

Briefing Note – Requested at HMB – 27.09.2011

Debt Relief Orders

Introduction

In April 2009, the UK Government introduced the Debt Relief Order, as a simplified, quicker and cheaper alternative to bankruptcy as a debt relief solution. Debt Relief Orders are run by The Insolvency Service in partnership with skilled debt advisers and do not involve the courts. A Debt Relief Order (DRO) enables debtors to repay their debt without the need to file for bankruptcy, which is a more costly solution. The current cost of a Debt Relief Order is £90.00, which must be paid in advance before an application will be considered.

Debt Relief Orders are suitable for people who cannot pay their debts and do not own their own home, have little surplus income and assets and have no prospect of the situation improving.

Application Conditions of a Debt Relief Order

- The debtor must be unable to repay their debts.
- The debtor must owe less than £15,000.
- The debtor can own a car to the value of £1,000 but the total value of other assets must not exceed £300.
- After taking away tax, national insurance contributions and normal household expenses, the debtors' disposable income must be no more than £50 a month.
- The debtor must be domiciled (living) in England or Wales, or at some time in the last 3 years have been living or carrying on business in England or Wales.
- The debtor must not have been subject to another DRO within the last 6 years.
- The debtor must not be involved in another formal insolvency procedure at the time they apply.

Effects of a Debt Relief Order

Debt Relief Orders usually last for 12 months, however these can be extended and the individual is:

- Protected by enforcement action from many of their creditors
- Obligated to co-operate with the Official Receiver
- Expected to repay their creditors if their circumstances improve

While the DRO is in force the debt will be subject to a moratorium. During this time, creditors named on the order cannot take any legal action to recover their money without permission from the court.

Debtors should not make any payments towards any debt contained within their DRO but should continue to pay ongoing commitments such as rent and utility bills that occur after the DRO has been approved.

At the end of the moratorium period, if the debtor's circumstances have not changed, they will be freed from the debts that were included in their order, as they should be written off and creditors may not take any action for repayment of the debts.

If the debt forms part of a joint debt, action can be taken against any other joint debtor, unless they too are subject to a DRO or other insolvency process.

If the moratorium is extended, ended early, or if the DRO is cancelled, creditors will be sent notice by the official receiver.

Lodging a DRO Objection

If creditors receive a notice that a debt owing to them is listed in a DRO they may lodge an objection to one of three things:

- the making of the DRO;
- the inclusion of the debt in the DRO;
- the details of the debt specified in the DRO.

The grounds for the objection can be one or more of:

- the information supplied by the debtor, or in support of the debtor's application, was incomplete, incorrect or misleading;
- that a bankruptcy order has been made against the debtor;
- that the debtor has made a proposal for an individual voluntary arrangement;
- that the official receiver should not have been satisfied that the debtor met the qualifying criteria for a DRO at the time of the application;
- there is an error in, or omission from, something listed in the DRO.

An objection must be lodged with the official receiver within 30 days of creditor being notified of the DRO and must:

- give the full name and address and supply the name of the debtor and reference number of the DRO;
- specify which of the three matters are being objected to;
- give details of the grounds for the objection;
- supply a clear statement of the facts and supporting evidence upon which the objection is being based.

City Homes Rent Collection Impact

City Homes currently have tenants, both current and former that have applied, and been successful in obtaining, Debt Relief Orders. The DRO's received have included amounts that are due to City Homes for rent and service charges on council tenancies.

The Insolvency Service communicates to City Homes in writing the amount of outstanding arrears contained within any order. City Homes have an opportunity to respond to or object to the order when received.

During the 12 months that the order is in place, City Homes transfer the debt to a sub account within the tenancy in order that arrears action is not undertaken against the amount specified. If a notification were received to say that the debtors' circumstances had changed, the debt would have remained on the tenancy and could be transferred back to the main account for arrears recovery action to resume.

If no notification is received in the 12 months to inform of a change in circumstances, City Homes need to forward the outstanding DRO debt through for write off approval. These debts will be written off in the Housing Management System under a new transaction reference, as the debts are not able to be re-instated if the former tenants re-presented for housing in the future.

In the case of a DRO belonging to a current tenant the write off will follow the same process and the debt will be written off in the same way. The debt would never be able to be re-instated in the future, even if the tenant's circumstances improved going forward.

Current tenants with a DRO should continue to pay any rent and charges subsequently raised that were not originally included within the order. Formal arrears recovery activity will be undertaken in respect of any non-payment of rent or service charge arrears incurred after the date of the DRO.

Any tenant who has had a DRO is unable to apply for another one within a 6-year period.