

Association of Business Recovery Professionals

3rd Floor (East), Clerkenwell House, 67 Clerkenwell Road, London, EC1R 5BL

T: 020 7566 4200

F: 020 7566 4224

E: [association@r3.org.uk](mailto:association@r3.org.uk)

[www.r3.org.uk](http://www.r3.org.uk)

HM Treasury  
Statutory Debt Repayment Plan



Email only – [SDRPreponse@hmtreasury.gov.uk](mailto:SDRPreponse@hmtreasury.gov.uk)

Tuesday 2 August 2022

Dear Sir / Madam

**HM TREASURY  
CONSULTATION: STATUTORY DEBT REPAYMENT PLAN  
RESPONSE FROM INSOLVENCY AND RESTRUCTURING TRADE BODY R3**

**1. INTRODUCTION**

- 1.1 R3 is the trade association for the UK's insolvency, restructuring, advisory, and turnaround professionals. We represent licensed insolvency practitioners, lawyers, turnaround and restructuring experts, students, and others in the profession. Our members work across the spectrum of the profession, from global legal and accountancy firms through to smaller, local practices.
- 1.2 The insolvency, restructuring and turnaround profession is a vital part of the UK economy. The profession rescues businesses and jobs, creates the confidence to trade and lend by returning money fairly to creditors after insolvencies, investigates and disrupts fraud, and helps indebted individuals get back on their feet. Our members have direct experience of restructuring and insolvencies and their impact on the UK economy and various stakeholders.
- 1.3 This response is based on the expertise of our Personal Insolvency Committee members, who are experienced in dealing with individuals in significant financial distress. The Committee is multi-disciplinary and is made up of representatives from across the insolvency and restructuring profession, including practising insolvency practitioners, solicitors, and others.

**2. GENERAL OBSERVATIONS**

- 2.1 Given the current state of the UK economy and individuals currently dealing with the residual impact of the pandemic and with inflation at a 40-year high, R3 welcomes the concept of another option for individuals who are experiencing some form of financial difficulty. However, committee members do have reservations and questions about the Statutory Debt Repayment Plan ('SDRP'). A summary is as follows -
  - Long term commitment – The draft SDRP regulations set out that only individuals who are able, at the outset of a plan, to repay their debts in ten years or less would be eligible to enter an SDRP. The period of 10 years is a considerable amount of time for an individual to agree to repay debts. Why would an individual make a long term commitment to repay debts in FULL when they can propose an Individual Voluntary Arrangement ('IVA') to creditors over 5 years with a 70% return to them (for example)?
  - Onerous on debt advisors – As the consultation notes, the SDRP would require debt advisors to conduct a review of any live plan at least once a year, as well as an in-year review in certain circumstances, including at the request of the debtor. Debt advisors will also be required to conduct reviews as a result of requests from creditors, engage with a more structured revocation process, and consider and implement payment breaks and plan variations.

The amount of work debt advisors will be required to undertake is rather onerous. There is a concern debt advisors may refrain from recommending the SDRP due to the amount of ongoing work that is to be undertaken for up to a period of 10 years.

- Target audience - The government has designed the eligibility criteria for the plan to ensure it allows eligible individuals to enter the plan efficiently. However, the consultation fails to convey the type of individual the SDRP is aimed.
- Payment in full – If an individual has the ability and desire to repay its debts in full, why not use the IVA process? Rather than introduce another option for individuals in the form of the SDRP, should the focus of the UK Government be to eradicate the bad practices of certain volume IVA providers that enable individuals in debt to come to an arrangement with their creditors to pay all or part of their debts?
- Statutory debt solutions – The impact assessment notes that *“there is currently no statutory debt solution focussed entirely on repayment in England and Wales. Existing statutory debt solutions for individuals are all forms of insolvency and almost always involve some element of debt relief: bankruptcies, individual voluntary arrangements (IVAs), and debt relief orders (DROs). For many debtors, while repayment of their debts may be possible, the solutions mentioned above do not support them to achieve this.”*

We disagree that bankruptcies and IVAs do not support the repayment of debts by individuals. Individuals have the ability to propose a payment in full IVA and pay bankruptcy debts in full to then apply for an annulment.

- Regulation – The consultation notes that the FCA will regulate the SDRP and the Insolvency Service are to provide administrative oversight of the scheme. Given the Insolvency Service’s intention to become the single regulator for insolvency practitioners, we have concerns whether the Insolvency Service has the capacity to undertake any form of administrative oversight. Has the capacity of the Insolvency Service been considered in this respect?

#### Debt Arrangement Scheme, Scotland

- 2.2 As you will be aware, Scotland already has in place a similar process to the proposed SDRP called the Debt Arrangement Scheme (‘DAS’), which has been successful. A DAS is a Scottish Government-backed debt management scheme that allows an individual to repay their debts through a debt payment programme over an extended period of time while giving the individual protection from creditors who may be taking action against them to recover a debt. Furthermore, interest and charges are frozen.
- 2.4 In 2021-22 Q4, around £11.1 million was repaid from debtors under the DAS compared with the £10.1 million repaid in 2020-21 Q4. Since the DAS (Scotland) Amendment Regulations 2019 came into force on 4 November 2019, through DAS, creditors receive a minimum of 78% of the debt owed to them from debtors (after DAS Administrator and payments distributor fees). Prior to this, the minimum was set at 90%. After the DAS Administrator and payments distributor fees have been deducted around £9.5 million was paid to creditors in 2021-22 Q4<sup>1</sup>.
- 2.3 Despite the success of the DAS in Scotland, R3 is aware that the UK Government has disregarded the experience of the DAS and the assistance of the Accountant of Bankruptcy (‘AiB’) in Scotland. We strongly urge HM Treasury to consult with the AiB before implementing the SDRP in order to understand the reasons for its success.
- 2.4 Furthermore, one of the biggest differences between the SDRP and the DAS is the involvement of licensed insolvency practitioners, who are to be excluded from the SDRP. According to members, one of the biggest successes of the DAS is the inclusion of the insolvency profession.
- 2.5 Licensed insolvency practitioners have extensive experience of helping people who are experiencing financial problems and are trained and licensed to give personal debt advice and administer statutory personal insolvency procedures. A licensed insolvency practitioner is a regulated individual who will oversee some statutory insolvency procedures, such as Individual Voluntary Arrangements or bankruptcy. In a bankruptcy, the insolvency practitioner will act as a trustee. The trustee’s role is to identify and realise assets in order to pay the costs and liabilities of the bankruptcy in the prescribed order. As a nominee or supervisor in an Individual Voluntary Arrangement, the insolvency practitioner will help an individual prepare a proposal to put to creditors and will then oversee the arrangement until its terms are completed.
- 2.6 Given the expertise of insolvency practitioners and the proposed onerous on debt advisors on proposing the SDRP, R3 would be interested in understanding the reasons as to why insolvency practitioners have been excluded from this consultation.

<sup>1</sup> <https://www.aib.gov.uk/scottish-statutory-debt-solutions-statistics-2021-22-q4#debt-arrangement-scheme>

### 3. CONSULTATION QUESTIONS

#### Chapter 1: Introduction

**Question 1:** How long do you think the implementation period should be?

There should be no delay in the implementation of the SDRP given the current financial pressures individuals are dealing with. The time period of 18 months between the regulations being laid and the SDRP scheme starting may be too long.

**Question 2:** Do you have any other comments on the issues raised in this introduction?

The introduction fails to acknowledge the likely lifestyles of those likely to need the option of the SDRP. For example, many individuals may not have readily available the information required for an assessment to be carried out by a debt advisor and will require time to collate information.

One of the key stages mentioned is *“Where necessary, the Insolvency Service conducts fair and reasonable assessment”*. As mentioned above, given the Insolvency Service’s intention to become the single regulator for insolvency practitioners, we have concerns whether the Insolvency Service has capacity to undertake any form of administrative oversight. Has the capacity of the Insolvency Service been considered in this respect?

#### Chapter 2: Eligibility for a plan

**Question 3:** Do you agree with the approach to debtor eligibility?

We agree with the proposed approach. The debtor eligibility criteria is broad, which is essential so it does not exclude individuals.

**Question 4:** Do you agree to the approach to qualifying debt?

The aim of the SDRP is to provide a simple and easy to understand option for individuals in financial difficulty. However, if the SDRP wishes to incorporate contingent and future debts, then this may over complicate the process and make it less clear for individuals. If an individual has these type of debts, then another option should be considered.

With regard to contingent debts, how would a debt advisor deal with this type of debt? Do they include for the full amount, and perhaps make repayment in full within ten years unachievable? Do they exclude the debt, and [what would be the consequence?] What happens if the contingent liability does not come to fruition?

**Question 5:** Should debt already due to be repaid under a pre-existing payment arrangement or payment plan be treated as non-eligible debt?

All debt should be included in one plan rather than an individual having different debt solutions in place.

**Question 6:** Should it be possible for debtors to exclude very small debts from a plan?

Yes, however, the consultation fails to define the meaning of ‘very small debts’ and should be defined to provide clarity to individuals and debt advisors. Depending on the meaning, to include all qualifying debts in plans regardless of their size may add to the complexity and cost of the SDRP. For example, cheques in small amounts over a 10 year period will be expensive.

**Question 7:** If you think it should be possible to exclude very small debts, what amount of debt would you consider to be very small? Should excluding these debts be required, or optional? How should these debts be dealt with if they are excluded from a plan?

Dependent on the meaning of ‘very small debts’, the debtor’s contributions in the first (for example) three months of the plan could be used to pay ‘very small debts’. This may help reduce the cost of ongoing administration of the plan.

**Question 8:** Are there scenarios in which a debtor may occur incur additional debt during a plan without intending to (e.g. due to an administrative error by a creditor)? What might these scenarios be and how should debt incurred in these scenarios be treated?

There are various scenarios where a debtor may occur incur additional debt during a plan without intending to. Many contracts have terms and conditions that the debtor may not be aware of or even understand. Therefore, the onus should be on the creditor to make it clearer before it is included.

**Question 9:** Do you have any further comments on or concerns about debtor eligibility for the SDRP?

No comment.

Chapter 3: Protections in a plan

**Question 10:** Do you agree with the proposed protections of the plan?

No comment.

**Question 11:** Do you agree with the proposed flexibilities provided for in payment breaks and plan variations?

Given the potential for the SDPR to last for 10 years for an individual, it cannot be a rigid plan as life circumstances can change. There needs to be flexibility and ability to reduce payments to consider an individual's change in circumstances.

**Question 12:** When a plan is varied, should there be a minimum value (above zero) to which payments can fall?

The minimum payment should not fall below 25% of the agreed regular repayment and on an annualised basis payments should not fall below 50% of those proposed, so the debtor does not divert too far from the payment plan.

**Question 13:** Given the government's proposal to use a private register, do you agree that debtors should be required to disclose the fact they are in a plan to potential creditors? Or should creditors' own due diligence and processes regarding credit affordability and risk be relied on?

We do not agree with use of a private register. The register should be public like those subject to bankruptcy or an IVA. We do not understand why the register would be private. Reasoning should be provided.

**Question 14:** Based on the draft regulations, how should SDRPs be reflected on a debtor's credit file?

An entry on a debtor's credit file should be the same as any other default.

**Question 15:** Do you have any further comments on or concerns about the protections and flexibilities provided by the SDRP?

None.

Chapter 4: Starting a plan

**Question 16:** Do you agree with the approach to personal details, including the proposal not to require all previous addresses but only addresses likely to be linked to a plan debt?

We are happy with the approach. Simple and not complex.

**Question 17 – For debt advice providers:** What details do you consider necessary to be provided by creditors if they identify an additional debt to ensure that it can be appropriately identified and included in a plan?

Suitable evidence should be provided to support debt, similar to the requirements creditors must adhere to in an insolvency process.

**Question 18:** Is the proposed mechanism for allocating payments to creditors on a pro-rata basis by debt value suitable? Do you foresee any problems with how this will work?

The proposed mechanism for allocating payments to creditors on a pro-rata basis by debt value seem suitable and we do not see any problems with how this will work in practice.

**Question 19:** Is 30% a suitable proportion to allocate to priority debts? Should this be higher/lower?

The draft regulations set out which debts will be prioritised within the scheme and that this will include rent arrears. These debts will be repaid faster than those that aren't prioritised, with 30% of a client's payment being set aside to be split between priority debts, and the remainder being split between all debts. The consultation fails to explain how the 30/70 split between priority and non-priority debts was determined. Please explain?

Furthermore, we have the following questions –

Why are arrears of gas and electricity payment a priority?

Where do fines fit in? Have these been considered?

**Question 20:** Do you consider that debtors should be given greater flexibility in deciding the size of the payments they make into their plans? If so, how should this flexibility be provided?

The size of payments has to be appropriate and meaningful. In any case, the SFS should determine the size of payments as that is what it is for.

**Question 21:** Do you consider that debtors should be able to make additional payments into their plans outside of the regular payment frequency?

Yes. Additional payments into plans outside of the regular payment frequency should be encouraged to reduce the term of the SDRP.

**Question 22:** Do you consider that the information proposed to be provided to creditors is suitable and sufficient? If not, why?

The proposed information to be provided to creditors appears suitable and sufficient.

**Question 23:** Are the grounds for objection that have been proposed suitable and sufficient?

Based on the proposed grounds and likely level of debt, we do not envisage the average domestic creditor objecting to a SDRP. The criteria is quite narrow and a creditor may struggle to meet the criteria, which means the debtor is likely to be safe from abuse by a disgruntled creditor.

**Question 24:** Do you have any further comments on or concerns about the processes set out in this chapter for developing and initiating a plan?

No comment.

## **Chapter 5: During a plan**

**Question 25:** Do you consider that the proposed mechanism for implementing payment breaks is appropriate?

The proposed mechanism for implementing payment breaks seem appropriate.

**Question 26:** Is the creditor review mechanism a sufficient route for creditors to challenge plans they deem to be unfair, unsuitable or inaccurate?

Yes.

**Question 27:** Do you consider that the additional creditor and debtor review processes are appropriate and sufficient? If not, in what ways do you think they could be amended?

The additional creditor and debtor review processes seem appropriate.

**Question 28:** Do you agree with the proposal to have a private register?

Please see answer to question 13.

If private register is implemented, will access be available to certain groups i.e. insolvency practitioners and legal professionals.

**Question 29:** Do you have any further comments on or concerns about the processes that have been proposed to operate during a plan?

None.

#### **Chapter 6: Ending a plan**

**Question 30:** Do you agree with the proposed grounds for both mandatory and discretionary revocations? Are there any grounds for revocation that you consider have not been captured?

The proposed grounds for both mandatory and discretionary revocations seem reasonable.

**Question 31:** Do you agree with the proposed approach to discretionary revocations in scenarios where conditions cannot be applied?

We do not understand why the approach should be discretionary as it makes the process more complicated. We suggest making it mandatory it keep the process simple.

**Question 32:** Do you consider that the proposed methods for limiting abuse of the revocation process are sufficient and appropriate?

See above.

**Question 33:** Do you consider that the proposed limitations to reapplication for plans are suitable?

Yes. The proposed limitations seem appropriate.

**Question 34:** Do you have any further comments on or concerns about the ways that plans are ended?

No further comments.

#### **Chapter 7: Funding and administration**

**Question 35:** Do you agree with the proposed approach to funding?

We have no objections but is it workable for the number of small payments?

**Question 36:** Do you have any views on how the electronic system, register, or fair and reasonable assessments should work?

No comment on how the electronic system, register, or fair and reasonable assessments should work, however, the maintenance of any electronic system together with data security is likely to be expensive. Has this been factored in?

**Question 37:** Do you agree with the proposed approach to payment distribution, and the oversight of payment distribution?

None.

**Question 38:** How and when do you think payment details of creditors should be provided to or obtained by payment distributors?

Payment details of creditors should be required from the onset, so payments can be allocated. Again, if the Insolvency Service is to hold funds in bank accounts for the individuals, do they have capacity to deal with them and the payments?

**Question 39:** Do you have any further comments on or concerns about the funding and administration of the SDRP?

None.

#### **Chapter 8: Breathing space**

**Question 40:** Are you supportive of the proposed changes to the 2020 regulations?

We are supportive.

**Question 41:** Are there any other changes to the 2020 regulations that would result in (a) greater eligibility and/or applications for the scheme (b) better debtor outcomes?

No comment.

**Question 42:** Are there any other changes to the 2020 regulations that you believe, and can evidence, would significantly lower the administrative resource required to 55 make or deal with applications for breathing space, for debt advice providers and/or creditors?

No comment.

**Question 43:** Do you have any further comments on or concerns about the breathing space regulations and the amendments being proposed?

No comment.

### **Chapter 9: Impact assessment**

#### Qs 44-59 For debt advice agencies:

**Question 44:** *For those eligible for both a SDRP and a DMP, would you expect to still recommend a DMP in any circumstances? If yes, what proportion of those eligible for both solutions would you expect to still recommend a DMP?*

No comment.

**Question 45:** Would you recommend SDRPs to those who would otherwise enter insolvency (e.g. DRO, bankruptcy, IVA)? If yes, what proportion of those clients would you instead expect to recommend a SDRP?

No comment.

**Question 46:** Would you recommend SDRPs to those who are currently not recommended either a DMP or an insolvency solution (e.g. those entering into informal solutions)? If yes, what proportion of those clients would you instead expect to recommend a SDRP?

No comment.

**Question 47:** For each of the above, why would you expect to recommend or not recommend a SDRP over the alternative solution (DMP, insolvency or informal solution)?

No comment.

**Question 48:** Is the assumption that the SDRP caseload will be reduced by 50%, 30% and 10% in its first three years respectively due to a period of transition a reasonable estimate? How long would you expect the scheme to take to reach a steady state and what impact would you expect this transition phase to have on the scheme?

No comment.

**Question 49:** What proportion of an individual's debt would you expect to be repaid in a successful SDRP? How frequently would you expect voluntary debt write-off to occur and to what degree?

No comment.

**Question 50:** If you expect the level of repayment to be different in SDRPs compared to DMPs, what impact would you expect that to have on your clients in SDRPs?

No comment.

**Question 51:** For those who do not complete their DMP and subsequently enter another solution, to what degree is their repayment reduced, if at all?

No comment.

**Question 52:** Is it reasonable to assume that the benefit to a debtor from a debt repayment solution is proportionate to the amount of repayment that the solution delivers? For instance, would a SDRP that yields 50% repayment be half as beneficial to a debtor as one that yields full repayment?

No comment.

**Question 53:** How beneficial to your clients do you expect the protections of the SDRP to be?

No comment.

**Question 54:** How much would you expect it to cost to familiarise yourself with the scheme, and to train debt advice providers within your agency?

No comment.

**Question 55:** If you expect to develop and implement new systems to administer SDRPs, can you estimate what the upfront and ongoing costs of this might be?

No comment.

**Question 56:** Would you expect the ongoing administration costs of SDRPs to be higher than that of DMPs? How much would you expect it to cost to set up and maintain a SDRP?

No comment.

**Question 57:** Would you expect to act as a payment distributor for SDRPs you administer? If so, what additional systems or administrative costs do you anticipate as a result?

No comment.

**Question 58:** Would you expect the SDRP to have any further impacts, positive or negative, on those with protected characteristics that have not been identified by the impact assessment?

No comment.

**Question 59:** Do you agree with the assumption that the impacts of Covid-19 on consumer debt levels and on debt advice demand will have receded by the time the SDRP launches? If not, which impacts do you expect to remain and to what degree?

No comment.

Qs 60-63 For creditors:

**Question 60:** How much do you currently contribute to pay for the administration of DMPs that you are involved in?

No comment.

**Question 61:** How much would you expect it to cost to familiarise yourself with the scheme, and to further disseminate that understanding as necessary?

No comment.

**Question 62:** If you expect to develop and implement new systems to administer SDRPs, can you estimate what this might cost?

No comment.

**Question 63:** What level of income do you currently receive from those in DMPs as a result of interest, charges or fees being applied to the debts that they are repaying?

No comment.

**For all:**

**Question 64:** Do you have any further comments on the consultation stage impact assessment or what is included within it?

Please see 'General Observations' section.

**4. CONCLUSION**

4.1 R3 welcomes the concept of another option for individuals who are experiencing some form of financial difficulty. However, committee members do have some reservations and questions about the SDRP, which we hope to have made clear in this response.

4.2 If you would like to virtually meet or if you have any other queries, please contact R3's Head of Technical, Ben Luxford, at [ben.luxford@r3.org.uk](mailto:ben.luxford@r3.org.uk) or on 020 7566 4218.

Yours faithfully



**Ben Luxford**  
Head of Technical  
R3, the insolvency and restructuring trade body

Email: [ben.luxford@r3.org.uk](mailto:ben.luxford@r3.org.uk)