

# Money Advisor Update

Summer Edition 2011

We are now finished the 'Journey to Recovery' series of training days that Grant Thornton provide for the free money advice sector every year. Before we began, I believed that it would be very difficult to follow the reaction we received to the Psychology of Debt research. Little did I know that the response that has been generated so far would mean that my email inbox would be continuously overloaded.

The research undertaken on the Psychology of Debt last year made us acutely aware that – as well as giving money advice – most face to face advisors provide support to their clients beyond this.

This year we have focused on the fact that in giving advice, we are also providing our clients with the confidence to control the financial crisis they face as well as providing a support

system that is far more meaningful than simply dealing with debt. This has been developed to produce a programme entitled 'Mind over Money' (MOM) which has been discussed in detail at our training days and has triggered quite a response from the attendees, particularly in relation to group theory.

All these types of social outcomes are very rarely captured in funding proposals and it is my belief that the content of both this and last year's training days will assist with maintaining and obtaining the necessary funding required to ensure that free money advice remains a key part of dealing with debt in the UK.

I was delighted that on 8 February 2011 our research on Psychology of Debt was quoted in the key House of Commons debate about the future of debt advice. It confirmed that face to face debt advice has wider positive implications to clients and goes



**Gareth Neill**  
Partner

well beyond simply producing debt statistics. I am hoping that the 'Journey to Recovery' will have the same impact, and judging by the response from MPs so far, I think this will succeed.

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## Contents

- 01 Welcome from Gareth Neill
- 02 Income Payment Agreement
- 03 Case Law - recent cases
- 04 A debt to society
- 05 Latest Insolvency Data
- 06 Contact us

# Income Payment Agreements / Orders

*continued from previous page...*

Among the topics that we are covering this year and that have gained the most interest are:

- increase in those from the traditional 'middle classes' requiring debt advice
- increase in the percentage of older age people requiring debt advice
- 12 Step 'Mind over Money' debt recovery programme, developed in association with one of the leading psychologists in the UK
- utilisation of 'group meetings' to speed clients recovery from the impact of debt
- framework to record 'outcome' based reporting measures to assist funding proposals.

If you were able to attend, we hope you enjoyed the seminar and would welcome any feedback you may have. We will of course keep you up to date on any future seminar dates we have.

The official receivers' tough new policy of 'take every penny' has now replaced the previous bands and percentages policy. This new approach may prove unrealistically tough, and indeed will require an attention to detail which the understaffed Official Receiver (OR) may not be able to bring to bear. It makes bankruptcy significantly less attractive to debtors with surplus income, while at the same time not appearing much more attractive to creditors. This is because there must be a risk that it will result in disagreement between the OR and the debtor rather than significantly more money going into the estate. The percentage approach gave leeway for a broad brush while the 'every last penny' approach does not. It seems probable that many debtors will refuse to sign IPAs on the new terms forcing the OR into court, again proving to be a resource issue, with the courts being notoriously soft on bankrupts in relation to IPOs. Where the debtors do sign, there will undoubtedly be many more defaults,

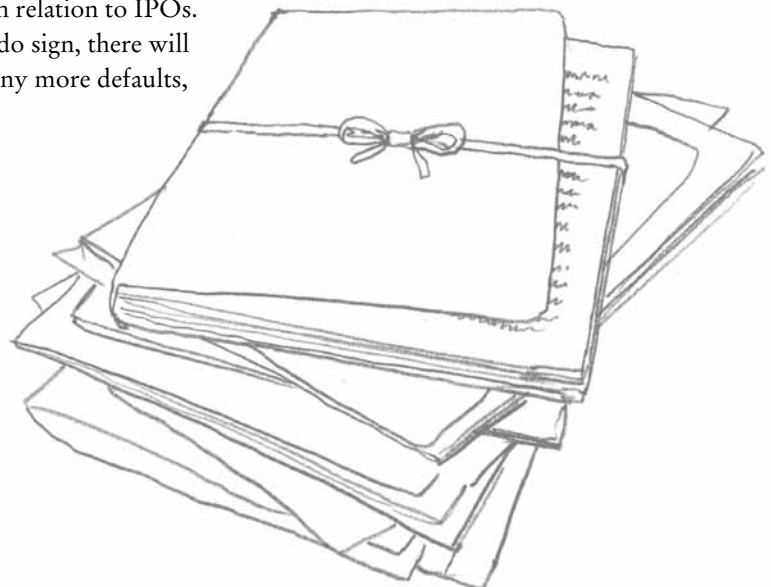
another resource issue for the OR needing to follow these up.

The previous percentages might well have been too generous to the bankrupt, but increasing those percentages may well have proved a far more effective policy than adopting this 'empty his pockets' approach.

The OR's policy as to how surplus income should be reckoned can be read in his technical manual which is to be found through the freedom of information link on:

[www.insolvency.gov.uk](http://www.insolvency.gov.uk)

The AiB currently has no published policy on this point.





# Case Law

## Recent Cases

### **Child Maintenance and Enforcement Commission v Beesley and Whyman**

The Court of Appeal has reversed the decision of the Chancery Division (PIF 21, November 2010), ruling that arrears of child maintenance are not capable of being subject to an IVA as the Commission has the power to enforce and collect maintenance payments, but has no power to compromise and therefore cannot be bound into a compromise by the votes of other creditors. The Chancery Division had set aside the IVA concerned on the basis of unfair prejudice, but this is a more powerful decision taking child maintenance arrears entirely outside the potential scope of an IVA. (As noted previously, in Scotland, there is a key difference of law in that arrears of child support, and matrimonial payments to the extent that they are provable debts, are released upon discharge from sequestration.)

### **Delaney v Chen - Court of Appeal**

This case considered a sale and leaseback of a domestic property. The sale was at approximately 75% of vacant possession value, but also with a 20 year lease back. At first instance the transaction was held not to have been at an undervalue (CUG 1058, March 2010). The Court of Appeal has upheld this decision.

### **re Hargreaves (in IVA); Booth v Mond**

Mr Hargreaves had been bankrupt and had failed to pay the full amount agreed under an income payments agreement. At a later date he entered an IVA in respect of new indebtedness. The arrears under the income payment agreement were not mentioned in the proposal. Mr Mond as trustee in bankruptcy claimed the arrears in the IVA, which Mr Booth as supervisor of the IVA resisted on the basis that the arrears were not in the nature of a provable debt. The Chancery Division found in favour of the trustee, ruling that an income payments agreement is contractual.

### **R (Payne and Cooper) v Secretary of State for Work and Pensions**

The Queen's Bench Division held that the right of the Secretary of State to recover overpaid social security benefits by deduction cuts off upon the making of a debt relief order and not at the end of the 12 months when the debts are released. This is in contrast to bankruptcy where the right cuts off upon the discharge of the bankrupt. The reason for the difference is that in relation to a debt relief order s251G provides that after the making of a debt relief order a creditor has no remedy in respect of the debt, whereas in a bankruptcy s285 has the more limited provision that a creditor has no remedy

against the property or person of the bankrupt. The Secretary of State was given permission to appeal.

### **Young v Official Receiver**

In this case the claimant, a litigant in person, suggested that s283A had the effect of re-vesting the home in him after three years even though the trustee had in the meantime disclaimed it. Mr Justice Mann did not have to decide the issue, but could "see some merits for such an argument". S283A does not mention disclaimer as a dealing with the property and it is surely not a realisation. In practice we would most likely choose to re-vest an interest that the bankrupt wanted, but which was of no value to the estate.

# A debt to society

## true cost of problem debt

In November, Grant Thornton commissioned The New Economics Foundation (NEF) to provide an overall figure for the true costs of problem debt to the UK. This cost reflects the negative social, economic and environmental consequences of debt.

Several studies into debt have placed monetary values on the cost of debt to individuals. However these tend to focus on the cost of debt advice rather than the overall cost of problem debt to the UK. It was our objective, when commissioning this research, to understanding the wider impact of debt in order to provide the free money advice sector that gives face to face advice with a platform to make a stronger case to funding sources.

A copy of the report can be downloaded from our Money Advisor

section on the Grant Thornton website ([www.grant-thornton.co.uk/IVA](http://www.grant-thornton.co.uk/IVA)). Simply log on to the Money Advisor section and you will see the report in News and Publications.

The report highlights:

- a brief background to the debt problem in the UK providing key statistics on current levels and reviewing the root causes
- the economic, social and environmental outcomes from the growing debt mountain
- an overall figure for the cost of debt to individuals and wider society by utilising the Social Return on Investment (SROI) valuation methodology and placing financial values on these outcomes.

Among the highlights from the research are:

- Britons have accumulated debt totalling £1.45 trillion\*, 161% of disposable income, and more than the entire value of annual economic activity in the country
- average household debt including mortgages is currently £57,624 and set to increase to £72,341 by 2015\*
- 1 in 3 UK adults have insufficient savings to survive a week without work
- problem debt is not spread evenly across the population – it hits the poorest hardest and is a reason for, as well as a consequence of, poverty and inequality
- lone parents with children have the highest dependency on unsecured debt.

\* Credit Action Debt Statistics. December 2010

## The Future of Face to Face Debt Advice - Group Based Support System?

Grant Thornton are pioneering a highly innovative channel for delivering face to face money and debt advice. This method of giving debt advice will be deployed by our partners within the free money advice sector, who like Grant Thornton believe face to face advice is by far the most effective way of helping people through the crisis that debt creates within their lives.

From our initial research, developing Group focused support has enabled the bureaux in which we

have piloted this project so far, to:

- save time & cost on case work hours
- identify improved benefits for clients recovery from the impact of debt
- allow caseworkers to identify and respond to emergencies quicker, due to reduction in waiting times
- allow one case worker to work with higher volumes of clients
- give an opportunity to use outcomes to enhance funding applications

- give an option to develop 2 tier tariff system for funders; light touch v in depth case work.

Should you be interested in finding out more information on how you can use our research don't hesitate to contact me.

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# Latest Insolvency Data

A new report by Experian has found that middle-class married Britons and skilled working-class people accounted for 11% of personal insolvencies in 2010.

For the second year in succession, people who have bought their council houses account for the vast majority of all clients that have gone insolvent. In summary they are 15% of all insolvencies across the country, representing a 13% increase from last year.

The second highest group of people by usage of insolvency are called 'Suburban Mindset', representing 10% of all records, which is a 15% increase from last year. These types of people tend to live in leafy suburbs, are middle aged and have children.

Grant Thornton provide an information bureau service for the free money advice sector wherein we can provide specific details for every local authority region across the country highlighting the latest insolvency data.



# Contact us

If you would like to find out more about how Grant Thornton can assist you, please contact:



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20263