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Intermediary Guidance Notes

How to Complete the Online 'Debt Relief Order' Application Form

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PART I: INTRODUCTION

Background to Debt Relief Orders

Following extensive public consultation by the Government¹ examining the accessibility of debt relief, it was established that there is a relatively large proportion of debtors who are unable to access any form of debt relief due to the costs involved in seeking relief via bankruptcy or other methods.

Therefore, in order to provide debtors with better access to debt relief, one of the measures introduced by the Tribunals, Courts and Enforcement Act 2007 was a new form of debt relief called a Debt Relief Order (DRO), which came into force from the **6th April 2009**.

In contrast to other forms of debt relief, DROs are delivered in partnership with debt advisors, primarily from the advice sector. Representatives from the advice sector act as 'approved intermediaries' and assist debtors in making their application for a DRO to The Insolvency Service. Intermediaries are able to apply for a DRO with or on behalf of the debtors via an online application form. It is then the Official Receiver, and not the Court, who considers the DRO application. As a result of this, the costs involved in accessing debt relief have been greatly reduced in order to meet the needs of those people who would otherwise be without any other form of debt relief.

Criteria for DRO applicants

Eligibility criteria

DROs are not a suitable method of debt relief for all debtors. A debtor will only be eligible for a DRO if they fall within the specified criteria².

If debtors have assets or surplus income, or there is a possibility that their financial circumstances may improve in the near future, a DRO is not an appropriate solution, and other forms of debt relief should be examined with the debtor. Certainly if a debtor has total gross assets exceeding £300, or a monthly disposable income of greater than £50, or total liabilities (not including unliquidated or excluded debts) exceeding £15,000, the debt advisor should warn the debtor that the application will not meet the criteria for a DRO and will be declined by the Official Receiver.

A debtor has to satisfy all of the requirements if they are to be successful in their DRO application. The criteria are as follows:

¹'A Choice of Paths: better options to manage over-debtedness and multiple debt', Department of Constitutional Affairs Consultation Paper, CP23/04, 20.07.2004

² **Secondary legislation**

- The debtor is unable to pay their debts;
- The debtor's total liabilities (not including unliquidated or excluded debts) must not exceed £15,000;
- The debtor's total gross assets must not exceed £300;
- The debtor's disposable income, following deduction of normal household expenses, must not exceed £50 per month.
- The debtor must be domiciled in England or Wales, or in the last 3 years have been resident or carrying on business in England or Wales.
- The debtor must not have previously been subject to a DRO within the last 6 years.
- The debtor must not be involved in any other formal insolvency procedure at the time of application for a DRO, such as:
 - a) An undischarged bankruptcy order;
 - b) A current Individual Voluntary Arrangement;
 - c) A current Bankruptcy Restrictions Order or Undertaking;
 - d) A current Debt Relief Restrictions Order or Undertaking;
 - e) An interim order

If there is a current pending debtor's bankruptcy petition in relation to the debtor but the debtor has not been referred to the DRO procedure by the Court then the application would be declined.

If there is a current pending creditor's bankruptcy petition against the debtor but the debtor has not obtained the creditor's permission for entry into the DRO process then the application would be declined.

If the debtor has given away any property or sold it for less than its true value in the last 2 years, this may affect the determination of their application.

If the debtor has preferred any creditors over others in their payments within the last 2 years, this may affect the determination of their application.

Application fee

A debtor must pay a fee for entry into the DRO procedure, which must be paid before the Official Receiver will consider the debtor's application. The current fee is £90.00, but is subject to change. To establish what the current application fee is, please see the following website: www.bis.gov.uk/insolvency

In order to meet the various time constraints contained within the automated process, the DRO application fee must be paid either prior to submission, or at the latest on the day of submission, failure to adhere to this timescale could result in the application being cancelled.

Once an application has been submitted and the fee paid in full, the fee is non-refundable, regardless of whether the debtor's application for a DRO is approved or declined by the Official Receiver. It is therefore very important that all details provided by the applicant are true and correct with no omissions and that the applicant is satisfied they meet all the qualifying conditions prior to submitting the application form for consideration.

Duties imposed on a debtor in relation to DRO Proceedings

The duties in this section apply to the debtor at any time after the making of an application for a Debt Relief Order. The debtor must notify the Official Receiver of any change in circumstances between the application date and the determination date that would affect (or would have affected) the determination of the application.

An Individual when applying for and subject to a DRO must:

- Ensure that they provide a complete and accurate disclosure of their affairs and comply with any request by the Official Receiver to provide further information. The Official Receiver may not need to contact the debtor. However, applicants should be prepared to cooperate fully with the Official Receiver if they are requested to provide further information in addition to their application form.
- Provide the Official Receiver with a full list of their assets and liabilities, including to whom the liabilities are owed (this information is collected via the online application form).
- Inform the Official Receiver of any property or increases in income that they obtain whilst subject to a DRO, for example lump sum cash payments, windfalls, property and money left in a will.
- The Insolvency Legislation requires a debtor to notify the Official Receiver if there is an increase in their income during the moratorium period applicable to their order.
The legislation is in force to detect when an individual no longer meets the parameters for a DRO i.e. their disposable income exceeds the existing parameter (currently £50 per month).
Whilst debtors are clearly required to comply with the legislation, they should not overly worry about small increases in income affecting their eligibility, as provided the increase in benefits or income does not increase their income such that the parameter is breached, no further action will be taken by the Official Receiver.
- Not make payments to creditors scheduled in the DRO, although there are some exceptions such as rent arrears and debts subject to a walking possession agreement. Further advice should be provided to the debtor in these circumstances.

- Keep the Official Receiver informed of their whereabouts at all times during the course of the moratorium period. If the Official Receiver needs to contact the debtor but is unable to do so, because the debtor has not kept the Official Receiver informed of their whereabouts, then the Official Receiver may revoke the Debt Relief Order on those grounds.

The consequences of omitting information from the application form, which is required by the Official Receiver to grant a DRO, are varied.

The Official Receiver may decline a DRO application if it is established during consideration of the application that the debtor has omitted information. If a DRO has been approved, and it is later found that the debtor omitted key information, the Official Receiver may also revoke the DRO. This would result in the debtor once again being vulnerable to actions from their creditors. If it is considered by the Official Receiver that the omission was sufficiently serious, the debtor may be subject to criminal and/or civil sanctions, such as a Debt Relief Restrictions Order (DRRO).

Effect of a DRO on a debtor

Moratorium period

The principal effect of a DRO will be to place a moratorium period upon the debts of a debtor, that are scheduled within the DRO. During the moratorium period a creditor to whom a qualifying debt is owed:

- Has no remedy in respect of that debt
- May not commence insolvency or other proceedings to recover that debt without the leave of the court and on such terms as the court may impose.

Once this period has expired (in most circumstances 12 months from the date of the order, although there may be exceptions to this time period), the qualifying debts scheduled in the DRO will be discharged and the debtor will be free from those debts.

It should however be noted that any debts incurred as a result of fraud or fraudulent breach of trust to which the debtor was a party will not be discharged at the end of the moratorium period.

With regards to Execution & Distress the legislation is quite clear in that no creditor with a qualifying debt has any remedy without the leave of the Court and this must include the right to levy execution or distress.

The costs of any incomplete execution would represent a qualifying debt and where appropriate should be scheduled as such.

However it should be noted that where a creditor has the benefit of a “walking possession agreement” that creditor would be deemed to be a secured creditor and the rights of secured creditors are unaffected by the making of a DRO.

A debtor should schedule the debt as a qualifying debt and should answer “No” to the question “is this a secured debt?”, as it is only “not” a qualifying debt to the extent that it is secured and of course with a “walking possession agreement” the extent of the security held is unknown until such time as the goods might be sold.

If the debtor has an agreed repayment schedule in relation to a “walking possession agreement”, then the debtor would need to continue the payments in order to prevent the removal of the goods subject to the agreement.

It should be noted that where there is a Walking Possession agreement in the case of a DRO, this should not comprise assets in excess of £300, otherwise the debtor would fail to meet the asset parameter for a DRO.

Unlike bankruptcy, there is no early discharge for a debtor from the DRO process. However, should a debtor’s circumstances change sufficiently to allow them to make contributions to their creditors, the Official Receiver will need to consider whether or not to revoke the DRO. If the changes in circumstance occur close to the end of the 12-month moratorium period, the Official Receiver can extend the moratorium period for up to three months to allow the debtor to come to an arrangement with their creditors before taking revocation action. During this extension time a debtor will be subject to the same restrictions, and will enjoy the same protection, as they experienced during the first 12 months of the DRO.

Payments to creditors

If the Official Receiver approves the debtor’s application and a DRO is granted, all qualifying creditors scheduled in the DRO application will be contacted and notified that a DRO has been made. These creditors will also be informed that as a result of the DRO, the debts scheduled as owing to them are irrecoverable. As such, the debtor must not make any further payments to those creditors.

If the debtor receives any requests for payment from creditors that are scheduled within the DRO during the moratorium period, the debtor should indicate that they are subject to a DRO, and as such creditors have no remedy in respect of these debts.

DWP Recovery of overpayment of benefits and social fund loans:

Cooper & Payne v Secretary of State for Work and Pensions

The Department for Work and Pensions (DWP) appealed against the order of Mr Justice Cranston dated the 26th July 2010.

The appeal of the DWP was dismissed and therefore the order dated the 26th July 2010, ruling that the Secretary of State **does not** have the right to recover overpayments of Social Security benefits and Social Fund loans that have been scheduled as a qualifying debt in a DRO, by way of making deductions from an ongoing award of benefit, when the debtor is subject to a Debt Relief Order (DRO), stands and the effects of the order should be implemented.

The aforementioned order also applies to the recovery of Housing Benefit (HB) & Council Tax Benefit (CTB) whether the local authority is recovering from HB, CTB or any DWP prescribed benefits.

Approved intermediaries will therefore need to advise their clients that any such deductions by the DWP should cease upon the making of the DRO and clients should contact the DWP to rectify the position should this not occur automatically.

In light of this decision, intermediaries will need to consider what effect the cessation of any such deductions by the DWP might have on the debtors' disposable income subsequent to the determination of a DRO application. Any increase in benefit income could mean that the debtors' subsequent disposable income might exceed the DRO income parameter of £50 per month and this could lead to the potential revocation of the DRO, which is obviously self defeating.

With regard to **Joint debts**, including joint bank accounts, the making of a Debt Relief Order will not protect or write off the liability of any joint debt holder, or anyone who has guaranteed the debts of an individual who is the subject of a DRO.

Intermediaries should advise debtors that they may, in certain circumstances continue to receive communications from some of their creditors, whilst the moratorium period is in effect.

As there is provision within the DRO legislation for a DRO to be revoked, creditors have advised the Insolvency Service that pursuant to the Consumer Credit Act (CCA), there is a necessity to maintain contact with the debtor in the form of notification/s confirming the outstanding liability/s during the moratorium period.

Whilst the subject of a DRO, debtors need not take any action in relation to continuing correspondence from creditors scheduled as qualifying creditors in their DRO and should under no circumstances make any payments to the said creditors. (However see "Walking Possession")

Rent Arrears - Where a landlord has a defaulting tenant (by reference to accumulated rent arrears) they can seek possession of the property both before and after the making of a debt relief order or bankruptcy order, notwithstanding that the arrears are a qualifying or provable debt. The landlord is simply exercising his right to recover his property from a defaulting tenant. No leave of the court is required to either continue or commence the possession proceedings.

A possession order might still be suspended on any grounds except payment of rent arrears (e.g. it might be suspended by reference to payment of current (future) rent). It must therefore follow that a possession order suspended *prior* to the making of the DRO or bankruptcy order might be varied *after* the making of the order to exclude the rent arrears.

Rent arrears accrued at the date of the DRO or BO are qualifying debts or provable debts. Consequently the landlord, as a creditor, will lose his/her rights to recover the rent arrears through any means (except by way of dividend in a bankruptcy).

When completing an assessment of essential expenditure for the purposes of a DRO no allowance should be made for the payment of rent arrears, whether or not at the

time of completion the debtor is under a suspended possession order. For DRO purposes this would give the true reflection of whether their surplus income exceeded the £50 qualifying limit.

Upon the making of the DRO, application should be made to the court (by the debtor) to vary the terms of the suspension to exclude the rent arrears.

As in bankruptcy there are some debts that the debtor will remain liable for and are not capable of being scheduled within a DRO. The debts that are non-qualifying as far as DRO purposes are concerned comprise the following:

- Any obligations arising from an order made in family proceedings or under a maintenance assessment made under the Child Support Act 1991.
- Any fine imposed for an offence

The definition of a “fine” (which can be found in section 150 of the Magistrates’ Courts Act 1980) for the purposes of the Insolvency Rules is:

“... any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;”

NB: Penalty Charge Notices (frequently referred to as “fines”)

Fixed penalty notices or penalty charge notices issued on behalf of a local authority, including those in relation to the London congestion charge, are **not** fines for the purpose of section 150 of the Magistrates Act 1980. They should be treated as qualifying debts and will be released at the end of the moratorium period. This is applicable to the majority of parking fines.

- Student Loans cannot be included under a DRO. They remain the responsibility of the debtor to repay within the terms of the loan agreement.
NB: Student Grants and overpayment of Student Grants are however qualifying debts for the purposes of a DRO application.
- Any obligation arising under a confiscation order made under section 1 of the Drug Trafficking Offences Act 1986 or section 1 of the Criminal Justice (Scotland) Act 1987 or section 71 of the Criminal Justice Act 1988 or under Parts 2, 3 or 4 of the Proceeds of Crime Act 2002.
- **Damages** - Where the DRO application is made on or after **6 April 2010**, any debt which consists of a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, or to pay damages under Part 1 of the Consumer Protection Act 1987 (which deals with product liability) – being in either case damages in respect of the death or personal injury (including any disease or other impairment of physical or mental condition) to any person is an excluded debt.

Secured Creditors: The rights of Secured Creditors to deal with their security are unaffected by the making of a Debt Relief Order. However, it should be noted that if a debtor owns secured property it is unlikely that they would qualify for a Debt Relief Order, as their gross assets are likely to exceed £300.

LOG BOOK LOANS:- Where the Bill of Sale has been properly registered with the High Court (and generally the log book loan companies do register the bill of sale properly) the lender is a secured creditor in that a debt is secured to the extent that the person to whom the debt is owed holds any security for the debt (whether mortgage, charge, lien or other security) over any property of the person by whom the debt is owed.

Please note that secured creditors (or the secured element of any debt) must be listed on the application and identified as a secured debt by marking the relevant tick-box. If the value of a secured item is less than the total amount of the secured debt, the balance of the debt will be treated as unsecured. This unsecured element of the debt would therefore form part of the DRO, and must be scheduled separately as an unsecured debt on the application.

The debtor should be notified that they must also carry on paying for ongoing commitments, such as rent and utility bills, during the period of the DRO and will be responsible for any debts that they incur after a DRO has been approved.

It should also be noted that if a DRO is approved by The Insolvency Service, and then the debtor is faced with action from a creditor to recover a debt that was not included within the DRO application, the DRO will not cover this omitted debt. The debtor will be responsible for the omitted debt and as a result the creditor will be able to seek recovery of the same.

In the situation where a debtor has a DRO application approved, but forgets to include a debt that if included would still result in their total liabilities being less than £15,000, the above principle regarding omission would still apply, and a creditor would be able to claim for any omitted debts. However, if the debtor fails to include a debt in a DRO application that if they had included would have resulted in their total liabilities exceeding the £15,000 limit, the debtor should inform The Insolvency Service immediately. The Official Receiver would then consider revoking the DRO. Failure to disclose this additional debt may result in criminal and/or civil sanctions.

Debtor's estate and assets

DROs differ substantially from bankruptcy in that there is no debtor's estate held in trust under a DRO. This in turn means that the Official Receiver will have no claim over the debtor's property and will not seek to realise assets or pay dividends to creditors as he/she would under the trustee function in bankruptcy. It is a fundamental requirement of the DRO eligibility criteria that the debtor does not possess assets in excess of the £300 parameter, or surplus income to make any realistic contribution towards their debts. This is in contrast to the bankruptcy regime in which debtors may be required to make payments to their creditors via income payment agreements/orders.

Investigation

The Official Receiver does not have a statutory duty to investigate the affairs of debtors subject to DROs, unlike in bankruptcy. However, the Official Receiver does retain significant powers of enquiry and enforcement under the DRO regime. These range from revocation of the DRO to criminal and civil sanctions if the information provided by the debtor proves to be untrue as previously outlined, or if it is found that the debtor has failed to disclose assets, liabilities or income within their application for a DRO, or assets acquired or increases in income during the period when the DRO is in force.

Supporting Paperwork

The debtor should be able to produce documents confirming the information recorded on the application, in particular relating to assets, liabilities, income and expenditure. As part of their duty to ensure the accuracy of the application, intermediaries may wish to check this documentation carefully before submission. The debtor must also be advised that they will be required to retain all paperwork regarding their financial affairs i.e. Accounting Records, Bank Statements, Invoices etc for a minimum of 15 months. However, there may be certain circumstances where the debtor will be required to retain such paperwork for a longer period.

Restrictions imposed on a debtor subject to a DRO

Whilst DROs are aimed at providing a cheaper and therefore more accessible form of debt relief, they should not be seen as an easier option to resolving indebtedness. DROs provide an alternative to those who seek debt relief but who are not in the position to be able to repay their outstanding debts.

Debtors who have had their DRO application approved will be subject to the same restrictions as bankrupts. The main restrictions are as follows:

- The debtor must not obtain credit of £500 or more, either alone or jointly with another person, without disclosing to the lender that they are subject to a DRO. This restriction applies not only to the borrowing of money, but also to the obtaining of credit as a result of a statement or conduct made with the objective of securing credit, even though the debtor has not entered into a specific agreement for it. This would include, for example, ordering goods without requesting credit but then failing to pay for the goods when they are delivered.
- The debtor may not carry on a business (directly or indirectly) in a name that is different from the name under which they were granted a DRO, without telling all those with whom the debtor does business the name under which they were granted a DRO.
- The debtor may not be involved (directly or indirectly) with the promotion, management or formation of a limited company, and may not act as a company director, without the Court's permission.

- The debtor may not hold certain public offices³, or hold offices as a trustee of a charity or a pension fund.
- The debtor will not be eligible to apply for a DRO again for six years.

The Operation of Bank Accounts

The debtor is permitted to open a new bank or building society account after the granting of a DRO, however the bank or building society may require them to disclose that they are the subject of a DRO. It is then a matter of policy on behalf of the bank or building society as to whether or not to permit the debtor to open an account, and whether to impose any conditions or restrictions on the debtor's use of the account.

Intermediaries should also advise debtors that they must make their own arrangements in respect of the operation of any bank accounts following the approval of their DRO application. If a DRO is granted, a debtor's bank account will not necessarily be frozen. It will be for the bank or building society to decide whether or not to allow the debtor to continue operating the account. Although it is a matter of public record, the Insolvency Service will not be contacting a bank or building society unless they are a creditor. Intermediaries should advise debtors that their bank accounts may be affected by the making of a DRO, however this will be determined by the policies operated by the said financial institutions. Applicants should also be reminded that any monies in the account on application for a DRO will be considered as contributing towards the total level of assets after deduction of normal living expenses.

Intermediaries should remind applicants there will also be a lasting impact on their credit rating and that the DRO will be displayed on the Individual Insolvency Register⁴ as currently occurs in bankruptcy. The debtor will remain on the Individual Insolvency Register for the duration of the time that the order is in effect (usually one year), plus an additional three months.

Debt Relief Restrictions Orders/Undertakings

If, during the course of any enquiries, the Official Receiver finds that the debtor has been dishonest either before or during the period of the DRO, or that the debtor has behaved irresponsibly, the Official Receiver may apply to Court for a Debt Relief Restrictions Order/Undertaking (DRRO/DRRU). This is similar to a Bankruptcy Restrictions Order, and results in a debtor being subject to the restrictions listed previously for an extended period of between 2 to 15 years after the date of the DRO. If the debtor has a DRRO/DRRU issued against them, they will remain on the Individual Insolvency Register for the duration of the order/undertaking plus an additional three months.

³ Please see the Secondary Legislation for an explicit list of these offices.

⁴ Electronic Individual Insolvency Register, available at <http://www.insolvency.gov.uk/eiir/>

Method of application for a DRO

A debtor can only apply for a DRO via an approved intermediary. Further, the application form that needs to be completed is only available online. The Intermediary will need to print the application form and pass to the debtor to sign, the duly signed signature page will then need to be submitted to the DRO Unit at the Official Receiver's office in Plymouth by e-mail, or by using the pre-paid labels provided. The DRO Unit e-mail address, and postal address of this office are provided below:

The Debt Relief Order Unit
Insolvency Service
1st Floor, Cobourg House
Mayflower Street
Plymouth
PL1 1DJ
Tel: 01752 635200
Fax: 01752 635222
Email: DRO.Unit@insolvency.gsi.gov.uk

The seeking of debt advice

Debtors may only apply for a DRO via an advisor who has been approved as an intermediary by a 'Competent Authority'. In some cases, the debt advisor from whom the applicant initially sought advice will not be designated by a Competent Authority to act as an intermediary. In this situation, the debt advisor must refer the debtor to an approved intermediary before the debtor is able to apply for a DRO. An advisor who is not an approved intermediary will not be able to help the debtor in obtaining a DRO, as they will lack the accreditation details necessary to complete the online application form.

If a debtor wishes to apply for a DRO the intermediaries should create an application and submit the same to the Insolvency Service having first drawn the debtors attention to various matters, including the entry criteria and the possible consequences of misrepresentations or omissions in the application.

The Official Receiver

The system for applying for a DRO has been designed to be as automated as possible. As a result of this, the cost of applying for a DRO is set at a level that will make the process accessible to individuals who are unable to afford other forms of debt relief. Once the web application form has been submitted and the fee paid in full, the Official Receiver will process the debtor's application and will issue a DRO if appropriate.

The debtor should be advised that the Official Receiver will have the power to decline a DRO application, or may choose to delay the decision pending receipt of further information from the applicant. The applicant should therefore be made aware that submission of the application form to the Official Receiver will not automatically result in the applicant being granted a DRO,

even if the application fee has been paid. Advice on how the payment of the application fee can be made is provided in the '**How to Pay**' section which can be found on page 49 of this guide.

The Official Receiver is also able to investigate the affairs of a debtor, whether on his own account or as a result of an objection by a creditor, and is able to revoke the DRO if the debtor is found to have understated assets or income, not disclosed liabilities, does not meet the entry criteria or if the debtor does not cooperate with the Official Receiver's enquiries.

The Insolvency Service will, as a result of any application submitted, carry out verification checks with an approved Credit Reference Agency and by agreeing to the submission of an application for a Debt Relief Order, the applicant confirms their understanding and agreement that these checks will be undertaken. As such the Intermediary must inform the applicant that these checks will be carried out.

Approved intermediaries

An 'approved intermediary' is a skilled debt advisor who has been approved to act as an intermediary by a "Competent Authority". A person may become an approved intermediary by application to a Competent Authority.

A Competent Authority is a body designated by the Secretary of State as being able to authorise intermediaries. It is the Competent Authority who will then decide whether to grant an individual the authorisation to act as an intermediary. The Competent Authority is responsible for ensuring that intermediaries have the appropriate training and experience, as well as ensuring that the appropriate complaints and equal opportunities procedures are in place. An organisation can become a Competent Authority by application to the Secretary of State⁵.

A list of competent authorities can be found on the following web-address:
www.bis.gov.uk/insolvency

The role of the approved intermediary is to act as an agent between an individual seeking a DRO and The Insolvency Service, and to facilitate this relationship by advising on and completing of the DRO application form. It is recommended that an intermediary will have completed basic checks on the information provided by the debtor, such as considering paperwork and evidence of income and liabilities. If after having been presented with the various debt options available, the debtor wishes to proceed with an application for a Debt Relief Order, the intermediary will then assist the debtor with the completion of the online application.

Intermediaries hold a pivotal position in the DRO process and must therefore ensure that the debtors attention is drawn to, all the qualifying conditions, the effects of a DRO, including the duties and restrictions on the debtor as well as the moratorium period and discharge from the qualifying debts and the possible consequences of providing false information or omitting information

⁵ The Debt Relief Orders (Designation of Competent Authorities) Regulations 2009

from a DRO application, such as revocation of the DRO (and the consequences of that in relation to their creditors) plus possible criminal and/or civil penalties such as a DRRO.

Completing the Online Application Form

The purpose of this document is to offer guidance to approved intermediaries on how best to complete the online application form.

This guide should be used in addition to the various pop-up guidance notes contained within the online application form. This application must be completed accurately and will in turn benefit the applying debtor by making it easier for the Official Receiver to come to a decision on whether to approve or decline a debtor's application for a DRO.

It is the debtor's decision to submit a DRO application. However it is assumed that approved intermediaries will already have completed checks, or be satisfied that those checks have been carried out, on the information provided by the debtor. These checks may include considering paperwork relating to the debtor's income, assets and liabilities. It is therefore assumed that an intermediary will have already made a decision as to the suitability of a DRO in view of the debtor's circumstances prior to completing the debtor's online application form. Whilst there is nothing preventing an intermediary from creating an application form and completing parts of it before realising that it would fail, and thus advising that it be discontinued, it would be a waste of both time and resource if the intermediary did not review the information supplied by the debtor before initiating the application.

Experiencing difficulties

In the event that you experience difficulties with the guidance notes or completion of the online application form, please contact your Competent Authority who may wish to seek clarification or guidance from the Insolvency Service.

In the event that you are experiencing technical difficulties with the Web Application, please contact the Debt Relief Order Unit whose contact details are set out below.

Further Information

If you would like to know more of the work that The Insolvency Service is involved in, or require further information, please see below for more helpful contacts and links.

The Insolvency Service website:

www.bis.gov.uk/insolvency

The Insolvency Service Enquiry line:

Tele: 0845 602 9848 (8am – 5pm, Monday – Friday)

Email: DRO.preorder@insolvency.gsi.gov.uk

Other Insolvency Service Publications:

<http://www.bis.gov.uk/publications>

The Debt Relief Order Unit

Insolvency Service

1st Floor, Cobourg House

Mayflower Street

Plymouth

PL1 1DJ

Tel: 01752 635200

Fax: 01752 635222

Email: DRO.Unit@insolvency.gsi.gov.uk

PART II: GUIDANCE ON COMPLETION AND SUBMISSION OF THE DRO ONLINE APPLICATION FORM

Intermediary ID and password – Once the Insolvency Service has been notified of the details of an approved intermediary by a Competent Authority, they will arrange to provide the intermediary with a unique ID and will also separately e-mail a password to enable the web application to be accessed. Upon logging in for the first time the intermediary will be required to change their password and the format must be **at least 8 characters in length, with 1 upper case, 1 lower case and must include a number.**

In the event that you have three failed attempts to log on, you will be automatically locked out and can either wait 1 hour for your password lock to be unset automatically, or alternatively you can contact the Debt Relief Order Unit who will have to contact the database administrator in order to have your password reset.

Intermediaries are advised that if they have a specific query or question regarding Debt Relief Orders, they are to adhere to the following protocol.

All pre-submission application queries should in the first instance be directed to the Insolvency Enquiry Line on **0845 602 9848** or emailed to DRO.preorder@insolvency.gsi.gov.uk.

All post-submission queries should be directed to the Debt Relief Order Unit on **01752 635200** or emailed to DRO.Unit@insolvency.gsi.gov.uk

Please note that throughout the following intermediary guidance notes, the term “you” is used in relation to the intermediary.

To begin a DRO application form, please navigate to the following website address: www.insolvencydirect.bis.gov.uk/DRO

You will first be directed to a DRO introduction page. You should read this page carefully with the debtor before proceeding as it outlines in brief the process for application, the DRO criteria, as well as the information required by the debtor to complete the form.

A warning is also made in respect of those consequences that a debtor may face if the information they provide is later found to be false or misleading. After reviewing this information, please select “continue” on the bottom right hand side of the screen to proceed to the log-in page. Alternatively, please select “your account: log-in” on the top right hand side.

All mandatory fields must be completed on the application form before it can be submitted electronically to The Insolvency Service for determination. The questions with an asterisk (*) denote the questions that are mandatory, and therefore must be completed by the debtor. You will not be able to progress with the application form unless those fields are completed. If you attempt to move onto the next section without providing the mandatory information, the system will only redirect you to those fields for completion.

When navigating the application form, please use the “**Previous**” button to navigate to **previous** pages, instead of using your browser’s “**Back button**”, as this may result in loss of information.

You will notice a progress bar at the top of each page of the application that you move to. This bar will indicate how far into the application process you are, by changing colour.

All information provided by the applicant within the online application, including amounts owing to creditors and values placed upon assets should be the correct figures as at the date of submission, however, see paragraphs 5.1 and 5.2 for further clarification on how to treat cash in hand and cash at bank or building society.

If at any point during the application you wish to stop, please select the “**save**” and then “**exit**” button. By selecting these, the application will be saved and you will be able to access the application at a later date. You may wish to do this for example if the debtor cannot provide all the information required to complete the application, or because of issues of time. Once the application has been saved, if it is appropriate to do so you may wish to direct the debtor to complete the application form for themselves (although they will not be able to actually submit the application form as this part of the process must be completed by the intermediary). The following pages will also explain how a debtor can complete the online application independently. An intermediary may also access the application at a later date to complete the form, although submission of the same should not be considered without the consent of the debtor.

Some users have experienced difficulties with error messages such as “Application locked by another user”. This is due to the way that different users computers cache i.e. store information and is not a fault of the web application. Therefore once you save and exit from an application, it may be necessary for you to exit the web application completely, before you can log back in again and this should solve the problem. However, should this not be effective, it may be necessary depending on the IT in use, to completely restart your system.

Please Note: The web application requires the JavaScript application on your IT system to be turned on in order to operate some of the validation and navigation functions. This application should be activated by default by your own IT system, however if this function has been switched off you will need to ensure the JavaScript application has been turned on.

The application form is permitted to be completed by an intermediary in the circumstances where the debtor is not present, to accommodate for those debt advisors who operate a telephone-based service. For information on how to submit the form when the debtor is absent, as well as how to submit the form in the normal way, please see Section 10 (the “Submission Form”).

Timeouts

As with many online systems, the web application that you will use to complete a Debt Relief Order application contains a timeout feature set at 20 minutes, however your own IT system may have a shorter timeout function. You should therefore be aware that if for any reason you leave an application unattended or fail to input any data for any length of time, your session will be timed out and you may lose any unsaved data. Therefore please ensure that you **save and exit** the system, if there is any possibility that you have to leave an application unattended and incomplete.

Please Note – If an application is timed out as a result of inactivity for 20 minutes and, you attempt to log back in, you may also experience the message “the application is being used at another location” i.e. (record locking). Should you encounter this message you will need to contact the DRO Unit, who will liaise with technical support to attempt to manually unlock the application. You can of course avoid this problem by ensuring that there are not long periods of inactivity when processing an application.

You should of course adhere to your organisations normal security protocol, in relation to data protection.

View Applications

Once you log in to the web application using the following instructions, in the top right of the log in screen under “your account” you will see “view applications”.

This facility has been introduced to provide a more organised system for reviewing and searching your applications.

Click on “view applications” and you will be presented with a filter field and a list of your applications.

You can filter your applications by “application ID”, “Forename”, “Surname” and “Date Submitted”.

An example of using the filter system would be to search for an application using a surname. Simply type the surname of the application you are searching for in the surname filter and select the “Filter” button, this will retrieve all applications with the surname you have entered.

When using the filter feature to search by forename or surname you can use part of a name in order to retrieve data, such as Smi to retrieve Smith

To return the screen to view all applications again, merely clear the surname out of the filter and select the “Filter” button.

Page 1 - Log-in page:

This page requires completion so that an intermediary (or the debtor) may access the DRO application.

Two options will be presented to the user. The choices are

- 1) Intermediary Log-in
- 2) Debtor Log-in

Please select as appropriate. If you are an intermediary completing the DRO application form, please select option 1.

Please Note: It is only possible for an application to be accessed by one user at any one time, i.e. an intermediary and a debtor can not access an application simultaneously. Therefore in order to prevent any access issues arising, users should ensure that they exit the application correctly once they have finished working on the same.

Please note that the debtor log-in is only available to a debtor. Furthermore, a debtor will only be able to log-in after an intermediary has set a debtor up on the system by completing the personal details page of the application), which will then generate the details necessary to enable the debtor to login. ***It is imperative that you make note of the applicant ID, as you, nor the debtor will be able to access a previously saved application without this number.*** Once these log-in details have been provided to the debtor by the intermediary, if the application is not completed on the first attempt, the debtor log-in option will enable a debtor to complete the form for themselves (as long as they have access to the internet). It should however be noted that a DRO application can only be submitted by the intermediary. Therefore whilst an intermediary may in the appropriate circumstances instruct a debtor to complete the DRO application form for themselves (typically in the instance where a debtor’s situation in respect of the application is not too difficult or complex), the debtor will not be able to submit the DRO application to The Insolvency Service.

If it is decided by the intermediary in the circumstances outlined above that the debtor should complete the application form for themselves, intermediaries should again advise an applying debtor of the consequences of providing incorrect information. Intermediaries should check that the information submitted by a debtor is correct by auditing the application form prior to submission.

1.1 Intermediary Log-in

Upon selection of Option 1, you will then be required to provide the system with your Intermediary ID and Password.

1.1.1 Intermediary ID – this ID number is specific to you as an intermediary and will have been issued to you by The Insolvency Service previously.

1.1.2 Password – this password is also specific to you as an intermediary and will have been issued to you by The Insolvency Service previously.

Once the intermediary has inputted both the ID and password, you will then need to select 'log-in' to continue.

In the unlikely event that an intermediary forgets their ID or their password, they should contact the DRO Unit, who will provide details of how to deal with a password reset.

1.2 Application Start – Do you want to create a new application?

You will then need to ascertain whether you are either creating a new application, or resuming a previously saved DRO application. Please select 'Yes' if you wish to create a new application, or 'No' if you wish to resume a saved application.

1.2.1- Yes- Application (new application process)

If you are commencing a new application, the following fields require completion.

The **application ID** will be created and recorded once you have proceeded to the personal details page of the web application.

1.2.1.1 Intermediary Company ID

This ID number is specific to your organisation and identifies your organisation to The Insolvency Service. Your organisation will be able to provide this number for you. It is not mandatory to enter your organisation's ID, but your organisation may have internal guidance requiring you to provide this data.

1.2.1.2 Form Start Date

This date will be automatically populated as the date on which you start to complete the application form with the debtor. It will also change automatically each time (if any) the form is accessed prior to submission to The Insolvency Service.

1.2.1.3 Debtor's Surname*

Please enter the debtor's full surname in the available box.

A prompt will appear at the bottom of the log-in page, which requires confirmation of the debtor's surname. It is important that the debtor's surname is correct, as the system will use the surname to automatically populate other surname fields throughout the application form.

The debtor's surname is also required to access a saved application form at a later date, or if the debtor is instructed to complete the application themselves via the "Debtor Log-In" route.

Please confirm the debtor's surname by either selecting 'Yes' to continue, or 'No' if the debtor's name is incorrect. If incorrect then edit the debtor's surname and select 'Yes' when it is correct.

Once the information has been provided, please click "Continue" in the bottom right-hand corner of the screen to be taken to the next page of the application form. By selecting "Cancel", this will take you back to the previous page (the 'Intermediary' or 'Debtor' log-In page)

1.2.2 - No - Applicant Log-In (existing/saved applications process)

If you wish to access an existing or saved application form rather than creating a new one select 'No', and take the following steps:

1.2.2.1 Applicant ID

You will need to enter the debtor's Application ID, which would have been generated when the application form was first commenced.

1.2.2.2 Surname

You will need to enter the debtor's full surname as provided when the application was first commenced.

1.2.2.3 Password

If a debtor is accessing a saved application for the first time, they will need to enter the "Applicant ID" and their surname used when the application was commenced.

Once these details are entered click on "Find" and this will call up all the relevant case details, click on "Select" and this will create a "Set Password" screen.

The applicant will need to select a memorable password and also confirm its submission, then select "Set" and this will then save their password and take them to the last screen that was being completed.

Page 2 - Personal Details page:

2.0 Applicant ID

This ID number will be automatically generated by the website for each debtor. Both you and the debtor should make a note of this ID number, which appears in the blue Personal Details bar on this page for future reference. This is also the ID number that you will need to access a saved application, and the number the debtor will need to provide should they wish to complete the application themselves via the "Debtor Log-In" route.

*** = Mandatory Fields**

The following details need to be completed accurately in order for the Official Receiver to be able to give proper consideration to the debtor's application, once completed the necessary documentation to enable payment for a DRO can be generated.

2.1 Surname*

The website will automatically populate the debtor's surname from the log-in page.

2.2 Forename*

The debtor's first name should be entered in the available box.

2.3 Other forenames

Any other names that are currently used by the debtor, other than the debtor's first name and surname, should be entered in the available box. An example may be the debtor's middle name, however, please do not provide nicknames for this question.

2.4 Title*

The title of the debtor should be selected from the drop-down list.

Please Note that if you fail to provide the applicants title, all correspondence will be addressed merely to their surname.

2.5 Are you, or have you previously been, known by any other name? *

If the debtor has not been known by any other name, please select '**No**'.

If the debtor has been known by any other name, please select '**Yes**' to this question.

A prompt will then ask for details of the debtor's previous names. The debtor should provide all names by which they have been known, including abbreviations of their forename or surname. An example maybe the debtor's maiden name, or an old name that the debtor has changed in law.

It is not necessary to include nicknames by which the debtor is known to family or friends unless the debtor has incurred debt in that name, or has used that name in public records or in agreements for credit.

Please provide the details of all previous names in the prompt provided which is divided into previous forenames, and previous surnames.

If the debtor has more than one previous forename or surname, please list these in the relevant field

Once all the previous names have been accounted for, please select '**No**' to the 'any other names?' question in the prompt, and move onto the next section.

2.6 Date of birth*

The debtor's date of birth should be entered in the available box. A drop-down calendar will appear from which the debtor's date of birth may be selected.

2.7 Town of birth*

The town or city in which the debtor was born should be entered in the available box.

2.8 Gender *

Please indicate whether the debtor is male or female

2.9 Do you rent/own your own home? *

Please indicate whether the debtor rents or owns their home.

Please note that if the debtor indicates that they own their own home, it is likely that their gross assets will amount to more than £300. As a result, they will **not** therefore be eligible for a DRO.

If a debtor owns a lease, the value that must be provided is the lease's gross resale value. That is to say that the lease's financial worth is its value on an open and free market, without having secondary charges deducted from it, such as a mortgage. To obtain this value, an intermediary may assume that the debtor's valuation is correct. However, it is anticipated that an intermediary will have documentation from the debtor supporting their claim. It is also likely that the gross value of the lease will be greater than £300, in which case the application would be declined.

It may be the case in very limited circumstances that the debtor is not the owner of a lease but is entitled to an interest in it. This interest may be of nominal value that is to say of no real worth. As such, this interest may not affect their gross asset value to any great extent, possibly resulting in the debtor falling within the £300 criteria.

Ownership of a home includes an established beneficial interest of freehold or leasehold property, whether solely or jointly owned, and whether the property is mortgaged or otherwise. It may also include property, which is owned via a shared ownership scheme, such as with a local housing association. Please refer to the glossary for a description of these terms if you are not clear on the concept of ownership.

A warning message will appear on the application form if the 'own' button is chosen in response to this question. This prompt will notify you that the debtor is unlikely to be eligible for a DRO as their assets exceed £300. The debtor is still able to proceed with the application form regardless of whether they take note of this warning message, but the debtor should be made aware that their application will be declined by the Official Receiver if their gross assets amount to more than £300. If they choose to submit the application form and this is the case, they will lose their application fee.

2.10 Marital status *

Please select the debtor's marital status from the drop-down menu.

2.11 Number of dependent children*

Please indicate the number of dependent children that the debtor is responsible for.

A "dependent child" is defined as a child of whom the debtor is the parent or legal guardian, and who the debtor contributes financially towards regardless of whether or not the child resides in the same property.

The child must be under the age of 16, or between the ages of 16 and 18 if the child is in full-time education and has never married.

If the debtor does not have any dependent children, please insert a '0' in this box.

2.12 Address Fields*

Please enter the debtor's current house name or number along with their postcode in the address fields using the address lookup facility.

By entering the house number and postcode in the address lookup facility the system should automatically locate the debtor's current address.

However, in the instance where the system is unable to locate the correct address based on house number and postcode, you are able to input the address manually into the fields provided on the application form. Please provide the full address including postcode, county and country, which you can select from the drop down menu.

Please Note: When entering an address you will be required to validate the address using the 'Lookup Address' function.

If the address look up facility is unable to validate the address because the property is new or has not been registered, you should close the 'Lookup Address' function and enter the address details manually.

Please note that the debtor must inform the Official Receiver of any change of address from that contained within the DRO when it was issued (i.e. if they move during the period in which the DRO is in force).

Prison Addresses

Where a debtor is incarcerated at the time of applying for a DRO, intermediaries should mark the "address withheld" box and this will trigger the Official Receiver's internal protocol for dealing with prison addresses. Unless the prisoner is at risk of violence, no subsequent application to Court is necessary. Provided the "address withheld" box is selected, reference to any prison address will be removed from the debtor's description and excluded from any documentation sent to creditors. As soon as all of the relevant notices have been issued to creditors, the address withheld flag will be removed from the case.

Intermediaries should not schedule former prison addresses in the debtors DRO application.

2.13 Do you currently live, or is your principal place of residence in England or Wales*?

Please select either 'Yes' or 'No' to this question.

If 'Yes' is selected, the form will ask an additional question "have you lived at any previous addresses in the last 6 years?"

If **“Yes”** is selected to the previous address question, the form will provide a prompt to direct you to complete the previous address fields. Please see below 2.13.3 for information relating to completing the previous address fields.

If **‘No’** is selected in answer to 2.13, proceed to the next question:

Please note that if you select “No” to the next question and the following question, it is likely that the debtor’s application will fail on the grounds of domicile.

2.13.1 Have you ever lived, or had your principal place of residence in England or Wales in the last 3 years? *

If **‘Yes’** is selected in answer to this question, the form will provide a prompt to direct you to complete the previous address fields. Please see below 2.13.3 for information relating to completing the previous address fields. You should provide previous addresses for the last 6 years.

If **‘No’** is selected, proceed to the next question:

Please note that if you select “No” to the next question and the previous two question, it is likely that the debtor’s application will fail on the grounds of domicile.

2.13.2 Have you carried on business in either England or Wales in the last 3 years? *

In answer to this question ‘carrying on business’ would include a trader of any description or self employment. As such, a debtor who is **not** self-employed must by definition select **‘No’** in answer to this question.

If **‘No’** is selected and you have selected no for the two previous questions, a warning notice will appear on the application form, warning that the debtor will not be eligible for a DRO and that the Official Receiver will reject their application if it is submitted. The debtor will lose their application fee if the application is declined. This warning will not prevent the debtor from proceeding with the application. A question will be generated asking whether the debtor wishes to proceed with the application or not. If the debtor does wish to proceed despite the warning, please select **‘Yes’**.

If **‘No’** is selected, the form should be saved and closed.

2.13.3 Previous addresses

If the debtor has answered **‘Yes’** to either 2.13 or 2.13.1 the debtor will be asked to provide details of their previous addresses via a previous address prompt. These previous addresses should cover the last 6 years.

Please provide the previous address using the address lookup facility and select “save”. This will then close the prompt. If the debtor has more addresses to add, please select “save and add more”. The debtor will then be able to provide the details of any other further addresses in the fields provided. Please repeat this process so that all of the debtor’s previous places of residence for the last 6 years are accounted for. Please select “save” after all addresses are provided.

2.14 Home Telephone, Mobile Telephone and Daytime Telephone number

Please include at least one telephone number on which the Official Receiver may contact the debtor.

You may only use numeric values in this field.

If the debtor does not have access to any form of telephone, please leave the boxes empty.

2.15 Email address

Please provide the debtor's email address, The Official Receiver may use this email address to contact the debtor in the future. As such, it is important that the debtor should be able to check their email account on a regular basis. If the applicant does not have an email address, please leave this box empty.

2.16 National Insurance number

Please provide the applicant's National Insurance number. The debtor will be able to establish their National Insurance number from their wage slips, tax returns, employer, and Doctor's Registration card or from their benefit claims/forms.

If the debtor is still unable to ascertain their National Insurance Number the Inland Revenue National Insurance Contributions Office will be able to provide the debtor with this information. The debtor can contact:

The Inland Revenue National Insurance Contributions Office
Benton Park View
Newcastle-upon-Tyne
NE98 1ZZ

Telephone: 0845 302 1479

Opening Hours: 8.00am – 5.00pm Monday to Friday

2.17 Tax Reference

Please indicate the debtor's tax reference in the field provided. You will be able to ascertain this reference from the debtor's correspondences with the tax office (e.g. wage slips, tax returns). If the debtor has never been in employment there may be no tax reference available in which case please leave blank.

2.18 Tax Office

Please indicate the debtor's tax office. You will be able to ascertain this from the debtor's correspondence with the tax office (e.g. wage slips, tax returns).

2.19 Ethnicity

Please select the category that the debtor considers best describes their ethnic origin.

The form will present various categories of ethnicity in a drop-down box from which the debtor may make their selection. These are 'Asian or Asian British', 'Black or Black British', 'Chinese or Other Ethnic Groups', 'Mixed', and 'White'.

Upon selection of the category, various sub-categories are also provided for. Please select the category that the debtor considers best describes their ethnic origin.

If, having investigated the available options, the debtor considers that none are applicable, please select 'Chinese or Other Ethnic Groups'. A sub-category within that option will be 'Other Ethnic Groups'. On selection of this option, a free-text prompt will allow the debtor to provide their ethnic origin to the Official Receiver.

2.20 What do you consider your national identity to be?

Please select the category that the debtor considers to be their national identity from the available drop-down list.

If the debtor considers that none of the available options are applicable, please select the option entitled "or something else", and indicate briefly in the available free-text box what the debtor considers their national identity to be.

Please note if "something else" is selected then an entry must be made in the free text box before you can continue. Debtors should not provide information relating to religion in answer to this question.

2.21 Disability

This question asks whether the debtor considers himself/herself to have a disability.

If the debtor does not have a disability, please select '**No**' in answer to this question and continue with the form.

If the applicant considers themselves to have a disability, please select '**Yes**'. Upon selection a further drop-down box will be generated on the form. The debtor will then be asked to select from the options the disability that the debtor considers best describes their condition.

If the debtor considers that none of the available categories are appropriate, please select "other (please state)" from the drop-down list. The debtor can then briefly specify the form of disability in the available free-text box.

After completion of the above, the application form will generate a question that asks whether the debtor's disability has caused any problems in accessing the DRO application form as a method of debt relief.

If '**Yes**' is selected in response to this question, please indicate briefly in the available free-text box what problems the debtor encountered and how these problems were overcome. By providing The Insolvency Service with this information, we will be able to cater better for applicants with similar disabilities in the future.

If the debtor did not encounter any problems in accessing the application form, please select '**No**' in answer to this question.

Please now select the 'Continue' button at the bottom right-hand corner of the screen in order to proceed to the next page

From the second page of the application “Insolvency History” you can either proceed with the application, however should you at this stage wish to print the bar-coded letter, you should select previous, and return to the first page, select the “Print Barcode” button in order to generate the debtors unique bar-coded letter, thus enabling the debtor to make payments towards the DRO Application fee. There will be further opportunity to print the bar-coded letter at the end of the application when it will be generated with the copy of the application that the debtor has to sign.

If there are mandatory fields that require completion, or fields that the system believes may have been completed in error, you will not be able to access the next page. A summary of those fields that require re-visiting is provided in red at the top of the page. Please complete these fields.

Page 3 – Insolvency History

This page of the application is required so that the Official Receiver may again determine the eligibility of the applicant for a DRO with regards to their insolvency history. As such, the debtor should be advised that if they are involved in any **formal insolvency proceedings** at the time of application, a DRO will not be granted by the Official Receiver. Any fee paid will not be refunded if the Official Receiver rejects the DRO application.

For the purposes of this section only, definitions of **formal insolvency proceedings** include the following:

- a) Undischarged Bankruptcy
- b) Individual Voluntary Arrangement (IVA)
- c) Bankruptcy Restrictions Order (BRO) or Undertaking
- d) Debt Relief Restrictions Order (DRRO) or Undertaking
- e) Interim Orders

For County Court Administration Order (CCAO), please refer to question 3.3

For the purpose of clarity, **informal insolvency proceedings** include:

- a) Debt Management Plans
- b) Informal arrangements with Creditors.

For more information on the above proceedings, please refer to the glossary.

3.1 Are you currently subject to a formal insolvency proceeding? *

If the debtor is subject to any of the formal insolvency proceedings detailed above, please select ‘**Yes**’ for this question.

If the debtor is not currently subject to any formal insolvency proceeding, please select ‘**No**’ for this question. You will then be directed to the next question.

If ‘**Yes**’ is selected, please select which insolvency proceeding the debtor is currently subject to from the drop-down menu (undischarged bankrupt, subject to an interim order, an IVA, BRO or DRRO). Upon selection, you will then be asked for the insolvency proceeding date. Please select from the drop-down calendar the date on which the selected insolvency proceeding started. Dependent on which type of formal insolvency proceeding the debtor is

subject, the date on which the insolvency proceeding commenced may differ (please see below). This date should be noted on the formal insolvency proceeding document itself.

Formal insolvency proceedings and their relevant dates of commencement:

- a) **Undischarged Bankruptcy Order** – the date on which the bankruptcy order was made
- b) **Interim order** – the date on which the interim order was issued
- c) **IVA** – the date on which the IVA was signed by the Supervisor of the IVA
- d) **BRO or BRU** – date on which the BRO or BRU was issued
- e) **DRRO or DRRU** – date when on which the DRRO or DRRU was issued

You can establish whether or not an applicant is still subject to a formal insolvency proceeding by accessing The Insolvency Services EIRR⁶ where this information is publically available.

If the debtor is subject to a current formal insolvency proceeding, they should be advised that their DRO application would be declined by the Official Receiver.

3.2 Is there a pending bankruptcy petition against you? *

A pending bankruptcy petition occurs when a petition has been presented to the Court requesting that the debtor be made bankrupt, but the Court in which this petition was submitted has not yet decided whether or not to impose a bankruptcy order.

There are 2 types of pending petition:

- a) **A pending debtor's petition** – when a debtor petitions for their own bankruptcy and is awaiting a hearing date.
- b) **A pending creditor's petition** – when a creditor lodges a petition for the debtor's bankruptcy and the debtor has received notice of a bankruptcy hearing in respect of this submission.

If the debtor has a pending debtor's petition and the Court has not referred them to the DRO process, the Intermediary should ensure that the debtor is directed back to the Court, to ensure that the petition is disposed off by way of dismissal/withdrawal, and that any deposit or Court fee paid has been returned to the debtor prior to an application being submitted to the Insolvency Service.

Where a Court considers that it may be in the debtors interest it may well refer the debtor to the DRO process without dismissing the petition, in a scenario such as this if after receiving advice and should a DRO be made, the debtor should request the Court to dismiss the debtors petition. It should however be noted that if the deposit and Court fee are funds belonging to the debtor that the issue of gross assets over £300 may arise.

⁶ Electronic Individual Insolvency Register, available at <http://www.insolvency.gov.uk/doitonline/registerfrontpage.htm>

When referring a debtor to the DRO process the Court must ensure that the Order of adjournment clearly states that the debtor is being referred for a DRO.

If a pending creditor's petition has been presented against the debtor, the petitioning creditor will need to consent to the debtor's application for a DRO. If yes is answered to this question the Official Receiver will carry out manual checks to satisfy himself that consent has been granted.

If the debtor does not have any form of bankruptcy petition pending against them, please select '**No**' for this question and proceed to question 3.3

If either type of petition is pending against the debtor, please select '**Yes**' in answer to this question. You will then be asked the following question.

3.2.1 Did you present the petition yourself? *

If the debtor presented their own petition to the Court (a debtor's petition), please select '**Yes**' in answer to this. If the petition was presented against the debtor (in other words, a creditor's petition), please select '**No**'.

If '**No**' is selected, the debtor will then need to provide the name of the Court in which the creditor's petition was presented. The debtor will need to provide the Court reference, as well as the name of the creditor who filed the petition. This information is mandatory. On provision of this information, you may then move onto the next question.

If '**Yes**' is selected, another question will then appear:

3.2.2 Has the Court referred you to the DRO procedure? *

Please select '**Yes**' if the Court referred the debtor to the DRO procedure. If the Court did refer the debtor to the DRO procedure, two further questions will then appear, and the debtor will need to provide the Official Receiver with the Court name and the case number or reference. This information is also mandatory

If the Court did not refer the debtor to the DRO procedure, please select '**No**' and then proceed onto the next question.

3.3 Are you currently subject to a Debt Management Plan or a County Court Administration Order?

If the debtor is subject to either a Debt Management Plan, which involves regular payments to an agent, or a County Court Administration Order, please select either '**Yes**' or '**No**' as appropriate. If the debtor is not subject to either, select '**No**' and move onto the next question.

If the debtor is currently subject to either, and '**Yes**' is selected, another question will then appear:

Type of proceeding:

A drop down menu will then appear. Please select either a Debt Management Plan or a County Court Administration Order dependent on the debtor's circumstances.

If the debtor is currently subject to a Debt Management Plan, the debtor will then need to provide the name of the organisation with whom the Debt Management Plan has been agreed. The applicant will also need to provide the address and reference number of the organisation with whom the plan had been agreed. Further, the date on which the Debt Management Plan was agreed will need to be selected from the drop down calendar.

If the debtor is subject to a County Court Administration Order, the debtor will need to provide the Court name, the Court address and the case number or reference. They will also need to provide the date on which they entered into the County Court Administration Order, selecting the date from the drop down menu as appropriate.

3.4 Have you been in any kind of insolvency procedure before? *

This question relates to **previous** insolvency proceedings in which the debtor may have been involved, and therefore does not relate to any current insolvency proceedings (the details, if any, of which will have been provided in the previous two questions). Answering 'Yes' or 'No' does not affect a debtor's eligibility to enter into a DRO.

If the debtor has not been previously involved in any insolvency proceedings, please select 'No' in answer to this question and move on to the next question.

If the debtor has previously been involved in insolvency proceedings, please select 'Yes'. A further question will then appear:

*"Type of insolvency proceeding**"*

A drop-down list will appear on the form. Please then select in which type of insolvency procedure the debtor was previously involved from the following:

- Bankruptcy
- Individual Voluntary Arrangement
- County Court Administration Order
- Bankruptcy Restrictions Order or Undertaking (See glossary for definition).
- Debt Relief Restrictions Order (See glossary for definition).
- Debt Management Plan

After the selection has been made, the applicant will need to provide the start date of the proceeding from the drop down calendar.

3.5 Reasons for your debt problems – please choose the closest option*

The debtor will be asked to select a reason from the available drop-down list which best describes how their current financial situation arose.

The available options are as follows, of which the debtor may pick one:

- a) Relationship breakdown
- b) Significant reduction in household income
- c) Loss of debtor's employment
- d) Living beyond means
- e) Illness/accident
- f) Business failure
- g) Increase in household expenses
- h) Other

If the debtor identifies that two or more reasons are appropriate to their situation, the debtor should select the main cause.

If the debtor believes that none of the available options accurately describes the reason as to their current financial situation, please select “Other” from the drop-down list. The debtor will then be able to provide a description/account in the free-text box.

Please now select the ‘Continue’ button at the bottom right-hand corner of the screen in order to proceed to the next page.

Page 4 – Employment Details

This page asks a variety of questions on the debtor’s current employment and previous employment history.

4.1 Are you currently... *

Select the debtor’s current employment status from one of the options available from the drop-down list. Having consulted with the debtor, you should select from this list the occupation that they consider best describes their current position. If none of the options available from the drop down list are considered suitable, ‘other’ should be chosen.

If “self employed or trading” or “employed” is selected, further questions will appear at the bottom of the page, and these are mandatory.

If you are advised that the debtor is both employed and self employed, you should list the principal source of income and any additional income should be recorded on the income and expenditure account.

4.1.1 Self-employed or trading

The debtor should provide:

- The type of business, trade or profession
- The full trading name of the business
- Any trading address(es)
- Whether the centre of main activity for the business is in the UK (yes/no)
- Whether the business is an insurance undertaking. (Yes/No)
- Whether the business is outside the EC.

As with bankruptcy and BROs, whilst the debtor is subject to a DRO or DRRO, it is a criminal offence for the debtor to carry on business (directly or indirectly) in a different name from that under which they were granted a DRO, without telling all the people the debtor does business with the name under which the DRO was granted.

4.1.2 Employed (Definitions under consideration)

The debtor should provide:

- The name of their employer
- Their job title
- Their occupation from the drop down list, which best describes their role.
- The date on which they commenced employment with the employer
- Their employer's name and address

4.1.3 Company director/promoter

One of the restrictions of a DRO are that a debtor who is granted a DRO may not act as a company director and may not be involved, directly or indirectly, in the management, promotion or formation of a limited company without the Court's permission.

If the debtor indicates that they are currently a company director or promoter, they should be advised that if the Official Receiver grants their application for a DRO, that they would no longer be permitted to continue as a company director or promoter, unless they obtain the Court's permission to do so. Should the debtor need to do this, the debtor should seek further legal advice.

If the debtor chooses to seek further legal counsel and then apply to the Court for permission to act as a company director or promoter, the debtor must inform the Official Receiver of this decision, providing the Court name and reference.

4.2 Have you had a previous trading name*?

If the debtor has previously traded under names different to their current trading name, please select '**Yes**' in answer to this question.

The form will then require the debtor to provide the following mandatory information:

- The trading name of the previous business
- The date when the debtor ceased trading
- The previous trading address

If the debtor has not previously traded, please select '**No**' in answer to this question.

Please now select the 'Continue' button at the bottom right-hand corner of the screen in order to proceed to the next page.

Page 5 - Assets

This page records the debtor's assets. All the assets that the debtor owns should be included on this form, and the debtor should be actively encouraged to disclose all relevant information in respect of these assets to the Official Receiver.

Unlike in bankruptcy, the Official Receiver will not assume control of the debtor's assets as a trustee in bankruptcy would, as there is no vesting of the debtor's estate under a DRO. However, this part of the application form enables the Official Receiver to determine whether the debtor meets the DRO entry criteria in relation to the £300 gross asset maximum.

If a DRO applicant has gross assets exceeding £300, their application will be declined and the debtor will lose their application fee.

The value of all assets should be recorded in whole numbers. Please do not include any pence in the valuations of the debtor's assets.

Please note that it is imperative that the debtor is made aware that the information they provide for this section is both accurate and true. If a debtor fails to provide an open and honest account of their affairs, and this failure in disclosure is later determined by the Official Receiver to be a deliberate undervaluing or a deliberately inappropriate description of their assets when a description is required, the Official Receiver may revoke the DRO. The debtor may also face criminal and civil sanctions in respect of the provision of data subsequently found to be incorrect.

5.1 Cash in hand (£)

Please indicate how much money the debtor has access to without visiting a bank, building society or ATM Cash Machine. This should include money not just on their person, but money in their possession (for example, at home). This value should be the total worth of all notes, coinage and foreign currency.

Cash in hand refers to free capital and would not include funds that are due to be paid out for living expenses, in the normal course of events.

Should any funds held by the debtor represent funds arising as a result of the receipt of a lump sum benefit payment, then these should not be shown as cash in hand, as it would be classed as income apportioned over the period to which the payment related.

5.2 Cash at bank or building society (£)

Please indicate how much money the debtor holds in all their bank and building society accounts, including current and savings accounts, ISA's etc. Please provide this value as a lump sum.

Cash at bank or building society refers to free capital and would not include funds that are due to be paid out for living expenses, in the normal course of events.

Should any cash at bank or building society represent funds arising as a result of the receipt of a lump sum benefit payment, then these should not be shown as cash at bank, as it would be classed as income apportioned over the period to which the payment related.

5.3 Money owed to you (£)

Please indicate how much money any other person or organisation owes to the debtor.

For example, family or friends, an employer or previous employer, or someone with whom the debtor has done business, may owe money to the debtor. The total amount of monies owing to the debtor should be provided in answer to this question.

If the debtor has taken steps to recover money owing to them, but they have been unsuccessful in those attempts. Provided that the debtor is able to document their unsuccessful recovery attempts, then the debts may be classed as bad and irrecoverable, and there would be no necessity to schedule such debts as assets. However the commentary box should be used to explain any such omissions.

5.4 Tools of trade

Property which can be disregarded when calculating the total value of assets such as clothing, bedding, furniture, household equipment as are necessary for satisfying the basic domestic needs of the debtor and his/her family. This also includes books, tools and such equipment as are necessary to the debtor for use in his/her employment or vocation.

Please give a description and valuation of any tools or other equipment used by the debtor in the course of their employment, be it business or vocational. The debtor may provide the valuation of the tool, but this valuation should be based upon its resale value, and not its purchase value. This might include the make, model and age of the tool, but not its colour for example. The debtor should also provide the details of the source used to justify the valuation. If the debtor does not own any tools in respect of their trade, please leave this box blank.

An intermediary may assume that the valuation provided is correct without further enquiry.

5.5 Motor vehicle*

Please indicate whether the debtor owns a registered motor vehicle. For the purposes of a DRO, a 'motor vehicle' includes a car, motorbike, scooter or any other form of motorised vehicle.

If the debtor owns a motor vehicle, please select 'Yes' in answer to this question.

Further questions will then be generated on the form requiring information on the:

- Make
- Model
- Year of first registration
- Registration number
- Condition
- Value of the vehicle.

If the value of a domestic motor vehicle is less than £1,000, the motor vehicle will be deemed free from being classified as an asset and will therefore not be taken into account by the Official Receiver when determining the debtor's total gross assets for the purposes of a DRO.

Please Note: Adapted vehicles for disabled use see below.

Cars

Valuations of cars, taking into consideration their age, mileage and condition, can be obtained using the online Parker's Guide website. Please navigate to this site via the following link:

<http://www.parkers.co.uk/cars/prices/>

Please note that you should take the debtor's description as to the condition of the vehicle when deciding which value to use from the guide e.g. Private Good or Private Poor.

This website should be used to verify the debtor's valuation of their car prior to entering the value of the vehicle on the application form.

It should be noted that the Parkers website only provides free valuations for cars registered from 2002 onwards. Therefore, in the case of older cars, an intermediary is permitted to accept the debtor's own valuation for the purposes of the application. However, the debtor should be made aware that the Official Receiver may make enquires as to how the valuation was arrived at, and if the Official Receiver determines that a deliberate undervaluing has taken place this may result in the revocation of the DRO and criminal or civil sanctions.

Care should also be taken in relation to classic cars. For example, vintage Rolls Royce and MG classic cars will usually be worth considerably more than £1,000. An intermediary may also in these circumstances accept the integrity of a debtor who provides the valuation of a classic car and should advise of the £1000 exemption limit accordingly. However, again the intermediary should warn the debtor of the possible consequences resulting from the provision of data that is subsequently found to be incorrect (revocation of the DRO, and/or civil and criminal sanctions).

Motorbikes

The Parkers website also provides valuations of motorbikes free of charge for motorbikes registered from 1994 onwards. The website can be found at the following link:

<http://www.parkers.co.uk/motorbikes/used-prices/>

In relation to older and classic motorbikes, the same principle applies as for older and classic cars i.e. that the intermediary may assume the debtor's valuation to be correct.

Valuation of other kinds of Transport

The debtor may own other forms of transport, other than a car or a motorbike, for which there exists no means by which it can be accurately valued. The intermediary should take the debtor's valuation and local publications may assist the debtor and the intermediary in confirming an accurate assessment of the value of similar vehicles. However, you should again advise the debtor of the consequences of providing information to the Official Receiver that is consequently found to be incorrect.

Adapted Vehicles for Disabled Use

In respect of those vehicles that have been modified for disabled use, the debtor should answer '**Yes**' to the question of motor vehicle ownership. The debtor should then provide the details of the modified transport as with other vehicles (make, model, year of first registration, registration number, condition of the vehicle).

However, please do not provide the value of the modified vehicle in the value box. Please ensure that the valuation of the vehicle is provided for in the vehicles 'condition' field, detailing also how the vehicle was modified. The intermediary may also assume that the valuation of the modified vehicle provided by the debtor is correct. Nonetheless, on provision of the valuation by the debtor, the intermediary should again warn of the possible consequences resulting from the submission of incorrect information.

Motability Vehicles

Vehicles that are subject to the "Motability Scheme" are subject to a lease hire agreement and should therefore not be classed as an asset when applying for a Debt Relief Order. However, payments under a motability agreement would be an allowable expense where the vehicle is being leased under a Mobility Scheme and should be scheduled in the list of outgoings, similarly any allowance received for payment towards the said scheme, should be shown in the income element of the income/expenditure section of the application.

5.6 Do you own any freehold or leasehold property*?

Please indicate whether the debtor owns any freehold or leasehold property by selecting '**Yes**' or '**No**'.

Ownership of freehold or leasehold property includes any property, whether solely or jointly owned and whether the property is mortgaged or otherwise. It may also include property that is owned via a shared ownership scheme, such as with a local housing association.

If '**Yes**' is selected and the debtor does own freehold or leasehold property, another question will appear to provide the approximate value of that property.

Please note that if the debtor indicates that they own a property, it is highly likely that their gross assets will be worth more than £300.

If this is the case and if the application is subsequently submitted the application will be declined and the debtor will lose their application fee.

It may be the case, in very limited circumstances that the debtor's interest in a property, such as a lease, is of nominal value, which does not therefore greatly affect their gross asset value.

5.7 Any assets with realisable value*?

Please indicate whether the debtor owns any other assets that have a realisable value by selecting 'Yes' or 'No' as appropriate. These assets would include items that have a resale value (the total proceeds that the debtor would receive if they sold the goods) that would impact on the overall asset limit, but do not include basic household items such as cutlery, crockery, cookers, televisions, beds or furniture. Therefore assets with a realisable value may include for example shares, stocks, premium bonds, antiques, or collections etc.

Intermediaries should exercise discretion when advising what household items should be classified as basic and therefore not requiring declaration as assets with realisable worth. Items of luxury should be included on the application form.

If the debtor does own other assets with realisable value, please select 'Yes'. The form will then generate further mandatory questions.

5.7.1 Description

Please provide a description of the realisable asset, i.e. sufficient information for the asset to be identified and valued.

5.7.2 Value

Please provide what the debtor considers to be the value of the realisable asset in pounds. However, whilst this value will be taken as true and correct on application, the Official Receiver may make further enquiries into the value given. If it is found that the debtor did not provide accurate information in answer to this question, the DRO may be revoked and the debtor may face criminal and civil sanctions.

Please note: Assets purchased recently may well have not lost any value and could well impact on the asset limit of £300.

5.7.3 Any more?

If the debtor wishes to add further assets of realisable value, please select 'Yes'. The realisable asset previously declared will then appear on the page, and the debtor will be able to complete the description and value fields for the second realisable asset. Please repeat this process until all the realisable assets are provided for.

Once all the debtor's realisable assets have been included in the application, please select '**No**'. You may edit or delete any realisable assets added.

There is also a commentary box at the end of the Assets page. In this box, the debtor may wish to include any further comments as to their assets that they feel would be relevant to their application for a DRO. A debtor may for example wish to declare those assets that they believe to be of no realisable value. A debtor should also in this situation provide a reason as to why they believe this to be the case.

Page 5 – Pensions

This part of the application form requires the debtor to provide information on any pension held which they have yet to receive payments from (income already in receipt from pensions should be included in income on page [8] of the application form). Under the changes to the DRO rules from 6th April 2011, pensions which are '**approved**' are excluded from the calculation of assets in the DRO application. Unapproved pensions must be listed on this page and the value included in the list of assets on page [5]. It is likely that if the debtor has an unapproved pension they will not qualify for a DRO because of the £300 asset limit.

5.8 Do you have rights to a personal/occupational pension?

This mandatory question requires the debtor to disclose the existence of any pensions (other than the basic state pension) which they have an entitlement to. The debtor is required to provide details of the provider or employer (in the case of an occupational pension), the address of the employer, scheme operator or pension provider, and policy or payroll reference. Individuals with pension rights should receive an annual pension statement and the last received statement should provide the information required to complete this section, although the debtor may also have it from other sources (such as a payslip). All pensions in which the debtor has an interest must be disclosed.

5.9 Is this an 'approved' pension?

If 'no' the pension must be detailed in the debtor's assets on page [5] and the debtor may not qualify for a DRO as a result. The debtor should answer 'yes' if the pension fits the criteria outlined below.

Approved pension arrangements are any occupational or personal pension schemes registered with the HM Revenue and Customs for tax purposes including all retirement annuity contracts and stakeholder pensions. The definition includes the most common pension arrangements found in the UK. It will be rare for a debtor seeking a DRO to have rights in an unapproved pension.

In summary, approved pensions are defined as:

- a. Any pension scheme registered under section 153 of the Finance Act 2004 (essentially schemes registered with HM Revenue and Customs (HMRC) plus annuity contracts purchased to secure benefits under a registered pension scheme which do not provide for immediate

- payment of benefits and annuities in payment before 6 April 2006 which was purchased to secure benefits under an occupational pension scheme, a retirement annuity contract established before 4 January 1988 or a personal pension scheme (including a stakeholder pension scheme) approved before that date by HMRC)
- b. an occupational pension scheme set up by a government outside the UK solely or mainly to provide benefits for its employees.

It can be assumed by the debtor and the intermediary that a pension is **approved** if one or more of the following are true:

- the pension is an occupational pension scheme with nationally or internationally based organisations (such as the armed forces, local government, Civil Service, National Retailers, High Street Banks, Utility companies)
- where the policy is operated by a major pension provider/insurer (such as Scottish Widows, Scottish Equitable, Standard Life, Prudential, Scottish Life, Aviva, Aegon, Skandia, Legal and General, Axa, Zurich)
- the annual pension statement sent to the debtor identifies that the scheme or policy is registered for tax purposes under section 153 of the Finance Act 2004.

If there is no evidence at all to suggest whether the scheme or policy is approved because it is not one that is run by a well-known organisation or major pension provider then the debtor may have to seek and provide further evidence before the application can proceed. This can be achieved by the debtor writing to their employer/former employer, scheme operator, or pension provider asking for confirmation that the pension is an approved pension scheme as defined by Section 11(2) of the Welfare Reform and Pensions Act 1999 and registered for tax purposes under Section 153 of the Finance Act 2004.

Pension becoming payable during the DRO moratorium period

If a debtor becomes eligible to begin receiving pension payments during the DRO period, they must inform the Official Receiver when it becomes payable. It may be that the debtor is no longer eligible for a DRO if the income and expenditure criteria are no longer met and the DRO may be revoked as a result.

Pension listed as 'approved' subsequently found to be 'unapproved', or pension not disclosed

If the debtor wrongly lists a pension as approved and it is later found to be unapproved, or is found to have a pension that was not disclosed (other than the basic state pension entitlement) the Official Receiver may revoke the DRO. If it is found that there is misconduct on the part of the debtor by not disclosing a pension, the debtor may be the subject of a Debt Relief Restrictions Order.

Excessive Pension Contributions

If it is found that the debtor has made excessive contributions into any type of pension arrangement, and that, in making these payments, the debtor unfairly prejudiced his/her creditors, they may be subject to a Debt Relief Restrictions Order.

In considering whether the pension contributions were excessive, the court will consider:

- a. whether any of the pension contributions were made to put assets beyond the reach of the debtor's creditors, and
- b. whether the total amount of contributions was excessive considering the debtor's circumstances when they were made.

If the official receiver considers that the creditors have not been unfairly prejudiced or the loss to creditors is not significant, no further action will be required.

Page 6 – Property Transactions and Preferred Creditors.

This part of the application form requires information of any property transactions or preferential payments to creditors undertaken by the debtor in the 2 years preceding their DRO application. Whilst entry into a property transaction or preferential payments to creditors will not automatically result in the Official Receiver rejecting the debtor's DRO application, the debtor should be made aware that the Official Receiver may make his own enquiries into these transactions. The Official Receiver may then refuse the DRO application on the basis of these transactions, and make any further enquiries into the debtor's affairs that he deems necessary.

6.1 Have you given away any property or sold it for less than its true value in the last 2 years? *

Please select 'Yes' or 'No' as appropriate in answer to this question. If the debtor has sold or given away any of their assets in the last 2 years, and in doing so received less money than the asset was worth (including of course nil payments), 'Yes' should be selected.

If 'Yes' is selected, the debtor will then need to provide the following information on the transaction:

- What was the asset that the debtor sold or gave away.
- The date when the asset was sold or given away
- The value of the asset. Please provide what the debtor considers to be the value of the asset in pounds. However, whilst this value will be taken as true and correct on application, the Official Receiver may make further enquiries into the value given. If it is found that the debtor did not provide accurate information in answer to this question, the DRO may be revoked and the debtor may face criminal and civil sanctions.
- Why the debtor sold or gave away the asset
- To whom the debtor sold or gave the asset. Please provide the full name of the person or organisation to which the asset passed.

Particular attention should be given to any items that have purchased by way of credit and subsequently gifted to friends or relatives.

6.1.1 Any other property transactions?

If the debtor wishes to add further transactions, please select 'Yes'. The transaction previously declared will then appear on the page, and the debtor will be able to complete the above fields for the second transaction. Please repeat this process until all transactions are provided for.

Once all the debtor's transactions have been included in the application, please select 'No'. You may edit or delete any transactions added.

6.2 Have you preferred any creditors over others in your payments within the last 2 years? *

Please select 'Yes' or 'No' as appropriate.

An example of a preferential payment could be when a debtor pays a creditor in full without paying his other creditors anything at all, thus placing one creditor in a far better position than the others.

If 'Yes' is selected in answer to this question, that the debtor has made payments to another creditor within the last 2 years with a view to improving that creditor's position, the debtor will need to provide the following information:

- Name of the preferred creditor
- Date of the payment to the preferred creditor
- The amount that was paid to the preferred creditor.

6.2.1 Any more preferred creditors?

If the debtor wishes to add details of further preferred creditors, please select 'Yes'. The preferred creditor previously declared will then appear on the page, and the debtor will be able to complete the above fields for the subsequent preferred creditor. Please repeat this process until all preferred creditors are provided for. You may edit or delete any preferred creditors added.

Once details of all of the debtor's preferred creditors have been included in the application, please select 'No'.

Page 7 – Creditors

If the Official Receiver approves the debtor's application for a DRO, he will need to inform the debtor's creditors who are owed qualifying debts, that the DRO has been granted, and as a consequence they are unable to take any further action against the debtor in respect of their debts.

As such, it is important that the debtor provides the full names and addresses of all those people to whom he or she owes money, including any account, agreement or reference numbers if possible.

The debtor must be clearly instructed to include **all debts** that they owe on the application form, including any rent or utility arrears.

A debtor must not have total liabilities in excess of £15,000. This total includes any secured debts but does not include un-liquidated sums or excluded debts. It should also include any interest or charges added to the amount owed.

Unsecured and Secured debts should be listed and are taken together in calculating the £15,000 liability parameter. Any unsecured element of a debt owed to a creditor holding security should be separately listed as an unsecured debt. Those unsecured debts (which are not excluded debts) listed on the application will be scheduled as Qualifying debts on the Debt Relief Order if approved.

Only the sums scheduled as qualifying debts will be subject to the moratorium period and discharge under the terms of a Debt Relief Order.

Therefore creditor information, particularly the up-to-date total owing, must be fully and accurately recorded on the application so that the Official Receiver may then verify that the debtor meets the DRO criteria.

When seeking details of current indebtedness from creditors, the financial sector have stated that it is important for debtors and intermediaries to request the “total amount outstanding” rather than a “settlement Figure”, which will by its nature ordinarily be a lesser sum than the total amount outstanding.

Water Rates

The guidance in relation to bankruptcy and the effects on water rates is quite clear and there is no reason to believe that this guidance is not equally applicable to Debt Relief Orders.

Where a debt is due and payable on a certain date, but is allowed to be discharged over a period up to the ensuing year, the amount of the debt is known as at the 1st April for the relevant billing year, that debt is a liquidated debt and thus capable of inclusion in a Debt Relief Order.

How a water rates bill will be dealt with will be dependant upon the charging regime operated by each provider, however where water is supplied under a charges scheme that is rate-based rather than metered, the charges scheme may provide that any standing charges are due and payable in advance, generally on 1 April each year. Therefore, the whole of that year’s charge, or unpaid balance at the date of the Debt Relief Order, may be scheduled in the application, in addition to any arrears from previous periods. As the whole debt becomes due prior to the insolvency, it is a qualifying debt.

It is the responsibility of the intermediary/debtor to establish the water company’s position with regards to the debtors account and where the full amount for the year may be scheduled, it should be scheduled.

The Insolvency Service are aware that as a result of legal advice received by various water authorities and with the approval of OFWAT, many water authorities have now amended their charging regimes to include an “insolvency clause” which they state allows them upon the making of a Debt Relief Order, to apportion their water charges pre and post order.

Intermediaries should where appropriate continue to schedule the full years water charges in a DRO application, however you must ensure that your clients are apprised of the possibility that an insolvency clause may exist within a water authorities charging regime and if that is the case, then upon the making of a DRO the water authority may apportion their charges pre and post order and issue a revised water bill for services provided subsequent to the making of the order.

Charges for metered supplies are treated differently as, generally speaking, the meter will be read at or about the date of the Debt Relief Order and the amount to be scheduled in the DRO based on that reading. New supplies will be paid for when charged.

Council tax

Each District Borough Council levies and collects a tax, called a council tax which is payable in respect of dwellings in its area. The occupiers of the dwellings have joint and several liability for council tax.

Council tax is charged on a yearly basis from 1 April each year but the liability to pay council tax is determined on a daily basis. The billing authority is required to make a demand for payment of the council tax separate to the notification of the amount of council tax and the tax becomes due when that demand is made but most council tax payers agree a statutory monthly payment scheme for payment of council tax.

Any amount due and unpaid under the instalment agreement prior to the insolvency order is an unsecured debt in the proceedings. If the debtor's council tax is up to date under the instalment agreement at the date of the debt relief order, no amount can be scheduled in the order as it relates to future occupation of the dwelling.

A recent High Court decision *R (Mohammed) v Southwark LBC* [2009] EWHC 311 (Admin) the Administrative Court concluded "that if a resident to whom a demand for a payment on account of council tax is properly addressed fails to pay an instalment on time, or fails to respond quickly enough to a reminder notice, or a final notice, he may become liable to pay the whole balance of the estimated amount of tax for that financial year within a short period, normally 7 days. The council will then be entitled to seek a liability order against him for that amount if it is wholly or partly unpaid"

Therefore when applying this judgement to Debt Relief Orders, if the debtor has defaulted in respect of a reminder notice the whole of the amount is due and payable and therefore a qualifying debt (whether or not the council has obtained a liability order), if the debtor has maintained their instalment agreement in accordance with the demand notice, or no reminder notice has been issued only sums accrued and unpaid up to the DRO are a 'qualifying debt'.

Where a liability order has been obtained by the council, prior to the debt relief order being made the whole debt as notified within the liability order becomes due and it is therefore a qualifying debt.

Those creditors that the debtor does not provide details of, will not be included within the DRO, and consequently will not be prevented from pursuing action in respect of those debts that they are owed.

Examples of debts that the applicant may owe include:

- Rent
- Electricity
- Water rates and sewerage charges
- Gas
- Telephone
- Council tax, business rates and community charge
- Tax and National Insurance
- Credit Cards
- Overdrafts
- Loans
- Goods or services that the debtor has received
- Benefit Overpayments and social fund loans
- Money owed to employees
- Hire purchase and Conditional sale
- Customers who have paid for goods or services that the debtor has not supplied
- Creditors claiming their own goods are in the debtor's possession

7.1 Type of creditor*

Please select from the drop down list the option that best describes the type of creditor that the debtor is declaring, and to whom the debt is owed.

The creditor type list is not exhaustive and you should therefore choose the creditor that closest fits the type of debt the applicant has, or alternatively use 'Miscellaneous' for any creditors that it is felt do not fit into any of the other available categories.

Duplicate/Obsolete: Please note that under no circumstance should the "Duplicate/Obsolete category be selected as this has been created purely for administrative purposes on the part of the DRO Unit.

7.2 Name of creditor*

Please select from the drop down menu the name of the creditor. If from the drop down list the name of the creditor is not provided, please select 'other creditor'. By selecting 'other creditor' this will generate further boxes to be completed regarding the creditor's name and address.

Please Note If a debt has been assigned/sold to a debt recovery company, the applicant should schedule the details of the creditor who has most recently corresponded with them.

Other Creditor Button

If “other creditor” button is selected, once you have completed all of the creditors details you should select the “**Add Creditor**” button and then **MUST** select the “**Save Creditor**” button. If an intermediary presses the “continue button” or the “Save” button without first selecting the “**Save Creditor**” button the data for the last creditor entered will be lost.

7.3 Reference number*

Please provide the account/roll number or reference that the debtor has in relation to this creditor.

Failure to provide a full and accurate account numbers may result in continued communications from your creditors.

Where applicable please also include details of any account / reference numbers in relation to any collection agency that may be involved in recovery proceedings.

7.4 Amount owed to creditor*

The application should specify the up-to-date balance owed, as only those sums listed on the application will be scheduled as qualifying debts in the order, and consequently be subject to the moratorium period and discharge. If a creditor is owed more than is scheduled on the order at the date of determination, they may continue to pursue the debtor for the remaining balance. Please specify how much money the creditor is owed by the debtor in pounds and pence, should any debt owed by the applicant be in a foreign currency, a conversion to pounds sterling will need to be calculated by the intermediary/debtor using the prevailing exchange rate at the date of application.

Where an applicant disputes a debt, they must be advised that they should schedule the amount that the creditor states is owed to them and not make any subjective decisions in this regard.

7.5 Is this an excluded debt?

If any of the debtor’s creditors fall within the category of an excluded debt (see page 8 of this guide), you should select ‘**Yes**’. Please note that excluded debts will not count towards the overall liabilities total. If the debt is not an excluded debt select ‘**No**’ and continue.

7.6 Is this a secured debt? *

If the creditor to whom the debtor owes money holds any form of security, please select ‘**Yes**’. If the debt is not secured, please select ‘**No**’. If ‘**Yes**’ is selected, a further question will be generated.

7.6.1 What is the debt secured on?

If the debt is secured, please provide the details of the item provided as security. The debtor will need to provide the Official Receiver with details as to the nature of the asset, as well as its value, e.g. Garden Shed, £250.00.

Please note that secured creditors (or the secured element of any debt) must be listed on the application and identified as a secured debt by marking the relevant tick-box. If the value of a secured item is less than the total amount of the secured debt, the balance of the debt will be treated as unsecured. This unsecured element of the debt would therefore form part of the DRO, and must be scheduled separately as an unsecured debt on the application.

It should be noted that if the debtor has assets worth more than £300, irrespective of any amounts secured on those assets, they will not be eligible for a DRO.

7.7 Is there an attachment of earnings order associated with this debt?

An attachment of earnings order is an order made by the Court which results in money being deducted from the debtor's salary / wage by their employer. This deducted money is then given to the Court so that some of the debtor's debts can be paid. If there is an attachment of earnings order, please select 'Yes'. Two further questions will be generated.

7.7.1 Details of order? *

Please provide the details of the debtor's attachment of earnings order associated with the particular debt. The debtor will need to provide the Official Receiver with the details of the Court in which the order was made (reference number), as well as providing information relating to the details of the employer making the deductions from earnings.

Please Note if an applicant confirms that they do indeed have an Attachment Of Earnings Order, the DRO Unit will be automatically notified by way of an email. In the event that the DRO application is subsequently approved by the Official Receiver, he will notify the employer and relevant Court of the making of the Order. However, once an order is approved the applicant may also wish to notify their employer that no further deductions should be made from their salary and may support their claim by the production of their Debt Relief Order.

7.7.2 Order amount (£)

Please provide the amount of money covered in the order in whole pounds. The value entered should be the amount that is deducted from the wage each month.

7.8 Save Creditor

Please ensure you hit the '**Save Creditor**' at this stage. Once you select "Save Creditor" the creditor entered will appear in the creditor grid, which also contains a running total of the qualifying debts scheduled in the DRO and this total will turn **RED** should the total of the qualifying debts exceed £15,000.

Interest and charges

When calculating how much the debtor owes to each creditor, particular attention should be paid to the amount of interest or charges that will be accruing on the debt owed.

A crucial date that should be considered is the *date of determination of the application by the Official Receiver*, i.e. when the DRO application is considered by the Official Receiver, and not the date when the application form was completed or submitted to the Official Receiver. This is because the overall amount of debts owed by the debtor must not exceed £15,000 at the *date of determination of the application*.

As a result, although the applicants debts may not exceed £15,000 when the application form is completed or submitted to the Official Receiver, any time delay (such as a delay in the debtor paying their fee, during which time the Official Receiver will not be able to process the application) may mean that further interest accrues on the debts owed. This added interest may then push the overall level of debt over the £15,000 threshold. Therefore, when the Official Receiver comes to determine the application, the level of debt may exceed the maximum level for a DRO. The Official Receiver will then decline the debtor's application, and the fee will not be refunded.

An estimate of the likely interest and charges accruing on the debts is therefore important in determining the speed and urgency with which a completed application is submitted to the Official Receiver. A debtor whose overall level of debts, including interest and charges, is close to £15,000 should be encouraged to avoid any delays in paying their application fee in full, in order that their application may be submitted to the Official Receiver, for determination.

Page 8 – Income and Expenditure Account

This part of the application form requires information of the debtor's total monthly income and expenditure.

It is an eligibility requirement for a DRO that the debtor does not have a disposable monthly income, following deduction of normal household expenditure, of more than £50 per month. The Income and Expenditure Account on the application form therefore provides a calculation of how much money the debtor has to spare each month (if any), and stemming from this, whether they are therefore eligible for a DRO.

The Income and Expenditure Account is based on the summary page of the Common Financial Statement used by many debt advisors. It is anticipated that in most cases, although not in all, the intermediary will already have completed a version of the Common Financial Statement (or similar document) following initial consultation with the debtor regarding their financial affairs.

Income

Please indicate on the application form the debtor's total net monthly income following deduction of tax etc.

The debtor's income could derive from various sources, including wages, benefits and pensions. **All** benefits should be scheduled, including DLA, and

in the instance of DLA, it is acceptable to record the same amount as expenditure. The debtor may also receive income from other areas, such as rental income, which should also be included on the form in the “other sources” field.

The system will automatically calculate the debtor’s total monthly income (stated in the “Total Income” field) based on the figures included on the form.

Expenditure

Please include all of the debtor’s monthly expenditure on the application form. If any of the debtor’s expenditure does not fit within the categories provided, please enter the amount of expenditure in the “Other” field, and briefly describe the nature of the expenditure in the free-text box at the end of the page.

The system will automatically calculate the debtor’s monthly expenditure (stated in the “Total Expenditure” field) based on the figures included on the form.

Income less Expenditure

The system will automatically calculate the debtor’s surplus income by deducting their total expenditure from their total income. This value is then stated in the “Income less Expenditure” field. The debtor’s total surplus income must be £50 or less in order for the debtor to be eligible for a DRO.

Please feel free to use the free text box at the bottom of the page to provide further information, commentary or to elaborate on any unusual income or expenditure entries.

Hire – Purchase Agreements

It should be noted that the subject goods should not be declared by the debtor as an asset, as they will not belong to the debtor until all of the payments under the hire purchase agreement have been paid to the finance company. A debtor will only own goods subject to HP/Conditional Sale once all of the terms of the agreement have been met.

The current guidance to intermediaries is, broadly speaking, correct. The future instalments due on a hire purchase agreement are a contingent liability as defined by Section 382(1)(b) of The Insolvency Act 1986 (being contingent on the arrival of the date an instalment falls due and termination of the agreement not having been given). However, solicitors advise that the debt is for a liquidated sum payable at a future date and therefore falls within the definition of a qualifying debt.

It is currently considered that Rules 5A.3 (9) and (11) of the Insolvency (Amendment) Rules 2009 could potentially be *Ultra Vires*, as they would allow for something that is not possible under the primary legislation. However The Rules project is not currently expected to deliver amendments before October 2013 and therefore the DRO Unit has to interpret the legislation as it currently stands and issue revised guidance on the subject of hire purchase agreements.

Basically any unpaid instalments where the due date has passed must be included in the application (rule 5A.3(9)) but, as matters currently stand the *debtor* has discretion whether or not they include the balance of the debt (rule 5A.3(11))

It should be noted that many financial institutions have insolvency clauses contained within the terms and conditions of their agreements, that automatically terminate the agreement upon formal insolvency of the debtor.

- The position therefore is, that where the debtor has arrears under a hire purchase agreement they must include that debt as a qualifying debt and any further payments to the HP company in reduction of the arrears are excluded, as it is considered the hirer accepting payments from the debtor is a ‘remedy’ in respect of the debt.

Please note that the INSS could not and would not object to a third party making payments under a debtors hire purchase agreement, however for all parties concerned the agreement should be transferred into the third party’s name, although this is not a pre-requisite and would be down to the finance company and the individuals involved.

- Where there are no arrears, the balance of the debt to the HP company is still a qualifying debt but it is a debt which the debtor can elect to exclude from the application. Therefore the debt would not be a specified qualifying debt, not a debt from which the debtor is released and one for which the creditor retains a remedy.
- If a debtor decides to omit an up to date hire purchase agreement from their DRO application, the intermediary would need to determine whether the future payments towards that HP agreement/s was an allowable expense.

As an item of expenditure it would only be an allowable expense if the items which are deducted from income are those necessary to satisfy the “*basic domestic needs of the debtor and his family*”. Therefore where an item on HP falls within the items excluded by rule 5A.9 then it would be arguable that the payments in respect of the debt excluded from the DRO might be allowed. The difficulty would be with vehicles where the debtor could demonstrate to the intermediary that the vehicle had a value of less than £1,000, payments would be included. However, unless the agreement was near an end it is considered very unlikely that a vehicle subject to hire purchase would have a value of less than £1,000.

Therefore if a debtor has a vehicle that is subject to hire purchase and is not scheduled in a DRO application because there were no arrears. Then it would not be an allowable expense if the vehicles value exceeded £1000.

- Intermediaries should note that a debtor who has multiple HP agreements which consume a significant proportion of their income, who elects to exclude those debts from a DRO application may be considered to be abusing the process and the application may either be refused, or revoked if the official receiver identifies this as an issue subsequent to the approval of a DRO.
- Any HP liability that is omitted from a DRO application because there are no arrears would not count towards the £15,000 liability parameter and therefore if the debtors total liabilities according to the debtors’ Experian report exceeds £15K, the intermediary would need to e-mail or fax the DRO Unit prior to submitting an application to explain that there is a liability/s on the Experian report that has been left off the DRO application as it relates to an up to date HP agreement.

Example Scenarios:

Debtor has arrears on a hire purchase agreement.

Action: The debtor can either:

1. Schedule the whole liability in the DRO application and this would count towards £15K liability parameter, or
2. Schedule just the arrears in the DRO application and choose to exclude the future contractual HP liability from the DRO application, in which case the arrears would be a specified qualifying debt and count towards the £15K liability parameter and the excluded element of the HP liability would not be a specified qualifying debt and not count towards the £15K liability parameter. **Inform DRO Unit** about any HP liability appearing on the debtor's Experian report that the debtor has chosen to exclude

Outcome:

1. Whole debt is a qualifying debt and one that would be discharged at the end of the moratorium period; Debtor unable to maintain payments and creditor's only remedy would be to seek recovery of their goods.
2. Scheduled arrears are a qualifying debt and one that would be discharged at the end of the moratorium period; Excluded element of HP liability is not a specified qualifying debt and the debtor would remain liable for the remaining HP liability. If the goods in question were for the debtor's basic domestic needs the HP repayments would be an allowable expense. However it is likely that if arrears are scheduled in a DRO application the debtor would be in default and the HP company may seek recovery of their goods.

Debtor has hire purchase agreement with no arrears.

Action: The debtor can either:

1. schedule the HP liability in their DRO application and this would count towards £15K liability parameter, or
2. choose to exclude the HP liability from the DRO application in which case it would not be a specified qualifying debt and not count towards the £15K liability parameter. **Inform DRO Unit** about any HP liability appearing on the debtor's Experian report that the debtor has chosen to exclude.

Outcome:

1. Debt is a specified qualifying debt and one that would be discharged at the end of the moratorium period; Debtor unable to maintain payments and creditor's only remedy would be to seek recovery of their goods.
2. Debt is not a specified qualifying debt and the debtor would remain liable for HP liability. If the goods in question were for the debtor's basic domestic needs the HP repayments would be an allowable expense.

Debtor has hire purchase agreement with no arrears for a motor vehicle worth £3000.

Action: The debtor can either:

1. schedule the HP liability in their DRO application and this would count towards £15K liability parameter, or
2. choose to exclude the HP liability from the DRO application in which case it would not be a specified qualifying debt and not count towards the £15K liability parameter. **Inform DRO Unit** about any HP liability appearing on the debtor's Experian report that the debtor has chosen to exclude.

Outcome:

1. Debt is a specified qualifying debt and one that would be discharged at the end of the moratorium period; Debtor unable to maintain payments and creditor's only remedy would be to seek recovery of their goods.
2. Debt is not a specified qualifying debt and the debtor would remain liable for HP liability. As the vehicle in question is worth in excess of £1000 the repayments on the HP agreement would **not** be an allowable expense.

Debtor has hire purchase agreement with no arrears for a motor vehicle worth £900.

Action: The debtor can either:

1. schedule the HP liability in their DRO application and this would count towards £15K liability parameter, or
2. choose to exclude the HP liability from the DRO application in which case it would not be a specified qualifying debt and not count towards the £15K liability parameter. **Inform DRO Unit** about any HP liability appearing on the debtor's Experian report that the debtor has chosen to exclude.

Outcome:

1. Debt is a specified qualifying debt and one that would be discharged at the end of the moratorium period; Debtor unable to maintain payments and creditor's only remedy would be to seek recovery of their goods.
2. Debt is not a specified qualifying debt and the debtor would remain liable for HP liability. As the vehicle in question is worth less than £1000 the repayments on the HP agreement **would** be an allowable expense.

Debtor has hire purchase agreement with no arrears for a lap top worth £500.

Action: The debtor can either:

1. schedule the HP liability in their DRO application and this would count towards £15K liability parameter, or
2. choose to exclude the HP liability from the DRO application in which case it would not be a specified qualifying debt and not count towards the £15K liability parameter. **Inform DRO Unit** about any HP liability appearing on the debtor's Experian report that the debtor has chosen to exclude.

Outcome:

1. Debt is a specified qualifying debt and one that would be discharged at the end of the moratorium period; Debtor unable to maintain payments and creditor's only remedy would be to seek recovery of their goods.
2. Debt is not a specified qualifying debt and the debtor would remain liable for HP liability. As the item in question is not to satisfy the basic domestic needs of the debtor or his family the repayments on the HP agreement would **not** be an allowable expense.

Debtor has hire purchase agreement with no arrears for a fridge and cooker worth £800.

Action: The debtor can either:

1. schedule the HP liability in their DRO application and this would count towards £15K liability parameter, or
2. choose to exclude the HP liability from the DRO application in which case it would not be a specified qualifying debt and not count towards the £15K liability parameter. **Inform DRO Unit** about any HP liability appearing on the debtor's Experian report that the debtor has chosen to exclude.

Outcome:

1. Debt is a specified qualifying debt and one that would be discharged at the end of the moratorium period; Debtor unable to maintain payments and creditor's only remedy would be to seek recovery of their goods.
2. Debt is not a specified qualifying debt and the debtor would remain liable for HP liability. As the items in question are to satisfy the basic domestic needs of the debtor or his family, the repayments on the HP agreement **would** be an allowable expense.

Page 9 – Pre-submission Check

This is the penultimate page before the application can be submitted to the Official Receiver for consideration. The system will review the form in its entirety and report back with points of note, or fields that may require further consideration.

Most importantly, the system will check the form and generate on this page a summary of all those instances where the data entered fails to meet the DRO criteria. It will also in this comparison provide you with the DRO criteria that are not being satisfied. In this scenario, the system will generate a warning statement in the 'important notice' section:

“For the reason(s) stated above it is possible that your application may be declined by The Insolvency Service when it is received by them. This warning is to advise you that if you do decide to submit the application and it is declined your application fee is non refundable”

If the debtor, having been made aware that they will lose the non-refundable application fee should they fail to meet the DRO criteria, wishes to proceed with the application and submit it to the Official Receiver, please select “continue”.

Please Note that prior to submitting an application, you should print a hard copy of the same.

It is a requirement that any applicant for a DRO signs and dates a hard copy of the submission page and submits this without delay to the DRO Unit, at the following address:

The Debt Relief Order Unit
The Insolvency Service
1st Floor, Cobourg House
Mayflower Street
Plymouth PL1 1DJ

Intermediaries are asked to ensure that this part of the DRO application process is adhered to, and when forwarding a hard copy of the application to the debtor to sign, they should include a covering note explaining the importance of ensuring that the submission page is duly signed and forwarded to the Insolvency Service without delay.

Should you be notified of an Insolvency Service system failure, you should contact the Debt Relief Order Unit for further advice.

Page 10 – Submission Form

This is the last section that is required to be completed before the application form can be sent to The Insolvency Service for consideration of a DRO.

If you have logged on as an intermediary, you will be required to complete the 'Intermediary Declaration Form'. Please read this declaration carefully.

If the debtor is not present, please ensure that the 'debtor not present' tick box is selected. This box should be selected in the instance where the form has been completed via telephone.

As an intermediary, you will also need to provide your password again, upon provision of which the form can be submitted. Once you press the submission button this will automatically generate a printed version of the application form together with a covering letter which, will incorporate details taken from the submission form, including the debtors and intermediaries declaration statements together with additional information, which you should arrange for the debtor to sign and return to the Insolvency Service on at least a weekly basis and in the case of the debtor, immediately.

Intermediaries should advise debtors that in submitting their DRO application for consideration to The Insolvency Service, debtors are agreeing to The Insolvency Service checking the information that they have provided, using external data sources. Intermediaries should also advise that in applying for a DRO, debtors are authorising the data that they have provided in the application form, to be sent to appropriate external parties in an unencrypted electronic format.

Intermediaries will note that at the bottom of the Intermediary Declaration Statement there is a commentary box provided. Intermediaries should use this box for any further comments that they feel may assist the Official Receiver with the determination of an application. Areas for consideration would be for example in the exceptional circumstance of a debtor requesting an **address to be withheld**, where a person is at risk of violence. Please note that the Official Receiver would not agree to an address being withheld where the debtor was unable to substantiate their claim, or the grounds submitted were merely a preference that an address should not be publicised.

The new application form (from April 2010) for applying to the Court to have a debtor's address withheld from the e-IIR, is Form 7.1A.

The current fee for such an application is £155, but would obviously be subject to remission should the individual's circumstances dictate.

Prison Addresses

Where a debtor is incarcerated at the time of applying for a DRO, intermediaries should mark the "address withheld" box and this will trigger the Official Receiver's internal protocol for dealing with prison addresses. Unless the prisoner is at risk of violence, no subsequent application to Court is necessary. Provided the "address withheld" box is selected, reference to any prison address will be removed from the debtor's description and excluded from any documentation sent to creditors. As soon as all of the relevant notices have been issued to creditors, the address withheld flag will be removed from the case.

Intermediaries should not schedule former prison addresses in the debtors DRO application.

Guidance in relation to fee payments

A DRO application can only be considered for determination once the application fee is paid in full. As such, the fee for entry into a DRO must be fully paid before the Official Receiver will consider the application. Debtors can pay the fee in instalments to suit their particular financial situation, and can pay in as many instalments as they choose until the entire application fee is covered, however a six month limit from receipt of the first instalment has been set, for full payment to have been received by the Insolvency Service. Once an application has been submitted and the fee has been paid in full, the fee is non refundable; Once an application has been submitted and the full fee has been paid, the automated system will recognise this fact and automatically forward the application for consideration by the Official Receiver.

Please note the effects of delaying payment once an application has been submitted in respect of charges on the debts they owe and the possibility as a result of these charges of the debtor owing more than £15,000 in liabilities. Intermediaries should advise applying debtors of this possibility. In the situation where the debtor's total liabilities are to close the £15,000 limit, and if when considering the debtor's personal circumstances there is a reasonable and real prospect that their total debts will exceed the limit before the debtor can pay the application fee, the intermediary should inform the debtor that delaying payment may result in the application being declined and the loss of the application fee should the debtor pay it.

In the event that a debtor completes an application over a number of visits, the intermediary should update any liabilities figures on the application form to take account of any further accrued interest or charges, which may have increased the debtor's overall liabilities during the delay.

Please note that if the debtor's liabilities have increased over the £15,000 threshold, the debtor will not be eligible for a DRO.

If the debtor's liabilities are still within the £15,000 limit on their return visit, the application form may then be submitted to The Insolvency Service.

If a debtor pays the application fee in part, and then subsequently decides that they do not wish to submit the application for a DRO, the debtor is permitted to claim as a refund the part payments that they have made in contribution to the full fee.

There will however be no refunds of part payments unless they are claimed by the debtor. Any part payment refunds that are issued will be paid with interest.

In all cases the intermediary should give the debtor their unique bar-coded letter to enable them to pay their fee. The debtor must then pay their fee via Payzone terminals or Post Office, to the Insolvency Service using this bar-coded letter. The intermediary may submit the application form once complete and the debtor has been issued with their unique barcode letter. The intermediary is not required to confirm that a payment has been made.

Please Note that once an application has been **submitted**, the applicant will need to ensure that their application fee has been received by the Insolvency Service Finance Department within 10 days of submission. Due to the various automated interfaces that take place, in reality the debtor will need to ensure that the **application fee is paid in full on the day of submission or sooner**.

Important Note – Due to the automated nature of the application process, there can be NO manual intervention and an application will be automatically cancelled if payment is not received within the aforementioned 10 day timescale and there can be NO exceptions to this rule.

When the application has been submitted, this will result in an undertaking by the debtor to The Insolvency Service that the form has been completed in full and with their consent, as it is the intermediary who will be submitting the debtor's application on their behalf.

How to Pay

Intermediaries should advise applicants that although the application may have been submitted to the Insolvency Service, the application will not be considered until such time as the application fee has been paid in full. Intermediaries should also advise of the methods in which an applying debtor can pay this fee (i.e. Payzone and the Post Office).

Payzone facilities are widely available in the UK. Payzone operates terminals in over 30,000 newsagents, convenience stores, forecourts, providing flexibility as a result of their long opening hours and accessibility. Outlets that have Payzone terminals are clearly marked outside with Payzone logos.

For more information please visit the following website:

www.payzone.co.uk

Post offices are of course widely available in the UK and details of local branches can be found by accessing the following website:

www.postoffice.co.uk and using the branch finder facility.

A debtor will be able to pay the application fee at Payzone terminals or Post Offices, by presenting to the outlet the bar-coded letter that was issued to them by their intermediary. You will be able to provide the debtor with a bar-coded letter if an application has been created on the online application system. The application form does not have to be completed in full in order for this letter to be produced, as only the DRO applicant's basic details have to be provided so that the letter can be addressed to the debtor.

Intermediaries should ensure that they appraise themselves as to the available outlets in their locale and ascertain whether those outlets will accept payments in relation to DROs.

In order to ascertain which Payzone outlets accept what type of payment, you should access the Payzone website at www.payzone.co.uk. From the main screen select the “Consumer” tab and then select “Store Locator” from here a post code or town should be entered and this will then display all the Payzone facilities in that area.

For Intermediaries that deal primarily with telephone interviews, it will not be feasible to ascertain the whereabouts of all outlets for their clients, however intermediaries may wish to advise their clients to make enquiries regarding the outlets in their area and their ability to make payments in relation to DROs.

The barcode generated on the printed letter will be specific to the debtor so that they may then present this letter at any Payzone facility or Post Office as detailed above. A debtor may then make a payment towards the application fee as they would do as if they were making a utilities bill payment or mobile phone top up.

Debtors will only be able to make payment over the counter at the Payzone facilities or Post Offices in cash as any payment needs to be in cleared funds.

Intermediaries should advise debtors that in the instance where the debtor has found a charity who is willing to pay the application fee for them in part or in full, only in these circumstances will The Insolvency Service be able to take a cheque as payment. Where a charitable contribution comprises only part of the application fee, the debtor should pay the outstanding balance at a Payzone facility or Post Office. As such, cheques will only be accepted from charities.

Cheques from charities should be made payable to “The Insolvency Service (DRO)”, and posted to the address below. All cheques sent to the Insolvency Service must have endorsed upon them the application ID number, Intermediaries should also instruct debtors to include a covering note with the cheque stating the debtor’s name, address and application ID number (the number that is automatically generated when an online application form is started).

Please note: If the debtor is having their fee paid by a charity cheque, then the intermediary should allow the normal bank clearance periods for the cheque to clear, before the application is submitted to the Insolvency Service. If the application is submitted the same day as the cheque is sent to the Insolvency Service, it is likely that the cheque will not clear within the 10 day period, which will result in the application being cancelled.

Finance Section (DRO)
The Insolvency Service
Cannon House
18 Priory Queensway
Birmingham
B4 6FD

What Happens Next?

Once an application for a Debt Relief Order has been submitted to the Insolvency Service for consideration and the appropriate fee has been paid, the Official Receiver will determine the application by either approving or declining the same, or he may seek additional information before making a decision.

If an application is approved, the applicant will be informed in writing of this decision and notification of the Order will also be sent to all of the creditors scheduled in the application and the intermediary will be notified of this decision.

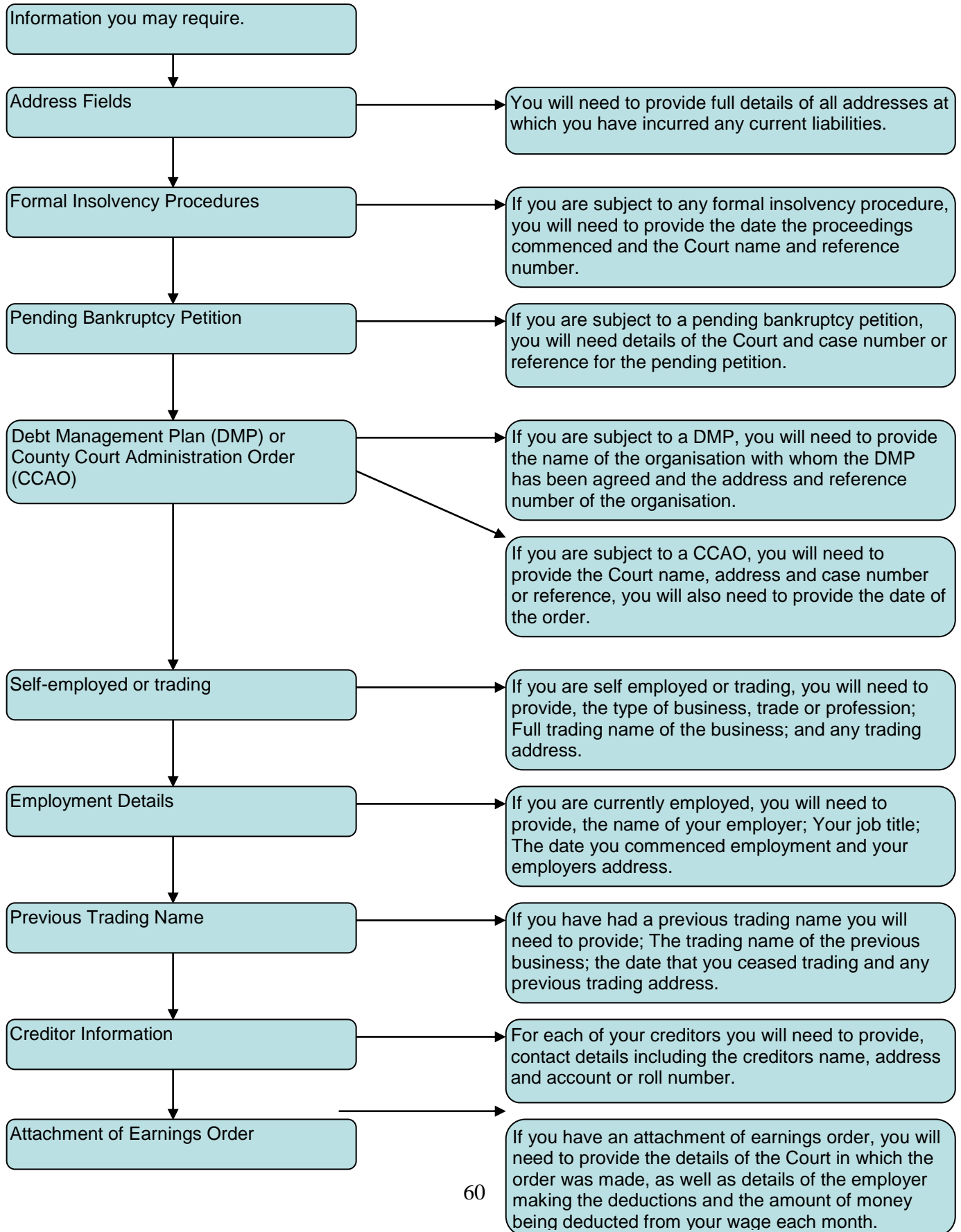
If an application is declined, the applicant and their intermediary will be informed of this decision stating the grounds on which the application has been declined e.g. liabilities exceeded.

Should the Official Receiver require further information, in order to be able to determine an application, he may contact the applicant to seek additional information, and wherever possible the applicant should assist the Official Receiver with his enquiries.

Debt Relief Orders

Web Application Information Requirements

The following flow chart provides guidance on the type of additional information your intermediary may require, to enable them to help you complete your online application for a Debt Relief Order.



Glossary

Approved Intermediaries – Members of the debt advice sector who are permitted to act as debt relief order (DRO) advisors. They will give advice to debtors and help them to complete the online application for a DRO. Approved Intermediaries are the only people who can submit a DRO application online, so they will submit the completed application on behalf of the debtor. Approved intermediaries are authorised to act as such by competent authorities.

Approved Pensions – most occupational or personal pension schemes found in the UK. They include occupational pensions from large organisations and personal pensions from well known insurance companies.]

Asset - Anything that belongs to a debtor that may be used to pay their debts.

Bankrupt – A debtor who has been made bankrupt by a Court because they are unable to pay their debts.

Bankruptcy - One way of dealing with debts that someone cannot pay. The bankruptcy proceedings free a bankrupt from overwhelming debts so they can make a fresh start. Bankruptcy makes sure that a bankrupt's assets are shared out fairly among their creditors.

Bankruptcy Restrictions Order (BRO) or Undertaking (BRU) - A formal insolvency procedure whereby a bankrupt may have a Court order made against them, or they give an undertaking, that will mean certain restrictions continue to apply for a specified period of between 2 and 15 years.

Business Innovation and Skills (BIS) - The Government Department formerly known as the Department of Business Enterprise & Regulatory Reform (BERR), of which the Insolvency Service is part.

Charge – A security interest such as a mortgage, taken over property by a creditor, to protect against non-payment of a debt. If the debtor does not pay the debt, the creditor has the right to take the property. Charges are always attached to specific assets.

Competent Authorities – Debt and financial advice organisations designated by the Secretary of State to authorise members of the debt advice sector to act as approved intermediaries.

Conditional Sale Agreement – An agreement to buy goods by instalments where the buyer can take possession of the goods but will only own them on the condition that they have paid all the instalments. The agreement may also have other conditions to be met before ownership can take place. See also HIRE PURCHASE.

County Court Administration Order – A formal insolvency proceeding where the County Court issues an order for regular payments to be made by the debtor to the Court. The Court takes a 10% administration fee and divides the rest of the payment among the creditors on a pro rata basis. To qualify for an administration order a debtor must have two or more outstanding debts, one of which must be a High Court or County Court judgment. The total debts must not be more than £5,000. Once an order is made, creditors cannot take action against the debtor without first asking the Court. See Part 6 of the County Courts Act 1984.

Creditor – An individual or body to whom money is owed.

Creditor's Bankruptcy Petition – A formal application to Court by a creditor for a debtor to be made bankrupt.

Debt Management Plan (DMP) – The debtor, with the help of the debt advice sector, sets out a schedule for the repayment of their debts to their creditors, which involves regular payments to an agent.

Debt Relief – A process that is put in place to stop creditors taking action against a debtor to recover what is owed to them.

Debt Relief Order (DRO) – A new formal insolvency proceeding that offers debt relief to a specific group of debtors who have total liabilities not exceeding £15,000, total gross assets not exceeding £300 and a monthly disposable income not exceeding £50. A DRO can be issued by an Official Receiver on behalf of the Insolvency Service. The debts owed by a debtor included in a DRO cannot be recovered by a creditor and will usually be discharged after a year.

Debt Relief Restrictions Order (DRRO) or Undertaking (DRRU) – A formal insolvency proceeding, similar to a BRO or BRU, whereby someone who is subject to a DRO may have a Court order made against them, or they give an undertaking, that will mean the restrictions of a DRO continue to apply for a specified period of between 2 and 15 years. If during the course of the DRO application, or after the approval of a DRO, the debtor has subsequently been found to have failed in the provision of an open and honest account of their financial affairs, or has not co-operated with the Official Receiver, a debtor may have a DRRO enforced against them.

Debtor – An individual or body who owes money (a debt).

Debtor's Bankruptcy Petition – A formal application to Court by someone who wants to be made bankrupt because they are unable to pay their debts.

Default – Failure by a debtor to meet their obligations, usually in the terms of a repayment.

Discharge – The process by which a debtor can be freed from bankruptcy debts (with certain exceptions) or freed from the restrictions of bankruptcy.

Domiciled

With regards to Debt Relief Orders, domiciled means do you live, or is your principal residence in England or Wales.

Electronic Individual Insolvency Register (EIRR) – The online database that holds details of all individuals who are currently subject to formal insolvency proceedings, have been discharged from bankruptcy within the last three months, or have had their bankruptcy order annulled (cancelled) in the last five days.

Estate – The sum total of a bankrupt's property available for distribution to their creditors. The degree, quantity, nature and extent of an interest that a person owns in real and personal property

Freehold – A form of legal title to land that means absolute ownership of the property and the land it stands on, for an indefinite period. It is also known as a 'life interest'.

Hire-Purchase Agreement – An agreement that is a secured loans that gives the provider of the goods certain rights over the goods until the hire-purchase agreement is finished. The goods are hired for the term of the agreement at which point the person who is hiring the goods can opt to buy them. This means that until the end of the agreement the hirer is not allowed to sell the goods as they are not the owner and they must abide by the terms of the hire-purchase agreement. See also CONDITIONAL SALE AGREEMENT

Gross Assets – The total value of an individual's combined assets before all charges and other fees requiring repayment have been deducted.

Individual Voluntary Arrangement (IVA) – A formal version of a DMA or DMP that is legally binding on the debtor and all of their creditors. If a debtor, who makes a proposal on how they will pay all or part of their debts, has 75% of the creditors who are present or represented at a meeting to consider the proposal agree to accept it, it is binding on all of the debtor's creditors. The supervisor of an IVA must be an insolvency practitioner. If someone has been made bankrupt they can enter into a Fast Track Voluntary Arrangement (FTVA). An FTVA works in a similar way to an IVA but the supervisor must be the official receiver.

(The) Insolvency Service – A branch of BIS that employs Official Receivers to administer and investigate bankruptcies and compulsory liquidations, to administer DROs and to supervise FTVAs. It is therefore an executive branch of BIS.

Interim Order – An order of the Court for a short period, pending a final outcome. An example is an order giving a moratorium for a debtor who is intending to make a proposal for an IVA.

Judgment – Order of the Court in a civil or criminal proceeding.

Judgment Creditor – A creditor who has a judgment and who can enforce execution (usually by a bailiff) under the judgment as a result of the Court's decision.

Lease –A contract granting use or occupation of property during a specified period in exchange for a specified rent.

Leasehold – The right to an estate or interest held under a lease

Moratorium Period - A length of time during which the debts owed by a debtor are protected from the claims and actions of their creditors. Creditors cannot continue or commence legal action against the debtor for repayment of these debts, without leave of the Court. After the moratorium period has come to an end, these debts would usually be discharged. If the moratorium period is terminated by the Court or the Official Receiver, the debtor will again be subject to the actions of their creditors.

(The) Official Receiver – An officer of the Court and civil servant employed by The Insolvency Service, who administers and investigates bankruptcies and compulsory liquidations, and administers DROs and FTVAs.

Preferential Creditors – Certain unsecured creditors, in bankruptcy and liquidations, who receive priority payment over other unsecured creditors in the event of a distribution.

Qualifying Debts- A list of the debts that have been scheduled in an application for a Debt Relief Order. Please refer to the guidance notes as to the definition of a qualifying debt.

Revocation Of Debt Relief Order- This is the process whereby the Official Receiver or Court, may terminate a Debt Relief Order.

(The) Secretary of State – A cabinet minister at the head of a Government Department who has vested statutory powers to carry out the business of the department they administer.

Secured Debts- A debt that entitles the lender to take possession of a specified piece of property if the debtor cannot repay the secured debt. An example would be a mortgage, whereby a house is considered collateral (an asset) towards the debt. If a debtor defaults or fails to meet one of the terms of repayment, the bank may seize the house to sell, using the proceeds to settle the debt.

Secured Creditors – Creditors who have a specific claim over one or more of the debtor's assets, such as a mortgage or charge over a house.

Unencrypted Electronic Format

Unencrypted is something that has not been encrypted, which means: to alter a file for example using a secret code so as to be illegible to unauthorised parties.

Undischarged Bankrupt – A debtor who is currently subject to a bankruptcy order and its restrictions.

Unsecured Creditors – Creditors who do not have a specific claim over the debtor's assets for all or part of the sum owed to them. Some unsecured creditors may be preferential or judgment creditors.

Unsecured Debts – Debts that do not identify specific assets that the creditor is entitled to where the debtor fails to meet the terms of repayment (or defaults), such as bank loans, credit cards, unpaid utility bills, income tax and any shortfall to secured creditors, once the value of their security is taken into account. Only unsecured debts are qualifying debts for a DRO, but not all unsecured debts will be qualifying debts (see qualifying debts).

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