**Advice NI’s response to the Department for the Economy’s Consultation on the proposed changes to the monetary eligibility limits for Debt Relief Orders in Northern Ireland**

**Deadline: 28 April 2022**

**Background**

Advice NI (www.adviceni.net) is the membership organisation for the independent advice sector with nearly 70 members. Together with our members, we dealt with 294,515 enquiries in 2020-2021 on an extensive range of matters including benefits, housing, debt, consumer and employment issues. During this time we also provided the Covid-19 Community Helpline Emergency Response which helped 45,841 members of the public on a wide range of support. We operate within the Department for Communities vision and values for quality advice services; impartial, accessible, confidential, independent, effective, accountable and free.

Advice NI delivers a range of advice services to the public including Welfare Benefits, Personal and Business Debt, Tax Credits and HMRC products/services and EUSS/Immigration. We offer a wide range of award-winning training focusing on the community and voluntary sector, which is accredited and non-accredited and we are able to create bespoke training packages on request including case recording and quality of advice training. We have a portfolio of over 250 accredited and non- accredited training programmes available through a range of mediums – face to face, hybrid and online.

**Response to the consultation questions:**

1. **Do you agree that the monetary eligible criteria for Debt Relief Orders in Northern Ireland should be increased to the same amounts as now apply in England and Wales, that is to £30,000 for total debt, £2,000 for total assets, £2,000 for a single domestic vehicle not adapted because of disability and £75 for surplus monthly incomes?**

We believe there will be a tsunami of people looking for debt advice, and the biggest factor that will drive this demand will be the continuing barrage of cost increases that are significantly decreasing incomes. These rising costs are compounded by the ending of government support, increased taxes, lack of access to affordable credit, and lenders beginning to actively chase debt again including taking court action. We believe that more people than ever will need access to insolvency measures to help them through this period of unprecedented change.

Advice NI supports the need to increase the eligibility criteria and that these are implemented without delay. Both, England and Wales have more generous criteria since June 2021, thus leaving NI citizens at a disadvantage as the criteria was not uplifted in tandem. We also recommend that the NI Insolvency Service (IS) considers other measures alongside the increasing criteria to allow more flexibility within the DRO process, which we have outlined below.

Advice NI is in favour of increasing the debt levels to £30,000 with the caveat that there is a degree of flexibility. For example using a degree of exception, which would allow those who are just slightly over the debt limit to become approved. Our advisers have also told us, there are times DROs will be disallowed when the client was slightly over the limit by the time the IS team assessed the application. One example provided, was a client who went over the limit by less than £70, which meant the application was declined. This amount was less than the application fee. We believe this is wrong as the client was under the limit when the application was submitted but when assessed was slightly over, due to interest and fees being applied. We advocate that there is some allowance or flexibility shown to these applications and recommend that there is an exception percentage allowed within the debt limit.

We are currently working with a client with 14 creditors, who is only able to offer them token payments. His circumstances changed dramatically due to having a child with a disability. Both he and his wife care for the child. His wife had to give up work and he works part time. The debts are over the current £20,000 limit but are below the £30,000, which means he could apply for DRO under the new guidance, otherwise he will remain in this vicious cycle as he has no income to repay the debt nor can he afford to go bankrupt.

We advocate that where debts become known after the application has been approved, but within the time period then these debts should also be included especially if they are still within the debt limit. Some debts do not show on the credit reports and often the client was not aware of them, e.g. benefit/tax credit overpayments and loans, household services or debts that have been sold on to third party debt management companies. We believe these debts should also be allowed to be included in the original application and written off. Otherwise, it defeats the purpose of insolvency providing a fresh start. We have a number of cases were a DRO has been approved, only for a debt to become known afterwards and the client remains liable for payments. We believe this is fundamentally wrong and advocate that this measure should mirror bankruptcy guidance that allows debt to be included and written off.

We support the increase to the disposable income allowance, however it should be set higher at £100, so that it is more accessible for people. We have had clients who were just over the current £50 level, one example by £6. The client was a retired single man who worked abroad; he had returned to NI and was living in supported accommodation. He had two occupational pensions. He had made a claim for housing benefit, but his occupational pensions were not included, which meant he has an overpayment debt and has to pay full rent. Once his financial statement was assessed he has £6 over surplus income criteria for the DRO. The proposed increase in surplus income would allow him to apply for DRO and relive stress of non-priority debts.

Another example, a couple applied for a joint IVA and were rejected. The wife had to apply for a bankruptcy, as her debt was £23,949. However, she is going to have to save for the fee. The husband’s debt was £12,929, but he has slightly over the £50 surplus income. With the new proposed measures, both would now qualify for a DRO.

We agree with the asset amount increasing to £2,000, except for the vehicle and we have outlined the reason for this in question 2.

1. **If you do not agree with any of the proposed amounts, what do you think they should be? Please state your reasons, including why you think that the limit in Northern Ireland should be different from that in England and Wales?**

We disagree with the £2,000 limit on assets especially vehicles. Cars with a lower value have a tendency to cost more in fuel and maintenance. We believe that this should be increased to at least £5,000. This is higher than currently allowed for bankruptcy, but we believe that it needs reviewed and increased for both insolvency measures. If a client were to sell their car, they would have to purchase another one so the amount left over may not be worth very much to offer to creditors in way of servicing the debt. In fact, according to Autotrader[[1]](#footnote-1) second hand car prices has increased 28.5% in one year. In addition, the government are keen to get or keep people in work and many need a reliable car to ensure they can travel to or for work and/or leave children to school. NI has a high rural population and the transport routes are not convenient therefore, a reliable car is often needed to ensure people can access employment, shops, schools and so on. Fleet news[[2]](#footnote-2) estimates that an average used car is valued at £8,000, whilst Thisismoney[[3]](#footnote-3) broke down a list of family cars with the lowest priced at £10,698. Therefore, £2,000 for a vehicle is unrealistic in today’s market and could potentially jeopardise the client’s access to essential services.

In one example, our client had just been diagnosed with cancer, which caused him to suffer financially. The car was valued at just over the limit. This meant that he would have to sell a perfectly good working car (that they still have) and buy a cheaper car which may have been in worse condition. Any car under £2,000 is going be inefficient and more expensive. For this client due to his cancer treatment and care, it was not an option to consider selling and buying a car as this would have contributed to their stress. In this instance, the value of a vehicle should not be a barrier to accessing DROs.

1. **Do the proposed changes strike the right balance between ensuring that the most vulnerable individuals are able to access low cost debt relief at the same time protecting the interests of creditors by maintaining the ‘can pay, will pay’ ethos? Would these levels of assets lead to a return to creditors in another debt relief solution? Please state your reasons.**

People need to be able to access affordable insolvency measures, especially in today’s volatile markets. The continued increase in price rises are outstripping wage and benefit increases, which means the squeeze on incomes will only cause many more to struggle with unmanageable debt.

Since DRO have been introduced, we have had very few repeat clients. Those advisers who have had repeat clients, these numbers have been in the single digits. Usually, people access DROs as they are unable to service their debt or access other debt solutions due to their circumstances. At present, you can only apply for a DRO every 6 years; therefore, we do not think people are abusing this system.

1. **Are there any other comments you would like to make?**

We would call on government and funders to ensure the stability of the free debt sector as these changes will increase workload significantly. We need to be better resourced to ensure there is a balance between administration and our ability to advise clients.

Advice NI recommend the IS consider the following:

*Access to IS credit reports* – we believe that the IS should allow us access to their credit report information and share this with the sector to speed up the application process, which could be done via the online portal for applications. At the minute, we are getting three separate reports, which is time consuming and at times not providing the same level of information. We have had applications turned down because the IS has a superior credit report system that captures more information. We believe this is a major issue as it means we have incomplete information. Where someone’s application is turned down it can cause severe stress for the client and have a negative impact on our reputation. Therefore, we recommend that the IS allow the debt sector access to the same credit reports to ensure that the applications can be based on the most accurate level of information and to avoid applications being declined.

*Fees* – we believe this can be a barrier for some and would recommend that the IS review the pay structure to include fee exemptions for people who struggle to pay for it. This could include those on very low income and would have no way to save for the fee otherwise. We have had a number of clients that cannot afford to save £90. The IS should also consider abolishing or tapering the fee for those who could contribute a small amount to this. The fee should not be a barrier for people to access insolvency.

*Six year rule* – we believe this should be abolished or at the very least reduced. To date we have had very low number of repeat applications. This should be brought in line with Bankruptcy or other measures considered where someone was taking advantage of DRO.

*Credit files* – we believe having a credit file affected for 6 years is draconian and recommend for this should be reviewed. It is our opinion that it is not morally right to hinder someone for 6 years for something that was out of their control, especially if they were faced with insolvency through no fault of their own.

*Creditors* – one of the most arduous parts of debt advice giving is correspondence with creditors. This needs to be sped up and the creditors need to be more flexible in their approach in dealing with recognised reputational third party advice providers. We have had instances where creditors (e.g. HMRC) have simply hung up on advisers and clients, without providing any debt details. In other circumstances, creditors continue to chase the client even after the DRO has been approved. We have a number of cases where benefit deductions still occurred even after the client was granted a DRO. We also have a case where a Credit Union began to chase a client for a debt that had been included in a DRO in 2017. Therefore, we advocate better processes be put in place to inform creditors to stop all collection activity.

*Debts* – these should mirror the bankruptcy application, for example, if something has been missed it can be added to the original application.

*Application* – if a client has not paid on time then the adviser has to start the process of applying again. There should be a simpler way of accessing a client’s previous application so that it could be reactivated instead of having to put all of the same information in again.

*Paying* – in NI, a person cannot pay in instalments. We believe the IS should investigate how this has worked in England to see if it would be worth implementing a similar scheme here. This would allow those who have to save the opportunity of paying it off in instalments.

*Technology* – it is our experience in NI that the application process is better than bankruptcy, however some suggested amendments to the system would be to include access to credit report, a facility to upload documents and an easier way to upload creditor information.

*Guidance* – we would call for better guidance from IS on areas of spend and how they will calculate this, for example travel and transport, this moved into a fix category and there is no guidance on how IS calculate this expenditure. It would be useful to support intermediaries in their advice giving to clients.

*Home owners* – we believe home owners with substantial negative equity should be allowed to access DROs. The home should not be considered an asset if it is in negative equity as the person is still liable for the shortfall. This can be proved through the SFS, financial and house valuation documents.

*DRO Moratorium* – we believe this should be abolished or reduced, where someone has reached the surplus income threshold and they were offered a promotion but it was only going to take them slightly over the limit, we believe it should not mean the DRO is in jeopardy. A more flexible approach is needed in these circumstances. Being tied to a moratorium period should not hinder someone who may be able to get work, a promotion or access overtime with very little change in their overall SFS then having the fear they would have to repay their debts.

*Flexibility* - there may be more unusual cases applying, therefore a more flexible approach should be taken when assessing DROs applications, as outlined in question one.

Finally, we would call on IS and government to review all current insolvency measures to ensure they are adapting to the fall out of Covid-19, Brexit, Rising Cost of Living and Russian invasion of Ukraine. We are aware of this work already being undertaken in other jurisdictions and we do not want to be disadvantaged compared to other regions.

Contact information on this consultation response:

Bob Stronge (Chief Executive)

Fiona Magee (Deputy Chief Executive)

Sinéad Campbell (Head of Money Debt and Quality)

Suite D (4) First Floor

Block 3 Forestview

Purdy’s Lane

Newtownbreda

BT8 4AR

Tel: 028 9064 5919

Email: bob@adviceni.net

Email: fiona@adviceni.net

 Email: sinead@adviceni.net

 Website: [www.adviceni.net](http://www.adviceni.net)

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2. Fleet new, [2020], <https://www.fleetnews.co.uk/news/fleet-industry-news/2020/10/13/average-used-car-values-rise-in-september> [↑](#footnote-ref-2)
3. Thisismoney, [2022], <https://www.thisismoney.co.uk/money/cars/article-10572721/Used-car-prices-soar-record-highs-big-family-models-demand.html> [↑](#footnote-ref-3)