



Debt Justice & Centre for Responsible Credit Submission to HM Treasury Statutory Debt Repayment Plan Consultation

August 2022

About Debt Justice and Centre for Responsible Credit

About Debt Justice (Formerly Jubilee Debt Campaign): We are a campaigning organisation working with others to end unjust debt and the poverty and inequality it perpetuates, in the UK and across the world.

For further details see: <https://debtjustice.org.uk/>

The Centre for Responsible Credit is a registered charity with a particular focus on consumer credit use and over-indebtedness amongst lower income households. We work with a wide range of associates and partner agencies to provide high quality research and policy analysis regarding the effectiveness of credit regulation, impacts of over-indebtedness and the effectiveness of financial support.

For further details see: <https://www.responsible-credit.org.uk/>

Introduction

We welcome the opportunity to respond to these proposals on the Statutory Debt Repayment Plan.

This joint submission has been shaped by our own insights as policy analysts and as campaigning charities working alongside people with personal experience of problem debt. To inform this submission, we convened a roundtable event that brought together people with personal experience of debt to explore these proposals and commissioned a short survey.

There is always a danger when developing debt policy that we lose sight of the complex stories of people who have been severely impacted by it. As one survey submission put it, *“People get into debt for different reasons. I had cancer and spiralled from there and [I] am still trying to get sorted 12 years later.”* That is why, where possible, we have quoted people with experience of debt verbatim.

We are supportive of the protection from creditor fees, charges, and enforcement action that the Statutory Debt Repayment Plan (‘SDRP’) could provide. However, we fear that these plans will facilitate the collection of large amounts of debts that have already been sold on the secondary debt market, with profits accruing to secondary debt purchasers. These purchasers buy-out debts for a fraction of their nominal value but will be able to recover the face value in full. Seen in this light, there is a danger that these plans could in effect become a state enforcement and collection mechanism for creditors to increase their returns. The SDRP will also not contribute to addressing the considerable ‘debt overhang’ likely to be caused by the cost-of-living crisis and any subsequent recession.

[Real household post-tax income is projected to fall sharply in 2022 and 2023](#). In this context it is right to question whether it is fair and/or realistic that people who have been pushed into debt to pay for essentials should be required to pay back their debts in full. It also makes little economic sense, when the country will need to stimulate a return to economic growth.

One attendee at our roundtable said that the main question the government should be addressing is *“why people are in debt in the first place”*. Whilst we acknowledge that this is outside the scope of this consultation, it is important to include these viewpoints.

In line with your guidance, we have focused on addressing only the questions that are relevant to our interests and expertise.

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

Overall, people with experience of debt at our roundtable tended to be supportive of the concept of an SDRP that could provide greater financial certainty and protection from creditor fees, charges, and enforcement action.

Two people at our roundtable mentioned that they personally want to consolidate their debts but for various reasons had been unable to.

“What I wanted really is to consolidate all the debts into one single debt.”

“I tried to do that, to consolidate all my payments and they wouldn't do it. I was refused three times... I would like to do something where I could pay so much every month and forget about it”.

However, there was also major concern about the principal underpinning SDRPs – that unmanageable personal debts should be repaid in full. Jo, who had negotiated with creditors previously felt it was “harsh” that people were expected to do so and later added that lenders should “take some responsibility” for their bad lending.

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

Largely yes, although we feel that making a new SDRP unavailable to debtors that have had a plan end in the previous 12 months is arbitrary. If a debtor seeks further debt advice and another SDRP is seen as the best solution, then it should remain an option available to them.

The presumption that people in debt might ‘abuse’ the SDRP solution is unfair and risks adding to the stigma that is already felt keenly by people in debt. There is little incentive for ‘abuse’ under these draft plans as debtors are expected to repay their debts in full. But even if this were not the case, debt advisers should be provided with the discretion to propose a new SDRP based on individual circumstances.

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

We agree that as wide a range of debts as possible should be eligible for inclusion. Attendees to our roundtable saw the simplicity and certainty of bringing together all of one’s debts into one repayment plan as a positive. As Angela put it *“I would like to do something where I could pay so much every month and then forget about it”*. For this reason, we have concerns that certain Universal Credit related debts will be non-eligible: in particular, Universal Credit advances for ongoing claimants.

We also agree that debtors should work with their debt advisers to decide whether it is in their best interests to include each of their non-mandatory eligible debts on a case-by-case basis.

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

We would like to see debtors have the option of moving debts covered by pre-existing arrangements into an SDRP so they could benefit from the extra protections afforded by it.

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

We are supportive of giving debtors flexibility to decide what is in their own interests, but we fear that excluding small debts would benefit creditors much more than debtors.

It would be difficult to classify the threshold for small debts and we note that small debts can be priority debts with serious implications for non-payment. E.g., some local authorities pursue arrears of £20 or less with bailiff action.

There was unanimity from people at our event that small debts should be included in a plan. Jo told us *"It might actually feel like less stress to just bung it all in and then it's covered"*.

Another attendee Alice, felt that creditors *"want people to pay those small debts separately to the plan and potentially put themselves in all sorts of trouble."*

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

Largely yes, although we think that creditors should be mandated to apply the protections during the development phase of a plan. This could be a particularly difficult time for people in problem debt and enforcement and recovery action should cease at this point. We understand that an SDRP could work in tandem with a Breathing Space to protect debtors from enforcement action, but this may not always be the case.

There were several concerns raised about limits on extra borrowing considering the length of these plans. A typical response was that *"people's lives change, don't they? And they want to have different types of financial commitment as well."*

Roundtable attendees understood why debtors would have some restrictions on borrowing placed on them during a plan but tended towards thinking the credit limits were too low and too rigid. Borrowing for cars, broken boilers, funerals, and school uniforms were mentioned as scenarios that could bump up against the credit limits. But there will be many more individualised circumstances.

Alice told us *"Where I live in Cornwall, you have to have a car because of being so rural and the £2,000 limit is, you know, you're probably not going to get a car that's going to last very long for that amount of money. The price of cars is going up."*

Another survey submission said *"The amount should depend on the situation. I had to borrow a larger amount to pay for my mum's funeral"*.

The responsibility put on debt advisers for enforcing these limits was also a concern, Kay asked *"When does your debt adviser become your personal accountant? It's a lot of pressure on advisers."*

Advisers themselves are also subject to increased pressure from other quarters, with the funding for community-based services beyond next January highly uncertain due to recent

failed commissioning exercises by the Money and Pensions Service, and other administrative burdens which have also seen many advisers leaving the profession.

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

Inflexibility was a major concern when discussing these proposals.

One person told us that their income was not steady, and it may not be steady for many people. It is therefore hard to commit to regular repayments over a long period of time, they suggested.

Kay raised a similar point from their own experience of industrial injury. They are now being forced to survive on a low and erratic income.

“Once you commit yourself, what happens if you end up injured like me? I've got what's classed as an unstable back. There are days when I'm fine and there's days when I can barely get up, but if I can't go to work and I default on a payment what happens?”

The idea that people in a plan would be able to give 14 days' notice to their debt adviser if they were going to struggle to make a repayment was seen as unrealistic given that increasing numbers of people face a day-to-day struggle to make ends meet.

One payment break per year of up to two months is also overly restrictive. Unexpected life events cannot, by definition, be predicted, and more flexibility is needed if these plans are to function in practice.

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

There should be no minimum value as repayments should be determined by a debtor's ability to pay and maintain a decent standard of living. However, this has implications for how long a plan could last and how long debtors will live under the restrictions that come with an SDRP.

We think the only way out of this conundrum is for these plans to have in-built provisions for debt write off (see our answer to question 15 for more detail).

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

Falling 'surplus incomes' and erratic wages pose a challenge to the viability of SDRPs. Millions of people in England and Wales live insecure lives and this growing reality strongly suggests the need for greater flexibility to be built into these plans.

However, greater flexibility and provision for payment breaks could mean that a plan lasts longer, and a debtor would be subject to ongoing restrictions that come with an SDRP.

The only solution to this issue is for SDRPs to have an upper time limit together with some provision for debt write off. The Scottish Debt Arrangement Scheme as a model to emulate received a positive response from participants.

Angela - "I think the plan should be say, pay 70% of what you owe and write 30% off because they already make enough profit on the interest. They already charged it, I already paid more than £30,000 of interest."

Alice - "If someone is going to be in repayment for that long, then I really do think there needs to be some kind of debt write off".

Jo - "It seems like it's all to the benefit of the creditor and I suppose the overall benefit, the overarching thing is that I get to be out of debt within, I don't know, let's say ten years. And the hope is that after I've paid 70% of the remainder gets paid off."

Adopting this approach would have the added benefit of replacing many IVAs with the SDRP. The IVA market has previously been described as 'broken' within the FCA's Woolard Review, and there are widespread reports amongst front-line debt advisers of inappropriate 'selling'.

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?

Yes, people in debt are best placed to understand their situation and the impact that differing repayment levels will have on their lives.

However, we would also urge that the Standard Financial Statement figures used to determine levels of 'surplus income' be revised upwards. The Standard Financial Statement figures are derived from the actual spend of the poorest income quintile. Virtually all income above this level is expected to be paid to creditors through these plans. This means people will be kept in poverty for many years and there is little incentive for debtors to improve their circumstances over the duration of the plan as any increase in income will simply lead to higher payments through the SDRP.

In our view the methodology used to determine the Standard Financial Statement figures should be subject to greater scrutiny, for example as would be the case if the SDRP regulations provided for these to be set by the Secretary of State.

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

Yes, ultimately people in debt want to become debt free and free from the restrictions that come with repayment plans as soon as possible. Angela said:

“If you can manage to pay before then, you know, try to probably pay more into the system if you can afford it, I think would be a good idea”.

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?

[At least half of all debt on existing Debt Management Plans has already been written off by originating lenders](#) and sold onto debt collection companies for an average of about 10p in the pound (£). Purchasers typically base their business models on collecting about twice as much as they paid over a period lasting up to fifteen years but routinely offer discounts to those who can pay a lump sum in ‘full and final settlement’.

We therefore believe that SDRP providers should be required to attempt to negotiate a ‘full and final settlement’ for these debts as part of the SDRP rules. Without such a requirement, SDRP providers face a conflict of interest, as putting debtors into an SDRP without negotiating such a settlement would benefit them financially.

We also believe that SDRP providers should be supported by Government to enable those debtors who are not able to offer a lump sum as ‘full and final settlement’ to do so. [HM Treasury could provide a fund for SDRP providers to use for this purpose, which would subsequently be collected back through repayments on the SDRP.](#)

Debtors would gain from having a proportion of their debt written off, and debt collection agencies would obtain a lump sum repayment earlier (albeit at a lower overall level), which is what they currently appear to prefer to having to wait for many years for full settlement. There would be substantial savings to the taxpayer due to the reduction in social costs associated with long-term over-indebtedness. Such an approach would also help to address the coming ‘debt overhang’.

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

There was a general scepticism around giving creditors too much power to intervene during an SDRP process. Alice said *“I think we need to be really careful about what creditors are going to be asking for.”*

Another respondent made the point that creditors need to be realistic about the financial situation of their debtors:

“My personal view is that a debtor can only offer what they have, so obviously the lender may be bothered about whether they get their money but at the end of the day what they are going to see is the debtor doesn't have anything more to offer. So objecting is not going to make much difference.”

We are concerned that creditors could prevent an SDRP being set up through the objection mechanism because they are pursuing their own company interest without due regard to the person in debt.

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

Where a joint plan is revoked following the death of one of the debtors it seems inhumane that enforcement action could resume just six weeks later. This raises the prospect that debt collection could restart during a period of acute grief.

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

We note that the net benefits to debtors, creditors, and debt advice providers are projected to be £9.6 million, £1,566.7 million and £28.7 million respectively. This is a significant transfer of wealth from debtors to creditors, and we would like to see the proposals amended to provide debtors with a greater share of expected benefits. Unless substantial changes are made to these plans, they could in effect become a state enforcement and collection mechanism for creditors.

Without an in-built provision for debt write off these plans will likely facilitate the collection of large amounts of debts that have already been sold on the secondary debt market and debt purchasers stand to profit handsomely.