



## Persons at Risk of Violence Orders for DROs

When a client enters an insolvency procedure, either through the approval of a Debt Relief Order (DRO), the making of a bankruptcy order or Individual Voluntary Arrangement (IVA) their address will normally be made available online via the [Individual Insolvency Register \(IIR\)](#).

However, [Part 20.1 of the Insolvency \(England and Wales\) Rules 2016](#) (IR 2016) confirms that the debtor can apply for a Persons at Risk of Violence (PARV) order to withhold the debtor's current address (both residential and where the debtor carries out business) from the IIR where the following applies:

*“20.1.—(1) The rules in this Part apply where disclosure or continuing disclosure of the current address or whereabouts of a debtor to other persons (whether to the public generally or to specific persons) might reasonably be expected to lead to violence against the debtor or against a person who normally resides with the debtor as a member of the debtor's family.”*

This Spotlight will consider PARV applications for DROs. Similar rules apply for bankruptcy and IVAs within Part 20 of the IR 2016. It updates the position for DROs detailed in Marina Gallagher's two excellent articles published in Adviser 142

“Bankruptcy, DROs and IVAs - Address Withheld Orders” and Adviser 177 “Person at risk of violence orders”, both of which are gratefully acknowledged as key reference resources for this Spotlight. Since the latter Adviser article was published, the Insolvency Rules, Insolvency Practice Direction, application form and fee have all been updated.

Under [Rule 20.4](#) IR 2016, a PARV application can be made before the DRO is approved. This offers an important protection to the debtor; in the unlikely event that the court refuses the application they retain the option of choosing not to proceed with the DRO, thus preventing their address from being published. Whilst it is possible to submit a PARV application once a DRO has been approved under [r 20.6](#), if it is refused the debtor’s address will be published on the IIR. This risk is avoided by obtaining a PARV prior to the submission of the DRO application.

### **The application**

The correct procedure for PARV applications is contained in [paragraph 16.1](#) of The Insolvency Practice Direction (IPD) within the Civil Procedure Rules.

Paragraph 16.1(1) provides that the relevant PARV application should be accompanied by a witness statement which includes the following:

*“(1) The grounds upon which it is contended that disclosure of the current address as defined by rule 20.1 might reasonably be expected to lead to violence against the debtor or a person who normally resides with them as a member of their family or where appropriate any other person.”*

### **Witness evidence**

Marina Gallagher notes at page 36 of her Adviser 177 article *“the test (now under Rule 20.1(1)) is not reasonable risk of violence but reasonable expectation of violence which is a higher test and so will need to be evidenced with specific examples of previous conduct on the part of the other person.”* The key to a strong PARV application will therefore be the witness evidence to persuade the court that the test under Rule 20.1(1) is met. The article has a useful example of applicant witness evidence on page 45.

The template [form 20.4](#) refers on page 2 to the requirement for a separate witness statement, rather than witness evidence within the application itself (as previously required on form 7.1A). For further guidance on drafting witness statements, see the SDAS resource 'Dealing with Judgment Debts' accessible via the IMA website resources directory.

In addition to the applicant's witness evidence it will be important to gather as much supporting evidence as possible to persuade the court that the test in Rule 20.1 is met. This could be witness statements from family members or friends, or reports or letters from professionals; such as the police, solicitors, doctors, counsellors, social workers or support services. If no such supporting evidence is available an application could be made solely on the client's witness statement.

### **Include a draft of the requested order**

Paragraph 16.13 of the IPD requires a draft of the order is included in the application unless impracticable. Form 20.4 helpfully contains the wording of the draft order as follows:

(that the applicants address)

*"be omitted from: -*

- (i) any part of the court file of my debt relief proceedings which is open to inspection,*
- (ii) my identification details required to be entered on the individual insolvency register under [Rule 11.18](#); and where there is a requirement in the Insolvency (England and Wales) Rules to identify me, that my identification details must not include my current address."*

Notes in the left margin of form 20.4 suggest applicants can optionally provide details of previous addresses and request that the court includes these in the order. In fact, this is not optional. Paragraph 16.1(2) of the IPD requires proposals for information, which may safely be given to potential creditors to enable identification of the debtor as a person who may be indebted to them, in particular the debtors previous residential or business address (and the nature of such business).

This is to satisfy Rule 20.4(5) under which the court may further order alternative address details to be entered on the IIR.

### **The appropriate form**

Completed correctly, template [Form 20.4](#) it should ensure the application meets all the requirements under Rule 20.4. However, advisers have reported that some court centres prefer applications to be made on [Form IAA](#).

Either form could be used provided the application complies with requirements under Rule 20.4 and paragraph 16 of the IPD. It is advisable to check with the court receiving the application which form they would prefer before filing.

There is no template form for applications made after a DRO is approved under Rule 20.6. Such applications should be made on form IAA.

### **The fee**

If there are no court proceedings (likely to be the case for a DRO application) the current fee for PARV applications is £280.00 (See fees order 3.5 and page 10 of the [EX50 Civil and Family Court Fees](#)).

There is no longer a lower fee for applications made with consent where there are no existing proceedings.

The remission rules detailed in the [EX160A 'How to apply for help with fees'](#) document apply. We have heard reports of courts agreeing to waive PARV application fees even where the client does not qualify under the EX160A rules. Check with the client's local court.

### **Consent of the DRO Team**

The IPD does not refer to obtaining consent for DRO PARV applications (unlike for bankruptcy and IVAs at para 16.1 (4)). The DRO Team have also confirmed that their consent is not mandatory.

However, it is still advisable to request written consent from the DRO Team, explaining that this may increase the likelihood that the application is processed without a court hearing. This can then accompany the PARV application.

### **Filing and consideration of the application**

The application may be filed at the client's nearest county court hearing centre with insolvency jurisdiction. However, paragraph 16.3 of the IPD confirms applications are: *"referred to a District Judge Sitting in a District Registry, ICC Judge, or High Court Judge to be considered without a hearing in the first instance but without prejudice to the right of the Court to list a hearing if:*

*(1) the Court is not persuaded by the written evidence, and consequently may refuse the application;*

*(2) the consent of any respondent is not attached; (not required for DROS) or*

*(3) the Court is of the view that there is another reason why listing is appropriate."*

It is unlikely applications will be listed for a hearing, but it is important note that if they are there is no provision in the IPD for the proceedings to be transferred to the debtor's home court. The debtor should therefore be advised before filing, that if a hearing is listed, they will have to attend at the District Registry or specialist court which deals with the application which may not be particularly local to them.

For detailed provisions on allocation and specific locations of District Registries and specialist courts see [IPD paras 3.6 & 3.7](#) and [Practice Direction 57AA – Business and Property Courts para 4.1](#).

If the court makes the PARV order it can then be provided to the DRO Team when the DRO application is submitted. The box should be ticked on the DRO application indicating that the debtor wishes for their address to be withheld.

If the court refuses the application the client could consider an appeal (and should seek further specialist advice) or a debt solution other than insolvency.

### **DRO Team protocol**

The DRO Team is drafting a new protocol to help ensure debtors who indicate when submitting DRO applications that they wish to apply for a PARV, do so before the DRO application is approved. The DRO Team have also confirmed that guidance will be issued to competent authorities in due course.

In the meantime, the DRO Team has said that if they receive a DRO application where the PARV box has been ticked, they will approve the DRO and withhold their current address details from the IIR. They will then send a notice to the debtor advising they must apply for a PARV.

### **Support and advice from SDAS**

Whilst we have only heard of one PARV application being refused (reportedly the debtor was embarrassed about her debts rather than in expectation of violence) it must be acknowledged that the stakes for clients at risk of violence could not be higher if a potential perpetrator learned of their current address. The fact of address publication and the option of a PARV application should be discussed with every client contemplating insolvency. Given the importance that applications are prepared correctly we would encourage advisers to seek advice and assistance checking draft PARV applications from our service.