

## Enquiry of the month

### DRO and goods on HP – update

#### **When the outstanding balance under a HP agreement does not count towards the £20,000 debt limit**

Before the A-Z was published, the policy was that if someone chose not to include a HP agreement in an application, the debt would not count towards the £20,000 debt limit. This is still the position stated in Annex A (page 59) of the DRO A – Z. However, page 25 of the DRO A – Z states:

*“Hire purchase liabilities not scheduled in a DRO application, do not count towards the £20,000 liability parameter when the following are satisfied:*

- *not in arrears*
- *paid by a third party (if payments are more than £50 per month)”*

The DRO has now confirmed that the above situation is the only time a HP liability will not count towards the £20,000 debt limit. The A - Z should be amended in due course. If the agreement is in arrears, then it should be scheduled as a debt.

#### **‘Allowable’ expenditure**

Previous policy was that payments could be included as expenditure if the goods subject to the HP agreement were goods which would usually be excluded under Rule 9.9 of the Insolvency (England and Wales) Rules 2016, and this is still the case according to Annex A (page 59 of the DRO A – Z).

However, on page 26 of the DRO A – Z, it states that if the goods fall under Rule 9.9 payments **might** be allowed and says that there are various other factors that need to be taken into account. Clarification was sought from the DRO Team on why it states ‘might’ in the guidance.

The DRO Team have confirmed that it is the case that if the goods subject to the HP agreement would be excluded under Rule 9.9, that payments would ordinarily be allowed. However, the DRO Team has had some enquiries where large repayments are being made. This is why the A - Z says ‘might’, so the Approved Intermediary can properly consider that the repayments are reasonable and not being made to the detriment of other creditors.

#### **‘Gross value’**

When discussing the £1,000 limit on vehicle value page 26 of the DRO A - Z, it states:

*“Where the payments are in respect of a vehicle, then the debtor must demonstrate that the vehicle would be exempt for DRO purposes (i.e. the residual value of the vehicle at the date of the application was less than £1,000 or the vehicle has been adapted for the use of the debtor as a disabled person).*

*If a debtor has a vehicle that is subject to HP and the liability is not scheduled in a DRO application because there are no arrears payments will not be an allowable expense if the value of the vehicle exceeds £1000.”*

We sought guidance from the DRO Team on what they mean by 'residual value'.

The DRO Team have confirmed that the gross total value is applicable. The DRO Team has also confirmed that the references to residual value will be removed from the next edition of the A - Z to remove any confusion.