

<b>Title:</b> Changes to Debt relief order criteria <b>IA No:</b> BEIS023(F)-21-INSS <b>RPC Reference No:</b> RPC-BEIS-IA-5063(1) <b>Lead department or agency:</b> Insolvency Service (Exec agency of BEIS)	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 31/03/2021
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
	<b>Contact for enquiries:</b> Faisal Samih: Faisal.Samih@insolvency.gov.uk Hamish Hore: Hamish.Hore@insolvency.gov.uk
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> GREEN

**Cost of Preferred (or more likely) Option (in 2019 prices)**

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
-12.3	-79.0	9.2	

**What is the problem under consideration? Why is government action or intervention necessary?**

The eligibility criteria for entering a Debt Relief Order (DRO) have not changed since 2015. As a result, many individuals that would be expected to be eligible for this type of debt relief cannot obtain one, as their debt, assets and/or surplus income are above the current monetary eligibility criteria for DROs. Alternative debt relief options, designed for more complex cases, are a disproportionate solution for people whose affairs are relatively straight forward, and often have few or no assets, nor surplus income to repay creditors.

This gap in the market will become more pronounced with the introduction of the new 'Breathing Space' in May 2021, which will provide professional help to an estimated 700,000 individuals in its first year<sup>1</sup>, some of which will flow into increased demand for DROs. Government intervention to amend the DRO monetary eligibility criteria is a timely response to ensure more people in financial distress have access to a proportionate debt solution at a time when household indebtedness is rising.

**What are the policy objectives of the action or intervention and the intended effects?**

The aim of this policy is to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief. As with any debt relief solution it is important to balance the interest of both creditors (those that are owed money) and debtors (those who owe money). This proposal aims to do this by ensuring that those debtors that have little or no ability to repay their creditors are able to obtain access to a form of appropriate and proportionate debt relief.

The policy will be achieved by using secondary legislation to amend eligibility thresholds found in primary legislation – the Insolvency Proceedings (Monetary Limits) Order and Insolvency (England and Wales) Rules. It will enable more people to access DROs and obtain debt relief. The impact of this will be that more people with low surplus income, assets and minimal debts, in financial distress, are able to make a 'fresh start' by falling within the scope of the revised monetary eligibility criteria.

<sup>1</sup> <https://www.gov.uk/government/news/breathing-space-to-help-millions-in-debt>

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

**Option 1: Do Nothing:** This would mean that some financially distressed individuals with no prospect of being able to pay their creditors would continue to not have access to appropriate debt relief.

**Option 2: Non-regulatory option:** One option is to increase awareness and use of DROs. However, compared with legislative change, the monetary limits will still act as a barrier to those with debts of between £20,000 and £30,000, surplus income between £50-£75, assets and motor vehicles valued between £1,000 and £2,000 each. Another alternative is for the Government to work with creditors to encourage increased use of forbearance, however this is not a long-term solution and does not provide the desired debt relief to those who need a fresh start.

**Option 3: Preferred option:** The preferred option is to introduce new measures via secondary legislation. This is the preferred and only option to achieve the policy objective; to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 06/2026

Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> n/a	<b>Non-traded:</b> n/a	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible:



Date:

15/04/21

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2020	PV Base Year 2021	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -20.1	High: -7.2	Best Estimate: -13.6
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)
Low	0.0	1	10.3	88.9	
High	0.3		11.8	101.8	
Best Estimate	0.1		11.1	95.3	
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
<ul style="list-style-type: none"> <li>- Familiarisation costs for competent authorities include costs to train staff, disseminating information and to update any processing systems; <b>£0.13m</b></li> <li>- Cost to competent authorities from increased Debt Relief Order demand; <b>£3.7m</b></li> <li>- Cost to creditors from individuals able to access debt relief, where no distribution is made to creditors; <b>£5.6m</b></li> <li>- Insolvency Practitioners (IP) are involved in certain procedures and charge fees to cover their remuneration. The only IP led procedure impacted by the measure is the Individual Voluntary Arrangement (IVA). There is potential that some debtors would now enter a DRO rather than an IVA, resulting in a <b>£0.8m</b> loss of IP fee income.</li> <li>- Total cost to Government creditors from individuals able to access debt relief; <b>£0.9m</b> (Non-business impact)</li> </ul>					
<b>Other key non-monetised costs by 'main affected groups'</b>					
- None					
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)
Low	0.0	0	9.5	81.7	
High	0.0		9.5	81.7	
Best Estimate	0.0		9.5	81.7	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
<ul style="list-style-type: none"> <li>- Benefit to debtors through cost savings from receiving a low-cost debt write off; <b>£0.4m</b> (Non-business impact).</li> <li>- Benefit to debtors from retaining money that otherwise would be distributed to creditors: <b>£7.4m</b> (Non-business impact). This is a transfer as the benefit to consumers is offset by the cost to creditors and therefore it is net present value neutral.</li> <li>- The costs and benefits to the Insolvency Service result in a net benefit; <b>£1.7m</b> (Non-business impact)</li> </ul>					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
<ul style="list-style-type: none"> <li>- Creditors incur costs from dealing with defaulting debtors such as issuing notices, demands or by using specialist collection agencies. Pursuing debtors through the court system is also a significant cost to creditors. Therefore, writing off debt in low asset, debt and surplus income cases can result in a net benefit for creditors.</li> <li>- Improved access to debt relief will provide improved social outcomes. There are associations between financial distress and productivity, relationships, physical and mental health.</li> </ul>					
<b>Key assumptions/sensitivities/risks</b>				<b>Discount rate (%)</b>	3.5
<ul style="list-style-type: none"> <li>- There is a risk that the increase in demand for DRO applications is larger than expected resulting in a need to increase the current capacity of competent authorities. This funding risk has been mitigated to an extent by the additional £38 million for debt advice that has already been provided.</li> <li>- A review of the eligibility changes in 2015 found that the expected cases that would now enter DRO that previously would have entered debtor bankruptcy was negligible and consequently there is a risk that people do not behave as expected. This risk has been mitigated by assuming a small proportion, 25%, enter a DRO rather than debtor bankruptcy, to reflect our efforts working with the sector.</li> <li>- There is a risk of moral hazard; by making it is easier for individuals to rid themselves of problem debts may lead to individuals borrowing more recklessly. The Insolvency Service thinks the risk of this is low, since the Insolvency Service management information shows there are low levels of abuse. This concern was raised when DROs were introduced in 2009 and we are not aware of any evidence linking reckless borrowing with the availability of DROs.</li> </ul>					

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:

<b>Costs: 10.2</b>	<b>Benefits: 0.0</b>	<b>Net: 10.2</b>	<b>Score for Business Impact Target (qualifying</b>
			45.9

## Problem under consideration and rationale for intervention

1. The changes to the legislation are to ensure that the most financially distressed consumers with debt problems can access a proportionate solution to obtain debt relief and enable them to make a fresh start. To achieve this objective, the Government proposes that changes be made to the monetary eligibility criteria for DROs.
2. Individuals with problem debt have a range of options to deal with their debts. These are described below and fall into two types: formal (statutory) and informal solutions.

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

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

4. DROs were introduced in 2009 and were aimed at providing debt relief to individuals in financial difficulty with low levels of debt, assets and surplus income. For this group, which has no prospect of being able to make any returns to creditors, bankruptcy, would be a disproportionate response. The monetary eligibility criteria to obtain a DRO were set in 2009: debts needed to be under £15,000, assets needed to be under £300 with no/little surplus income, which needed to be under £50. These were subsequently amended in 2015<sup>2</sup> increasing the debt level to £20,000 and assets to under £1,000. The Government recently consulted<sup>3</sup> on changes and there was support to extend the limits further.
5. The DRO process starts with an application processed by an “authorised intermediary<sup>4</sup>” working for one of the competent authorities<sup>5</sup> authorised by the Secretary of State. Once approved the DRO will commence. Lasting 12 months, there is a “Moratorium period”, where creditors cannot take enforcement action. After this period if the individual’s financial position has not improved the debts in the DRO are written off.
6. The debt relief provided by DROs has wider social and economic impacts and these are explored in the cost benefit analysis section. Academics and the debt advice sector have identified associations between financial distress and stress and anxiety (and other mental health issues), relationship problems, and the consequential detrimental impact on the family. These additional social costs of indebtedness can be ameliorated by Government intervention.
7. Debt Relief Orders for individuals with relatively straightforward affairs have advantages over other forms of debt relief, such as debtor bankruptcy. They offer a more proportionate way to write off debt in low asset, debt and surplus income cases enabling individuals to make a fresh start at a lower cost.
8. Alternative debt relief solutions can be a costly way to recover low level debts. Some will involve a judicial process, and in cases taken on by insolvency practitioners (where there are sufficient assets to realise) their fees.
9. Creditors should only be incurring recovery costs if the value of debt to be recovered exceeds the costs of collection. However, in low asset, debt and surplus income cases the actual debt recovered is likely to be very small and may exceed the cost of recovery. Therefore, as a tool for returning money to creditors, in low asset, debt and surplus income cases alternative debt relief solutions are largely ineffective.
10. There is a gap in the market: a group of debtors who cannot repay their debts (because they have too few assets or too little surplus income) or access a proportionate debt relief solution. Creditors have little or no incentive to bring bankruptcy proceedings as there are few assets. Raising the DRO limits through Government intervention will address this gap and help this group of debtors.

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<sup>2</sup> [https://www.legislation.gov.uk/ukia/2015/205/pdfs/ukia\\_20150205\\_en.pdf](https://www.legislation.gov.uk/ukia/2015/205/pdfs/ukia_20150205_en.pdf)

<sup>3</sup> <https://www.gov.uk/government/consultations/debt-relief-orders/debt-relief-orders-consultation-on-changes-to-the-monetary-eligibility-criteria>

<sup>4</sup> DRO applications are made through authorised intermediaries. These are highly trained debt advisors funded and authorised by competent authorities.

<sup>5</sup> A competent authority is a body designated by the Secretary of State as having the power to authorise intermediaries. <https://www.legislation.gov.uk/uksi/2009/457/contents/made>

11. This gap in the market will become more significant in the future given the introduction of the new 'Breathing Space'<sup>6</sup> in May 2021 which will give those in problem debt a 60 day stay of enforcement activity so that they can consider the best debt solution. In the first year this new process is forecast to help over 700,000 people to get professional debt advice<sup>7</sup>. This will lead to higher demands for debt advice, some of which will flow into increased demand for DROs.
12. During 2019 there were 27,179 debt relief orders across England and Wales<sup>8</sup>. Although the numbers in 2020 were 20,321, down by 25%. This coincides with fiscal and other measures taken by the Government and creditors as a result of the coronavirus pandemic. For example, forbearance has been used extensively to support consumers and since the start of the pandemic the financial sector has granted over 4.4 million payment deferrals across mortgages, credit cards and personal loans<sup>9</sup>.
13. Fewer DROs in 2020 coincides with lower volumes of debt advice, suggesting current government measures are still having an effect<sup>10</sup>. However, financial difficulty has been building up for many UK households and the problem has been exacerbated by the impact of the pandemic<sup>11</sup>. In August 2020 Citizens Advice estimated that 6 million UK adults had fallen behind on at least one household bill during the pandemic, with 1 in 5 of those who have fallen behind on their bills unable to afford essentials<sup>12</sup>. The Money and Pensions Service<sup>13</sup> (MaPS) expects the demand for debt advice to increase substantially by the end of 2021 and the Government has responded by funding an additional £38m to the debt advice sector which will ensure 1 million more people in England get debt advice in the next 12-18 months. Some of this advice will flow through into increased demand for DROs.
14. Overall, considering the gap in the market, the current economic environment and the upcoming implementation of Breathing Space, changes to DRO eligibility criteria are a timely response to ensure more people in financial distress have access to a proportionate debt solution.

## Policy objective

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

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<sup>6</sup> <https://www.gov.uk/government/news/breathing-space-to-help-millions-in-debt>

<sup>7</sup> <https://www.gov.uk/government/publications/breathing-space-impact-assessment>

<sup>8</sup> <https://www.gov.uk/government/statistics/individual-insolvency-statistics-october-to-december-2020>

<sup>9</sup> <https://www.ukfinance.org.uk/covid-19-press-releases/lenders-continue-to-support-customers-through-covid-19>

<sup>10</sup> <https://www.stepchange.org/policy-and-research/personal-debt-statistics-in-the-uk/coronavirus-september-2020.aspx>

<sup>11</sup> <https://www.stepchange.org/policy-and-research/debt-research/covid-debt-2020.aspx>

<sup>12</sup> [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Excess%20Debts\\_who%20has%20fallen%20behind%20on%20their%20household%20bills%20due%20to%20coronavirus%20plus%20methodology\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Debt%20and%20Money%20Publications/Excess%20Debts_who%20has%20fallen%20behind%20on%20their%20household%20bills%20due%20to%20coronavirus%20plus%20methodology).pdf)

<sup>13</sup> <https://moneyandpensionservice.org.uk/2020/06/09/extra-38-million-for-debt-support-in-england-in-the-wake-of-coronavirus/>

16. This will be achieved through changes to the DRO monetary eligibility criteria made to secondary legislation. A logic model for the policy intervention can be seen below:

Figure 2: Logic model of the policy change

<b>Context</b>	<b>Inputs</b>	<b>Outputs</b>	<b>Outcomes</b>	<b>Impacts</b>
<p>DROs were introduced in 2009 as a form of personal debt relief. Changes to eligibility criteria were last made in 2015.</p> <p>The aim of this policy is to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief</p>	<p>Changes to eligibility criteria made via secondary legislation</p>	<p>More people can access DROs as a form of debt relief; both from debtor bankruptcy and (particularly) from people able to access a DRO for the first time through debt advice</p>	<p>More people use DROs as a form of debt relief. Both from debtor bankruptcy and from people able to access a DRO for the first time through debt advice</p>	<p>Provides debt relief and eliminates the gap in the market allowing more people to make a 'fresh start'. This would bring wider societal &amp; economic benefits</p> <p>Some cost will be incurred by business through loss of creditor returns and the cost of administrating the new policy.</p>

17. The DRO procedure was introduced in 2009 to provide a low-cost form of debt relief, as an alternative to debtor bankruptcy. The government has a duty to make sure that the regime works as intended and if any changes need to be made to ensure it is achieving its objectives.

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

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

## **Description of options considered**

### **Do Nothing**

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

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

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



22. In the absence of regulation, an alternative could be to increase awareness and use of Debt Relief Orders. However, compared with regulation, DROs would still not be available to the group of debtors who cannot repay their debts (because they have too few assets or too little surplus income) or access a proportionate debt relief solution. Consequently, it would not achieve the policy objective of giving more people access to suitable debt relief.
23. For an individual to enter a DRO they must first receive debt advice through intermediaries working for one of the competent authorities recognised by the Secretary of State and authorised to process DRO applications. Increased provision of debt advice can potentially support more individuals to access low cost debt relief through DROs.
24. The MaPS has set out a UK Strategy for Financial Wellbeing<sup>14</sup>. One of the national goals is to get 2 million more people per year accessing debt advice by 2030. In the wake of the Covid-19 pandemic MaPS expects the demand for debt advice to increase substantially by the end of 2021<sup>15</sup>, and in June 2020 MaPS received an additional £38m to fund debt support. This will ensure 1 million more people in England get debt advice in the next 12-18 months. An initial £16m of this has been used in 2020/21 to increase debt advice capacity by recruiting and training debt advisors<sup>16</sup>.
25. This significant increase in demand and provision of debt advice, may lead to an increased number of DROs. However, this will only service additional demand at current eligibility levels and will not address those above the monetary eligibility criteria and the gap in the market identified. Furthermore, those receiving advice may not necessarily enter DROs. Therefore, an alternative regulatory option would be more suitable to meet the desired policy objective.
26. In addition, simply raising awareness will not necessarily lead to individuals entering the best solution for their circumstances.
27. The Insolvency Service conducted an internal review of the DRO changes implemented in 2015. It concluded that the policy met the desired policy objectives. However, considering the current economic environment and the upcoming implementation of Breathing Space, government has consulted<sup>17</sup> and concluded that the time is right for a further increase in the eligibility criteria.
28. The review analysed Insolvency Service Management Information on bankruptcies for financial years 2016-19. This showed that following the changes to DRO eligibility in 2015, 13% of debtor bankruptcy cases remained eligible for a DRO but entered debtor bankruptcy instead. The impact assessment had assumed these cases would enter a DRO rather than debtor bankruptcy. This shows that individuals do not necessarily enter the most appropriate solution given their circumstances.

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<sup>14</sup> <https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/01/UK-Strategy-for-Financial-Wellbeing-2020-2030-Money-and-Pensions-Service.pdf>

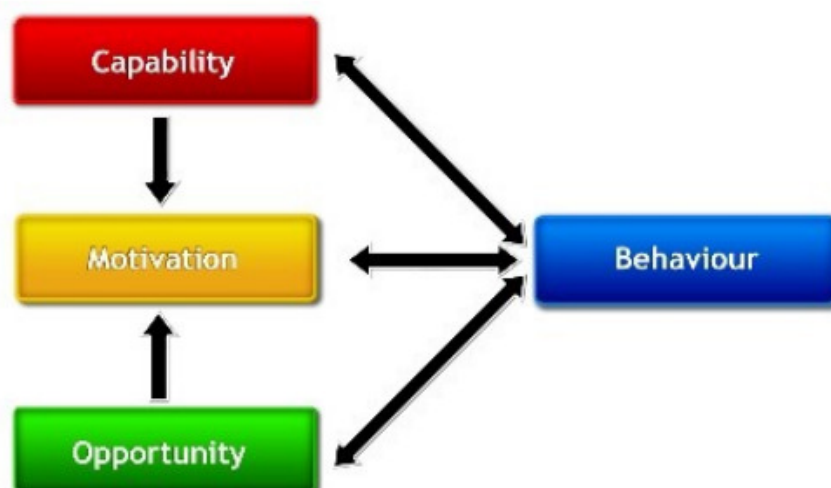
<sup>15</sup> <https://moneyandpensionsservice.org.uk/2020/06/09/extra-38-million-for-debt-support-in-england-in-the-wake-of-coronavirus/>

<sup>16</sup> <https://www.moneyandpensionsservice.org.uk/debt-advice-funding/>

<sup>17</sup> <https://www.gov.uk/government/consultations/debt-relief-orders/debt-relief-orders-consultation-on-changes-to-the-monetary-eligibility-criteria>

29. Behavioural change techniques<sup>18</sup> could be used to encourage individuals to use the best solution. One technique could be to use the COM-B model (figure 3) to identify the behaviour you seek to change and ascertain what will bring about the change through changes to the target group's Capability, Opportunity and Motivation to engage in that behaviour.

Figure 3: COM-B model of behaviour



30. However, even if this approach is successful, only a small number of individuals would stand to benefit, meaning an alternative regulatory option would be more suitable to help those with low debts, assets and surplus income to make a fresh start.
31. Aside from raising awareness, the Government could work with creditors to encourage increased use of forbearance. There is a regulatory requirement to provide forbearance in personal finance agreements and this comes under the purview of the Financial Conduct Authority (FCA)<sup>19</sup>. The FCA has acted to provide additional forbearance to those impacted by the Covid-19 crisis. However, forbearance is not a long-term solution and does not provide the desired debt relief to those who need it. Therefore, a regulatory alternative is necessary to achieve the policy objective.

## Option 2: Regulatory option (preferred)

32. Considering the gap in the market, the current economic environment and the upcoming implementation of Breathing Space the Government has concluded that the time is right for a further increase in the eligibility criteria.
33. Therefore, the second option is to increase the monetary eligibility criteria to access a DRO via secondary legislation. This is the preferred and only option to achieve the

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<sup>18</sup> <https://www.gov.uk/government/publications/behaviour-change-guide-for-local-government-and-partners>

<sup>19</sup> <https://www.fca.org.uk/news/statements/fca-announce-further-proposals-support-consumer-credit-borrowers-impacted-coronavirus>

policy objective. More people in financial distress, with low surplus income, low assets and low debts, can access a proportionate debt solution to obtain debt relief if this option is taken forward, addressing the gap in the market identified.

34. The Insolvency Service consulted<sup>20</sup> on changes to the monetary thresholds to Debt Relief Orders. Overall the Insolvency Service received 148 responses: 121 from the debt advice sector, 16 from organisations representing creditors and creditors themselves, 8 from the insolvency practitioner profession (IPs themselves, their regulatory bodies and the trade body – R3) and 2 responses from academics. The consultation proposed increasing the monetary thresholds to:
- Increase qualifying debt limit to £30,000
  - Increase the asset limit to £2,000
  - Increase monthly surplus income to £100
35. As expected, there was over-whelming support for all the proposed changes from the debt advice sector. In addition, this sector also asked government to consider increasing the value of a motor vehicle that can be disregarded to £2,000 (it is currently £1,000). This point was raised by the majority of respondents and will be taken forward by the Government.
36. However, while creditors and the insolvency profession were supportive of the proposed £2,000 limit on assets, they raised some serious concerns and possible adverse consequences of raising the other two thresholds as significantly as proposed. They would have preferred to see a closer to inflationary rise of around £25,000 for the total debt threshold. But most of their concern was around the proposed monthly surplus income increase. They are concerned that this is a distinct move away from the current ‘can pay, will pay’ ethos that sees people entering into an arrangement with their creditors with a contribution of less than £100 per month. There were some estimates that said that increasing surplus income and debt levels in the proposed way could see debts of up to £1 billion being written off. It is accepted that this is an upper estimate as some of the agreements reached would fail over time.
37. The potential knock on effects identified by this stakeholder group are that:
- The cost of credit would be likely to rise for everyone as creditors have to write off significantly more debt than before, and
  - It may lead to a change in lending policies that takes access to mainstream credit away from those in low income brackets that need it the most.
38. For these reasons, government is going forward with the changes set out in Table 1 below. Table 1 lists the proposed changes to the DRO eligibility criteria. The new limits are proposed to come into force Summer 2021 through two statutory

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<sup>20</sup> <https://www.gov.uk/government/consultations/debt-relief-orders/debt-relief-orders-consultation-on-changes-to-the-monetary-eligibility-criteria>

instruments which will amend the existing Insolvency (England and Wales) Rules and Insolvency Proceedings (Monetary Limits) legislation.

39. The changes will take effect in England and Wales, Scotland has a similar process called a minimal asset process bankruptcy. Northern Ireland is responsible for its own policy on personal insolvency. We have made officials aware of these proposed changes.
40. The preferred option will deliver immediate outputs by enabling more people with low debts, assets and surplus income to access debt relief. Consequently, more debtors will benefit from debt relief which will come at the expense of creditors.

Table 1: Changes to the Debt Relief Order eligibility criteria

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

## Sensitivity analysis

41. The new criteria (Table 1) were chosen after considering responses from the consultation and performing sensitivity analysis on data provided by StepChange, a large provider of debt advice.

### Asset limit

42. In low asset, debt and surplus income cases the actual debt recovered is likely to be very small, if at all. Some cases under these circumstances enter debtor bankruptcy. The Administration fee in a debtor bankruptcy<sup>21</sup> is £1,990, which is paid through an initial deposit and any further realisations up to the fee, thereafter there are other fees such as the Official Receiver General Fee (£6,000). Therefore, any cases with assets under £2,000 will make no distributions to creditors. Consequently, increasing the DRO asset limit to £2,000 will have no impact on creditor returns as the debt will be written off in a DRO resulting in no return, as in a bankruptcy. However, the changes could result in creditor losses where the individual would have otherwise entered an alternative debt solution with a return to creditors (e.g. an Individual Voluntary Arrangement (IVA)) but we expect this to occur rarely and have analysed the impacts in the cost benefit analysis.

<sup>21</sup> <https://www.legislation.gov.uk/ukxi/2016/692/schedule/1/made>

43. All respondents to the consultation agreed with the increase in asset value to £2,000, showing strong support for this change. Therefore, the Government will proceed with this change.

#### Surplus income

44. Respondents to the consultation were mixed on the surplus income change with the debt advice sector all in favour of £100 limit whereas creditors were against.
45. The evidence from the consultation was that a £100 surplus limit was too high resulting in significant impacts on potential returns to creditors, with resultant adverse impacts on the accessibility and cost of credit as creditors would be forced to write off more debt.
46. We believe that £75 is the right amount to ensure that there are not significant impacts on creditors or any of the adverse impacts above. This mitigates the impact on creditors in both formal and informal insolvency solutions:
- Individual voluntary arrangements (a formal insolvency tool to make agreed repayments to your creditors) do see monthly contributions by debtors at the lower end of around £80 per calendar month; the £75 limit will mitigate the impact of the proposed increased monetary thresholds for DROs.
  - There are informal agreements between a debtor and their creditors that may offer a lower contribution per month (known as debt management plans), but we are satisfied that these are used by people either expecting a change in their circumstances or while they are deciding on the most appropriate long-term solution to their debt problems.
47. The maximum surplus income, £50, was set when DROs were initially introduced in 2009 and have not been increased to reflect inflation. Uprating the surplus income from 2009 to 2020 results in a 2020 surplus of £60<sup>22</sup>. Analysing debt advice data shows increasing the surplus income from £50 to £60 has only a marginal affect increasing the percentages falling under the surplus criteria from 49% to 51%. For the intervention to be worthwhile and have the desired result of providing more people in financial distress debt relief we need to go further, so drawing on the evidence from the consultation a new maximum surplus of £75 will be set, this will increase the percentage to 53% and have a more meaningful effect.

#### Motor vehicle

48. This change was not considered in the consultation, but the debt advice sector asked Government to consider increasing the value of an exempt motor vehicle to £2,000 and a majority supported such a change.
49. The motor vehicle limit was set at £1,000 when DROs were introduced in 2009 and has not been updated to reflect inflation. Uprating the limit with inflation from 2009 to 2020 results in a new limit of £1,215. Analysing debt advice data shows increasing the motor vehicle limit from £1,000 to £1,215 has only a marginal affect increasing

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<sup>22</sup> <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-march-2020-budget>

the percentages falling under the motor vehicle criteria from 48% to 50%. This indicates that the current motor vehicle limit is a blocker to DRO access, and an inflationary increase would not have the desired result of providing more people in financial distress debt relief, so there is a need to go further.

50. The rationale<sup>23</sup> for an increase amongst respondents has been that a dilemma has been imposed on clients who must sell a modestly valued vehicle to purchase an older, lower value vehicle and face significantly higher maintenance costs, or pay a higher fee to go into bankruptcy instead.
51. Considering the consultation and analytical evidence the Government has decided to increase the motor vehicle limit to £2,000. This will help to unblock barriers to access DROs and debt relief amongst people who are experiencing financial distress. Considering debt advice data, the percentage falling under the motor vehicle criteria increases from 48% currently, to 67% considering the new £2,000 limit, thus enabling access to those who need it the most. This will also avoid clients being stuck in a quandary over the best solution to use.
52. This change will come into effect through legislation to change the Insolvency (England and Wales) Rules legislation whereas the other changes will be through the Insolvency Proceedings (Monetary Limits) Order.

#### Debt limit

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

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<sup>23</sup> <https://capuk.org/downloads/general/Simplify-the-Solution.pdf>

Table 2: The impact of the proposed changes and debt levels to DRO case numbers

Option	People able to obtain a DRO for the first time through debt advice <sup>24</sup>	New Debtor bankruptcy cases eligible for DRO <sup>25</sup>	Number of Debtor bankruptcy cases expected to enter a DRO <sup>26</sup> (25%)	Total new DRO cases
Do Nothing	0	0	0	0
£30,000 debt limit	12,550	2,600	650	13,200
£40,000 debt limit	13,660	4,340	1,080	14,740
£50,000 debt limit	14,120	5,200	1,300	15,420

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

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

56. Responses to the consultation were contrasting, the debt advice sector did not want a cap on the limit, but some wanted a limit of £50,000, whereas creditors wanted an inflationary rise to the debt limit. Therefore, the debt limit has been increased to £30,000 after considering the diminishing returns of higher debt limits (shown in the analysis above), the consultation responses and the support in a previous 2015 consultation for a £30,000 debt limit<sup>27</sup>. This means the change will strike a balance between the desires of creditor and debtor groups.

57. Together the changes to the eligibility criteria meet the policy objective. The risks to creditors have been mitigated by choosing eligibility criteria to minimise the impact on creditors, as debt recovery on financially distressed cases is typically very low.

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<sup>24</sup> An analysis of data provided by StepChange shows that an additional 46, 50 and 52% of its clients would be eligible for a DRO using these criteria; this has been applied to England and Wales DRO volumes for 2019 (27,179) to arrive at 12,550, 13,660 and 14,120 additional DROs respectively. Statistics have been used for 2019 rather than 2020 due to the impact of Covid-19 on 2020 cases.

<sup>25</sup> The numbers eligible are simply the percentage of debtor bankruptcies meeting the new eligibility criteria for the option multiplied by the average number of debtor bankruptcies during 2016-19, 12,387. Source: Insolvency Service Management Information

<sup>26</sup> A review of bankruptcy data (2016-19) following changes to the DRO eligibility criteria shown the effect on DRO numbers from newly eligible cases that would now enter DRO that previously would have entered debtor bankruptcy was negligible. An assumption has been made that 25% will actually enter a DRO to reflect our efforts working with the sector in response to the Covid-19 pandemic.

<sup>27</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398279/Analysis\\_of\\_responses\\_for\\_internet\\_-\\_revised\\_version\\_-\\_23\\_January\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398279/Analysis_of_responses_for_internet_-_revised_version_-_23_January_2015.pdf)

## Costs and Benefits

58. We assume that all elements of the proposals are enacted. It therefore shows the impact of measures in their longer term, “steady”, state and does not account for possible changes in insolvency numbers because of the Covid-19 pandemic.

### Familiarisation costs

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

60. The criteria for DROs changed in 2015 and the consultation<sup>28</sup> that was undertaken prior to those changes is the most recent source of evidence. The 2015 impact assessment of these changes made an additional request for information<sup>29</sup> on the costs of familiarisation which has been used below.

61. At the time, most authorities put the cost of familiarisation and training for staff at close to £0 whilst a few considered a training course costing £99 per intermediary to be necessary.

62. A range of £0-99 per head was considered giving a familiarisation cost of between £0 and £0.16m with a best estimate of £0.08m.

63. Assuming the numbers of staff remain similar reflecting broadly stable DRO numbers<sup>30</sup> (negating the impact of 2020 from Covid-19, see Figure 4) and applying GDP deflators<sup>31</sup> to update costs for 2020, results in familiarisation costs in a range £0 to £0.18m with a best estimate of £0.09m.

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<sup>28</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398279/Analysis\\_of\\_responses\\_for\\_internet\\_-\\_revised\\_version\\_-\\_23\\_January\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398279/Analysis_of_responses_for_internet_-_revised_version_-_23_January_2015.pdf)

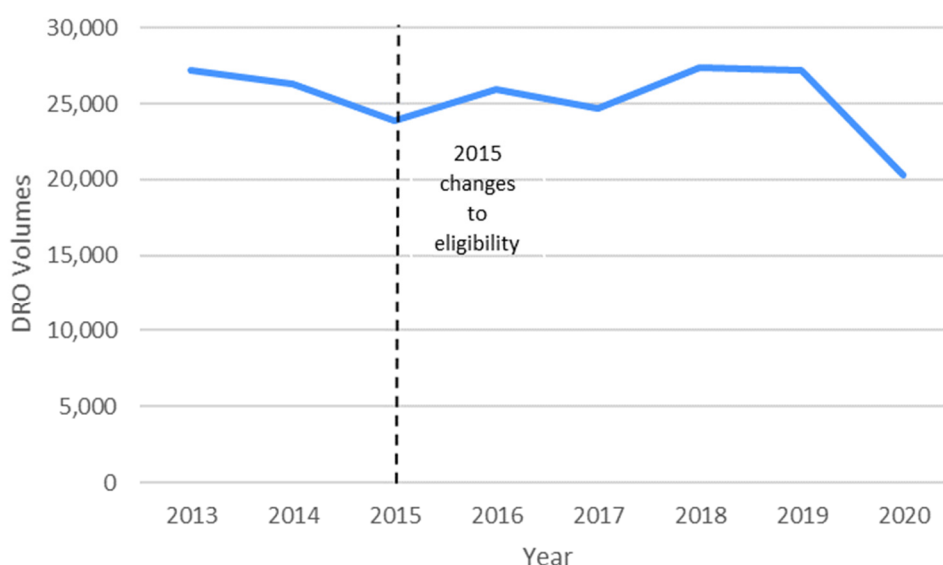
<sup>29</sup> Point 43, [https://www.legislation.gov.uk/ukia/2015/205/pdfs/ukia\\_20150205\\_en.pdf](https://www.legislation.gov.uk/ukia/2015/205/pdfs/ukia_20150205_en.pdf)

<sup>30</sup> <https://www.gov.uk/government/statistics/individual-insolvency-statistics-october-to-december-2020>

<sup>31</sup> <https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp>



Figure 4: Debt relief orders in England and Wales



64. Alongside the cost of attending training, we must also consider the opportunity cost, calculated by multiplying the hourly rate and training time. Intermediaries are responsible for providing debt advice, and approving and processing DRO applications. Therefore, this role is an administrative occupation. The Annual Survey of Hours and Earnings<sup>32</sup> shows there are around 2.3m people in administrative occupations at an hourly rate of £11.97. This hourly rate then needs to be increased by 18%<sup>33</sup> to account for non-wage costs, giving a total hourly rate £14.12. Therefore, the opportunity cost assuming a half day (3.5 hour) course will be £49.50 per intermediary. **This gives a range of total familiarisation costs from £0 to £0.26m with a best estimate of £0.13m.** This cost is a one-off familiarisation cost on business.

65. No additional costs related to competent authorities' IT systems are expected as the responders to the request for information indicated competent authorities already have the infrastructure in place to process DRO applications.

### Costs/benefits

66. The costs and benefits have been outlined below. Evidence used from the 2015 consultation has where necessary been uprated for inflation using GDP deflators<sup>34</sup>.

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

- Cost to intermediaries from increased DRO demand

<sup>32</sup><https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2>

<sup>33</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Hourly\\_labour\\_costs\\_in\\_euro\\_in\\_2019.png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Hourly_labour_costs_in_euro_in_2019.png)

<sup>34</sup> <https://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp>

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

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

Type of cost/benefit	Impact	Minima £	Maxima £	Best Estimate £	Direct impact on business
One-off familiarisation cost creditors / business	Familiarisation costs	0m	0.26m	0.13m	Yes
Ongoing cost to creditors / business	Cost to intermediaries from increased DRO demand	2.9m	4.4m	3.7m	Yes
	Cost to creditors from individuals able to access debt relief			5.6m	Yes
	Costs to Insolvency Practitioners from loss of IVA fees			0.8m	Yes
Total cost to Government creditors from individuals able to access debt relief				<b>0.9m</b>	No
<b>Total Cost to business</b>				<b>10.1m</b>	
Ongoing benefit to debtors (non-business impact)	Benefit to debtors through cost savings			0.4m	No
	Benefit to debtors from retaining repayments			7.4m	No
Non-monetised benefits	Benefits to creditors from reduced administration and recovery costs				
Non-monetised benefits (non-business impact)	Benefit to debtors from improved social outcomes				
Net benefit to the Insolvency Service				1.7m	No
<b>Total benefit to business</b>				<b>0m</b>	

## Monetised costs

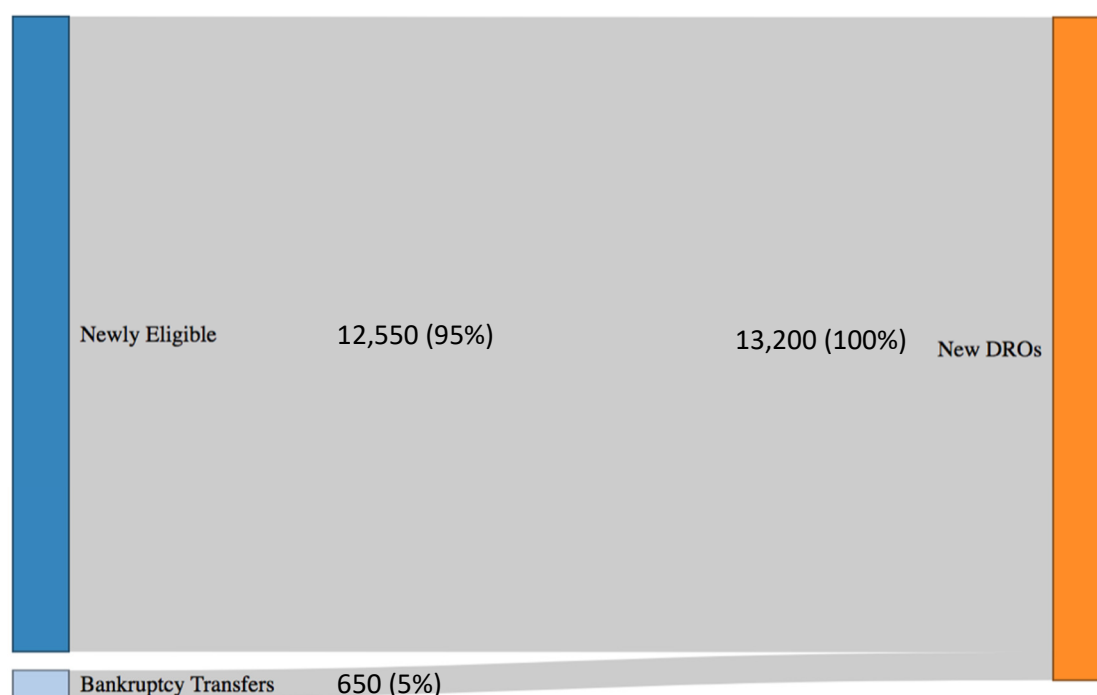
### Cost to intermediaries

68. DRO applications are made through authorised intermediaries. These are highly trained debt advisors funded and authorised by competent authorities.
69. Debt advice can be provided through several channels but only intermediaries working for one of the competent authorities recognised by the Secretary of State are authorised to process DRO applications.
70. Changing the eligibility criteria for DROs to make more people eligible should lead to an increase in demand from debtors for DROs. There would be a requirement for Intermediaries to service this additional demand and where necessary invest to increase capacity.
71. Consequently, we need to consider the impact of the changes on DRO case numbers to understand the demand impact on intermediaries.
72. The changes considered will enable individuals to benefit from debt relief in two ways:
  - i. People able to access DROs for the first time through debt advice
  - ii. People no longer need to access debtor bankruptcy for debt relief and can use DROs
73. People able to access DROs for the first time under the changes can be calculated using debt advice data from StepChange, a large debt charity with a 22% share of DROs.
74. The flow from debtor bankruptcy to Debt Relief Order can be calculated by reviewing Insolvency Service 2016-19 Bankruptcy data.
75. Table 4 below shows the impact on DRO case numbers using both data sources and Figure 5 shows the composition of new cases in a Sankey diagram.

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

Option	People able to obtain a DRO for the first time through debt advice <sup>35</sup>	New debtor bankruptcy cases eligible for DRO <sup>36</sup>	Number of debtor bankruptcy cases expected to enter a DRO <sup>37</sup> (25%)	Total new DRO cases
Do Nothing	0	0	0	0
Preferred Option	12,550	2,600	650	13,200

Figure 5: Sankey diagram showing composition of new DRO cases expected



<sup>35</sup> An analysis of data provided by StepChange shows that an additional 46% of its clients would be eligible for a DRO using these criteria; this has been applied to England and Wales DRO volumes for 2019 (27,179) to arrive at 12,550 additional DROs.

<sup>36</sup> Insolvency Service bankruptcy data shows an additional 21% of debtor bankruptcies meet the new eligibility criteria, multiplying this by the average number of debtor bankruptcies during 2016-19, 12,387, results in 2,600 cases eligible Source: Insolvency Service Management Information

<sup>37</sup> A review of bankruptcy data (2016-19) following changes to the DRO eligibility criteria shown the effect on DRO numbers from newly eligible cases that would now enter DRO that previously would have entered debtor bankruptcy was negligible. An assumption has been made that 25% will transfer to reflect our efforts working with the sector.

76. The changes are expected to result in 12,550 more people annually accessing DROs for the first time. A further 2,600 that are currently entering debtor bankruptcy are expected to become eligible for DRO and could enter a DRO instead. However, the behaviour of this group is uncertain. Following the 2015 DRO eligibility changes a review of debtor bankruptcy data shown that the effect was negligible. The Insolvency Service is working closely with the debt advice sector, and the Money and Pensions Service (MaPS) have received an additional £38m funding for debt advice<sup>38</sup>. Meaning we can be more confident that individuals seeking debt relief will be more likely to access the most appropriate solution. Therefore, we assume that 25% will enter a DRO as we cannot know the extent of behaviour change.
77. Therefore, the changes are estimated to result in an additional 13,200 DROs for intermediaries to process.
78. The 2015 consultation established that competent authorities estimated the cost of administering a DRO application at around £200-300 per case, on average. Uprating using GDP deflators results in a range of £222 to £333 per case.
79. Multiplying the range of costs by the number of DROs results in an estimated annual cost of between £2.9m and £4.4m with a best estimate of **£3.7m**.

#### Cost to creditors from individuals able to access debt relief

80. In a DRO the debts of the debtor are completely written off and so no distribution is made to creditors. This differs to other solutions for example an Individual Voluntary Arrangement (IVA) or Debt Management Plan (DMP) where a sum of money is repaid to creditors over a period, or bankruptcy where after accounting for the costs of completing the process the trustee distributes any assets left to creditors.
81. Analysis of Insolvency Service Management Information showed that 13% of debtor bankruptcies are potentially eligible for DRO currently, rising to 34% under the proposed criteria. In Table 4 we estimated that there would be 650 fewer debtor bankruptcies, which would move to DROs. There will be no cost to creditors for these cases because the Administration fee in a debtor bankruptcy is £1,990, thereafter there are other fees such as the Official Receiver General Fee (£6,000), and this outweighs all assets (which are used to defray costs before any distribution) for the option under consideration (assets <£2,000).
82. As a result of the changes an expected 13,200 individuals each year will obtain a DRO. These individuals would otherwise enter an alternative solution such as DMP, IVA, debtor bankruptcy or make token payments and there may be a loss to creditors as the alternative in some instances could provide a small return whilst a DRO would not.
83. Table 5 examines debt advice data from StepChange, a large provider of debt advice, which can be used to understand the recommendations for the newly eligible under the changes considered.

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<sup>38</sup> <https://moneyandpensionsservice.org.uk/2020/06/09/extra-38-million-for-debt-support-in-england-in-the-wake-of-coronavirus/>

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

<b>Recommendation<sup>39</sup></b>	<b>% of clients advised</b>	<b>Returns to creditors<sup>40</sup></b>	<b>Comments</b>
Income Maximisation	30.2%	0%	Budgeting help
Bankruptcy	21.2%	0%	No return see point 81
ManagedTPA	13.1%	0%	Token payment <sup>41</sup>
PhoneUs	9.4%	0%	Make contact again with debt advisor
DMP	9.4%	35%	
IVA	4%	21%	

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

85. Multiplying the percentages for these solutions by the numbers able to obtain a DRO for the first time (12,550) results in an estimated 1,180 DMPs and 500 IVAs. These higher return cases are small in the context of the overall newly eligible population, as shown in the Sankey diagram in Figure 6. This shows that cases with low assets, low surplus income and low debts have low returns to creditors.

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<sup>39</sup> Refer to Figure 1 on debt solutions

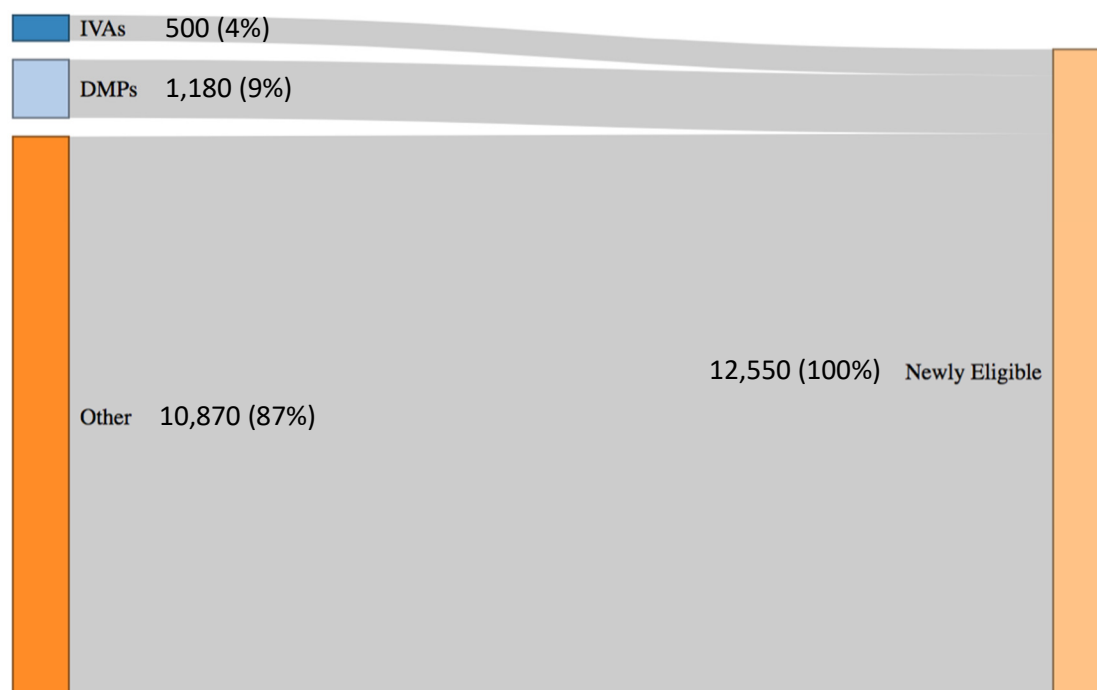
<sup>40</sup> Returns for debt solutions have been sourced from PayPlan for the newly eligible cohort only, where this is not possible existing literature from the Money Advice Trust has been used.

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

<sup>41</sup> Token payments are not a debt solution and typically involve making small payments (often £5 a month) for a short period of time (see page 67 below). The returns are therefore very low and assumed to be 0 in analysis.

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

Figure 6: Sankey diagram showing composition of newly eligible cases expected



86. The average debts and creditors return for DMPs and IVAs have been sourced from PayPlan, a large debt advice provider. Average debts and returns of the newly eligible cohort alone are; £11,850 and 35% for DMPs and £16,710 and 20% for IVAs respectively, after accounting for fees. Therefore, the overall annual loss for creditors is **£6.6m** ( $1,180 * £11,850 * 35\% + 500 * £16,710 * 20\%$ ).

87. However, not all this loss will be to business creditors as Government is a significant creditor. Insolvency Service Management Information on debtor bankruptcies show that 14% of creditor returns are paid to HMRC. **Therefore, the annual loss to business creditors is £5.6m** ( $£6.6m * 0.86$ ).

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

#### Costs to Insolvency Practitioners from loss of IVA fees

89. Insolvency Practitioners (IPs) administer IVAs and charge fees to cover their remuneration. The only IP led procedure impacted by the measure are the estimated 500 IVAs that would no longer occur resulting in a loss of IP fee income. PayPlan estimate the average IP fee for these IVAs is £1,670 and **therefore the income loss**

is **£0.8m** (£1,670\*500). This is additional to the creditor return impact as fees must be paid first before any distributions to creditors.

### Monetised benefits

#### Benefits to debtors (non-business impacts)

90. Following the increases to the DRO monetary eligibility limits new people would now be able to access this debt solution. Earlier Table 4 showed the estimated 13,200 new people will now be able to access a DRO. The benefit to debtors is equal to the cost to creditors and IPs as debtors benefit from debt relief through retaining money that otherwise would be distributed to IPs and creditors. Therefore, the total benefit to debtors is **£7.4m** (loss to creditors, including government creditors £6.6m + loss to IPs £0.8m).
91. Debtors also benefit from paying the lower DRO fee (£90) rather than the more expensive debtors bankruptcy route incurring a debtor's deposit (£550) and adjudicator fees (£130). Therefore, debtors who can now enter a DRO save £590 in costs (680-90=590) compared to debtor bankruptcy. Table 4 estimated 650 debtor bankruptcy cases would transfer to DRO resulting in cost savings to debtors of **£384,000** (£590\*650).

### Non-monetised benefits

#### Benefits to creditors from reduced administration and recovery costs

92. The cost of recovering debt is part of the normal business expenditure for creditors. Creditors incur costs from administering defaulting debtor cases such as issuing notices, demands or by using specialist collection agencies. Pursuing debtors through the court system, through a creditor petition, is also a significant cost to creditors.
93. A report from the Money Advice Service<sup>42</sup> estimated that helping people solve their debt issues reduced creditor recovery and administrative costs. The report estimated that creditors recovered an additional 5%<sup>43</sup> through lower recovery costs when debt advice was provided to debtors. This results in an estimated reduction of creditor recovery costs of £135-237m. No information was available to estimate the savings from the changes to the DRO eligibility criteria. However, given that DROs require debt advice, the change should lead to reduced creditor recovery costs. The net present value is estimated to be -£12.3m. The non-monetised benefits to creditors would improve the net present value and could be sufficient to turn the present value positive, however it is not possible to confirm this as the benefit is not quantifiable.

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<sup>42</sup>[https://masassets.blob.core.windows.net/cms/files/000/000/898/original/Economic\\_Impact\\_of\\_Debt\\_Advice\\_-\\_main\\_report.pdf](https://masassets.blob.core.windows.net/cms/files/000/000/898/original/Economic_Impact_of_Debt_Advice_-_main_report.pdf)

<sup>43</sup>The Impact of Independent Debt Advice Services on the UK Credit Industry, Jackie Wells with John Leston and Mary Gostelow, Friends  
[[http://www.infohub.moneyadvicetrust.org/content\\_files/files/jackie\\_wells\\_\\_\\_debt\\_advice\\_\\_\\_full\\_report1.pdf](http://www.infohub.moneyadvicetrust.org/content_files/files/jackie_wells___debt_advice___full_report1.pdf)]



94. The only information available on administration and debt recovery costs comes from Ofwat<sup>44</sup> who suggest water companies costs equate to 5% of their debts. In the StepChange data the average debt level for those able to obtain a DRO for the first time through debt advice was £8,370, equating to a £420 saving per DRO. The debtor bankruptcy cases expected to enter a DRO have debts of £24,270 on average, equating to savings of £1,210 per DRO. Considering those entering DRO through debt advice (12,550), those expected from bankruptcy (650) and the respective savings results in an estimated £6m saving ( $12,550 * £8,370 * 5\% + 650 * £24,270 * 5\%$ ). This benefit has not been quantified as we cannot be certain the experiences of water companies reflect the wider creditor community. In fact, creditor organisations can take different approaches, for example outsourcing debt collection or selling bad debts. However, this does show that the benefit to creditors from reduced administrative and recovery costs is significant and will increase the net present value.
95. Creditors should only be incurring recovery costs if the value of debt to be recovered exceeds the costs of collection. However, in low asset, debt and surplus income cases the actual debt recovered is likely to be very small and would generally not exceed the cost of recovery. Therefore, writing off debt in low asset, debt and surplus income cases can result in a net benefit for creditors against the status quo.

#### Benefits to debtors from improved social outcomes

96. Improved access to debt relief through the changes will provide a number of non-monetised benefits. There is a consensus of opinion amongst academics and debt advice agencies who have identified associations between financial distress and productivity, relationships, physical and mental health.
97. The Money Advice Service Report<sup>45</sup> found that helping people solve their debt issues resulted in several social benefits:
- Improved physical/mental wellbeing – reduced health costs £50-93m annually
  - Mental health – social benefit £24-52m annually
  - Improved productivity – social benefit £67-137m annually
  - Reduced risk of entering further debt cycles - £13-26m annual social benefit for consumers
  - Improvements in family relationships
  - Reduced risk of homelessness
98. The report estimated the impact of debt advice and therefore includes the impact for those entering both formal and informal solutions following that advice. DROs are

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<sup>44</sup> Ofwat (2010) A Drain on Society: What can be done about water debt?

<sup>45</sup> The Impact of Independent Debt Advice Services on the UK Credit Industry, Jackie Wells with John Leston and Mary Gostelow, Friends  
[[http://www.infohub.moneyadvicetrust.org/content\\_files/files/jackie\\_wells\\_\\_\\_debt\\_advice\\_\\_\\_full\\_report1.pdf](http://www.infohub.moneyadvicetrust.org/content_files/files/jackie_wells___debt_advice___full_report1.pdf)]

accessed following debt advice, they are a formal solution and their social benefits will be included in the results. However, it is not possible from the information available to estimate the impact directly attributable to DROs nor estimate the impact of changes to the DRO monetary eligibility criteria.

99. However, whilst the social benefit of debt advice is significant, the types of debt problems associated with small value debts and low assets (that would be from DRO clients) would make up a small share of the overall benefit.

100. Therefore, the changes will have a social benefit which cannot be quantified and so is non-monetised. However, these unquantifiable benefits would help improve the net present value.

## Wider Impacts

### Impact on the Public Sector

#### Insolvency Service

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

- Official receiver (ORS) income and operating costs – from the reduction in bankruptcy caseload
- DRO fee income and operating costs – from higher volumes of DROs
- Adjudicator operating costs – from reduced demand for debtor bankruptcies

102. The most significant is on ORS fee income and costs of operating Official Receiver services as the measures will result in 650 fewer debtor bankruptcies which are expected to enter a DRO. This results in lost income for ORS through the loss of the deposit (£550), adjudicator fee (£130) and any assets held on those cases.

103. Insolvency Service Management Information shows the average asset level for bankruptcy cases eligible to transfer is £273. Therefore, recognising the lost deposit and assets (£823) over 3 years to reflect the income recognition profile and the adjudicator fee (£130) in year for the cases results in a loss of £6m over the next 10 years. This works out at an ongoing **annual loss of £0.60m** to the Insolvency Service.

104. The cost saving to ORS in completing bankruptcy case work can be calculated using Insolvency Service Management Accounts and bankruptcy statistics to work out a cost per case of £2,700.

105. The fee for Debtor bankruptcy cases is set at £1,990 (Debtor Administration fee), with £550 paid initially and the remainder recovered from assets or income payments. However, many cases have insufficient assets / income to pay the full fee resulting in a deficit. This deficit is mitigated by the General fee (£6,000) which is recovered on cases with assets / income above £1,990 and is subject to annual approval from HMT as it is a cross-subsidy.

106. Insolvency Service Time Recording data shows that bankruptcy cases meeting the new DRO criteria take 10% less time and therefore cost less than other debtor cases. Assuming time spent reflects cost of a case we would expect the cost per case to be 10% lower, so £2,430 ( $2,700 \times 0.9$ ).
107. The total annual cost saving to ORS is therefore **£1.6m** ( $650 \times £2,430$ ) this comes from 650 fewer debtor bankruptcies which are expected to transfer to DRO.
108. The reduction in debtor bankruptcy caseload will place a lower demand on the adjudicator office which processes these cases. Consequently, this will result in modest staff savings given the small numbers.
109. The adjudicator office is primarily comprised of administrative staff. The average annual costs for staff at this grade are £27,494 and each handle on average 2,465 cases annually. Therefore, the staff costs are £11 per case handled and result in annual **staff savings of £7,150** ( $£11 \times 650$ ).
110. However, the increased demand for DROs will result in additional fee income of £1.19m ( $13,200 \times £90$ ) as a DRO fee of £90 will be payable on every additional case. Servicing this additional demand will incur £0.45m in staffing costs which will net out at an **annual benefit of £0.7m**.
111. Considering the costs and benefits to the Insolvency Service the net position is an **ongoing annual benefit of £1.7m**.

#### Other Public Sector Organisations

112. There could be impacts from these measures on the public sector, namely public sector creditors. The public sector is a significant creditor in insolvency and therefore the cost to creditors from individuals accessing debt relief will have an impact.
113. The cost benefit analysis section (see point 87) shown that 14% of creditor returns are due to public sector organisations and the cost to creditors from individuals accessing debt relief is £6.6m (see point 86). Therefore, the annual cost to the public sector is **£0.9m** ( $£6.6m \times 14\%$ ).

#### Justice Impact

114. The changes are not expected to have a judicial impact as new DROs and those that would previously have entered debtor bankruptcy do not go through the Court system.

#### **Trade Implications**

115. No trade impact is expected as a result of these measures

#### **Equalities impact assessment**

116. An equality impact assessment has been completed in line with public sector equality duty. It should be noted that these changes are not new policy, just an increase to the monetary limits for DROs which are already in force.

117. In making this assessment, officials have had regard to the following: the Public Sector Equality Duty, guidance published by the Government Equalities Office: 'How to think about groups with protected characteristics during Covid-19'; guidance produced by the Equality and Human Rights Commission; The current insolvency regime and equalities impact assessment carried out for 2015 changes; Anecdotal evidence from discussions with key stakeholders, in particular the debt advice sector.

118. Consequently, the Insolvency Service has identified potential disadvantages in access to DROs amongst some groups due to the debtors protected characteristics. These have been outlined below and mitigations have been made where necessary.

- Age: Insolvency Statistics<sup>46</sup> show that the rates of use of DROs per head of the population are lowest for those over 65 and higher for those aged 18-64. The Money Advice Service<sup>47</sup> estimates that 1% of the over-indebted population is aged over 65 and the Wyman Review<sup>48</sup> suggests 7% of debt advice clients are aged over 65. Evidently, those aged over 65 will likely benefit less than other groups from the changes but this can be explained by this group being less financially distressed and less in need of debt relief. However, there is evidence<sup>49</sup> that this group may be less able to access debt advice through online and telephone channels and consequently less able to access DROs as debt advice is required beforehand. For example, people aged 65-74 are 15 percentage points less likely than the adult population to use a mobile phone, 9 percentage points less likely to use a computer, and 16 percentage points less likely to use a tablet. The Government and debt advice providers are aware of this inequality of access to debt advice delivered through certain channels and to ensure this does not discriminate against those aged over 65 debt advice is accessible through multiple channels such as face-to-face, telephone and online.
- Sex: Insolvency Service statistics<sup>50</sup> show that females are almost twice as likely than males per head of the population to enter a DRO and therefore any changes to the eligibility of DRO is more likely to benefit females than males. Money Advice Service<sup>51</sup> estimates that 64% of over indebted people are female and the Wyman Review<sup>52</sup> suggests that 59% of debt advice clients are female. This suggests the greater benefit to females can be explained by

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<sup>46</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/937361/Commentary\\_-\\_Individual\\_Insolvencies\\_by\\_Location\\_\\_Age\\_and\\_Gender\\_\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/937361/Commentary_-_Individual_Insolvencies_by_Location__Age_and_Gender__2019.pdf)

<sup>47</sup> Money Advice Service (2013) *Indebted Lives: The Complexities Of Life In Debt*. Available at: [https://mascdn.azureedge.net/cms/cs-indebted-lives-the-complexities-of-life-in-debt\\_november-2013.pdf](https://mascdn.azureedge.net/cms/cs-indebted-lives-the-complexities-of-life-in-debt_november-2013.pdf)

<sup>48</sup> Wyman (2018) *Independent Review of the Funding of Debt Advice in England, Wales, Scotland, and Northern Ireland*. Available at: [https://masassets.blob.core.windows.net/cms/files/000/000/900/original/Peter\\_Wyman\\_Review\\_of\\_Debt\\_Advice\\_Funding\\_2018.pdf](https://masassets.blob.core.windows.net/cms/files/000/000/900/original/Peter_Wyman_Review_of_Debt_Advice_Funding_2018.pdf)

<sup>49</sup> Ofcom (2017) *Adults' Media Use and Attitudes Report 2017*. Available at: [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0019/102772/section-5-digital-media.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0019/102772/section-5-digital-media.pdf)

<sup>50</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/937361/Commentary\\_-\\_Individual\\_Insolvencies\\_by\\_Location\\_\\_Age\\_and\\_Gender\\_\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/937361/Commentary_-_Individual_Insolvencies_by_Location__Age_and_Gender__2019.pdf)

<sup>51</sup> Money Advice Service (2013) *Indebted Lives: The Complexities Of Life In Debt*. Available at: [https://mascdn.azureedge.net/cms/cs-indebted-lives-the-complexities-of-life-in-debt\\_november-2013.pdf](https://mascdn.azureedge.net/cms/cs-indebted-lives-the-complexities-of-life-in-debt_november-2013.pdf)

<sup>52</sup> Wyman (2018) *Independent Review of the Funding of Debt Advice in England, Wales, Scotland, and Northern Ireland*. Available at: [https://masassets.blob.core.windows.net/cms/files/000/000/900/original/Peter\\_Wyman\\_Review\\_of\\_Debt\\_Advice\\_Funding\\_2018.pdf](https://masassets.blob.core.windows.net/cms/files/000/000/900/original/Peter_Wyman_Review_of_Debt_Advice_Funding_2018.pdf)

females being more likely to be over-indebted, take up debt advice and experience financial distress that may need debt relief.

119. The Government has reviewed accessibility of debt advice through the Wyman review. The Government and debt advice providers are aware of inequality of access to debt advice delivered through certain channels and to ensure this does not discriminate against protected groups debt advice will be accessible through multiple channels such as face-to-face, telephone and online, with face-to-face continuing to be widely available. This extends to the forthcoming Breathing Space which will be accessible through these channels.
120. The debt advice sector makes a variety of adaptations to ensure that advice is accessible to those with protected characteristics. For example, StepChange – a debt charity – has an advocacy team who provide additional practical support to vulnerable debt advice clients. This support is delivered in partnership with dedicated support organisations including Macmillan, Age UK, Dementia Friends, Mind, and Samaritans. It can involve offering supplementary debt advice sessions, referring debt advice clients to specialist third party organisations, and submitting debt write-off requests to creditors in certain circumstances - ensuring that people with protected characteristics have access to debt advice.
121. Given the intent of this policy is to open up a form of debt relief for all individuals in England and Wales, no forms of discrimination are considered to arise. The proposed legislation does not treat some people less favourably than others because of a protected characteristic, either directly or indirectly.
122. The legislation will not deliver a less beneficial outcome for any groups compared to others. Additionally, the changes are to DRO eligibility and individuals can choose if they wish to exercise eligibility or not.
123. The proposed changes have been reviewed against the requirements and concluded that these changes do not give rise to any equality issues and will be neutral as regards people who share protected characteristics.

## **Small micro business assessment**

124. The proposed changes to the DRO entry criteria would be achieved via secondary legislation. We would anticipate a commencement date of Summer 2021. The measure may impact on small and micro business in the following ways:

### Competent Authorities

125. DRO applications are made through intermediaries working for one of the competent authorities recognised by the Secretary of State.
126. The changes considered will increase access to DROs by making more people eligible. Any exemption on small and micro businesses in this legislation would lead to a two-tiered system which would cause confusion amongst debtors. Such an exemption could also lead to larger businesses dominating the market for DROs.
127. As mentioned in the analysis the burden of additional DRO demand will be met by intermediaries. At the time of the 2015 impact assessment, an estimated 80% of cases were processed by large competent authorities. Since then there have been

two new competent authorities authorised, constituting 4% of DRO volume, therefore it is reasonable to assume that the burden for the majority of applications remains with larger competent authorities.

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

### Insolvency Practitioners

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

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

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

132. In the second group, entering an alternative debt solution, most relate to informal procedures such as Debt Management Plans as shown in Table 5. The only IP led procedure impacted are the estimated 500 IVAs where there would be a £0.8m loss of IP fee income. Any impact is assumed to be split equally between large and small businesses in line with the R3 estimate above and is considered in the cost benefit analysis section.

### Creditors

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

## **Risks and Assumptions**

134. There is a risk that the increase in demand for DRO applications is less than estimated and can be met by intermediaries at lower cost. A larger increase in demand would result in applications being processed more slowly and it taking longer for debtors to receive debt relief. A substantial increase over the capacity of competent authorities would require new funding streams to increase it. This funding risk has been mitigated to an extent by the additional £38 million for debt advice funding that has been provided, some of which is being allocated to debt advice providers<sup>53</sup>.

135. Increased DRO demand will also result in competent authorities needing more intermediaries. However, this risk has also been mitigated to an extent by the

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<sup>53</sup> <https://www.maps.org.uk/2020/09/02/additional-38-million-for-debt-advice-funding-in-england-goes-into-action/>

additional £38 million for debt advice funding that has been provided, some of which is being allocated to debt advice providers to build capacity.

136. The review of the 2015 DRO eligibility changes showed that the assumed number of cases to enter a DRO that would previously have entered debtor bankruptcy were negligible and consequently there is a risk that people will not transfer as expected. This risk has been mitigated in the cost benefit analysis by assuming a small proportion, 25% (650 cases), enter a DRO to reflect our efforts working with the sector. If the cases are lower than expected this will be broadly neutral to positive (£0-1.7m annual benefit) to the Insolvency Service finances but as most of the new DRO cases will primarily be people able to access for the first time through debt advice, should the risk materialise the overall impact on DRO numbers will be small.
137. Conversely, if the number entering a DRO that would have otherwise entered debtor bankruptcy is smaller or larger than expected the cost to business will be too. Overall, there are just 650 cases expected out of the 13,200 additional DROs anticipated, constituting just 5% of additional DROs expected (see Figure 5). Importantly, there will be no cost to creditors for cases that would otherwise enter debtor bankruptcy (as the returns in debtor bankruptcy and DRO for newly eligible will be zero) so the only cost will be the cost on competent authorities from increased DRO demand. The current cost attributable to these cases, assuming 25% (650) enter a DRO, is £180,000, this increases to £360,000 for 50% and £720,000 if all eligible bankruptcies enter a DRO. Therefore, the increased cost, should there be greater than expected numbers of these cases is small compared to the ongoing costs calculated.
138. During the consultation creditors expressed concern that the measures, in particular the £100 surplus income threshold, had significant risks through excessive impacts on potential returns to creditors. This could lead to adverse impacts on the accessibility and cost of credit as creditors would be forced to write off more debt. To mitigate this risk the Insolvency Service has revised the surplus income from £100 to £75. This mitigates the impact of the proposed increased monetary thresholds for DROs in both formal and informal debt solutions, with just 13% of people able to obtain a DRO for the first time through debt advice expected to have come from solutions that otherwise would have resulted in a return to creditors.
139. As identified above there is a risk of an unintended consequence around adverse changes to the cost and accessibility of credit that could disadvantage lower income brackets. This unintended consequence would stem from creditors being forced to write off a considerable amount of debt as a result of the changes and therefore needing to change lending practices. This risk has been mitigated by revising surplus income criteria to reduce the impact on creditors, whilst also still achieving the policy objective around enabling more people with low surplus income to access debt relief.
140. There is a risk that making it easier for individuals to write off problem debts may lead to them borrowing more recklessly and this moral hazard may worsen individual's indebtedness instead of helping them. The Insolvency Service thinks the risk of this is low as a similar concern was raised when DROs were initially introduced in 2009 and we are not aware of any evidence linking reckless borrowing with the availability of DROs. The Insolvency Service applies an enforcement framework for DROs enabling abuse to be identified and action taken. Management

information<sup>54</sup> shows the numbers of debt relief restriction orders and undertakings are very low, indicating low levels of abuse. The risk of abuse of DROs through recidivism is low as those entering one cannot enter again within 6 years and a DRO remains on an individual's credit file for 6 years from approval date thus limiting their ability to obtain credit<sup>55</sup>.

141. Furthermore, if this risk were to materialise the potential risk to creditors, has been mitigated as the eligibility criteria have been chosen to balance the interest of both creditors and debtors.

## Monitoring & Evaluation

142. In line with Better Regulation guidance, a post-implementation review (PIR) of the measures will be conducted, making use of guidance on evaluation in the Magenta book<sup>56</sup>. This will occur within five years of the measures coming into force. The PIR will help inform policy making decisions within the Insolvency Service.

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

Figure 7: Logic model of the policy change

Context	Inputs	Outputs	Outcomes	Impacts
<p>DROs were introduced in 2009 as a form of personal debt relief. Changes to eligibility criteria were last made in 2015.</p> <p>The aim of this policy is to give more people with low-level assets, low surplus income and low levels of debt, who are experiencing financial distress, access to a suitable option for debt relief.</p>	<p>Changes to eligibility criteria made via secondary legislation</p>	<p>More people can access DROs as a form of debt relief; both from debtor bankruptcy and (particularly) from people able to access a DRO for the first time through debt advice.</p>	<p>More people use DROs as a form of debt relief. Both from debtor bankruptcy and from people able to access a DRO for the first time through debt advice</p>	<p>Provides debt relief and eliminates the gap in the market allowing more people to make a 'fresh start'. This would bring wider societal &amp; economic benefits</p> <p>Some cost will be incurred by business through loss of creditor returns and the cost of administering the new policy.</p>

144. The PIR will be used to establish if:

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

<sup>54</sup> <https://www.gov.uk/government/collections/insolvency-service-enforcement-outcomes>

<sup>55</sup> <https://www.stepchange.org/debt-info/what-happens-after-a-debt-relief-order.aspx>

<sup>56</sup> <https://www.gov.uk/government/publications/the-magenta-book>



145. In line with Magenta book guidance, a proportionate PIR will be carried out; as the equivalent annual net direct cost to business in this impact assessment comfortably falls under the threshold of £50m, which requires a more substantial review.
146. It is expected that the PIR will take an impact evaluation approach, to understand if the outcomes have been achieved. This will be achieved via a before and after study.
147. Due to the unstable context, (e.g. Covid-19 and other government policy interventions) a before and after study would usually be problematic. However, due to the nature of this policy, estimating the counterfactual<sup>57</sup> for the policy objective will be possible as the number of DRO cases under the new criteria in the counterfactual will be zero. However, attributing causation to the policy will be more difficult, and the PIR narrative will need to be clear that the number of DRO cases under the new criteria could be impacted by multiple factors, in addition to the policy intervention alone.
148. The analysis will rely heavily on monitoring data. Monitoring data can be collected through Insolvency Service Management Information, Insolvency Statistics and collaboration with DRO providers.
149. An important aspect of this PIR will be to check the assumption around the flows from debtor bankruptcy into DROs. It is expected that sensitivity analysis will be used to check this assumption. As noted earlier, internal analysis at the Insolvency service found this did not materialise as expected after changes to DRO eligibility in 2015, however the Agency's work with the sector is expected to improve the flows this time.

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<sup>57</sup> The counterfactual is what would have occurred without the policy change