Financial Services Bill 2020 – Clause 32 Statutory Debt Repayment Plans and the Debt Respite Scheme.

StepChange Debt Charity briefing

Summary

Clause 32 makes amendments to sections 6 and 7 the Financial Guidance and Claims Act 2018 (the legislation that created the Debt Respite Scheme). StepChange Debt Charity has warmly welcomed the Debt Respite Scheme that will bring much needed support and protection to people seeking advice about problem debts.

The Debt Respite Scheme has two connected parts, both equally important. The first is the Breathing Scheme that is due to start on May 4th, 2021. The second is the Statutory Debt Repayment Plan (SDRP), which Clause 32 of this Bill addresses.

The SDRP scheme introduces a new statutory debt solution in England, Wales and Northern Ireland focussed on debt repayment rather than insolvency. By introducing statutory protections for people on a plan to repay their debts, the SDRP will give people a much-needed route to recovery from the harm of spiralling debt problems.

Clause 32 clarifies that the SDRP provisions will apply to government debts, which is a vital part of the help that people need. Clause 32 also creates a power for debt advice and administration of the SDRP to be funded by creditors holding debts included in a SDRP.

StepChange Debt Charity strongly supports the Debt Respite Scheme. Breathing Space will start helping people next year and we look forward to the introduction of the SDRP as soon as practically possible. We ask Parliament to support Clause 32 as an important step towards this.

Background

StepChange Debt Charity is the largest specialist debt adviser helping people across the UK. Last year 635,000 people contacted us for help with problem debt.

StepChange has warmly welcomed previous legislation in 2018 (the Financial Guidance and Claims Act 2018) on the Breathing Space Scheme and the SDRP. Around half of clients experiencing problem debt say they had delayed seeking help for a year or more prior to contacting StepChange. When surveyed, clients say they would have sought debt help earlier if they had known this would give them respite from key drivers of worsening debt, such as further default interest, charges and debt recovery action. Our evidence points to the importance of statutory protections as a key way to alleviate the harm of problem debt and put people on the road to financial recovery.

StepChange has therefore strongly welcomed regulations implementing the Breathing Space Scheme which recently passed through parliament with broad cross-party support. The Breathing Space Scheme will give people seeking debt advice 60 days respite from interest, charges and enforcement action. Breathing Space gives people time and space to work with a professional debt adviser to agree a longer-term solution on their debts.

The Financial Services Bill makes provision for the SDRP part of the scheme which will offer a new statutory debt solution in England, Wales and Northern Ireland focussed on repayment rather than insolvency. Our experience of advising and supporting people through the similar Debt Arrangement Scheme in Scotland tells us that the SDRP will give people a much-needed route to recovery from problem debt. SDRPs will be available to people seeking debt advice who have a realistic chance of repaying their debts within a reasonable period – suggested in the HM Treasury policy statement as 7 years on average and not longer than 10 years.

The Statutory Debt Repayment Plan (Clause 32)

Clause 32 is a necessary step towards the introduction of the SDRP. Subsection 3 amends Section 6 and 7 of the Financial Guidance and Claims Act 2018 (FG&C 2018) by inserting a new subsection 4A into Section 7 FG&C 2018. This has three parts.

Subsection 4A (a) allows regulations to make provisions on the circumstance where creditors can object to being included in a plan and when the terms of the plan can be imposed on creditors. It is important that the SDRP protections are capable of applying to all creditors with an eligible debt on a SDRP, including public sector creditors.

The HM Treasury policy statement sets out grounds for creditors to object and procedural safeguards on how objecting creditors can be bound into the terms and protections of a SDRP. This includes a proposal for an SDRP to commence where no more than 25% of creditors by value object to the terms of a SDRP (mirroring existing provisions for Individual Voluntary arrangements). If more than 25% of creditors by value object, the Insolvency Service will conduct a 'fair and reasonable test' to determine if these creditors should be bound by the SDRP terms and protections (mirroring a similar process in the Debt Arrangement Scheme in Scotland).

The HM Treasury policy statement suggests that creditors would be able to object on the level of payments they would receive under a SDRP. However it is extremely important that this ground to object is framed within the context of existing debt advice methodology and budget standards used to determine payment offers; otherwise the scheme could become unworkable.

Subsection 4A (b) would clarify the protections set out in Section 6 and 7 of the FG&C Act 2018, ensuring that creditors must accept a lower than contractual payment and are not able to seek recovery of the debt by other means.

Subsection 4A (c) inserts a funding power into Section 7 FG&C Act 2018, requiring creditors to fund the operation of a SDRP. This is similar provisions for funding the Debt Arrangement Scheme in Scotland and follows on from the *Independent review of the funding of debt advice* ("Wyman Review") funding recommendation that all creditors who benefit from payments under a debt repayment plan should contribute pro-rata to the costs.

Stepchange Debt Charity supports the introduction of a statutory funding mechanism to meet the cost of providing the SDRP scheme. HM Treasury has set out a clear intention that debt advice organisations will not be able to charge people seeking help with debts for delivering any aspect of the plan. We strongly support this proposal which would mean that all of a person's payments will go to reducing their debts, in stark contrast to the high fees that some commercial debt management companies may charge. It is important to ensure that the wording of these amendments does not allow any opportunity for people in financial difficulty to be charged for using the SDRP scheme.

Broader questions:

1. **The government has not yet set an implementation timetable**

The Breathing Space element of the Debt Respite Scheme is due to be implemented in May 2021, but the government has so far only spoken of implementing SDRPs over a 'longer time frame' with no clear timetable. We are keen for the SDRP to be implemented and supporting people as soon as practically possible. As debt advice providers we also need a clear timetable to plan the changes we will need to make to deliver the SDRP scheme. So we urge the Government to move quickly to set out an implementation timetable.

2. **Debt advice funding through the SDRP needs to connect to a broader long-term strategy for funding debt advice.**

Currently StepChange Debt Charity receives the great majority of our funding from two sources. The first is "Fair share funding" whereby some of the creditors receiving debt repayments through Debt Management Plans (DMP) donate an amount equivalent to a proportion of the debt repayments they receive., The second is grant funding allocated by the Money and Pensions Services that is sourced from a statutory levy on consumer firms.

Our concerns is that under HM Treasury's funding proposals, our modelling suggests that we will receive a reduction in funding under the SDRP scheme in comparison to existing *fair share.* As our fair share funding covers more than the cost of delivering DMPs (it allows us to advise a broader range of clients than just people suitable for a DMP or in future a SDRP), a reduction in funding would put our broader charitable activities under pressure.

We generally support the principle that the statutory funding requirement on creditors for the SDRP scheme should be directed at the costs of delivering that scheme. However this may only be sustainable in the context of a broader long-term strategy for debt advice funding.

3. **The SDRP will cover public sector creditors, but wider reform of debt management practices will also be needed.**

We strongly support the Government's intention to include debts owed to public sector creditors (including central and local government) in the SDRP protections. Previous work by the Treasury Committee and the National Audit Office have found problems with the current debt management practices of public sector creditors.

However not every person with debts owed to public sector creditors will be eligible for a SDRP, so there remains a separate and pressing need for better standards and oversight of public sector creditors' debt management practices. We are hopeful that the recent Cabinet Office consultation on this issue will result in progress. We are also waiting for an overdue response from the Ministry of Justice on bailiff reform, where we believe there is an urgent need for effective independent regulation to bring the enforcement sector to the same level of oversight we see in other areas of debt recovery.