

Debt Relief Order Newsletter – December 2009



Help available by phone, face to face and online



The voice of independent advice



Payment of DRO Fee

A number of DRO applications continue to be cancelled due to the late payment of the £90 fee. The debtor must pay the application fee on the day of submission or before, in order to ensure that the funds are received by the Insolvency Service Finance Department within the 10 day timeframe. Page 47 of the intermediary guidance notes refers:

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.**

Scheduling creditors with a nil balance

A number of applications have been received whereby creditors have been input with a nil balance owing. The Insolvency Service will in due course install an IT fix to prevent a nil balance being entered, however in the interim, could intermediaries please ensure that they do not use nil balances and if a creditors details are entered in error then please use the delete button.

Motor Vehicles

The DRO unit would like to remind intermediaries that the exemption of motor vehicles from being classed as assets, if their value is below the current threshold of £1000, applies only to a **single domestic motor vehicle** belonging to or vested in the debtor.

TV Licence Liability

A Television Licence is required by law if someone intends to use a TV, and this is covered in the Communications Act 2003 and the Communications (Television Licensing) Regulations 2004 (as amended). Outstanding sums due to the TV Licensing Authority at the time of application for a DRO do not constitute a qualifying debt, as they are comprised of a statutory fee required to be paid in advance by a person to install or use a television receiver.

Reduction of liabilities to meet parameter

Whilst the reduction of liabilities to meet the DRO parameter is not necessarily in contravention of the legislation, intermediaries need to be alert to any such action and ensure that they review any such transactions for preferential payments to individual creditors. Similarly if a debtor borrows money from family or friends to use in reduction of their indebtedness, advisors should be aware that loans from family or friends are unsecured debts and should be scheduled in any DRO application. Therefore the subrogation of debts to friends or family does not in fact reduce the debtors overall indebtedness. There is of course nothing to prevent a 3rd party using their own funds to reduce a debtor's liabilities, provided that the funds do not have to be repaid by the debtor.

Web App Data Input

The DRO Unit would like to point out that whatever an intermediary types into the Web Application, regarding the debtor's name/s and address/s will appear on the e-IIR. Therefore standard typing protocols should apply with regards to the capitalisation of names and addresses and if you type "none" as a middle name, this will appear as the debtor's middle name.



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Continued creditor contact with the debtor

Upon the making of a DRO the Official Receiver will make immediate contact with the qualifying creditors scheduled in the DRO application, however debtors should be advised that they may continue to receive correspondence from their creditors subsequent to the making of their DRO. Some creditors may continue to contact the debtor in order to comply with the Consumer Credit Act, however other creditors may for whatever reason be unaware of the making of the order and therefore the debtor should contact the said creditors and advise them of the making of the order, providing them with their DRO number and the date the order was made. The Official Receiver will consider intervening should there be any evidence of harassment and bullying on the part of the creditor.

Personal Injury Right of Action

Members of the advice sector who deal with bankruptcy, will be aware that a right of action relating solely to a claim for personal injury, does not vest in a trustee in bankruptcy. However the fact that a right of action does not vest in a trustee in bankruptcy, does not mean that a "right of action" is not property within the meaning of the legislation and therefore any such claim is an asset and would need to be declared when considering applying for a Debt Relief Order. The value of the claim should be determined with reference to the debtor's legal advisor. If the claim cannot be quantified, it is suggested the debtor seeks legal advice to value the claim before proceeding with the DRO application.

Web Application Error Issues

Until recently the DRO Unit have never had access to the Web Application in order to be able to fully understand how errors were being created in DRO applications. However the Unit has recently been provided with access to a DRO Web Application training database.

As many intermediaries will be aware one of the problem areas has been the use of the creditor page and therefore experienced DRO administrative staff have been trying to replicate some of the errors that have arisen during the completion of applications, such as duplicated creditors and creditors reportedly dropping off. The Unit has been able to replicate these data input errors and will issue further guidance separate to this newsletter, however the key message is that intermediaries **must** please check a hard copy of the application for errors and omissions prior to submission to the Insolvency Service, thank you.

Season Greetings

All of the staff at the Debt Relief Order Unit would like to wish all intermediaries, their colleagues and families a very Happy Christmas and sincere best wishes for 2010, when we all look forward to continuing to develop the very good partnership that has already been established.



Current Insolvency Proceedings

To clarify "Are you currently subject to formal insolvency proceedings?" means "**Current**" insolvency proceedings. Former proceedings should be recorded under the fourth question on the Insolvency History page