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Subject: Debt Relief Orders: Consultation on changes to the monetary eligibility criteria

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Representation: The CCUA Policy & Reform Committee has drawn upon the views of the CCUA membership including those of the Policy and Reform Committee.

## **Introduction**

The Civil Court Users Association (“CCUA”) welcomes the opportunity to contribute to this consultation from the Insolvency Service.

The CCUA seeks to work with other stakeholders in a constructive and balanced manner, to achieve an efficient and cost-effective court service for its members which is also fair and proportionate for all court users.

Our members issue around 85% of all money claims in the County Court in England and Wales and also handle a large volume of repossession and return of goods claims. Our members include businesses operating within the financial services

sector, utilities, legal firms, insolvency practitioners, enforcement agents, plus many others.

### **Length of time for reply**

The Association is concerned that increasingly consultations are allowing limited time for consideration and reply, which is again the case here.

### **The questions**

1. *Do you agree that changes to the eligibility criteria for DROs are necessary? Please state your reasons.*

The CUA has always been supportive of the concept of Debt Relief Orders. However, based on the reasoning given in the consultation paper, the Association is not convinced that these changes are necessary.

The “need for reform” section of the paper seems contradictory and confused. It commences with a one paragraph blanket statement that bankruptcy is a disproportionate solution for many individuals. That is true, but surely this was addressed by the introduction of the Debt Relief Order in 2009 and the revision of the financial thresholds in 2015? The changes to the financial thresholds from 2009, through the 2015 changes and onto the current proposals, represent a considerable and permanent change to the reach and scope of Debt Relief Orders, for which no real explanation has been provided.

The remaining justification given in the paper (the remaining 8 paragraphs out of 9) concentrate purely on the current Coronavirus pandemic. It thereby appears that the pandemic is the real driver behind these proposals. We accept that the current pandemic is an extremely serious and sensitive situation. However, if that is the actual driver, would it not be more appropriate for a time-limited change whilst difficulties caused by the pandemic continue, or for the changes to apply purely to situations directly caused by the Coronavirus pandemic?

Further, there does not seem to be any explanation as to why even a temporary change would necessarily be required. It is obvious that the pandemic is likely to lead to an increase in the number of people qualifying for a Debt Relief Order. However, as to requiring a change to the criteria, it is not clear that the case has been made out.

Most importantly, there does not appear to be any justification given as to why permanent changes are being proposed to address what is hopefully a temporary, albeit serious, situation.

2. *Do you agree with the proposed increases to the debt (to £30,000), asset (to £2,000 and surplus income (to £100) levels? If not, what do you think they should be? Please state your reasons.*

Please see our answer to question 1. If these proposals were intended to be limited to specifically target situations caused by the Coronavirus pandemic, then we can see that they might be appropriate as a short-term measure, although the requirement for this has not really been explained. However, they are not being proposed as a temporary measure.

As a permanent change, they represent a significant increase in the range and scope of debts which will be eligible for a DRO.

The debt threshold will increase from £15,000 in 2009, through £20,000 in 2015 to £30,000 in 2021, doubling in 12 years.

The asset level will increase from £300 in 2009, through £1000 in 2015 to £2000 in 2021, an almost sevenfold increase in 12 years.

The surplus income level will increase from £50 in 2009 to £100 in 2021, again doubling in 12 years.

These increases are obviously vastly more than inflation and thereby represent a significant expansion of the role of the DRO on a permanent basis. No justification has been provided for these changes being made permanent. We are therefore in the unfortunate position of not really being able to understand the basis of the proposals or the merits thereof.

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

As set out in our previous answers, this is a significant expansion of the DRO scheme’s application on a permanent basis, for which no explanation has been provided.

It is accepted that the asset level increase will probably have little impact on creditors.

However, the increase of the debt threshold to £30,000 – a significant amount of money – together with the increased surplus income level, would seem to fail to protect any supposed “can pay, will pay” ethos. People with greater ability to pay will have more debt written off. This seems illogical and no justification has been supplied.

4. *Do you think that Government should aim to implement and commence any changes to the monetary limits for DROs to coincide with the introduction of breathing space in 2021? Please state your reasons.*

Not necessarily, we are not clear why this is being suggested, what would be the logic behind such an approach?

As above, the justification for these changes appears to be the Coronavirus pandemic. That being the case, if the changes are to be introduced, surely it would make better sense to implement them as soon as practicable, but at the same time only for a temporary period, or for situations directly impacted by the pandemic?

5. *Do you think there are any other impacts that should be considered? Please state your reasons.*

However well-intentioned such proposals may appear, it should be recognised that there will be parties who lose out as a result. Creditors who are owed significant sums of money, sometimes involuntarily, will now potentially see debtors with at least some disposable income effectively avoiding their responsibilities at that creditor's expense.

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

The Association would like to be able to support these proposals. DROs certainly have their place and are a valuable and respected solution in the correct circumstances. The Association is supportive of the concept of DROs.

The difficulty with this consultation paper is that the stated reasoning does not align with the proposals. As set out in our answers above, the vast majority of the stated justification for permanent change is a hopefully relatively short-term situation, the Coronavirus pandemic. It would be far easier to support these proposals if the justification bore scrutiny, i.e. the proposed changes were time limited, or only applied to situations directly impacted by the pandemic, or where explanation was provided as to why the changes were required to be permanent.

In the absence of such clear reasoning, it makes it difficult to understand and support the need for these changes, which is a very disappointing and unnecessary situation to be placed in.



Rob Thompson

Chair, Civil Court Users Association    26<sup>th</sup> February 2021