

## Cutting our losses:

the need for good debt collection practice  
for people with debt relief orders



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# Executive summary

The introduction of debt relief orders (DROs) in 2009 increased the number of people in England and Wales able to afford access to formal relief from unmanageable debts. DROs are much cheaper than bankruptcy and enable people on the lowest incomes and with no assets to get their debts written off if they meet strict criteria.

The CAB service plays a crucial role in making DROs accessible to debtors on low incomes – over half the DRO applications last year were made by a CAB adviser. Through this work we have gained a great deal of knowledge about how DROs work and how clients' experience of a DRO can be profoundly affected by the behaviours of creditors – for better and for worse.

This report seeks to persuade all creditors and debt collectors to take a more positive approach to DROs, so that our clients who want to obtain a DRO or who have already been awarded one can obtain a fresh start.

Better and swifter information sharing is needed so that our advisers can submit DRO applications as quickly as possible. A survey of CAB advisers involved in helping clients obtain debt relief orders found that 80 per cent had experienced problems getting information from some creditors.

Once a DRO has been awarded, we need companies to take prompt action to prevent debt collection and to support their customers by maintaining essential services and supporting the principle of debt relief. Advisers regularly report cases of debts listed in a DRO being pursued by creditors, which often causes great distress.

But some companies do the right thing – this report contains many examples of good practice by creditors and debt collectors of all kinds. These examples have inspired five principles of good practice which we think all creditors and debt collectors should adopt to ensure that people in debt get the debt relief that the law intended.



# Introduction

Debt relief orders have made debt relief accessible to thousands of people in England and Wales. They are the enduring legacy of government reform of insolvency and debt relief in the UK in the 2000s and are the only measure that made it from the statute book to implementation.<sup>1</sup>

Until April 2009, people on low incomes and no assets were often excluded from formal debt relief remedies in England and Wales. Personal bankruptcy which would provide total debt relief required paying hefty fees up front (currently £525 deposit fee to the Insolvency Service plus a court fee of £180 which can be fully or partially remitted for people on benefits and low incomes). The two insolvency remedies which provided partial debt relief also excluded many – individual voluntary arrangements are only viable for debtors with at least £100 monthly surplus, and the £5,000 total debt limit and the requirement to have at least one county court judgment meant that few people are eligible for a county court administration order.<sup>2</sup>

In 2009, the Insolvency Service introduced the debt relief order to make debt relief and rehabilitation available to people on low income and with limited assets who were burdened with debt.<sup>3</sup> To ensure that debt relief orders are appropriately targeted and are fair to creditors who will have to write off debt, there are strict criteria for applications:

- The debtor cannot owe more than £15,000 in total (£20,000 from October 2015),<sup>4</sup> although some debts like child support arrears and magistrates' court fines are not included. Rent arrears sit in a grey area as they must be included and count towards the £15,000 but may still be payable after the order.

- 1 The Tribunal Courts and Enforcement Act 2007 provided for a number of new and revised debt remedies: debt relief orders, a statutory debt management plan, county court administration order and enforcement restriction orders. To date, only DROs have been implemented.
- 2 In addition to DROs there are three other remedies for individuals in England and Wales. Individuals can petition for personal bankruptcy if they owe at least £750 and they can show that they cannot pay their debts. The Official Receiver takes control of the debtor's money and property and deals with their creditors – most types of debt are written off after 12 months. An individual voluntary arrangement (IVA) is a formal and legally binding agreement between the debtor and their creditors to pay back some or all of a consumer's debts over a set period of time. An IVA has to be set up by an insolvency practitioner whose fees usually come out of the debtor's available income. An IVA may be appropriate for individuals with debts of more than £10,000 and more than £100 spare income each month. An administration order is a formal and legally-binding agreement between a debtor and their creditors to pay back their debts over a period of time. It is available to people who have at least two debts, a total indebtedness of £5,000 or less, and an unpaid county court judgment.
- 3 *A Choice of Paths: better options to manage over-indebtedness and multiple debt*, Department for Constitutional Affairs, 2004.
- 4 *Improved help for people struggling with unmanageable debt*, The Insolvency Service press release 15 January 2015.

- The debtor's total assets must not exceed £300 (£1,000 from October 2015).<sup>5</sup>
- The debtor's disposable income, after capped allowable household expenses, must not exceed £50 per month.
- The debtor cannot apply for another debt relief order for six years.
- The debtor must take debt advice and submit the application through an approved debt adviser known as an approved intermediary.

Debts covered by a DRO are frozen for a year – 'the moratorium' – and at the end of the year, as long as the debtor's circumstances have not improved enough to make them ineligible for the scheme, the debts are discharged.

To ensure that the scheme is affordable but covers its costs, the fee for a debt relief order is £90 and can be paid in instalments. Efforts have been made to keep the fee low, but the fee remains a barrier for some CAB clients.

Nevertheless, it is clear that the DRO scheme has been remarkably successful in ensuring that more people get relief from unmanageable debt. Between April 2009 and March 2014, over 140,000 people had obtained a DRO.<sup>6</sup> They also provide a substantial amount of debt relief – in 2013/14 almost £231 million was written off under the scheme.<sup>7</sup> And since the end of 2012 more DROs have been granted than bankruptcy orders to individual debtors.<sup>8</sup>

The CAB service has played and continues to play a crucial role in making DROs accessible to debtors on low incomes. In 2004, we undertook research for the Insolvency Service to ascertain how many CAB debt clients might be eligible for an insolvency remedy focused on the very poorest people in debt. Our research found that around 31 per cent of CAB debt clients at that time would be eligible for a DRO.<sup>9</sup> In 2013/4 53 per cent of DRO applications were made by a CAB adviser acting as an approved intermediary.<sup>10</sup>

- 5 The debtor may also have a car worth up to £1,000 on top of the £300 assets.
- 6 Jo Swinson MP, Introduction to *Insolvency Proceedings: Debt relief orders and the bankruptcy petition limit* – Call for evidence, The Insolvency Service (2014).
- 7 *Debt relief orders infographic* The Insolvency Service (2014).
- 8 *Insolvency Proceedings: Debt relief orders and the bankruptcy petition limit* – Call for evidence (2014), The Insolvency Service.
- 9 *Relief for the Indebted – an alternative to bankruptcy*, The Insolvency Service (2005).
- 10 *Insolvency Proceedings: Debt relief orders and the bankruptcy petition limit* – Call for evidence (2014), The Insolvency Service.



Through this work we have gained a great deal of knowledge about how DROs work in practice. Our data suggests that our clients' experience of a DRO can be profoundly affected by the behaviours of creditors. We are also aware that creditors can be frustrated by delays and communications with advisers about DROs.

There are good reasons why creditors should improve the way in which they deal with customers applying for or who have a debt relief order. Firstly, creditors can be confident that debtors who have obtained a DRO have received advice about their debts. The rules ensure that DROs are targeted and are overwhelmingly taken up by people affected by long-term low income or a serious adverse change in their circumstances. The debtor's conduct is subject to scrutiny before the DRO is awarded and both creditors and the Insolvency Service have opportunities to object to the DRO. The debtor can also be subject to sanctions for inappropriate conduct in the accumulation of debts. Secondly, the orders will save time, money and effort for creditors and debt collectors in not having to chase people for debts that they cannot afford to pay. Thirdly, the Financial Conduct Authority and other regulators want firms to take an approach to debt collection that finds the right solution for their customers. So the time is right to examine how the advice sector and creditors can work together to improve the DRO process.

We have used our data to develop five recommendations for creditors on how our clients' experience of debt relief orders can be improved, and we look forward to discussing these with the industry. We are also doing all we can to improve advice about and access to DROs by setting up national units to help bureaux around the country with DRO applications.

This report draws on the following evidence:

- A survey undertaken by 232 of Citizens Advice approved intermediaries from August to September 2014.
- A focus group on DROs attended by 30 approved intermediaries and others closely associated with DRO advice in the CAB service in September 2014.
- An analysis of the statistical data held on CASE, the Citizens Advice service electronic case recording system until April 2014, for CAB clients who had successfully applied for a DRO in 2012/13.
- An analysis of the demographic data of CAB clients who were given advice on debt relief orders in quarter one, 2013/14.
- A review of 510 bureau evidence forms about debt relief orders received by Citizens Advice in 2014.<sup>11</sup>

<sup>11</sup> Bureaux are required by the Citizens Advice membership scheme to have systems in place to send Citizens Advice anonymised case studies of people they have seen where they feel the client's problem cannot be solved by advice alone. These are called Bureau Evidence Forms or BEFs. We receive about 50,000 BEFs every year about the range of issues on which Citizens Advice Bureaux give advice.

# DROs in practice – understanding the customer

## The first objective of this report is to persuade firms that do not already do so to take a more positive approach to DROs.

It is clear from CAB data on our clients who have sought advice about or obtained a DRO that they have a pressing need for debt relief and that they are likely to be particularly vulnerable. In 2012/3 these clients had, on average, ten debts.<sup>12</sup> Just over half of CAB clients (51 per cent) who had been awarded debt relief orders in 2102/2013 had priority debts – such as rent arrears, council tax, fuel arrears or domestic goods on hire purchase.<sup>13</sup> On average they had three priority debts.

Bureau debt advisers tell us that multiple debts are particularly difficult for individuals to manage. By the time an individual seeks advice, many debts and household bills may have been passed to debt collection and enforcement companies: different account numbers, phone numbers and policies. The client will almost certainly not have had enough money to maintain the level and regularity of payments needed to avoid enforcement and collection activities and some of the debts will have involved vigorous enforcement and the threat to essential services. It is our experience that these problems can destabilise people’s ability to keep track of all their commitments, sustain essential payments and plan their finances – it is this that can lead to a great deal of stress.

*A man in his forties visited his CAB in London in June 2014. He had been unemployed for four years, having been a carer for both his parents. He had rent arrears of almost £1,000 which he was paying off and an overpayment of housing benefit. He had council tax debts and owed £600 for electricity. To get his creditors off his back, he had accepted the repayments suggested by them, but as a result, he could not afford to pay his essential commitments including food. The CAB had to give him a food bank voucher.*

12 Citizens Advice advisers submitted 14,520 applications for DROs in 2012/13, but during this period the organisation was moving between case recording systems. The figures here are data from just one of the two systems in operation and account for 81 per cent of the applications submitted by the service. The Insolvency Service reports that of the 27,329 total applications submitted by advisers from all agencies 26,876 were accepted and 96 were rejected.

13 A priority debt is a debt that must be paid to protect an essential asset or service (such as a home, domestic goods or energy), or the debtor’s liberty.

As can be seen from table 1, the profile of clients advised on DROs is different from that of CAB clients as a whole. Clients advised on DROs are more likely to have an income below £1,500 a month, to have children, to be the tenant of a social landlord, to have long term health problems and to be a lone parent than the average CAB client. These are circumstances that affect women more than men, and 63 per cent of CAB clients who were advised on DROs are women.

**Table 1: Demographic data for people who were advised on a DRO issue in Q1 2014 compared with all CAB clients**

	% of all clients	% of clients given advice on DROs
Female	56%	63%
Aged under 45	51%	60%
Disabled	11%	11%
Long-term health problems	25%	29%
Social tenant	32%	55%
Has dependent children	39%	43%
Lone parent	17%	25%
Unemployed	21%	25%
In work	40%	34%
Net household income up to £1,500 a month	83%	89%

Overall, this suggests that CAB clients who are given advice on DROs are more likely to be vulnerable or on a low income compared to CAB clients as a whole. They are therefore less likely to have available income or assets to repay their debts. Debt relief orders therefore provide a particularly vulnerable group of people with a fresh start.

As two CAB advisers commented in August 2014:

*“I believe DROs have had a massively positive impact on the clients who have gone down this route. It is almost standard to hear them saying that ‘a great weight has been lifted’ and ‘I will never borrow money again and get into this situation’. Quite often clients have cried in relief when the DRO has been approved.”*

*“I have seen clients’ lives transformed because of DROs. I have seen clients return much more confident, self-assured and finally able to ‘move on’ with their lives having struggled with debt and associated depression and other mental health problems for a number of years. DROs have also marked an ‘end of a chapter’ in clients’ lives involving drug problems, domestic violence and illness. DROs have helped people turn lives round.”*

An application for a debt relief order is an opportunity for a fresh start for creditors and debtors alike.



### **Good practice example: Blackpool Council**

CAB advisers have reported that Blackpool Council is a good example of a creditor that takes a positive approach to DROs. After years of working closely with their CAB the trust between the bureau and the council shows a willingness to work together to support clients dealing with insolvency. The council has excellent communication systems that allow advisers to get in touch with the right people – a quick phone call from the bureau adviser to their contacts at the council allows the adviser to gather the details of the debt. The council will put a hold on any enforcement action at this stage. Enforcement costs will not be passed on to the client if they proceed with an insolvency option, which can keep some clients within the limits of a DRO. In certain circumstances, if the client's partner is joint and severally liable for council tax arrears, and is not applying for a DRO/going bankrupt, the council will consider not pursuing the other party as they recognise that there is financial hardship that needs to be dealt with appropriately. This combination of helpful processes and a willingness to provide support to the insolvent CAB client goes beyond the minimum protection provided by a DRO in a shared effort to get the client back on their feet.

A DRO is a legal remedy that provides reassurance that a customer has had expert debt advice and has come to the right solution for them. It is rare for us to get reports of a creditor who has exercised the right to object to the DRO. A firm that can demonstrate that it offers appropriate positive support to customers going through the DRO process will be able to demonstrate that in these cases they are doing their best to support people out of unmanageable debt, and towards a new relationship with their finances and financial service institutions.

## The DRO application process – the need for better and faster information sharing

The second objective of this report is to open a conversation with creditors so that they will better understand the information that advisers and clients need for a DRO application.

DROs are not a soft touch for our clients or our advisers. There are exacting criteria which must be met and they have long lasting consequences. They can only be applied for when a client's income, debts, liabilities and circumstances have been closely checked by an experienced adviser who is an approved intermediary. It is the intermediary who creates and submits an application for a DRO to the Insolvency Service, with the agreement of their client. Clients who apply for a DRO benefit from intensive advice and support from an experienced adviser, as this comment from our survey shows:

*“Like all insolvencies, DROs aren't magic bullets on their own. When combined with effective money advice and when the client is fully aware of how it will affect them, they can provide closure on a difficult time...”*

However alongside this enthusiasm, CAB advisers express significant levels of frustration about the process of helping someone apply for a DRO. Because DROs are carefully targeted on people who meet the strict requirements, a client's income, expenditure, circumstances and payment histories need to be fully understood. Some of this information can be gained from the client, but advisers need to contact creditors to gain complete and up-to-date information about the debts, including amounts owed.

Whilst advisers need this information quickly, this can be difficult to get. DROs generally receive much less attention and resource within creditor collections teams than other debt solutions, such as debt management plans. DROs do not usually involve the creditor collecting payments or undertaking negotiations, and the burden of the DRO process falls more clearly on debt advisers than on the creditors, because so many checks have to be done before an application is submitted. But as we have seen, DROs are becoming more important – they are more common than personal bankruptcy, and this trend is likely to continue, given the forthcoming changes to increase the debt and asset limits for DROs.

Advisers report that they spend a considerable amount of time chasing creditors and their collection agencies as well as clients for details of their liability. Delays in receiving this information can delay a DRO application and this can be costly for clients and creditors.<sup>14</sup> Creditors carry on with phone calls, texts, and collection letters, and in some cases deductions from clients' benefits continue and clients are left without the protection that a successful DRO application would provide.

<sup>14</sup> DROs can be delayed by other factors – benefit problems have become more of an issue in the last few years. These delays can have a double impact on DRO clients – the client's income is disrupted, and consequently it can be difficult to complete a DRO application.

A particular problem is that creditors and clients struggle to maintain records about their debts – and that even where debts are still being collected and clients being asked to make payments, firms are sometimes not able to provide information about the accounts. One CAB adviser who responded to our survey said:

*“Often debts have been moved to third parties and many creditors have no knowledge as to who the debt is with, this means a chase to find information needed and often a client or caseworker can end up going round in circles.”*

In our adviser surveys in August and September 2014, 79 per cent of respondents reported some difficulties getting information from creditors promptly, and 23 per cent said that they had to chase creditors for information in over half their DRO cases. Advisers report wide variations in the behaviour of creditors in response to letters – some companies reply to letters and engage well, and some are more difficult to deal with.

*“For debts where we have little information from the client – because they have moved, lost paperwork, forgotten about the debt and it appears on a credit report – this is the most time consuming part of the DRO process for intermediaries... It can take days of phone calls, letters, emails, and faxes to creditors – who then either ignore them or ‘lose’ them, or don’t accept letters of authority and insist on passwords for accounts which are long closed. This is our biggest bugbear, and is why DRO clients take up almost all of my time.”*

In October 2014 an adviser from a CAB in the East Midlands told Citizens Advice that they were regularly experiencing difficulties with mobile telephone companies’ debt systems, which created barriers for DRO clients:

*“Accounts are often very old and the clients have no paperwork. So the [mobile phone] companies refuse to deal with us. They don’t answer letters, we have no email addresses to use, their contact numbers on websites always ask for PIN numbers or passwords which we don’t have and the client cannot remember. Clients sometimes end up making lengthy phone calls (which they cannot afford) in order to establish authority for us to speak to the companies concerned, however when we ring they invariably have no record of the customer’s call.”*

*In June 2014 a CAB reported that they were unable to get an up to date balance on a payday loan for a client who was very ill with multiple health problems and who wanted to apply for a DRO. The client had phoned the local branch for this information and was told that he had to call into the office. However, when he called into the office, he was told they could not do this either. When the adviser called the national office of the lender, they got no answer on the phone. The adviser commented that this issue was delaying the application for a DRO.*

The adviser made it clear that these communications are a particular issue for DRO applications. If the bureau was making an offer of payment, long delays can be managed more easily, but clients who need to apply for DROs cannot proceed without full information about all the debts. When asked to identify types of creditors that are especially difficult to deal with, advisers often mention mobile telephone companies, national and local government departments, mail order companies, payday lenders and some banks.

Some creditors have a dedicated insolvency team. Where advisers can speak to these teams, communication on behalf of DRO clients actually works much better. However members of these teams often can't speak directly to advisers. In our advisers' experience, staff who cover third party helplines, or general numbers have variable understanding of insolvency and DRO processes and are not always able to deal with advisers' queries. These complex internal systems can lead to delay and misunderstanding.

This isn't rocket science – some creditors and debt collectors can and do get it right:

### **Good practice example: Lowell Group**

**One company that has a reputation among advisers for being helpful in dealing with DROs is the debt purchasing company, Lowell Group. Advisers have reported that Lowell's letters always contain the details of the original creditor, and all the relevant account numbers. When advisers ring Lowell, the agents they speak to understand about DROs, they offer to run a check for additional debts held by the organisation, and they place accounts on hold while the adviser helps the client. The same creditor will accept over the phone that a DRO has been awarded without demanding further proof and advisers tell us this makes a tremendous difference.**

## After the DRO is made – the need for better customer support

The third objective of this report is to persuade companies to take prompt action to prevent debt collection post-DRO, and to support customers after a DRO has been awarded by maintaining essential services and supporting the principle of debt relief.

Clients with a new DRO are still individuals with a low income and with limited resources, and assets of less than £300. Positive engagement by creditors and advisers during the moratorium can significantly affect the ability of people with a DRO to manage their affairs during the year, and their engagement with their finances after that.

Once a DRO has been awarded, the client is protected from further enforcement of the debts included in the order. Creditors are notified about the order by the Insolvency Service. Creditors can continue to communicate with their debtors over the year of the moratorium – although they can't ask for payment during the moratorium and after the year the debt is written off.

Advisers report that some firms do not send clear letters explaining what has happened to the debt at the end of the moratorium. Some organisations send standard collection letters during the moratorium that ask for payment, in breach of insolvency rules. The best practice is for creditors to send clear letters to clients explaining the details of the debts, and what its status is. It should be standard practice to do this at the beginning and end of the DRO.

Many DRO clients have had found their dealings with creditors and debts confusing, distressing and disempowering. The DRO advice process clarifies the client's debts, and budget. It is an opportunity for the client to understand and get control of their finances for the first time in many years sometimes, and the moratorium is an opportunity for to restore confidence and order – and for this reason customers need good quality communications from their creditors.

### **Good practice example: HSBC, Santander and E.ON:**

Advisers have reported that HSBC and Santander send their clients helpful letters to tell them about the debt and what its status is. Advisers have reported that one energy company, E.ON, gives very clear information to support customers through the DRO process. They want to keep their customers engaged at this difficult time. They write to the client at the start of the DRO and explain that the debts are included in the moratorium, and when the debt is written off at the end of the year they write again and tell the client exactly what has happened.

In our adviser survey 85 per cent of respondents said that they had experienced creditors chasing clients for payment of debts that were listed in a DRO – and seven per cent said that that this happened in half or more of their DRO cases. This often causes great distress to clients and involves additional demands on advice services.

*In July 2014 a woman sought CAB advice after she had been contacted by a debt purchase company who had acquired a consumer credit debt in July 2014 that had been listed in a DRO four years previously. The adviser wondered why the original records were not updated in 2010, and what they had been doing with the debt for four years.*

*In October 2014 an enforcement agency contacted a client about a council tax debt that had been properly included in a DRO in 2009. The client no longer had copies of DRO or paperwork relating to those years. The adviser said that the client was led to believe he simply had to pay if he didn't have a copy of the document. The client was in receipt of sickness and disability benefits and was vulnerable due to his mental health problems. The adviser commented that the enforcement agents should not have been instructed by the council to pursue this debt and, particularly, the agents should not have ignored the client's explanation that this debt was covered by the DRO.*

Often these problems occur when a debt has been re-assigned or returned to the original creditor and organisations involved in the chain of firms are not sharing important information about DROs. The Insolvency Service suggest that clients provide organisations chasing old DRO debts with a reference and date and that they explain the DRO notification was sent to the organisation administering the debt at the time the application was approved.<sup>15</sup> However advisers regularly report that creditors won't accept this as adequate proof and either demand further documentation or simply carry on with collection processes. In some cases it is very difficult to stop the creditors chasing the debt.

In November 2014, a CAB in Yorkshire and Humberside reported that they had helped a lone parent successfully apply for a debt relief order in early September 2014. At the end of October 2014 the client received a letter from a debt buying company that they had purchased one of her debts a month after the DRO had been granted. Whilst the client had informed the debt buyer that she had a DRO, they required more details as they had not been given all the information including agreement numbers from the original creditor. In the meantime the debt buyer was continuing to contact her by letter and phone for repayments. The bureau commented that the original creditor should not have sold on the debt as they would have been informed immediately that the client had a DRO in place.

In December 2014 a woman approached her local CAB because the DWP had contacted her employer to set up an attachment of earnings for a debt that had been correctly included in a DRO over 18 months previously. The debt had been listed under the name of the company that was collecting the debt at the time. The department staff did not seem to understand that this was the correct way of recording a debt and stated that the problem lay with the debtor.

With another government department, HMRC, advisers reported two distinct difficulties – getting through to any one at all, and getting through to someone who understands the DRO rules. As one adviser commented in December 2014:

***“HMRC are still saying they can still collect overpayments during the moratorium period. There seems to be very little effort to train staff on insolvency procedures, or to set up a dedicated department”***

It is not just government department staff who are not always well informed.

A CAB adviser in the South West was told by an energy company in August 2014 that the company “are rejecting debts within a DRO and can still install a prepayment meter and collect the debt – they insisted that DRO is a voluntary remedy and they do not have to accept it”.

Organisations collecting debts need to ensure that they share data about DROs appropriately. Because DROs are a formal legal remedy, creditors should have expertise on DROs in a specialist insolvency team. But all collections staff need to know enough to assist a customer or an adviser working on a DRO application to respond helpfully to customers who have been awarded one.

## Particular problems with essential services

A significant minority of respondents to our survey had helped clients with difficulties with their essential services after a DRO. As can be seen from chart one, we have examples of clients who have continued problems with essential services – housing, banking, water and energy problems after a DRO. This is especially damaging to clients who then have to deal with both the consequences of insolvency and a creditor failing to treat them sympathetically.

**Chart 1: Advisers' feedback on creditor behaviours after a DRO application**





Citizens Advice has previously raised concerns about some banks' practices of closing bank accounts of debtors who obtain a DRO.<sup>16</sup> The case study below shows the difficulties people experience when their account is closed – they have limited resources to fall back on and when they are re-building their financial position they need co-operation with firms to sustain their essential services.

*A CAB reported to Citizens Advice that they had helped a lone parent apply for a DRO. After the DRO was approved all her bank accounts were closed, including her basic bank account, and that her benefit payments had therefore 'bounced'. The client was then unable to access any money and had to use several food vouchers. She was in receipt of employment and support allowance and other benefits. When the bureau contacted HMRC to discuss her tax credits, HMRC said that they could request an urgent manual payment, but this would take 7–10 working days to set up. The DWP said that they could only make an urgent payment to the client once the money had been returned by the bank and had reached the department.*

Fortunately, the recent announcement that the Government and the banks have reached a deal to provide basic bank accounts to people in financial difficulty may resolve problems like these.<sup>17</sup>

Advisers too often find themselves helping clients with intractable problems with essential services after a DRO. Where clients with DROs are paying for their energy usage and pay off debts via a prepayment meter, energy suppliers should reset the meter to remove the arrears, but advisers find this is not always the case:

*A CAB adviser reported that their client had been awarded a debt relief order in January 2014, but his gas supplier had continued to deduct gas arrears payments from his pre-payment meter. The client returned to the CAB in May 2014 and the adviser telephoned the energy company together with the client. The company agent told the CAB adviser that it was not their problem but he should sort it out with the Insolvency Service.*

In contrast, there are companies that support DRO clients well and understand that helping them through the moratorium is part of finding the right solution for customers:

<sup>16</sup> *Called to account: why banks must provide basic bank accounts to undischarged bankrupts*, Citizens Advice (2010).

<sup>17</sup> *New basic fee-free bank accounts to help millions manage their money*, HM Treasury press release, 15 December 2014.

### **Good practice example: E.ON**

An energy company that advisers report responds well to the post-DRO process is E.ON. Advisers report that they quickly re-set their meters so that their clients are not continuing to pay debts that are covered in a DRO, and they send clear letters explain that the debt has been written off – and they communicate with the client both at the beginning and the end of the moratorium.

### **Good practice example: Barclays**

Barclays continues to provide transactional banking services to insolvent customers. At the time of writing they will as a matter of policy provide bank accounts to undischarged bankrupts. They are similarly willing to provide bank accounts to customers who have a DRO, and in so doing they allow access to the essential services available through their basic bank account product.

Some customers are fortunate to find their bank or energy supplier understands their problems and respects the DRO process. These customers get help from firms to access appropriate energy and banking products to sustain access to essential services, giving them high quality information and seeking to support customers through this process. We would like every bank account customer and energy customer to receive this good service during their time of need.



In one even more positive example, Flintshire County Council take prompt action to write off debts for their tenants:

*A woman attended a CAB in Wales in a distressed state – she was feeling suicidal. She had numerous debts which she was struggling to repay including rent arrears and council tax arrears. Her landlord, Flintshire County Council, had started possession action and the client was facing eviction. It was identified she was eligible for a DRO and the adviser contacted the client’s housing officer to inform her of the client’s intention to apply for a DRO. The housing officer asked the court to adjourn matters to allow more time for her DRO to be processed. The rent arrears would not be recovered by the council and she no longer faced the risk of eviction.*

DRO clients suffer from the ‘landlord lottery’ with social landlords taking a different approach to rent arrears after a DRO – some writing off the debts and some not. However advisers report that even where the debt has been written off, it is common for the debt to continue to be linked to the client’s rent account records and for this to be used to prevent them access to re-housing or even a housing transfer. Sometimes this is a key part of the changes that a client needs to make to re-arrange their life post-DRO. It can lead to a client remaining trapped in the housing situation or neighbourhood associated with many of their problems, or inflate their housing costs. It is disappointing that a client who has had so much investment in time and help from an advice service is prevented from fully benefiting from the help and guidance they have been offered.

## **Water charges**

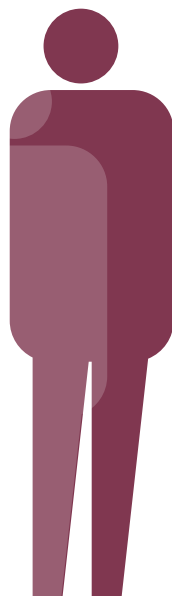
Citizens Advice evidence from different parts of the UK exposes differences between approaches to DROs in the water industry. Water and sewerage charges are billed for a whole year and once a water charges debt is listed in a DRO, some water companies write off the debt for the whole year, whilst others split the debt and issue a new bill for the following day.

While the Insolvency Service guidance permits water companies to split the debt, it is the view of Citizens Advice that this is not lawful, but we have not so far been able to pursue a test case. The key problem is that this action diminishes the benefit of the moratorium, and customers who could benefit for a period of stability and positive help from their water company have a much less positive ‘fresh start’. In some cases clients who need the respite to stabilise their tenancy and re-build their personal and financial resilience find their fresh start undermined by these actions by water companies.

*In April 2014, a CAB in England reported that they had helped a woman obtain a DRO in November 2013. The DRO included a debt of £290, which was the total owed by the client for water charges up to the end of March. The water company then issued a new bill for the period November 2013 – March 2014. The bureau challenged the water company as to whether this was legal. After several months of calls, letters and emails between the bureau and the water company, the water company would not budge from their position, citing the Insolvency Service guidance in support of their position. The client was hoping for a clean slate after her DRO, but has not got one. The bureau commented that this decision seemed to go against the whole ethos of DROs to allow clients on low incomes with no prospect of ever repaying their debts to start again with a clean slate. The bureau had also contacted the Insolvency Service to see if they would change their guidance on water charges following a recent court ruling that council tax for the rest of the current year can be included in a DRO, but without success.*

### **Good practice in the water industry**

**In contrast some water companies have a policy of writing off the debt in full when a DRO is awarded, so customers in their area can have the benefit of the protection of the moratorium to stabilise their finances.**



# Conclusions and recommendations

There is a substantial proportion of cases where advisers and clients are faced with distressing barriers to them getting the protection that DROs are designed to provide. Debt collection continues too often, and there are particular challenges for some of our clients managing essential services such as bank accounts, tenancy agreements and their utilities after a DRO.

Whilst we have identified firms that take a needlessly harsh line or do not follow the rules, there are also examples of firms supporting their customers through the DRO process and making clear efforts to supply products that maintain essential services, and to treat their customers fairly and with respect. We ask all the companies that we work with to review their policies and practices in relation to DROs and to make sure that they are doing the best they can for these customers who have had the courage to take debt advice, and need support to ensure they get the fresh start that the law intended. We think the following five recommendations should be adopted by every creditor:

- 1.** Be DRO positive – ensure your staff understand DROs and the issues that affect your customers seeking or living with a DRO. Require the same of third parties you work with.
- 2.** Provide accurate data that your customers and their advisers need to help them process a DRO application promptly. Ensure that you share data with third parties that you work with so that the customer with a DRO always gets treated appropriately.
- 3.** Keep your customers informed throughout the DRO process. Send them clear letters at the beginning and end of the moratorium with all relevant accounts numbers and details and explaining in plain English the steps and amounts involved. Require the same of third parties you work with.
- 4.** Continue to work with customers who have a DRO. Work with them to protect their bank account, their home and their essential services.
- 5.** Ensure that you respect the DRO – stop collecting debts that are covered by the order and don't take a punitive 'chase the last penny' attitude – support the customer so that they get the fresh start that it was intended DROs would provide.

## Our aims

- Provide the advice people need for the problems they face.
- Improve the policies and practices that affect people's lives.

## Our principles

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. We value diversity, promote equality and challenge discrimination.

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With thanks to HSBC for their support for our creditor liaison policy work.

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