



Belfast City Council

Report to:	Strategic Policy & Resources Committee
Subject:	CONSULTATION RESPONSE– DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT – PROPOSED DEBT RELIEF SCHEME FOR NORTHERN IRELAND
Date:	24 th April 2009
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Relevant Background Information

Purpose

To bring to the attention of the Strategic Policy & Resources Committee details of a consultation by the Department of Enterprise, Trade & Investment (DETI) on a proposed Debt Relief Scheme for Northern Ireland and to present a draft response to this consultation for approval.

Background

The Department of Enterprise, Trade and Investment has published a consultation document about a proposal to set up a Debt Relief Scheme in Northern Ireland. The scheme is intended to help individuals with moderate levels of unsecured debt which they cannot pay and who are unable to afford the cost of petitioning for bankruptcy. Further information, including the consultation document, is available on the Northern Ireland Insolvency Service website at – www.insolvencyservice.detini.gov.uk. **The closing date for responses to the consultation is 6th May 2009.**

Members are aware that we are experiencing the toughest economic climate for over a generation and that this is a very difficult time for our ratepayers as the current economic climate is having an impact on business and households across the city. In recent weeks a substantial number of job cuts have been announced across a range of sectors with the manufacturing industry in Belfast being hit particularly hard. This will have a real impact on people across the city.

The Council has already highlighted its commitment to providing responsible leadership during these tough times and to doing what it can to help everyone in the city cope with the effects of the 'credit crunch'. Members will recall that the Council has agreed to continue to invest in our city to help provide jobs and support the economy and maintain the services that are even more important to local people now and has highlighted its commitment to supporting local communities and businesses during these uncertain times. This consultation document is therefore very timely given the current economic climate and the impact that this is having on our ratepayers.

Key Issues

Summary of the Proposed Debt Relief Scheme – Overview and key features

The scheme is intended to help individuals with moderate levels of unsecured debt which they cannot pay and who are unable to afford the cost of petitioning for bankruptcy. It will enable them to obtain an order from the Official Receiver similar to a Bankruptcy Order made by the court, but at lower cost. Important features of the scheme are -

- The individual would be protected against legal proceedings by creditors in respect of the debts listed in the Order for a one year period
- At the end of that year their liability to repay those debts would be cancelled
- Application to the scheme would only be possible through approved debt advice organisations
- The individual would be subject to restrictions on taking credit or trading other than in his/her own name during the year following the making of the order. It would be possible to place those found to be culpable (e.g. as a result of financial malpractice) under continuing restrictions for up to 15 years
- The Official Receiver would be able to revoke the Order if there is an increase in the individual's income or they acquire assets during the one year moratorium which would place them above the limits for

eligibility to the scheme

- Once an individual had obtained a Debt Relief Order they would not be able to obtain another for a period of years

The scheme is similar to one due to come into operation in England and Wales in April 2009.

Members are asked to note that the consultation highlights that there is potential for a very marginal impact on rates revenue as arrears of rates from private tenants, who are responsible for the payment of rates will be written off, if they obtain a Debt Relief Order. Private tenants can only be liable for the payment of rates where the capital value of the property exceeds £150,000 and where the tenancy agreement states that they are responsible. The Housing Executive pays rates for all its properties and the charge is then levied to the tenant as part of a weekly rent and rates charge. Therefore there would be no impact for rates revenue resulting from non-payment by Housing Executive tenants.

Members are asked to note that consultation on this area was previously carried out in August 2006 in connection with an attempt to have legislative provision to set up the scheme included in a Bill being made at Westminster. However due to time constraints this attempt had to be abandoned. DETI are now seeking the views of interested parties as the scheme is now being taken forward by Assembly legislation.

As a separate issue DETI are also consulting on plans to include provision in the Assembly Bill which will enable DETI to provide debt advice in Northern Ireland.

Recommendations

Members are asked to note the contents of this report and approve the response attached at Appendix 1 to the consultation document and its submission to DETI

Key to Abbreviations

DETI – Department of Enterprise, Trade and Investment

Documents Attached

Appendix 1– Belfast City Council draft response to the Proposed Debt Relief Scheme for Northern Ireland consultation document

APPENDIX 1- PROPOSED COUNCIL RESPONSE TO THE CONSULTATION

PROPOSED DEBT RELIEF SCHEME FOR NORTHERN IRELAND – DEPARTMENT OF ENTERPRISE, TRADE & INVESTMENT CONSULTATION DOCUMENT

BELFAST CITY COUNCIL RESPONSE

Belfast City Council welcomes the opportunity to comment on the draft '*Proposed Debt Relief Scheme for Northern Ireland*' which aims to help individuals with moderate levels of unsecured debt which they cannot pay and who are unable to afford the cost of petitioning for bankruptcy.

The consultation is very timely as we are currently experiencing the toughest economic climate for over a generation. This is a very difficult time for our ratepayers as the current economic downturn is having an impact on business and households across the city. In recent weeks a substantial number of job cuts have been announced across a wide range of sectors with the manufacturing industry in Belfast being hit particularly hard. This will have a real impact on people across the city. Figures published by the Department of Enterprise, Trade and Investment in January 2009 indicated that the annual percentage rise in unemployment benefit claimants in Northern Ireland was the highest in nearly 33 years. The unemployment rate in Belfast was 4.3% in December 2008 and the Ulster Bank Chief Economist predicts that this rate will rise to 7% later in 2009.

Belfast City Council is committed to improving the quality of life and well-being of our city. We have agreed to continue to invest in our city to help provide jobs and support the economy and maintain the services that are even more important to local people now. We have highlighted our commitment to supporting local communities and businesses during these uncertain times and to doing what we can to help everyone in the city cope with the effects of the 'credit crunch'. This consultation document is therefore very apt given the current economic climate and the impact that this is having on our ratepayers.

In this instance the Council has a number of general comments to make on the content of the consultation as well as answering the consultation questionnaire (overleaf). The Council welcomes the publication of this document and in general supports the proposals in the document however the Council is disappointed to note that gym membership and sports expenses are included in the list of items that the Official Receiver describes as "luxury" expenses (Paragraph 48 on page 17). The Council would query the inclusion of these items as "luxury" as they are important for meeting the objectives of the health and well-being agenda. The benefits of exercise and sporting activity, both physically and mentally, are also widely evidenced. The Council would urge that the inclusion of these items on the list of luxuries is reconsidered. Belfast City Council's Boost leisure scheme offers value for money gym membership which starts from as little as £6 per month.

The Council notes that it is highlighted that there is potential for a very marginal impact on rates revenue as arrears of rates from private tenants, who are responsible for the payment of rates will be written off, if they obtain a Debt Relief Order. The Council would seek more information about the likely impact of this.

In general, Belfast City Council is broadly supportive of the measures outlined in the consultation on 'A Proposed Debt Relief Scheme for Northern Ireland'. We have, however, made a number of comments which we would like to see reflected in the final document. We would be keen therefore to know how you intend to incorporate these and comments from other organisations who respond to your consultation into your final Strategy.

**PROPOSED DEBT RELIEF SCHEME -LIST OF QUESTIONS TO CONSULTEES
BELFAST CITY COUNCIL REPOSE**

1(a)	Do you think payment of a moderate fee to cover the costs of the debt relief scheme is acceptable? Yes
1(b)	What do you think would be a reasonable amount? No answer
1(c)	If you do not think a fee of any sort should be payable, do you have any suggestion as to how the scheme might be funded? N/A
2	Do you think entry to the scheme should be restricted to once every 6 years? If not, what length of time would be appropriate? Feel 6 years is appropriate
3	Do you think that use of an approved intermediary would make the system more accessible and efficient? Yes
4	What do you think the role of the intermediary should be? 1) Providing Face to face advice 2) Filtering out of unsuitable clients 3) Confirming debtor has tried to deal with obligations 4) Helping those with literacy / numeracy problems 5) Advising debtor of requirement to disclose all assets, liabilities and income 6) Completion of forms 7) Sending off forms 8) Advising of need to review case if more problems arise 9) Advising of requirements to advise of any windfalls/ increase in income. 10) Follow up of case before the end of the Debt Relief Order to confirm circumstances unchanged
5	Do you think that some funding should be made available to the intermediaries for performing this role? If so, from what source should the funds come? Yes funding should be made available
6(a)	Do you think there should be a limit to the amount an individual can owe to obtain entry to the scheme? Yes
6(b)	Do you think that £15,000 is an appropriate cap? If not, why is this and what would an appropriate amount be? Yes – no higher than £15,000
6(c)	Should secured debt be included as part of the total? No – however some consideration may now need to be given to those people who are now in negative equity
7(a)	Do you think there should be a cap on the surplus income that is permitted before a debt relief order would be granted? Is £50 a month a realistic figure? Yes there should be a cap
7(b)	If £50 is not realistic, what is? N/A
8	Do you think that use of the Common Financial Statement would be an appropriate way to calculate

	surplus income? If not, why not and how would you suggest surplus income be calculated?
	Yes using the Common Financial Statement would be an appropriate way of calculating surplus income
9	Do you think that income in Debt Relief cases should be defined in the same way as income in bankruptcy cases? If not, why not, and how should income be defined?
	N/A
10	Do you think the proposed limit of £300 realisable assets is reasonable? If not what do you think a reasonable figure should be?
	N/A
11	Do you think there should be exclusions for certain property similar to those in bankruptcy?
	N/A
12	Do you think that it is right that the owner of a vehicle can keep it if he obtains a Debt Relief order provided that the vehicle is not worth more than £1,000
	The Council would then query what running costs are then reasonable to be taken into consideration – road tax /insurance /fuel/ repairs etc?
13	Do you agree that Debt Relief orders could be made administratively? If you think the court should be involved with the making of the orders, why is this?
	N/A
14	Do you think the protection offered to creditors is sufficient? If not what further steps are necessary to safeguard the position of creditors?
	N/A
15	Do you think that if a debtor makes a misrepresentation in order to obtain a debt relief order there should be enforcement action in addition to revocation of the order? If so, what type of action do you think is appropriate?
	It is important that it is made very clear by the intermediary at the beginning of the process that the debtor must provide full information both at the beginning of the process and also if their circumstances change at any time during the period of the debt relief order. They must be advised that failure to provide full information will have implications/ repercussions.
16	Do you agree that individuals granted Debt Relief should be placed under continuing restrictions following discharge if there is evidence that they contributed to their insolvency by reckless or irresponsible behaviour?
	Yes - However to be equitable consideration may also have to be given to whether the creditor was reckless or irresponsible in providing credit. If the debtor is still able to get credit during the period of the Debt Relief order the use of this credit may also need to be taken into consideration.
17(a)	What action do you think should be taken if the debtor receives a windfall or experiences an increase in income?
	The debtor needs to go back to the intermediary to discuss what this means to his Debt Relief Order. There would have to be specific limits on amounts etc.
17(b)	Do you agree that if the debtor benefits from a windfall close to the date at which the debts are due to be discharged that the order should be extended to allow the debtor time to deal with the matter? If not why is this and what steps do you think should be taken to protect the position of creditors?
	Yes the period should be extended. The debtor needs to go back to the intermediary who will need to re-examine the debtor's position and the figures involved and the implications it has for the creditors. This can take time.
17(c)	What length of time do you think would constitute a reasonable period to enable the debtor to deal with his creditors?
	N/A

17(d)	Do you agree that if the debtor fails to disclose a windfall prior to discharge of the debts that the discharge should be void and creditors free to take enforcement action? If not, what action do you think should be taken?
	It might be useful if before a Debt Relief Order ends the intermediary contacts the debtor to check that his circumstances have not changed and again explains the implications of not providing information about windfalls/ increases in income