



The Insolvency
Service

Call for evidence outcome

Review of the personal insolvency framework: Summary of responses and next steps

Updated 4 August 2023

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1. Introduction

The call for evidence

The Government's call for evidence to inform its review of the personal insolvency framework in England and Wales ran from 5 July 2022 to 24 October 2022. It sought views on three key areas:

- The underlying purpose of the personal insolvency framework and where the balance should fall between providing debtors with a fresh start and providing returns to creditors
- The funding of the framework, whether the burden of costs is apportioned fairly, and some of the wider consequential costs of bankruptcy.
- The current personal insolvency procedures and whether these are working effectively.

The scope of the call for evidence covered bankruptcy, debt relief orders (DROs) and individual voluntary arrangements (IVAs). Debt management plans (DMPs) and county court administration orders were not within the scope of the review.

Breathing Space and the Statutory Debt Repayment Plan (SDRP) which at the time of publication of the consultation was still under development, were also outside the scope of the call for evidence. The consultation, however, acknowledged that these would need to be considered in the context of their interaction with the overall framework. Since the publication of the call for evidence, the Government announced in November last year that future decisions on SDRP will be based on the outcome of the personal insolvency review.

Responses to the call for evidence

There were 64 responses to the call for evidence from a mixture of stakeholders, including from the debt advice sector, creditor organisations, regulators, members of the insolvency profession, academics and individuals. A list of the respondents is set out at Annex A.

As well as written responses, officials from the Insolvency Service held a series of meetings with key stakeholders to discuss the issues raised in the call for evidence. They also attended stakeholder events at the University of Liverpool, kindly hosted by Dr John Tribe, the University of Birmingham,

kindly hosted by Dr Katharina Möser and at the London School of Economics, kindly hosted by Dr Joseph Spooner.

2. Summary of responses

a. The underlying purpose of the framework

This chapter summarises responses to questions 1 to 8 of the call for evidence which sought views on what the underlying objectives should be for a modern personal insolvency framework, and whether the current model meets these objectives.

Underlying purpose of the insolvency framework

Overall, most respondents considered that the underlying purpose of the personal insolvency framework should be to offer a fresh start to people in financial difficulty and an orderly repayment to creditors, where this is possible. There was acknowledgement that people in debt and creditors need to be treated fairly and individuals are entitled to a reasonable standard of living while dealing with their debts. It was recognised that the objectives of “fresh start” and “can pay/will pay” pull in different directions, and there were differing views as to where the balance should lie between the two. Many respondents, mainly from the debt advice sector but also some within the insolvency profession, took the view that the balance should be tilted in favour of the debtor. It was argued that many creditors factor the cost of potential default into their lending arrangements, write off “bad debts” against tax liabilities and are better able to bear the risk of debt default. In addition, debt advice sector respondents considered there would be socio-economic advantages in the insolvency regime being more debtor friendly. This would help return people to economic activity more quickly and have beneficial impacts for their mental health, families, other dependants and wider society.

Many respondents from creditor organisations argued that that the focus should be on returning maximum funds to creditors in a swift and efficient manner as, from their perspective, too many people in debt fell into the “can pay/won’t pay” category. These respondents also felt that where a debtor had been dishonest, “can pay/will pay” should take precedence over “fresh start”.

Does the current framework get the balance right between “fresh start” and “can pay/will pay”?

Most respondents particularly from the debt advice sector, felt that the framework needed to be more consumer focused and with stronger consumer protection. Examples given included better protection for essential assets such as homes and motor vehicles and preventing indebted individuals being required to make unaffordable contributions towards debts and/or contributions used primarily to pay fees to the provider of an insolvency solution. Other respondents, though, felt that the current framework struck the correct balance between the two objectives. They considered that those who cannot pay anything were able to obtain a “fresh start” through a DRO or bankruptcy (where there were no assets or surplus income). and for those who had surplus income or assets, payment could be made either through realisation of those assets in bankruptcy or an Income Payment Order (IPO)/Income Payment Agreement (IPA), or by entering an IVA or DMP if they needed longer time to pay. A few respondents, mainly from the creditors’ side, felt that the framework for determining a debtor’s capacity to make payments from income towards their debts offered the potential to skew the balance in favour of debtors with “essential costs and expenditure” being manipulated to reduce the amount of surplus income available to pay creditors.

Some respondents were unsure what the current framework is trying to achieve. Others commented that the existing framework lacks cohesive intent on the grounds that it has been developed piecemeal since the introduction of the Insolvency Act 1986 nearly 40 years ago and no longer operates as intended. These respondents suggested that some of the severe Victorian views of insolvency endure, alongside more modern concepts of social welfare, debt relief and fresh start.

How well are the objectives being met and should there be different objectives for different procedures?

Many respondents were sceptical about whether the current framework really offers a “fresh start” to people. While an individual may be free of debt following an insolvency procedure, there was concern that in reality the wider impacts and consequential costs of insolvency make it difficult for individuals to get back on their feet. (This is discussed further in “The consequential costs of insolvency” - section b “Fees and funding”)

Respondents considered that the nature of some insolvency products may deter people from improving their financial position and achieving a “fresh start”. For example, it was argued that the eligibility criteria relating to surplus income for the purpose of obtaining a DRO disincentivises people from taking on extra work or increasing their earnings, as they may lose their DRO. Moreover, unlike in bankruptcy, debts which are not included in a DRO are not automatically written off, which respondents said was another factor in hampering people from obtaining a “fresh start”. Similarly, respondents also cited the fact that there are certain debts which survive insolvency, such as student loans, court fines and Social Fund loans, likewise preventing an individual from starting anew.

For those in an IVA, respondents said that likewise they may not look to improve their income as it could lead to higher payments. It was also noted that people undertaking an IVA may be in debt for longer. Originally the term for an IVA usually ran for 3 years but is now more likely to be 5 or 6 years, which means people are paying their debts over a longer period, delaying the time when they can really begin to rebuild their finances.

A major area of concern for respondents from the debt advice sector related to people who are in deficit budget and do not have enough money to meet essential expenditure. For these individuals there is no “fresh start”, as even where debt is written off it is likely to build again.

Some respondents expressed concern that the Official Receiver’s fee regime in bankruptcy (specifically the ‘general fee’ charged in every case) undermines the ‘can pay will pay’ objective as it means that the Insolvency Service receives fees in priority to all other costs. Hence there is a reduction in the amount available to creditors, which impacts the ‘can pay will pay’ objective. A minority of respondents felt that the “can pay/will pay” objective was not being met as they considered that the current framework does not distinguish between indebted individuals who are simply unfortunate and those who are dishonest. This allows culpable individuals to escape the consequences of their actions.

There were varying views as to whether there should be different objectives for different insolvency procedures. Some respondents did not consider that there should be, but that there should be a consistent approach to debt relief balanced with reasonable contributions to creditors, where circumstances allowed. Others felt that there should be different objectives and that the current framework already provided this in terms of the different procedures available.

However, many respondents said that it was difficult to come to meaningful conclusions about whether the current framework was meeting its objectives because there is no full visibility of all the debt solutions. For example, there is no readily available consolidated data relating to DMPs, and limited data about returns to creditors in IVAs.

Should there be different options for trading and consumer debtors?

Of those that responded to this question, those from the debt advice sector and those within the insolvency profession suggested that there should not be different options for trading and consumer debtors. They generally considered that of the current options, IVAs and bankruptcy were suitable solutions to deal with trading debts and that it would unnecessarily complicate the framework to include solutions for different types of debtors. There were some who felt that there could be stricter oversight of trading debtors.

Other respondents, including some regulatory bodies, felt that there was a need for different options for trading and consumer debtors. One

respondent commented that the current arrangements have effectively divided the IVA process into two types of procedure and consideration should be given to separating the procedures in statute.

Effectiveness of current safeguards and enforcement regime

There were mixed views on the value of the individual insolvency register. The debt advice sector considered that the register adds to the perception of stigma around being personally insolvent and deters people in financial difficulty from coming forward for advice and using an insolvency solution. Similarly, the practice of advertising bankruptcy in the Gazette is also seen as contributing to feelings of shame and stigma, which makes people reluctant to use insolvency remedies. Some indebted individuals believe that details of personal insolvency are still published in the local press (although has not been the case since 2016), which adds to their reluctance to tackle their financial difficulties by entering an insolvency procedure. There was concern that for those in business entry in the register and advertisement in the Gazette could ruin their reputation.

On the other hand, creditors see the public register as an essential means of assessing the risk of providing credit to individuals and so protecting creditors from the risk of non-payment. Financial service creditors did however acknowledge that a “defaulted account” is an indicator for them in lending decisions. It was also commented that there is no longer a need for the public register in the modern age as creditors have access to credit reporting and other systems.

There was a suggestion that when acting in an IVA or bankruptcy an insolvency practitioner should be able to see whether a debtor had previously been insolvent, even if the information had been removed from the register. It was felt that this would give a broader picture of a person’s circumstances and financial history.

Concerns were expressed that the insolvency register is being abused by marketing companies who are targeting insolvent individuals and trying to coax them into different solutions. Also the application process to exempt those who are at risk of violence from inclusion in the public register is considered time-consuming and resource intensive. There were suggestions that publication in the register and Gazette should be abandoned or that the register should become a private register, which is the case for Breathing Space and was also proposed for the SDRP.

Respondents generally thought that other restrictions placed on insolvent individuals (£500 credit limit and restrictions on acting as a company director) were excessive. It was felt the restrictions undermine the regime by making it harder to achieve the objective of obtaining a fresh start, rather than protect its integrity. The debt advice sector also suggested that the Government should review other restrictions with a view to removing them. They said that, in some cases, a bankruptcy order may jeopardise an application for British citizenship or stop a person from acting as a sponsor

for a dependent who wishes to enter the UK and put their immigration status as a person of independent means at risk.

There was a perception by some that the bankruptcy and debt relief restriction orders do not necessarily act as a deterrent to financial misconduct. Some felt that restrictions orders should be abolished as the most serious cases can be dealt with via criminal sanctions.

Respondents from the debt advice sector were concerned that the enforcement regime served to catch those who had acted in desperation or in ignorance, rather than with an intention to deceive. It was felt that more needed to be done to educate people about the consequences of poor behaviour before they became insolvent, particularly those who continue to trade using tax and VAT monies owed to HMRC. It was suggested that the Insolvency Service could do more to inform the public of how and when the enforcement regime is used and its purpose.

How should the insolvency framework distinguish between honest/unfortunate and dishonest/reckless debtors

Most of those who responded on this question identified problems with defining what the terms “honest/unfortunate” and “dishonest/reckless” means. They said that any such definition is subjective by nature and one person’s view of what constitutes “unfortunate” will be another person’s view of “reckless”.

Some respondents from the debt advice sector felt that the personal insolvency framework should not apply culpability or blame. They said that debtors were often vulnerable, dealing with difficult financial and domestic circumstances and coping with mental health issues. Where there had been abuse of the system, the individual may not have understood what they were doing or what alternatives there were. Many of the practices attributed as “reckless” such as gambling or obtaining credit with no intention to pay, were due to addiction or because of desperation and lack of any other option to feed or clothe a family. It was felt by some that the circumstances leading to an insolvency were irrelevant, and that people needed to be encouraged to come forward for debt advice as early as possible. It was therefore important to be non-judgmental. Some respondents pointed to the fact that bankruptcy restrictions orders and undertakings (BROs/BRUs) were obtained in only 3% of cases, which therefore suggested that most bankrupts were honest.

There were other respondents though who felt that it was important to distinguish between those who had been unfortunate and those who had been dishonest, even if there were difficulties in doing so. There was a suggestion that a “fault/no fault” consideration should be built into every insolvency procedure, and debtors categorised as “no fault” should be treated differently to those in the “fault” category, with a clear distinction in treatment. For example, “fresh start” and education for “no fault” debtors and harsher, but flexible sanctions for those in the “fault” category. These

could include longer discharge periods for larger debts and shorter discharge period for smaller debts and disapplying some of the protections of bankruptcy, such as allowing certain debts to survive bankruptcy. There could also be a civil sanctions regime to deal with debtors who were irresponsible and unhelpful.

Other respondents suggested there could be longer sanctions for those who had been dishonest and that the number of times a person could use an insolvency remedy should be restricted. This would help to stop a recidivist dishonest debtor from being able to walk away from their debts. There were concerns from the insolvency profession that a 12-month period of bankruptcy was not long enough to establish whether a person has been dishonest.

b. Fees, funding and costs

This chapter summarises the responses to questions 10 to 15 of the call for evidence about how the fees and funding arrangements should work in the personal insolvency regime and the consequential costs of insolvency. There were fewer responses to these questions than others and some respondents said they were difficult to answer because they did not fully understand the current funding arrangements.

How should the insolvency framework be funded and structured?

One of the most significant messages to emerge from the call for evidence regarding funding arrangements is that the requirement for payment of upfront fees for bankruptcy and DROs can be a significant barrier to accessing an insolvency solution for some debtors. In a survey conducted jointly by the Money Advice Trust, StepChange Debt Charity, Citizens Advice, Christians Against Poverty, the Institute of Money Advisers, Advice UK and Community Money Advice, 94% of debt advisers said that this was the case. There were calls to look at the regimes in Scotland and Ireland where the fees for bankruptcy are considerably lower. In Scotland the application fee for a standard bankruptcy is £150 and, following a recent legislative change, there is now no fee for those eligible for the minimal asset process route, which is equivalent to a DRO. There were suggestions from respondents to waive DRO fees for applicants who met certain criteria, such as those who are on income related benefits. It was also suggested that payment in instalments should be allowed once the insolvency order has been made (rather than upfront) although it was felt that this impacted on the idea of a “fresh start”.

While there have been some changes recently in the way IVA volume providers collect fees, with many now moving to a fixed-fee model, many respondents also expressed concerns around continued instances of front-loading of IVA fees. This is where initial payments in the IVA are used mostly

to pay the fees to the IVA provider rather than creditors, meaning that if the IVA is terminated early, there is little or no reduction in the outstanding level of debt and little return to creditors. There was felt to be a lack of transparency regarding IVA fees and completion rates, which prevents consumers making informed decisions about which IVA firm to use. There was an overarching view that fees should be evenly distributed throughout the lifetime of the IVA as this would improve behaviours and deter mis-selling.

However, there was no clear view from respondents as to who should bear the costs of the personal insolvency framework, instead there were a variety of views, as set out below:

Creditors and Government should bear the costs

Respondents from the debt advice sector felt that creditors should bear part of the cost for insolvency as they are responsible for lending decisions, which can result in people ending up in debt. They felt that if creditors met more of the costs of insolvency alongside Government it would serve as an incentive to lenders to practise responsible lending. It would also, in their view, prevent Government departments which could potentially act as creditors from allowing large overpayments (for example, benefit overpayments) to build up. There was some support for the idea that Government should primarily bear the costs of the Insolvency Service and creditors bear the costs of court proceedings and Insolvency Practitioner fees.

Debtors and Government should bear the costs

Other respondents felt that it was reasonable for debtors to pay the cost of insolvency as far as possible. At the same time, respondents were concerned that there should be support for the vulnerable and that there was a strong public policy case for some public funding to ensure that the cost is not a barrier to access. There was a view that the fees for bankruptcy and DROs should be lower and that there should be limits on IVA fees to prevent vulnerable debtors being exploited. One suggestion to remove cost as being a deciding factor for any individual entering a formal solution would be to have a single, equal value cost of entry for each of three statutory procedures of between £50 and £70. Other suggestions were that the debtor should be able to pay the costs of bankruptcy and IVA over the lifetime of the bankruptcy or IVA as appropriate. For DROs, respondents suggested there should be an attempt to recover the cost from the debtor subject to a means test, with cases being funded by the existing levy on the banks where the debtor was unable to meet the cost. Other suggestions were that where a debtor has assets fees should be paid out of realisations if the debtor was otherwise unable to pay. If the debtor has no assets and is unable to pay then the Government should bear the cost of funding the insolvency.

Government should bear the costs

It was argued that debt relief is a public good and therefore should be publicly funded by Government. Respondents argued it makes no sense to charge people to enter an insolvency solution which leads either to delays or people entering the wrong procedure. Debtors should only contribute to upfront fees when they have the means to do so via an IVA or income payments order or agreement.

Mixed funding

Some respondents felt there should be a mixed approach to funding to ensure that everyone is able to access an appropriate insolvency solution. The £90 fee for a DRO is thought by many to be too high for many debtors and it can take 4 to 5 months for a debtor to be able to raise enough money to pay the fee. There was a suggestion that DROs should be publicly funded. Also that the deposit for bankruptcy should be reduced for those who have no or minimal assets and are unable to raise the deposit in a reasonable period. For IVAs, fees should be paid pro-rata over the period of the IVA. This would help improve behaviours and ensure that IVAs are viable and that debtors are supported to maintain payments.

Current funding arrangements should remain

There were also comments that the current funding arrangements work well and should be retained. Some respondents felt that ultimately creditors bear the costs of insolvency. In exceptional cases, such as mental health/economic hardship, there could be a “personal insolvency fund” which could be funded via a levy on creditors. Respondents considered that creditors should remain responsible for paying the initial fee to bring proceedings in creditor petition cases.

What options are available for those unable to bear the cost of bankruptcy, IVA or a DRO?

The responses from stakeholders indicated that there are very limited options for those unable to afford the cost of entry into any statutory insolvency procedure. There is the option of entering a long-term DMP, but it was felt that this could be onerous and time-consuming and did not provide protection from enforcement action. Many also felt that a DMP was likely to be unrealistic because those unable to bear the cost of a statutory solution were unlikely to have sufficient surplus income to support a voluntary plan. Hence the plan would be likely to fail in the longer term. An alternative would be to come to a piecemeal agreement with individual creditors, but again this was not considered satisfactory. There was an example of a debtor paying £1 a month to each creditor. The view was that this helped neither the debtor nor the creditor. The debtor was effectively stuck in limbo, unable to tackle their financial problems and to receive a fresh start.

Respondents said that another option where debtors could not afford the upfront cost of a DRO or bankruptcy would be to seek help with the costs of entering insolvency from friends, family or a charity, but this might not always be possible. While charity grants are available for debtors, most are capped at £250/£300 so a debtor would need to approach more than one

provider to meet the £680 cost of the bankruptcy and adjudicator fees. This is time consuming and resource intensive for both the debtor and the debt adviser.

In the circumstances where none of the above options were available, it meant that debtors had to continue to “muddle” on as before, relying on the goodwill of creditors and without the benefit of access debt relief. One respondent did not consider this a problem, and thought that if a debtor had nothing, they need not fear legal action, although it was acknowledged that this was not helpful to the creditor.

The consequential costs of insolvency

Respondents from the debt advice sector felt that the main consequential costs of insolvency are borne by the debtor and include:

- A negative impact on an individual's credit file which stays on record for six years and leads to an inability to obtain credit at a reasonable interest rate during that period. In some cases, difficulties in obtaining credit extends beyond six years, as a potential lender can include checks on whether someone has ever been insolvent and may only provide loans at a higher rate or refuse applications
- difficulties in obtaining a bank account
- problems in obtaining mobile phone contracts and insurance as credit for these products (to allow payment by monthly instalments) can become unavailable after insolvency and debtors cannot afford to pay for the items upfront
- housing issues, potential threat of eviction for entering insolvency and difficulties in obtaining accommodation in the private rented sector
- in some cases an impact on employment and the ability to carry on certain professions/businesses, which may also be hampered by the prohibition on being able to act as a company director
- risks to mental and physical health due to feelings of shame and stigma and the stress of dealing with insolvency, which can cause people to delay seeking help to tackle financial difficulties
- potential adverse impact on applications for UK citizenship
- the consequential costs for rehousing individuals and families whose home is sold as an asset of the bankruptcy estate
- increased charges for utilities, where a pre-payment meter is installed

Other respondents felt that the most obvious consequential cost of insolvency generally is the knock-on-effect for creditors who are unable to recover their debts in full if they recover anything at all. It was suggested that a single insolvency event can often lead to one or more other insolvencies as those creditors then struggle themselves and there is often a domino effect, which has an impact on the economy generally. Creditor

organisations commented that even where there are assets in a bankruptcy the cost of realisation can outweigh the benefits.

How to reduce stigma and encourage early action

The vast majority of respondents from the debt advice sector, regulators and those within the insolvency profession thought that the key to reducing stigma and encouraging early action was to ensure that people had better information about insolvency and the options available. If people were more aware of the benefits that might flow from entering an insolvency procedure, then they would be more likely to seek help, and this would have wider benefits for society. There were different suggestions as to how this might be delivered, from ensuring that people had ready access to free and independent debt advice to suggestions that there should be Government public information campaigns and better financial education, including some calls for financial education in schools. There were also calls to crack down on misleading advertising and consider setting advertising standards for Insolvency Practitioners and advice providers.

While a few respondents considered that stigma had reduced over the last 20 years, most considered it still to be a problem. A common theme was that the current language used reinforces stigma and the engrained stereotypes linked to insolvency and bankruptcy. Many respondents suggested changing the terminology and re-branding insolvency. It was considered that the term “debtor” has negative connotations and is associated with the idea of a “debtors’ prison”. Therefore, there should be a review of the language used to ensure it is non-judgmental and does away with the historic views of debt and insolvency. There were some suggestions that there should be a greater distinction between what were perceived as “honest debtors” and “non-compliant debtors”, with different language used and different treatment and procedures. There were also suggestions that there should be a greater distinction between those who apply for bankruptcy themselves and those who were made bankrupt because of a creditor petition, with the suggestion that those who had applied for their own bankruptcy should be treated more favourably.

As stated earlier, there were calls to remove the requirement for a public register, and a suggestion that there should no longer be a need for bankruptcies to be advertised in the London Gazette. The debt advice sector also called for a reform of the credit rating system, with the suggestion that successful completion of a debt repayment solution should be used as a positive metric in credit scoring.

There were a few respondents from creditor organisations and within the insolvency profession, who felt that stigma served a purpose to deter reckless and non-compliant debtors and that it could help to encourage financial prudence. It was suggested that if there was no stigma attached to insolvency it could lead to reckless borrowing and higher interest rates. There was also a view that if there were no stigma it could discourage early

action, as there would be no incentive for the individual to tackle their problems and that stigma has no bearing on a fresh start.

Except for the few respondents who commented as above, most respondents from across the range of stakeholders including creditor organisations did not consider that the consequential impacts of insolvency served any useful purpose. There was an overwhelming view that they served to deter people from entering insolvency and had a negative impact, making the process more difficult for debtors and more expensive. It was felt that there was no benefit to creditors and rather than helping to rehabilitate individuals the impacts served as a punishment.

c. The current procedures and how they are working

This chapter summarises the responses to questions 16 to 27 about how the current statutory insolvency procedures are working, the factors that influence an individual in their choice of insolvency procedure, whether there are barriers to entry and whether there is scope for improvement.

Effectiveness of current procedures

There were mixed views on whether the current statutory procedures are working as intended and whether the solutions are the correct ones. Some commented that the intended purpose of the procedures has changed over time and the way the framework has evolved since the introduction of the Insolvency Act 1986 means that there is a lack of co-ordination in how the current procedures operate and their intended purpose. There was a call for a holistic approach and for all debt solutions, including informal arrangements, as well as statutory insolvency solutions to be considered as part of this review.

There was considerable criticism from respondents that the IVA market is not working as intended. The original intention of an IVA was as a debt solution for sole traders, but it is now primarily a solution for consumer debtors and the market is dominated by a few volume IVA providers. There were concerns raised about misleading advertising, mis-selling of products, excessive fees and poor service from those providing the IVAs.

Many respondents commented that the current framework is not accessible for everybody, nor are the options sufficiently comprehensive. A key factor in this is where someone does not have surplus income to make regular contributions in an IVA and is unable to afford the cost of the application fee for bankruptcy or a DRO. Consequently, they are effectively priced out of the statutory insolvency market and left in limbo as other non-statutory solutions may not be suitable. The cost of the bankruptcy fee is a particular problem, for those who do not meet the eligibility requirement for a DRO, or

who have variable income levels and so run the risk of breaching the DRO surplus income threshold.

Respondents from the debt advice sector expressed concern that the framework does not work well for those debtors with mental health problems or those suffering from domestic abuse. The impact on mental well-being was cited as one of the wider consequential impacts of insolvency. One debt charity reported that 6% of clients were in a vulnerable state at the point of advice.

Those in deficit budget were also identified as a group which are not well served by the current arrangements. Debtors in this category struggle to afford the cost of insolvency and even if they can raise the application fee for a DRO and have their debts written off, it will only provide short-term relief, unless their circumstances improve. While an individual remains in deficit budget their financial difficulties will re-occur, and they will end up back in debt. However, a DRO can only be accessed once every six years and other options are likely be unaffordable or unsuitable. For this reason, many debt advisers talked about holding back an application for a DRO to find the “right time” for the debtor to enter insolvency. Respondents acknowledged that for this category a review of the insolvency framework will not provide the answers, but there are other wider societal issues to be considered.

A number of respondents from the debt advice sector felt that the current procedures should be replaced with a new single procedure, with potentially different routes once the procedure had been entered for those with no income or no assets and those with some ability to pay. (This is discussed in more detail in the paragraph on “Improvements to regime” below)

While the majority of respondents focused on the position for debtors, there were those who felt that the system did not work well for creditors either and that it was failing to provide fair returns. The limited evidence available suggested that are poor returns in IVAs and bankruptcy.

Other respondents consider that the procedures are working reasonably well and are the correct ones, but they acknowledge that there is scope for improvement in how they operate.

Navigation of the regime.

Respondents felt that the regime is complex, and the different options make it confusing for debtors, who are already under stress, to navigate. There were specific concerns about difficulties for vulnerable debtors, those who are not IT literate or do not have ready access to IT and for non-English speakers. It was considered by several respondents that there should be a more joined-up approach across Government, with social workers referring clients to debt advisers.

Respondents felt that debtors needed to be encouraged to take early action both to seek formal advice and to contact creditors so help avoid ending up in an unsuitable debt solution. It was widely felt that it is important that debt advice should be made more easily accessible for all. Insolvent individuals often seek advice from family and friends and have made up their minds about a debt solution before seeking formal advice. It can then be difficult to get them to change their minds. Respondents were concerned that misleading advertisements push people towards an insolvency option, such as an IVA, which may not always be right for the individual's circumstances. Individuals have difficulty in identifying where to access good quality advice, and consequently can often be often "sold to" when seeking advice. This is particularly so with the IVA market. Individuals are often not aware whether an IVA is the best solution for them, or, if it is, whether the supervising IP is the right one for them.

Respondents commented that there are fundamental weaknesses in the regulatory oversight of the firms generating and offering IVAs on a volume basis, and there is a need for a more collaborative approach between FCA debt advisers and IPs to improve the customer journey. There were also calls for all those providing debt advice to be FCA regulated and for the current exemption whereby IPs can provide debt advice in certain circumstances without FCA authorisation, to be closed. Conversely, others argued that IPs are qualified, regulated individuals and highly suitable to offer advice on debt solutions, therefore the exemption from FCA regulation should be widened to enable them to provide debt advice in all circumstances.

Many respondents commented that the framework needs to be more flexible and allow for easy transition between options, for example, where someone has entered an unsuitable process, or their circumstances change. Respondents said there needs to be protection for debtors from creditor action if they move between options.

Do we have the right products?

The call for evidence sought views on the three statutory insolvency products, DROs, bankruptcy and IVAs. There were mixed views on whether these were the right procedures for a modern insolvency framework. There were suggestions from some respondents within the debt advice sector that the current insolvency framework should be abolished and replaced with a single procedure. Other respondents, particularly from the profession felt that the existing procedures were sufficient to cover the necessary circumstances, but that some improvements could be made.

DROs

Respondents generally felt that the introduction of DROs has been a positive step in improving the insolvency framework. While the changes introduced in 2021 to eligibility criteria, including an increase in the debt limit to £30,000 were welcomed, many respondents from across the spectrum

felt that there should be even greater flexibility. The following areas were suggested for reform:

- An increase in the maximum debt limit. Many argued that even though the debt limit has now increased to £30,000, this still presents a barrier for some debtors who have little or no surplus income and no assets. It meant that if they were unable to afford the application fee for bankruptcy, they were effectively barred from entering insolvency and therefore unable to resolve their financial difficulties. There were many who questioned why there needed to be any debt limit for entry into a DRO. If a debtor has no assets or surplus income, they should be able to access a DRO regardless of debt levels.
- An increase in asset limits, including the limit for a motor vehicle on the grounds that the current limit of £2,000 is out of step with recent increases in the value price of second-hand vehicles.
- Increased flexibility over the limits for surplus income to help those, such as seasonal workers, whose incomes fluctuate through-out the year. Several respondents referred to the Irish model, which allows this type of flexibility.
- A mechanism to make regular changes to eligibility criteria, either annually or biannually, to ensure DROs remain current. The methodology would need to be consistent and transparent.
- The possibility to add or amend debts after an application has been made. The need to ensure that all debts are captured takes up time and resource for debt advisers and causes stress to debtors. A comment was made that some energy companies have problems in providing an accurate figure for someone's debt, so there is a risk that the wrong figure could be entered, and the application be incorrect. It was also suggested that all qualifying debts should automatically be included in the DRO process, even if not specifically cited in the DRO application, as is the case in bankruptcy, where all debts are included (unless specifically exempt, for example, fines, child maintenance payments), even if they do not come to light until after the order has been made.
- Debtors should be able to pay the application fee in instalments once the DRO has been made. The requirement to pay the application fee upfront was cited by many debt advisers as being a significant problem for many debtors.
- It should be possible to access a DRO more than once every six years. Many respondents argued that it did not make sense to have a time restriction for entering a DRO, when the same did not apply in bankruptcy.
- Adequate funding should be provided to debt advice sector, £10 per individual debtor to cover the application process is not enough. The process should be streamlined to make it cheaper and quicker to make the application.

Bankruptcy

There was less consensus from respondents about reforms needed to bankruptcy with some advocating for a stricter approach, while others wanted greater leniency for debtors. As already highlighted, one of the main concerns is that the requirement to pay an upfront application fee acts as a barrier to entry. Other areas suggestions for improvement are:

- Debtors should have greater certainty about the treatment of the family home and other assets before entering bankruptcy. There were also calls for a more lenient approach to dealing with the family home, for there to be an increase in the minimum level of equity required for possession and sale of a family home and a simplification of the rules for establishing beneficial interest.
- The use of Income Payment Orders and Agreements (IPOs and IPAs) should be reviewed. There were suggestions that there should be a mechanism to suspend/reduce such payments on request and the rules should be amended so that payments could not be put in place where surplus income is below the DRO threshold of £75.
- Others felt that IPOs/IPAs were underused, and that the calculation mechanism failed to maximise returns to creditors.
- There was also a suggestion that people should be allowed to prioritise paying mortgage/rent arrears above payments to other creditors under an IPO/IPA.
- Some respondents suggested there should be an increase in the current discharge period from 12 months to 3 years. There was limited support for this suggestion, but some felt that the 12-month discharge period was too lenient and did not give enough time to determine whether the debtor was unfortunate or dishonest. Discharge should therefore be extended to 3 years, with a reduction to 2 years, where there was co-operation. Automatic discharge should be reviewed, and either the Insolvency Service or the trustee in bankruptcy should be able to grant discharge if satisfied that the debtor had met all their obligations. Discharge should also consider pre-bankruptcy conduct and it should be easier to suspend automatic discharge without having to incur significant court costs.
- It should be made easier and less costly to annul bankruptcy.

Individual Voluntary Arrangements

IVAs attracted considerable attention from respondents and there were calls for them to be substantially over-hauled, or even removed. As indicated elsewhere in the summary of responses, most of the concerns were in relation to the volume provider market and focused on regulatory problems regarding misleading or poor advice, mis-selling of IVAs, lack of transparency about fees and other charges and the behaviour of some IPs and IVA volume provider firms. It was noted that the Government's consultation on reforms on the future of insolvency regulation recognises concerns in this area.

The following concerns and suggestions for improvement were made about the IVA procedure itself:

- A new system to encourage or make mandatory creditor participation in the IVA process. Some respondents were concerned that certain creditors did not play their part in the IVA process, which had an impact on the outcome and therefore wanted to ensure their active participation.
- Stakeholders were concerned that outlying creditors were able to block IVAs and there were suggestions that there was a difference in behaviour between creditors regulated by the Financial Conduct Authority (FCA) and other creditors. FCA regulated creditors have certain obligations to treat their customers reasonably, whereas non-regulated FCA creditors are free to be more judgemental and less inclined to support IVA proposals. Where a self-employed consumer is denied the possibility of an IVA, they may then be forced to enter bankruptcy and consequently may be unable to continue trading. This discourages enterprise and could also have adverse consequences for any employees. To counter this, some respondents suggested that there should be a right of appeal by the debtor to the Insolvency Service who would consider whether creditor votes were “fair and reasonable”. The Insolvency Service would then have the power to authorise the IVA to go ahead, even if the statutory approval requirements had not been met. It was suggested that this would allow “caselaw” to be established without the need for “case by case” intervention.
- A “low and grow” IVA model, which would allow for small initial payments, with a realistic plan to increase payments after a set period. IPs fees would need to be adjusted and the model could be set up with requirement for creditor voting in straightforward cases.
- A simpler model, which makes it harder for creditors to propose modifications.
- A process to transition from IVA to DRO or bankruptcy where a change in a debtor’s circumstances means the IVA can no longer continue, whilst maintaining protections from creditor action.
- Changes to provide for fees to be paid over the lifetime of the IVA to ensure that, if an IVA fails, a debtor is not in a worse position than when they started.
- Responsibility for regulation of consumer IVAs to be transferred to the FCA.

Sole traders

Many respondents said that DROs are often not suitable for sole traders because they may have fluctuating incomes which may exceed the surplus monthly income levels. Respondents also said that the DRO vehicle limit can be particularly problematic for small businesses, which need to have a reliable trading vehicle. The debt advice sector also commented that it was difficult for small traders to quantify the value of any business or partnership

as an asset for a DRO, or to value business assets more generally. They felt that there should be specific reforms to address these problems.

While sole traders had the option of an IVA or bankruptcy, the debt advice sector reported difficulties in providing answers to traders about their ability to continue trading where entering insolvency, particularly bankruptcy. For some trades, for example, being an authorised MOT examiner, entering insolvency could effectively put them out of business. Respondents considered that some of the current insolvency restrictions were detrimental for sole traders and hindered their ability to continue to trade. They suggested that a specific improvement for sole traders would be to reform the requirement for them to inform a creditor that they were in a DRO or bankruptcy where they sought to obtain credit of £500 or more. It was suggested that there should be an assessment of sole trader and partnership insolvencies to assess whether processes could be simplified to enable business to continue to trade.

Some respondents felt that the stigma of insolvency was greater for traders than consumers, as it could damage their business reputation. Business tenancy agreements may contain a condition which states that entering insolvency puts them in breach of their lease and debtors are concerned that their landlord may exercise this at any time should they enter insolvency.

There was little evidence provided regarding numbers of IVAs and Partnership Voluntary Arrangements (PVAs) relating to sole traders and partnerships. While an IVA may seem the most suitable solution for sole traders, some respondents commented that in some cases even an IVA may not be possible. Most small businesses will have debts with HMRC, which is a preferential creditor for certain types of debt. Other creditors therefore may decide to veto an IVA proposal, because they would in effect receive very little and would have to wait for HMRC debts to be paid first. Stakeholders said that small businesses need specialist advice, and this is not available from bulk IVA providers. Fees are often higher in a business IVA. Some respondents, however, felt that IVAs and PVAs generally work well for traders and that they should be reserved for these cases as originally intended, with an entirely separate procedure developed for consumer debtors.

Main factors influencing a decision to enter a particular insolvency procedure

As indicated elsewhere in this summary, respondents, particularly those from the debt advice sector, but also within the insolvency profession and elsewhere, said that the cost of the upfront fees for DROs and bankruptcy is one of the main factors influencing an individual's decision to enter a particular procedure. In a survey by R3, the trade body for insolvency professionals, 53% of members surveyed said that the cost of entering bankruptcy is too high. One debt charity reported that on average those who sought its advice had £3.69 left each month after payment of essentials and

for this category of debtor and those in negative budgets, even the £90 fee for a DRO is insurmountable.

Respondents said that debtors are often at the “end of their tether” by the time that they reach a decision to enter an insolvency procedure and in a vulnerable state. This means that their decision as to which procedure to enter can be easily swayed by misleading advertising and poor debt advice which, for example, promises to free them quickly from debt by taking up an IVA. Respondents told us that sometimes, even if afterwards presented with a more suitable option, the debtor will continue with an IVA, because they have been persuaded by that first initial contact that an IVA is the answer to their problems.

Other factors are the fear about what the process might entail and concerns about what will happen to assets, such as vehicles and the family home, and future employment. Respondents said that this was particularly the case with bankruptcy and was a reason why some debtors preferred to opt for an IVA. The eligibility criteria for DROs in relation to income and assets rules out a DRO as an option for some debtors, which again pushes individuals towards other solutions such as an IVA. For other debtors, the choice of procedure is about a sense of duty or pride and being able to pay something back to their creditors.

Stigma of insolvency was also considered a significant factor, not only in influencing whether a debtor might decide to enter an IVA rather than opt for bankruptcy, but also in determining where and when individuals might seek debt advice. Respondents said some people may have poor experience of advice services and be unaware of where to find information to help with tackling financial difficulties. Consequently, they rely on the internet, social media or friends and family for information, rather than seeking advice from regulated debt advisers.

Respondents thought that trying to remove the stigma of insolvency, for example by changing the terminology and using non-judgmental language would help improve decision making. There should be a greater emphasis on the benefits of a fresh start, rather than dwelling on the negative consequences. Respondents considered that if there could be more certainty around the outcomes in bankruptcy, it would remove some of the fear. The support and promotion of independent debt advice before entering an insolvency solution should also be a priority. It was felt this would lessen the influence of misleading advertising/advice and would again help to reduce stigma and educate debtors as to what was involved in different insolvency options.

Responses from the debt advice sector suggested that the fear of being included on the public insolvency register was a significant determining factor for many debtors in their choice of insolvency procedure. Research from the Financial Wellness Group conducted in 2021 indicated that one in six of their customers would not take up an insolvency solution because of

their concerns about the public register. The register was noted as a particular problem for those fleeing abuse.

There was overwhelming consensus from respondents that professional debt advice has a substantial positive impact on debtors when choosing a debt solution. Without some form of advice, many debtors were unlikely to enter an appropriate insolvency procedure. Respondents, however, recognised that debt advice can be variable in both quality and scope. They said that while impartial, independent advice can help people choose the right debt solution, poor or misleading advice leads people to enter inappropriate solutions and/or unrealistic payment terms.

Improvements to regime

The most significant improvement that respondents from the insolvency profession and debt advice sector want to see is the introduction of a single gateway to access insolvency processes, supported by independent, regulated debt advice. There were different suggestions as to the form this could take.

For example, it could be a digital platform whereby debtors would enter their details and be directed down a certain route. Others considered that it could be dovetailed with the administration of the current Breathing Space scheme, with everyone being required to enter a Breathing Space before taking up a debt solution. There were, however, some who felt that this would need careful consideration as it could blur the lines between the role of someone acting as a debt adviser and the administrator of the scheme, with potentially negative implications for the adviser/client relationship.

It was felt that a single gateway would make it more likely a debtor would enter the right procedure for them at the outset. It would resolve the problem of being rejected from one debt option due to ineligibility and having to go back to square one. There were varying views on what the system would look like once an individual had accessed the gateway. Some supported the idea of accessing the existing procedures through a single gateway and were not in favour of introducing new procedures.

Others suggested that the gateway should lead to a new single track insolvency procedure, dealing with assets, payments from income and debt write off, which would replace existing debt options. The new procedure could provide better protection for the family home and other assets. If an individual's circumstances changed, the scheme could adjust automatically either to hold off enforcement action and write off debts where there had been a downturn in their circumstances, or to put them on a payment plan where their income had improved. There was support for making the Standard Financial Statement^[1] an integral part of the system, so that the debtor only had to provide their information once

Respondents had concerns though that a single gateway would impact on the ability of debtors to choose which insolvency procedure they entered.

The majority of respondents felt that it was important to retain debtor choice. If choice was taken away, consideration would need to be given to the consequences of any losses arising from a “wrong decision”.

Some respondents were opposed to the idea of a single gateway and felt that it would represent the “nationalisation” of insolvency and detract from the work of IPs and would not be in the best interests of either debtors or creditors. There was a feeling that there would be a conflict of interest if the “keeper” of the gateway were to be a public official. If that were to be the case, respondents felt it would be better to support and fund independent debt advice instead of introducing a gateway. There was also some scepticism as to whether Government would provide sufficient funding to support the operation of a single gateway, particularly given the likely increasing demand for debt advice.

Other suggestions for improvements (which have not already been mentioned elsewhere) were:

- A higher savings buffer should be permitted when assessing payment levels for both IPOs/IPAs and IVAs. The Standard Financial Statement currently provides for an allowance of 10% of available income, capped at £25. The savings buffer for IPOs/IPAs should be higher than this to allow people to build up sufficient savings more quickly.
- More robust regulation of the insolvency profession.
- Improved use of technology, including exchange of data.

Some respondents, however, were concerned that an assumption that providing online access to insolvency products would be beneficial and make the customer journey easier was misplaced, as it would exclude individuals with little or no access to digital devices and those with visual impairments and reading or language difficulties.

d. The international perspective and other issues

This chapter summarises the responses to questions 9 and 28 about which elements from other jurisdictions could be incorporated to improve the personal insolvency framework in England and Wales, as well as other miscellaneous issues which were raised by respondents.

Features from other jurisdictions which could be considered for England and Wales

Some respondents, including firms providing insolvency services and creditor organisations, suggested financial education programmes to help people budget and manage their income and outgoings, such as those existing in Scotland, Canada and the US could be beneficial. However,

there was some doubt expressed by regulators, debt advice providers and professional organisations that financial education for insolvent individuals had any impact, and a view that there is little independent evidence that financial education prevents future insolvency. One regulator stated that feedback from insolvency practitioners in Scotland suggested that any impact was negligible.

There was a suggestion that creditors should provide debtors with a debt advice and information package (DAIP) before they take enforcement action as in Scotland. Some respondents from the debt charity sector also supported the idea of debt counselling as in the Scottish system, where before someone can apply for bankruptcy (or “sequestration” as it is also known in Scotland) they must be sent a DAIP and advised of the alternative options to bankruptcy and its impact. There was widespread agreement amongst respondents that debtors need to understand the options available to them. One regulator stated that debtor awareness campaigns carried out in Ireland had been successful. There were comments that Government could play a bigger role in informing debtors of their choices and signposting them. However, it was acknowledged that no amount of debt counselling or debt advice could help deal with the problem of a deficit budget.

There were comments that there were lower costs of entry to insolvency in other jurisdictions, in particular Scotland and Ireland. Respondents felt that this was something which needs to be considered in the England and Wales regime as the level of upfront costs for DRO and bankruptcy is a significant barrier for many debtors in accessing an insolvency solution.

There were also suggestions to look at the mechanism of the Irish Debt Relief Notice, which is broadly equivalent to a DRO. The Irish solution allows for a positive change of a debtor’s circumstances and increased surplus income without leading to automatic revocation of the Notice, unlike the DRO. Similarly, there were suggestions to examine how the family home is treated in both the Scottish and Irish jurisdictions, where it was felt that the systems gave more certainty to debtors.

Some respondents would also like the Insolvency Service to take on a similar role in respect of IVAs to that of the Accountant in Bankruptcy (AIB) in Scotland with regard to Protected Trust Deeds, which includes the ability to audit trustee’s cases and fix remuneration.

Other miscellaneous issues suggested by respondents were:

- Advisers should have discretion to extend Breathing Space by a further 30 days and to broaden the definition of debt solution to include token payments and agreements with creditors for no payment for a specified period.
- Education for young people about financial planning and borrowing costs.
- Statutory right for a debtor to have a bank account.

- An increase in limit for County Court Administration Orders.

3. Conclusion and Next Steps

Conclusion

The Government has considered the responses to the call for evidence, together with other research and findings about the personal insolvency framework. These include:

- the Confidence in the Regime surveys[2] carried out for the Insolvency Service by IFF Research,
- the report by Christians Against Poverty – “On the Edge”[3],
- and the reports by Citizens Advice into the IVA market - “Set up to fail: How the broken IVA market is failing people in debt distress[4]” and the fees for bankruptcy and DROs - “Priced out of debt relief: How upfront insolvency fees keep people stuck in debt purgatory[5]”,
- Various academic research papers.

The Government acknowledges that the information available indicates that there are shortcomings in how the current regime operates and that it needs reform to reflect changes in the way society operates and attitudes towards personal financial difficulty during the last 40 years. The strong message from stakeholders is that some individuals are not able to deal with their debt by easily accessing and entering an appropriate solution because (i) barriers to entry are too high; (ii) there are shortfalls in the current procedures; and (iii) there are inconsistencies in the treatment of individuals and the quality of service provided, across the framework. The impact of this is that the framework is not as efficient and effective as it could be in supporting those in financial distress.

By extension, this also suggests that the regime does not operate as effectively as it could for the creditor community in terms of costs, resource and the prospect of debt recovery. If people are unable to resolve their financial difficulties, it can have detrimental ramifications for society in terms of the impact on individuals and families, the welfare system, mental health and well-being, NHS resources, charities, businesses and the economy. This creates unnecessary burdens on the public purse and Government.

At the same time as supporting those in financial distress, it is important that the framework provides prompt returns to creditors, where this is possible.

This ensures confidence in the regime and is beneficial for the economy and business investment. There should also be robust mechanisms for tackling wrong-doing by the minority who seek to abuse the system and to deter potential financial misconduct. While the current system has mechanisms to tackle abuse, the call for evidence has suggested that the perception of respondents is that there is scope to revisit the range of enforcement tools available to enable a more targeted approach.

Next Steps

The Government has concluded that it should examine how to reform the personal insolvency framework to align with the needs of 21st century stakeholders. It therefore intends to work with stakeholders and other interested parties to develop proposals for reform for further public consultation. This work is likely to be wide ranging and cover:

- Routes into insolvency, the barriers to entry and how to ensure an individual accesses the most appropriate solution for their needs.
- The various current processes, the interaction between them and whether changes need to be made.
- How to tackle the few who are reckless or deliberately fraudulent.
- Options for structural reform of the overall framework.

Any structural changes are likely to require primary legislation and will be taken forward within the Government's overall programme of legislative change, subject to available parliamentary time. However, in the interim we intend to consider whether there is scope to improve the debt relief landscape through non legislative means or secondary legislation.

Statutory Debt Repayment Plan

As announced at the end of last year, the work on the personal insolvency review will inform the Government decision on the future of the Statutory Debt Repayment Plan, and what place a full payment option has within the framework will be considered in the context of any new landscape. The Insolvency Service will continue to liaise closely with HMT on this matter.

Timing

The Government aims to publish proposals for reform of the personal insolvency framework early in 2024.

Annex A

List of respondents

Regulatory bodies

Chartered Accountants Ireland (CAI)

Insolvency Practitioners Association (IPA)

Institute of Chartered Accountants in England and Wales (ICAEW)

Institute of Chartered Accountants in Scotland (ICAS)

Accounting, advisory and insolvency firms

BDO LLP

Begbies Traynor

Creditfix

Evelyn Partners

Grant Thornton UK LLP

Mazars

Trustfolio

Credit unions

Association of British Credit Unions Ltd

No. 1 Copper Pot Credit Union

Creditors and creditor agents

Max Recovery Ltd

Equifax Ltd

Debt advice providers, charities and debt campaigners

Advice UK

Christians Against Poverty

Citizens Advice

Citizens Advice Shropshire

Community Money Advice

Debt Camel

Debt Justice

Money Advice Trust

MoneyPlus Group

National Debtline

Payplan

Salford City Council Welfare Rights & Debt Advice Service

StepChange

Stockton and District Advice and Information Service

The Royal British Legion

Vauxhall Law Centre

We Are Debt Advisers campaign, Greater Manchester Money Advice Group, and Centre for Responsible Credit Ltd

Government, academia and statutory bodies

Financial Services Consumer Panel

HM Revenue & Customs

HM Land Registry

Money and Pension Service

University of Birmingham, Birmingham Law School - Associate Professor Katharina Möser

University of Kent, Kent Law School - Emeritus Professor Iain D.C. Ramsay

Trade and professional bodies

Building Societies Association

Chartered Institute of Credit Management (CICM)

Civil Court Users Association

Finance & Leasing Association

Insolvency Lawyers Association, Technical Committee

Institute of Money Advisers (IMA)

R3

Society of Professional Accountants

UK Finance

Insolvency professionals, including judiciary and insolvency practitioners * (6)

Individuals* (11)

* the names of individuals, including individual creditors, debtors and insolvency practitioners, have not been included

Annex B

List of questions in the call for evidence

Question 1: What should be the fundamental purpose of the personal insolvency framework?

Question 2: If 'fresh start' and 'can pay, will pay' are the right objectives for the personal insolvency regime, where should the balance fall?

Question 3: Please provide any evidence to show how well the objectives of 'fresh start' and 'can pay, will pay' are being met.

Question 4: Please explain whether there should be different objectives for different personal insolvency procedures.

Question 5: Please explain whether there should be different objectives for trading and consumer debtors.

Question 6: How effective are the current safeguards (public records, public registers, restrictions and sanctions on debtors) at protecting the integrity of

the personal insolvency framework?

Question 7: To what extent does the current enforcement regime (BROs/DRROs and criminal sanctions) adequately achieve the aims of deterring future misconduct (both individual and general) and protecting the public?

Question 8: How, if at all, should the personal insolvency framework distinguish between honest/unfortunate and dishonest/reckless debtors?

Question 9: What evidence is there to suggest whether debt counselling and rehabilitation programmes are, or are not, effective?

Question 10: Who should bear the costs of entering and administering personal insolvency procedures?

Question 11: How should the costs of entering and administering personal insolvency procedures be paid and structured between the different parties?

Question 12: What options are available to debtors and creditors who are unable to afford the cost of bankruptcy, IVA or a DRO?

Question 13: What are the main consequential costs of the different insolvency procedures?

Question 14: Please provide any evidence to show whether consequential costs serve a useful purpose or whether they produce unintended consequences for different stakeholder groups.

Question 15: What evidence do you have to show whether the insolvency procedures are working as intended?

Question 16: How do those in financial distress navigate the current regime and could this be improved? Please provide evidence to support your answer.

Question 17: Are the current personal insolvency procedures the right products to service the needs of both debtors and creditors today or are new procedure(s) needed to serve debtors and creditors better?

Question 18: From both a debtor and creditor perspective, how well do the different insolvency procedures work for sole traders and unincorporated associations?

Question 19: Please provide evidence of any different tools or procedures that may be more suitable for sole traders and unincorporated associations.

Question 20: What evidence do you have of the number of IVAs which relate to sole traders and unincorporated associations?

Question 21: What are the main factors which influence an individual's decision to enter a particular procedure?

Question 22: Please provide any evidence on how an individual's decision to enter a particular procedure could be better informed.

Question 23: What evidence do you have of the impact that a public register has on an individual's decision to choose a particular insolvency route?

Question 24: To what extent are debtors influenced by (i) professional debt advice, (ii) advertising, (iii) advice from friends and family, or (iv) another source of advice, when choosing a personal insolvency solution? Please provide evidence to support your answer.

Question 25: Please provide evidence of the quality and suitability of debt advice provided to individuals

Question 26: Please explain any other barriers to entry to personal insolvency which are not included in this call for evidence, highlighting any particular groups that are affected.

Question 27: How could the personal insolvency framework be improved to make movement between procedures easier? Please provide evidence to support your answer.

Question 28: Which elements of other international regimes could England and Wales benefit from considering as part of the personal insolvency framework? In answering this question, please consider any of the following: insolvency procedures, fees and funding and the underlying purpose of the framework.

[1] Standard Financial Statement – a single standard format for gathering income and expenditure developed by key stakeholder in the debt and financial services sector

[2] Confidence in the Regime - GOV.UK ([www.gov.uk](https://www.gov.uk/government/publications/confidence-in-the-regime#full-publication-update-history))
(<https://www.gov.uk/government/publications/confidence-in-the-regime#full-publication-update-history>)

[3] Client-Report-2022-On-the-edge-WEB.pdf ([capuk.org](https://bynder.capuk.org/m/7dbab741905cc9d0/original/Client-Report-2022-On-the-edge-WEB.pdf?gl=1*j4acer*_ga*MTIxODM5ODAzLjE2NTUzODg2NjE.*_ga_JDHF1MTESF*MTY4MzExMzI0S4yLjEuMTY4MzExMzMyNS40LjAuMA..))
(https://bynder.capuk.org/m/7dbab741905cc9d0/original/Client-Report-2022-On-the-edge-WEB.pdf?gl=1*j4acer*_ga*MTIxODM5ODAzLjE2NTUzODg2NjE.*_ga_JDHF1MTESF*MTY4MzExMzI0S4yLjEuMTY4MzExMzMyNS40LjAuMA..)

[4] Set up to fail: How the broken IVA market is failing people in debt distress - Citizens Advice (<https://www.citizensadvice.org.uk/about-us/our->

[work/policy/policy-research-topics/debt-and-money-policy-research/set-up-to-fail-how-the-broken-iva-market-is-failing-people-in-debt-distress/](#)

[5] [Priced out of debt relief \(citizensadvice.org.uk\)](#)
([https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Priced%20out%20of%20debt%20relief%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Priced%20out%20of%20debt%20relief%20(1).pdf))



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