

Debt Relief Order Newsletter – February 2010



Help available 9am to 5pm
Monday to Friday



Web Application Issues & Funding

The Insolvency Service wishes to reassure intermediaries that the concerns that they have raised regarding certain aspects of the DRO Web Application have been noted and are considered a high priority issue by senior management within the Insolvency Service.

Intermediaries will no doubt be aware that every capital budget is under pressure and the Insolvency Service is no exception, as with all government departments. However the Service sees that addressing the genuine concerns of intermediaries regarding the DRO Web Application, as a priority issue and is currently trying to establish the necessary funding to enable the required upgrades to take place.

As soon as the funding that is required is in place, the Insolvency Service will ensure that the necessary steps are taken to expedite the required work, and in the interim, intermediaries forbearance with the issues that have been raised is essential to the continued success of the Debt Relief Order solution, that has already provided a much needed solution to some 14,000 individuals.

Excluded debts – 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.

Signed DRO Application

Since the commencement of the Debt Relief Order (DRO) process, it has been a requirement that the debtor must submit a signed hard copy of their DRO application to the Insolvency Service DRO Unit.

Please note that with immediate effect it is no longer necessary for intermediaries, or the debtor, to send the DRO Unit the full version of the signed application.

All that is now required from the intermediary/debtor is one page, the **“Signed Submission Form”**.

Upon receipt of the Signed Submission Form, this document will be scanned to the DRO Unit electronic filing system and sit alongside an electronic pdf version of the full DRO application.

Capital One

The DRO Unit receives substantial correspondence from Capital One seeking details of their “16 digit number” shown on the front of their cards and at the top of their monthly statements. The DRO Unit can only provide Capital One with the details submitted by the debtor and this applies to all creditors. Could intermediaries try and ensure that when Capital One are scheduled as a creditor, that the debtor provides their 16 digit number, as this will avoid the debtor receiving ongoing requests for payment.

Educational liabilities

University hostel fees are qualifying debts for the purposes of a DRO application and must be scheduled in any such application. However debtors do need to be aware that some educational establishments may, depending upon their Policy and Conditions, not permit a student to re-enrol if there is any outstanding indebtedness on the part of the student.



Debtor feedback

The DRO Unit receive regular feedback from debtors and the following, are issues that appear to be causing the most concern for these individuals:

- Debtors often say that they were unaware that the **DWP** would be entitled to continue to collect an overpayment of benefits, by way of deductions from ongoing benefits.
- Debtors also report that they were not informed that **rent arrears** would need to be dealt with, should they wish to continue to reside in their rented accommodation.
- The receipt of **ongoing correspondence** from creditors also seems to be an issue causing anxiety to some debtors.

Continued contact from creditors was covered in the December 09 DRO newsletter. The payment of rent arrears (which is a qualifying debt) and the recovery of overpayment of benefits by the DWP are covered in the intermediary guidance notes, at page 7.

Could intermediaries please ensure that they are fully conversant with these issues and make the debtor's position in this regard, quite clear when processing DROs.

Account balances

Debtors and intermediaries need to ensure that the balances scheduled in an application must be as accurate as possible, as failure to do so could potentially lead to the revocation of the order

County Court Judgements

Where a creditor has obtained a judgement, it is not good practice to schedule the Court in which the judgement was obtained, as the creditor in the DRO application. Every effort should be made to ascertain who the judgement creditor is, by contacting the Court if necessary and scheduling the actual creditor and their address and reference, rather than merely using the Court and judgment number.

Credit Union Shares

Please note that where a debtor holds Shares with a Credit Union, these shares must be considered when assessing the debtors gross asset position. Therefore if the value of the shares held in a share save scheme either separately or in combination with other assets, exceed the asset parameter for DROs, then the debtor would not be eligible.

Joint and Several liability

The DRO Unit would like to reiterate that where a joint debt is scheduled in a DRO application and is one of joint and several liability, the moratorium period will only relate to the person subject to the DRO and the creditor will be able to seek remedy against the ostensibly solvent partner for the full sum outstanding.

Administration Orders

If a debtor is the subject of an administration order under Part 6 of the County Courts Act 1984, any such order would cease to be in force once the debt relief order is made, therefore any creditors scheduled in an administration order must, where they are qualifying debts, be scheduled as creditors in a DRO application.



They work with the Insolvency Service



Creditors Account Numbers and References

The subject of creditor account numbers and references has been raised previously and the purpose of this item is to reiterate that it is in the debtors' interest to make as much effort as possible to provide an identifiable reference for creditors.

In the case of mobile phone contracts, telecommunication companies have advised that if a reference is not available then the telephone number in question would enable them to trace an account.

The provision of accurate data will ensure that the debtor is able to minimise the worry and concern caused by continued demands for payment, often as a result of creditors being unaware of the making of a DRO, due to their inability to trace an account upon receipt of the Official Receiver's notification of an order.

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.

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.

Amount outstanding

Some creditors have advised that the amounts that are being scheduled in DRO applications as being owed, are often the "due now figure" instead of the full amount due under buy now pay later options.

This also applies to mobile phone contracts where the whole sum owing for the period of the contract is often not scheduled, with debtors often merely scheduling a missed monthly payment. Therefore enquiries should be made in order to ascertain the full sums due under any contract that the debtor has entered in to, as it will only be the sum scheduled in the order that will be discharged at the end of the moratorium period.