

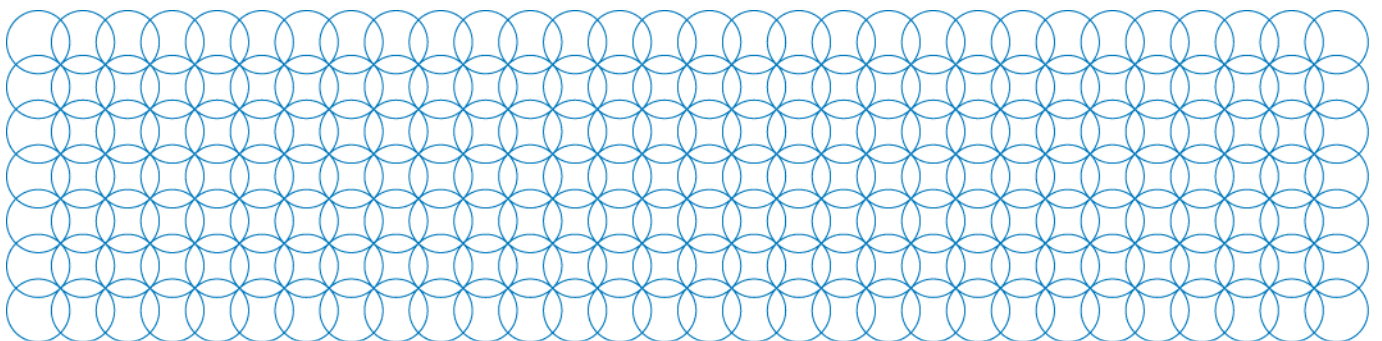


Administration and Enforcement Restriction Orders: setting the parameters

Consultation Paper CP01/08

Published on 16 January 2008

This consultation will end on 16 April 2008



Administration and Enforcement Restriction Orders: setting the parameters

A consultation produced by Her Majesty's Courts Service, part of the Ministry of Justice. It is also available on the Ministry of Justice website at www.justice.gov.uk

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Administration and Enforcement Restriction Orders: setting the parameters

Executive summary

Part 5 of the Tribunals Courts and Enforcement Act (TCEA) 2007 included a package of measures designed to improve and extend the range of options available to assist the over-indebted. It was aimed at those with multiple debts but with relatively low levels of overall debt.

Chapters 1 and 2 of Part 5 dealt with the:

- reform of the Administration Order (AO) - effectively a long-term debt management scheme administered by the court; and
- introduction of an Enforcement Restriction Order (ERO) - to provide short-term assistance (via enforcement relief) to those who encounter a sudden and unforeseen change to their financial circumstances from which they are likely to recover within a relatively short period.

Section 106 of the TCEA 2007 substitutes a new Part 6 of the County Courts Act (CCA) 1984 (in respect of AOs) and clause 107 inserts a new Part 6A into the same Act (in respect of EROs). Copies of the new Parts are attached at **Annex A** for ease of reference.

Provision was made within these Parts allowing secondary legislation to define the parameters for each scheme. Sections 112AI and 117X provide for the Lord Chancellor to make regulations and the Government confirmed during Commons consideration that there would be consultation on the detail of the regulations to underpin the revised AO and ERO schemes during 2007.

This paper therefore seeks views on the various limits that will apply to the AO and ERO schemes.

Current Situation

The AO scheme is a court administered debt management scheme and is currently restricted to those with maximum debts of £5,000, one of which must be a judgment debt. Once an order is made creditors named in the order cannot enforce their debts without leave of the court nor can they add interest or other charges to the debt. However, the lack of clarity about the nature of debts that can or cannot be included has led to differences of approach between courts. This lack of consistency has been a cause for concern.

Proposed Changes

We intend to specifically exclude debts classed as non-provable in bankruptcy. These are fines, sums due under orders made in family proceedings or maintenance assessments made under the Child Support Act 1991. We also intend to exclude Government student loans. The Higher Education Act 2004 and consequent Regulations specifically prevent student loans being written off on discharge from bankruptcy. Monthly repayments on student loans are related to the borrowers income rather than the amount of the loan outstanding.

These provisions confirm the position taken during consultation and in Parliament. It will provide consistency with current insolvency practice and the Insolvency Services Debt Relief Order (DRO) scheme introduced by Chapter 3 of Part 5 TCEA 2007.

Additionally, provision has been made in the TCEA 2007 to allow debts that cannot be brought into either of the AO or ERO to be defined. For example, all secured debts (i.e. debts secured against an asset when the loan came into being) and business debts are excluded from both schemes by statute. Regulations may exclude other types of debt. Additionally, under the new provisions, orders must be revoked where a business debt is incurred during the currency of the order or where it is shown that any of the entry criteria were not, or are no longer met.

The TCEA 2007 also gives the Lord Chancellor the power to review and set a limit for the total amount of debt that can be included in an AO by secondary legislation. As stated in Parliament, we intend to set this at £15,000 initially. This is in line with the majority view from the consultation and aligns with the DRO.

Introduction

This paper sets out for consultation the areas where secondary legislation will be used to establish the constraints and limits required for the effective operation of both the revised AO scheme and the ERO.

The consultation is aimed at all those with an interest in providing options to help the over-indebted and multiple debtors in England and Wales.

This consultation is being conducted in line with the Code of Practice on Consultation issued by the Cabinet Office and falls within the scope of the Code. The Consultation Criteria, which are set out on page 36, have been followed.

A Regulatory Impact Assessment (RIA) was produced to support the “*A Choice of Paths*”¹ consultation, the starting point for these changes, and considered the impact of the proposals and changes on various sectors. As no changes were made to the proposals during the passage of the Bill, and after consulting our key stakeholder group², a further Impact Assessment (IA) has not been prepared in support of this paper. Consequently, this paper does not contain an Impact

¹ A Choice of Paths - better options to manage over-indebtedness and multiple debt CP23/04 20/7/2004

² The key stakeholder group comprises representatives from Citizens Advice, Advice UK, Civil Courts User Association, Finance and Leasing Association, Provident Personal Credit Limited, Institute of Credit Managers, ASA Associates, British Bankers Association, Hurlstons, Money Advice Trust, National Debt Line and the Insolvency Service.

Assessment. If you disagree with this conclusion you are invited to send your reasons as part of your overall response to this paper.

An Equality Impact Assessment is attached at **Annex B**

Copies of the consultation paper are being sent to:

- **Judicial:** Senior Presiding Judge; Judges' Council; Council of Circuit Judges; High Court Masters' Group; Association of District Judges; Magistrates' Association; National Bench Chair Forum; Judicial Communications Office; Master of the Rolls; The Chancellor; President of the Queen's Bench Division; Lord Justice Moore-Bick; Designated Civil Judges; Civil Justice Council.
- **Legal bodies:** The Bar Council; The Law Society; the Council for Licensed Conveyancers; The Faculty Office; The Institute of Legal Executives; The Association of Law Costs Draftmen; Advice Services Alliance; Law Centre Federation; The Institute of Paralegals; The Office of the Legal Services Ombudsman.
- **Advice bodies**, for example: Citizens Advice, Advice UK and Consumer Credit Counselling Service.
- **Creditor bodies**, including Civil Court Users Association, Council of Mortgage Lenders.
- **Utility service providers**, including water companies, gas companies, electricity companies.
- **Lenders**, including Finance and Leasing Association and collection agencies.

- **Other Government Bodies**, including Department for Business, Enterprise and Regulatory Reform, Department for Work and Pensions, Department of Communities and Local Government, and HM Revenue & Customs.

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

Chapter 1 - Background

1. The 1985 Civil Justice Review recommended a number of changes to the Administration Order (AO) scheme. These were enacted in section 13 of the Courts and Legal Services Act (CLSA) 1990. This included removal of the need for a judgment debt, an increase in the total debt limit and the introduction of a strict three-year limit to the order.
2. Section 13 also included, for the first time, an explicit power for the court to grant an order restricting enforcement, an Enforcement Restriction Order (ERO), where it considered that this would be more appropriate than an AO. Once made, an ERO would provide temporary relief from enforcement, for a period defined in individual orders, for those unable to meet their commitments.
3. Concerns were raised about the operational viability of section 13, particularly the lack of a definition of debts that could or could not be included. Due to this, Section 13 has never been commenced.
4. In July 2004 the Government consulted¹ on a range of targeted options to offer better assistance to the over-indebted and people with multiple debts, including reform to the existing AO scheme and a revised and targeted ERO scheme.
5. The Government's response paper on the consultation, published in March 2005, committed to a number of changes to the AO scheme and to a revised and more workable version of the ERO to address the issues identified with section 13 of the CLSA 1990. These were introduced in Part 5 of the TCEA 2007.

¹ A Choice of Paths - better options to manage over-indebtedness and multiple debt CP23/04 20/7/2004

Current Position

Administration Orders

6. AOs are a court administered debt management scheme for those who are unable to pay their debts and is governed by Section 6 of the County Court Act (CCA) 1984.
7. Currently the scheme is restricted to those with at least one judgment debt and whose debts total no more than £5,000. Following an order being made interest can no longer be charged, the court manages the debts and creditors named in the order cannot enforce their debts without leave of the court.
8. There is currently no definition of debts that either can or cannot be included in the scheme. Nor is there any requirement for debtors to update details of their financial circumstances during the term of the order.
9. In many cases orders are made with very low monthly instalments and are allowed to continue for as long as there is compliance or until the order is fully paid. Due to this, some orders take many years to reach completion (i.e. full repayment or revocation).
10. It has been suggested that the lack of an easily foreseeable endpoint may contribute to poor compliance rates. Non-compliance often leads to orders being revoked, resulting in the scheme not achieving its objective of helping the rehabilitation of debtors and providing reasonable returns for creditors.
11. Stakeholders have previously commented that the £5,000 debt ceiling is unrealistic in present circumstances. However, any change would currently require primary legislation. Consequently, this limit has not been reviewed for 21 years.

12. Due to these issues the current AO scheme has little support from either the advice sector or the credit industry. The advice sector generally believes that the debt ceiling is too low and that orders are allowed to continue for too long. The credit industry's concerns are the very low returns, the high failure rate of orders, the time taken for those orders that do reach conclusion and the constant review/revocation/reinstatement that takes place in the interim.

Enforcement Restriction Orders (ERO's)

13. Section 13 of the CLSA 1990 introduced the concept of the court having the power to order an ERO rather than an AO if it was more appropriate. The particular intention was to allow debtors time free from the threat of enforcement to try to resolve their problems and to ultimately meet all of their commitments.
14. However, the ERO has never come into operation because Section 13 has never been introduced because of the concerns mentioned in paragraph 3.

Chapter 2 - The Reformed Schemes

15. Some aspects of the current AO scheme have been retained but new provisions will address the problems identified in respect of both this and the ERO scheme. Some of these provisions will be common to both whilst others will be specific to individual schemes. The main features are listed below.

Provisions Common to Both the AO & ERO Schemes

- no need for there to be a judgment debt;
 - introduction of an absolute duty on the court to revoke orders in defined circumstances;
 - introduction of a power for the court to revoke orders where there is non-compliance; and
 - no right to apply for an order to be reinstated or to make an application for a further order within 12 months of revocation (unless revoked because of other debt management arrangements coming into force).
16. Provision was also made giving the Lord Chancellor the power under both schemes to:

- define debts that cannot be included in an order;
- define debts that are exempt from the general restrictions on legal action during the lifetime of an order;
- make provision about the provision of information about the debtor's circumstances and the disposal of assets.

Provisions Specific to the AO Scheme

- introduction of a maximum 5 year time limit on the duration of orders;

17. Provision was also made giving the Lord Chancellor the power to:

- set and revise the total debt limit.
- prescribe a minimum level of surplus income (the difference between income from all sources and justifiable outgoings) that debtors must have before being allowed to enter the scheme; and
- prescribe standard methods for calculating debts and repayment rates;

Provisions Specific to the ERO Scheme

- orders limited to a maximum of 12 months during which enforcement action by creditors would be barred, except with the permission of the court;
- consideration must be given to creditors' objections to an order.
- a repayment requirement to be included in the order where appropriate if the debtor has surplus income, to be calculated on the same basis as the reformed AO; and
- introduction of a discretion for the court to require the debtor to provide updates about his/her financial position and the proposed disposal of goods.

Chapter 3 - The proposals

18. The TCEA 2007 contains a series of powers that allow the Lord Chancellor to make regulations to define the various parameters for both the AO and ERO schemes.
19. Wherever possible, these will be common to both schemes and, where relevant to the DRO scheme. This will assist with ease of movement between the schemes for those who need it.
20. All references to sections refer to the new Parts 6 & 6A of the CCA 1984.

Section One – Excluded Debts

21. The current AO scheme does not specify the types of debt that can or cannot be included in an order. It has therefore been a matter for each court to decide which debts it would allow to be included in individual cases. This has been a cause of confusion and there is therefore a clear need to define debts that can and cannot be included in both an AO and an ERO.
22. Initial consultation showed that neither secured debts (e.g. mortgages) nor business debts should be allowed to be included in the schemes. Sections 112B and 117B (and the definitions in sections 112AB and 117U) therefore make provision for this. Additionally, sections 112AB and 117U make provision for regulations to specify other types of debt that it is felt should be excluded from the schemes.
23. During the passage of the TCEA 2007 it was confirmed that for consistency with bankruptcy and the DRO scheme, we intended to exclude debts that are defined as non-provable in bankruptcy. These are fines, maintenance orders made in family proceedings or made under the Child Support Act 1991 and student loans.

24. However, it has also been suggested that other types of debts should be excluded from the schemes, particularly those that result from ongoing commitments. It is argued that there is a need to ensure that people face up to on-going commitments and do not make their situation worse.

25. We believe that 3 other types of debt should be excluded:

- ***rent arrears where the debtor is still in possession of the property*** – there is no intention or power to interfere with a landlord’s right to regain possession of a property on the grounds of arrears of rent. Schemes, such as Housing Benefit, already exist to assist those genuinely in need to meet their commitments. We therefore believe that arrears of rent should be excluded from both schemes while the debtor remains in the property.
- ***Council Tax*** – as mentioned above, schemes already exist (e.g. Council Tax Benefit) to assist those genuinely in need to meet their commitments.
- ***future payments in respect of ongoing commitments (e.g. council and other tax liabilities, utilities)*** - neither scheme is intended to provide debtors with relief from future commitments. The intended use of the Common Financial Statement (CFS)³ ensures that utility and other such commitments will be taken into account when assessing a debtor’s surplus income. Allowing these debts to be included could lead to orders being varied on a regular basis thus driving up costs and reducing returns to other creditors. In some cases this could lead to the ceiling being breached and the order being revoked – an undesired outcome. Additionally, the water industry is under an absolute duty to provide and to maintain domestic supply regardless of payment histories.

³ The CFS is widely accepted by both the credit and advice sectors as a means of calculating needs including commitments and allowances for food and clothing.

26. This list is not necessarily exhaustive and, while we are interested in comments on these specific examples, we also welcome suggestions on other types of debt that should be excluded and the reasons why.

Q.1: Do you agree that the types of debt detailed in paragraph 25 should be excluded?

Yes/No

Please give reasons

Q.2: Do you think that other types of debt should be excluded from the schemes?

Yes/No

Please give details and reasons

Section Two – Effects of bringing legal proceedings

27. Sections 112AB and 117U generally restrict creditors with qualifying debts from presenting a bankruptcy petition (but not from joining a petition) and from seeking any other remedy to recover their debt while an AO/ERO is in force without the consent of the court.

28. However, sections 112G(3) and 117D(3) allow regulations to exempt specific classes of debt from this restriction.

29. Given that any creditor can apply to the court for permission to take further action, we do not believe that other debts should be exempted. Such exemptions would, in our opinion, negate the purpose of the order and could lead to some creditors effectively achieving 'preferential' status.

Q.3: Do you agree that there should not be any exceptions from this restriction?

Yes/No

If not, please give reasons and details of other debts that should be exempted

Section Three – Total Debt Limit (AO's only)

30. Section 112AI provides powers for the Lord Chancellor to set a maximum amount of debt that can be included in an order by secondary legislation.
31. Section 112B(6) makes it clear that the total of a debtor's qualifying debts must be less than or equal to the prescribed limit to be eligible for entry to the AO scheme. To prevent abuse by debtors there will be a requirement to declare all debts by a statement of truth.
32. Initial consultation showed support for a limit ranging between £15,000 and £25,000 with the majority opting for £15,000. We therefore intend to set the limit at £15,000 initially.
33. This is in line with current proposals for the DRO ceiling and is a realistic reflection of current over indebtedness profiles. It will make the scheme more

accessible whilst still allowing reasonable prospects that the maximum total debt can be repaid in full. For example an instalment of £250 per month over the maximum 5 year period that an order can be in force (Section 112K(5)) would repay the maximum allowable debts of £15,000. This should allow a significant percentage of AO's to either be paid in full or with a modest rate of composition, thus improving returns to creditors and assisting debtor rehabilitation.

34. The limit will be kept under review but it is not considered practicable or appropriate to define events that would automatically trigger reviews or to set specific time periods between reviews.

Section Four – Surplus Income and Repayment Rates

35. The current AO scheme does not have a prescribed test to assess debtors' ability to make and/or maintain payments. This has led to orders being set at very low levels and lengthy periods being needed for the order to reach conclusion.
36. In many cases this has led to the scheme being used to provide protection from enforcement rather than active realistic repayment and the rehabilitation of the debtor. We believe that there is a need for such a test to improve returns to creditors and assist rehabilitation by enabling debtors actively to address their debt problems.
37. Initial consultation has found that creditors are generally not interested in receiving small sums over a long period due to the disproportionate costs of processing them. The advice sector has indicated that it is also keen to see an end to small orders being paid over many years because this does not effectively achieve rehabilitation. The indication from both has therefore been that debts should simply be written off if reasonable instalment rates cannot be maintained. The DRO is designed to deal with these circumstances.

38. So the consensus is that a reformed AO scheme should focus on those who can maintain worthwhile repayments.
39. To achieve this, Section 112B(7) provides that debtors must have a prescribed level of surplus income to be allowed to enter the AO scheme, and Section 112E(9) provides that the repayment rate must be determined with reference to the surplus income.
40. The requirement for debtors to have surplus income has been introduced to limit entry to those who are likely to be able to afford to maintain reasonable repayments over the duration of the order.
41. For these purposes we define the term 'surplus income' as the difference between justifiable everyday expenses and income from all sources. The intention is to use the Common Financial Statement (CFS), or something very similar, as the basis for the assessment for justifiable needs.
42. Average income from all sources will be calculated normally over a 3 month period although any seasonal peaks or annual bonus will also be considered.
43. Initial consultation suggested that debtors should have £50 p.m. of surplus income before being allowed to enter the AO scheme. This corresponds with the DRO scheme where debtors will be expected to be able to show that they have less than £50 p.m. surplus income before they are allowed to enter that scheme. Our key stakeholder group has subsequently supported this view².
44. It has also been suggested that debtors should be allowed to retain some surplus income to cover domestic emergencies. However, the expenditure

² The key stakeholder group comprises representatives from Citizens Advice, Advice UK, Civil Courts User Association, Finance and Leasing Association, Provident Personal Credit Limited, Institute of Credit Managers, ASA Associates, British Bankers Association, Hurlstons, Money Advice Trust, National Debt Line and the Insolvency Service.

calculator is designed to ensure that debtors have sufficient to meet everyday needs. In addition, section 112R allows the debtor to apply for an order to be varied. Applications could be made under this section to provide brief 'payment holidays' to cover unforeseen situations.

45. Throughout the consultation process we have proposed the introduction of a minimum repayment rate to ensure reasonable returns to creditors. Discussions with the key stakeholder group have suggested that this minimum rate should be £50 per month, that is all the minimum surplus income.
46. However, if a minimum repayment rate is adopted, consideration needs to be given to any additional surplus income.
47. One option would be to require all additional surplus income to be repaid. An alternative would be for the repayment rate to be calculated as being the minimum repayment rate of £50 together with a percentage of any additional surplus income. Our preference is the former. Other options would reduce overall levels of repayment, and allow debtors with significant levels of surplus income to retain a significant amount of the excess.

Q.4: Do you agree that debtors should have a minimum of £50 p.m. of surplus income before being allowed to enter the AO scheme?

If not, please give reasons and details of an alternative

Q.5: Do you think that a minimum repayment rate of £50 p.m. should be introduced?

Yes/No

If not, please give reasons and details of any alternative that you suggest

Q.6: Do you think that all surplus income should be repaid?

Yes/No

If not, please give reasons and details of your suggested alternative

Section Five – Information

48. Another feature of the revised schemes is the requirement for debtors to keep the court informed of their financial circumstances (sections 112M & 117J). The Lord Chancellor will provide that, at prescribed intervals, the debtor must provide to the court details of earnings, income, assets and outgoings.
49. The information to be provided must include details of any expected changes that are likely to occur before the next statement is due.
50. Initial consultation indicated that this provision is welcomed and that the updates should be on an annual basis.
51. One draw back of this would be that debtors with an ERO (which can last for a maximum of 12 months) would not provide an update of their means. We intend to address this by making it a term of the order for both the AO and the ERO that debtors must notify the court of any significant change of personal circumstances (e.g. changes to employment or marital status, unanticipated receipt of money of £500 or more).

Q.7: Considering the provision we intend to make in the order, are annual updates of information adequate?

Yes/No

Please give reasons or suggested alternatives

Section Six – Disposal of Assets

52. Sections 112M(4) and 117J(4) prevent debtors from disposing of assets while an AO or ERO is in force without first informing the court. This is intended to ensure that the schemes are not used to provide protection from enforcement while assets are disposed of.
53. Sections 112M(5) and 117J(5) make it clear that this provision does not apply to goods that are exempt for the purposes of Schedule 12 to the TCEA 2007 (e.g. tools, vehicles used by the debtor for work purposes, clothing, bedding, furniture and household equipment necessary to satisfy basic needs), goods protected by other enactments or prescribed property.
54. It would however be unnecessarily burdensome for debtors to provide information that was of little practical value (e.g. due to the low anticipated value of any sale).
55. Realistically there are two options for achieving this. Either small household goods or goods falling below a minimum value threshold should be prescribed and exempted from the requirements of sections 112M(4) and 117J(4).
56. Given the difficulty in defining small household goods, and potentially fluctuating values, our preferred option would be to simply exempt goods based on anticipated sale value.

57. Discussions with the key stakeholder group have suggested that there should not be a requirement to notify the court where the anticipated sale value (collectively when more than 1 item is being sold) is less than the asset limit for the DRO scheme. This is currently expected to be between £300 - £500.

Q.8: Do you agree that debtors should not have to notify the court when sales are expected to raise less than the asset limit for the DRO scheme?

Yes/No

Please give reasons

Q.9: Do you think that goods should be exempted on grounds other than value?

Yes/No

Please give reasons and examples

58. Under sections 112M(4) and 117J(4) the debtor is required to provide the court with advance notice of the intention to dispose of assets and an estimate of the amount to be realised (except assets that are defined as exempt). This will allow the court to make an order in respect of the amount realised where necessary and appropriate.

59. Sections 112M(7) and 117J(7) provide for a standard notification period to be set. Discussions with the key stakeholder group indicate that 21 days would be a reasonable period. We agree with this view.

Q.10: Do you agree that 21 days is sufficient notice of the intention to dispose of goods?

Yes/No

Please give reasons or suggested alternatives

Section Seven – Calculating debts

60. Section 112AD(2) provides that all qualifying debts, including those that are not yet due (e.g. deferred payment arrangements) must be taken into account when calculating the total debt. Debts that are not the subject of a court judgment (as well as judgments for £5000 or more where interest was claimed by the creditor on the claim form) will continue to accrue interest until the date that the order is made. As normal, it will be possible for interest to accrue up to the date that payment becomes due on debts where payment is deferred to a future date.

61. A common method of calculating the amount of the debt when it becomes due (including any interest yet to accrue) is required to be set in regulations to ensure a common approach. This will ensure that the debtor's total indebtedness is taken into account when deciding on whether an order should be made.

62. The proposed method of calculation is that a copy of the proposed order (with the debtor's figures for the amount of each debt) will be forwarded to each creditor. The creditor will then be given the opportunity to agree the amount and add any interest up to the date of the proposed order. This is the system that is already in existence for the current version of AO and it works efficiently and effectively.
63. If the debt is deferred then the creditor will be able to supply the court with an estimate of the amount of debt (including interest) at the time the debt is due for payment.
64. Once the creditor has confirmed or updated the amount on the proposed order it is not intended that the debtor will be consulted further on the amount of the debt.

Q.11: Do you agree with the proposals for calculating debts?

Yes/No

Please give reasons or suggested alternatives

Chapter 4 – Proportionality

65. The following question is asked to ensure that our approach is proportionate and fair.

Q.12: Is it considered that any group is/ groups are represented disproportionately amongst *debtors*? In particular, is there any evidence to suggest that these *proposals will discriminate* on the grounds of race and ethnicity, gender or disability status?

Yes/No

Please give reasons and details

Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

- Q.1:** Do you agree that the types of debt detailed in paragraph 25 should be excluded?
- Q.2:** Do you think that other types of debt should be excluded from the schemes?
- Q.3:** Do you agree that there should not be any exceptions from this restriction?
- Q.4:** Do you agree that debtors should have a minimum of £50 p.m. of surplus income before being allowed to enter the AO scheme?
- Q.5:** Do you think that a minimum repayment rate of £50 p.m. should be introduced?
- Q.6:** Do you think that all surplus income should be repaid?
- Q.7:** Considering the provision we intend to make in the order, are annual updates of information adequate?
- Q.8:** Do you agree that debtors should not have to notify the court when sales are expected to raise less than the asset limit for the DRO scheme?
- Q.9:** Do you think that goods should be exempted on grounds other than value?
- Q.10:** Do you agree that 21 days is sufficient notice of the intention to dispose of goods?
- Q.11:** Do you agree with the proposals for calculating debts?

Q.12: Is it considered that any group is/ groups are represented disproportionately amongst debtors? In particular, is there any evidence to suggest that these proposals will discriminate on the grounds of race and ethnicity, gender or disability status?

Thank you for participating in this consultation exercise

About you

1. Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

How to respond

Please send your response by 16 April 2008 to:

David Tate
Her Majesty's Courts Service
Civil Law and Justice Division
5th Floor (post point 5.16)
Selborne House
54-60 Victoria Street
London
SW1E 6QW

Tel: 020 7210 8886

Email: David.tate2@hmcourts-service.gsi.gov.uk

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.dca.gov.uk/index.htm>. Alternative versions of this report are also available on request.

Publication of response

A paper summarising the responses to this consultation will be published within 6 months. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

The Consultation Criteria

The six consultation criteria are as follows:

2. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
3. Be clear about what your proposals are, who may be affected, what questions are being asked and the time scale for responses.
4. Ensure that your consultation is clear, concise and widely accessible.
5. Give feedback regarding the responses received and how the consultation process influenced the policy.
6. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
7. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These criteria must be reproduced within all consultation documents.

Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation **process** rather than about the topic covered by this paper, you should contact the Department for Constitutional Affairs Consultation Co-ordinator, Laurence Fiddler, on 020 7210 2622, or email him at: consultation@justice.gsi.gov.uk

Alternatively, you may wish to write to the address below:

**Laurence Fiddler
Consultation Co-ordinator
Department for Constitutional Affairs
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under **the How to respond** section of this paper at page 29.

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Produced by the Ministry of Justice

16 January 2008

CP01/08