StepChange Debt Charity

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StepChange Debt Charity response to the HM Treasury consultation on Statutory Debt Repayment Plan

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Introduction and summary

StepChange Debt Charity is the largest not for profit debt advice and solutions provider operating across the UK. In 2021 StepChange was contacted by almost half a million (483,247) new clients seeking debt advice or guidance with their problem debt. Nearly 160,000 clients completed full debt advice through the charity's online or telephony channels. StepChange Debt Charity has extensive experience of managing Debt Management Plans (DMPs) and supporting people who are seeking to repay their debts through a DMP. As at the end of June 2022, StepChange had nearly 168,000 active DMP clients, and over 3,400 Debt Payment Programme (DPP) clients under the Debt Arrangement Scheme in Scotland. We believe this makes us very well placed to comment on this HMT consultation on the proposed Statutory Debt Repayment Plan (SDRP) regulations.

Given the importance of DMPs in the debt solutions landscape, ***StepChange remains strongly supportive of the principles of providing statutory protections for consumers who can repay their debts.*** The SDRP protections would deliver additional protections for clients, bringing in important priority debts (usually outside of DMPs at present) and giving clients certainty that all plan creditors will be bound by statutory protections. In addition, it will require sectors who have not historically contributed to Fair Share contributions to fund debt advice.

However, we have real concerns that the proposed SDRP funding rate could be a significant funding cut. We call on government to increase the proposed SDRP funding rate to 13% and to support implementation costs, which our experience of Breathing Space suggests could come to £2.5 million.

Furthermore, we have significant concerns that a number of features of the current proposed rules look overly complex and poorly aligned with the actual needs and behaviours of DMP clients. For instance:

- ***The limited payment flexibilities*** proposed in the current SDRP Regulations are likely to lead to SDRPs failing that would have succeeded with the greater flexibilities we can use with DMPs. We call on the government to redraft SDRP rules to better align with the needs of actual debt advice clients based on the evidence of what currently works with DMPs.
- ***The SDRP rules create a number of new requirements for debt advice providers, some of which appear to be potentially very burdensome and not obviously necessary:*** We urge the government to quickly and effectively work with debt advice providers and other stakeholders to simplify the administration of the SDRP scheme for the benefit of all where possible. Without such simplification the costs of setting up and administering an SDRP will be needlessly increased in comparison to the cost of servicing a DMP.
- ***Administrative simplicity and a smooth client journey will matter a lot to both the administrative cost and client uptake of SDRP***. Our experience of DPP in Scotland shows too many clients falling out of the DPP application process and this cannot be replicated in SDRP.

Our response will highlight a number of areas where we believe the proposed SDRP regulations should be amended or reworked. ***In the absence of some key achievable changes we believe the current regulations might be unworkable***.

We also highlight the vital importance of ensuring SDRP systems must work well from day one,

- ***An effective electronic system is essential to the success of the scheme:*** Breathing Space was implemented quickly and weaknesses in the Breathing Space portal created huge administrative burdens and resource costs for StepChange. We ask government to learn the lessons from this and deliver an electronic system for SDRP with all the functionality needed to share plan related information between debt advice providers like StepChange and creditors.

- The electronic system must ***seamlessly integrate with StepChange's existing client and payment systems and should be no less efficient as a minimum requirement***.
- **The implementation process must be based on sound systems architecture and business requirements that meet the needs of all key stakeholders**: Government will need to start work on this quickly and effectively if the implied Summer 2024 implementation target date is to be achieved. The implementation strategy must deliver efficient administrative processes that work well from day one.

This will only be achieved through a clear and collaborative implementation strategy from government that brings debt advice providers and high-volume creditors (such as financial services firms providing consumer credit) together to map a successful client journey to and through the SDRP scheme.

Our responses to the consultation questions are set out below.

Question 1: How long do you think the implementation period should be?

We welcome the government's commitment to implementing the Statutory Debt Repayment Plan scheme (SDRP) over a period that will allow all parties to make the necessary changes and preparations to be ready at launch date. While we are very keen that the benefits of the SDRP scheme should be available to people seeking help with their debts as soon as possible, we are mindful of the experience of Breathing Space where a relatively short implementation period left important administrative issues having to be addressed after the scheme went live, which caused severe resource and operational strain on StepChange, as well as significant reputational damage

It is difficult at this stage to confirm that the Summer 2024 implementation date implied in Chapter 1 will be achievable. Firstly, our response to this consultation will highlight our concerns on key areas of the proposed rules, such as payment flexibilities, that we believe are not well aligned with our repayment plan clients' needs. So we would ask the government to consider whether practical revision of some key areas is possible within the aim of laying the regulations by the end of 2022. We hope that it is.

Once the final regulations are laid, we believe that an 18-month implementation period could well be achievable if the government commits to supporting parties, and debt advice providers in particular, to be fully ready to take applications and manage SDRP cases at the end of that period, including financial support to implement the scheme. At present we have no certainty that this will be the case. The experience of Breathing Space tells us that the functionality and effectiveness of the SDRP electronic system and the way this integrates with our systems will be critical to our ability to deliver the scheme.

However as we approach the consultation response deadline we still have no knowledge of the technical scope and design, no agreed business requirements and no clear idea of what the Insolvency Service system will do, and how creditors, clients, and Debt Advice providers will interact with it. For instance, we assume that the Insolvency Service will develop APIs to allow seamless integration of our systems to the SDRP electronic system, but there is nothing in the consultation paper to confirm this.

We have started conversations with the Insolvency Service on the pressing need to bottom these issues out quickly and comprehensively. While we are hopeful that this work will begin in the very near future, until we have a better understanding of how implementation will be taken forward, we cannot give a definitive commitment on an implementation date.

Here we note that the development of the Debt Arrangement Scheme electronic system eDEN by the Accountant in Bankruptcy in Scotland took almost three years to implement from requirements to procurement to completing development. Here we would stress that the one thing that the government should not attempt is to build the SDRP electronic system to a fixed timetable in a way that merely

operationalises the regulations. If the government is to successfully implement the scheme in 18 months (which we very much hope is possible) it will need to develop a deep understanding of the requirements of participants and necessary functionality of the electronic system and business processes to meet these requirements, then commit sufficient resources to allow completion comfortably within this time frame. We would urge the Government to support a co-design process with key stakeholder groups that would facilitate a better and more valuable end result, with less friction and with a greater chance of delivering an effective and successful outcome.

This is likely to require ongoing and intense collaborative development work with all parties, starting with a 'nose to tail' mapping of customer journeys through SDRP.

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

Our additional comments on issues raised in the introduction are as follows:

We highlighted above our assumption that the Insolvency Service will develop APIs to enable StepChange to communicate with (and through) the electronic system and integrate our systems and processes effectively, although there is no mention of this in the consultation. We cannot overstate the importance of this to our ability to efficiently service the SDRP solution at scale.

While the certainty of statutory funding created by SDRP is welcome, the proposed funding rate at 9% will be lower than the average fair share contributions we receive in respect of debt management plans (our ask is 13% and we net on average 10.7%). So in addition to this overall funding cut, any significant increase in the costs to set up and deliver SDRPs compared to our current DMP provision, cannot be borne by StepChange and therefore would result in the need to scale back the organisation, which would severely reduce our capacity to help people seeking debt advice.

We believe that changes to the proposed regulations will be necessary to make the SDRP workable for debt advice providers and debt advice clients, so it will be important for discussions about the policy design of the scheme to link closely to discussions about the systems design. Understanding the detail of operational and practical needs will be central to the success of the SDRP policy.

Paragraph 1.8 of the introduction highlights the important link between implementation of the SDRP scheme and the broader debt advice funding settlement developed by MaPS. Given that the implementation and ongoing management of SDRP will have resource implications for StepChange and other debt advice providers, we would urge government to ensure that SDRP resource needs, including any system build costs, are reflected in the debt advice funding settlement, as the charity debt advice sector will not be able to fund these costs itself.

Finally we would note the summary of SDRP key stages set out in Box 1.A. Our response will highlight the importance of understanding administrative burdens on providers and debt advice clients at key stages, particularly at the start of the SDRP process. Our recent initial findings report on StepChange clients' experience of Breathing Space highlighted that 43% of Breathing Space clients found it difficult contacting creditors for information and nearly a third (31%) said they had difficulty finding details of their debts. In the more exacting environment of a SDRP application, too much complexity at the start of the process may lead to significant "drop-out" or disengagement from clients.

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

Stepchange broadly agrees with the eligibility criteria sat out in the consultation and regulations. However we have the following observations:

Role of guidance

Firstly we would ask the government to clarify the role of guidance in determining eligibility for an SDRP. The Regulation 59 fair & reasonable (F&R) assessment is likely to play an important part in determining eligibility for some clients, and Regulation 59 (3) creates a power for the Secretary of State to publish guidance on the approach to F&R assessments. Regulation 18 (3) (b) sets out a scheme condition that an applicant would be able to repay debt within a period not exceeding 10 years. However Paragraph 2.34 sets out the government's expectation that debt advice providers should only propose plans of more than 7 years in exceptional circumstances, details of which will be set out in guidance to be published in due course.

As a result guidance will play a significant part in determining the detail of eligibility conditions for SDRP. We agree that guidance can play an important role in defining some SDRP scheme parameters in a flexible way that can adapt to events, and our response to Question 11 will argue for payment flexibility and variation parameters to be established in guidance rather than hard wired into legislation.

However defining the detail of the F&R assessment and the 'exceptional circumstances' in guidance creates some specific difficulties for debt advice providers. Firstly, as the guidance is yet unpublished it is hard for us to give a full response to this consultation on the government's approach to eligibility. Secondly, and more important, StepChange and other debt advice providers will require eligibility conditions to be sufficiently well defined to advise clients with certainty on their eligibility for SDRP. This will be particularly important for online debt advice where very 'fuzzy' eligibility criteria would make it difficult to assess and recommend a suitable solution. Debt advice providers will need any guidance related to eligibility conditions to be published well in advance of the start date of the SDRP scheme, with sufficient time to review and give feedback on the draft guidance.

Repayment within 7-10 years

We have concerns over the Government's proposals to limit the length of a typical SDRP to seven years, with plans of up to 10 years being permitted only in 'exceptional circumstances.' Subject to the points made above, we would welcome clear additional guidance on the types of circumstances that might be envisaged as 'exceptional' in a form that we can operationalise in both telephone and online advice.

As a benchmark around 25% of our current DMP clients have projected repayment terms of between seven and 10 years at inception, a proportion that we would describe as significant rather than exceptional. Increasing living costs are pushing some clients' plans out over a longer repayment period to ensure affordability and, importantly, that they remain engaged in the process and with StepChange.

We understand the government's position that a backstop on the length of a debt repayment plan with statutory protections may be needed to protect both client and creditor interests. We also note that the current debt solutions landscape is shaped by a number of boundary criteria (debt size, budget surplus, payment periods, assets etc) that have been determined by both historic practice, policy and regulatory concerns. So in the absence of broader changes in the debt advice landscape it is likely that clients who have selected a payment solution now would still chose a payment solution once the SDRP scheme has commenced, through choice or through no other suitable debt solution being available.

In which case the likely outcome of the governments' proposal would be for this group of clients to still choose a voluntary DMP and miss out on the benefits of the statutory protections from the SDRP. Given the historic 10-year backstop previously supported by the government in the debt management protocol, the policy rationale for excluding people with a repayment solution term between 7-10 years from the SDRP protections is unclear. This situation may be different under a future debt solutions landscape, perhaps as a result of the Insolvency Service current review, ***but for now we urge the government not to deny people***

seeking a debt repayment solution with a repayment term between 7-10 years from the important protections of the SDRP scheme and to consider the definition of exceptional circumstances on this basis.

The need for flexibility in assessing the 10-year repayment backstop

Furthermore, analysis of our client base suggests that there is significant potential for a 'low-and-grow' SDRP product, similar to the 'low-and-grow' DAS product available in Scotland, where a debtor begins their plan making small payments and then increases these following a known improvement or change in circumstances. StepChange has success with Token Payment Plans, which operate in a similar way – clients who begin making token payments to their creditors are often able to increase their payments to sustain a DMP over a reasonable period.

StepChange offers a 'low-start' DMP to address this need for clients who are unable to sustain a 10-year repayment term immediately but are expected to be able to do so after a positive change in circumstances. Of 7,900 clients who commenced a low-start DMP between April 2020 and April 2021, 20% were able to switch to a DMP within 12 months, and 32% within 24 months. A comparatively small number (2.5%) switched to TPP, indicating a negative change in circumstances.

The Breathing Space scheme was introduced to give clients a period of protection while they seek advice and set up a debt solution. It is clear that there is a group of clients coming out of debt advice with a reasonable expectation of a positive change in circumstances in the near future that makes an insolvency solution unattractive and unlikely to be taken up by clients in this position. This evidence from existing StepChange clients expecting a positive change in circumstances suggests a SDRP is likely to be a viable option for some of these clients in the near future. However an SDRP eligibility condition requiring people to demonstrate their ability to repay debts within 7-10 years *at the time of advice* would see these clients coming out of debt advice without a suitable statutory debt solution available.

For such clients coming through Breathing Space this would mean a gap between Breathing Space and SDRP protections that could de-value the benefits of both schemes. Our recent report on StepChange clients' experiences of the Breathing Space scheme found some clients coming out of Breathing Space without a debt solution, or with debts not in a debt solution, struggling to agree affordable payments with creditors and facing fresh interest, charges, collection and enforcement action from creditors. So this period without statutory protection could see their debt problems worsen, threatening their financial recovery and the possibility of a debt repayment solution later on. ***Therefore we urge the government to give debt advice providers discretion to either extend Breathing Space or enter clients onto a low-start SDRP.*** A requirement for debt advice providers to review their clients' circumstances before extending Breathing space and the F&R assessment procedure for SDRP should provide effective safeguards for creditors.

Regulation 18 (2) (g) exclusion for SDRP in previous 12 months

We disagree that debtors should not be eligible for SDRP if they have been subject to a plan within the previous 12 months. The proposed fair and reasonable test already provides an appropriate safeguard against abuse of the scheme, and mirrors the situation with DAS in Scotland, where there is no time barrier to entry. If the 12-month time limit is to be implemented, the flexibilities within SDRP will need to be enhanced to ensure that, for example, debtors who suffer temporary income shocks are not unfairly penalised by the terms of the scheme.

Regulation 14 (2): joint plans

We support and welcome the proposal that couples should be able to enter a plan on a joint basis. We also welcome the possibility of joint plans being available to non-couples who share at least one qualifying debt but have some concerns about how this would be implemented in practice. We would encourage the

Government to confirm, via additional guidance, the expectations for producing joint financial statements for non-couples, who may occupy different households. Likewise we would welcome guidance on whether a joint debt included in an individual SDRP could be included by another person with joint liability for that debt in their own individual SDRP at a later date.

We would also highlight the heightened potential for economic abuse in joint plans and would encourage the Government to consider the impact of this before facilitating non-couple joint plans. More generally, StepChange sees evidence of economic abuse in our client surveys and in our advice work. The current SDRP regulations do not appear to include provision for cases where a person on a joint SDRP plan approaches us for help with problems that include economic abuse. Dealing with the economic abuse may require that person exiting their joint SDRP and applying for an individual SDRP. However the Regulation 48 (3) exemptions from the Regulation 18 (2) (g) '12-month rule' do not seem to apply to these circumstances. Therefore we would urge the government to consider amending Regulation 48 (3) to reference experience of economic abuse as a ground for exiting an existing SDRP plan and restarting a new plan within 12 months.

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

We agree with the Government's intention to include as broad a range of debts and liabilities in the SDRP regime as possible. However, we believe that the proposed list of mandatory non-eligible debts is too extensive, and risks undermining the protections of the scheme.

The current list of non-eligible debts for SDRP and breathing space includes a number of debt types that are also excluded from insolvency debt solutions such as bankruptcy and DROs. However, unlike these solutions, SDRP is not an insolvency solution and does not involve any form of debt write-off, anticipating repayment in full of the included debts. It is therefore unnecessary to exclude certain types of liability, such as criminal fines and student loans, on the basis that there is a public interest in them being repaid. Under SDRP these debts will still be paid, but the SDRP applicant would have the SDRP protections while doing so. The protections afforded by SDRP may even increase the likelihood of these debts being repaid, as they will encourage stability and improved financial capability, as well as incentivising the debtor to make regular repayments under the plan.

Universal Credit deductions

In particular we strongly disagree with the proposal to exclude advance payments of universal credit (UC) from the SDRP regime. Deductions from universal credit, including advance payments, are a key source of hardship for our clients, as illustrated by our joint report with Trussell Trust, Hardship Now or Hardship Later?, published in 2019[1]. The lack of affordability checks for deductions of advance payments and other debts from UC puts claimants at significant risk of financial harm – 71% of affected StepChange clients reported that deductions had caused them and their family hardship. Research from StepChange further highlights the hardship caused by unaffordable UC deductions; with 98% of clients we surveyed about UC deductions for Tax Credit overpayments saying they struggled to cover essentials because of the deductions they faced, and 59% being forced to borrow money to make up this shortfall[2].

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[1] Hardship now or hardship later: Universal Credit, Debt and the 5 week wait. (2019) The Trussell Trust and StepChange Debt Charity. https://www.trusselltrust.org/wp-content/uploads/sites/2/2019/06/StepChangeBriefing.pdf
[2] The true cost of tax credit overpayments: A fairer approach (2001): https://www.stepchange.org/Portals/0/assets/pdf/True_cost_tax_credit_overpayments_StepChange.pdf See also Hardship by design: How to end unaffordable debt deductions (2022): https://www.stepchange.org/Portals/0/assets/deductions/hardship-by-design-unaffordable-benefit-deductions-briefing-june-22-stepchange.pdf

Previous research from StepChange in 2017 also found hardship caused by benefit deductions for third party debts; with 71% of clients facing these deductions saying they caused hardship, a quarter saying they had to cut back on food, a quarter saying they found it difficult to pay for heating, and nearly 20% saying that they had to borrow to pay for essential bills as a result of these deductions[3]. While we understand why the government would like to keep existing third-party deductions out of scope of SDRP until full delivery of the UC programme, allowing clients to include these payments in SDRP could protect the public interest of having them repaid but in a way that takes a person's full financial circumstances into account, making the payments more manageable and avoiding the risks of financial hardship we see in the current deductions regime.

Perhaps more importantly, keeping UC (and legacy benefit) deductions outside of the SDRP protections is likely to undermine access to the SDRP scheme for people in financial difficulty in respect of their other debts. Our 2022 *Hardship by design* report noted that in November 2021 42% of UC claims had at least one deduction in place, with an average deduction of £61 each month. The table below shows an illustrative example of the possible impact of this £61 deduction in respect of a £1,000 debt on a person who would otherwise repay £10,000 of debt through SDRP at £120 per month

	Without deduction	With deduction
Debt to be repaid	£10,000	£9,000
Monthly surplus	£120	£59
SDRP repayment period (years)	6.94	12.71
Eligible for SDRP	Yes	No

The impact of the UC deduction is that this person would no longer meet the 10-year repayment SDRP eligibility criteria in respect of any of their debts. With the deduction, the debt advice recommendation could be a an insolvency solution that would leave other creditors with no debt repayment. So putting UC deductions outside of SDRP puts the stability of the SDRP itself at risk for debtors who are trying to use SDRP to repay their other debts. **Therefore we urge the government to reconsider the exclusion of UC deductions from the scheme.**

Housing debts

We welcome the proposal to classify housing debts, such as rent and mortgage arrears, as discretionary non-eligible debts to facilitate the protection of debtors' homes. However, we question whether the rationale for excluding rent debts from an SDRP will still hold following the introduction of the reforms proposed in the government's housing white paper, including the abolition of 'no-fault' evictions and reforms to the mandatory grounds for possession of rental properties. However we support maintaining rent arrears as discretionary non-eligible debts to provide extra flexibility for SDRP clients.

Treatment of Priority debts

We broadly welcome the classification of certain debt types as priority debts that will be repaid more quickly. However, we question whether the category of 'debts owed to central or local government' is too broad. StepChange defines a priority debt as one which, if unpaid, could cause serious detriment to the client. Examples include housing debts (loss of home) or energy debts (disconnection).

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[3] Briefing on third party deductions (2017): https://www.stepchange.org/Portals/0/documents/Reports/briefing-paper-third-party-deductions.pdf

While certain central or local government debts, such as council tax, are unquestionably priority debts, it is not certain that other debt types should be treated as a priority. For example, there is no reason why a benefit overpayment (whether owed to central government or, in the case of housing benefit, to a local authority) should be prioritised over other debt types. Prioritising these debt types may reduce the amount repaid to genuine priority debts and may put the client at unnecessary risk of detriment, especially in the case of plan failure.

We recognise that services such as telephone and internet are essential services and that their repayment should also be prioritised. However, we suggest that only those debts owed to a current service provider (as opposed to debts relating to previous contracts, unrelated to the debtor's current service provision) should be prioritised.

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 strongly agree with the Government's position that debts under a pre-existing payment arrangement should be qualifying debts for SDRP.

Excluding these debts would undermine the protections of the scheme for debtors and provide a strong disincentive for debtors to try to resolve matters with their creditors informally before resorting to statutory schemes. Excluding these debts may also incentivise some creditors to try and shore up their position by aggressively pursuing repayment arrangements in anticipation of a debtor entering an SDRP. Research by StepChange and others highlights how people in financial difficulty can make payment arrangements with their creditors when they are under intense pressure, and these arrangements are not always affordable or sustainable and can cause harm.

For instance, a client survey for StepChange's response to the 2020 Cabinet Office call for evidence on government debt management found 93% of respondents had found it difficult to pay for essentials because of debt management actions taken by public sector creditors; 69% said they did not have an affordability assessment and only 17% felt a public sector creditor took account of their vulnerability[4]. Research by the Tacking Control coalition for bailiff reform found evidence of significant problems with the affordability of payment arrangements agreed by enforcement agents[5]. These problems would only be exacerbated if pre-existing payment arrangements were excluded from the SDRP protections.

So we do not agree with the assumption in paragraph 2-12 that previously agreed payment arrangements will necessarily be working well. Indeed problems with the affordability and sustainability of payment arrangement may only become fully apparent as the result of a debt advice assessment. Here we note research by the National Audit Office highlighting how intimidating debt collection practices and default charges can make debts harder to deal with and increase the probability of anxiety and depression being experienced by people in financial difficulty[6].

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[4] StepChange Debt Charity response to the Cabinet Office call for evidence on Government Debt Management (2020). https://www.stepchange.org/Portals/0/assets/pdf/cabinet-office-call-for-evidence-gov-debt-management-stepchange-response.pdf

[5] Review of the enforcement agent reforms. Call of evidence response to the Ministry of Justice (2019) Tacking Control coalition. https://s3-eu-west-2.amazonaws.com/bailiffreform/media/taking-control-response-to-moj-call-for-evidence-feb-2019.pdf

[6] Tackling Problem Debt (2018) National Audit Office. https://www.nao.org.uk/wp-content/uploads/2018/09/Tackling-problem-debt-Report.pdf

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

Question 7: If you think it should be possible to exclude very small debts, what amount of debt would you consider to be very small? Should excluding these debts be required, or optional? How should these debts be dealt with if they are excluded from a plan?

We believe that the simplest and most consistent solution would be to ensure that all qualifying debts are included in a plan, regardless of value. The only exception should be where an SDRP applicant is capable of clearing the debt in full before the commencement of the plan. In these cases the debt would not need to be scheduled in the plan. We would ask the government to use scheme guidance to give more detail on the definition of small debts. For instance we have seen some retail credit product providers treat each individual purchase made on an account / product held with them as a separate individual debt, which is extremely difficult to administer in a DMP and would be more difficult still in a SDRP. Scheme guidance should set out cases where multiple small debts with a single creditor should be treated as a single debt for SDRP payment.

Question 8: Are there scenarios in which a debtor may occur incur additional debt during a plan without intending to (e.g. due to an administrative error by a creditor)? What might these scenarios be and how should debt incurred in these scenarios be treated?

There may be some scenarios where a debt is incurred in circumstances beyond a person's control. For example, a person may be forced into an overdraft due to a direct debit instruction not being cancelled by their bank, or by a creditor taking payment via continuous payment authority – this can occur even in scenarios where our client has attempted to cancel the instruction.

Additionally, clients in vulnerable situations may be at additional risk of debts being incurred without them intending to; for example, in financial abuse situations where a client is a victim of fraud or is coerced into incurring additional debt.

We believe that clients who are not at fault for incurring additional debt during their plan should not be penalised. This means that the additional debt should not be treated as a breach of the plan terms, and that the SDRP regulations should allow for additional debts to be added to the plan without the need for a formal variation, subject to the adviser being satisfied that the client is still eligible for SDRP and that this remains a suitable solution. Debt advice providers would need to notify the Secretary of State of the new debt balance.

Question 9: Do you have any further comments on or concerns about debtor eligibility for the SDRP?

Regulation 7 of the draft regulations outlines that a plan applicant's representative may act on their behalf during an SDRP. However, we believe that the definition of 'representative' is too restrictive. StepChange allows authorised third parties to act on our clients' behalf on receipt of a signed letter of authority, without the need for formal power of attorney or deputyship. This enables our clients, particularly those with additional vulnerabilities, to access additional support without the restrictions of a formal process. We would recommend that third parties who have obtained the debtor's written consent should be allowed to act on the debtor's behalf during an SDRP.

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

We warmly welcome the SDRP protections contained in the draft regulations.

Our recent report evaluating StepChange client experience of Breathing Space highlights the value clients placed on the statutory protections and the improvement in wellbeing of Breathing Space clients compared to clients who did not choose to take up Breathing space. See our response to Question 41.

A 2017 evaluation of StepChange clients' experience of the Debt Arrangement Scheme (DAS) in Scotland found similar outcomes from the DAS statutory protections[7]. When we asked clients to consider how DAS has affected them:

- 81% said it was easier to pay debt
- 78% said that they were less stressed now and can sleep
- 72% said that their finances had stabilised
- 60% said that they are more confident and their creditors treating them better
- Over half of clients (55%) said that they were able to concentrate at work better since managing their debts through a DPP

We have some concerns about the voluntary nature of the scheme between the notice of intention and the provisional plan. While we acknowledge that many creditors will apply the protections voluntarily, some creditors may see this period as an opportunity to pursue the debtor more aggressively or start enforcement action, with a view to securing payment or security before the plan commences. We note that this could put these creditors in an advantageous position, relative to creditors who voluntarily apply the protections.

We believe that there needs to be a more robust mechanism for enforcing creditor compliance with the protections of the scheme. In Breathing Space, the existing process of debt advisers and the Insolvency Service writing to the creditor to remind them of their obligations is not always effective. We would recommend that the regulations contain stronger measures for creditors who are shown not to have complied with the terms of the scheme; for example, that they are barred from receiving disbursements from the plan for a set period of time but must write down the debt by the amount they would have received during this time.

We would also recommend that the Government engages with the relevant regulators to understand and clarify how breaches of the regulations by creditors should be enforced. However as not all SDRP debts will be covered by a sector regulator, the government should consider how the SDRP regulations can address noncompliance.

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

Paragraph 2.9 of the consultation points out that 'it will be important for the plan to be designed in a way that means people can be supported to remain on their plans as far as possible'. We strongly agree with this sentiment and welcome the recognition that flexibility is needed to help people stay on debt repayment plans. However our analysis of the real experience of StepChange clients repaying their debts through DMPs show that much broader flexibilities will be needed to help many, if not a majority of these StepChange clients to stay on their plan than is currently provided for in the SDRP regulations.

We have analysed the cohort of StepChange DMP clients who commenced their plans between April 2014 and April 2015. 15,000 of these clients have either successfully completed their plans or are still repaying their debts through a DMP. We estimate that **57% of these clients would have required either (or both) a payment break extension or variation(s), placing these plans at a greater risk of failure under the rules**

[7] The Debt Arrangement Scheme survey (2017): https://www.stepchange.org/Portals/0/documents/Reports/stepchange_das_survey_may_2017.pdf

StepChange Debt Charity

currently proposed for SDRPs, compared to the DMP flexibilities we employed to help these clients stay on plan.

26% of DMP clients who successfully completed or are still repaying their debts through a DMP would fall foul of the proposal to limit payment breaks to one per 12-month period, risking significant numbers of plans being cancelled. A further 31% needing to reduce payments below 90% of original deposits would be subject to a lengthier and more burdensome variation process, with over 40% of these likely requiring multiple variations. In both cases, many of these, given sufficient flexibility, would be able to successfully complete their plans without this additional intervention. Reducing the 90% threshold to 70% prior to requiring a variation would reduce the 31%, by approximately one third, to 22% as an example.

Further analysis of those clients who started their DMP in 2014-15 and completed in 2021 highlights how drawing SDRP rules on payment flexibilities too tightly could result in closing plans that would successfully repay debts with a more flexible approach. 1,370 of those 2014-15 DMP clients successfully completed their DMP in 2021. 28% of these would not have been eligible for a DMP as their repayment term was over 10 years at debt advice. Of those we believe would have been SDRP eligible, 16% missed 3 payments or more in 12 months so would have dropped from SDRP but went on to have a 92% payment of original balance completion rate. Of the remaining clients only 48% had all payments at 90% or above of initial deposit, therefore the majority would have needed one or more variations. These clients paid an average of 93% of their starting debt balance.

Here we would also challenge whether the Regulation 18 (2) (g) '12-month rule' will always deliver the best outcome for both SDRP clients and creditors. Nearly 3,500 of that 2014-15 cohort are still active, with 22% of these being subject to an 'active restart process' where DMPs closed for non-payment can be restarted if a DMP is still a suitable solution, the reasons for non-payment have been addressed and there is agreement that ongoing payments are sustainable. Under the SDRP 12-month rule, some or all of these clients may have disengaged from debt advice.

Consultation questions in Chapter 9 ask whether we would expect to recommend a DMP in any circumstances where a client was eligible for both a SDRP and a DMP. Our starting presumption is that the statutory protections on the SDRP mean we would potentially only recommend a DMP in a few specific or exceptional circumstances. However our analysis of the actual payment histories of DMP clients suggests that the current limited SDRP flexibilities may make the SDRP an unsuitable solution for the majority of DMP clients, given our modelling showing how currently successful DMPs would be more likely to fail under the proposed SDRP rules.

So while we welcome the proposal to include flexibility in plans, we are extremely concerned that the flexibilities in the proposed rules will not be sufficient to prevent unnecessary administrative burden for debt advisers and creditors, or to prevent the widespread unnecessary closure of plans. ***Therefore we strongly urge the government to redesign and improve the payment flexibilities in the SDRP rules, otherwise the solution is likely to fail the excellent policy ambition that StepChange has championed for so long.***

Our experience suggests that the changes to the regulations necessary to make SDRP work with the needs of debt repayment clients need not be particularly dramatic. For instance, our DMP closure and retention policy triggers plan closure if 3 consecutive payments are missed [in contrast to 2 months' arrears under Regulation 44 (1) (e)], or 4 missed payments in a rolling 12-month period [in contrast to the 2-month payment break in a 12-month period in Regulation 41]. Reduced payments would not by themselves cause a plan to be closed and payments can be reduced flexibly where necessary. This is in contrast to the Regulation 37 variation process that has significant administrative requirements for debt advice providers and any proposed variation reducing payments by more than 10% is subject to the creditor objection and F&R assessment process.

Indeed the SDRP variation provisions looks more restrictive than current provisions on the IVA protocol where we understand IVA Supervisors have discretion to vary payments by up to 15% without referring back to creditors. The processes we have for dealing with non-payment and reduced payments into DMPs have proved effective over time and we would urge the government to base the SDRP rules on what currently works. So while we acknowledge that there are limits to SDRP payment flexibility (such as the Regulation 37 (4) (c) 10 years and six months backstop), we believe there is significant scope for reasonable amendment to the payment flexibility provisions to better align SDRP to the needs of repayment plan debt advice clients.

We would also highlight the need to build in flexibility to help clients to remain on their plan and engaged in the debt advice process in the face of economic or other changes affecting household budgets. The covid pandemic and current increasing costs of living provide two recent examples where people on debt repayments plans are likely to need additional support. Here we note the guidance published by the Insolvency Service for IVA providers setting out additional flexibilities to help people stay on their IVA during the pandemic. Given the recent experience of these unpredictable events **we would urge the government to remove detailed provisions on payment flexibilities from the regulations and put these in statutory guidance that can be amended more easily** to respond to events that have a widespread negative affect on SDRP clients.

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

Our current practice where a DMP client requires a reduction in their plan payments is to consider whether the DMP is still an appropriate debt solution for them and re-advise where this may not be the case. We do not believe it is necessary to specify a minimum value to which payments can fall as the key determining factor in whether a plan is viable will be the repayment term of the plan based on the revised payments. On this basis, we do not believe there is a need to introduce a minimum payment value as well.

Question 13: Given the government's proposal to use a private register, do you agree that debtors should be required to disclose the fact they are in a plan to potential creditors? Or should creditors' own due diligence and processes regarding credit affordability and risk be relied on?

The current regulations don't stipulate how SDRPs are reflected on an individual's credit file, therefore, it's difficult to understand the visibility creditors will have that a credit applicant is on a SDRP plan. We broadly agree people with debts in an active SDRP should be encouraged to disclose their plan to potential new creditors. However, Regulation 24 (2) highlights the governments' intention to require people seeking credit while on a SDRP plan to disclose this fact to potential creditors. In which case the government should also ensure credit providers take action to ensure that people applying for credit are easily able to make this disclosure and are prompted to do so, particularly in online credit applications. We believe that creditors should do their own due diligence using accurate CRA data and other means as required under Financial Conduct Authority creditworthiness / affordability rules.

Here we would point out our concerns with the current wording of Regulation 24 (3). Firstly we would question whether a fixed credit limit should be included within the obligations on plan users that could lead to review and revocation of their plan, for instance under Regulation 44 (1) (c).

Secondly, the way that Regulation 44 (1) (c) effectively devolves policing the Regulation 24 (3) obligations to debt advice providers seems inappropriate. Debt advisers will need to build and maintain a relationship of trust with SDRP plan clients to successfully manage the administration of the plan. Regulation 44 (1) (c)

creates a potential conflict of interests between debt advisers and SDRP clients. These concerns may be mitigated by scheme guidance on the discretionary revocation process, but for now we raise it as a concern.

Our third concern is with the way that Regulation 24 (3) (b) introduces the possibility of an increased £2,000 credit limit if the debt advice provider does not object. It is not clear what competence a debt advice provider would have to object, other than on grounds that the credit that a SDRP plan user proposed to take out was unaffordable or that there may be alternative ways of meeting that credit need, including appropriate SDRP payment flexibilities if these are available. In which case the appropriate role for a debt advice provider is to provide advice on any possible consequences of taking out credit (in terms of affordability) on the SDRP and other options that may be available for the plan user to meet the needs they are considering applying for credit to meet. Therefore we urge the government to re-write Regulation 23 (3) (b) to remove the text on debt advise provider objections and replace this with text on seeking advice from the debt advice provider on the issues raised above.

Finally we note the provision in Regulation 24 6 (b) that the additional credit limited referred to in Regulation 24 (3) applies cumulative to both people in a joint plan. It is not clear how this would work practically where a joint plan involves people in two different households.

Question 14: Based on the draft regulations, how should SDRPs be reflected on a debtor's credit file?

We welcome the government's attention to the way SDRPs should be reported on a person's credit file and strongly support the intention set out in paragraph 3.25 of the consultation paper that creditors should treat the SDRP like a variation of payment terms in the original agreement. As we understand it, under current credit reporting rules, consumer credit lenders can choose to default an agreement after a number of missed payments and this default has a serious and lasting effect on credit scores. The effect is not currently significantly reduced by a person demonstrating a payment record through a debt repayment plan.

We know that worries about credit score impacts can affect the help seeking behaviour of people in financial difficulty. January 2022 research from StepChange found 67% of people with financial difficulties are reluctant to ask their lenders for help. Over a third of those gave worries about the impact on their credit record as a reason[8]. In lieu of seeking help people can use negative coping strategies like unsustainable borrowing to keep up with bills and existing credit commitments.

Repeat surveys of StepChange clients find around half of respondents saying they waited 12 months or more before seeking debt advice. Around one in five of these cite worries about their credit status as a reason for delaying seeking help. A recent StepChange client survey found 10% of people who received debt advice citing worries about their credit rating as a barrier to acting on the debt advice they had received. So concerns about credit reporting appear to create a barrier to people seeking help at every stage of financial difficulties. If SDRP has a disproportionate impact on credit files, this may exacerbate the problem and disincentivise people to receive debt advice.

A poor credit rating does not just affect a debtor's ability to obtain further credit; it can also impact on employment and housing, which impacts their financial wellbeing and can potentially hinder their recovery from problem debt. It is therefore important that SDRP is reflected appropriately on debtors' credit files. In

[8] Falling behind to keep up: The credit safety net and problem debt (2022) StepChange Debt Charity. https://www.stepchange.org/Portals/0/assets/credit-safety-nets/Falling-behind-to-keep-up-the-credit-safety-net-and-problem-debt-StepChange.pdf

particular, we consider that the regular payments made through an SDRP should be positively reflected on the client's credit file, to emphasise a consistent payment history.

Our experience in Scotland shows that the Debt Arrangement Scheme is often reported to our clients' credit files as a form of insolvency, with consequential impacts on their ability to recover financially. We believe it is important that SDRP is not recorded as a form of insolvency on credit files.

We also believe that the persistence of data on the client's credit file is a potential barrier to financial recovery, which may hinder their ability to obtain credit even after the plan has been completed. In line with other formal debt solutions, such as bankruptcy and DROs, we believe that existing adverse information relating to debts included in an SDRP should be removed within six years of the date the SDRP starts. We do not believe it is appropriate for adverse information recorded on a debtor's credit file to persist beyond the end of the plan.

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

We note that the Government proposes that, unlike Breathing Space, a joint debtor not subject to SDRP will not be protected from interest, charges and enforcement action for the duration of the plan. While we understand the logic behind these proposals, we would encourage the Government to reflect on how these proposals may impact on vulnerable debtors, particularly those in circumstances of financial or economic abuse.

We have some concerns about apparent inconsistencies in the draft regulations relating to notification requirements. For example, Regulation 36(8)(b) provides that payments will revert back to the original amount at the end of a temporary variation, but there is no requirement to notify either the debtor or the creditors at this point. We would recommend that a notification requirement is incorporated at the end of a temporary variation.

By contrast, the notification requirement in Regulation 42(5) is likely to be unnecessary, because in most cases it is likely we will decide whether to revoke a plan at the same time as the debtor makes the request.

Question 16: Do you agree with the approach to personal details, including the proposal not to require all previous addresses but only addresses likely to be linked to a plan debt?

We agree with the approach laid out in paragraph 4:21 on personal details. We agree with the proposal not to require all previous addresses, as this could be a significant information requirement for clients that could become a barrier to entering a SDRP plan. However our experience of the Breathing Space scheme showed that sharing previous addresses with creditors helped them to better identify debts. The approach of requiring addresses likely to be linked to a plan debt seems sensible, although identifying which addresses this might include may be difficult for clients in practice and create a barrier to entering a SDRP plan. We would suggest that the government takes care in the implementation stage to consult further with both debt advice providers and creditors to establish a proportionate balance of information needed to identify debts that clients should be able to obtain without undue difficulty.

Question 17 – For debt advice providers: What details do you consider necessary to be provided by creditors if they identify an additional debt to ensure that it can be appropriately identified and included in a plan?

Please see our response to Question 24 that discusses the approach taken in the regulations to information requirements on creditors. Here we set out what we consider to be the essential details for identifying an additional debt in order to add it to a plan:

- SDRP reference number
- Client Full Name
- Single or Joint debt
- Debt type
- Account or reference number
- Current balance
- Date the debt was taken out (original debt if this has been passed on to a DCA for example).
- We would expect creditors to make sufficient investigations to match debts in the Regulation 19 notification to those identified in their search before informing the debt advice provider under Regulation 20 (6) that the debt cannot be identified.

Question 18: Is the proposed mechanism for allocating payments to creditors on a pro-rata basis by debt value suitable? Do you foresee any problems with how this will work?

We have no policy objection to the proposed mechanism for allocating payments to creditors on a pro-rata basis by debt value (although this will favour large debt balances and all debts will be paid off on the same day instead of clearing the small debts first), nor do we object to the method of prioritisation and allocation.

However, we question some aspects of the definition of priority debt set out in Regulation 7. Regulation 7 (f) makes agreements with internet and mobile phone service providers priority debts for SDRP payment. We broadly support treatment of internet and mobile phone as priority services, given their importance for access to a range of other services. However it is not clear why old mobile contracts with no current supply contract element should be treated as priorities. Likewise, Regulation 7 (e) defines hire-purchase agreements as a priority debt for SDRP payment, but we question why this should apply in respect of terminated hire purchase agreements where the goods have been returned to the lender or repossessed by the lender. We note that Regulation 7 (a) and (b) defines rent and mortgage debt respectively as priorities only where the person still resides in the property (and there will generally be an associated ongoing lability), while Regulation 7 (e) and (f) defines as priorities agreements that may no longer be in be active use / in possession of the SDRP applicant, with no associated ongoing liability. This is important, as the point of prioritising debts for payment in SDRP is to clear more quickly those debts where the person may face serious enforcement action (involving loss of home, essential goods and services or liberty etc.) if the SDRP was to end before those debts were cleared.

From a systems architecture perspective the dataset associated with the submission of the Provisional Plan requires the debt advisor to provide pro-rated payment amounts for each creditor calculated using the the Insolvency Service electronic system. We would expect to create and submit the Provisional Plan using an API to communicate the information to the ISS. To provide pro-rated values, we would need to calculate these before submission, which would require either, a proration calculation in our own system or, a further API in the INSS system to provide the pro-rated amounts prior to submission of the Provisional Plan.

Both automated alternatives have problems. Running the proration calculation in our own system could produce slightly different results to the In solvency Service due to rounding issues, resulting in potential queries. Using an additional API to return pro-rated values adds cost and complexity.

These issues are compounded further when re-proration is required due to variations of any debts or their balances.

Manual input of the proration values, derived from the Insolvency Service electronic system prior to submission, negates the proposed efficiency of automating this process with API integration.

This process could be simplified if the Insolvency Service electronic system calculated proration values from the debt information submitted by an API (or indeed manually via a UI). This would ensure that proration is always calculated by the Insolvency Service electronic system in the same way, preventing either data entry or calculation errors. The eDEN system for DAS works in this way for all debts notified or varied during the DPP, providing a single source of truth for prorated values.

Question 19: Is 30% a suitable proportion to allocate to priority debts? Should this be higher/lower?

We welcome the principle of 'ringfencing' a proportion of the person's surplus to pay priority debts. We have some concerns that a 30% allocation, combined with the lack of flexibility in SDRPs as they are currently conceived, will lead to detrimental outcomes for clients.

During a plan people are protected from collection and enforcement action in respect of the priority debts included in the plan. However, in the event that a plan fails, they will be subject to this action again. If priority debts still remain at the point of failure, this puts the debtor at risk of detrimental enforcement action from priority creditors. Here we note that that when our Breathing Space first year evaluation report[9] asked people about their experiences at the end of Breathing Space, 23% of people contacting a priority creditor directly said they had not been able reach an agreement with that creditor. 15% said a priority creditor asked for an unaffordable payment and 10% said a priority creditor passed a debt to enforcement.

With this in mind, we believe it would be sensible to increase the proportion of the surplus devoted to paying priority debts, to reduce the risk that these remain outstanding if the plan was to finish early. Alternatively, with greater flexibility afforded to debtors to reduce the risk of plan failure, as outlined in our response to question 11, a 30% proportion may be appropriate as fewer debtors will be subject to the risk of renewed enforcement action in the first place.

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?

In Scotland the Debt Arrangement Scheme allows DPP clients to nominate how much of their calculated budget surplus they wish to contribute towards their plan. Our experience is that this option is not widely used. When we are discussing a client's financial situation with them, we encourage them to ensure that all expenses are represented in the budget itself, which would include some allowance for contingencies. This helps to ensure that a client's contribution to their plan is affordable and sustainable. For DMPs our usual practice is to apply the budget surplus to debt repayment, to help reduce debts as quickly as possible. Where contingent needs or unexpected income and expenditure changes occur (which they frequently do) we use flexibilities and variations of the DMP to keep the plan payment sustainable.

In those cases where the client does decide to offer less than their calculated surplus, creditors can object to this using the standard mechanisms. In the event of a dispute, the Accountant in Bankruptcy will adjudicate on the proposal using the fair and reasonable test. This would also be an appropriate mechanism for challenging SDRP contributions, if a creditor felt they should be receiving more through the plan.

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[9] See response to Question 41

Given our concerns about the lack of flexibility in SDRPs as proposed (see question 11), allowing people to pay less than their calculated surplus could mitigate some of the problems inherent in the scheme's current design, as it would better enable clients to save for contingencies that could otherwise lead to the failure of the plan. However we believe this is a less effective approach than allowing greater flexibilities in the SDRP regulations to better reflect the practices we have developed to manage DMPs, that we know can help people stay on their plan.

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

In Scotland the Debt Arrangement Scheme does not allow for this flexibility. If a client wanted to increase the payment into their plan, this would need to be done through a formal variation process, which would only be done if the increase in payments was permanent.

Across our debt advice service, where clients have additional or unexpected sums of money, we do not generally advise them to use it to pay non-priority debts, unless they wish to do so. Our normal approach would be to advise them to repay any priority debts, or to use the funds to contribute to (or start) an emergency fund that would allow them to mitigate any unexpected expenses that occur during the course of the plan. Based on this approach, we would not expect to recommend many clients make additional payments while on an SDRP, even if the functionality did exist.

Question 22: Do you consider that the information proposed to be provided to creditors is suitable and sufficient? If not, why?

Based on what we currently share with creditors who are included within a DMP, the majority of information proposed to be provided to the creditors is suitable and sufficient. However, see our response to Question 16 on applicants' previous addresses.

How creditors communicate with debt advice providers regarding any missing debts, accurate debt balances etc. will be crucial to ensuring the entire set up process runs smoothly and has no detrimental impact to the plan applicant. ***The key point is that we believe it is essential that the Insolvency Service engage at a technical level with debt advice organisations, payment distributors and creditors as soon as possible to discuss the technical requirements and proposed design for the electronic system.*** This is essential to ensure that the SDRP end to end processes, that span the multiple agencies involved, are optimised to ensure the cost-efficient operation of those processes with maximum use of automation and integration with existing and planned agency information systems.

Question 23: Are the grounds for objection that have been proposed suitable and sufficient?

We have previously provided HM Treasury with evidence highlighting the problems we face with inappropriate use of objections by creditors in the Breathing Space scheme. This caused significant administrative burdens and resource costs in the early months of the Breathing Space scheme, in addition to significant reputational damage. This issue has since become more manageable, perhaps due to creditors becoming more familiar with the scheme and clearer guidance from government. So given our experience of creditor objections during Breathing Space, debt advice providers and creditors need more guidance in this area to ensure consistent application. When supporting clients through Breathing Space, the objection 'unfairly prejudices their interests' caused the biggest confusion with creditors and has been included again without any further explanation. However, unlike the Breathing Space scheme (where debt advice providers are required to adjudicate on creditor objections), Part 4 of the SDRP regulations introduces the F&R assessment where the Insolvency Service is tasked with initial adjudication of creditor objections. We believe it is important that the Insolvency Service operates this function with a high degree of transparency,

publishing significant F&R decisions and quickly incorporating these into guidance for debt advice providers and creditors.

We also believe the objection ‘the debtor’s income and expenditure departs, without good reason, from the spending guidelines set out in the SFS’ will cause a large operational impact as it’s not clear what ‘good reason’ means. The Regulations do not make clear how and when debt advice providers would need to provide evidence of why a client is outside a spending guideline, or how the F&R assessment would treat objections from creditors on this. Debt Advice providers need to understand what explanations are acceptable when creating the debtor’s income and expenditure to avoid creditors objecting unnecessarily and causing further delay. Here we note that similar SFS interpretation questions arise in respect of Debt Relief Order (DRO) applications submitted by approved intermediaries, where guidance and adjudication by the Insolvency Service is both established and generally consistent in our experience. The Insolvency Service should ensure that its approach to SDRP SFS issues aligns with its approach to DROs.

Our experience in both Breathing Space and DMP proposals suggests that the smaller, more personally invested creditors (such as private landlords, builders etc.) tend to be more likely to challenge/object. Ensuring that guidance is accessible and attuned to these creditors will be important for SDRP.

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?

Our main concern is how much of the development and initiation of a plan will be automated via the Insolvency Service electronic system and how much will be manual intervention across all parties involved. There needs to be upfront collaboration to ensure all users and regulations are considered to mitigate any unnecessary and foreseeable issues.

Regulation 19 (1) (b) requires a debt advice provider to appoint a payment distributor in accordance with Regulation 54. Regulation 55 (a) then requires a payment distributor to obtain payment details of any creditors included in the final plan. However it is not completely clear when the payment distributor should obtain these details from creditors. Regulation 55 (a) implies this would not be before the Secretary of State notifies the payment distributor under Regulation 29 or 30 that a provisional plan has become final. More clarity here would be welcome as the Regulation 55 (a) requirements could have a significant impact on the payment distributor operationally if this activity were required (legally or practically) before the proposed plan is formally approved.

StepChange already has accurate creditor information on our systems/databases, however if we were missing some information we would collect this once the plan is set up, prior to any monies being received from clients. The charity also has the ability to issue payments via cheque until we have sufficient BACS details.

Reg 14(7)(a) states that the application must include ‘details of all the debts’ to the extent that information about this is known by the applicant. Our experience of administering applications to the Breathing Space scheme was a large number of cases where creditors responded saying they were not able to find the debt. This created a very significant administrative and financial burden for StepChange. The SDRP regulations aim to improve this through the Regulation 20 process where creditors are required to undertake a reasonable search to identify debts owed to them by the provisional plan applicant. This is welcome, but we have significant concerns on how Regulation 20 will work in practice, particularly against the obligations on debt advice providers under Regulation 21, Regulation 22 (1) and Regulation 23(3) as follows:

- Regulation 20 (5) (a) requires creditors to provide details of all of the debts that the creditor search identifies. In the Breathing Space scheme we saw some large creditors providing details on a large number of historic debts in the applicant’s name, even where these were not live debts or had no

balance owing. The administrative burden of processing this unnecessary information was enormous. This Regulation should be amended or supported by clear guidance for creditors explaining what is required by 'all debt' in Regulation 20 (5)

- Regulation 20 (6) requires creditors to inform debt advisers of any debt included in the notification that could not be identified in the creditors search. However Regulation 20 does not seem to require creditors to consider whether new debts identified in the search (and reported to the debt advice provider under Regulation 20 (5)) might be non-identifiable debts under Regulation 20 (6). This is important as Regulation 21 (2), (3) and (4) place significant investigative and administrative duties on debt advice providers. For instance, Regulation 21 (4) (b) requires debt advice providers to take 'all reasonable steps' to determine whether a debt that a creditor could not identify is in fact 'a debt owed'. This could require significant resource. The combination of Regulation 20 and 21 seems to place too little emphasis on creditors making sufficient inquiries and investigations about information returned by the creditor search (which we saw with Breathing Space), and places too much of the burden of investigating and correcting information on debt advice providers.
- Aside from the administrative burden of this (some of which will already exist in setting up DMPs), Regulation 22 provides debt advice providers with only 7 days to devise a provisional plan from the end of the 21-day period creditors have to respond under Regulation 20 (13). Furthermore, Regulation 22(2) implies that debt advice providers must develop the plan even if creditors reply with information right at the end of the 21-day period. We are concerned that 7 days will not be enough time for StepChange and other debt advice providers to meet the obligations under Regulation 21, and more concerned that a failure to do so could result in the plan application being cancelled under Regulation 23 (3) to the detriment of our clients. ***We would urge the government to amend the regulations to allow debt advice providers to extend this 7-day period where more time is needed to devise the provisional plan. Where an extension is needed as a result of late or unhelpful information from creditors, the Secretary of State should have discretion under the Regulations to declare the plan period (as defined in Regulation 2) to commence from the date of the request for an extension.***

The requirement to include 'all the debts' is also quite restrictive and could lead to some debtors not applying e.g., if they have a friends and family debt they do not want to include.

There is a recurring requirement throughout the Regulations to confirm which debts are a priority. As there is not currently any discretion in the types of priority debt this seems to be an extra unnecessary administrative burden. There are also repeated requirements for notifications to be sent to the debt advice provider and the payment distributer. Where the debt advice provider is also acting as payment distributer, could only one notification be sent to reduce the administrative burden?

With Debt Management Plans, we often see clients delay starting a plan following advice if their finances will not have stabilised in that month and they need a little longer to establish a first payment date. We would urge the government to consider amending Regulation 22 (4) to allow the 42-day period for the first payment under the plan to be extended where there are reasonable grounds to do so. This would prevent having to restart the plan development process from the start where there is no need to do so.

Question 25: Do you consider that the proposed mechanism for implementing payment breaks is appropriate?

Please see our response to Question 11 where we highlight concerns about the limited and unsuitable proposals for payment breaks set out in the current regulations.

StepChange Debt Charity

Subject to the above, we are broadly supportive of the procedure set out in Regulation 21 (and paragraph 5.7-5.9 of the consultation) to notify the Secretary of State and creditors about a proposed payment break. However we have the following specific observations:

- Given that payment break requests may be urgent, it is vital that the SDRP system seamlessly integrates with our systems to allow for quick notification and minimum administrative burdens.
- We do not believe that the Regulation 41 (2) (b) requirement that payment break requests are made 14 days before the payment date are realistic, given our extensive experience of working with DMP clients. In practice not all clients will know that they are unable to make a payment 14 days in advance. Often this can be closer to the actual payment due date. Setting the date 14 days in advance is likely to result in more missed payments.
- Regulation 41 (8) requires the Secretary of State to send the debt adviser's decision together with a statement of supportive reasons back to their client and the debt advice provider, which seems a possibly unnecessary administrative burden both for the Secretary of State and the debt advice provider. **We would request that this requirement is removed or amended.**
- Regulation 41 (6) requires the debt advice provider's decision on a payment break application to have regard to an up-to-date summary of income and expenditure information using the SFS. This implies the debt advice provider potentially carrying out a full new income and expenditure assessment, which may not be needed or appropriate for every payment break application. Given that a payment break decision must be accompanied with a statement of supportive reasons, the debt advice provider should have discretion as to the extent of income and expenditure re-assessment needed to decide on a payment break.

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

Question 27: Do you consider that the additional creditor and debtor review processes are appropriate and sufficient? If not, in what ways do you think they could be amended?

Our observations in response to Questions 26 and 26 are as follows:

Firstly, for the creditor review processes to work effectively, the government must deliver on the aim set out in paragraph 7.9 of the consultation to ensure the electronic system has the functionality to deal with all plan related information exchanges between creditors and debt advice providers, including the creditor review processes. In the Breathing Space scheme we saw an extremely high volume of questions and queries per client outside of the portal that were extremely difficult to manage and required a new dedicated team to be stood up to deal with the backlog of queries.

We believe that the creditor review mechanisms provide a more than sufficient route to challenge plans, to the extent that we believe the proposed regulations are excessive in certain respects in a way that may cause problems for debt advice providers and possible detriment to their clients.

For instance, Regulation 27 creates a route for creditors to notify the Secretary of State where they believe there is a material error in relation to the amount of a qualifying debt. This is after creditors have been given the opportunity of a 21 day period under Regulation 20 (8) to inform the debt advice provider of any material error in the amount of debt owed. However Regulation 27 (4) requires the Secretary of State to cancel the provisional plan if the creditor's newly reported value increases plan debts by more than 10%. There does not seem to be a ground to challenge this, or a requirement for a creditor making a notification under Regulation 27 (1) to explain why they did not provide this information to the debt advice provider a week or so before as

required under Regulation 20 (8). Furthermore Regulation 27 (5) and (6) may well require the debt advice provider to start the entire plan development process again. **We would ask the government to consider deleting Regulation 27 as it is disproportionate and creates an incentive for creditors not to comply with Regulation 20 (8).**

Regulation 30 (4) requires that the provisional plan will be cancelled as a whole. However it seems possible that the Insolvency Service could uphold creditors' objections under grounds in Regulation 28 (b) (ii) or (c) in a situation where any defects in the provisional plan identified by the Insolvency Service would be capable of remedy. Therefore we would ask the government to consider whether the Insolvency Service might be empowered to direct amendments to a provisional plan as an alternative to outright cancellation. This might be a sensible alternative to the Regulation 31 (1) and (2) that would require the debt advice provider to restart the whole plan development process afresh from Regulation 19.

Regulation 32 creates another route for creditors to say there is a material error in the value of a plan debt, up to 120 days after the final plan commenced, or later in exceptional circumstances. As for regulation 27, we would suggest that a creditor should be required to show good grounds why they did not make all reasonable efforts to identify and disclose this error under Regulation 20 (8), similar to the requirement for debt advice providers to take all reasonable steps under Regulation 21 (4) (b). In addition, as we understand it, Regulation 37 (7) (b) would require a debt advice provider to conduct an in-year review under Regulation 34 (1) (b). Then Regulation 36 (2) (a) (ii) requires the debt advice provider to propose a plan variation in consequence of an in-year review to which Regulation 34 (1) (b) applies. Then Regulation 37 (4) (b) implies that the variation proposal would be put to creditors for agreement (because it involves an increase of plan debt value of more than 10%), with the issue going to a F&R assessment under Regulation 40 if the Regulation 39 (2) condition is met. The outcome of this long chain of activity is that the Insolvency Service will agree to the variation or not. If the Insolvency Service does not agree to the variation, it is unclear what effect this whole process has. **Therefore we would urge the government to consider whether this part of the regulations is proportionate and efficient. The government should consider deleting Regulation 32 as one review route too many, or at the least severely restricting the gateway by requiring creditors to show good cause why this information was not shared earlier. Secondly, the government should consider shortening this process by removing the creditor objection and F&R assessment and only acting if the amended total plan debt meant that the plan would no longer meet the SDRP eligibility criteria. Thirdly, if the government retains Regulation 32, it should introduce a power to require the creditor to prove the debt and a right for the plan applicant to challenge the creditor's new valuation of the debt size.**

Regulation 35 creates grounds for creditors to ***request*** an in-year review of a final plan. However Regulation 34 (1) (d) ***requires*** a debt advice provider to carry out a review in response to a request under regulation 35. Under regulation 34 (4) the debt advice provider is required to do much more than just address the grounds given by the creditor under Regulation 35 (1). The debt advice provider must investigate whether there has been a change in circumstances, evaluate whether the plan is still appropriate, and update the income and expenditure assessment. In short this could amount to a requirement to fully re-advise a client, even where the grounds for a review under Regulation 35 (1) set out in reasons by the creditor under Regulation 35 (3) are entirely spurious. We urge the government to amend Regulation 34 (1) (d) to the effect that a debt advice provider could reject the need to conduct a full in year review in response to a Regulation 35 request where the reasons and grounds stated by the creditor do not justify a full review or those reasons or the grounds are spurious. We note that Regulation 35 (4) provides that a creditor may only make one request under Regulation 35 (1) in a calendar year, but this may not be much of a safeguard. Our recent Breathing Space report shows clients entering Breathing Space (and hence likely to be eligible for a debt solution, including in some cases a SDRP) have around 9 different debts (and so potentially 9 creditors on average). This could potentially mean up to 9 reviews per plan per year just as a result of Regulation 35. This would significantly

inflate the SDRP funding requirement. **So we urge the government to rethink these aspects of Regulations 34 and 35.**

Question 28: Do you agree with the proposal to have a private register?

We agree that it is appropriate to maintain a private register for individuals subject to SDRP.

The existence of a public register for the Debt Arrangement Scheme in Scotland is often cited by our clients as a reason not to opt for the solution; we believe it operates as a disincentive for clients to take up a solution that would otherwise be appropriate for them.

Question 29: Do you have any further comments on or concerns about the processes that have been proposed to operate during a plan?

Throughout this chapter we've noted several concerns and identified regulations where we would like further clarity.

The definition of a representative within Regulation 2 is very formal and strict. With either verbal or written consent, we often see clients authorise a third party to conduct their debt advice appointment e.g. the client is vulnerable, where the relationship isn't formalised by law so the Regs should be drafted to include those 'representatives'.

In Regulation 5(9) where a debt advice provider accepts a referral, it is not clear what mechanism exists for the information already held on the electronic system about the client to be transferred to the debt advice provider. That could reduce the administrative burden of gathering the information again from the client and improve the overall client experience.

It states in Regulation 7(2)(f) that internet and phone bills are a priority, however we see clients who have old mobile phone contracts and outstanding debts to a previous internet provider. Therefore, it would be more appropriate that they're considered a priority if they are the client's current provider.

In Regulation 14(7)(a) it states that the application must include details of all the debts, but it doesn't state what these details should be e.g., creditor account numbers, references etc. We think this should be more specific on what is required to avoid the issues we encountered initially with Breathing Space applications.

As mentioned in our response to Question 3, Regulation 18(3)(b) states that a SDRP plan should not exceed 10 years, however in paragraph 2.34 of the consultation paper the government sets out an expectation that debt advice providers would only propose plans of 7-10 years in exceptional circumstances. It will be very important for the proposed guidance setting out 'exceptional circumstances' to be very clear.

We feel the search requirement for creditors in Regulation 20(1)(a) could be extended in respect of joint debtor applications. If clients A and B make an application for a joint plan and a creditor is notified of the inclusion of a debt for client A only, we believe the creditor should be encouraged to search their records for a potential debt held by client B.

In Regulation 21(3)(a) the phrase 'confirm with the debtor' could be clearer. We're unsure if this requirement is for the purposes of verifying the information or to just keep the client informed and updated.

Regulation 40 reads as if there will only be one fair and reasonable test if a creditor objects to a variation. Could creditors potentially object for a variety of reasons and the Insolvency Service would then have to conduct more than one fair and reasonable assessment? If so, how would this process work?

Regulation 55(a) states that the payment distributor must obtain payment details of all the creditors. There may be cases where a payment distributor is unable to obtain these details form a creditor and the

regulations are not clear on how a payment distributor should proceed in these circumstances. To ensure we comply with FCA CASS rules to disburse client money within 5 days of receipt and clearance, our current practice would be to send a cheque to the creditor's registered business address when we disburse our client's payment to their creditors, but it is not clear if this would be possible under the SDRP regulations.

Regulation 39 suggests that a proposed variation wouldn't take effect until the conclusion of the fair and reasonable test. Given that creditors have 14 days to object and the Insolvency Service then has 28 days to complete the fair and reasonable test, the client could be asked to make 2 payments which a debt adviser has deemed to be unaffordable while they wait for the variation to take effect. Due to the inflexibility of the SDRP, the client's plan would be cancelled if 2 payments were missed during this objection review period and they wouldn't be able to apply again for another 12 months. We would ask the government to consider remedying this timing issue in the regulations.

Question 30: Do you agree with the proposed grounds for both mandatory and discretionary revocations? Are there any grounds for revocation that you consider have not been captured?

StepChange welcomes the Regulation 42 provisions allowing SDRP users to request that their plan is revoked. The grounds for this look both reasonable and comprehensive, and we agree with the inclusion of the ground in Regulation 42 (3) (d) on revocation following advice from the debt advice provider as to the consequences of this (which may include advice on different debt solutions where circumstances have changed). Here we would ask for clarification on how Regulation 42 relates to Regulation 24 1 (a) (ii) and Regulation 34 (1) (c) that might be triggered by an application under Regulation 42 – we presume that determining the Regulation 42 application would take priority over the possible regulation 34 review requirement?

We broadly agree with the mandatory grounds for revocation under Regulation 43, with the exception of the ground set out in Regulation 43 (2) (e). In particular we have concerns about the process for revoking plans in the event of reduced or missed payments. Combined with the relative lack of flexibility in plans (see our response to question 11), this could lead to SDRP plans being terminated unnecessarily. Against Regulation 43 (2) (e) we would argue that debt advisers should be given broader discretion to help people stay on their SDRP plan where possible, as the alternative could be disengagement and a return to harmful unmanageable debt. Our long experience of managing DMPs tells us that there always will be cases where it is appropriate for debt advice providers to terminate a plan, and StepChange does this on a regular basis. However we will try to keep people on a repayment plan where this remains a suitable and sustainable solution. As our answer to Question 11 highlights, a rigidly fixed trigger for SDRP revocation based on missed payments over the term of a plan may result in people being removed form a repayment plan where this is not a necessary outcome. As the circumstances that would trigger the Regulation 43 (2) (e) ground may rest on the discretionary ground in Regulation 44 (1) (e), the scheme guidance mentioned in paragraph 6.24 of the consultation will need to carefully consider the discretion debt advice providers have against the actual reality of payment behaviour and support needs of DMP clients, whose low financial resilience and vulnerability to budget shocks can continue well into the life of their plan.

The inclusion of discretion in the grounds for revocation is welcome, but we believe the trigger point of arrears of two payments set out in Regulation 44 (1) (e) is too blunt, unless debt advice providers have broad discretion to decide whether revoking a plan is appropriate under Regulation 46 (1) and the conditions that might be applied under Regulation 46 (1) (c). In this respect we do not support the provisions set out in Regulation 46 (6) that would accelerate to final warning stage missed payments on the basis of previous missed payments, even where these have been addressed. Our concern here is that these provisions appear to replicate some of the language and communication methods that debt advice clients would have experienced from creditors before they reached out for help from debt advice.

Our client research shows how this can cause people to disengage from seeking help and turn to harmful strategies to deal with payment demands instead. **In this respect, we believe that the form and content of conditional and final warning notices will be very important and would encourage the government to consult on a standardised form of notices in advance of the scheme's introduction.**

While we understand that the statutory protections delivered by the SDRP need to be balanced by responsibilities, it is important to remember that people come to debt advice for help, and the approach to managing payment difficulties within an SDRP must always reflect this for debt advice providers to successfully deliver the SDRP scheme. Again, the scheme guidance on debt advice provider discretion will be extremely important.

Question 31: Do you agree with the proposed approach to discretionary revocations in scenarios where conditions cannot be applied?

In most cases where we believe it is necessary and appropriate to revoke a plan, we would expect to give our client an opportunity to continue on the plan by rectifying the apparent breach. We agree that attaching conditions to a revocation notice will be an appropriate way to achieve this.

We also acknowledge that there may be cases where a client is unable to rectify a breach – for example, where they have made false statements in support of their application, without which we would not have deemed the plan appropriate – and therefore a conditional notice will not be appropriate. In these cases we agree it would be appropriate to end the plan immediately.

Question 32: Do you consider that the proposed methods for limiting abuse of the revocation process are sufficient and appropriate?

Our response to Question 30 highlights our concerns that the proposed revocation rules may not be appropriate in all cases, for example where variable income and/or unexpected expenses makes maintaining a consistent payment schedule difficult. We believe that debt advisers are capable of determining whether repeated use of the conditional revocation process is abusive or not, and we would urge the government to equip debt advice providers with broad discretion to keep people on a plan where this is appropriate.

Question 33: Do you consider that the proposed limitations to reapplication for plans are suitable?

We do not support the imposition of an arbitrary 12-month limit on reapplications for plans.

If a debtor's SDRP is revoked and they subsequently seek debt advice, the debt adviser would be required to consider their previous debt solutions and the reason for their failure. This would be considered in any future recommendation of a debt solution; in other words, a debt adviser recommending another SDRP would need to be confident that the plan was appropriate, even accounting for the previous plan's failure.

In addition, creditors could object to a reapplication and subject the proposal to the fair and reasonable test. This would require the Insolvency Service to consider the reasons for the previous plan's failure and determine whether they still apply. This would allow appropriate proposals to proceed while preventing abuse of the system.

Taken together, these features provide an appropriate safeguard against abuse of the reapplication process, without the need for a 12-month limit.

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

When a joint plan has been revoked due to the death of one of the plan users, we believe that the six-week 'grace period' for a joint plan user to apply for a new SDRP (or other debt solution) is not sufficiently long. Joint plan users in this position are likely to be extremely vulnerable due to their recent bereavement. We would support a longer period before creditors are allowed to recommence enforcement action.

Similarly, we have concerns over the 14-day grace period where a plan has been revoked following a final notice. In practice we believe this will not be enough time for one of our clients to be re-advised and enter an appropriate solution. We would support an extension of this period, based on consultation with debt advice providers on what is likely to be an appropriate period of time.

Question 35: Do you agree with the proposed approach to funding?

We welcome the inclusion of a statutory funding element in the SDRP legislation. This gives debt advice providers some certainty and reflects the need for resources to deliver the SDRP scheme. We find the approach set out in Regulation 56 understandable and welcome the proposal that payment distributors should retain funds, rather than debt advice providers, payment distributors and the Insolvency Service having to invoice individual creditors for payment, which would otherwise be extremely difficult.

However, we are extremely concerned that the proposed rate of funding (8% for debt advice providers and 1% for payment distributors) represents a cut in revenue compared to our existing fair share funding for DMPs that has a current average creditor payment rate of 10.7%. Our modelling suggests that the anticipated additional funding from including additional debt types in SDRP (that are not normally included in or pay fair share in respect of DMPs) will only partially offset the reduced SDRP rate compared to DMPs.

In earlier responses to HM Treasury we stated a belief that we would be able to absorb this funding reduction, but the consequences of the covid pandemic, current cost of living increases mean this is no longer possible.

Our funding situation under SDRP would become critical if creditors were to apply the SDRP funding rate to our back book of DMP clients (which would not include additional revenue form additional debt types). We estimate that this would result in a £6 million reduction in fair share funding, leading to a likely reduction in debt advice capacity of between 25,000 to 50,000 clients per year.

We are also concerned that this reduction in funding is likely to be compounded by increased per client costs of setting up and administering a SDRP compared to a DMP that are not reflected in the current impact assessment.

Here we highlight the difficulty we have at the moment ascertaining the likely cost per client of setting up and managing a SDRP at this stage. However, our analysis of recent data from administering the Scottish DPP scheme suggests that the cost per client of SDRP could be very much higher than DMPs, so our call for simplification of processes in the SDRP regulations where possible is important.

Another important variable determining the adequacy of the SDRP funding rate will be the proportion of clients who actually take up the solution (which is not the same as a debt advice provider recommending SDRP). Our experience of DPP in Scotland suggests that client uptake is very sensitive to the administrative burdens on clients and length of time it takes to set up a plan; and clients who fall out of the DPP application process are not necessarily likely to enter a DMP and may disengage from debt advice. A lower proportion of eligible clients taking up a suitable SDRP plan translates to a higher per client funding requirement on live SDRP plans. So it will also be important to ensure that the client journey into SDRPs is as simple and accessible as possible.

In summary, we are concerned that the introduction of SDRP will reduce StepChange's effective resources in three ways:

- The proposed funding rate for SDRP is lower than the current average fair share rate for DMPs, even with funding in respect of debt types not currently paying fair share.
- The potential impact upon any current fair share contribution rate pertaining to existing back-books reset at the lower SDRP rate.
- The additional per client costs of setting up and administering a SDRP compared to a DMP that will be determined by both additional requirements of debt advice providers under the regulations and any lower uptake of repayment solutions (SDRP and DMP) by more clients dropping out of the SDRP application process compared to DMPs.

As a result we believe that a SDRP funding rate of 13% for debt advice and payment distribution is likely to be needed to ensure we do not experience a damaging reduction in funding in respect of either new SDRPs compared to DMPs or in respect of our DMP back book.

This uncertainty of SDRP per client costs and revenues will not resolve until we have built up a body of data on SDRP client take up and administrative costs, which may take several years. ***Therefore we urge the government to keep the SDRP funding requirements under regular review with a commitment provide further support for debt advice providers should the need arise.***

Implementation costs: The introduction of the Breathing Space scheme created some large unfunded costs for staff training, systems changes, integrating with Insolvency Service systems and data approaches, and dealing with creditor queries and information requests. We estimate that these unfunded additional Breathing Space implementation costs came to over £2 million. ***Based on this experience we estimate that costs of SDRP implementation are likely to create a funding requirement of around £2.5 million.***

We would welcome the opportunity to discuss these concerns about SDRP funding with government and would be very happy to share and explain further detail on our modelling. An overview of some key elements of our funding impact modelling is set out below.

Comparative SDRP and DMP Income analysis

From eligibility analysis for Question 3, we have identified that typically 67% of all DMP's started would be eligible for SDRP based on term length at inception. This has stayed consistent between the client cohort we reviewed in detail for this response (Apr 2014- March 2015) and the most recent clients (October 2021 onwards).

The initial deposits (budget surplus available for debt repayment within a plan) attaching to DMP clients likely to be eligible for SDRP under proposed rules are strikingly different to DMP likely to be ineligible for SDRP (and hence possibly remaining on a DMP).

2014-15	SDRP eligible £219	SDRP ineligible £95	average £163
2021	SDRP eligible £251	SDRP ineligible £104	average £204

Of the 2014-15 cohort, SDRP eligible clients that went on to successfully complete their DMP had an initial deposit of £243. Those plans that completed with fewer than 2 missed payments in any 12 month period and a payment maintenance of over 90% of initial deposit averaged £222.

Modelling the funding impact of client solution take up changes

We will not know how client take up of SDRP compares to DMP take up until the SDRP scheme commences and we begin to get data. However we do have data on DPP and DMP clients in Scotland that may give some

indication of possible variations in how clients might move from recommendation through to the point of selecting a repayment solution when SDRP is in place. Our data shows that clients recommended a DPP have a lower propensity to select DPP as solution compared to the proportion of clients recommended a DMP who go on the to select a DMP. DPP recommended clients also display a 9% switch between products: 9% of DPP recommended clients choose DMP over DPP.

- Our modelling estimates SDRP funding set at the 9% rate may result in a funding cut of around 26% compared to current DMP funding. This is partly the result of the lower SDRP funding rate compared to the 10.7 DMP fair share rate. But this is compounded by the estimated potential reduction (based on DPP data) in the propensity of clients to select SDRP, which leads to a 11% reduction in overall solutions selected.
- Increases to SDRP payments resulting from a greater range of debt types being included in SDRP plans compared to DMPs reduces the funding cut to 21% but does not eliminate it.
- On an all else being equal basis, an increase of the SDRP funding rate from 9% to 13% would be required to prevent a funding cut from an income perspective.

Modelling the impact of possible greater client attrition through a more onerous SDRP application process compared to DMPs.

The modelling above assumes that clients that do select SDRP as a solution will be no more likely to fall out of the solution application process for SDRP than for DMPs. However our experience of DAS DPP tells a different story. The key statistic here is that the activation rate (clients moving from selecting a solution to activating and entering a plan) is currently much lower for DPP than DMP. We believe this is in large part a result of a DPP application process that can stretch to over 100 days, prompting clients to drop out.

There is also little evidence that a client who drops out from the DPP application process then goes on to complete a DMP. Therefore this client journey attrition appears to result in a lower overall number of repayment solutions set-up, resulting in a 14% product take-up decline.

The current activation rate of DPP is much lower than for DMPs, but there are reasons to believe that SDRP activation rates may be closer to DMPs, as the proposed SDRP regulations imply a shorter application process and less friction in the client journey compared to DPP. However, as a sensitivity test, if the SDRP activation level fell to 50% of the current DMP activation rate, this equates to a 39% product take-up decline, requiring a 25% SDRP funding rate to take funding back to the current level (all else being equal).

The impact on income per 100 clients using 2021 averages shown in the table above is before any increase for eligible debts or improved retention rates. It is assumed that there is no difference in surplus between those offering and choosing SDRP versus those offered SDRP who stay with DMP.

In summary, our modelling of the funding impact of possible changes to client take finds:

- Evidence from DAS DPP in Scotland suggests that a higher number of clients may drop out of the SDRP application process between receiving advice and entering a SDRP plan in comparison to DMP.
- Our modelling suggests that a greater attrition rate leads to a higher required SDRP funding rate to prevent a significant drop in our funding compared to DMPs.
- Government can influence the attrition rate by ensuring the client journey from debt advice to a SDRP plan is smooth, quick and not unduly onerous.
- ***However given the potential for client attrition to have a large impact of funding in respect of repayment plans, we would urge the government to keep this under regular and close review in the first 2-3 years of the SDRP scheme.***

A note on administration costs.

The impact assessment calls out DMP annual administration costs of £107 per plan and attributes a small increase to £112 for SDRP. This is where the design of the INSS system, success of API's in reducing levels of manual intervention and the setting payment behaviour criteria in respect to breaks and variations will be key. If these are set at overly burdensome levels, then both the cost to administer will increase and the expected benefits of improved completion rates will be brought into jeopardy, as the DAS DPP completion benchmark is based on more payment flexibility once people are on a DPP.

Updating costs to reflect a full absorption cost based on 2022 actuals delivers actual administration costs of circa £112 per DMP, which is a reasonable reflection of inflation since the original submissions. However the cost-of-living increase is starting to drive additional client contacts and this may push administration costs higher but could be expected to be seen across both SDRP and DMP outcomes.

In respect of the increment applied to SDRP administration costs, learnings from Breathing Space suggest that early product lifecycle cost increases would be substantially higher than 5% whilst all parties familiarise themselves with the Scheme and technology undergoes inevitable iterations to arrive at an end state.

Since initial impact assessments were undertaken, we have seen the administration processes and functions surrounding the DAS DPP product mature, albeit at a total portfolio level that is only 2% of the current DMP book. This suggests that direct costs are in the order of £140 per plan and fully absorbed administration costs taking the cost up to between £194 and £265 depending on method of allocation. The increased direct cost represents the increased complexity of payment distribution and of ongoing variations.

SDRP will be subject to different economies of scale as the portfolio increases in size, and we will only be able to be understand per plan administration costs fully post implementation. However, data from DAS DPP suggests that the current assessment of a £5 additional cost to administer SDRP compared to DMP assessment is likely to be inadequate in our view. Instead we estimate year 1 average SDRP administration cost at £194 which includes an allocation of overheads on a per plan basis across all repayment solutions.

Applying just this increased cost of administration to the initial income adjusted scenario set out above suggests a SDRP funding rate of about 14% would be required to prevent a reduction in funding. This highlights the importance of ensuring that the costs of additional SDRP requirements on debt advice providers are minimised as much as possible. Again we would ask the government to keep SDRP administration costs under review.

Impact of application of the SDRP funding rate to DMP Back book income

A key risk of the proposed SDRP funding rate is that fair share paying creditors would decide to adjust fair share donations on existing DMP's to the lower SDRP rate. It is acknowledged that there are a range of fair share rates paid today, however the average fair share rate paid on existing DMPs is higher than the proposed SDRP funding rate.

With annual back book DMP income currently in the order of £37 million at the prevailing 10.7% rate, a reduction to 9% would create an immediate £6m annual gap in funding for StepChange. While we would seek to prioritise maintaining client facing services, a funding cut of this size would likely result in a significant reduction in the availability of free debt advice.

Question 36: Do you have any views on how the electronic system, register, or fair and reasonable assessments should work?

We will need the electronic system to have the capability to manage all SDRP interactions between debt advice providers, creditors and payment distributers through the system. The portal should track the clients

plans from all aspects. Our experience of the Breathing Space Scheme highlights the importance of ensuring creditors (large creditors in particular) are able to use the electronic information system to communicate with debt advice providers.

We plan to integrate our processes and systems utilising APIs where possible to be able to manage the potential large volumes of SDRP candidates efficiently from all aspects of a plan from approval, ongoing plan management (payments, variations, creditor movements) right through to end of plan.

Most importantly we urge the Insolvency Service to begin working with stakeholders as soon as possible to develop detailed business requirements around the systems architecture and integration we will need to efficiently administer SDRP applications and plans.

We agree in principle that the register should be available to all clients, creditors, and debt advice providers. A private register, rather than public (such as used for DAS) will encourage a greater take up rate for SDRPs.

The fair and reasonable assessment process for DAS works reasonably well and we would recommend a similar framework. However we would urge the government to ensure that the electronic system has a comprehensive API developed to enable external system integration for all of the key functions including plan applications (Notice of Intent and Provisional plans), variations, reviews, revocations etc. and all notifications. We would wish to be engaged as soon as possible to help collaborate with all stakeholders on the design of the electronic system.

Elsewhere in this response we highlight the need for clear guidance and transparent decision-making from the Insolvency Service as the fair and reasonable assessment will effectively form part of the SDRP eligibility requirements that we will need to understand to advise clients.

Question 37: Do you agree with the proposed approach to payment distribution, and the oversight of payment distribution?

StepChange is a major provider and payment distributor for DMPs, with nearly 170,000 active DMP clients as at June 2022. StepChange is also one of the largest payment distributers for DAS; we distribute payments for our own cases and those of third-party debt advice providers. As a result we believe we have the capabilities to facilitate payment distribution for the SDRP scheme and broadly agree with the proposal set out in the consultation.

The government will need to ensure that the rules for SDRP payment distributors under Part 3 of the regulations and the standard terms and conditions proposed in paragraph 7.24 are aligned with FCA rules and expectations, particularly under the CASS 11 sourcebook, so as not to place us in direct conflict with these FCA rules.

In terms of oversight and governance, all CASS 11 firms are expected to maintain the highest standards possible when processing client money and must undertake an annual CASS audit to ensure these high standards are maintained, all of which is reported to the FCA. A successful audit will be confirmation that standards are being met.

We would welcome the opportunity to work with the Insolvency Service on the development of standard terms and conditions for SDRP payment distributors, and just as importantly the integration of the SDRP electronic system with our systems. Here the government will need to note that StepChange and other payment distributors will likely need to continue distributing payments for existing live DMPs and possible new DMPs once the SDRP scheme starts.

StepChange Debt Charity

We support the Regulation 56 proposal that payment distributors should deduct the 'funding amount' from each payment received from a SDRP client before distributing funds to creditors. It would otherwise be very burdensome to invoice and potentially chase payments from a greatly expanded group of SDRP creditors compared to DMPs. The approach taken in Regulation 56 would help create a more stable flow of SDRP funding to debt advice providers, the Insolvency Service and payment distributors.

Question 38: How and when do you think payment details of creditors should be provided to or obtained by payment distributors?

Payment distributers should only be notified of a SDRP plan once it has been formally approved and all necessary client agreements have been signed and returned.

In line with the rules of when the client should pay (within 42 days), the payment distributor can contact the creditor during this period to obtain BACS details should they not already have them on file. It is worth noting that the charity (and presumably many other payment distributors) already has on file records of several thousand creditors to allow us to pay via BACS and we will also conduct an exercise with our creditor partners to obtain or confirm such details in advance of SDRP go live in 2024. As a failsafe we do also send cheques to creditors should we not have suitable details to pay via BACS to ensure we meet our regulatory expectations under CASS 11 rules to disburse client funds within 5 days of receipt and clearance.

We do not feel it necessary to be notified of a plan prior to the formal approval of the plan (mentioned in Chapter 4), as this could create unnecessary work for payment distributors with no guarantees the plan will be approved. There is also a risk that if payment distributors are notified of "intended" plans, these could be added to internal finance systems creating regulatory risks and also potential client detriment.

Question 39: Do you have any further comments on or concerns about the funding and administration of the SDRP?

Please see our response to Question 35

Question 40: Are you supportive of the proposed changes to the 2020 regulations?

StepChange broadly supports the proposed changes to the 2020 regulations set out in the consultation. However we have the following reservations:

Regulation 75(12); Regulation 75(12) creates a notification process where a creditor sells or transfers a debt during the moratorium period. This creates a triangular three step process where:

- The first (transferring) creditor notifies the second (receiving) creditor and passes contact details for the second creditor to the debt advice provider of the transfer.
- The debt advice provider is then required to forward these contact detail to the Secretary of State by the end of the following business day. This creates a resource and management cost to transfer this information within the statutory timeframe. Our experience of the 'add debt' process in the Breathing Space scheme was that these time sensitive resource costs can quickly become significant and unmanageable.
- The Secretary of State is then required by the end of the following business day to provide notice of the moratorium to the second creditor.

This seems an unduly burdensome administrative process that could be simplified by requiring the first (transferring creditor) to inform the second creditor, debt advice provider and Secretary of State simultaneously of transfer and second creditor details in respect of a debt already under the moratorium. The

electronic system should be designed to enable the first creditor to make these notifications at the same time, reducing the administrative burdens on the SDRP scheme as a whole.

Regulation 75 (8) (d): Regulation 75 (8) (d) omits paragraph 11 from the existing Regulation 7 of the 2020 regulations. Chapter 8 of the consultation paper does not appear to discuss this change.

Regulation 7 (11) appears to prevent any new third-party benefit deduction in respect of a moratorium debt being made in the moratorium period. Paragraph 3.4 of the Creditor guidance highlights creditors should not apply to DWP for a new third-party deduction to be taken from an individual's benefit payments. So we would ask for clarification on the purpose of this proposed change to the 2020 regulations.

Regulation 75 (9): The consultation does not discuss the purpose and effect of the proposed changes to regulation 10 in respect of the Traffic Enforcement Centre. We would ask for clarification on this.

Question 41: Are there any other changes to the 2020 regulations that would result in (a) greater eligibility and/or applications for the scheme (b) better debtor outcomes?

Stepchange recently carried out an initial evaluation of our clients' experience of the Breathing space scheme in the first year since the scheme started[10]. We surveyed our clients and analysed data on clients who did and did not choose to enter the Breathing space scheme. Our initial research findings include:

Breathing space clients valued the statutory protections: 96% of clients responding to our survey agreed that the pause on interest fees and charges was useful, 91% agreed that the pause on enforcement action was useful. As one StepChange Breathing Space client told us:

> "Until the weight of the debts was lifted from my shoulders I had not realised just how stressed I had been and how much I had been depriving myself of necessities. This experience has changed my life completely."

Breathing space delivered significant benefits to clients: Clients who took Breathing Space were over three times more likely than those who did not take Breathing Space to go through full debt advice and enter into a debt solution. 69% of breathing space clients we surveyed said their wellbeing was better, compared to 52% of clients who did not take up Breathing Space.

Breathing Space clients were more likely to say they were better able to deal with their creditors, that they worried less about their debts, that they felt better able to deal with day-to-day life and that they were sleeping better.

Compared to before I sought advice	No Breathing Space	Breathing Space
I feel better able to deal with creditors or debt collectors	60%	74%
I worry less about my debts	60%	71%
I feel better able to deal with day-to-day life	57%	74%
I sleep better	47%	65%
My wellbeing is better	52%	69%

[10] One year of Breathing Space: Initial findings from StepChange (2022): Breathing-Space-one-year-on-initial-findings-StepChange.pdf

Clients taking Breathing space showed some differences to non-Breathing Space clients: Breathing space clients had similar demographic profiles to non-Breathing space clients, but tended to have larger total debts on average, more creditors on average and were more likely to say they experienced enforcement action by creditors (20% compared to 11% non-Breathing Space clients).

Survey Respondents gave multiple reasons for not taking Breathing space: Between 5-7% of people seeking debt advice from StepChange entered the Breathing Space scheme, but this was about 20% of people who completed full debt advice (perhaps suggesting that Breathing space has encouraged people to remain engaged with debt advice). Initial analysis of our survey data does not show a single stand out reason why people decided not to take up Breathing Space, however we are able to identify two issues that may highlights barriers to access.

- Our survey data suggests that some clients found it difficult to gather the information necessary to get through the application process. Nealy 1 in 3 (31%) Breathing Space clients found it difficult finding the details of their debts and 2 in 5 (43%) Breathing Space clients found it difficult contacting creditors for information. Here it is notable that we had to increase the information we require from clients beyond the basic mandated application data in response to the huge and unmanageable volume of information requests and queries from creditors. So there may not be a simple way to reduce the information burden on clients without also considering the processes for information exchange and creditor queries in the regulations.
- Analysis of our broader client data shows 30% of non-Breathing space clients had a negative budget compared to 17% of Breathing space clients. We believe this is likely to be a consequence of the requirements in Regulation 24(5) for debt advisers to consider whether the applicant is eligible for a debt solution, would benefit from a debt solution and that the moratorium is necessary to assess and advise on an appropriate debt solution and put this in place. For negative budget clients (particularly those with large negative budgets who will be unable to keep up with ongoing liabilities), one or more of these conditions may not apply.

A significant proportion of Breathing Space clients said 60 days was not enough: 27% of clients surveyed said that their solution wasn't in place before the end of Breathing Space. 69% of these clients said they thought an extension of less than 3 months would have been sufficient to get their solution in place.

Another 47% of clients surveyed said that 60 days was not long enough for their situation to stabilise and to make progress with their debts. Further analysis may show that this includes some of the Breathing Space clients with negative budgets. This finding is important as it suggests a number of clients are exiting Breathing Space before their financial situation has stabilised enough to enter a long-term debt solution. Here, our survey data suggests that outcomes for people trying to make arrangements with creditors at the end of breathing space were not always good. For instance, 23% said they had been unable to reach an agreement on a priority debt and 52% said they had not been able to reach agreement on a credit debt. 56% of clients who said their financial situation had not stabilised enough to make progress with their debts after 60 days Breathing Space said they thought an extension of 6 months or less would give time for their situation to stabilise.

Conclusions – what may encourage greater eligibility / applications to the scheme?

- ***We would urge the government to consider changes to the eligibility conditions for the scheme, for instance simplifying eligibility condition considerations in Regulation 24 (5) a) (ii), (iii) and (iv) to the consideration that the application would benefit from the moratorium.***
- Reducing the information burdens on Breathing Space applicants could help increase the number of applications, but there may be little scope to do this through changes to the information

requirements in the Regulations without broader changes to address administrative burdens to debt advice providers in the Regulations. We will address this in our response to the next question.

- Here we note that StepChange delivered around two thirds of Breathing space applications in the first year of the scheme. The SDRP impact assessment cites MaPS forecasts for debt advice supply at around 2.2 million in 2021-22. If all debt advice providers processed applications for 5% of people contacting them for advice then the 2021-22 Breathing space applications total might be around 110,000, a 60% increase. ***Given the benefits highlighted in the initial findings of our evaluation research, we would urge the government to consider the advice provider barriers such as administrative burden, funding requirements (the additional costs of breathing space being unfunded) and perceptions on the client benefits of the Breathing Space scheme.***

Conclusions – delivering better debtor outcomes.

Our evaluation research has found that lower income / negative budget clients are disproportionately excluded from the Breathing Space scheme; and that a significant proportion of clients needed more than 60 days for their situation to stabilise enough for a longer term debt solution to be possible. It seems clear that StepChange clients who entered Breathing space needed the scheme protections, and this will also be true for clients unable to enter Breathing space or coming out of the scheme without a long-term solution.

Therefore we urge the government to consider ways to develop the Breathing space scheme to deliver better outcomes for people in need of the Breathing space protections. ***The government should consider introducing a targeted extension of the 60 day Breathing Space period where this would support people who need more time to enter a solution or stabilise their financial situation.*** Amending the eligibility rules to open up the scheme to more low income / negative budget debt advice clients would also deliver better debtor outcomes, particularly when combined with targeted extensions of the Breathing Space period.

Question 42: Are there any other changes to the 2020 regulations that you believe, and can evidence, would significantly lower the administrative resource required to make or deal with applications for breathing space, for debt advice providers and/or creditors?

StepChange has previously raised concerns about the high administrative resource required to make or deal with applications for Breathing Space. We highlighted how at one-point StepChange had to commit 40 FTE to deal with creditor queries about Breathing Space applications. While this particular administrative burden has reduced to a more manageable level, making and dealing with Breathing space applications remains a significant unfunded resource cost.

Therefore we welcome the opportunity to look at the 2020 Regulations again with a view to reducing administrative burdens and related problems that have arisen over the first year of the scheme. In this respect we would highlight the following issues.

Regulation 14 and 15 – the 'add debt' process

Regulation 14 and 15 combine to create a three-step triangular process when a creditor identifies a debt owed by a person that a Breathing space moratorium relates to. Regulation 14 requires the creditor to notify the debt advice provider of the debt (and contact details of a creditor by assignment). Regulation 15 then requires the debt advice provider to provide the Secretary of State with details of the debt. The Secretary of State must then provide the creditor with notification of the moratorium.

The first administrative burden for debt advisers is that Regulation 15 (7) provides that the Regulation 7 'Breathing space protections will not take effect in respect of an 'added debt' until the Secretary of State has notified the creditor of the moratorium. This places debt advice providers under an obligation to deal with

add debt notifications from creditors as quickly as possible, which a can quickly become unmanageable, possibly causing client detriment, if we receive a high volume of add debt requests. **Therefore we urge the government to consider amending Regulation 15(7) to make clear that a creditor adding a debt under Regulation 14 should treat that debt as covered by the moratorium from the moment a creditor identifies a debt as a result of the search required by Regulation 14 (1).** This would also give the debt advice provider more time to contact their client to confirm whether they owe the added debt, which would reduce the administrative and management burden.

As with our comments above on Regulation 75 (12) of the proposed SDRP regulations, ***we would ask the government to amend the add debt process to enable and require the creditor to notify the debt advice provider and Secretary of State at the same time***. If the Creditor has reason to believe that the added debt is not a qualifying debt, this could be highlighted in the notification. Regulation 15 (2) could be amended so that debt advice providers would only be required to consider non-eligibility if the creditor highlights this.

Creditor reviews and information portal:

We previously highlighted problems with creditors using the Regulation 17 review process incorrectly and this creating a significant resourcing challenge. This problem has since declined, perhaps as a result of strengthened guidance and creditors getting used to the Breathing Space scheme rules. However in the absence of an electronic portal for creditors and debt advice providers to exchange information, we are still having to deal with creditor queries on a time-consuming manual basis. Here we note paragraph 7.9 of this consultation that sets out the government's intention that the SDRP electronic system will have the functionality to support the timely exchange of necessary information between creditors and debt advice providers. ***We would urge the government to review and improve the functioning of the Breathing space electronic system at the same time.***

At the same time we would urge government to ensure that the SDRP, Breathing Space and DRO electronic systems align key information, like creditor names and contact detail data as closely as possible to avoid 'ad hoc' creditor problems. StepChange has had to invest resources into aligning our systems to the Insolvency Service Breathing space system, but this is problematic where there are differences with other Insolvency Service systems, like the DRO application portal.

Regulation 27 – Midway reviews

Regulation 27 requires debt advice providers to conduct a midway review in a relatively narrow window between the 25th and 35th days following the start of the moratorium, which is operationally difficult. Given our evidence of 90% of clients entering Breathing Space going on the complete full debt advice and around 40% going on to a debt solution, we question whether the midway review is really necessary in every case. ***Therefore we would urge the government to amend regulation 27 to replace the midway review requirement with a discretion for debt advice providers to review, and if necessary cancel, a moratorium where we believe an applicant has disengaged form debt advice.***

Regulation 26 - Introduce a broader power to cancel Breathing Space with a clients' agreement

Regulation 26 providers that a Breathing Space moratorium can only be cancelled at the end of the 60-day period, under Regulation 21 (death of the applicant), Under Regulation 18 & 19 (creditor / court review) and under Regulation 27 (midway review). Our experience of dealing with Breathing space applicants is that this is too restrictive.

For instance we see problems where clients seeking to enter a Debt Management Plan have had proposals rejected by creditors because their systems cannot record two debt solutions simultaneously. While we

believe this is an issue for creditors to resolve, there is the possibility of some client detriment so an ability to cancel the moratorium in respect of some or all debts, with our clients' consent would be a workable solution. There may be a number of other reasons where it may be appropriate to cancel Breathing Space with the client's agreement before or after the narrow midway review window, such as eligibility issues post application, errors in the application or the client wishes to exit Breathing space early on reasonable grounds. ***Therefore we urge the government to consider amending Regulation 26 to introduce a power for debt Advice providers to cancel Breathing Space in respect of some or all debt at any time with the client's consent.***

Regulation 23 – Ability to enter multiple addresses to align with Regulation 14 (6) (c) of the SDRP Regulations

Regulation 23 requires a Breathing Space application to include the applicant's usual residential address. However we believe that creditor queries in response to moratorium recommendations could be reduced if there was a facility to add other addresses associated with a debt that an applicant believes or knows may have been provider to a creditor. Therefore we urge the government to align the Breathing Space electronic system to the SDRP system suggested by Regulation 14 6 (c) of the SDRP Regulations to allow more addresses to be added where this will help administration of the scheme.

Checking for Insolvency solutions

We would urge the Insolvency Service to develop an API allowing an automatic search of the Insolvency Regulation to help compliance with the requirement to check that a Breathing Space applicant is not listed as being on an insolvency solution.

Question 43: Do you have any further comments on or concerns about the breathing space regulations and the amendments being proposed?

We have no further comments at this time.

Question 44: For those eligible for both a SDRP and a DMP, would you expect to still recommend a DMP in any circumstances? If yes, what proportion of those eligible for both solutions would you expect to still recommend a DMP?

Question 45: Would you recommend SDRPs to those who would otherwise enter insolvency (e.g. DRO, bankruptcy, IVA)? If yes, what proportion of those clients would you instead expect to recommend a SDRP?

Question 46: Would you recommend SDRPs to those who are currently not recommended either a DMP or an insolvency solution (e.g. those entering into informal solutions)? If yes, what proportion of those clients would you instead expect to recommend a SDRP?

Question 47: For each of the above, why would you expect to recommend or not recommend a SDRP over the alternative solution (DMP, insolvency or informal solution)?

These questions require us to anticipate our advice policy in relation to recommending SDRPs over other solutions.

StepChange's advice policy is firstly to assess which solutions are available to each client based on their financial statement and other information they have provided us. Once we have determined the available solutions, we make a recommendation based on a number of factors to determine solutions that are suitable

for a client’s needs and circumstances. For example, if a client wishes to become debt-free as quickly as possible, we would recommend an insolvency solution unless it would be detrimental to them to do so (such as where they could clear their debt more quickly than the length of the insolvency solution). If a client tells us they want to protect their home, we would tend to prioritise repayment solutions over bankruptcy, which could put their home at risk.

We anticipate that the additional statutory protections offered by SDRP compared to DMP should result in us recommending SDRP to the majority of clients who are currently recommended a DMP. However this assumption is subject to the data presented in our response to Question 11 showing a significant number of clients being placed at greater risk of their plan failing by the limited flexibilities in the proposed SDRP rules.

Assuming that we were confident that changes to the scheme design of the payment flexibilities made the SDRP a potentially suitable product for all clients seeking a payment solution, then there may still be some circumstances where a client is recommended a DMP, but these are likely to be exceptional. For example, where a client has a debt to a family member to which they are unwilling or unable to reduce payments. Depending on the guidance for SDRPs of over seven years, we also expect to continue recommending DMPs to clients with repayment terms of between seven and 10 years, where insolvency is undesirable or inappropriate, which accounts for around 25% of current DMP recommendations (see our response to Question 3).

We anticipate that most clients who are currently recommended an insolvency solution will continue to be recommended an insolvency solution once SDRP is introduced. Clients who are currently recommended bankruptcy or DRO do not generally have sufficient disposable income to make a repayment proposal viable; clients with repayment terms of under seven years would not normally be recommended an IVA in any event.

However, given that the consultation highlights the possibility of creditors granting voluntary debt relief in respect of debts within a SDRP, it is possible that this might create some clients recommended an IVA to consider a SDRP instead if creditors signalled that a degree of voluntary debt relief was available. This might be attractive to some creditors, given the lower relative cost of SDRP and might be attractive to some clients given the uncertainties around debt relief in IVAs. This is highly speculative, given the early stage of development of the SDRP scheme.

Currently we do not offer DMPs to clients who have only priority debts. This represents a small but growing proportion of our client base. We anticipate that we will be able to offer SDRPs to many of these clients, allowing them to access a formal repayment debt solution for the first time.

Question 48: Is the assumption that the SDRP caseload will be reduced by 50%, 30% and 10% in its first three years respectively due to a period of transition a reasonable estimate? How long would you expect the scheme to take to reach a steady state and what impact would you expect this transition phase to have on the scheme?

As outlined in the government’s own impact assessment document, one key factor impacting the caseload assumptions will be whether advice is demand or supply limited. The ongoing uncertainty around the award of the MaPS debt advice tenders has led to a significant contraction in free to consumer advice supply from levels that were seen during 2021 when the sector had the benefit of pandemic-based funding. The recent emergence of inflation has eroded the real value of FSC repayments which now provides a secondary limiting drag upon advice supply. It is therefore likely that any demand uptick can only be met in the short-term via an increase in the digital only serviced volume and therefore estimates of the short-term growth in supply may well be overstated.

The emergence of inflation is also changing the financial situations of clients who are approaching us for advice. The IA document called out that circa 60% of clients were recommended a recognised debt solution (either DMP or insolvency), but this is also reducing in recent months with the growth of deficit budget clients and the changes in eligibility of DROs implemented during 2021

The fact that a similar statutory product (DPP) has been offered in Scotland since 2004 has given national debt advice providers the ability to familiarise themselves with a statutory product and should smooth the transition, but in the absence of very early year statistics from the AIB it is worth noting that there was roughly a 6% year on year increase in DPP approvals between 2015/16 and 2018/19 (source AIB statistical release), but yet a 44% increase over 2 years between 2018/19 and 2020/21 which happened to coincide with the addition of a 12% fee to advice providers over and above the existing 8% payment distributor funding which took place in November 2019. This suggests that any period of transition will also be influenced by the funding structure attached to SDRP and the fees available to providers of possible substitutable solutions like IVAs or fee charging DMPs. This may prove as important as familiarisation of the rules and eligibility of any new product.

Question 49: What proportion of an individual's debt would you expect to be repaid in a successful SDRP? How frequently would you expect voluntary debt write off to occur and to what degree?

The definition of 'success' in relation to an SDRP will depend on the client's precise circumstances, and their aspirations upon entering the plan. While we expect that many clients will hope to clear their debt in full using an SDRP, we also anticipate that some will use it as a temporary solution, perhaps as a 'stepping stone' to recovery, or as a short-term way of managing debt during a period of temporary financial difficulty.

We would expect creditors to apply their usual approach to forbearance and debt write-off during the course of an SDRP. This means that it would not be common but would certainly be appropriate in some circumstances. We would be particularly likely to request write-off where a client has made several years' worth of payments and has had a negative change in circumstances that means the plan is no longer viable. In these cases we would expect creditors to consider voluntarily writing off debt, rather than expecting the client to embark on another lengthy debt solution that may extend the length of their problem debt situation, further damage their credit file, and inhibit their financial recovery.

We have recently developed more detailed analysis showing the repayment rate of successful DMPs showing a blended average repayment rate of around 88.5% of the starting balance.

Question 50: If you expect the level of repayment to be different in SDRPs compared to DMPs, what impact would you expect that to have on your clients in SDRPs?

At this time, we are unable to assess the comparative impact on clients of SDRPs and DMPs respectively. However our response to Question 10 and the questions on the Breathing Space scheme highlight the value and wellbeing benefits StepChange clients received as a result of the statutory protections in the DAS DPP and Breathing Space schemes.

We have concerns that the lack of flexibility in relation to SDRPs as proposed (see questions 3 and 11) could have a negative impact on completion rates in SDRPs. Without sufficient flexibility to account for the common fluctuations in disposable incomes observed among DMP clients, it is likely that SDRPs will fail more often, leading to more negative outcomes for these clients, including a resumption of interest, charges and enforcement activity.

Question 51: For those who do not complete their DMP and subsequently enter another solution, to what degree is their repayment reduced, if at all?

We do not have sufficient data on the movement of clients between debt solutions and the consequences of this for repayment so we cannot answer this question in detail. However, if people leaving a DMP enter an insolvency solution, such as a DRO, then debt repayment will be reduced.

Question 52: Is it reasonable to assume that the benefit to a debtor from a debt repayment solution is proportionate to the amount of repayment that the solution delivers? For instance, would a SDRP that yields 50% repayment be half as beneficial to a debtor as one that yields full repayment?

We do not accept that the benefit of SDRP to a client can be quantified in these terms. Many of the benefits of SDRP are unrelated to the amount repaid – for example, the benefits to the client's wellbeing that come from a sense of having their debts under control and being protected from interest, charges and enforcement action.

StepChange's Client Outcomes surveys point to some of these less tangible benefits of receiving debt advice and entering a debt solution. We have tracked our clients' progress against Office for National Statistics wellbeing measures at 3, 9 and 15 months after debt advice, and found that clients who feel they are making progress with their debt problems report better wellbeing and lower anxiety as time passes.

Question 53: How beneficial to your clients do you expect the protections of the SDRP to be?

Our responses to question 10 and 41 set out evidence from StepChange clients highlighting the benefits they got from the statutory protections of the Debt Arrangement Scheme and Breathing space scheme respectively. We would expect similar benefits to be delivered by SDRP.

In many cases, protections equivalent to those conveyed by SDRP are voluntarily applied by creditors to a client's debts when they enter a DMP or other managed debt solution. However this voluntary forbearance is not guaranteed or universal. For instance our recent report on debt advice outcomes during the pandemic found 21% of StepChange clients responding to our outcomes survey had experienced letters or phone calls from creditors three months after debt advice asking for higher debt payments. 30% of clients who were recommended a DMP said this had happened. Before the pandemic 27% of clients responding to our outcomes survey said they needed support from StepChange with issues relating to creditors and debt collectors. Interestingly this dropped to 21% during the pandemic, perhaps due to reduced collections activity or the additional forbearance standards developed by regulators.

Analysis of StepChange DMP client payment histories from a sample of nearly 14,500 DMPs commencing in 2014-15 found around 29% of these clients had repaid more than 100% of their starting DMP balance. This could be because additional debts were added later, but it may also indicate further interest and charges being added to these debt balances.

The statutory protections applied by SDRP will catch debts that are often problematic for DMP clients, particularly priority debts, and this is to be welcomed. It will put creditors on an equal footing and reduce anxiety for clients, knowing that all of their eligible debts are protected.

However, we have concerns that the scheme as currently designed will not be as effective as it could be. For example, the exclusion of debts such as universal credit advances will cause unnecessary financial hardship to clients who are otherwise benefiting from the protections of SDRP (see question 4). The lack of flexibility in the scheme (see question 11) will lead to plans failing unnecessarily, increasing debt advisers' caseload, providing a lack of certainty for creditors and impacting the client's wellbeing.

Question 54: How much would you expect it to cost to familiarise yourself with the scheme, and to train debt advice providers within your agency?

We expect there will be a period where our advice policy and operational change teams will review the final scheme rules, seek further clarifications as necessary and then look to devise an implementation plan. We would anticipate this initial preparatory work to take a period of up to 3 months with an internal cost allocation of circa £30-50k.

A large element of the plan will be to train debt advisors both new and existing. For the existing cohort, building on experience we have in terms of training out the Scottish statutory solutions to our Scottish client facing teams, we believe this will take approximately 2 weeks. If this is applied to an England and Wales advisor cohort in the order of 250, this is circa 500 weeks or the equivalent of 10 FTE. Cost on that basis would be circa £300k for advisor time away from client contact and a direct training cost in the order of £40-50k.

The upfront scheme familiarisation and training could be expected to cost up to £400k.

There would then be additional run rate costs within advice (as opposed to servicing of the SDRP solution), both of any incremental time to train new advisor cohorts and any incremental advice durations that the addition of a new product may generate in terms of post recommendation explanation, particularly of the differences between an SDRP and a DMP.

For new advisor cohort training, we would hope to be able to absorb the additional product information within existing training academy durations. For the latter, we consider where a client could benefit from either an SDRP or a DMP it would be reasonable to expect an average duration increase of 2 minutes to adequately respond to those clients who choose to interact with an advisor post receiving their recommendation. Based on an annual advised client cohort of 180,000, we expect this to equate to circa 0.5 FTE and therefore an additional annual estimated advice cost of circa £15k.

Question 55: If you expect to develop and implement new systems to administer SDRPs, can you estimate what the upfront and ongoing costs of this might be?

We will not be able to fully understand the costs of developing and implementing new systems to implement SDRP until we have had detailed conversations with the Insolvency Service about business requirements, systems architecture, integration with our systems and functionality. However our experience of implementing the Breathing Space scheme suggests SDRP implementation costs could be in the region of £2.5 million.

Question 56: Would you expect the ongoing administration costs of SDRPs to be higher than that of DMPs? How much would you expect it to cost to set up and maintain a SDRP?

We will not be able to fully understand how the ongoing administration costs of SDRPs will differ from DMP administration costs until SDRP scheme policies and systems are fully developed.

The impact assessment calls out DMP annual administration costs of £107 per plan and attributes a small increase to £112 for SDRP. This is where the design of the INSS system, success of API's in reducing levels of manual intervention and the setting payment behaviour criteria in respect to breaks and variations will be key. If these are set at overly burdensome levels, then both the cost to administer will increase and the expected benefits of improved completion rates will be brought into jeopardy, as the DAS DPP completion benchmark is based on more payment flexibility once people are on a DPP.

Updating costs to reflect a full absorption cost based on 2022 actuals delivers actual administration costs of circa £112 per DMP, which is a reasonable reflection of inflation since the original submissions. However the cost-of-living increase is starting to drive additional client contacts and this may push administration costs higher but could be expected to be seen across both SDRP and DMP outcomes.

In respect of the increment applied to SDRP administration costs, learnings from Breathing Space suggest that early product lifecycle cost increases would be substantially higher than 5% whilst all parties familiarise themselves with parties and whilst technology undergoes inevitable iterations to arrive at an end state.

Since initial impact assessments were undertaken, we have seen the administration processes and functions surrounding the DAS product mature, albeit at a total portfolio level that is only 2% of the current DMP book. This suggests that direct costs are in the order of £140 per plan and fully absorbed administration costs taking the cost up to between £194 and £265 depending on method of allocation. The increased direct cost represents the increased complexity of payment distribution and of ongoing variations.

SDRP will be subject to different economies of scale as the portfolio increases in size, and we will only be able to be understand per plan administration costs fully post implementation. However, data from DAS DPP suggests that the current assessment of a £5 additional cost to administer SDRP compared to DMP assessment is likely to be inadequate in our view. Instead we estimate year 1 average SDRP administration cost at £194 which includes an allocation of overheads on a per plan basis across all repayment solutions.

Applying just this increased cost of administration to the initial income adjusted scenario set out above suggests a SDRP funding rate of about 14% would be required to prevent a reduction in funding. This highlights the importance of ensuring that the costs of additional SDRP requirements on debt advice providers are minimised as much as possible. Again we would ask the government to keep SDRP administration costs under review.

Question 57: Would you expect to act as a payment distributor for SDRPs you administer? If so, what additional systems or administrative costs do you anticipate as a result?

StepChange would expect to act as a payment distributor for plans we administer and have been doing so for many years. So we already have extensive systems, processes and resources in place to distribute payments in respect of DMPs. We cannot currently estimate what the additional administrative costs of distributing payments for SDRP might be. However ensuring the SDRP systems developed by the Insolvency Service integrate with our systems seamlessly and at minimum additional cost will be key.

Question 58: Would you expect the SDRP to have any further impacts, positive or negative, on those with protected characteristics that have not been identified by the impact assessment?

At this time we have not identified any additional impacts that the scheme will have on clients with protected characteristics.

Question 59: Do you agree with the assumption that the impacts of Covid-19 on consumer debt levels and on debt advice demand will have receded by the time the SDRP launches? If not, which impacts do you expect to remain and to what degree?

This is a difficult question to answer with any degree of confidence. A recent survey of StepChange clients found nearly a third of respondents (32%) saying they had been struggling with debt for more than two years before seeking debt advice, with 13% saying they had been struggling for more than five years. This suggests that any suppressed debt advice demand from the pandemic may take time to unwind. The current cost of living pressure on household budgets is likely to create its own debt advice demand. In January 2022, 9% of new clients cited the increased cost of living as a reason for their debt, this has risen steadily every month to

16% in May 2022. So it is difficult to predict future debt advice demand, and even more difficult to segment that demand into clients who may be suitable for specific solutions such as the SDRP.

For creditors:

Question 60: How much do you currently contribute to pay for the administration of DMPs that you are involved in?

Question 61: How much would you expect it to cost to familiarise yourself with the scheme, and to further disseminate that understanding as necessary?

Question 62: If you expect to develop and implement new systems to administer SDRPs, can you estimate what this might cost?

Question 63: What level of income do you currently receive from those in DMPs as a result of interest, charges or fees being applied to the debts that they are repaying?

For all:

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

We do not have any further comments at this time.