



## *Response to call for evidence on insolvency proceedings: debt relief orders and the creditor petition limit*

1. As the UK's financial capability charity, we welcome the opportunity to respond to this consultation.
2. We believe that being on top of your money means you are more in control of your life, your finances and your debts, reducing stress and hardship. And that being on top of your money increases your wellbeing, helps you achieve your goals and live a happier more positive life as a result.
3. Our vision is for everyone to be on top of their money as a part of everyday life. So, we empower people across the UK to build the skills, knowledge, attitudes and behaviours, to make the most of their money throughout their lives.
4. We believe that financially capable people are on top of and make the most of their money in these 5 key areas:
  - Planning (including budgeting)
  - Saving
  - Debt
  - Financial services products
  - Everyday money (including wages, cash, bank accounts)
5. We are a small delivery organisation, developing and delivering products and services which provide education, information and advice on money matters, in an appropriate way for young people and adults. We also work with all parts of the financial services industry to improve practice and outcomes for their consumers.
6. Because we do not deal directly with individuals in debt, we do not have case study evidence. However, we have an interest in ensuring that people who get into financial

difficulty have access to appropriate solutions to deal with their debts and get back on their feet for good. We respond to this consultation from that perspective.

7. The key points in our response are:

- The asset and debt criteria for Debt Relief Orders should both be increased above inflation, then by at least inflation in future.
- The creditor petition threshold should be increased to £3,000.
- The calculation of assets for Debt Relief Orders should include the realisable value of the property, not the property's gross value.
- Money management training should be provided alongside Debt Relief Orders to support individuals' sustainable recovery.

#### **Q1 – Please indicate the size of your organisation**

8. On the criteria given we are a 'micro' organisation. However, we would add that we do not offer debt advice or have any direct engagement with the Debt Relief Order (DRO) process, so any change to the asset and debt criteria coming out of this consultation process is unlikely to directly impact upon us.

#### **Q2 – What level do you think the maximum debt amount should be set to and why?**

9. At a minimum, the maximum debt amount should increase by inflation (and remain static during periods of deflation). This seems self-evident, and if it does not increase by inflation there will simply be a need for further consultation a few years down the line.

10. However we also believe there is a case for further increasing the maximum debt amount beyond inflation. For individuals with little or no disposable income and with unsecured debt above £15,000, bankruptcy is the only option (if they can afford the fees) – in our view this is not a proportionate solution to the level of debt where this is only a little above the current maximum amount.

#### **Q3 – Do you think there should be a minimum limit of debts?**

11. We do not believe a minimum limit of debts is necessary. For individuals with small debts but no disposable income (around 20% of DRO applicants have no disposable income), a DRO will still be an appropriate solution. For people with small debts and a little disposable income – so people who could conceivably repay that debt – we would expect that a highly-trained debt adviser such as the intermediary would recommend a more appropriate route.

#### **Q4 – What level do you think the maximum asset amount should be set at and why?**

12. The current maximum asset amount is too low, and fails to take into account the fact that many now-common household items (such as a mobile phone or computer) will easily take people's relevant assets above £300, denying them access to a DRO when their assets are still not significant.
13. As with the maximum debt amount, we believe this should be increased, then kept in line with an external benchmark such as inflation, or the value of a certain set of goods needed to achieve a certain quality of life.
14. We also urge the Insolvency Service to rethink the way in which assets are calculated. By calculating the gross value of property, any individual with a mortgage is excluded from a DRO, even if the equity they hold in that property is negative or minimal. This would remain the case even if, as we argue above, the maximum asset amount is increased.
15. When pension rights were correctly stopped from being treated as an asset, it was recognised that because people couldn't realise those funds, their treatment as an asset unjustly excluded people with pension rights from accessing DROs. The same principle is evident in relation to negative or low-equity mortgagors: a notional asset that someone cannot in fact realise should not be treated as an asset for the purpose of determining eligibility for a DRO.
16. Valuing property based on the capital that an individual could reasonably be expected to realise following a sale (minus associated costs) would enable more people with low levels of actual assets – so could not repay their debts by the sale of such assets – to access a DRO.

**Q23 - What impact have DROs had on the wellbeing of debtors – please provide evidence?**

17. While we do not have evidence of the impact of DROs on debtors' wellbeing, it is important to consider how the DRO process supports people to stay out of problem debt in the future. This is central to their future wellbeing.
18. This principle has recently been recognised in Scotland, with money management training now to be provided to individuals on the Minimal Asset Process from April 2015. Introducing a similar provision in England would help to break the cycle of debt and help to stop people from slipping back into difficulty.
19. We have recently developed two workshops for adults to support people to manage their money, and to help people to help others to manage their money. We would welcome the opportunity to work with creditors, the Insolvency Service, and debt charities to reach more people and help people stay out of debt once the DRO has ended.

**Q24 - What would you consider an appropriate creditor petition level? Please provide evidence for this view, including any case study examples.**

20. The current creditor petition level of £750 is extremely low, and even with inflation applied, the figure of around £1,600 is very low.
21. A creditor petition for bankruptcy is a serious escalation and should only be used in serious cases where a significant sum is owed. An appropriate in our limit would be £3,000 – from the figures in Table 18 this would allow over 90% of creditor petitions to continue while protecting those debtors who owe the smallest amounts, as well as being a clear figure.
22. It would also remove the possibility of creditors using the possibility of bankruptcy as a threat, in cases involving small sums where there is no intention to actually petition. It is inappropriate and disproportionate to apply for bankruptcy for small sums in any case, and entirely misleading to use it as a threat, which has the potential to greatly affect a debtor's wellbeing.