

## Enquiry of the month

### How do you record PIP being used to pay for a logbook loan on the DRO application?

We recently dealt with a query regarding Personal Independence Payments (PIP) being used for payments towards a 'logbook loan' (Bill of Sale) secured against the car. The client was considering applying for a Debt Relief Order (DRO) and the adviser was unsure of how to record it on the application.

The adviser had also recorded half the debt as secured up to the value of the car and the remainder as unsecured. The adviser wanted to know if he should tick the box for both to be excluded or to only tick the box to exclude the secured part of the loan.

#### ADVICE AND OPTIONS:

**A.** Section 251A Insolvency Act 1986 states:

*“(1) An individual who is unable to pay his debts may apply for an order under this Part (“a debt relief order”) to be made in respect of his qualifying debts.*

*(2) In this Part “qualifying debt” means (subject to subsection (3)) a debt which—*

*(a) is for a liquidated sum payable either immediately or at some certain future time; and*

*(b) is not an excluded debt.*

*(3) A debt is not a qualifying debt to the extent that it is secured.*

*(4) In this Part “excluded debt” means a debt of any description prescribed for the purposes of this subsection.]”*

Rule 9.2 The Insolvency (England and Wales) Rules 2016 prescribes which debts are excluded and these include fines, student loans, child support and maintenance, damages for personal injury and Social Fund loans. A Bill of Sale ('Logbook Loan') debt it is not an excluded debt but, to the extent it is secured, it is not a qualifying debt.

The question on the DRO application form asking if the debt is an excluded debt is not asking if the client wishes to exclude the debt from the DRO, but whether the debt is one of those prescribed as excluded in Rule 9.2. You would not, therefore, tick that either part of this debt is excluded.

The DRO Team A-Z Guidance says:

*“If the debtor wishes to keep the vehicle and the vehicle is worth up to £1,000 the debt should be scheduled in 2 parts, secured and unsecured, and payments treated as an allowable expense.”*

If the car has a value of more than £1,000 it may still be possible to argue that the repayments are part of *“the amount necessary for the reasonable domestic needs of himself and his family”* (Sch 4ZA, para 7(2) Insolvency Act 1986) depending on the amounts involved and the personal circumstances of your client. In general, the DRO team does not scrutinise the financial statement unless there is an objection by a creditor post-DRO.

Alternatively, it may be possible for a third party to take over repayments.

Remember that if the agreement ends during the moratorium period and ownership of the car reverts to your client, the DRO may be revoked if its value is more than £1,000.