Title: **Exclusion of Social Fund debt from Bankruptcy and Debt Relief Orders (DROs)**	Impact Assessment (IA)
Lead department or agency: The Insolvency Service	**IA No:** BIS 0294
Other departments or agencies: Department of Work and Pensions (DWP)	**Date: 21/11/2011**
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Dean Beale, InsS 0207 291 6744

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Social Fund loans are interest free loans currently caught by bankruptcy and DRO proceedings. Consequently at the end of a bankruptcy or DRO the balance due to the Fund is written off unless an overpayment is due to fraud. The Social Fund is a finite amount which is used to help individuals in financial difficulty. Loans repaid to the Social Fund are then loaned again to other individuals in need of short-term financial assistance. When a Social Fund loan is written off in a bankruptcy or a DRO, DWP cannot recover the outstanding loan amount and this reduces the size of the Fund which in turn impacts on other needy citizens. Government intervention is necessary on equity grounds to help ensure that people who need access to a Social Fund loan are not disadvantaged because of write-offs from bankruptcies and DROs. Certain categories of debt are excluded from insolvency proceedings as a matter of public policy. Ministers have agreed that Social Fund loans (and an expanded system of 'Payments on Account' which is due to replace Social Fund loans) should also be excluded on these grounds.

What are the policy objectives and the intended effects?

To exclude Social Fund loans (and the expanded system of 'Payments on Account' which is due to replace Social Fund loans) from bankruptcy and DRO proceedings in order to enable DWP to maximise the amount of Social Fund debt recovered and therefore preserve the size of the Fund for future loans to other needy individuals.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do Nothing
2. Amend insolvency legislation to exclude Social Fund loans from bankruptcy and DRO proceedings (the Preferred Option).

Justification for preferred option - only a change in law will exclude Social Fund loans from being written off in bankruptcy and DRO proceedings, enabling DWP to maximise the recovery of loans in order to facilitate future lending to other needy individuals.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 3/2013 **What is the basis for this review?** PIR. **If applicable, set sunset clause date:** Month/Year	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: Edward Davey Date: 5/12/11

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		£2.48m	Optional
High	Optional		£3.7m	Optional
Best Estimate			£3.1m	

Description and scale of key monetised costs by 'main affected groups'

The proposed change will lead to a transfer from individuals to the public sector. Citizens with Social Fund loans will no longer be able to avoid repayment of the loan if they enter into bankruptcy or obtain a DRO. In 2010/11 approximately £3.1m of Social Fund debt was included in the bankruptcy and DROs of 3900 individuals (the vast majority in DROs). Under the proposal, these individuals would have to repay loans to DWP regardless of their being in bankruptcy or subject to a DRO. The cost to these citizens would be the repayment of £3.1m per annum of Social Fund loans, based on current levels of write-off.

Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		£2.48m	Optional
High	Optional		£3.7m	Optional
Best Estimate			£3.1m	

Description and scale of key monetised benefits by 'main affected groups'

The Social Fund will benefit by the reduced write-off of loans. Other individuals will benefit from the increased availability of Social Fund loans as a consequence of this reduced loan write-off. Based on the amount of Social Fund debt captured by bankruptcy and DRO proceedings in 2010/11, the benefit to the Fund and consequently other citizens (who would benefit from increased availability of loans from the Fund) would be £3.1m per annum.

Other key non-monetised benefits by 'main affected groups'

DWP will benefit from the removal of current uncertainty over the different treatment of Social Fund loans in bankruptcy and DROs (discussed at paras 5-6). Under the proposal, as loans will no longer be affected by bankruptcy and DROs, there will be some unquantified time savings for DWP staff administering the Fund.

Key assumptions/sensitivities/risks — **Discount rate (%)**: 3.5

The measure will lead to a transfer of funds between the citizen and the Social Fund (managed by DWP). In determining the value of the transfer, it is assumed that the current levels of Social Fund debt captured by bankruptcy and DRO proceedings remains constant with trends in DRO and bankruptcy levels. Whilst it is important to align the rules for the treatment of Social Fund loans in both bankruptcy and DROs, the level of Fund loans caught by bankruptcy proceedings is negligible compared to DROs (£80k over 3 years vs £3.1m for last year alone) and is therefore ignored in the calculations.
This measure only impacts on citizens, not on business or civil society organisations and is therefore out of scope for 'one-in, one-out'. As there is no impact on business, micro-firm exemption and sunsetting should not apply.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales			
From what date will the policy be implemented?			TBC, possibly 1/10/2011			
Which organisation(s) will enforce the policy?			The Insolvency Service			
What is the annual change in enforcement cost (£m)?			0			
Does enforcement comply with Hampton principles?			Yes			
Does implementation go beyond minimum EU requirements?			N/A			
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** 0		**Non-traded:** 0	
Does the proposal have an impact on competition?			No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** 0		**Benefits:** 0	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	**Micro** 0	**< 20** 0	**Small** 0	**Medium** 0	**Large** 0	
Are any of these organisations exempt?	No	No	No	No	No	

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	Impact	Page ref within IA
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	12
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	12
Small firms Small Firms Impact Test guidance	No	12
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	12
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	12
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	12
Human rights Human Rights Impact Test guidance	No	12
Justice system Justice Impact Test guidance	No	13
Rural proofing Rural Proofing Impact Test guidance	No	13
Sustainable development Sustainable Development Impact Test guidance	No	13

[1] Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Social Fund Account 2010-11: http://www.official-documents.gov.uk/document/hc1012/hc13/1307/1307.pdf
2	DRO interim evaluation report: http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/DRO%20interim%20evaluation%20report%20-FINAL.pdf
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	0	0	0	0	0	0	0	0	0	0
Annual recurring cost	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1
Total annual costs	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1
Total annual benefits	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1	3.1

* For non-monetised benefits please see summary pages and main evidence base section

Annual profile costs and benefits - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	12345									
Annual recurring cost		12345	12345							
Total annual costs										
Transition benefits										
Annual recurring benefits							12345	12345	12345	12345
Total annual benefits				12345	12345					

Version of GHG guidance used:	e.g. March 2010

Sector		Emission Changes* (MtCO2e) - By Budget Period			Emission Changes (MtCO2e) - Annual Projections															
		CB I; 2008-2012	CB II; 2013-2017	CB III; 2018-2022	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Power sector	Traded	0	0	0																
	Non-traded	0	0	0																
Transport	Traded	0	0	0																
	Non-traded	0	0	0																
Workplaces & Industry	Traded	0	0	0																
	Non-traded	0	0	0																
Homes	Traded	0	0	0																
	Non-traded	0	0	0																
Waste	Traded	0	0	0																
	Non-traded	0	0	0																
Agriculture	Traded	0	0	0																
	Non-traded	0	0	0																
Public	Traded	0	0	0																
	Non-traded	0	0	0																
Total	Traded	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Non-traded	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cost effectiveness	% of lifetime emissions below traded cost comparator																			
	% of lifetime emissions below non-traded cost comparator																			

*** Important note: Please enter net emission savings as positive numbers and net emission increases as negative numbers.**

2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Evidence Base (for summary sheets)

Background/Problem under consideration

1. The Social Fund has been a core part of the welfare system for the past twenty years. It provides valuable support to people – both to those in work and those who are dependent on benefits – who are facing large or unexpected financial pressures. It provides them with a safety net, in the form of grants and interest-free loans, where they are unable to access affordable credit or other mainstream credit from elsewhere. Responsibility for the Social Fund lies with DWP.

2. The Social Fund is made up of two distinct parts.

- a **regulated** scheme which provides entitlement to maternity, funeral, cold weather and winter fuel payments for people who satisfy certain qualifying conditions
- a **discretionary** scheme under which people may be eligible in certain circumstances for a
    - Community Care Grant - to meet, or help to meet, a need for community care
    - Budgeting Loan - to meet, or help to meet, an intermittent expense
    - Crisis Loan - to meet, or help to meet, an immediate short term need

3. **Budgeting loans and crisis loans are repayable loans** which are interest free. The application process and decision to award a loan are made on a case by case basis following guidance laid down in Social Security legislation. The loans are designed to meet necessary expenses for those in financial difficulty, and many applicants are in receipt of benefits (this is a condition for budgeting loans.) Ability to repay the loan over a suitable timeframe is considered for each applicant. The loan will not be granted if a manageable repayment schedule cannot be determined. Loans are generally recovered from ongoing benefits, although the amounts deducted will be low enough to ensure affordability by the borrower.

4. **The Social Fund budget is cash limited**. The Secretary of State allocates amounts each year for Social Fund payments. This budget is made up of Treasury funding and anticipated repayments into the Fund during the financial year. **Loans which are not repaid**, written off as a result of the debtor entering a personal insolvency procedure (either bankruptcy or a DRO), **impact on the amount of Fund available in the year to be paid out to other needy individuals.**

5. **The treatment of Social Fund debts in bankruptcy and DROs is inconsistent**. Currently, outstanding Social Fund loans are qualifying debts which must be scheduled by a debtor in their application for a bankruptcy or DRO. Due to the wording of bankruptcy legislation, DWP may continue to recover loans from ongoing benefit payments during the period of bankruptcy. At discharge when the debtor exits bankruptcy, usually between 7 and 12 months after the bankruptcy order, the debt is discharged in accordance with insolvency law, although it may continue to be recovered if it relates to fraud.

6. The courts have decided in a judicial review that when a DRO is made, DWP may not deduct loan repayments from ongoing benefits in the 12 month DRO moratorium period. This decision is subject to appeal. At the end of the period, when the debtor exits the DRO, the debt is written off and DWP may not recover it, unless it relates to fraud.

7. **The total value of Social Fund loans caught by personal insolvency proceedings is material**. DWP estimate that since the introduction of DROs, £4.5m of outstanding Social Fund loans have been caught by the procedure (£1.4m in 09/10 and £3.1m in 10/11).

8. Social Fund debt caught by bankruptcy is significantly lower than for DROs and is not reported on specifically in the accounts for the Social Fund[2]. DWP estimates that £80,000 of Social Fund loans were caught in bankruptcy cases between 2009 and 2011. The reason for the disparity between the level of Social Fund debt in bankruptcy and DROs is likely to be due to the different entry criteria. Bankruptcy is expensive to access, typically costing £700. DROs are £90 but with strict eligibility criteria (assets less than £300, debts less than £15,000, surplus income less than £50 per month). The profile of a DRO debtor is likely to be similar to the profile of a candidate for a Social Fund loan -

[2] http://www.official-documents.gov.uk/document/hc1012/hc13/1307/1307.pdf

80% of DRO debtors are not in any form of paid employment, they have few, if any, assets, and little, if any, surplus income each month.

Rational for intervention

9. Government is responsible for both the Social Fund (DWP) and insolvency legislation (The Insolvency Service) and it is in the Government's interest that the policy objectives are met. Only a change in law will enable this.

10. The argument for Government intervention is based on equity objectives. There is a horizontal equity argument that people with the same short-term financial need should be treated equally when applying for a Social Fund loan, and not disadvantaged because loans repayable by others have been written off due to bankruptcies and DROs and the size of the Fund reduced as a result. The Social Inclusion argument can also be applied to this measure as it will widen access to Social Fund loans by maintaining the size of the Fund, which in turn will help more people to deal with their financial problems.

Policy Objective

11. To exclude Social Fund loans (and the future replacement for the Social Fund: Payments on Account) from bankruptcy and DRO proceedings in order to enable DWP to maximise the amount of Social Fund debt recovered and therefore preserve the size of the Fund for future loans to other needy individuals.

Alternatives to regulation

12. As the criteria for determining whether a debt is captured by bankruptcy or DRO proceedings is contained within statute, there is no scope for a non-regulatory solution to this issue. Only a change to the law can address the problem.

Description of Options Considered

Option 1 – do nothing

13. Under this option, the policy objectives cannot be met. DWP would be unable to collect full repayment of Social Fund loans following completion by an individual of bankruptcy or a DRO. Subject to any future judicial ruling, this would mean that DWP would only be able to recover loan repayments from ongoing benefit payments where the debtor was subject to bankruptcy. Where the debtor remained in a DRO, DWP would not be able to recover any repayments even if the individual was in receipt of benefit payments from DWP. On exiting bankruptcy or a DRO, outstanding Social Fund loan debts would, in accordance with insolvency law, be written off unless the debt was incurred fraudulently. In a case of fraud DWP would be able to continue to recover repayments (in the case of bankruptcy) or re-start collecting repayments (in the case of DROs). This option continues to expose the Social Fund to significant losses as a result of DWP's inability to recover loan repayments from debtors.

Costs

14. The costs would be the loss to the Government and other citizens from the reduction in the value of the Social Fund because of the write off of loans unpaid by individuals who had entered into bankruptcy or a DRO.

Benefits

15. Individuals subject to bankruptcy would benefit from having an outstanding loan to the Social Fund written off on their exit from bankruptcy (unless the debt was due to fraud). Individuals subject to a DRO would benefit from having any repayments, currently deducted from ongoing benefit receipts, ceasing upon them entering a DRO, and then the outstanding balance due to the Social Fund written off after exiting the DRO (unless the debt was due to fraud).

16. The monetary value of costs and benefits under both options are discussed in detail at paragraphs 19-25.

Option 2 – amend insolvency legislation to exclude Social Fund debts from bankruptcy and DROs (preferred option)

17. The policy objectives can only be met under this option.

18. Under this option, Social Fund loans would continue to be repayable regardless of whether the individual was subject to, or had completed, a DRO or a bankruptcy. DWP would be able to maximise the recovery of Social Fund loans, minimising losses to the Social Fund from debts written off as irrecoverable because of individuals entering bankruptcy or DROs. This will have a positive effect on the amount of money available in the Fund for loaning to other needy individuals.

Costs

19. Under this option, citizens indebted to the Social Fund would have to repay their loan, regardless of whether they were subject to bankruptcy or DRO proceedings.

20. The extra amount citizens would repay in the future if the measure came into effect is estimated to be £3.1m p.a. based on DRO levels of 26,000 pa (2010-2011 figures). This assumes Social Fund debts caught by bankruptcy and DRO proceedings are repaid in full.

Benefits

21. Government and other citizens will benefit from the additional £3.1m repaid by citizens following a change in the law. DWP has no power to write-off Social Fund loans under Social Security legislation and therefore it would expect to repayment of £3.1m in full. The full repayment of loans to the Social Fund will allow more money to loaned to other citizens in need, whereas presently people may be refused loans. There is no evidence to estimate the benefit to people who receive a loan and similarly the costs to people who cannot get a loan because of insufficient funds in the Social Fund. There may be some positive benefit to DWP from reduced administration costs as the change will remove the current uncertainty and inconsistent treatment of loans in bankruptcy and DROs (see paras 5-6 above) as well as enabling the repayment of loans to continue unaffected by individuals entering into a bankruptcy or a DRO.

Cost and Benefit Calculations

22. The value of Social Fund debt captured by bankruptcy proceedings is low (see paragraph 8). Due to this low materiality (£80k between 2009 and 2011) this analysis focuses on DROs where the impact is most significant. In the cost/benefit calculations the value of Social Fund debts captured in bankruptcy is ignored (being only £80k between 2009-11). In reality bankruptcy numbers are falling – there has been a 26% drop in 2010/11 on 2009/10 numbers, so the £80k is also likely to be reduce in the future, however this will have no impact on the overall cost and benefit figures below as Social Fund debt in DROs is significantly higher at £3.1m. Although bankruptcy has a minimal impact on the recovery of loans to the Social Fund, the preferred option tackles both bankruptcy and DROs as it is important to keep the two procedures aligned. Changing the law to tackle only Social Fund loans in DROs would give debtors the option to seek a bankruptcy order if they wished to avoid repayment of any debts due to the Social Fund.

23. Data collated by DWP and official statistics published by The Insolvency Service show the following amounts of Social Fund debt caught by DROs:

Year	DROs	Social Fund exposure
2009/10	17,475	£1.4m
2010/11	26,323	£3.1m

24. The DRO is a new insolvency procedure introduced in April 2009. The figures for 2009 show a slow take up of this new procedure, so it is difficult to estimate a growth trend in DRO numbers based on year on year growth from 2009/10 to 2011/12. No official forecasts for DROs are produced, but in its 2011 Corporate Plan[3], the Insolvency Service estimates that 24-30,000 debtors will apply for a DRO in 2011/12. This range suggests that numbers are expected to be broadly in line with 2010/11 and therefore in calculating the costs and benefits flowing from the proposal, £3.1m has been used going forwards.

25. DROs may rise or fall and £3.1m may be under/overstated as a result. The table below analyses the impact on the £3.1m used in the cost/benefit analysis if DRO numbers increase or decrease in the future.

Change in number of DROs from 26,000 p.a.	Change in Social Fund exposure
-20%	£2.48m
-10%	£2.8m
-5%	£2.94m
0%	£3.1m
5%	£3.26m
10%	£3.4m
20%	£3.7m

Consultation

26. The proposed change has not been consulted on. The need for the measure has arisen following the Judicial Review and continuing legal case mentioned in paragraph 6. Ministers have decided that the Social Fund should be protected from the impact of DROs and Bankruptcy and have agreed, therefore, that a public consultation is not required. It would only add delay and cost to the process.

Risks and assumptions

27. It is assumed that the £3.1m currently caught by DROs and bankruptcy each year is lost to the Fund. In reality, a small amount of this will continue to be repaid during the course of bankruptcy, and any payment based on fraud would not be discharged despite being included in a DRO.

28. It is assumed that the value of Social Fund loans caught by bankruptcy proceedings remains immaterial (DWP estimates £80k of Social Fund debt in bankruptcies between 2009-2011)

29. It is assumed, in calculating the transfer from individuals back to the Fund at £3.1m p.a., that this will be additional funds available for loan to other needy citizens. The budget for the Social Fund is discussed at paragraph 4.

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[3] http://www.insolvency.gov.uk/aboutus/CorporatePlan.pdf

30. It is assumed that the measure will not lead to any familiarisation costs for either The Insolvency Service (which operates the DRO procedure), advice agencies (advising debtors) or DWP (which manages the Fund). The proposal will lead to a **clarification of the rules on Social Fund loans** in bankruptcy/DROs which have been subject to a number of legal cases, and this **may have a positive impact** as a result. There may be a requirement to update published online guidance, but costs associated with this are expected to be negligible.

31. It is assumed that the change will cause no ongoing operating costs. There may be some positive benefit to DWP from reduced recovery costs as the change will remove some uncertainty and enable existing repayment plans to continue unaffected by an individual entering into bankruptcy or a DRO.

Impact on Creditors

32. The DRO regime does not allow for any payment to creditors once the debtor has obtained a DRO. This is because the asset cap of £300 and the surplus income limit of £50 per month means an individual entering a DRO does not have any assets or surplus income from which creditors could be paid. Removing Social Funds from the debts captured by a DRO will allow DWP to continue to recover repayments, but this will have no impact on other creditors as they are would never receive anything in a DRO.

33. The is a slight possibility of a negative impact on creditors in a bankruptcy case. In bankruptcy, unlike a DRO, the trustee may claim excess income from a debtor and use this to pay the costs of the bankruptcy and a dividend to creditors. By removing Social Funds from bankruptcy and allowing DWP to continue to recover repayments, this could reduce the amount available as surplus income which the trustee could claim, as the bankrupt will have to continue to make repayments to DWP and this will be an added item of monthly expenditure. However, the financial circumstances of an individual eligible for a Social Fund loan suggest that the likelihood of any surplus income will be remote. Bankruptcies impact on only a small fraction of the Social Fund (£80k between 2009 and 2011 – see paragraph 8) which makes any potential impact immaterial.

Wider impacts

34. The measure is not expected to have any wider impact beyond the individuals who will be required to continue repaying Social Fund loans. When agreeing to a loan from the Social Fund, DWP will assess affordability, so continuing to repay the loan after entering bankruptcy or a DRO should not put the individual or their family under undue financial hardship. Where this does happen, DWP will still have the option to amend the repayment plan to suit an individual's circumstances, although full repayment of the loan will be expected over time.

Rationale

35. The preferred option is to amend the Insolvency Rules for DROs and bankruptcy to exclude Social Fund loans from the categories of debt captured by these proceedings. Other debts are currently excluded on public policy grounds (e.g. Student Loans and child maintenance payments) and Ministers have decided that the Social Fund loans (and its replacement payments on account system) should also be excluded.

36. The exclusion of Social Fund loans from the effects of bankruptcy and DROs will require a Statutory Instrument to amend secondary legislation (the Insolvency Rules 1986.) The current plan is to deliver the amendment to legislation by 1st October 2011, although this may be subject to change.

37. The proposed Post Implementation Review is set out in Annex 1

One-In, One-Out and other regulatory issues

38. This measure has no impact on business or civil society organisations and is therefore out of scope for 'One-in, One-out'. As it has no impact on business, the micro business exemption policy does not

apply. The measure is also out of scope for the mandatory inclusion of a sunsetting or review clause in the legislative changes required to implement the measure.

39. The Regulatory Policy Committee, in its opinion dated 11 August 2011 and subsequent communication of 12 October 2011, confirmed the measure as out of scope for one-in, one-out.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)]; The DRO regime is due to formally reviewed and evaluated, commencing in 2012. The impact of this measure will be included in this review. DWP will review the impact on the level of Social Fund write-offs.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] The review will be to ensure that the policy objectives have been met - that DWP are able to avoid losses to the Social Fund from the bankrupcty or DRO of Social Fund debtors.
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The review approach will be limited, ensuring that the legislation has correctly delivered the expected outcome. This will be achieved by considering any legal challenges that may arise post implementation period, and the changing levels of Social Fund write-offs (see below).
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] £3.1m of Social Fund debt captured in bankruptcy and DRO proceedings in 2010/2011, to be written off in 2011/12.
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Social Funds loans cannot be included in DRO and bankruptcy proceedings and subsequently written off. DWP increase the rate of recovery of such loans as a result.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] DWP's Social Fund debt recovery systems will be able to track the repayment of loans. The DRO and bankruptcy systems managed by the Insolvency Service will be able to identify if debtors try and include Social Fund loans in their schedule of debts, although the scheduling of debts after the change is implemented will not affect DWP's ability to recover loans.
Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]

Add annexes here.

Statutory Equality Duties

40. The proposal will not have an adverse impact on differing racial groups, disabled people, men and women, including transsexual men and women. The change does not have any impact in relation to age, religion or sexual orientation. The main affected group is DRO debtors with a Social Fund loan. The profile of DRO debtors is considered in detail in the interim evaluation report on DROs published in 2010[1].

Competition

41. The proposal does **not:**
    - Directly limit the number or range of suppliers
    - Indirectly limit the number or range of suppliers
    - Limit the ability of suppliers to compete
    - Reduce suppliers' incentives to compete vigorously
42. Consequently the proposal is unlikely to raise any competition concerns.

Small Firms

43. The proposal does not affect small businesses, their customers or competitors.

Greenhouse Gas

44. The proposal has no impact on greenhouse gas emissions.

Wider Environment Issues

45. As the proposal has no impact on wider environment issues no such test has been carried out.

Health and Well being

46. Overall, we do not expect the measure to impact on health. Although there are a number of studies which have linked debt and mental health, and this measure, which prevents an individual from avoiding the repayment of a debt, may have an adverse affect on the health of some individuals, Social Fund debts will normally constitute only a small proportion of the total debts of an individual filing for a DRO or bankruptcy. Average Social Fund debt in DROs is estimated to be £800 per person, whereas average total DRO debts are £8,700 per person[2]. In addition the needs of the wider group of individuals who will access support from Social Fund loans have to be considered and, as Social Fund loans help to relieve financial pressures, increasing the available funds for loans could have a beneficial impact on the health of these individuals.

Human Rights

47. The proposal has no impact on Human Rights.

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[1] http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/DRO%20interim%20evaluation%20report%20-FINAL.pdf (pages 9-11)

[2] http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/con_doc_register/DRO%20interim%20evaluation%20report%20-FINAL.pdf (page 3)

Justice System

48. There is no impact on the court system. The DRO procedure is not court based, and whilst bankruptcy is court based, the very low level of Social Fund debt caught by bankruptcy means that the proposal will have a negligible impact on bankruptcy numbers in the future.

Rural proofing

49. The proposal has no impact on the needs of rural people and places.

Sustainable development

50. The proposal has no impact on sustainable development.