the assets reported by clients of National Debtline in 2020 stood at £12,030. In addition, the average value of their vehicle stood at £3,329.

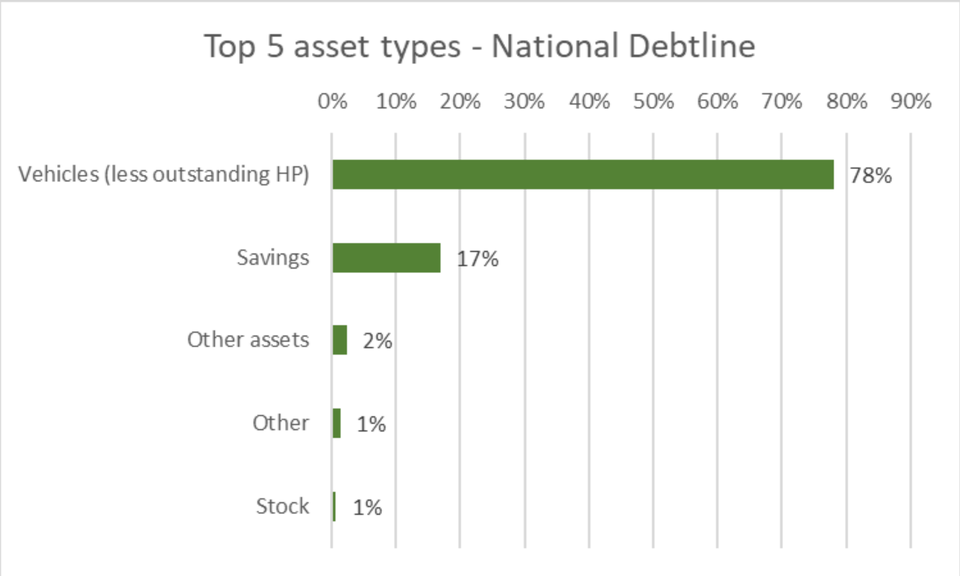

Figure 4: Asset types of National Debtline clients who hold assets excluding homeowners, 2020

Business Debtline

Our data showed that the average value of the assets reported by clients of Business Debtline in 2020 stood at £15,493. In addition, the average value of their vehicle stood at £3,635**.**

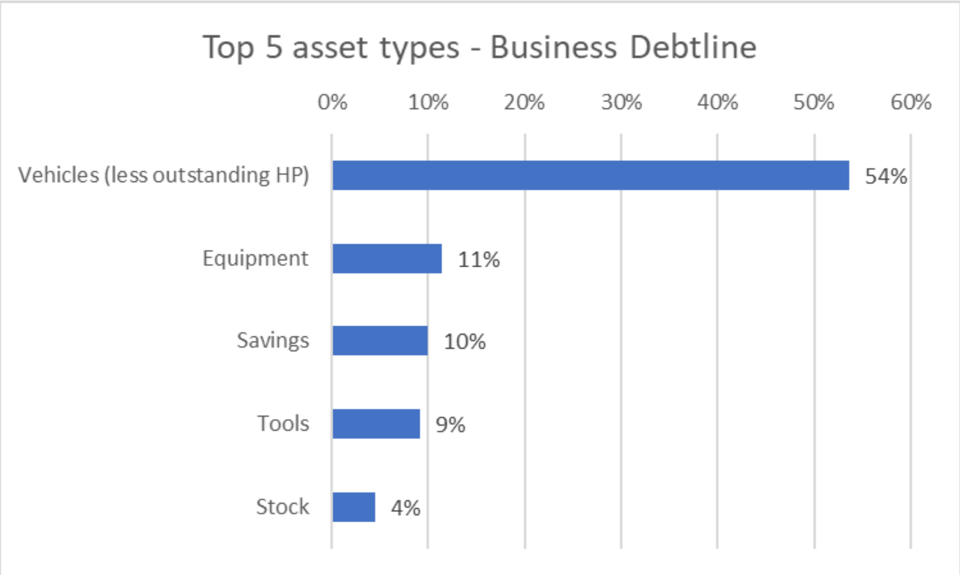

Figure 5: Asset types of Business Debtline clients who hold assets excluding homeowners, 2020

We would suggest that our findings indicate a potential to re-evaluate the proposed assets level increase from £1,000 to £2,000 up to a higher level. We are proposing £3,000 to reflect the additional numbers of people who will have fallen into debt unexpectedly due to the pandemic, but who may have some a slightly higher level of assets but no ability to pay back their debts.

We also suggest that the £1,000 vehicle asset level needs to be re-evaluated, as it appears to be substantially lower than the average vehicle value for a typical National Debtline or Business Debtline client. As we say elsewhere in our response, it would be a missed opportunity not to increase the vehicle asset level. We would suggest a £3,000 level would be reasonable.

Question 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.

We would maintain that the proposed changes do strike the right balance between protecting vulnerable individuals whilst protecting the interests of creditors. Many of our clients report that they are in vulnerable circumstances, with low incomes and deficit budgets. They wait many months before seeking advice and have high levels of stress and anxiety.

We believe the proposed changes will do much to ensure that the most vulnerable individuals are able to access low-cost debt relief. Furthermore, changes to the financial limits to DROs would not be out of step with those taken elsewhere in response to coronavirus.

The Scottish Government has already acted to increase the amount of debt an individual can have and still be eligible for a Minimal Assets Process bankruptcy from £17,000 to £25,000 – meaning more people will be able to use this route to deal with their debts, rather than having to go for full bankruptcy.[10]

The proposed level for the assets limit of £2,000 is still low. We see no likelihood that this level of assets would lead to a return to creditors in any other debt option such as bankruptcy. These asset levels would not be taken into account under an IVA or debt management plan. Assets are not a factor in the proposed statutory debt repayment plan either. We would not expect the Official Receiver to take any action to sell assets of this level of value in bankruptcy given the costs of doing so.

[10] https://www.aib.gov.uk/news/releases/20202020/0505/coronavirus-scotland-no2-act-2020

We responded to the Scottish Government review of the Bankruptcy and Debt Advice Scotland Act 2014 last year.[11] A decision has not yet been taken as to any changes to the levels. Proposals included raising the £1,000 single asset limit and the £2,000 combined asset limit to a variety of levels, up to the lower capital limit for means-tested benefits, which stands at £6,000. In Scotland, the AIB already allows a £3,000 limit for a vehicle in a Minimal Assets Process bankruptcy.[12] This figure looks to be approximately set at the right level given our client profile statistics that we set out in our response to question 2.

We would suggest that the Insolvency Service should take this opportunity to revisit the vehicle asset level as part of this consultation and to extend the level to £3,000. We agree with Christians Against Poverty's proposal in their recent report that mobility scooters should be exempt.[13]

As the other financial limits are being reconsidered currently, this is an ideal time to address this issue.

Question 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.

It is vital that these changes are put in place as soon as possible to help financial recovery in the wake of the Covid-19 debt crisis. Many people are struggling with their finances as the result of reduced incomes, redundancy and unemployment during the last year. Demand for debt advice is expected to significantly increase as a result of the coronavirus outbreak, with the Money and Pensions Service expecting a 60% increase over the next 12 to 18 months.[14]

The FCA has released its most recent Financial Lives Survey data, updated for the coronavirus pandemic.[15] According to the October survey, there are now 27.7 million adults in the UK with characteristics of vulnerability such as poor health, low financial resilience or recent negative life events. Having one of these characteristics means that these consumers are at greater risk of harm. This figure is up 15% since the FCA completed its Financial Lives Survey in February, when 24 million displayed characteristics of vulnerability.

The FCA found that the number of consumers with low financial resilience – meaning over-indebtedness or with low levels of savings or low or erratic earnings – has grown. Over the course of 2020, the number of UK adults with low financial resilience increased from 10.7 million to 14.2 million.

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[11] Scottish Government, Bankruptcy and debt advice review: consultation, November 2019
[12] https://www.aib.gov.uk/bankruptcy/types-routes-bankruptcy#whatisMAP
[13] Christians Against Poverty, Simplify the solution, February 2021
[14] Money and Pensions Service, Helplines forecast a call about debt every four minutes in January, January 2021,
[15] FCA, Financial lives survey 2020: the impact of Coronavirus, February 2021

Highlighting the threat to people's incomes from the pandemic, in October one in three (30% or 15.9m) adults said they expect their household income to fall during the next six months, while 25% (13.2m) expected to struggle to make ends meet.[16]

We can expect to see the winding down of Covid support schemes and creditors beginning to take recovery action once again against potentially vulnerable households. A DRO with the new financial limits will help provide a resolution as quickly as possible to a wider group of people.

We support the implementation of changes to the DRO monetary limits to coincide with the introduction of the new statutory Breathing Space scheme in May 2021. Such a change will give a real boost to the options available to our clients to resolve their debts. These changes will provide a significantly more effective, and easier to access, debt solutions landscape for households in England and Wales.

Speedy implementation will also enhance the potential for the Breathing Space provisions to have a real impact on peoples' lives.

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

From our perspective as a debt advice and money advice training provider, we expect to be able to update our training, public information on our websites and our online debt advice tool in good time for a May 2021 commencement date. However, we would need to have certainty that these measures will be put in place as soon as possible. This is to ensure that we can give the right advice to clients who might now be potentially eligible for a DRO where they were not eligible under the current rules. We do not want to give false hope to our clients that they should wait until May 2021 to apply for a DRO, instead of taking up other debt options if the measures do not materialise.

We would expect there to be a further impact on the debt advice sector and its ability to process DROs. It is already difficult for the advice sector to respond to clients where face-to-face services have had to adapt to remote working due to Covid-19. We note that the insolvency statistics show a 26% drop in the number of DROs in December 2020 as compared to December 2019.[17] This may, in part be due to the impact of the Covid pandemic and may ease at some point in the future.

However, without further advice sector resources, there will be potential difficulties for the sector in increasing the number of DROs it can process under the new rules. We have made some suggestions in our response to question 6 as to how DRO administration could be smoothed to make an application easier to process.

There is likely to be a knock-on effect on existing IVAs where these may now not be sustainable. The Insolvency Service should require IPs to audit their existing IVAs to

[16] FCA, Financial lives survey 2020: the impact of Coronavirus, February 2021
[17] Monthly Insolvency Statistics, December 2020 gov.uk *The numbers of DROs and bankruptcies in December 2020 were 40%and 26%lower respectively than in December 2019… There were, on average, 7,918IVAs registered in each of the 3months ending December 2020,38% higher than the rolling 3-month average observed in the same period ending December 2019.*

ensure that their clients are not struggling on with IVA payments every month when they could be eligible for debt relief via a DRO instead. IP regulatory bodies should ensure that IP firms carry out such an audit and inform all the customers they identify as a result.

The FCA should ensure that debt management firms carry out a similar audit for their clients to ensure that they are not now eligible for a DRO.

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

We remain of the view that the Government should commission a full review of the debt options available to people in financial difficulty – to ensure that no one is allowed to fall through the cracks in a framework that has evolved in a piecemeal fashion over several decades. We have already made this call in our report *Debt options in the new normal*[18] which sets out some ideas relating to changes that might be needed for individual debt options. Such a review should not, however, delay the introduction of Statutory Debt Repayment Plans – which will play an important role in households' recovery from Covid-19.

This call is echoed by recommendations in the FCA's recent report on change and innovation in the unsecured consumer credit market (the Woolard Review).[19]

"To ensure that the imminent demand for debt solutions as a result of the pandemic is met, the FCA must without delay coordinate with the UK government, devolved administrations and insolvency regulators to ensure that suitable debt solutions are available to best serve people in financial difficulties. This should include identifying quick actions to remove or reduce barriers to accessing suitable solutions (including fees) and steps to reduce consumers being driven towards unsuitable solutions (including the role that marketing plays in this)."

A debt options review, both in terms of considering the urgent short-term changes necessitated by Covid-19, and how to reset and future-proof the debt options landscape for the longer term, would be timely and but complex. A review is badly needed, however, if we are to ensure that no one is left without an option appropriate for their circumstances.

We would like to see the Insolvency Service address the outstanding issues with DROs that remain unresolved by these proposals. The DRO rules were revised by the Insolvency Service in October 2015 where the debt limit of £15,000 was raised to £20,000. The maximum asset level was raised from £300 to £1,000 (with a car as an additional asset valued up to £1,000). The application fee of £90 was not altered. We believe a further review is overdue so welcome the current proposals.

[18] Money Advice Trust, Debt options in the new normal, October 2020
[19] FCA, Woolard Review, February 2021

In our report *Debt options in the new normal*[20] we highlight a number of potential changes that could be made to DROs. We are very pleased that the Insolvency Service has moved to implement some of our suggestions such as raising the debt limit from £20,000 to £30,000 and to increase the asset limit for applicants.

We believe the Insolvency Service should consider the following measures as part of a wider review of DROs, although we appreciate that some of these proposals involve changes to primary legislation.

- ✓ **The £90 DRO fee could be waived for an extended temporary period of 12 months for all applicants – and for those on income-related benefits, this waiver could be put in place on a permanent basis.** This would be to reflect the fact that Covid-19 is increasing unemployment significantly and the current fee – which many applicants struggle to find as it stands – will present a barrier for growing numbers of people for whom a DRO is the best solution. We do not want to see an inability to find the fee meaning that clients cannot access a DRO even under the expanded eligibility rules. Many of our National Debtline and Business Debtline clients have deficit budgets, which means their income is lower than their essential expenditure. From a snapshot of our most recent 2020 client data,[21] we found 37% of National Debtline clients and 56% of Business Debtline clients had a deficit budget. They are therefore not in a position to find £90 or to save up the money for the fee. In addition, in our response to question 2, we use our client data to show that 60% of National Debtline clients and 74% of Business Debtline clients would be unable to save up any money from their budgets for the DRO fee.

This concern regarding the DRO application fee, is again echoed by the FCA in the Woolard Review recommendations.

"People with significant debt problems and low or no disposable income have few options available to them. Debt advice for these people is more complex and costly as a result. To enable the debt advice sector to operate efficiently at a time when it will be under significant strain, barriers should be reduced to people accessing suitable debt solutions. In particular, it is unfair when the very poorest are asked to provide £90 for a Debt Relief Order (DRO) application.

The FCA should discuss with the government how an emergency fund could be provided to cover the cost of the DRO application fee for people who cannot afford the fee but who would benefit from the solution. This could be delivered to the poorest clients through debt advice providers where they act as DRO administrators, as they have sufficient information to assess if an individual would be able to afford the fee or not. Alternatively, of course, government may wish to consider if the fee itself could be amended, waived or reduced, but like other fees is based on a cost-recovery basis."

We would welcome a simple solution such as waiving the fee on application by an Approved Intermediary as part of the DRO application process.

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[20] Money Advice Trust, Debt options in the new normal, October 2020

[21] Source: Client data, 2020. National Debtline sample = 356 clients. Business Debtline sample = 736 clients.

We would note that the Scottish Government has waived the fees for Minimal Asset Process (MAP) Bankruptcy and Full Administration Bankruptcy entirely for those on certain benefits and reduced the fees for all other applicants.[22]

- ✓ Given rising **rent arrears** due to the impact of Covid-19, the Insolvency Service could give greater flexibility and allow people to prioritise paying back their rent arrears within their DRO budget as an allowable expense.

- ✓ There could be a **temporary suspension of rules preventing people from taking a DRO for a second time if they have entered a DRO in the last six years**. This might take effect where their debt relates to Covid-19 (and providing they are not subject to a debt relief restriction order).

- ✓ The DRO regulations could be amended **to allow applications to include missing or overlooked debts retrospectively.** This would be particularly important where old benefit and tax credit overpayments are concerned as these often re-emerge but cannot be included in the DRO once it is in place. It is imperative that creditors provide timely information on outstanding debts before a DRO is applied for. We note that the government is looking at how information could be shared across departments via a single view of government debt which might help. However, the Cabinet Office fairness in government debt collection review, is not due to report on its recommendations for some time.[23]

Once a DRO is in place, where HMRC and the DWP subsequently find large overpayments of debt, this can frequently lead to the DRO being revoked. This will leave the client with all their debts to deal with again from scratch and having lost the £90 fee they have paid as well. Additional flexibility within to rules allowing the Insolvency Service discretion not to revoke a DRO when this is the case, would be timely. This could be potentially achieved by the Insolvency Service issuing extra guidance on how it could exercise discretion on revoking DROs for items such as DWP and HMRC overpayments or windfalls such as a small inheritance.

We would note that the new Breathing Space Scheme does allow overlooked debts to be added into the scheme, a recognition of the problem which sets a useful point of comparison for making adjustments to the DRO scheme.

In addition, we would suggest that the Insolvency Service considers the following points.

- ✓ Currently, there is a payment made by the Insolvency Service of £10 to the relevant Competent Authority for each case submitted by an Approved Intermediary to help with costs and expenses of providing the service. This is an inadequate amount of renumeration for the administration time and advice sector resources that are needed to successfully complete a DRO application. Renumeration for the debt advice sector needs to reflect the actual costs of submitting a DRO.

[22] https://www.aib.gov.uk/news/releases/20202020/0505/coronavirus-scotland-no2-act-2020
[23] Cabinet Office, Fairness in government debt management – a call for evidence, Summary of responses, February 2021

- ✓ The Insolvency Service also needs to review the time involved for debt charities in setting up DROs and find ways of minimising the administrative burden on advisers of protracted checks on income and expenditure, and delays in obtaining credit reports. It would be worth looking at a parallel in Scotland where the Accountant in Bankruptcy (AiB) has relaxed the level of supporting evidence required for Scottish bankruptcy applications.[24] Implementation of such measures for DROs might help with minimising adviser time in a similar way.

- ✓ As an example, the vast majority of queries by Approved Intermediaries to the Shelter Specialist Debt Advice Service are related to DROs and how to interpret the rules and guidance. It would make sense for the Insolvency Service DRO team to supplement the current guidance to try to iron out some of these systemic commonly reported issues. This would help improve the capacity within the advice sector to submit DROs faster. This would therefore increase the ability of Approved Intermediaries to deal with the extra demand for DROs generated by the changes to the financial limits set out in this paper.

- ✓ A wider reform that the Insolvency Service could consider is reforming the Insolvency Register. This could operate in future in a similar way to the way in which it is envisaged that the Breathing Space register will work. This will be accessible to creditors of a particular individual (in relation to their debts only), debt advisers and that individual only. It is questionable whether members of the public need to be able to access a public insolvency register, at least in relation to a DRO. Such a reform might help to lessen the stigma of debt and encourage people to seek debt advice.

- ✓ The Insolvency Service should use this opportunity to build an automatic annual review of the financial limits for DROs into the regulations. This will enable the limits to rise in a gradual way that reflects the costs of living and potentially be index-linked to the retail price index.

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[24] https://www.aib.gov.uk/bankruptcy-applications-reduced-evidence-requirements

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