

# **Review of the impact of the IVA protocol**

A report produced by the Insolvency Service  
on behalf of the IVA Standing Committee.

Published 21 December 2009

## Executive Summary and key findings

Following the withdrawal of plans for the introduction of Simplified Individual Voluntary Arrangements (SIVAs) the IVA Standing Committee agreed to review the IVA Protocol. In particular the Committee was keen for the review to establish the impact of the protocol on the IVA industry, debtors, creditors and IVA providers since its introduction in February 2008.

There were four parts to the evidence gathering for the review:

- A survey of debtors who had taken out an IVA between 1 April 2008 and 31 March 2009;
- A survey of IVA providers;
- Interviews with IVA providers;
- A roundtable forum of creditors.

The key findings of the review are summarised below. Full details of all the findings of the review, together with supporting evidence and where possible comparisons with a previous survey<sup>1</sup> carried out before the protocol was introduced, are contained in the body of the report.

### Key findings

These key findings are based on the evidence gathered as part of the review of the IVA protocol.

#### The Protocol

- Over 60% of IVA proposals were either wholly or partly protocol compliant;
- The introduction of the protocol has led to more transparency and consistency for IVA providers and creditors.

#### Modifications

- 97% of IVA proposals required modifications before they were accepted by creditors;
- Modifications on fee levels were submitted by creditors in 70% of IVA proposals;
- The type of modifications required by creditors now relate to three main areas; fees, contributions and terms of the proposal;
- The average number of modifications required by creditors before an IVA proposal was accepted was 9 for protocol compliant IVAs and 15 for non-protocol compliant IVAs;
- 13% of protocol compliant IVAs required 15 or more modifications compared with 65% of non-protocol compliant IVAs.

#### Variations

- 4% of IVA proposals required post approval variations;
- Of these 76% were requested by the IVA debtor.

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<sup>1</sup> <http://www.insolvency.gov.uk/insolvencyprofessionandlegislation/policychange/policychange.htm>

#### Debtors

- More than half of all debtors found the IVA process, the information given to them by their IVA supervisor and their own responsibilities either easy or very easy to understand;
- Almost 80% of debtors had been through one or more previous debt solutions before embarking on their IVA;
- Just under 40% of debtors said that the primary reason for choosing an IVA was that they wanted to repay their creditors;
- 71% of debtors had had alternative forms of debt relief formally discussed with them before they embarked on their IVA;
- 22% of debtors did not know if they had paid a nominee fee to their IVA provider.

#### Failed IVAs

- 6% of the IVAs in the survey had failed;
- Of these, almost 60% of debtors indicated that their IVA had failed due to them being unable to maintain their contributions.

# Review of the impact of the IVA protocol

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## Foreword

The IVA Standing Committee welcomes the report prepared by The Insolvency Service following the interim review conducted into the operation of The IVA Protocol. We are pleased to see that the report reflects the progress that has been made on straightforward consumer IVAs since the introduction of the Protocol, particularly in terms of standardisation of the proposals which helps bring certainty for debtors who are considering putting forward an IVA proposal.

We recognise that there are still issues remaining to be addressed. The report helpfully highlights some key findings where further work may need to be carried out and the Committee will be working to take forward emerging issues for the benefit of all IVA stakeholders.

We are committed to making the Protocol work as effectively as possible to facilitate access to protocol compliant IVAs for debtors for whom it is the most appropriate solution and to simplify the process and reduce unnecessary costs for the benefit of both creditors and Insolvency Practitioners. All sides within the industry will be working hard to achieve this end. We believe a further full-scale review of the Protocol should be carried out within the next two years to allow a complete evaluation of its effectiveness.

### IVA Standing Committee

If you wish to see the Ministerial statement on the publication of this report, please click on the following link.

[Ministerial Statement from Ian Lucas MP](#)

## 1. Background to the project

- 1.1 Individual Voluntary Arrangements (IVAs) were established in 1986 as an alternative to bankruptcy, aimed at enabling individuals who had assets or income (or both) to repay at least some of their debt, resulting in higher returns to creditors than bankruptcy. IVAs create a binding contract between debtors and creditors, enabling individuals to make manageable repayments over a period of time, normally 5 years, without incurring further interest.
- 1.2 An IVA proposal will be put to creditors and voted on. For a proposal to be approved at least 75% by value of the creditors have to vote in favour. Once approved, the proposal is supervised by a licensed Insolvency Practitioner. Prior to approval, the creditors may put forward modifications to the proposal.
- 1.3 In February 2008 The IVA Standing Committee<sup>2</sup> introduced the IVA protocol<sup>3</sup> as a voluntary code of conduct to facilitate the efficient handling of straightforward consumer IVAs. Key features of the protocol include:
  - A standardised approach to assessing a debtor's income and expenditure;
  - A standardised approach in dealing with a debtor's interest in their home;
  - An agreed set of standard terms and conditions;
  - A standardised approach for the format of presenting a debtors IVA proposal to his creditors;
  - Greater transparency for each stakeholder.

Accompanying the introduction of the protocol was a commitment from the British Bankers Association that their members would abide by the terms of the protocol.

- 1.4 Following the withdrawal of proposals to introduce simplified IVAs (SIVAs), the Committee agreed to review the protocol and assess its effectiveness and what its impact had been on the insolvency regime. The Committee recognised that given the relatively short time between the introduction of the protocol and the timing of the review, this would be an initial review of the protocol and that there was scope for a more comprehensive evaluation in 5 years time, when those IVAs that had commenced soon after the introduction of the protocol were due to come to an end.
- 1.5 On the 10 June 2009 the Committee confirmed the scope of the review and agreed that a project should commence. The Committee delegated responsibility for the review to one of its sub-groups, The Market Information Group (MIG).
- 1.6 It was agreed at a subsequent MIG meeting that the main output of the project would be a report published on the Insolvency Service website no later than 31 December 2009 containing the following:
  - How the protocol has been working since it was established;
  - Impact of the protocol upon IVAs;
  - Compliance rate amongst IVA providers;
  - Creditors opinions of the protocol;

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<sup>2</sup> The IVA Standing Committee consists of representatives from IVA providers, creditors, creditor agents, consumer groups and the Insolvency Service.

<sup>3</sup> A copy of the IVA protocol is available from <http://www.insolvency.gov.uk>

- Impact of the protocol on access to IVAs;
- The impact of the protocol on the level of fees charged;
- A range of statistical analysis.

## 2. Methodology

- 2.1 There were four parts to the evidence gathering process for the project running parallel to each other.

### Part 1

Questionnaire to individuals who have gone through the IVA process as debtors and where the IVA was approved during the period 1 April 2008 to 31 March 2009.

- 2.2 2500 questionnaires were distributed to those who have gone through the IVA process as debtors, consisting of the following 3 sections:

- Section A – Period up to taking out your IVA;
- Section B – Your IVA;
- Section C – Your personal circumstances at the time of taking out your IVA.

- 2.3 Some of the questions in the survey mirrored those from the previous survey carried out by the Insolvency Service (Survey of Debtors and Supervisors June 2008) enabling comparison between the results. In addition to the survey, debtors were also sent a diversity monitoring form. Details of responses can be found at Annex C

- 2.4 The individuals selected for the survey were chosen at random from a list of all those who had taken out an IVA during the above period (41,000).

### Part 2

Questionnaire to the IVA providers who had provided the IVAs to the randomly selected sample of debtors. The questionnaire consisted of 5 sections:

- Section A – IVA experience;
- Section B – Pre-acceptance;
- Section C – Post-approval;
- Section D – General questions;
- Section E – Failed IVAs.

- 2.5 113 different IP firms provided the IVAs for the 2500 debtors. 90% of the IVAs of the randomly selected debtors were provided by 22 IP firms. In order to limit the burden on these firms and to encourage a greater response rate, a spreadsheet was designed to enable them to complete the survey and respond electronically. The remainder of the companies were sent a paper questionnaire and a pre-paid envelope for their response.

- 2.6 As with the survey of debtors, the survey of IVA providers mirrored a previous survey carried out by the Insolvency Service in 2007, again enabling comparison of results.

### Part 3

Interviews with IVA providers.

- 2.7 The main focus of this stage of the evidence gathering process were interviews carried out with the top ten providers of IVAs during the period specified. The companies were identified as being the top ten providers of IVAs from a list of 41,000 thousand IVAs taken out during this period.



- 2.8 As well as the top ten IVA providers, three small companies who provided between 1 and 5 IVAs per month were also interviewed.
- 2.9 To enable the companies to be as candid as possible it was agreed that no comments or quotes would be attributed to any person or company.
- 2.10 The interviews each followed a similar format, enabling comparison of responses. The interviews covered:
- Number of IVA approvals versus ‘competing’ and non-insolvency solutions such as Debt Management Plans (DMPs);
  - Number of protocol compliant IVAs (PCIVAs) versus non-PCIVAs;
  - Acceptance level of PCIVAs as a percentage of all PCIVA proposals;
  - Projected return from PCIVAs;
  - Number of cases not put forward as IVAs due to creditor hurdle rates;
  - Fee levels for IVAs;
  - Whether the protocol had made the IVA process easier to understand;
  - Whether the protocol had had an impact on the number of modifications made to IVAs both pre and post-approval;
  - Whether the protocol can be improved.

#### Part 4 Creditor Forum

- 2.11 Creditors, their representatives and agents were invited to a roundtable discussion to seek their views on how the protocol had been working. Eight people from the creditors side and three representatives from the Insolvency Service attended the discussion.
- 2.12 It was made clear to the attendees that the review wanted an open and honest discussion of the issues and that none of the opinions given would be attributed to any particular person or company.
- 2.13 Attendees at the roundtable discussed the following:
- Impact of the Protocol upon the way in which IVAs work;
  - Relationship of IVAs to other debt solutions ;
  - Use of the Protocol and the difference between protocol and non-Protocol IVAs;
  - Modifications – impact of the protocol;
  - Average returns from IVAs;
  - Average fees;
  - Relationship between IVA providers and creditors;
  - The role of the small IVA provider.

### 3. Survey of debtors

Number of Questionnaires sent out	2500	%
Number of completed returned questionnaires	1009	42
Number of questionnaires returned as not known at this address/gone away	105	4

3.1 The questionnaire was sent to 2500 individuals chosen at random from a list of 41,000 debtors who had gone through the IVA process and where the IVA was approved during the period specified.

3.2 The questionnaire consisted of 3 sections:

- Section A – Period up to taking out your IVA;
- Section B – Your IVA;
- Section C – Your personal circumstances at the time of taking out your IVA.

#### Findings

- More than half of all debtors found the IVA process, the information given to them by their IVA supervisor and their own responsibilities either easy or very easy to understand;
- Almost 80% of debtors had been through one or more previous debt relief solutions before embarking on their IVA;
- 36% of debtors blamed 'living beyond their means' as the primary cause of their financial difficulties;
- Most debtors had heard about IVAs through television or via internet searches;
- Most debtors were married and in employment;
- Just under 40% of debtors gave the primary reason for taking out an IVA as 'wanting to repay their creditors';
- 71% of debtors had had other alternative forms of debt relief formally discussed with them before they embarked on their IVA;
- 22% of debtors did not know if they had paid a nominee fee to their IVA provider;

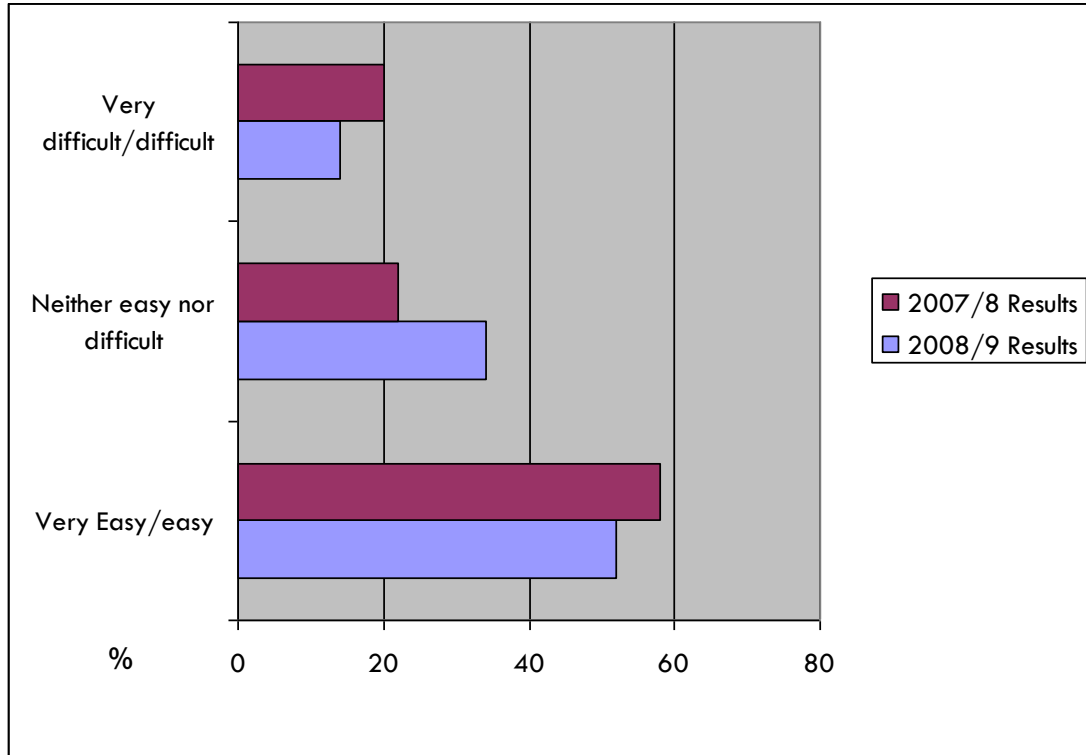
#### Comparisons with 2007/8 survey

- In 2007/8 33% of debtors had not gone through any previous forms of debt relief before taking out their IVA. This had decreased to 21% in the 2008/9 survey;
- The number of debtors who had had a DMP prior to taking out their IVA increased from 16% in 2007/8 to 33% in 2008/9;
- 'Living beyond means' remained the main cause of debtors financial difficulties, 34% in 2007/8 and 36% in 2008/9;
- The number of people who heard about IVAs via television or radio has decreased while the number of people who heard about IVA via the internet has increased.

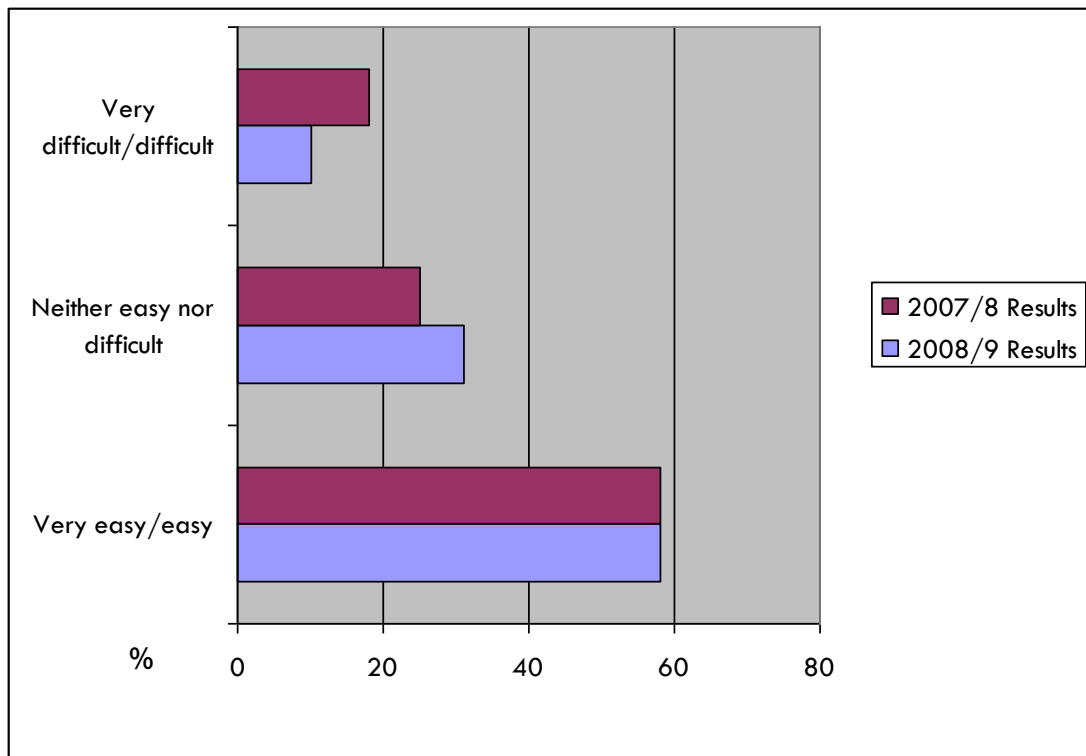
**Detail**

**QA1 – How easy or difficult did you find the following?**

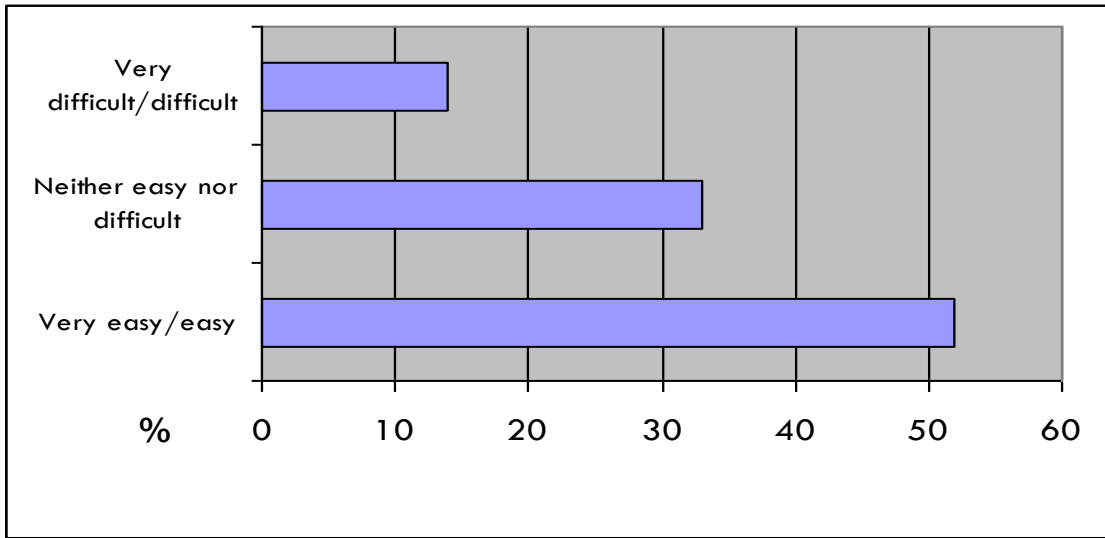
**i. The IVA process as a whole**



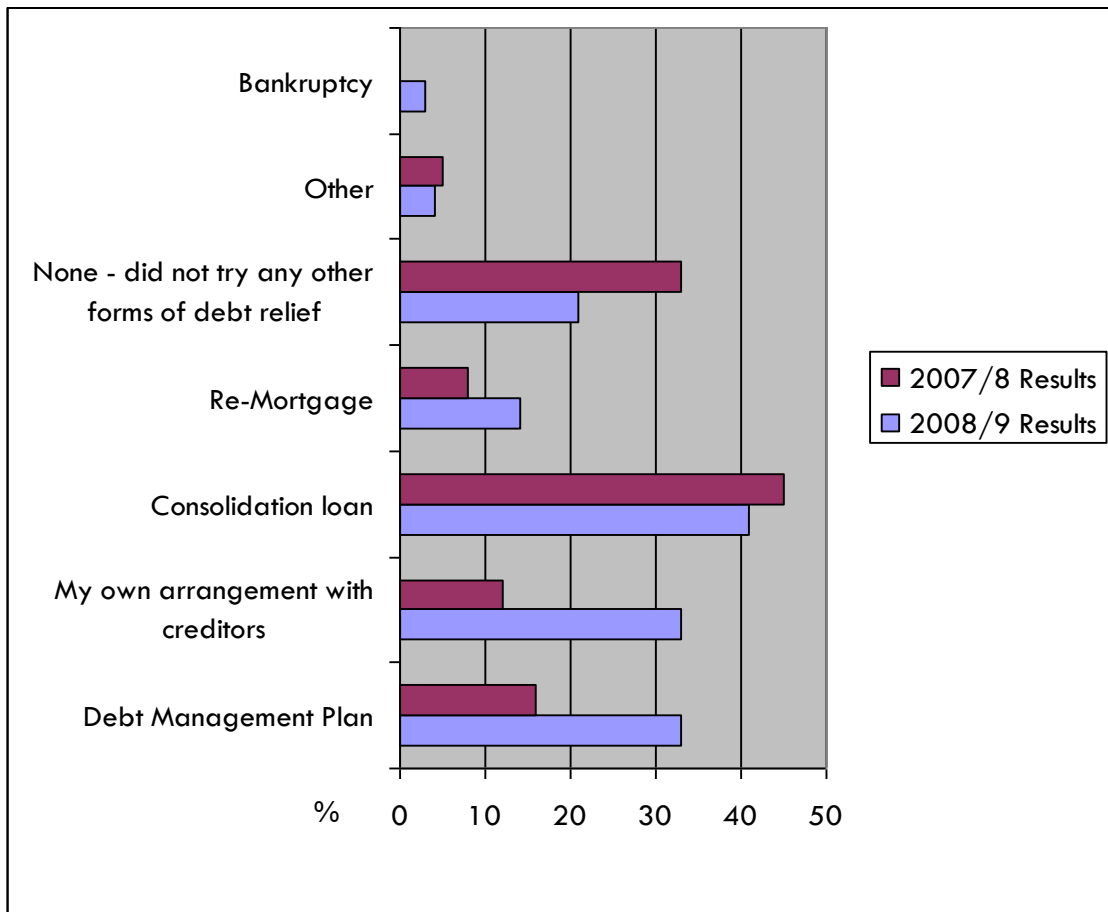
**ii. Information from your supervisor**



**iii. Your responsibilities – no comparison with 2007/8 available**

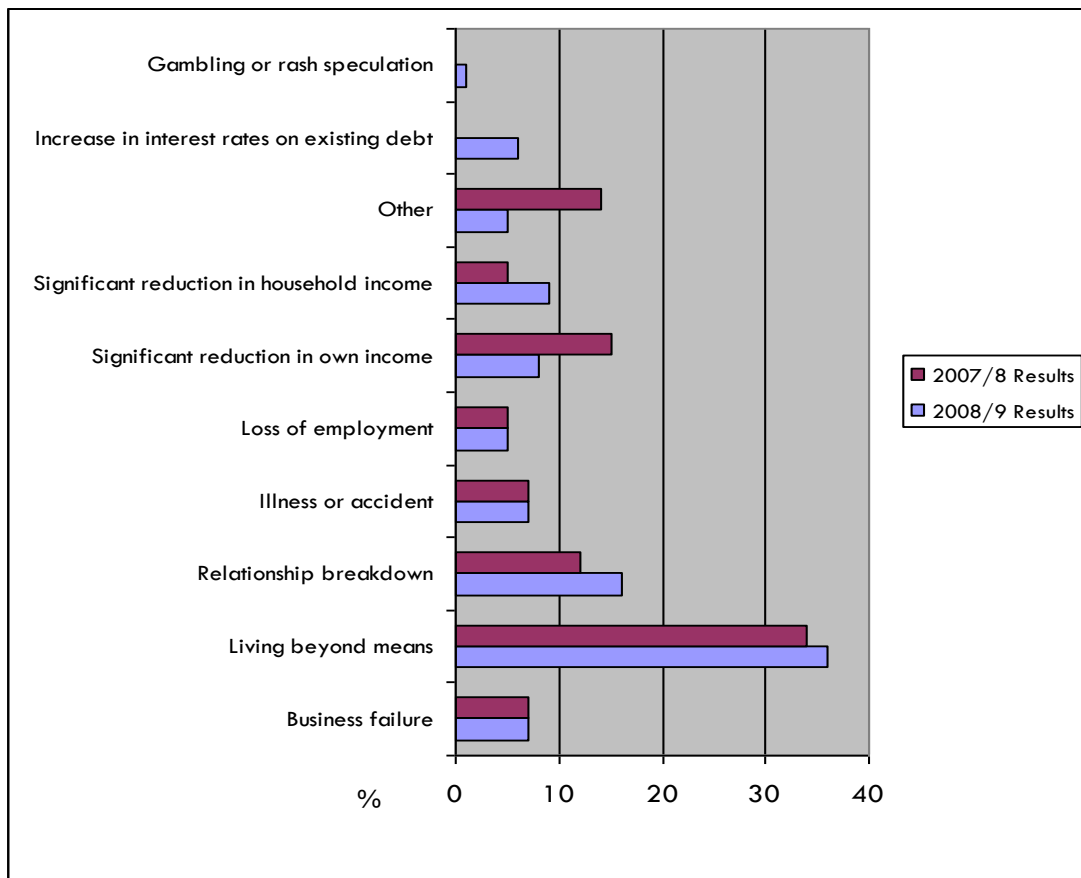


**QA2 – Before entering into your IVA what other forms of debt relief did you go through?**



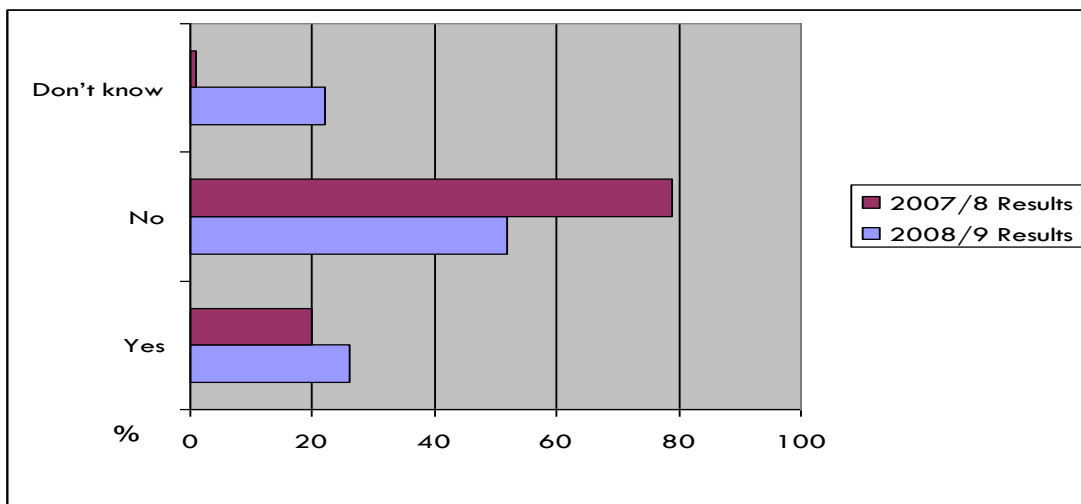
Nb. No figure available for bankruptcy from 2007/8 survey.

**QA3 – What would you attribute as the primary cause of your financial difficulties?**



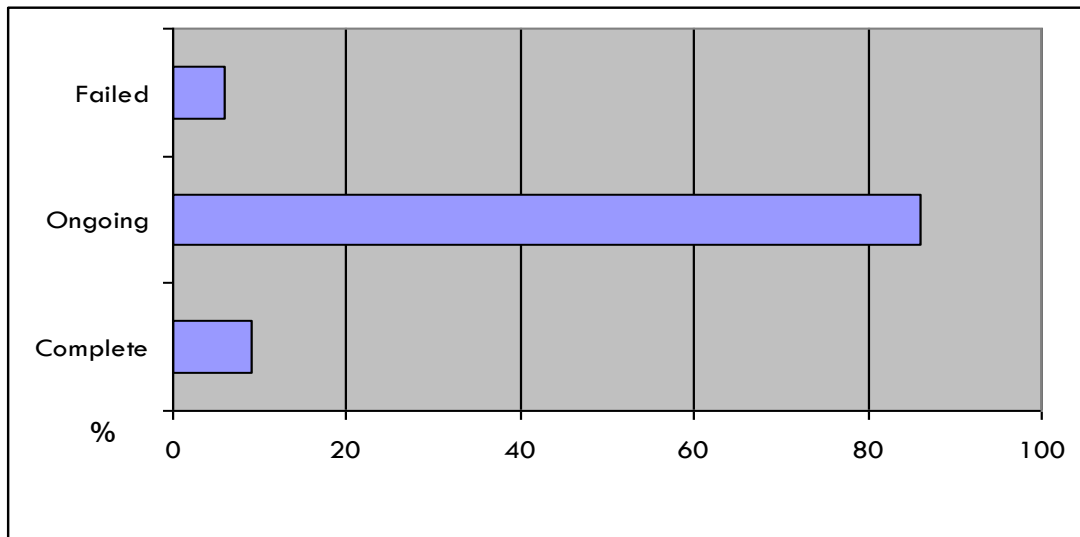
Nb. No figure available for gambling and interest rate increase from 2007/8 survey

**QB1 – Did you have to pay any money (a nomination fee), before your IVA started?**

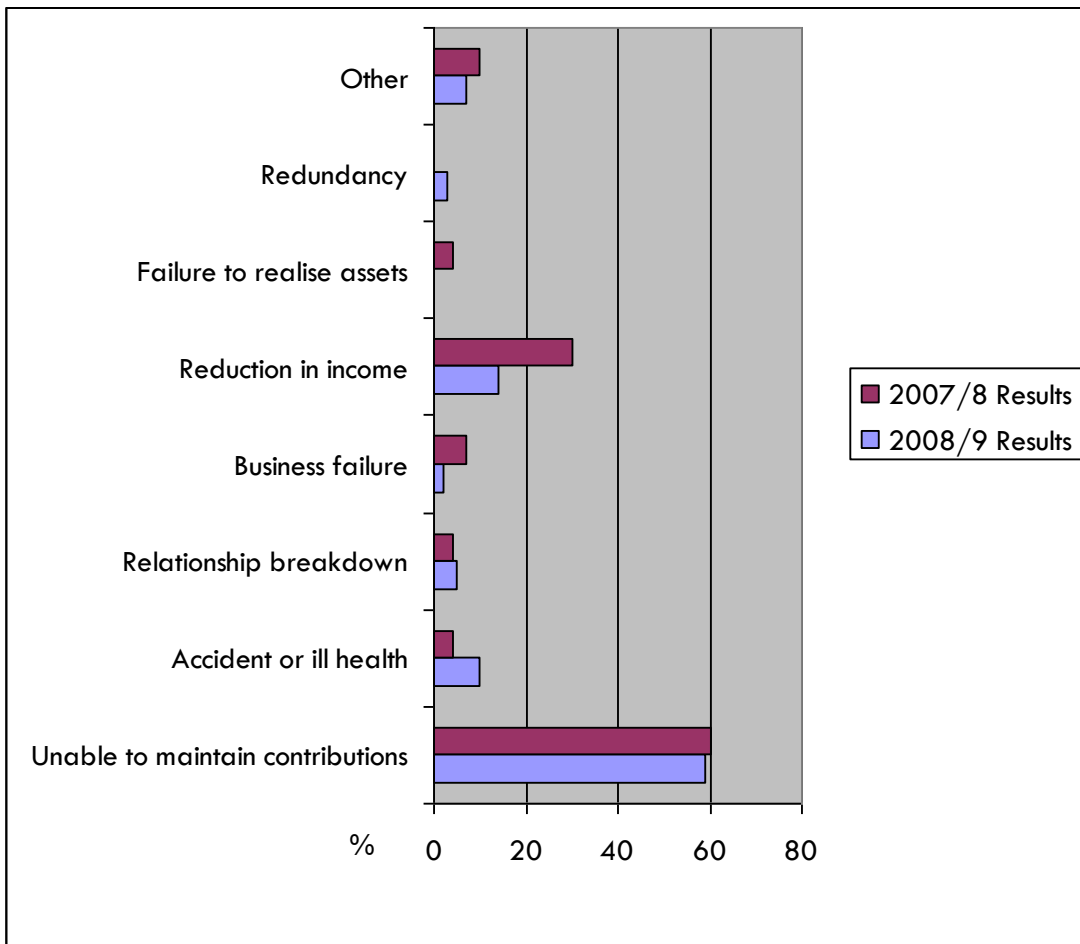


**Nb.** Debtors were also asked the amount of money they paid as a nomination fee. This information has not been included in the report as it has proved impossible to extract accurate data from the survey results.

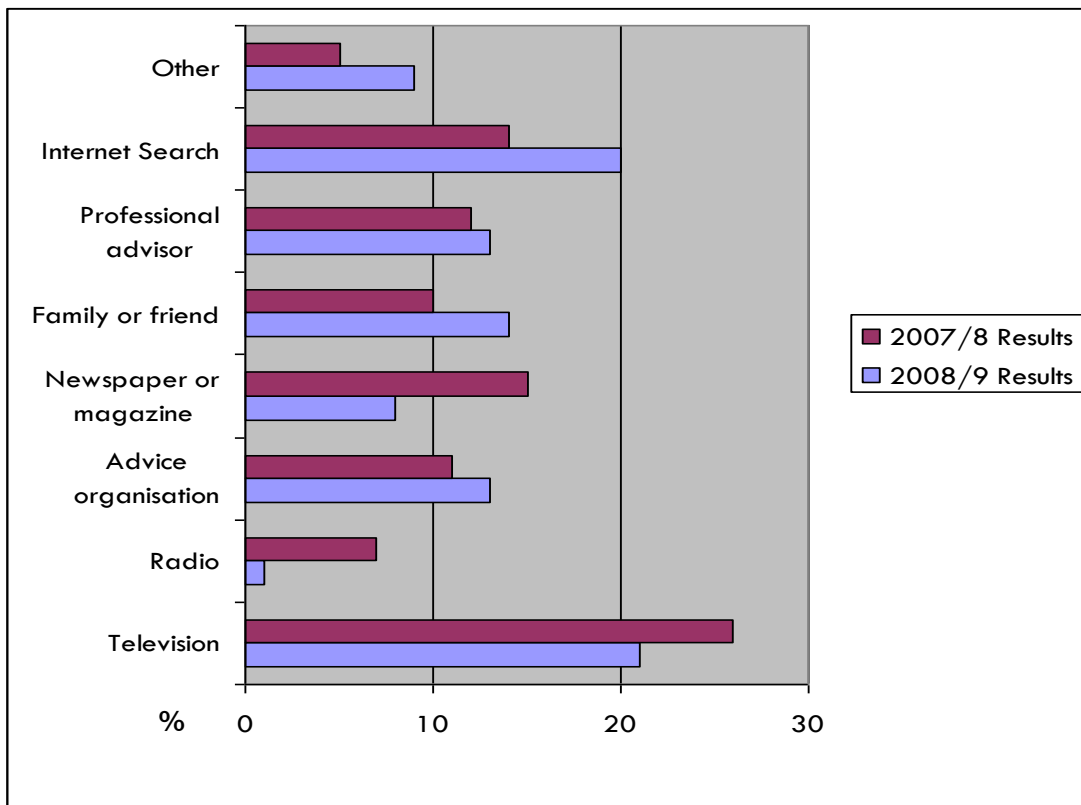
**QB2 – Is your IVA completed, ongoing or failed? – no comparison with 2007/8 available**



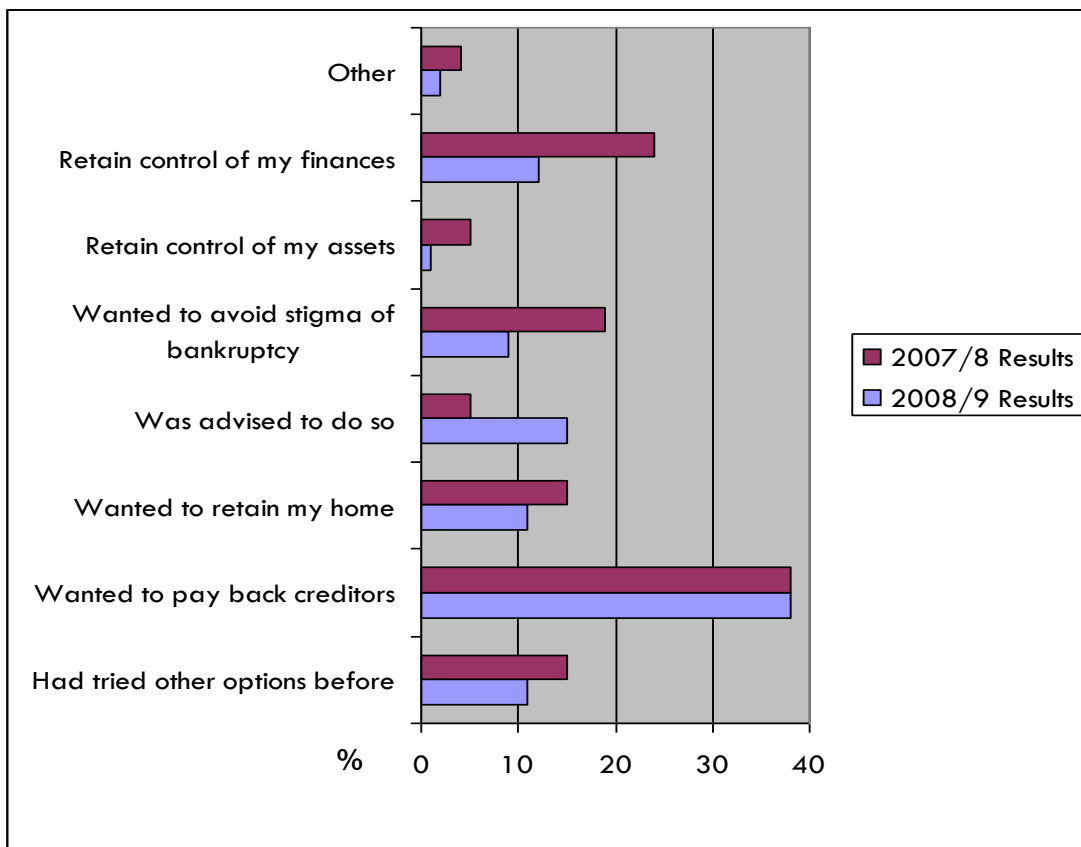
**QB4 – What was the primary cause of your IVA failing?**



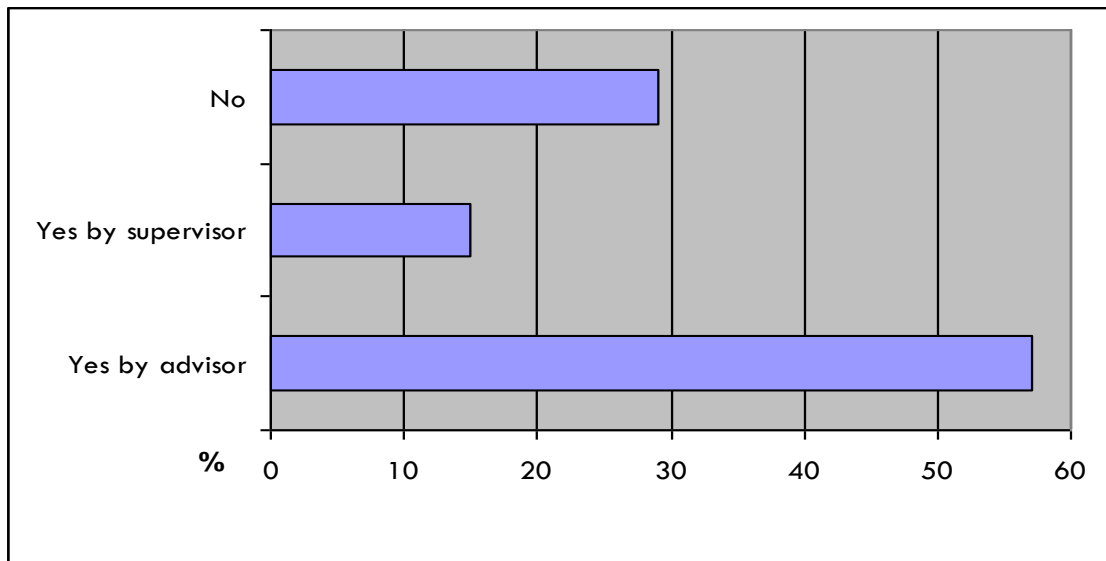
**QC1 – How did you first hear about IVAs?**



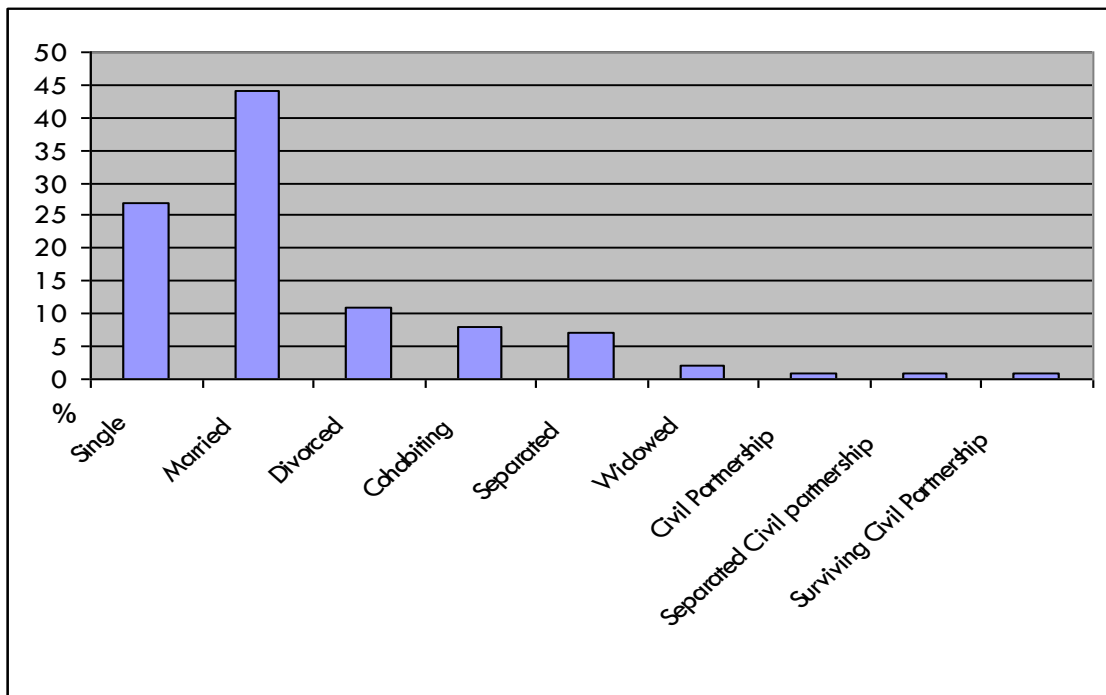
**QC2 – What was your primary reason for choosing an IVA over other forms of debt relief?**



**QC3 – Before making your decision to enter into an IVA, were other debt relief options formally discussed with you? – no comparison with 2007/8 available**



**QC4 – Marital or Civil Partnership status? – no comparison with 2007/8 available**

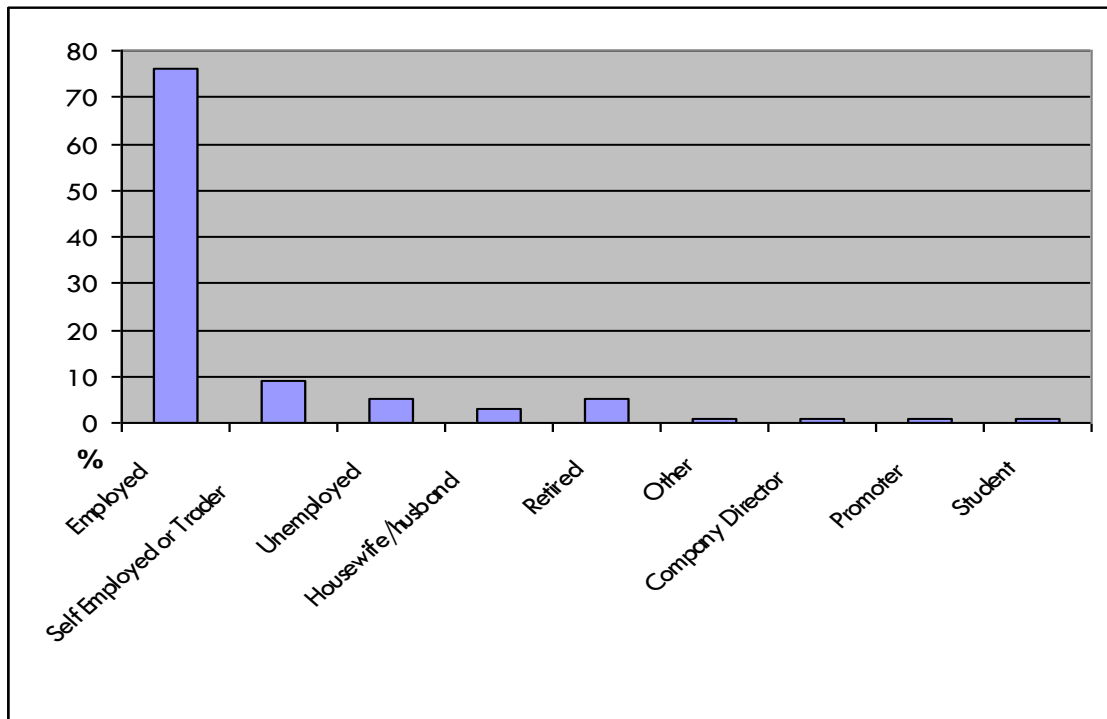


**QC5 – Number of dependant children – no comparison with 2007/8 available**

% of debtors with dependant children	Lowest number of children	Highest number of children	Average number of dependant children
52%	1	7	1.9



**QC6 – Main employment status? – no comparison with 2007/8 available**



## 4. Survey of IVA providers

<b>Number of Questionnaires sent out</b>	<b>2500</b>
<b>Number of returned questionnaires</b>	<b>2043</b>
<b>Percentage returned</b>	<b>82%</b>

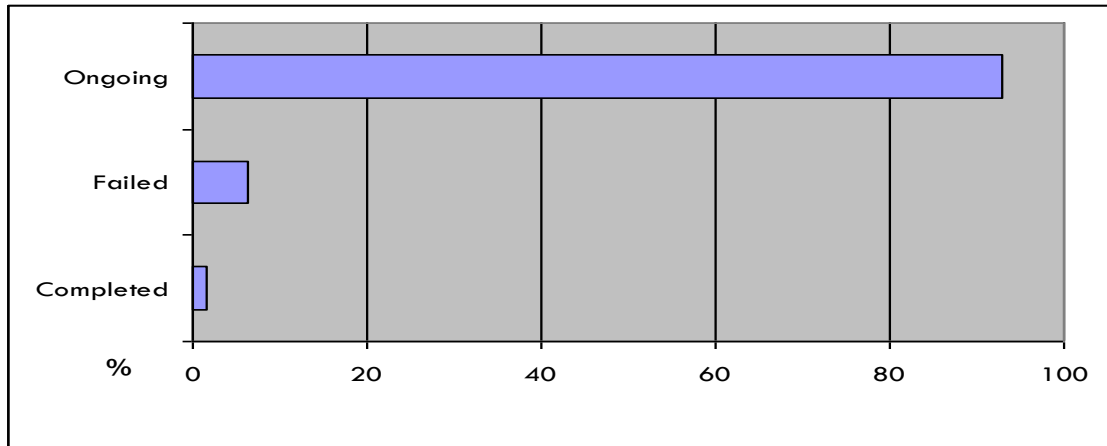
- 4.1 The questionnaire was sent to the IVA providers who had provided the IVAs to the randomly selected sample of debtors. The questionnaire consisted of 5 sections:
- Section A – IVA experience;
  - Section B – Pre-acceptance;
  - Section C – Post-approval;
  - Section D – General questions;
  - Section E – Failed IVAs.
- 4.2 113 different companies provided the IVAs for the 2500 debtors. 90% of the IVAs were provided by 22 firms. To limit any burden and to encourage a greater response rate, a spreadsheet was designed to enable them to complete the survey and respond electronically. The remainder of the companies were sent a paper questionnaire and a pre-paid envelope for their response.

### Findings

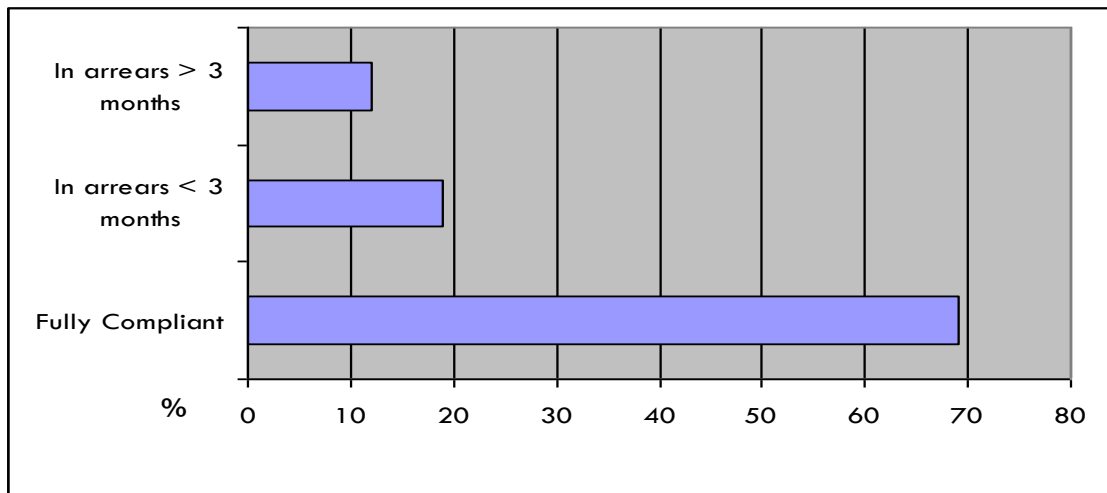
- Over 60% of IVA proposals were either wholly or partly protocol compliant;
- 93% of the IVAs were ongoing;
- 69% of the IVAs were fully compliant, 19% were in arrears by less than 3 months and 12% were in arrears by more than 3 months;
- 36% of the debtors were homeowners of which 11% were in negative equity and 25% had equity in their home;
- 45% of the debtors had a household income of less than £20,000 and 80% had a household income of less than £50,000;
- 27% of debtors had total debts above £50,000;
- 97% of IVA proposals required modifications before they were accepted by creditors;
- At initial proposal the average projected rate of return was 35p in the £ rising to 41p in the £ following modifications;
- The average number of modifications required by creditors before an IVA proposal was accepted is 9 for protocol compliant IVAs and 15 for non-protocol compliant IVAs;
- 13% of protocol compliant IVAs required 15 or more modifications compared with 65% of non-protocol compliant IVAs.
- Modifications on fee levels were submitted by creditors in 70% of IVA proposals;
- The type of modifications required by creditors now relate to three main areas; fees, contributions and terms of the proposal;
- 4% of IVA proposals required post approval variations of which 76% were requested by the debtor;
- The primary cause of an IVA failing was unsustainable contributions.

## Detail

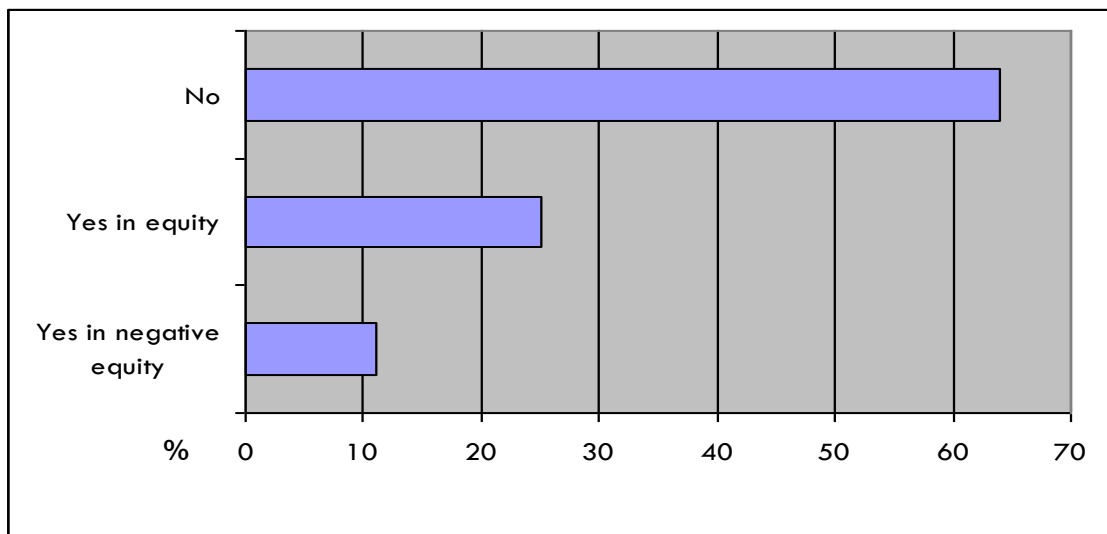
### QA1 – Is the IVA completed, ongoing or failed? – no comparison with 2007/8 available



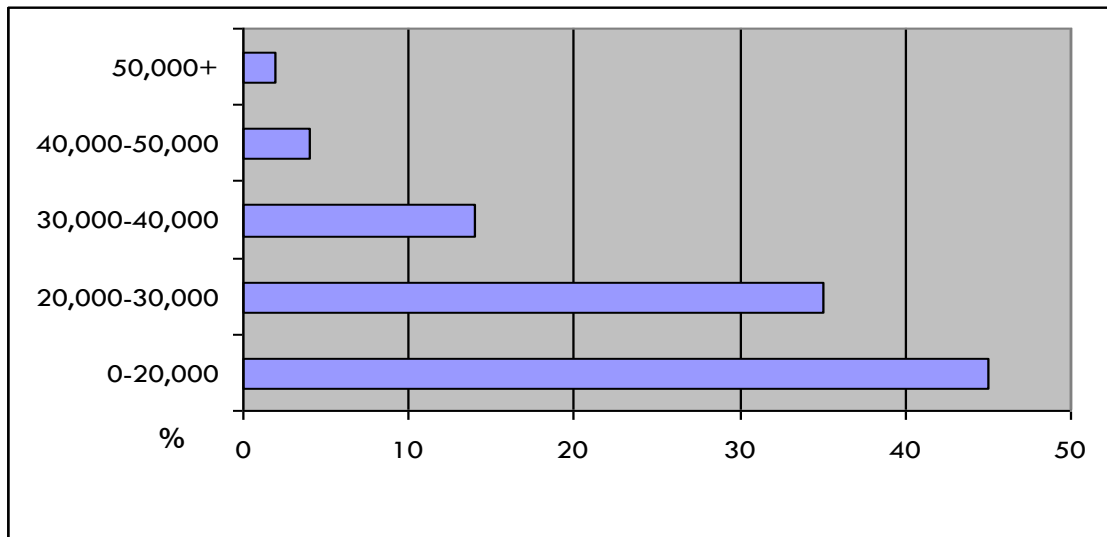
### QA2 - How is the IVA performing? – no comparison with 2007/8 available



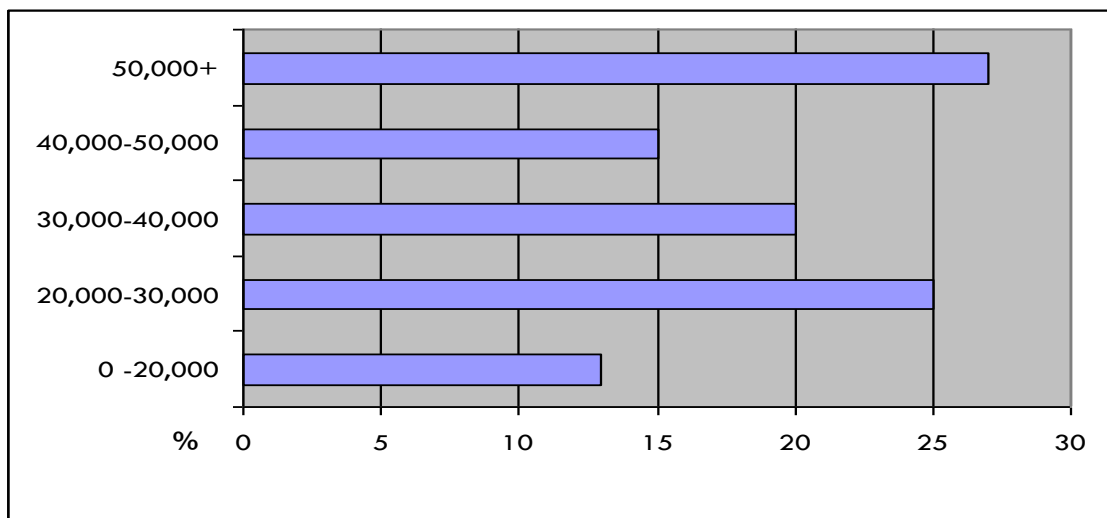
### QB1 – At the time of entering into the IVA was the debtor a homeowner? – no comparison with 2007/8 available



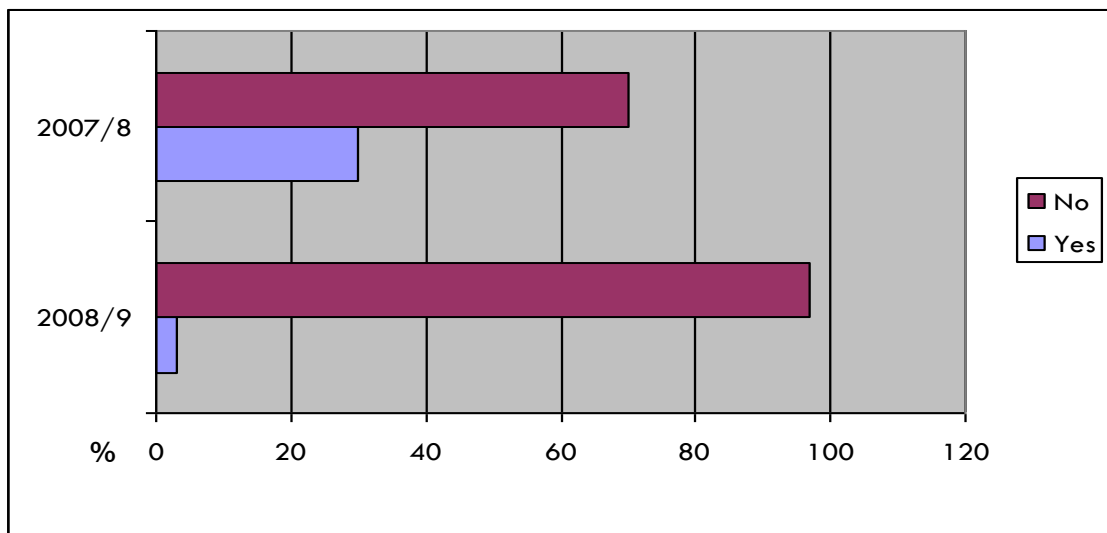
**QB2 – What was the debtors total household income? – no comparison with 2007/8 available**



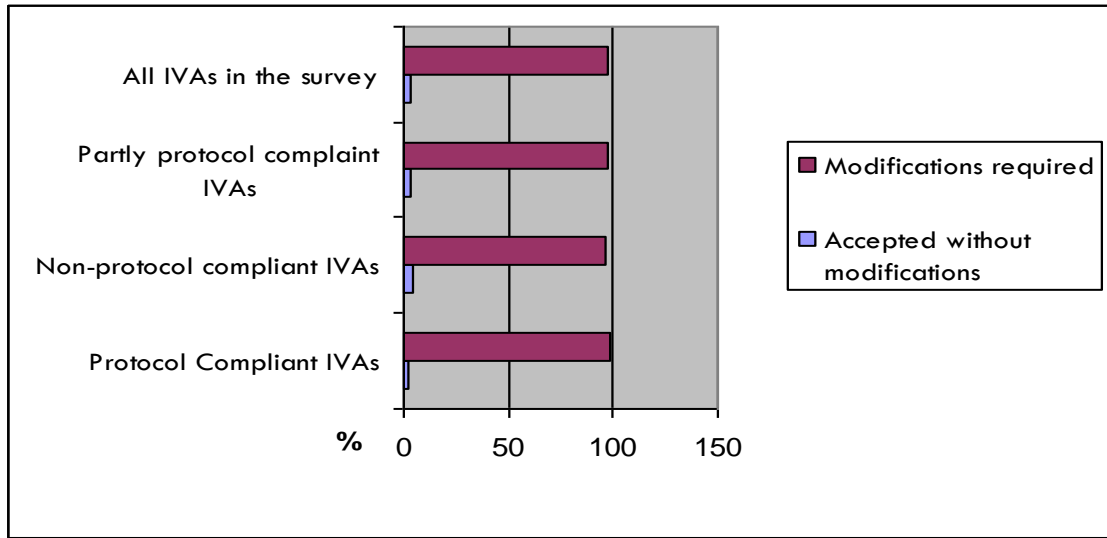
**QB3 – What was the level of household debt? – no comparison with 2007/8 available**



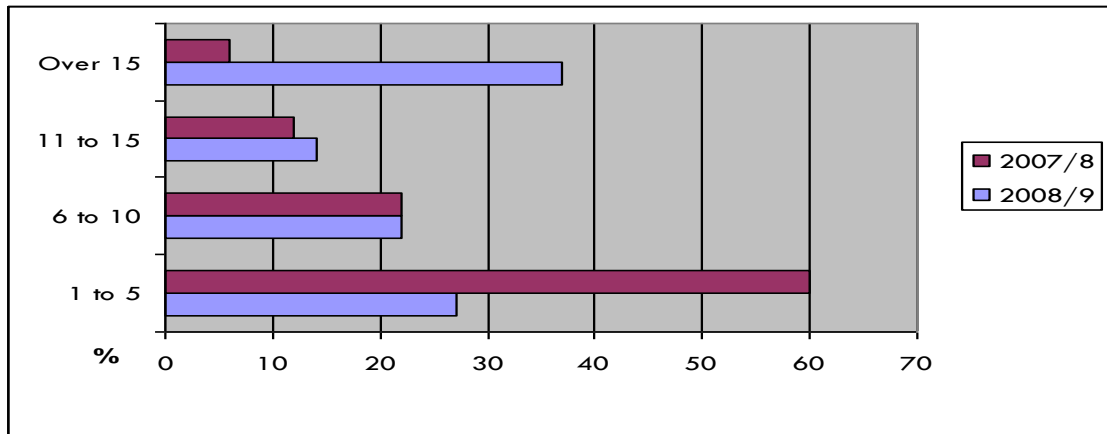
**QB4 – Was the proposal accepted without modifications by creditors?**



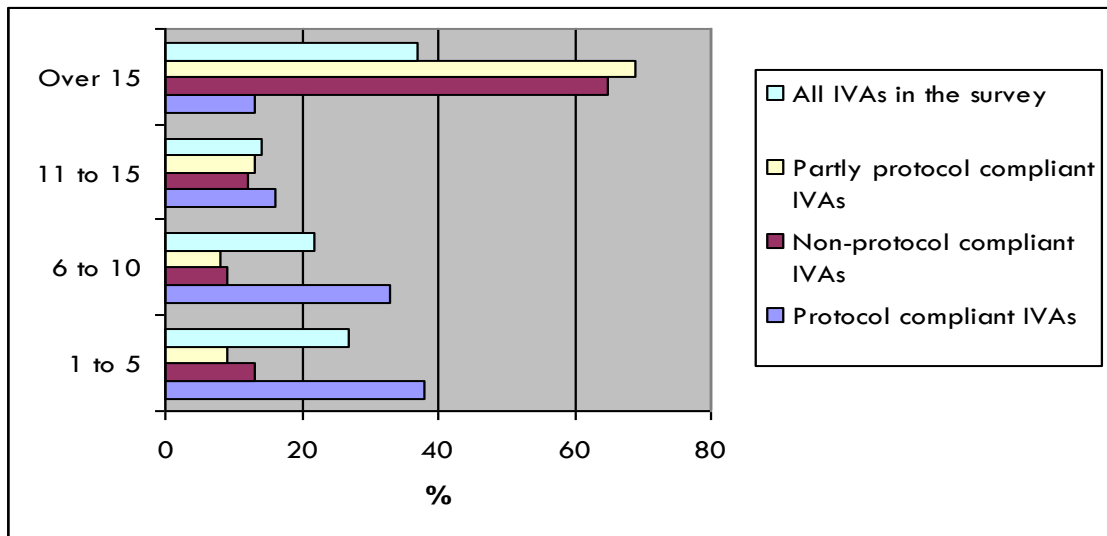
**Breakdown of 2008/9 survey results**



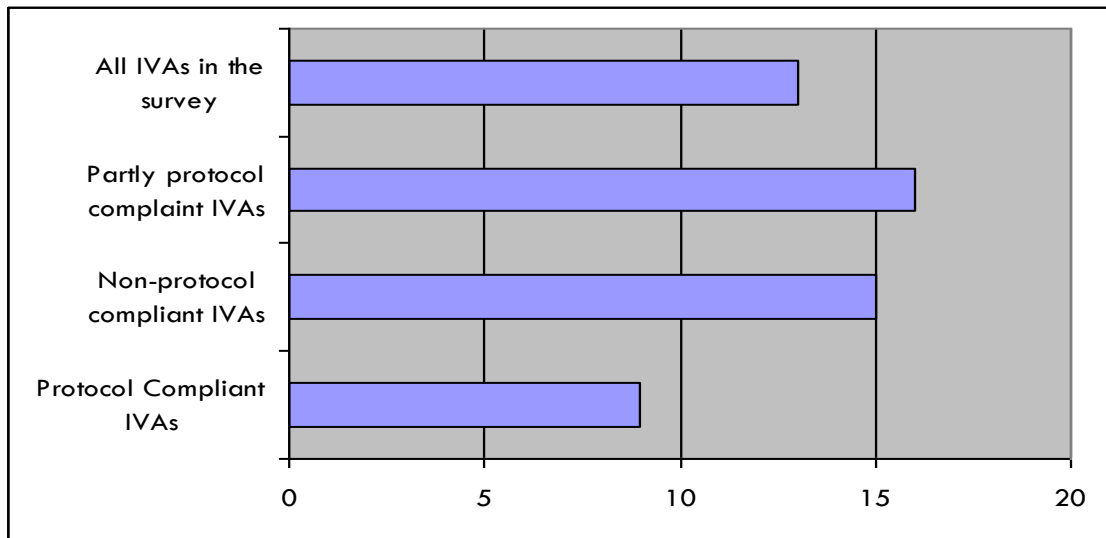
**QB5 i – Number of modifications made?**



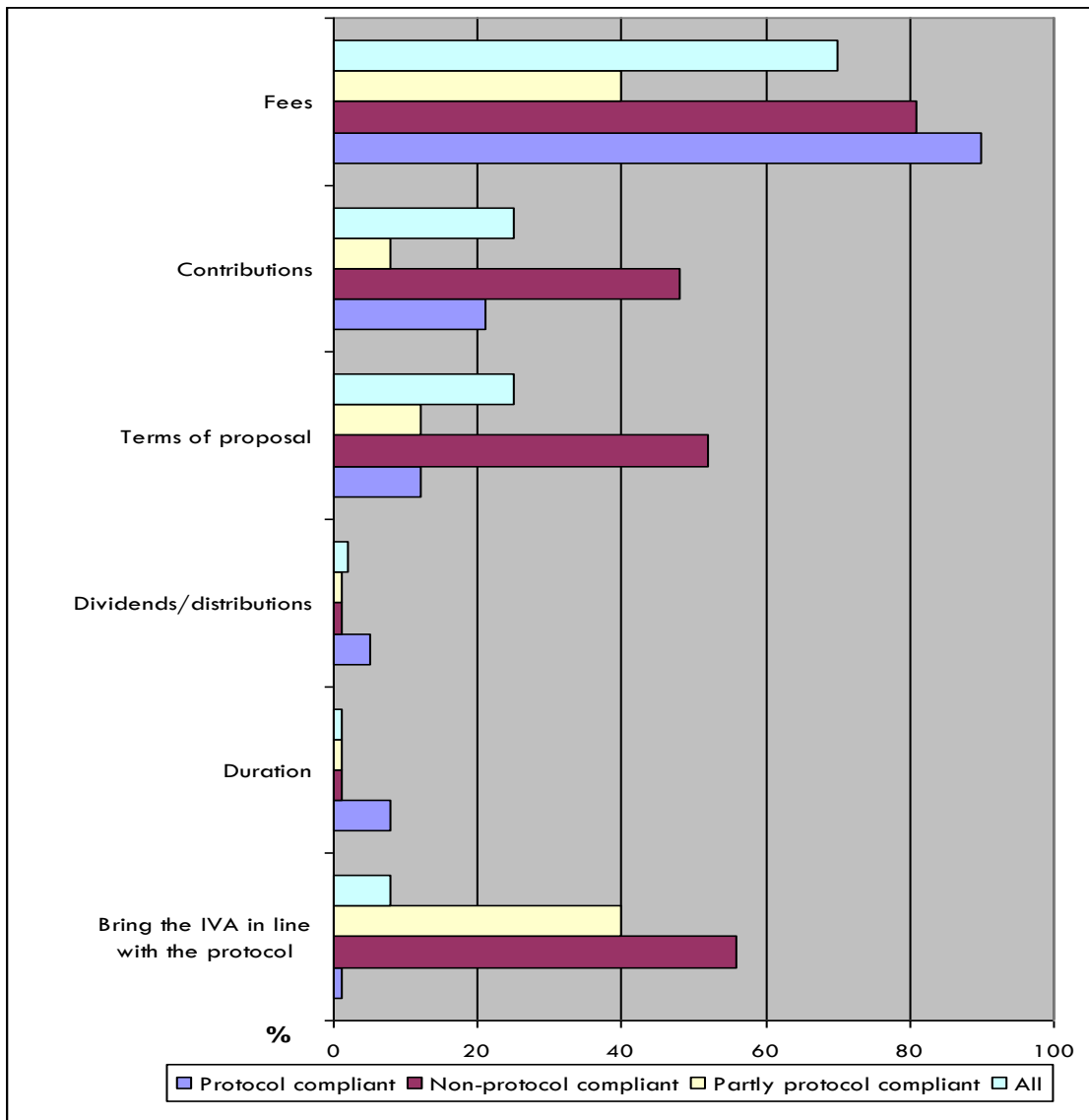
**Breakdown of 2008/9 survey results – number of modifications required**



**Breakdown of 2008/9 survey results – Average number of modifications required**

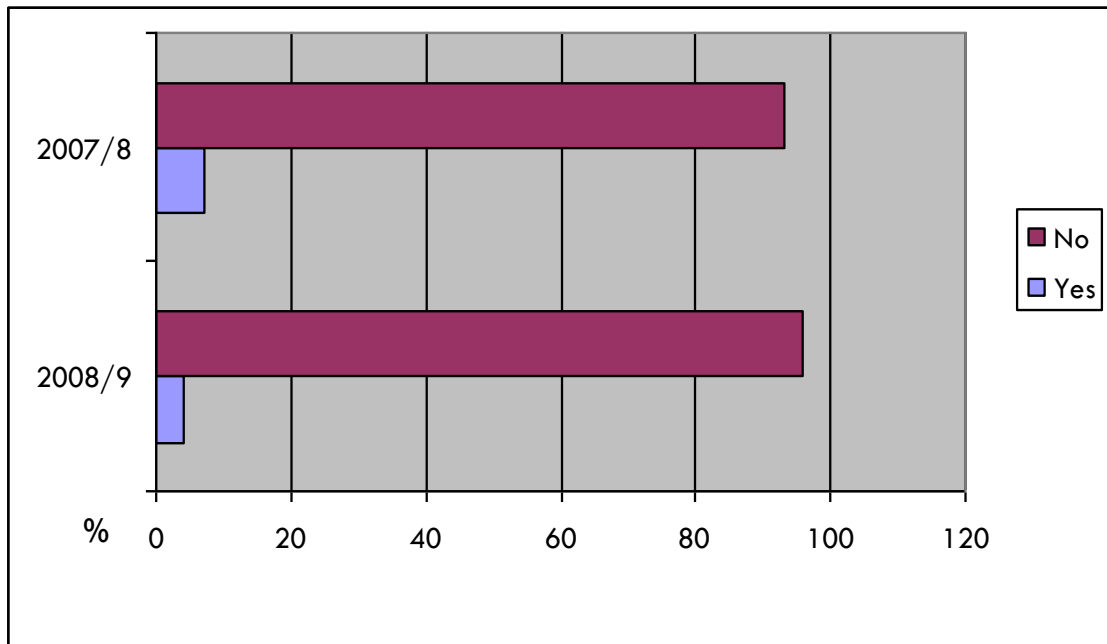


**QB5 iii – Type of modifications made?**

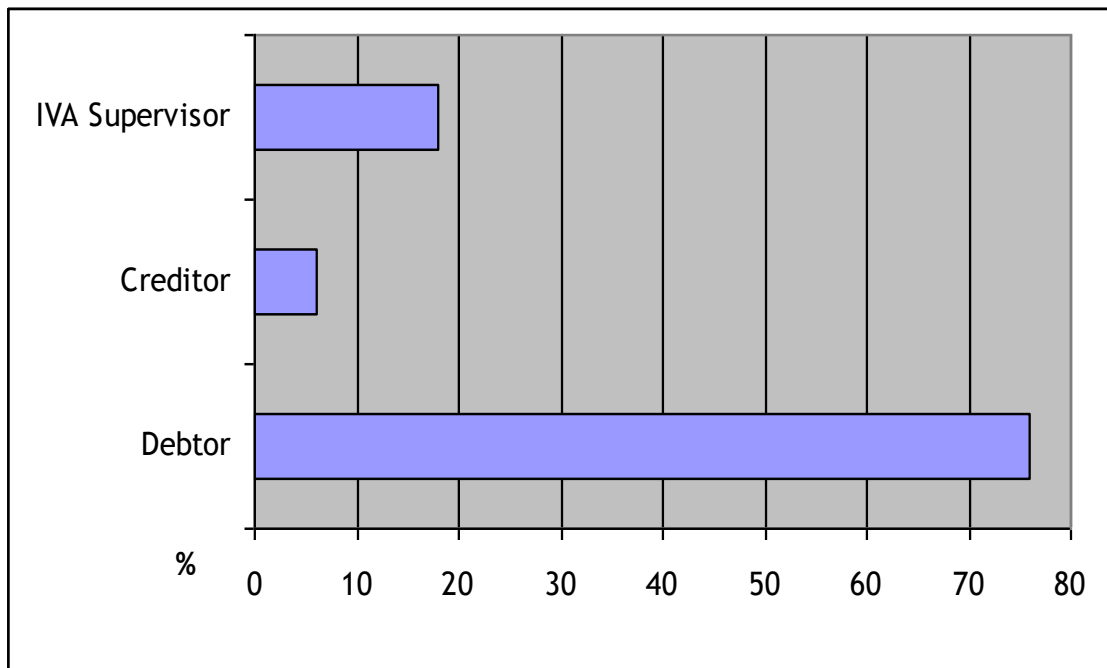


Nb. It is possible to have more than one type of modification per proposal

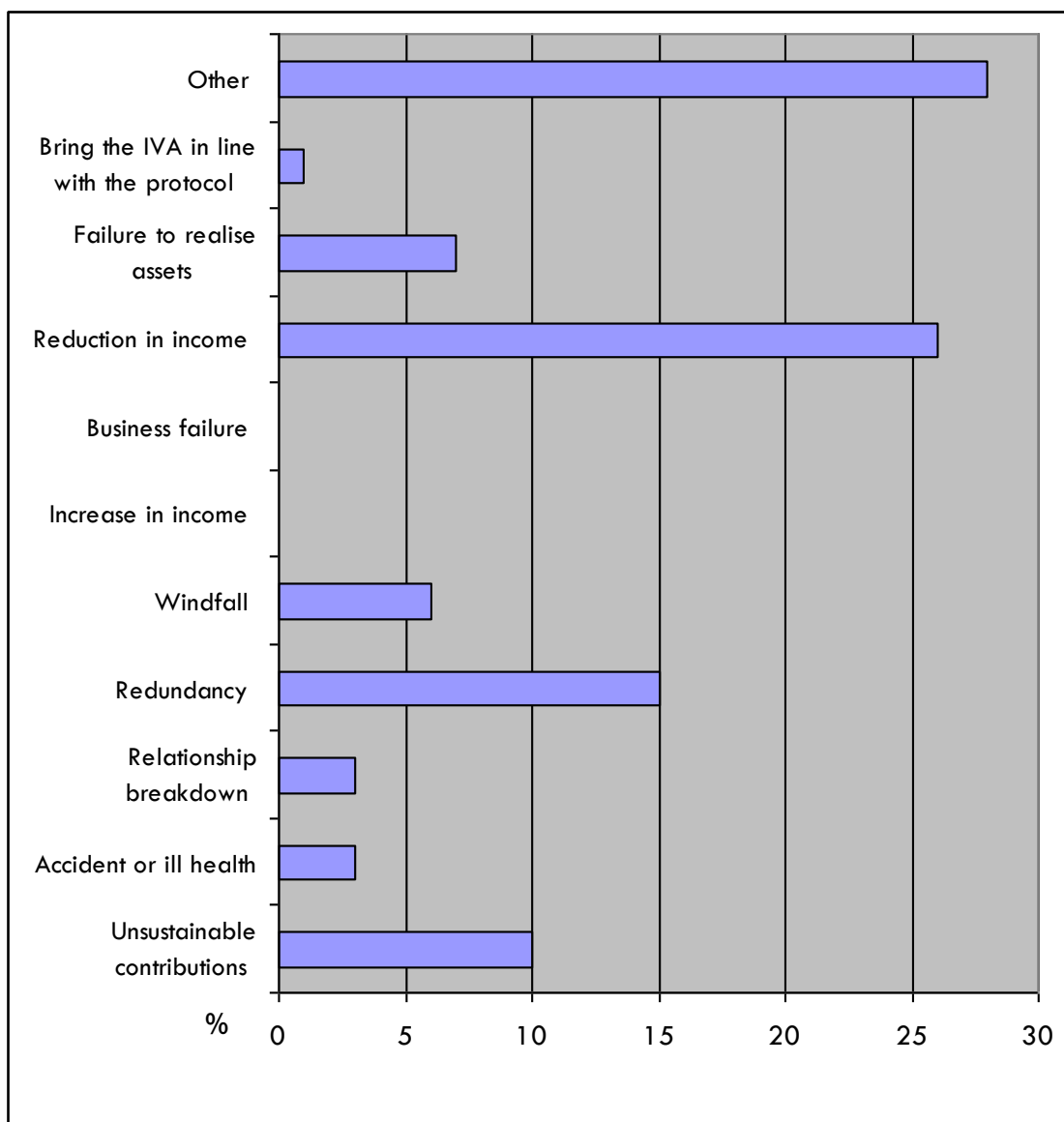
**QC1 – Were variations made to the proposal post-approval?**



**QC2 – Who requested the post-approval variations? – no comparison with 2007/8 available**



**QC3 – What was the reason for the post-approval variations? – no comparison with 2007/8 available**

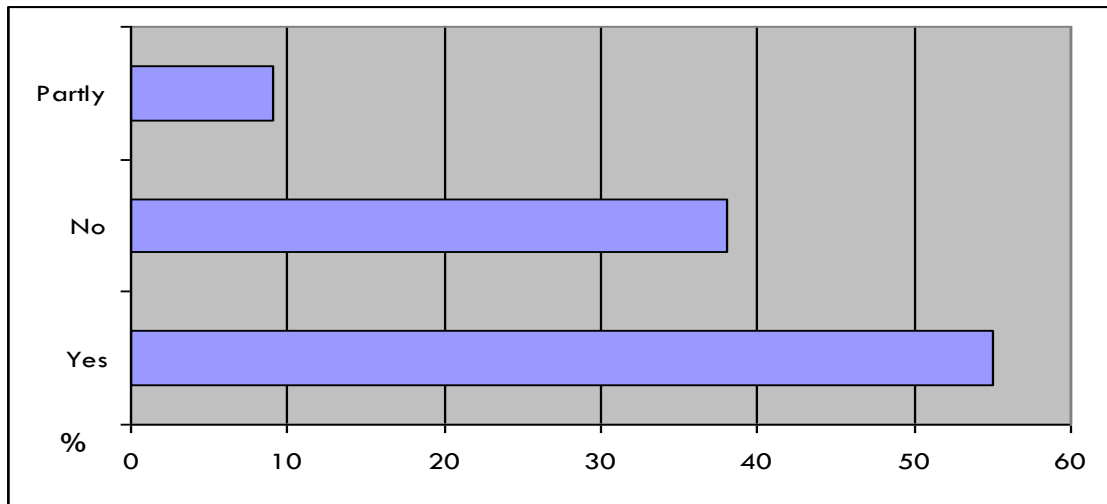


**QD1 – What was the projected rate of return (pence in £)**

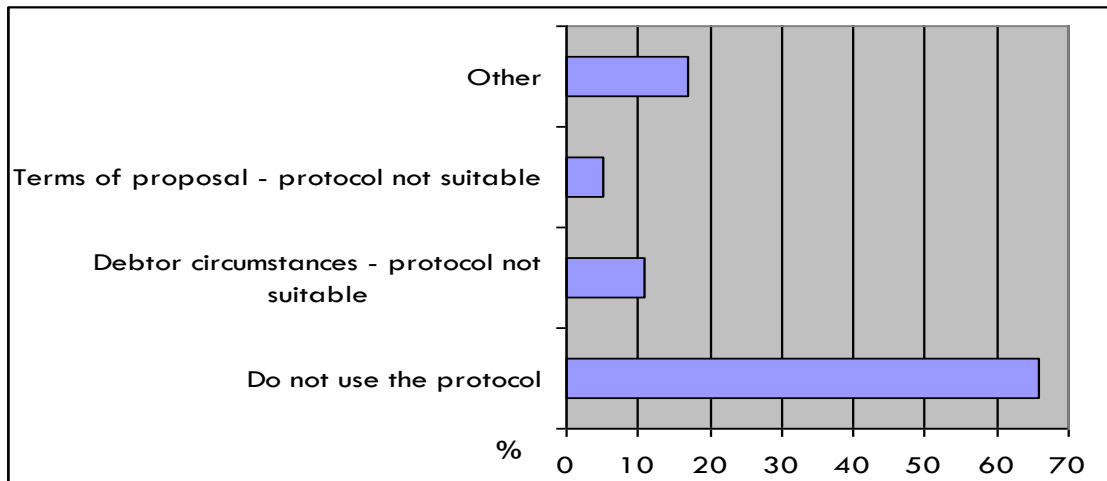
At initial proposal	Following modifications	Following variations
Lowest – 19p in £	Lowest 9p in £	Lowest 7p in £
Highest – 100p in £	Highest 100p in £	Highest 100p in £
Average – 35p in £	Average – 41p in £	Average – 37p in £



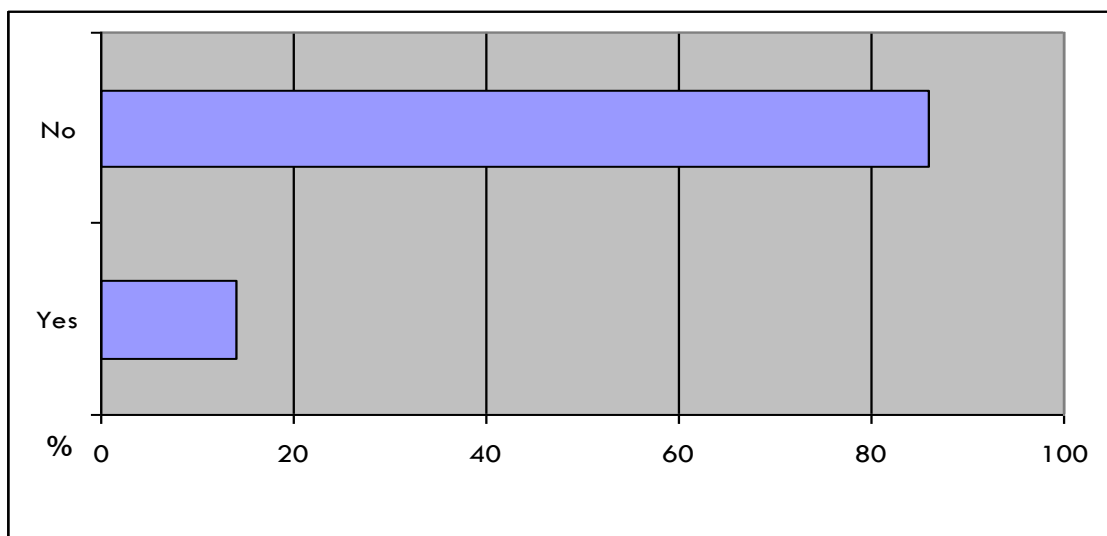
**QD2 – Was the IVA protocol compliant? – no comparison with 2007/8 available**



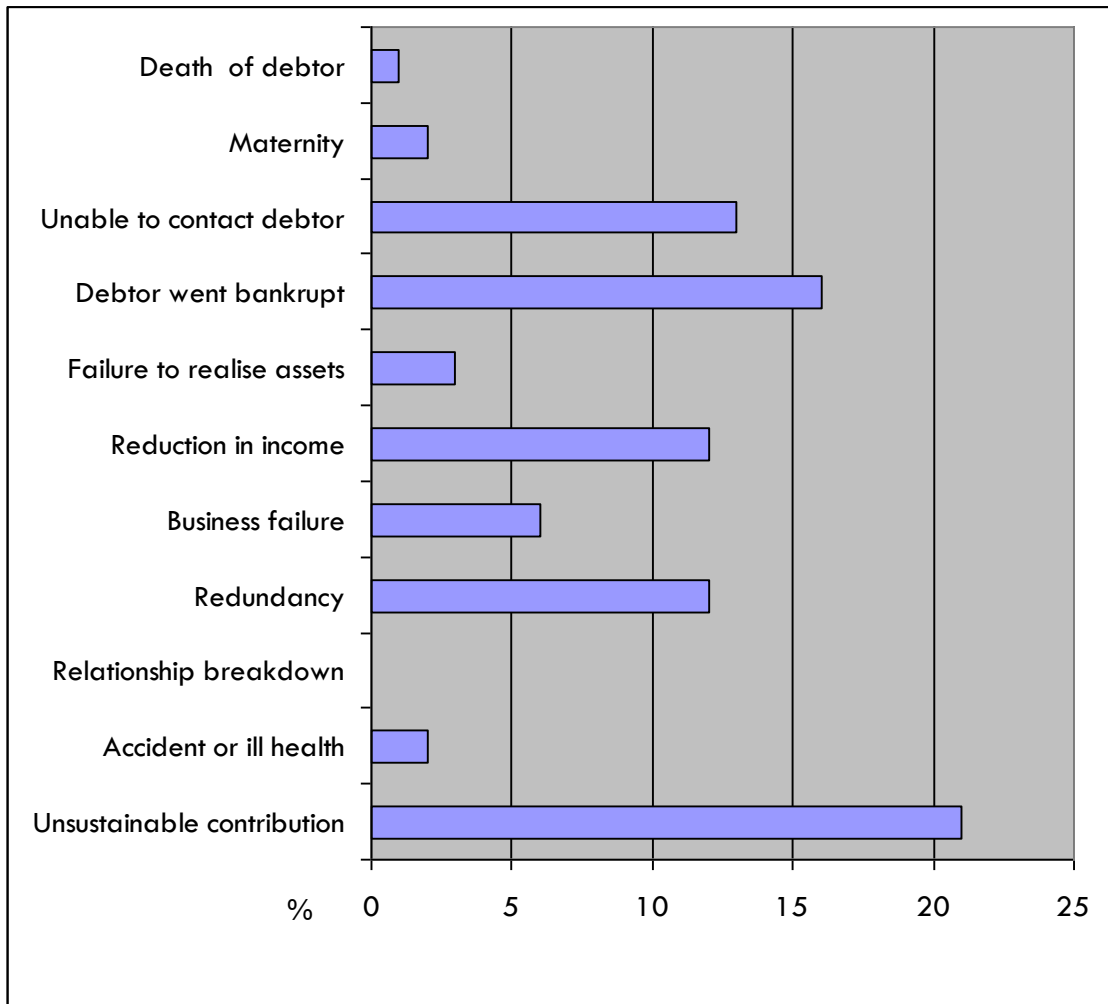
**QD3 – If not fully compliant please specify why– no comparison with 2007/8 available**



**QE2 - Was there an attempt to seek creditor approval of a variation before the IVA failed? – no comparison with 2007/8 available**



**QE3 - What would you identify as the primary cause of the IVA failing? – no comparison with 2007/8 available**



## 5. Interviews with IVA Providers

### Introduction

- 5.1 The main focus of this stage of the evidence gathering process were interviews carried out with the top ten providers of IVAs during the period 1 April 2008 to 31 March 2009. These companies were identified from a list of 41,000 IVAs provided by the Insolvency Service that were taken out during this period.
- 5.2 In addition to the top ten IVA providers the project interviewed three small companies, each of whom provided between one and five IVAs per month.
- 5.3 To enable the companies interviewed to be as candid as possible it was agreed that while the review might use the information given, no comments would be attributed to any individual or company. To enable comparison between the results of the interviews each was based on the same set of questions.

### Findings

Of the 13 companies interviewed, all except one had adopted or partially adopted the protocol.

Key points to emerge were:

- The use of the protocol is increasing with 85-95% of the IVAs now being put forward by the companies protocol compliant;
- The protocol has introduced some standardisation and consistency in the industry;
- The number of modifications required by creditors to IVA proposals reduced following the introduction of the protocol. However the number of modifications required is now rising steadily towards pre-protocol levels;
- There was concern amongst the small IVA providers regarding the timing of modifications, in particular those modifications that are put forward on the morning of the creditors meeting;
- It is exceptional for any IVA to be accepted without modifications;
- Those companies who offer debt management as an alternative to an IVA are providing between 4 and 5 DMPs for every IVA they put forward;
- The level of IVA fees has reduced significantly, with the potential that this will impact on access to IVAs for some debtors;
- The small IVA providers were concerned that fee levels had been forced too low but there was acceptance among them that as small firms there was little they could do about current levels;
- There was concern that the current fee structures being imposed took no account of the amount of work that goes into putting together a proposal and supervising the IVA over its lifetime;
- Creditor agents have too much power and influence in the market;
- There was concern regarding creditor agents requesting quarterly dividends and the impact that this had on small firms in terms of administration costs;
- Some debtors whose cases are suitable for an IVA are not being put forward by providers due to automatic refusals by some creditors;
- Some companies expressed concern about the role of the IVA Standing Committee and have found it difficult to obtain information.

## **Detail**

### **The Protocol**

- 5.4 Nine of the top ten providers and all the small IVA providers had adopted or partially adopted the protocol and the large providers said that between 85% and 95% of their IVAs were now protocol compliant. IVAs were not considered protocol compliant when the terms of the protocol excluded the debtor, for example when the debtor is self-employed, on benefits, or the owner of more than one property. There were mixed views on whether the introduction of the protocol had been of benefit to providers and debtors. Positive areas highlighted included standardisation of terms and conditions, streamlining of processes and consistency when dealing with debtors and creditors. Negative comments were mainly centred around the limited impact that the protocol has had on reducing the number of modifications.
- 5.5 All the companies were asked whether there was scope for improvements to be made to the protocol. Some of the companies thought that the Insolvency Service should look again at implementing Simplified IVAs (SIVAs). Other companies thought that the protocol should include direction for creditors on what modifications are suitable, minimum fee levels, making it less easy for creditors to make their own interpretations of some of the sections and allowing more flexibility in expenditure levels as these are too tight for some debtors.

### **Number of Debtors/Debt Solutions**

- 5.6 The top ten providers dominate the IVA market and accounted for almost 80% of all the IVAs processed during the period of the review. In addition they accounted for 67% of the 2500 IVAs that were randomly selected as part of the survey. On average the top ten companies provided around 350 IVAs per month with the three smaller companies providing between 1 and 5 per month.
- 5.7 Seven of the ten companies interviewed offered DMPs as well as IVAs as a form of debt relief. All of these companies reported that they had seen a large increase in the number of DMPs being taken out compared with IVAs. Those companies who offer debt management as an alternative to an IVA are providing between 4 and 5 DMPs for every IVA they put forward. There was concern across all the companies at the increase in the numbers of DMPs compared to IVAs due to them being unregulated and the length of time that debtors can stay on them for. None of the 3 small IVA providers offered DMPs as an alternative to IVAs.

### **Modifications**

- 5.8 There was widespread dissatisfaction amongst all the companies at the limited impact the protocol had had on the number of modifications required to IVA proposals. It was felt by some that the number of modifications had initially decreased following the introduction of the protocol but that they were now increasing to pre-protocol levels.
- 5.9 All the companies said that it was extremely rare for a proposal to be accepted without modifications. Complaints regarding modifications amongst the providers included; the number of standard modifications submitted by creditors and/or their agents without them reading the IVA proposal, submitting modifications on the morning of the creditors meeting and the disproportionate impact that this has on small firms in terms of administration costs and the nature of some of the modifications and whether

they were within the spirit of the protocol. Examples of these included, insisting that the debtors partner must seek immediate full time employment, regardless of the impact that this may have on childcare and travel costs, and that any dependants living with the debtor who turn 18 during the lifetime of the IVA must pay a certain amount in board and lodging.

### **Fees**

- 5.10 The reduction in the level of fees accepted by creditors was the single biggest issue for those interviewed though there was little evidence that the introduction of the protocol had been directly responsible. All of the companies felt that creditor agents, rather than the protocol had had the greater influence on fee levels and there was widespread concern regarding the power of creditor agents and lack of competition.
- 5.11 Companies also expressed serious concern about standard fees and how these took no account of how much work had gone into putting together an IVA proposal. The providers gave examples of how creditor agents calculate nominee and supervisor fees based on a percentage of the final dividend and a set number of monthly payments. There was some acceptance amongst the providers that historically fees had been too high, but that they were now so low that some debtors were being priced out of the market as the level of fees they could charge on these cases meant that it was not economically viable for them to process the IVA proposal. One of the small providers had recently introduced a policy that they would no longer process an IVA where the monthly contribution was below £500 as this was the minimum level they could process a proposal and still be able to cover their costs.

### **Creditors**

- 5.12 Providers expressed some concerns with regard to particular creditors, though they were pleased that hurdle rates imposed by some have now been dropped. A lack of consistency amongst creditors was seen as a problem and providers thought it would be beneficial if creditors could let them have their criteria to enable them know in advance whether a proposal was likely to be accepted.
- 5.13 All the providers interviewed said that they had had debtors that were suitable for an IVA but they had not put them forward because certain creditors automatically reject proposals. Most of the companies said that they have between 5 and 10 cases per month that are not put forward and one company said that they had up to 50 cases a month that are not put forward due to anticipated creditor refusal where certain creditors hold more than 25% voting rights. An area of concern for the small providers was that some creditors were now insisting on monthly dividend payments rather than six-monthly or annual. This has led to a real increase in administration costs and resource pressure for them as each dividend took over an hour to process.

### **Other points raised**

- 5.14 There was some evidence that the small firms thought that they were being squeezed out of the IVA market due to it being dominated by larger firms. All the firms agreed that, given the opportunity, they would like to process more IVAs but they felt that it was impossible for them to compete at the moment as they do not have the same marketing resources as the big firms.

### **Variations**

- 5.15 The protocol has had no impact on the number of variations. Variations have been increasing recently but companies were clear that this is due to the current financial situation rather than the protocol.

### **Projected returns**

- 5.16 The average return was given at around 40p in the pound, though a number of companies reported that creditors are now more likely to accept smaller returns, 15-20p in the pound due to the current financial situation. There was little evidence that the protocol had had any impact on return rates and widespread agreement that return rates depended on the debtors circumstances and willingness of the creditor to accept the proposal.

### **IVA standing committee**

- 5.17 There was some dissatisfaction regarding the IVA Standing Committee. Many companies felt disconnected from the decision making process and others questioned the membership and whether they were adequately representing the interests of providers.
- 5.18 Many of the firms were unaware that the minutes of the Committee were available via the Insolvency Service website. Those who had searched for them reported that they had found it very difficult to locate them.

## **6. Roundtable discussion with creditors and creditor agents**

- 6.1 Creditors, their representatives and agents were invited to a roundtable discussion to enable the review to seek their views on their experience of the protocol and how it worked for them. Eight people from the creditors side and three representatives from the Insolvency Service attended the discussion.
- 6.2 Attendees were notified that this was an initial look at how the protocol was working and an opportunity to review its impact on the insolvency regime.
- 6.3 It was made clear to the attendees that the review wanted an open and honest discussion of the issues and that none of the opinions expressed would be attributed to any particular person or company.
- 6.4 Attendees were invited to discuss the following:
- Impact of the Protocol upon the way in which IVAs work;
  - Relationship of IVAs to other debt solutions ;
  - Use of the Protocol and the difference between protocol and non-Protocol IVAs;
  - Modifications – impact of the protocol;
  - Average returns from IVAs;
  - Average fees;
  - Relationship between IVA providers and creditors;
  - The role of the small IVA provider.

### **Findings**

- The Protocol has brought some standardisation and consistency in approach;
- IVA Providers always push for higher fees so creditors include modifications which deal with fees as standard;
- Creditors are yet to see any evidence that fees charged by the IVA providers are too low;
- The average number of modifications is three of which two will deal with fees;
- IVAs are seen as an alternative to a DMP rather than an alternative to bankruptcy;
- Creditors feel that they should have the opportunity to have some dialogue with the debtor before they go down the IVA route;
- Every IVA proposal is looked at on its merits and will never be nodded through;
- Creditors would not be able to agree to the proposals for Simplified IVAs as it was believed this proposal reduced their rights.

## Annex A – Questionnaire to debtors

IVA NUMBER -

### Review of the IVA Protocol

In this survey we are seeking to identify your views and experiences of Individual Voluntary Arrangements. We appreciate you sparing a few minutes of your time to complete this survey and as explained in the covering letter, all replies will be treated in strictest confidence. The questionnaire is divided into three sections (A, B and C). Please mark your answers clearly with a **X** in the box. Please return your completed questionnaire by 8 September 2009 using the prepaid self-addressed envelope provided.

If you have any queries regarding this survey please phone 020 7637 6213 quoting your IVA number.

#### Section A - Period up to taking out your IVA

##### A1 How easy or difficult to understand did you find the following?

	The IVA process as a whole	Your Responsibilities	Information from your supervisor
Very Easy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Easy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neither easy nor difficult	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Difficult	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Very Difficult	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

##### A2 Before entering into your IVA what other forms of debt relief did you go through?

Please tick as many boxes as appropriate

Debt Management Plan	<input type="checkbox"/>	Re-Mortgage	<input type="checkbox"/>
My own arrangement with Creditors	<input type="checkbox"/>	None, did not try any other forms of debt relief	<input type="checkbox"/>
Consolidation Loan	<input type="checkbox"/>	Other - Please Specify	
Bankruptcy	<input type="checkbox"/>		

##### A3 What would you attribute as the primary cause of your financial difficulties?

Please tick only one box

Business failure	<input type="checkbox"/>	Significant reduction in own income	<input type="checkbox"/>
Living beyond means	<input type="checkbox"/>	Significant reduction in total household income	<input type="checkbox"/>
Relationship breakdown	<input type="checkbox"/>	Gambling or other rash speculation	<input type="checkbox"/>
Illness or accident	<input type="checkbox"/>	Other - Please Specify	
Increase in interest rates on existing debt	<input type="checkbox"/>		
Loss of employment	<input type="checkbox"/>		



**Section B - Your IVA**

**B1 Did you have to pay any money (a nomination fee), before your IVA started?**

- Yes  If yes, what was the amount? £
- No
- Don't Know

**B2 Is your IVA:** Complete  {go to question C1}

Ongoing  {go to question C1}

Failed

**B3 Approximate date your IVA failed**  /  /

**B4 What was the primary cause of your IVA failing?**

Please tick only one box

- Unable to maintain contributions  Business Failure
- Accident or Ill Health  Reduction in Income
- Relationship Breakdown  Failure to Realise Assets
- Redundancy  Other - Please specify below

**Section C - Your Personal Circumstances at the time of entering your IVA**

**C1 How did you first hear about IVAs?**

- Television  Family or friend  Internet Search
- Radio  Professional Advisor
- Advice Organisation  Official Receivers Office
- Newspaper or Magazine  Other - please specify

**C2 What was your primary reason for choosing an IVA over other forms of debt relief?**

Please tick only one box

- Had tried other options before  Wanted to avoid social stigma of bankruptcy
- Wanted to pay back creditors  Retain control of my assets
- Wanted to retain my home  Retain control of my finances
- Was advised to do so  Other - please specify

**C3 Before making your decision to enter into an IVA, were other debt relief options formally discussed with you?**

Yes, by advisor  Yes, by supervisor  No

**C4 Marital or Civil Partnership Status**

Single  Cohabiting  Civil Partnership   
Married  Separated  Separated Civil Partnership   
Divorced  Widowed  Surviving Civil Partnership

**C5 Number of financially dependant Children**

**C6 Main Employment Status**

Employed  Company Director  Housewife/husband   
Self Employed or Trader  Promoter  Retired   
Unemployed  Student  Other - please specify below

**C7 Any further comments**

**Thank you very much for taking the time to complete the questionnaire**

## Annex B – Questionnaire to providers

IVA NUMBER -

### Review of the IVA Protocol - Questionnaire to IVA Providers

In this survey we are seeking to identify your views and experiences of Individual Voluntary Arrangements. We appreciate you sparing a few minutes of your time to complete this survey and as explained in the covering letter, all replies will be treated in strictest confidence. The questionnaire is divided into five sections (A, B, C, D and E). Please mark your answers clearly with a X in the box. Please return your completed questionnaire by 8 September 2009 using the prepaid self-addressed envelope provided.

If you have any queries regarding this survey please phone 020 7637 6213 quoting your IVA number.

#### Section A - IVA Experience

**A1 Is the IVA:**

Completed   
{go to Section B}

Ongoing

Failed   
{go to Section B}

**A2 How is the IVA performing?**

Fully Compliant

In arrears  by 3 months or less

In arrears  by more than 3 months

#### Section B - Pre- acceptance

**B1 At the time of entering into the IVA was the debtor a homeowner?**

Yes - negative equity  Yes - Equity  No

**B2 What was the debtors household income? For joint IVAs please enter the total household income**

0 - 10,000  30,001 - 40,000

10,001 - 20,000  40,000 - 50,000

20,001 - 30,000  50,000+

**B3 What was the total level of debt? For joint IVAs please enter the total household debt.**

0 - 10,000  30,001 - 40,000

10,001 - 20,000  40,000 - 50,000

20,001 - 30,000  50,000+

**B4 Was the proposal accepted without modifications by creditors?**

Yes  No   
{go to Section C}

**B5 What was the number and type of modifications made before the proposal was accepted?**

i Number of modifications made

ii Number of creditors proposing modifications

iii Type of modifications made (tick all that apply)

Fees  Bring the IVA in line with the protocol

Contributions  Other, please specify

Terms

**Section C Post- approval**

**C1 Were variations made to the IVA proposal post- approval?**

Yes

No   
{go to Section D}

**C2 Who requested the post approval variation?**

Debtor  Creditor  IVA Supervisor

**C3 What was the reason for the post-approval variations?**

Unsustainable contributions  Business Failure

Accident or ill health  Reduction in income

Relationship breakdown  Failure to realise assets

Redundancy  Bring the IVA in line with the protocol

Windfall  Other, please specify

Increase in income

**Section D - General**

**D1 What was the projected rate of return (pence in £)?**

At initial proposal

*Where relevant*

Following pre-acceptance modification/s

Following post-approval variation/s

**D2 Was the IVA protocol compliant?**

Yes  No  Partly

**D3 If not fully compliant, please specify why**

Do not use the protocol  Other, please state

Debtor circumstances - protocol not suitable

Terms of proposal - protocol not suitable

**Section E - Failed IVAs - Only complete this section if you indicated in Section A that the IVA had failed**

**E1 What was the approximate date the IVA failed**  /  /

**E2 Was there an attempt to seek creditor approval of a variation before the IVA failed?**

Yes

No

**E3 What would you identify as the primary cause of the debtors IVA failing?**

Unsustainable contribution  Business Failure

Accident or ill health  Reduction in income

Relationship breakdown  Failure to realise assets

Redundancy  Other - please specify below

**Thank you very much for taking the time to complete the questionnaire**

## Annex C – Diversity monitoring information

- 52.% of respondents were male.
- 10.7% of respondents were from a black or other minority ethnic background, i.e. BME. Over 50% of the BME respondents classed themselves as Black/Black British, and just under a third classed themselves as Asian/Asian British.
- Comparison : The 2001 Census shows that the proportion of BME people in England and Wales is 8.7%; of those, 25.2% class themselves as Black/Black British and 50.3% class themselves as Asian/Asian British
- 8.9% of respondents declared a disability. Nearly half of the disabled respondents classed their disability as a long-term illness. Only 10.9% of the disabled respondents felt that their disability had affected their ability to access IVAs - and the reasons given mainly centred on anxiety issues in dealing with debt problems.