

<b>Title:</b> <b>Proposed increases to the monetary eligibility limits for Debt Relief Orders in Northern Ireland</b>	<b>Regulatory Impact Assessment (RIA)</b>	
	<b>Date:</b> December 2021	
	<b>Type of measure:</b> Subordinate legislation	
<b>Lead department or agency:</b> <b>Department for the Economy</b>	<b>Stage:</b> Initial	
	<b>Source of intervention:</b> Domestic NI	
<b>Other departments or agencies:</b> <b>N/A</b>	<b>Contact details:</b> Eileen Glenn	
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### Summary Intervention and Options

<p><b>What is the problem under consideration? Why is government intervention necessary?</b>  Legislation had been made in England and Wales to raise the upper limit on total debt, total value of assets, surplus monthly income and the value of a single vehicle for domestic use for eligibility for the Debt Relief scheme. This impact assessment analyses the impact of legislating for the same increases to the corresponding limits applying under the Northern Ireland Debt Relief Scheme.  Government intervention is necessary because it is important to ensure that people in Northern Ireland who are burdened by debt which they cannot pay have the same access to relief as they would have under the Debt Relief scheme in England and Wales. Altering the entry criteria for the Debt Relief scheme requires legislation.</p>	
<p><b>What are the policy objectives and the intended effects?</b>  The aim of this policy is to give more people in Northern Ireland with low levels of assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief. As with any debt relief solution, it is important to balance the interests of creditors (those that are owed money) and debtors (those who owe money). This proposal aims to do this by ensuring that those debtors that have little or no ability to repay their creditors are able to obtain access to a form of debt relief which is appropriate and proportionate. The policy will be achieved by using subordinate legislation to raise the ceilings on assets, surplus income and total debt set by the Insolvency (Monetary Limits) Order (Northern Ireland) 1991 and the upper limit on the value of a single vehicle not adapted for use by a disabled person set by the Insolvency Rules (Northern Ireland) 1991. The impact of this will be that more people with low surplus income, assets and minimal debts, in financial distress, are able to make a 'fresh start' by falling within the scope of the revised monetary eligibility criteria.</p>	
<p><b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)</b>  <b>Option 1: Do Nothing:</b> This would mean the continued existence in Northern Ireland of a cohort of financially distressed individuals with no prospect of being able to pay their creditors who cannot access appropriate debt relief when they would be able to do so if they were living in England or Wales.  <b>Option 2: Non-regulatory option:</b> One option would be to increase awareness and use of Debt Relief Orders (DROs). However, compared with legislative change, the monetary limits would still act as a barrier to those with debts of between £20,000 and £30,000, monthly surplus income between £50-£75, assets valued between £1,000 and £2,000 and a motor vehicle worth between £1,000 and £2,000. Another alternative would be for the Government to work with creditors to encourage increased use of forbearance, however this is not a long-term solution and does not provide the desired debt relief to those who need a fresh start.  <b>Option 3: Preferred option:</b> The preferred option is to introduce new measures via subordinate legislation. This is the preferred and only option to achieve the policy objective; to give more people in Northern Ireland with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, the same access to a suitable option for debt relief as they would have in England and Wales.</p>	
<b>Will the policy be reviewed?</b> It will be reviewed	<b>If applicable, set review date:</b> 11/2027

Cost of Preferred (or more likely) Option		
Total outlay cost for business	Total net cost to business per	Annual cost for

£	year £	implementation by Regulator £
Zero. There are no outlay costs for	123,912	72,485

<b>Does Implementation go beyond minimum EU requirements?</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input checked="" type="checkbox"/>		
<b>Is this measure likely to impact on trade and investment?</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input checked="" type="checkbox"/>		
Are any of these organisations in scope?	<b>Micro</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Small</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Medium</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Large</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.**

Approved by:                      Date:

**ECONOMIC ASSESSMENT (Option 1)**

<b>Costs (£m)</b>	<b>Total Transitional (Policy)</b> (constant price) Years		<b>Average Annual (recurring)</b> (excl. transitional) (constant price)	<b>Total Cost</b> (Present Value)
<b>Low</b>	N/A	1	N/A	N/A
<b>High</b>	N/A		N/A	N/A
<b>Best Estimate</b>	4,154		213,850	1,884,908
<b>Description and scale of key monetised costs by 'main affected groups'</b> Maximum 5 lines - Familiarisation costs for competent authorities include costs to train staff, disseminating information and to update any processing systems; £4,154 - Cost to competent authorities from increased Debt Relief Order demand; £72,485 - Cost to creditors from individuals able to access debt relief, where no distribution is made to creditors; £107,212 - Insolvency Practitioners (IP) are involved in certain procedures and charge fees to cover their remuneration. The only IP led procedure impacted by the measure is the Individual Voluntary Arrangement (IVA). There is potential that some debtors would now enter a DRO rather than an IVA, resulting in a £16,700 loss of IP fee income. - Total cost to Government creditors from individuals able to access debt relief; £17,453 (Non-business impact)				
<b>Other key non-monetised costs by 'main affected groups'</b> Maximum 5 lines - None				
<b>Benefits (£m)</b>	<b>Total Transitional (Policy)</b> (constant price) Years		<b>Average Annual (recurring)</b> (excl. transitional) (constant price)	<b>Total Benefit</b> (Present Value)
<b>Low</b>	N/A	0	N/A	N/A
<b>High</b>	N/A		N/A	N/A
<b>Best Estimate</b>	N/A		190,639	1,640,961
<b>Description and scale of key monetised benefits by 'main affected groups'</b> Maximum 5 lines - Benefit to debtors through cost savings from receiving a low-cost debt write off; £8,790 (Non-business impact). - Benefit to debtors from retaining money that otherwise would be distributed to creditors: £141,365 (Non-business impact). This is a transfer as the benefit to consumers is offset by the cost to creditors and therefore it is net present value neutral. - The costs and benefits to the Insolvency Service result in a net benefit; £40,484 (Non-business impact)				
<b>Other key non-monetised benefits by 'main affected groups'</b> Maximum 5 lines - Creditors incur costs from dealing with defaulting debtors such as issuing notices, demands or by using specialist collection agencies. Pursuing debtors through the court system is also a significant cost to creditors. Therefore, writing off debt in low asset, debt and surplus income cases can result in a net benefit for creditors. - Improved access to debt relief will provide improved social outcomes. There are associations between financial distress and productivity, relationships, physical and mental health.				
<b>Key Assumptions, Sensitivities, Risks</b> Maximum 5 lines <b>Discount rate (%)</b> 3.5 - There is a risk that the increase in demand for DRO applications is larger than expected resulting in a need to increase the current capacity of competent authorities. This funding risk has been mitigated to an extent by increases to the funding provided by the Department for Communities for free debt advice.				

- A review of changes made to eligibility in England and Wales in 2015 found that cases of people who would have previously had to enter debtor bankruptcy now entering a DRO was negligible and consequently there is a risk that people do not behave as expected. This risk has been mitigated by assuming a small proportion, 25%, enter a DRO rather than debtor bankruptcy, to reflect our efforts working with the sector.

- There is a risk of moral hazard; making it easier for individuals to rid themselves of problem debts may lead to individuals borrowing more recklessly. The Insolvency Service thinks the risk of this is low, since the Insolvency Service management information shows that levels of abuse are low. This concern was raised when DROs were introduced in Northern Ireland in 2011 and we are not aware of any evidence linking reckless borrowing with the availability of DROs.

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct Impact on business (Equivalent Annual) £m</b>				
<b>Costs:123,912</b>	<b>Benefits:0</b>	<b>Net:123,912</b>		

**Cross Border Issues (Option 1)**

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines**

Identical changes to the eligibility limits for debt relief came into effect in England and Wales on 29 June 2021. The upper limits for a Debt Relief Notice in the Republic of Ireland are, total qualifying debt of E35,000, assets of E1,500, surplus monthly income of E60 and the value of a single motor vehicle not to exceed E5,000.

## Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing), with reference to the evidence base to support the option selection;
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business;
- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

### **Problem under consideration and rationale for intervention**

1. The changes to the legislation are to ensure that the most financially distressed consumers with debt problems can access a proportionate solution to obtain debt relief and enable them to make a fresh start. To achieve this objective, it is proposed to make changes to the monetary eligibility criteria for DROs.

2. Individuals with problem debt have a range of options to deal with their debts. These are described below and fall into two types: formal (statutory) and informal solutions.

Figure 1: Debt Solutions for a person in debt in Northern Ireland (statutory solutions grey and non-statutory white)

<b>Administration Order:</b> A payment plan managed by the Enforcement of Judgments Office.	<b>Arranging debt repayments with creditors:</b> If a person is behind with payments or just needs some breathing space to take control of their finances, debt repayments may be arranged directly with creditors.	<b>Bankruptcy:</b> A legal process that writes off unsecured debts but will use assets to repay creditors where appropriate. It provides a fresh start. Bankruptcies result from either Debtor petitions- the debtor applies to the High Court to have themselves made bankrupt, or Creditor petitions- the creditor applies to the High Court to have another individual made bankrupt
Debt consolidation loans: Consolidating debt usually involves taking out new credit in the form of a debt consolidation loan to pay off existing credit.	Debt management plan (DMPs): A DMP is usually arranged by a third-party provider. A single monthly payment is made to the provider and they contact creditors and share the payment each month.	Debt relief order (DRO): Debts are frozen for 12 months and, if a person's circumstances don't change, they will be written off. There are asset, surplus income and debt eligibility criteria.
Individual voluntary arrangement (IVA): A formal agreement with creditors, usually over 5-6 years, arranged through an Insolvency Practitioner.	Releasing equity: Using equity release to access money that is tied up in a property.	Settlement offers: Offering creditors less than they are owed to clear the debts
Token (or Temporary) repayment plan: When a small amount is offered to creditors to demonstrate willingness to repay but inability for the moment.		

4. DROs were introduced in Northern Ireland in 2011 and were aimed at providing debt relief to individuals in financial difficulty with low levels of debt, assets and surplus income. For this group, which has no prospect of being able to make any returns to creditors, bankruptcy, would be a disproportionate response. The monetary eligibility criteria to obtain a DRO were set in 2011 as: debts needed to be under £15,000, assets needed to be under £300, with no/to little surplus income, which needed to be under £50 and the value of a single domestic vehicle was excluded if it was worth less than £1,000. In 2016<sup>1</sup> the limit on debt was increased to £20,000 and the limit on assets to £1,000.

5. The DRO process starts with an application processed by an “authorised intermediary”<sup>2</sup> working for one of the competent authorities<sup>3</sup> designated by the Department for the Economy. Once approved the DRO will commence. There is a “moratorium period”, lasting for 12 months, during which creditors cannot take enforcement action. After this period if the individual's financial position has not improved the debts in the DRO are written off.

6. The debt relief provided by DROs has wider social and economic impacts and these are explored in the cost benefit analysis section. Academics and the debt advice sector have identified associations between financial distress and stress and anxiety (and other mental health issues), relationship problems, and the consequential detrimental impact on the family. These additional social costs of indebtedness can be ameliorated by Government intervention.

7. Debt Relief Orders for individuals with relatively straightforward affairs have advantages over other forms of debt relief, such as debtor bankruptcy. They offer a more proportionate way to write off debt in low asset, debt and surplus income cases enabling individuals to make a fresh start at a lower cost.

<sup>1</sup> <https://www.legislation.gov.uk/nisr/2016/418/contents/made>

<sup>2</sup> DRO applications are made through authorised intermediaries. These are highly trained debt advisers funded and authorised by competent authorities.

<sup>3</sup> A competent authority is a body designated by the Department as having the power to authorise intermediaries

8. Alternative debt relief solutions can be a costly way to recover low level debts. Some will involve a judicial process, and in cases taken on by insolvency practitioners (where there are sufficient assets to realise) their fees.

9. Creditors should only be incurring recovery costs if the value of debt to be recovered exceeds the costs of collection. However, in low asset, debt and surplus income cases the actual debt recovered is likely to be very small and may exceed the cost of recovery. Therefore, as a tool for returning money to creditors, in low asset, debt and surplus income cases alternative debt relief solutions are largely ineffective.

10. There is a gap in the market: a group of debtors who cannot repay their debts (because they have too few assets or too little surplus income) or access a proportionate debt relief solution. Creditors have little or no incentive to bring bankruptcy proceedings as there are few assets. Raising the DRO limits through Government intervention will address this gap and help this group of debtors.

11. A total of 516 debt relief orders were made in Northern Ireland during 2019<sup>4</sup>. The number made in 2020 was 287, down by 44%. This coincides with fiscal and other measures taken by the Government and creditors as a result of the coronavirus pandemic. For example, forbearance has been used extensively to support consumers and since the start of the pandemic with the financial sector granting payment deferrals across mortgages, credit cards and personal loans.

12. However, financial difficulty has been building up for many UK households and the problem has been exacerbated by the impact of the pandemic<sup>5</sup>.

13. Overall, considering the gap in the market and the current economic environment, changes to DRO eligibility criteria are a timely response to ensure more people in financial distress have access to a proportionate debt solution.

**Policy objective**

14. The aim of this policy is to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief.

15. This will be achieved by using subordinate legislation to change the DRO monetary eligibility criteria. A logic model for the policy intervention can be seen below:

Figure 2: Logic model of the policy change

Context	Inputs	Outputs	Outcomes	Impacts
<p>DROs were introduced in 2011 as a form of personal debt relief. Changes to eligibility criteria were last made in 2016.</p> <p>The aim of this policy is to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief.</p>	<p>Changes to eligibility criteria made via subordinate legislation</p>	<p>More people can access DROs as a form of debt relief; both from debtor bankruptcy and (particularly) from people able to access a DRO for the first time through debt advice.</p>	<p>More people use DROs as a form of debt relief. Both from debtor bankruptcy and from people able to access a DRO for the first time through debt advice.</p>	<p>Provides debt relief and eliminates the gap in the market allowing more people to make a 'fresh start'. This would bring wider societal &amp; economic benefits.</p> <p>Some cost will be incurred by business through loss of creditor returns and the cost of administering the new policy.</p>

16. The DRO procedure was introduced in 2011 to provide a low-cost form of debt relief, as an alternative to debtor bankruptcy. The government has a duty to make sure that the regime works as intended and to make any changes needed to ensure it is achieving its objectives.

<sup>4</sup> <https://www.gov.uk/government/statistics/individual-insolvency-statistics-october-to-december-2020>

<sup>5</sup> <https://www.stepchange.org/policy-and-research/debt-research/covid-debt-2020.aspx>

17. The changes will provide a more proportionate means of resolving debt problems for more people with low assets, debts and surplus income. At the same time, they will strike an appropriate balance between the rights of creditors to repayment and debtors to receive relief from debts, increasing the overall efficiency of the insolvency regime.

18. The policy will be successful if the gap in the market is closed enabling people in financial distress to make a fresh start using the revised monetary eligibility criteria to obtain a DRO. Success will be measured by monitoring DRO volumes in the widened eligibility criteria.

## **Description of options considered**

### **Do Nothing**

19. This would mean that some individuals would not have access to low cost debt relief when they have no prospect of repaying their debts.

20. This will not meet the policy objective of enabling more people in financial distress to access a proportionate debt solution to obtain debt relief.

### **Option 1: Non-regulatory option**

21. In the absence of regulation, an alternative could be to increase awareness and use of Debt Relief Orders. However, compared with regulation, DROs would still not be available to the group of debtors who cannot repay their debts (because they have too few assets or too little surplus income) or access a proportionate debt relief solution. Consequently, it would not achieve the policy objective of giving more people access to suitable debt relief.

22. For an individual to apply for a DRO they must first receive debt advice through intermediaries working for one of the competent authorities recognised by the Department for the Economy and authorised to process DRO applications. Increased provision of debt advice can potentially support more individuals to access low cost debt relief through DROs.

23. The Money and Pension Service (MaPS) has set out a UK Strategy for Financial Wellbeing<sup>6</sup>. One of the national goals is to get 2 million more people per year accessing debt advice by 2030. In the wake of the Covid-19 pandemic, MaPS expected the demand for debt advice to increase substantially by the end of 2021.

24. This significant increase in demand for debt advice may lead to an increased number of DROs. However, this will only service additional demand at current eligibility levels and will not address the needs of those above the current monetary eligibility criteria and the gap in the market identified. Furthermore, those receiving advice may not necessarily enter DROs. Therefore, an alternative regulatory option would be more suitable to meet the desired policy objective.

25. In addition, simply raising awareness will not necessarily lead to individuals entering the best solution for their circumstances.

26. The E&W Insolvency Service conducted an internal review of the DRO changes implemented in England and Wales in 2015. It concluded that the policy met the desired policy objectives. However, following consultation it was concluded that the time was right for a further increase in the eligibility criteria.

27. The review analysed Insolvency Service Management Information on bankruptcies for financial years 2016-19. This showed that following the changes to DRO eligibility in 2015, 13% of debtor bankruptcy cases remained eligible for a DRO but entered debtor bankruptcy instead. The impact assessment had assumed these cases would enter a DRO rather than debtor bankruptcy. This shows that individuals do not necessarily enter the most appropriate solution given their circumstances.

28. Behavioural change techniques<sup>7</sup> could be used to encourage individuals to use the best solution. One technique could be to use the COM-B model (figure 3) to identify the behaviour you seek to change and ascertain what will bring about the change through changes to the target group's Capability, Opportunity and Motivation to engage in that behaviour.

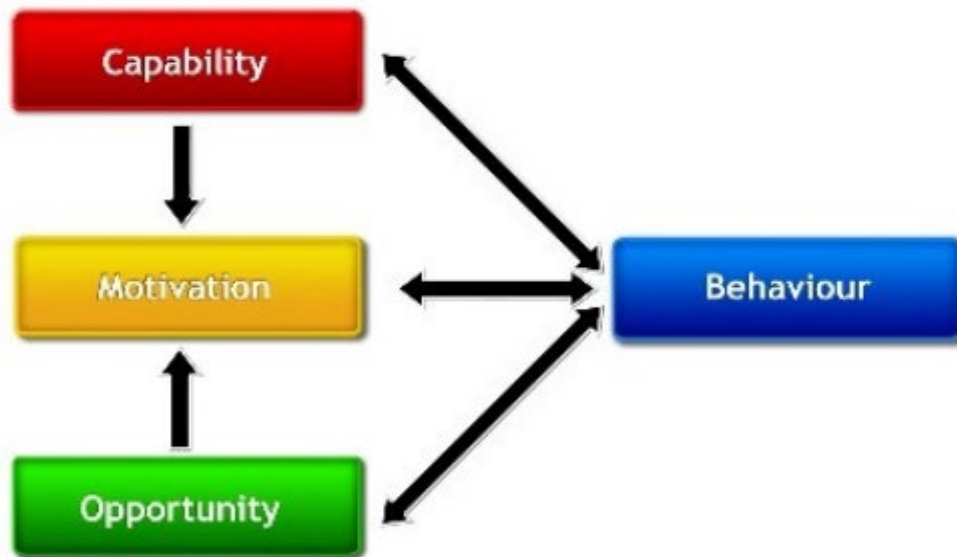
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<sup>6</sup> <https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/01/UK-Strategy-for-Financial-Wellbeing-2020-2030-Money-and-Pensions-Service.pdf>

<sup>7</sup> <https://www.gov.uk/government/publications/behaviour-change-guide-for-local-government-and-partners>



**Figure 3: COM-B model of behaviour**



29. However, even if this approach is successful, only a small number of individuals would stand to benefit, meaning an alternative regulatory option would be more suitable to help those with low debts, assets and surplus income to make a fresh start.

30. Aside from raising awareness, the Government could work with creditors to encourage increased use of forbearance. There is a regulatory requirement to provide forbearance in personal finance agreements and this comes under the purview of the Financial Conduct Authority (FCA)<sup>8</sup>. The FCA has acted to provide additional forbearance to those impacted by the Covid-19 crisis. However, forbearance is not a long-term solution and does not provide the desired debt relief to those who need it. Therefore, a regulatory alternative is necessary to achieve the policy objective.

### **Option 2: Regulatory option (preferred)**

31. Considering the gap in the market, the current economic environment and the upcoming implementation of a Breathing Space, the UK Government concluded that the time was right for a further increase in the eligibility criteria applying in England and Wales.

32. Therefore, the second option which was to increase the monetary eligibility criteria to access a DRO via secondary legislation has been taken in England and Wales. This was the preferred and only option to achieve the policy objective. More people in financial distress, with low surplus income, low assets and low debts, can now access a proportionate debt solution to obtain debt relief thus addressing the gap in the market identified.

33. It is presumed that a similar gap exists in the provision of debt relief solutions in Northern Ireland and the only way to eliminate that gap is to legislate to increase the monetary eligibility criteria applying in Northern Ireland.

34. The changes to the monetary eligibility limits applying in England and Wales have been made by two statutory instruments which came into force on 29 June 2021. They are the Insolvency Proceedings (Monetary Limits) (Amendment) Order 2021 and the Insolvency (England and Wales) (Amendment) Rules 2021.

35. The new limits set by the two statutory instruments are set out in Table 1 below.

36. The preferred option will have delivered immediate outputs by enabling more people with low debts, assets and surplus income to access debt relief. Consequently, more debtors will benefit from debt relief which will come at the expense of creditors.

37. The preferred option for Northern Ireland is to make the same changes to the monetary eligibility limits applying under the Northern Ireland Debt Relief scheme as have been made to those applying under the scheme in England and Wales. Doing so will ensure that citizens in a similar financial plight in either of the two jurisdictions have equal access to debt relief.

<sup>8</sup> <https://www.fca.org.uk/news/statements/fca-announce-further-proposals-support-consumer-credit-borrowers-impacted-coronavirus>

**Table 1: Changes made to the Debt Relief Order eligibility criteria in England and Wales**

	Previous criteria	New criteria from 29 June 2021
Qualifying debt limit	£20,000	£30,000
Surplus income	£50	£75
Asset limit	£1,000 (Excludes certain items such as a motor vehicle (up to £1,000), approved pensions and basic belongings such as clothes, bedding and furniture)	£2,000 (Excludes certain items such as a motor vehicle (up to £2,000), approved pensions and basic belongings such as clothes, bedding and furniture)

**Sensitivity analysis**

38. The new criteria (Table 1) were chosen by the Insolvency Service in E&W after considering responses to a consultation which they carried out and after performing sensitivity analysis on data provided by StepChange, a large provider of debt advice.

**Asset limit**

39. In low asset, debt and surplus income cases, the actual debt recovered is likely to be very small, if any. Some cases under these circumstances enter debtor bankruptcy. The Official Receiver charges an administration fee of £1,050 in all bankruptcies, which is paid through an initial deposit and any further realisations. The deposit has to be refunded, the full administration fee charged, the petitioner's costs, averaging £1,700 paid and an advertisement costing £225 paid for before any distribution can be made to creditors. There is also a charge for the time spent by the Official Receiver's staff in making the distribution. Therefore, no distributions can be made to creditors in cases with assets under £2,000. Consequently, increasing the DRO asset limit to £2,000 will have no impact on creditor returns as the debt will be written off in a DRO resulting in no return, as in a bankruptcy. However, the changes could result in creditor losses where the individual would have otherwise entered an alternative debt solution with a return to creditors (e.g. an Individual Voluntary Arrangement (IVA)) but we expect this to occur rarely and have analysed the impacts in the cost benefit analysis.

**Surplus income**

40. It was proposed in the consultation carried out in England and Wales that the limit on surplus monthly income should be increased to £100. However respondent's views were mixed, with the debt advice sector all in favour of a £100 limit whereas creditors were against.

41. The evidence from the consultation was that a £100 surplus limit would be too high and would result in significant impacts on potential returns to creditors, with resultant adverse impacts on the accessibility and cost of credit as creditors would be forced to write off more debt.

42. The maximum surplus income, £50, was set when DROs were initially introduced in 2009 (in Northern Ireland in 2011) and had not been increased to reflect inflation. Uprating the surplus income from 2009 to 2020 results in a 2020 surplus of £60<sup>9</sup>. Analysing debt advice data shows that increasing the surplus income from £50 to £60 would only have a marginal effect, increasing the percentages falling under the surplus criteria from 49% to 51%. For the intervention to be worthwhile, and have the desired result of providing more people in financial distress with debt relief, we need to go further. So drawing on the evidence from the consultation a new maximum surplus of £75 was set, which will increase the percentage to 53% and have a more meaningful effect.

43. It is believed that £75 is the right amount to ensure that there are no significant impacts on creditors or any of the adverse impacts above. This amount mitigates the impact on creditors in both formal and informal insolvency solutions:

- Individual voluntary arrangements (a formal insolvency tool to make agreed repayments to your creditors) do see monthly contributions by debtors at the lower end of around £80 per calendar month; the £75 limit will mitigate the impact of the proposed increased monetary limits for DROs.
- There are informal agreements between a debtor and their creditors that may offer a lower contribution per month (known as debt management plans), but we are satisfied that these are

<sup>9</sup> <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-march-2020-budget>

used by people either expecting a change in their circumstances or while they are deciding on the most appropriate long-term solution to their debt problems.

#### Motor vehicle

44. Although it was not among the proposals included in the consultation carried out in England and Wales, the debt advice sector asked the Government to consider increasing the value of an exempt motor vehicle to £2,000.

45. The motor vehicle limit was set at £1,000 when DROs were introduced in 2009 (in Northern Ireland in 2011) and had not been increased to reflect inflation. Uprating the limit for inflation from 2009 to 2020 results in a new limit of £1,215. Analysing debt advice data shows that increasing the motor vehicle limit from £1,000 to £1,215 would only have a marginal effect, increasing the percentages falling under the motor vehicle criteria from 48% to 50%. This indicates that the current motor vehicle limit is an impediment to DRO access, and an inflationary increase would not have the desired result of providing more people in financial distress debt relief, so there is a need to go further.

46. The rationale<sup>10</sup> for an increase amongst respondents was the dilemma faced by clients who either had to sell a modestly valued vehicle to purchase an older, lower value vehicle and face significantly higher maintenance costs, or pay a higher fee to go into bankruptcy instead.

47. Considering the consultation and analytical evidence the Government decided to increase the motor vehicle limit to £2,000. This will help to unblock barriers to accessing DROs and debt relief amongst people who are experiencing financial distress. On the basis of debt advice data, the new £2,000 limit will result in the percentage falling under the motor vehicle criteria increasing from the previous 48%, to 67%, thus enabling greater access for those who need it the most. This will also avoid clients being stuck in a quandary over the best solution to use.

48. A change to the limit on the value of a motor vehicle will come into effect in Northern Ireland through legislation to amend the Insolvency Rules (Northern Ireland) 1991 whereas the other changes will be through the Insolvency (Monetary Limits) Order (Northern Ireland) 1991.

#### Debt limit

49. Sensitivity analysis was performed in England and Wales on debt advice data to find a suitable qualifying debt limit (see Table 2) given a surplus income limit of £75, and an asset and motor vehicle limit of £2,000 each as above.

Table 2: The impact of the proposed changes and debt levels on DRO case numbers in Northern Ireland

Option	People able to obtain a DRO for the first time through debt advice <sup>11</sup>	New Debtor bankruptcy cases eligible for DRO <sup>12</sup>	Number of Debtor bankruptcy cases expected to enter a DRO <sup>13</sup> (25%)	Total new DRO cases
Do Nothing	0	0	0	0
£30,000 debt limit	238	59	15	253
£40,000 debt limit	259	99	25	284
£50,000 debt limit	268	118	30	298

50. The analysis shows that the vast majority (over 90%) of new DRO cases will come from people that are able to access DROs for the first time.

<sup>10</sup> <https://capuk.org/downloads/general/Simplify-the-Solution.pdf>

<sup>11</sup> An analysis of data provided by StepChange shows that an additional 46, 50 and 52% of its clients would be eligible for a DRO using these criteria; this has been applied to Northern Ireland DRO volumes for 2019 (516) to arrive at 238, 259 and 268 additional DROs respectively. Statistics have been used for 2019 rather than 2020 due to the impact of Covid-19 on 2020 cases.

<sup>12</sup> The numbers eligible are simply the percentage of debtor bankruptcies meeting the new eligibility criteria for the option multiplied by the average number of debtor bankruptcies during 2016-19, 282. Source: Insolvency Service Management Information

<sup>13</sup> A review of bankruptcy data (2016-19) following changes to the DRO eligibility criteria in England and Wales showed the effect on DRO numbers from newly eligible cases that would now enter a DRO that previously would have entered debtor bankruptcy was negligible. An assumption has been made that 25% will actually enter a DRO to reflect our efforts working with the sector in response to the Covid-19 pandemic.

51. Evidence in the table shows that increasing the debt level criteria has diminishing returns. Debt advice data shows that 79% of cases meet the existing debt level of £20,000, this rises to 90% of cases for the £30,000 level, 94% for £40,000 and 97% for £50,000.

52. Responses to the consultation carried out in England and Wales were contrasting, the debt advice sector did not want a cap on the limit, but some wanted a limit of £50,000, whereas creditors wanted an inflationary rise to the debt limit. Therefore, the debt limit was increased to £30,000 after considering the diminishing returns of higher debt limits (shown in the analysis above), the consultation responses and the support in a previous 2015 consultation for a £30,000 debt limit. This strikes a balance between the desires of creditor and debtor groups.

## Costs and Benefits

### Familiarisation costs

53. The intermediaries that are authorised to process DRO applications will need to update their knowledge of the DRO criteria to carry out their duties which will incur familiarisation costs to train staff, disseminate information and update any processing systems.

54. When the impact assessment for the uprating of the eligibility limits in England and Wales in 2015 was being prepared the cost of familiarisation and training for each intermediary was estimated to be in the range £0 to £99. The impact assessment for the increases to the eligibility limits made in 2021 uses the same figures, adjusted for inflation<sup>14</sup>.

55. There is no reason to believe that the cost of familiarisation and training should be any higher in Northern Ireland than it is in England and Wales.

56. In 2015 prices, £99 is equivalent to £113.40 in 2020/21 prices. There are 51 intermediaries in Northern Ireland. Therefore familiarisation costs will be in the range £0 to £5,783 with a best estimate of £2,892.

57. Alongside the cost of attending training, we must also consider the opportunity cost, calculated by multiplying the hourly rate and training time. Intermediaries are responsible for providing debt advice, and approving and processing DRO applications. Therefore, this role is an administrative occupation. The Annual Survey of Hours and Earnings<sup>15</sup> shows there are around 2.3m people in administrative occupations at an hourly rate of £11.97. This hourly rate then needs to be increased by 18%<sup>16</sup> to account for non-wage costs, giving a total hourly rate of £14.12. Therefore, the opportunity cost assuming a half day (3.5 hour) course will be £49.50 per intermediary. This gives a range of opportunity cost from £0 to £2,525 with a best estimate of £1,262.

**58. The range of total familiarisation costs will therefore be £0 to (£5,783 + £2,525) = £0 to £8,308 with a best estimate of £4,154.** This cost is a one-off familiarisation cost on business.

59. No additional costs related to competent authorities' IT systems are expected as competent authorities already have the infrastructure in place to process DRO applications.

### Costs/benefits

60. The costs and benefits have been outlined below.

61. The costs and benefits are as follows and shown in the Table 3 below:

- Cost to intermediaries from increased DRO demand
- Cost to creditors from individuals able to access debt relief
- Costs to Insolvency Practitioners from loss of IVA fees
- Familiarisation costs (see above)
- Benefits to creditors from reduced administration and recovery costs
- Benefits to debtors (non-business impact)

<sup>14</sup> <https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp>

<sup>15</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsoccashetable2>

<sup>16</sup> [https://ec.europa.eu/eurostat/statisticsexplained/index.php?title=File:Hourly\\_labour\\_costs\\_in\\_euro\\_in\\_2019.png](https://ec.europa.eu/eurostat/statisticsexplained/index.php?title=File:Hourly_labour_costs_in_euro_in_2019.png)

**Table 3: Annual costs and benefits of changes to the eligibility criteria for Debt Relief Orders**

Type of cost/benefit	Impact	Minima £	Maxima £	Best Estimate £	Direct impact on business
One-off familiarisation cost creditors / business	Familiarisation costs	0	8,308	4,154	Yes
Ongoing cost to creditors / business	Cost to intermediaries from increased DRO demand	57,937	87,032	72,485	Yes
	Cost to creditors from individuals able to access debt relief			107,212	Yes
	Costs to Insolvency Practitioners from loss of IVA fees			16,700	Yes
Total cost to Government creditors from individuals able to access debt relief				17,453	No
<b>Total Cost to business</b>					
Ongoing benefit to debtors (non-business impact)	Benefit to debtors through cost savings			8,790	No
	Benefit to debtors from retaining repayments			141,365	No
Non-monetised benefits	Benefits to creditors from reduced administration and recovery costs				
Non-monetised benefits (non-business impact)	Benefit to debtors from improved social outcomes				
Net benefit to the Insolvency Service				40,484	No
<b>Total benefit to business</b>					

Monetised costs

## Cost to intermediaries

62. DRO applications are made through authorised intermediaries. These are highly trained debt advisors funded and authorised by competent authorities.

63. Debt advice can be provided through several channels but only intermediaries working for one of the competent authorities recognised by the Department for the Economy are authorised to process DRO applications.

64. Changing the eligibility criteria for DROs to make more people eligible should lead to an increase in demand from debtors for DROs. There would be a requirement for Intermediaries to service this additional demand and where necessary invest to increase capacity.

65. Consequently, we need to consider the impact of the changes on DRO case numbers to understand the demand impact on intermediaries.

66. The changes considered will enable individuals to benefit from debt relief in two ways:

- i. People able to access DROs for the first time through debt advice
- ii. People no longer need to access debtor bankruptcy for debt relief and can use DROs

67. People able to access DROs for the first time under the changes can be calculated using debt advice data from StepChange, a large debt charity with a 22% share of DROs in England and Wales.

68. The flow from debtor bankruptcy to Debt Relief Order can be calculated by reviewing Insolvency Service 2016-19 Bankruptcy data.

69. Table 4 below shows the impact on DRO case numbers using both data sources.

**Table 4: The impact on the proposed changes to DRO case numbers**

Option	People able to obtain a DRO for the first time through debt advice <sup>17</sup>	New debtor bankruptcy cases eligible for DRO <sup>18</sup>	Number of debtor bankruptcy cases expected to enter a DRO <sup>19</sup> (25%)	Total new DRO cases
Do Nothing	0	0	0	0
Preferred Option	238	59	15	253

70. The changes are expected to result in 238 more people annually accessing DROs for the first time. A further 59 that are currently entering debtor bankruptcy are expected to become eligible for a DRO and could enter a DRO instead. However, the behaviour of this group is uncertain. A review of debtor bankruptcy data carried out following the changes to the DRO eligibility criteria in England and Wales in 2015 showed that the effect was negligible. The Insolvency Service is working closely with the debt advice sector, and the Department for Communities has provided additional funding for debt advice, meaning we can be more confident that individuals seeking debt relief will be more likely to access the most appropriate solution. Therefore, we assume that 25% will enter a DRO as we cannot know the extent of behaviour change.

71. Therefore, the changes are estimated to result in an additional 253 DROs for intermediaries to process.

72. The cost of administering a DRO application was estimated to average around £200-300 per case in the Regulatory Impact Assessment prepared in 2015 for the previous increases to the eligibility criteria. Up-rating using GDP deflators results in a range of £229 to £344 per case.

73. Multiplying the range of costs by the number of DROs results in an estimated annual cost of between £57,937 and £87,032 with a best estimate of **£72,485**.

Cost to creditors from individuals able to access debt relief

74. In a DRO the debts of the debtor are completely written off and so no distribution is made to creditors. This differs to other solutions for example an Individual Voluntary Arrangement (IVA) or Debt Management Plan (DMP) where a sum of money is repaid to creditors over a period, or bankruptcy where after accounting for the costs of completing the process the trustee distributes any assets left to creditors.

75. Analysis of Insolvency Service Management Information showed that 13% of debtor bankruptcies are potentially eligible for DRO currently, rising to 34% under the proposed criteria. In Table 4 we estimated that there would be 15 fewer debtor bankruptcies, which would move to DROs. There will be no cost to creditors for these cases because the Official Receiver charges a £1,050 administration fee in all bankruptcies, and this together with the petitioner's costs averaging £1,700 and the £125 cost of an advertisement plus the charge which would be made for the time spent by the Official Receiver's staff making any distribution would outweigh all assets (which are used to defray costs before any distribution) for the option under consideration (assets <£2,000).

76. As a result of the changes an expected 253 additional individuals will obtain a DRO each year. These individuals would otherwise enter an alternative solution such as DMP, IVA, debtor bankruptcy or make token payments and there may be a loss to creditors as the alternative in some instances could provide a small return whilst a DRO would not.

<sup>17</sup> An analysis of data provided by StepChange shows that an additional 46% of its clients would be eligible for a DRO using these criteria; this has been applied to Northern Ireland DRO volumes for 2019 (516) to arrive at 238 additional DROs.

<sup>18</sup> Insolvency Service bankruptcy data shows an additional 21% of debtor bankruptcies meet the new eligibility criteria, multiplying this by the average number of debtor bankruptcies during 2016-19, 282, results in 59 cases eligible. Source: Insolvency Service Management Information

<sup>19</sup> A review of bankruptcy data (2016-19) following changes to the DRO eligibility criteria in England and Wales showed the effect on DRO numbers from newly eligible cases that would now enter a DRO that previously would have entered debtor bankruptcy was negligible. An assumption has been made that 25% will transfer to reflect our efforts working with the sector.

77. Table 5 examines debt advice data from StepChange, a large provider of debt advice, which can be used to understand the recommendations for the newly eligible under the changes considered.

**Table 5: Debt Advice Recommendations for clients newly eligible under the proposed changes**

Recommendation <sup>20</sup>	% of clients advised	Returns to Creditors <sup>21</sup>	Comments
Income Maximisation	30.2%	0%	Budgeting help
Bankruptcy	21.2%	0%	No return see point 75
Managed TPA	13.1%	0%	Token payment <sup>22</sup>
PhoneUs	9.4%	0%	Make contact again with debt advisor
DMP	9.4%	35%	
IVA	4%	21%	

78. The table shows that when the recommendation is for a DMP or IVA there is potential for higher returns than a DRO (no return). However, these form around 13% of cases.

79. Multiplying the percentages for these solutions by the numbers able to obtain a DRO for the first time (238) results in an estimated 22 DMPs and 10 IVAs. These higher return cases are small in the context of the overall newly eligible population, in which cases with low assets, low surplus income and low debts typically have low returns to creditors.

80. The average debts and creditors return for DMPs and IVAs have been sourced from PayPlan, a large debt advice provider. Average debts and returns of the newly eligible cohort alone are; £11,850 and 35% for DMPs and £16,710 and 20% for IVAs respectively, after accounting for fees. Therefore, the overall annual loss for creditors is **£124,665** ( $22 * £11,850 * 35\% + 10 * £16,710 * 20\%$ ).

81. However, not all this loss will be to business creditors as Government is a significant creditor. Insolvency Service Management Information on debtor bankruptcies show that 14% of creditor returns are paid to HMRC. **Therefore, the annual loss to business creditors is £107,212** ( $£124,665 * 0.86$ ).

82. The loss will include interest, capital and charges due to creditors that would otherwise be irrecoverable and lost in a DRO. This will be an over-estimate of the cost as DMP and IVA are long-term debt solutions with monthly payments and therefore the value will be lower than if payment was received now, given the time value of money.

Costs to Insolvency Practitioners from loss of IVA fees

83. Insolvency Practitioners (IPs) administer IVAs and charge fees to cover their remuneration. The only IP led procedure impacted by the measure are the estimated 10 IVAs that would no longer occur resulting in a loss of IP fee income. PayPlan estimate the average IP fee for these IVAs is £1,670 and **therefore the income loss is £16,700** ( $£1,670 * 10$ ). This is additional to the creditor return impact as fees must be paid first before any distributions to creditors.

### Monetised benefits

Benefits to debtors (non-business impacts)

84. Following the increases to the DRO monetary eligibility limits new people would now be able to access this debt solution. Earlier Table 4 showed an estimated 253 new people will now be able to

<sup>20</sup> Refer to Figure 1 on debt solutions

<sup>21</sup> Returns for debt solutions have been sourced from PayPlan for the newly eligible cohort only, where this is not possible existing literature from the Money Advice Trust has been used.

<sup>22</sup> Token payments are not a debt solution and typically involve making small payments (often £5 a month) for a short period of time (see page 67 in the report at the link below). The returns are therefore very low and assumed to be 0 in analysis.

[http://www.infohub.moneyadvice.org/content\\_files/files/jackie\\_wells\\_debt\\_advice\\_full\\_report1.pdf](http://www.infohub.moneyadvice.org/content_files/files/jackie_wells_debt_advice_full_report1.pdf)



access a DRO. The benefit to debtors is equal to the cost to creditors and IPs as debtors benefit from debt relief through retaining money that otherwise would be distributed to IPs and creditors. Therefore, the total benefit to debtors is **£141,365** (loss to creditors, including government creditors £124,665 + loss to IPs £16,700).

85. Debtors also benefit from paying the lower DRO fee (£90) rather than the more expensive debtors bankruptcy route incurring a debtor's deposit (£525) and a court fee (£151). Therefore, debtors who can now enter a DRO save £586 in costs ( $676 - 90 = 586$ ) compared to debtor bankruptcy. Table 4 estimated 15 debtor bankruptcy cases would transfer to DRO resulting in cost savings to debtors of **£8,790** ( $£586 * 15$ ).

### Non-monetised benefits

Benefits to creditors from reduced administration and recovery costs

86. The cost of recovering debt is part of the normal business expenditure for creditors. Creditors incur costs from administering defaulting debtor cases such as issuing notices, demands or by using specialist collection agencies. Pursuing debtors through the court system, through a creditor petition, is also a significant cost to creditors.

87. A report from the Money Advice Service<sup>23</sup> estimated that helping people solve their debt issues reduced creditor recovery and administrative costs. The report estimated that creditors recovered an additional 5%<sup>24</sup> through lower recovery costs when debt advice was provided to debtors. This results in an estimated reduction of creditor recovery costs of £135-237m. No information was available to estimate the savings from the changes to the DRO eligibility criteria.

88. The impact assessment carried out for the changes to the debt relief criteria made in England and Wales in 2021 refers to the only information available on administration and debt recovery costs coming from Ofwat<sup>25</sup> who suggest water companies costs equate to 5% of their debts. In the StepChange data the average debt level for those able to obtain a DRO for the first time through debt advice was £8,370, equating to a £420 saving per DRO. The debtor bankruptcy cases expected to enter a DRO have debts of £24,270 on average, equating to savings of £1,210 per DRO. Considering those entering DRO through debt advice (238), those expected from bankruptcy (15) and the respective savings results in an estimated £117,805.50 saving ( $238 * £8,370 * 5\% + 15 * £24,270 * 5\%$ ). This benefit has not been quantified as we cannot be certain the experiences of water companies reflect the wider creditor community. In fact, creditor organisations can take different approaches, for example outsourcing debt collection or selling bad debts. However, this does show that the benefit to creditors from reduced

89. Creditors should only be incurring recovery costs if the value of debt to be recovered exceeds the costs of collection. However, in low asset, debt and surplus income cases the actual debt recovered is likely to be very small and would generally not exceed the cost of recovery. Therefore, writing off debt in low asset, debt and surplus income cases can result in a net benefit for creditors against the status quo.

### Benefits to debtors from improved social outcomes

90. Improved access to debt relief through the changes will provide a number of non-monetised benefits. There is a consensus of opinion amongst academics and debt advice agencies who have identified associations between financial distress and productivity, relationships, physical and mental health.

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[https://masassets.blob.core.windows.net/cms/files/000/000/898/original/Economic\\_Impact\\_of\\_Debt\\_Advice\\_-\\_main\\_report.pdf](https://masassets.blob.core.windows.net/cms/files/000/000/898/original/Economic_Impact_of_Debt_Advice_-_main_report.pdf)

<sup>24</sup> The Impact of Independent Debt Advice Services on the UK Credit Industry, Jackie Wells with John Leston and Mary Gostelow, Friends [http://www.infohub.moneyadvicetrust.org/content\_files/files/jackie\_wells\_\_\_debt\_advice\_\_\_full\_report1.pdf]

<sup>25</sup> Ofwat (2010) A Drain on Society: What can be done about water debt? administrative and recovery costs is significant and will increase the net present value



91. The Money Advice Service Report<sup>26</sup> found that helping people solve their debt issues resulted in several social benefits:

- Improved physical/mental wellbeing – reduced health costs £50-93m annually
- Mental health – social benefit £24-52m annually
- Improved productivity – social benefit £67-137m annually
- Reduced risk of entering further debt cycles- £13-26m annual social benefit for consumers
- Improvements in family relationships
- Reduced risk of homelessness

92. The report estimated the impact of debt advice and therefore includes the impact for those entering both formal and informal solutions following that advice. DROs are accessed following debt advice, they are a formal solution and their social benefits will be included in the results. However, it is not possible from the information available to estimate the impact directly attributable to DROs nor estimate the impact of changes to the DRO monetary eligibility criteria.

93. However, whilst the social benefit of debt advice is significant, the types of debt problems associated with small value debts and low assets (that would be from DRO clients) would make up a small share of the overall benefit. Therefore, the changes will have a social benefit which cannot be quantified and so is non-monetised. However, these unquantifiable benefits would help improve the net present value.

## Wider Impacts

### Impact on the Public Sector

#### Insolvency Service

95. The legislative changes will impact the Insolvency Service as it is responsible for administering bankruptcy cases and DROs. In particular, the impacts will be on:

- Official receiver (ORS) income and operating costs – from the reduction in bankruptcy case load
- DRO fee income and operating costs – from higher volumes of DROs

96. The most significant impact is on ORS fee income and costs of operating Official Receiver services as the measures will result in 15 fewer debtor bankruptcies which are expected to enter a DRO. This results in lost income for ORS through the loss of the deposit (£525), and any assets held on those cases.

97. In the impact assessment for the changes made to the debt relief criteria in England and Wales the average asset level for bankruptcy cases eligible to transfer was £273. There is no reason to believe that the amount would be different in Northern Ireland. The deposit and assets lost per case switching from bankruptcy to a DRO is therefore £798 (525 + 273) resulting in an ongoing **annual loss of £11,970** to the Insolvency Service.

98. The cost saving to ORS in completing bankruptcy case work can be calculated using the cost per case of £3,857.

99. The Official Receiver charges a £1,050 administration fee in all bankruptcy cases. However this amount cannot be recovered in cases with no assets and the only income in such cases will be the £525 deposit. The shortfall between the £3,857 cost of administering the case and the £525 receipts will be met out of fee income in cases which do have assets, that is through a cross-subsidy.

100. The Insolvency Service in England and Wales's time recording data shows that bankruptcy cases meeting the new DRO criteria take 10% less time and therefore cost less than other debtor cases. There is no reason to believe that the percentage time reduction would be any different in Northern Ireland. Assuming time spent reflects cost of a case we would expect the cost per case to be 10% lower, so £3471 (3,857\*0.9).

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<sup>26</sup> The Impact of Independent Debt Advice Services on the UK Credit Industry, Jackie Wells with John Leston and Mary Gostelow, Friends  
[http://www.infohub.moneyadvicetrust.org/content\\_files/files/jackie\\_wells\\_\\_\\_debt\\_advice\\_\\_\\_full\\_report1.pdf](http://www.infohub.moneyadvicetrust.org/content_files/files/jackie_wells___debt_advice___full_report1.pdf)

101. The total annual cost saving to ORS is therefore **£52,065** ( $15 \times £3,471$ ) this comes from 15 fewer debtor bankruptcies which are expected to transfer to DRO.

102. The increased demand for DROs will result in additional fee income of £22,770 ( $253 \times £90$ ) as a DRO fee of £90 will be payable on every additional case. Servicing this additional demand will incur £22,381 in staffing costs which will net out at an annual benefit of £389.

103. Considering the costs and benefits to the Insolvency Service the net position is an **ongoing annual benefit of £40,484**.

#### Other Public Sector Organisations

104. There could be impacts from these measures on the public sector, namely public sector creditors. The public sector is a significant creditor in insolvency and therefore the cost to creditors from individuals accessing debt relief will have an impact.

105. The cost benefit analysis section (see point 81) shows that 14% of creditor returns are due to public sector organisations and the cost to creditors from individuals accessing debt relief is £124,665 (see point 80). Therefore, the annual cost to the public sector is £17,453 ( $£124,665 \times 14\%$ ).

#### Impact on Justice System

106. Debt Relief Orders are made under an administrative rather than a court based system. Making more cases eligible for DROs instead of bankruptcy will reduce the burden on the judicial system. Both creditor and debtor court fees charged are designed to cover the court cost and so are neutral in terms of cost impact on the judicial system.

#### **Small micro business assessment**

107. The proposed changes to the DRO entry criteria would be achieved via secondary legislation. We would anticipate a commencement date in November 2022 for statutory rules to increase the limits on debt, assets and surplus monthly income and the limit on the value of a single exempt domestic. The measures may impact on small and micro business in the following ways:

#### Competent Authorities

108. DRO applications are made through intermediaries working for one of the competent authorities recognised by the Department for the Economy.

109. The changes considered will increase access to DROs by making more people eligible. Any exemption for small and micro businesses in this legislation would lead to a two-tiered system which would cause confusion amongst debtors. Such an exemption could also lead to larger businesses dominating the market for DROs.

110. As mentioned in the analysis the burden of additional DRO demand will be met by intermediaries approved by competent authorities. A total of four competent authorities have been designated in Northern Ireland and none are small or micro businesses.

111. As a result, the burden on competent authorities will not fall disproportionately on small and micro business.

#### Insolvency Practitioners

112. R3, the Association of Business Recovery Professionals which represents 97% of Insolvency Practitioners (IPs), estimates that 46% of its members can be classified as small and micro businesses.

113. As mentioned, the measures will result in two groups of debtors being eligible to apply for DROs, those that would have otherwise entered debtor bankruptcy and those who would have entered another debt solution.

114. There will be no impact on Insolvency Practitioners (IP) for those that would previously have entered the debtor bankruptcy group as the Official Receiver acts as trustee in these cases.

115. In the second group, entering an alternative debt solution, most relate to informal procedures such as Debt Management Plans as shown in Table 5. The only IP-led procedure impacted are the estimated 10 IVAs where there would be a £16,700 loss of IP fee income. Any impact is assumed to be split equally between large and small businesses in line with the R3 estimate above and is considered in the cost benefit analysis section.

## Creditors

116. Most creditors by value in the personal debt space are large financial institutions and Government creditors, therefore the impact on small and micro business will be minimal.

## **Risks and Assumptions**

117. There is a risk that the increase in demand for DRO applications is less than estimated and can be met by intermediaries at lower cost. A larger increase in demand would result in applications being processed more slowly and it taking longer for debtors to receive debt relief.

118. The review of the 2015 DRO eligibility changes in England and Wales showed that the assumed number of cases to enter a DRO that would previously have entered debtor bankruptcy was negligible and consequently there is a risk that people will not transfer as expected. This risk has been mitigated in the cost benefit analysis by assuming a small proportion, 25% (15 cases), enter a DRO to reflect our efforts working with the sector. If the cases are lower than expected this will be broadly neutral to positive (£0-40,484 annual benefit) to the Insolvency Service finances but as most of the new DRO cases will primarily be people able to access debt advice for the first time, should the risk materialise the overall impact on DRO numbers will be small.

119. Conversely, if the number entering a DRO that would have otherwise entered debtor bankruptcy is smaller or larger than expected the cost to business will be too. Overall, there are just 15 cases expected out of the 253 additional DROs anticipated, constituting just 6% of additional DROs expected. Importantly, there will be no cost to creditors for cases that would otherwise enter debtor bankruptcy (as the returns in debtor bankruptcy and DRO for newly eligible will be zero) so the only cost will be the cost to competent authorities from increased DRO demand. The current cost attributable to these cases, assuming 25% (15) enter a DRO, is £4298, this increases to £8595 for 50% and £16,904 if all eligible bankruptcies enter a DRO. Therefore, the increased cost, should there be greater than expected numbers of these cases is small compared to the ongoing costs calculated.

120. The original proposal in England and Wales was to raise the limit on surplus monthly income to £100. However, concerns were raised by creditors during the consultation that an increase to this level would pose a significant risk due to the severity of the impact it would have on potential returns to creditors. It could have led to creditors being forced to write off more debt, resulting in an adverse impact on the accessibility and cost of credit. It would have represented a distinct move away from the "can pay, will pay" ethos, which motivates people to enter into arrangements with their creditors to pay contributions of less than £100 per month. Potential knock-on effects identified by creditors were that:

- The cost of credit would be likely to rise for everyone as creditors would have to write off significantly more debt than before, and
- It could lead to a change in lending policies that would deny access to mainstream credit to those in low income brackets who need it the most.

121. To mitigate this risk the revised cap on surplus income was instead set at £75. This reduces the impact which the increases to the monetary eligibility limits for DROs will have on both formal and informal debt solutions, with just 13% of those able to obtain a DRO for the first time through debt advice expected to be people who would have utilised a solution that would have resulted in a return to creditors had the eligibility limits for DROs not been increased.

122. As identified in the previous paragraph there is a risk of an unintended consequence around adverse changes to the cost and accessibility of credit that could disadvantage lower income brackets. This unintended consequence would stem from creditors being forced to write off a considerable amount of debt as a result of the changes and therefore needing to change lending practices. This risk has been mitigated by revising surplus income criteria to reduce the impact on creditors, whilst also still achieving the policy objective of enabling more people with low surplus income to access debt relief.

123. There is a risk that making it easier for individuals to write off problem debts may lead to them borrowing more recklessly and this moral hazard may worsen individual's indebtedness instead of helping them. The Insolvency Service thinks the risk of this is low as a similar concern was raised when DROs were initially introduced in 2011 and we are not aware of any evidence linking reckless borrowing with the availability of DROs. The Insolvency Service applies an enforcement framework for DROs enabling abuse to be identified and action taken. No-one in Northern Ireland is currently subject to a debt relief restriction order or undertaking which indicates that there is very little abuse. The risk of abuse of DROs through recidivism is low as those entering one cannot enter again within 6 years and a DRO remains on an individual's credit file for 6 years from approval date thus limiting their ability to obtain credit. Furthermore, if this risk were to materialise the potential risk to creditors, has been

mitigated as the eligibility criteria have been chosen to balance the interest of both creditors and debtors.

## Monitoring & Evaluation

124. In line with Better Regulation guidance, a post-implementation review (PIR) of the measures will be conducted, making use of guidance on evaluation in the Magenta book<sup>27</sup>. This will occur within five years of the measures coming into force. The PIR will help inform policy making decisions within the Insolvency Service.

125. A logic model for the policy intervention can be seen below:

**Table 6: Logic model of the policy change**

Context	Inputs	Outputs	Outcomes	Impacts
<p>DROs were introduced in 2011 as a form of personal debt relief. Changes to eligibility criteria were last made in 2016.</p> <p>The aim of this policy is to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief.</p>	<p>Changes to eligibility criteria made via secondary legislation</p>	<p>More people can access DROs as a form of debt relief; both from debtor bankruptcy and (particularly) from people able to access a DRO for the first time through debt advice.</p>	<p>More people use DROs as a form of debt relief. Both from debtor bankruptcy and from people able to access a DRO for the first time through debt advice</p>	<p>Provides debt relief and eliminates the gap in the market allowing more people to make a 'fresh start'. This would bring wider societal &amp; economic benefits</p> <p>Some cost will be incurred by business through loss of creditor returns and the cost of administering the new policy.</p>

126. The PIR will be used to establish if:

- The policy change met the objective
- The policy change resulted in any unintended consequences
- If there are any opportunities to reduce the burden on business

127. In line with Magenta book guidance, a proportionate PIR will be carried out; as the equivalent annual net direct cost to business in this impact assessment comfortably falls under the threshold of £50m, at which a more substantial review would be required.

128. It is expected that the PIR will take an impact evaluation approach, to understand if the outcomes have been achieved. This will be achieved via a before and after study.

129. Due to the unstable context, (e.g. Covid-19 and other government policy interventions) a before and after study could be problematic. However, due to the nature of this policy, estimating the counterfactual<sup>28</sup> for the policy objective will be possible as the number of DRO cases under the new criteria in the counterfactual will be zero. However, attributing causation to the policy will be more difficult, and the PIR narrative will need to be clear that the number of DRO cases under the new criteria could be impacted by multiple factors, in addition to the policy intervention alone.

130. The analysis will rely heavily on monitoring data. Monitoring data can be collected through Insolvency Service Management Information, Insolvency Statistics and collaboration with DRO providers.

131. An important aspect of this PIR will be to check the assumption around the flows from debtor bankruptcy into DROs. It is expected that sensitivity analysis will be used to check this assumption. As noted earlier, internal analysis carried out by the Insolvency Service in England and Wales found this did not materialise as expected after changes to DRO eligibility in 2015.]

<sup>27</sup> <https://www.gov.uk/government/publications/the-magenta-book>

<sup>28</sup> The counterfactual is what would have occurred without the policy change