

# **DWP Direct Deduction and Disqualification from Driving Orders Code of Practice [DRAFT]**

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# Disclaimer

This is a draft of the DWP Direct Deduction and Disqualification from Driving Orders Code of Practice. The Code will be laid in Parliament and issued once the relevant provisions come into force.

This Code of Practice gives general information only and should not be regarded as a complete and authoritative statement of the law. If you do not understand any of the contents of the Code, the law, or any obligations or responsibilities you may have, you should seek independent advice.

This Code of Practice sets out how the new powers will operate once they come into force.

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# 1. Introduction

## About this Code of Practice

- 1.1 This Code of Practice (“Code”) is produced in accordance with Section 80E of the Social Security Administration Act 1992 (“the Act”) which requires the Secretary of State to issue a Code of Practice about the exercise of the Secretary of State’s functions under Schedule 3ZA and Schedule 3ZB to the Act.
- 1.2 The Secretary of State can recover certain social security debts from those no longer on DWP benefits and not in suitable Pay As You Earn (PAYE) employment using a Direct Deduction Order (DDO) under paragraph 1 of Schedule 3ZA to the Act. The Secretary of State can also recover such debts through applying to the court for a suspended (or subsequently, an immediate) disqualification from driving order, under paragraphs 1 and 2 of Schedule 3ZB to the Act, where an individual has failed to pay without reasonable excuse, is no longer entitled to, or in receipt of DWP benefits, and recovery from PAYE employment or through a DDO is not reasonably possible. These powers (“powers”) support the Department for Work and Pensions’ (“DWP”) recovery and enforcement of overpayments.

## 1.3 In this Code:

- **Chapter 2** describes the purpose of these powers, and the safeguards within these powers.
- **Chapter 3** looks at the modes and methods of communication the DWP will use to engage with individuals.
- **Chapter 4** provides a step-by-step overview to the process of recovering debt using DDOs.
- **Chapter 5** provides information for financial institutions (“banks”) who must give effect to DDOs, including information on DWP giving notices to banks or penalties for failure to comply, and appeals against a penalty. For clarity throughout this document where ‘bank’ is referred to, this includes other financial institutions and organisations who are required to carry out DDOs and may include building societies and other kinds of payment providers.
- **Chapter 6** sets out how debt will be recovered by using the disqualification from driving power, including by obtaining suspended and immediate DWP disqualification orders through court.
- **Chapter 7** sets out how DWP will process, use and retain information received.

- **Chapter 8** sets out how the department will seek to identify and support vulnerable individuals, when applying these powers.
- **Chapter 9** sets out how the department will strive to identify and support victims of domestic (including economic) abuse (DEA).

1.4 Failure to observe the provisions of the Code itself does not render parties liable to civil or criminal proceedings. The Code may, however, be admissible as evidence in any proceedings or dispute in relation to the exercise of the powers under, or duties imposed by, Schedule 3ZA, Schedule 3ZB or associated regulations.

1.5 The first issued version of this Code has been informed by feedback and views provided in a public consultation. If the Code is re-issued, the Secretary of State must lay the new Code before Parliament (as per Section 80E (6) of the Act).

## Who this Code is for

1.6 This Code is intended for:

- DWP staff, acting on behalf of the Secretary of State for Work and Pensions. This Code is one element of a broader suite of materials that support implementation of the new debt recovery powers and will be used together with operational guidance for staff and banks.

- banks which receive notices or orders under Schedule 3ZA to the Act.
- individuals who owe recoverable overpayments, penalties or other recoverable debts to the department, and their representatives - throughout this code where individual is referenced, this includes their representative if they have one and they are known to DWP.
- joint account holders and their representatives, in relation to Direct Deduction Orders - where joint account holders are impacted, we will refer to them in this document.
- the Code may also be relevant to parties to litigation, and of interest to the general public who wish to know more about these powers.

## **The purpose of this Code is:**

- 1.7 To provide a clear explanation of the DWP's DDO and disqualification from driving powers, and how DWP expects to exercise those powers to recover debt fairly and responsibly.
- 1.8 To set out the main legal requirements of banks in relation to Schedule 3ZA.
- 1.9 To set out DWP's considerations to ensure that all individuals, especially those who are in vulnerable circumstances, are treated fairly.

- 1.10 To provide information on the operational safeguards associated with the use of these powers, including how the department will encourage individuals to engage and agree to sustainable payment plans to avoid the use of these powers.
- 1.11 This Code compliments, but does not replace, the **Benefit Overpayment Recovery Guide** (BORG). It does **not** concern how or when a debt owed to DWP is recoverable, when recovery will be pursued in general, or other methods of recovery available to DWP (including deductions from benefits, direct earnings attachments or civil enforcement via court). It also does not go into detail on any of the generic processes, for example, on waiver, as these can be found in the BORG. For information regarding debts recoverable by DWP (including overpayments and civil or administrative penalties), other methods of recovery and waivers, please refer to the BORG.

## **DWP's Commitment to Fair and Proportionate Debt Recovery**

- 1.12 DWP is committed to treating those in debt fairly, using the “principles of fairness for Government Debt Collection” set out in the **Debt Fairness Charter**.
- 1.13 DWP is an active member of the Government Debt Management Function's (“GDMF”) Fairness Group

which has supported the development of products that aim to improve fairness of Government debt management.

- 1.14 These products include the Debt Fairness Charter and GDMF Public Sector Toolkits, which aim to improve the way individuals experiencing a range of difficulties are identified and supported. These products build on DWP's capability to resolve debt fairly.
- 1.15 To ensure a consistent approach to debt recovery across government, DWP follows **Government Functional Standard (GovS 014, Debt)** and take part in cross-government and cross-sector knowledge sharing forums.
- 1.16 DWP is committed to ensuring that any action taken to recover debts is fair and proportionate. These powers will be used as a last resort, where reasonable attempts to recover the amount owed and engage the individual, using other methods, have failed.
- 1.17 The Code aims to ensure that debt recovery through these powers is fair and proportionate and protects individuals in vulnerable circumstances from unintended financial hardship, for example in meeting essential living costs or from harm, such as being unable to flee from domestic abuse.
- 1.18 DWP will prioritise reaching an agreement with an individual for a payment plan with affordable

payment terms wherever possible, and use of these powers will be as a last resort. All individuals considered for these powers will have had numerous opportunities to agree a voluntary and affordable payment plan before these powers are used.

- 1.19 The DWP Debt Management team will have made attempts to contact individuals, by letter (notification) or by telephone, to discuss payment before referring the case to the Debt Management Enforcement team. Then the Debt Management Enforcement team will also make a minimum of four further attempts to engage the individual to agree a payment plan, by both letter (notification) and telephone call where a telephone number is available. Where alternative formats for communication are required, these will be used. More details on alternative formats and how these can be requested can be found in **Chapter 3**.
- 1.20 Attempts to contact the individual both by letter and by telephone will take place on separate occasions and at different times of the day to maximise opportunities to engage individuals. DWP will cross check information held with information received from the banks and other sources to ensure we have the most up to date contact information.
- 1.21 Where it becomes apparent that DWP notifications have been issued to a previous address for the individual and they have not received them, we

will update our records and normally pause any ongoing recovery action and begin the process again as described in **paragraph 1.19**. This will ensure individuals have the appropriate opportunities to engage with DWP and agree a voluntary payment plan.

- 1.22 Where DWP are aware that another person is legally acting on behalf of an individual who lacks mental capacity, such under a deputyship or guardianship order, or a registered Power of Attorney, DWP will write to them where appropriate.
- 1.23 Those acting under a Power of Attorney or as a Deputy can contact DWP to explain their role and they will be advised of the action they need to take, which may include providing evidence of their legal authority to make decisions on behalf of the individual. More information on Power of Attorney and Deputies, including how to provide this evidence, can be found on **Office of the Public Guardian (Scotland)**, or the following links for England and Wales, **Manage a lasting power of attorney: Prove you're an attorney on a lasting power of attorney - GOV.UK** **Deputies: make decisions for someone who lacks capacity: When you're appointed - GOV.UK**
- 1.24 All notifications will set out the actions required by the individual and the timescales for responding before any further action is taken.

- 1.25 Notifications will signpost individuals to organisations providing independent and free debt advice. Where individuals engage with DWP and are identified as having wider debt worries, DWP can refer them to free and independent debt advice via the Money Advisor Network, a service provided by the Money and Pensions Service (MaPS).
- 1.26 Independent debt advisors, and those acting on behalf of individuals with a DWP debt, will be able to contact the DWP Debt Enforcement Team using a dedicated telephone number which will be included in all notifications.
- 1.27 Where an independent debt advisor contacts DWP advising the individual has engaged with them and has permission to speak with DWP, we will work with the advisor to agree an appropriate solution.
- 1.28 A formally drawn up and debt advisor verified Standard Financial Statement (SFS), or a Common Financial Statement (CFS) in Scotland, can be considered as part of affordability considerations.
- 1.29 DWP will ensure that individual circumstances, where known, are considered when deciding whether a DDO or an application to the court for a disqualification order is appropriate.

## **2. Explanation of the powers to recover debt by Direct Deduction Order (DDO) and by Disqualification from Driving**

- 2.1 Under Schedule 3ZA to the Social Security Administration Act 1992, DWP has powers to issue a DDO to banks to recover debts directly from individuals' bank accounts. In the most serious cases, where recovery by any other means is not reasonably possible, DWP can apply to the court for a suspended disqualification from driving order under Schedule 3ZB to the Act.
- 2.2 When DWP successfully applies for a suspended disqualification from driving order, the court will order the individual to comply with payment terms. If an individual fails to comply with the payment terms set by the court, this could lead to an immediate disqualification order, which would disqualify the individual from driving.
- 2.3 These powers will be used as a last resort where reasonable attempts to agree an affordable and sustainable payment plan have failed. Individuals can avoid the use of these powers and any

associated costs by contacting DWP, agreeing to and maintaining a payment plan.

- 2.4 The powers can only be applied where individuals are not in receipt of a DWP benefit, or where deductions from PAYE earnings are not reasonably possible. DWP will also conduct affordability, and vulnerability checks prior to making a direct deduction order or applying for a disqualification from driving order.
- 2.5 The powers are intended to encourage individuals to contact the department at the earliest opportunity to discuss affordable payment terms without the powers being required.
- 2.6 The new recovery powers will be used by the Debt Management Enforcement Team on behalf of the Secretary of State.

## **Recovery of Debt by Direct Deduction Order (DDO)**

- 2.7 The recovery powers provide the ability to recover money owed to DWP directly from the individual's bank account (including joint accounts, or some accounts used for business purposes) through regular or lump sum direct deductions.
- 2.8 Before DDO action, the Debt Management Enforcement Team will have attempted to contact an individual on a minimum of four separate occasions over a reasonable period of time. This

is in addition to any contact made prior to the case reaching the Debt Management Enforcement Team. All notifications issued by post will include information on organisations which provide free independent debt advice.

- 2.9 For individuals who can repay, a voluntary affordable payment plan is DWP's preferred outcome. DWP will use bank statements to help determine an affordable payment plan where individuals have not engaged with the department to discuss payment.
- 2.10 If an affordability assessment indicates that an individual has no means to repay money owed, no further recovery by a DDO or disqualification from driving order will be attempted at that time.

## **Recovery of debt by disqualification from driving**

- 2.11 As a last resort in the most serious cases where DWP considers the individual has the means to pay but is refusing, or avoiding payment, without reasonable excuse (including taking action to move funds to prevent a DDO, or refusing to pay), DWP may apply for a court order to temporarily disqualify an individual from holding a driving licence.
- 2.12 At first, the court must make a suspended disqualification order. This will allow the individual

to continue to hold a driving licence but requires them to make payments as ordered by the court. Only if the payment terms are breached, without good reason, can DWP apply to the court to immediately disqualify the individual from driving.

- 2.13 Contacting DWP, agreeing to and maintaining an affordable payment plan early in the process, would mitigate the risk of DWP applying to the court for an order to temporarily disqualify an individual from holding a driving licence.

## **Proportionality of the powers**

- 2.14 Recovery by these methods is a last resort where other reasonable efforts to recover the debt, and engage with the individual, have been unsuccessful. The department's preferred option is to work with the individual to agree an affordable payment plan.
- 2.15 An individual's ability to repay will always be considered, including whether recovery would cause a person to suffer hardship in meeting essential living expenses. A DDO should not cause an individual, or those who they live with or are financially dependent on the individual, undue hardship.
- 2.16 Disqualification from driving cannot occur if the court determines an individual has an essential need for driving, including where it is essential to

earn a living. The individual will need to make any essential need clear to the court.

## Safeguards

- 2.17 Statutory safeguards are built into both recovery methods outlined in this Code.
- 2.18 Safeguards for the recovery of debt by a DDO include assessing at least three months of bank statements before an Order can be made. Bank statements will be used to help:
- assess an individual's ability to repay by forming a holistic view of a person's financial circumstances, based on all the data held,
  - propose an affordable amount to be deducted directly from their account,
  - establish whether deductions would cause a person to suffer hardship in meeting essential living expenses, and
  - determine what share of the money reasonably belongs to the individual if the account is jointly held with another person.
- 2.19 Individuals, and any joint account holders, will be notified of the proposed DDO and given at least one calendar month to make representations to DWP before the DDO is given to the bank. The individual can also request a review of the DDO before it is implemented. Where an individual has

made representation or requested a review, if they are still unhappy with the decision, they can appeal to the First tier Tribunal.

- 2.20 Other safeguards include caps on regular deductions and a restriction that joint accounts can only be considered where deductions from an individual's sole account are not reasonably possible.
- 2.21 Recovery of debt by the disqualification from driving power can only be considered for debts with at least £1,000 outstanding. An immediate disqualification order cannot be for more than 2 years in duration, and a court must not make a suspended or immediate disqualification order if it considers that the individual has an essential need for their driving licence, including where it is essential to earn a living.
- 2.22 Further safeguards include a help and advice section in all written correspondence signposting individuals to free independent debt advice agencies.

## **Transparency of the use of the powers**

- 2.23 These are last resort powers. Individuals will have been notified of their debt through the debt management process and the period to make an appeal against the amount of the overpayment, or

the decision that the debt is recoverable, will have already ended.

- 2.24 During the enforcement journey, individuals will again be informed of their outstanding debt balance, the recovery process and available support, including what to do if they disagree with a decision. They will also be informed that DWP may use the new powers and that bank statements may be obtained without further warning.
- 2.25 Use of the powers may result in additional costs to the individual, such as reasonable costs which banks are permitted to recover from the individual when making a deduction. The costs banks may recover will be set out in DWP notifications. More information on the cost's banks may recover from an individual is provided in **Chapter 4**.
- 2.26 Costs which occur in relation to disqualification applications to the court may also be recovered from the individual. This will be explained to individuals in DWP notifications.

## **How will individuals in vulnerable circumstances be supported?**

- 2.27 DWP will be mindful of individuals who they suspect are experiencing financial hardship or would be considered vulnerable. This may include a reduced deduction amount or alternative course of action being considered. Individuals are always

encouraged to contact the department directly or through a third-party or representative, with details of any difficulties they are experiencing or any other relevant information regarding recovery of their debt. More information can be found in **Chapter 7**.

- 2.28 The Secretary of State has discretion to waive an overpayment of benefit in exceptional circumstances, on application. **Chapter 8** of the **Benefit overpayment recovery guide - GOV.UK** contains more information.
- 2.29 Processes will include safeguards to provide support, in relation to debt recovery, where someone is a victim or survivor of domestic, including economic, abuse. **Chapter 9** of this Code contains more information.

## **3. Communicating and engaging with individuals**

- 3.1 DWP is committed to ensuring clarity, accessibility and fairness when communicating with individuals.
- 3.2 Individuals will be given information to help them understand their rights, responsibilities and options throughout the process, as well as being signposted to organisations which provide free and independent debt advice.
- 3.3 Individuals are encouraged to contact DWP as early as possible to discuss their circumstances and recovery options.

### **Clarity, sensitivity, and accessibility of communications**

- 3.4 To ensure individuals can engage in a way that suits their needs and circumstances, communication channels available from DWP include:
  - in writing, through letters
  - telephone support
  - online self-service (where available)
- 3.5 All notifications will be clear and written in accordance with DWP communication standards, setting out next steps and how to contact DWP,

as well as how to seek independent sources of support.

3.6 Individuals will be able to request information provided by DWP in alternative formats where needed, including:

- Audio communication, such as tape, cd, mp3 or wav files
- Braille
- Coloured Paper
- Email (as a reasonable adjustment with web-accessible pdfs)
- Large print
- Easy Read
- BSL
- Translation to Welsh

3.7 Where DWP are already aware that an individual requires communications in an alternative format, this will automatically be provided. Timeframes will be adjusted to allow time for the communication to be issued in the required format.

3.8 All notifications will include information encouraging individuals to discuss their outstanding debt with DWP, including payment options and disclose circumstances that may affect their ability to repay the debt.

- 3.9 Notifications will be firm but fair, using language that encourages individuals to contact us. Notifications will set out solutions to ensure individuals feel able to engage without fear of immediate enforcement action wherever possible.
- 3.10 DWP staff are trained to handle interactions with empathy and compassion, as well as being able to identify potential indicators of vulnerability. For more information, see **Chapter 8**.
- 3.11 Alternative telephone support will be available and includes:
- Interpreter services
  - Video Relay services
  - Relay UK service

## **Allowing sufficient time for individuals to respond**

- 3.12 Individuals will be given reasonable time to respond and seek advice before DWP takes enforcement action.
- 3.13 Notifications will clearly set out what will happen next, especially where an individual does not respond and deadlines for responses will be made clear. DWP will always consider individual circumstances, where known, such as those who advise they need more time due to their vulnerability.

**3.14** If an individual requests additional time, a reasonable extension will be granted where possible.

## **4. Recovery of debt via Direct Deduction Order (DDO): steps to recover debt**

- 4.1 This section sets out the high-level policy for recovery through a DDO. This process is designed to be fair and provide individuals with opportunities to engage with DWP to seek support and raise concerns before direct deductions begin.
- 4.2 Once a DDO is in place, individuals are still able to contact DWP and discuss their situation. This will be taken into account and action will be taken, where relevant.
- 4.3 The DDO process is intended to be fair in the circumstances and sensitive to the risk of causing or exacerbating financial hardship. In accordance with the Act, DWP will use the information provided by the banks, and any other relevant information available, to make a decision on the amount of the deduction. DWP must be satisfied, when using this information or representations from individuals, that a DDO will not cause hardship in meeting essential living expenses to:
- the individual with the debt

- any other holder of the account in question (where applicable)
- any person who lives with, or is financially dependent on, either the individual or another holder of the account

## Defining Financial Hardship

- 4.4 Financial hardship is defined as an individual's inability to meet their essential household needs given their financial situation. Essential living needs are the ability to afford certain expenses, including food, utilities and housing costs. This list is not exhaustive, and circumstances may be considered on a case-by-case basis.
- 4.5 Indicators of financial hardship might include an individual who:
- has no, or very limited, disposable income after meeting essential expenses
  - is reliant on credit and borrowing to survive
  - has payment plans in place to repay other debts
  - is already subject to debt relief support such as bankruptcy, insolvency, or breathing space (including mental health breathing space)
  - is already subject to other enforcement payment obligations

- is experiencing a sudden financial shock e.g. loss of employment, bereavement, health crisis or domestic, including economic abuse, where known to DWP

## Identifying hardship

- 4.6 An individual can raise hardship concerns at any point in the enforcement process, however early conversations with DWP are encouraged.
- 4.7 Indicators of hardship will be considered when the DWP Debt Management Enforcement team assess an individual's financial information or where information is received from support services or third-party advocates on their behalf.
- 4.8 The individual will have further opportunity to raise any hardship concerns as part of the disputes process as set out below.

## Support and action when the individual advises they are at risk of hardship

- 4.9 Where an individual advises DWP they are at risk of hardship, they will be given the opportunity to:
- provide any additional evidence to support in assessing their financial situation
  - seek independent debt advice and support

- 4.10 If an individual reasonably needs more time whilst seeking support, they can contact DWP, who will consider extending the timescales before any further action is taken.

## **Step 1: Reasonable attempts and checks**

- 4.11 Before these powers are applied, DWP will have checked that the individual is not in receipt of a DWP benefit and that deductions from PAYE are not reasonably possible.
- 4.12 DWP will conduct checks for DDO suitability, including checks for any vulnerable circumstances, based on information held by DWP. They will also use Credit Reference Agency information (where available) to make an initial assessment of affordability and identify bank accounts held by individuals which may be suitable for a DDO. Once bank accounts are identified, DWP will then decide if it is appropriate to contact the bank to request statements or information about any other accounts held with that bank.

## **Step 2: Notifications and initial contact**

- 4.13 There will be a minimum of four separate attempts to contact an individual by the Debt Management Enforcement team using a variety of different

methods. This will include at least two written notifications outlining as a minimum:

- the outstanding debt amount
- the options available to repay the debt
- the deadline to respond before further action is considered
- what may happen if no response is received, or payment is not made
- sources of independent free debt advice
- details on how to contact DWP

4.14 Individuals are encouraged to engage early, requesting more information if needed, and either agree a payment plan or tell DWP about their current circumstances. This could prevent further action in relation to the use of these powers. The purpose of these notifications is to encourage individuals to engage with DWP and discuss an affordable payment plan and what will happen if they do not make contact.

## **Step 3: Obtaining information and accessing bank statements**

4.15 If the attempts to contact the individual have not resulted in an agreement, DWP will obtain and consider bank statements and other bank account

information, so that any action taken to recover the debt from an account is fair and affordable.

- 4.16 DWP will initially identify an individual's account using existing information held such as Credit Reference Agency data to identify accounts suitable for obtaining bank statements.
- 4.17 An Information Notice is issued to the bank to obtain bank statements from an individual's account(s).
- 4.18 The information notice may only be sent to the bank for the purposes of considering whether to make a DDO.
- 4.19 Accessing financial information, such as bank statements, is an important safeguard enabling a more accurate assessment of an individual's financial position and to ensure the suitability, sustainability and affordability of any DDO.
- 4.20 The aim is to:
- determine whether the individual can afford direct deductions from their bank account to repay the debt
  - help to identify and consider essential living expenses, and ensure any relevant protected incomes are identified, so that the amount of any DDO is fair and affordable
  - look for reasonably obvious indicators of financial hardship

- 4.21 Bank statements for the relevant account must be considered before a DDO can be made. The information requested must be limited to what is necessary and fair to make an informed decision about an individual's ability to repay, including in circumstances in which the individual may otherwise be unwilling to provide that information.
- 4.22 DWP will always request bank statements from an individual's sole account in the first instance. However, where it is not possible to recover from a sole account, recovery from a joint account will be considered. DDOs may be applied to accounts used for business or commercial purposes, provided the account is held by the individual (rather than held by a limited company or limited liability partnership).
- 4.23 Banks are prohibited from notifying the individual or any other account holder(s) that DWP has requested or obtained bank statements or other information, under this power, until either DWP has notified the bank and individual of a proposal to make a DDO, or 3 months after the information notice was issued (if sooner). This is to prevent an individual from attempting to move or dispose of their money to evade recovery. No deductions will be made in respect of the debt during this time.
- 4.24 Only relevant accounts and information will be requested. This will involve at least three of the most recent months of statements. A longer period

of statements may be requested if there is clear justification for this, for example where DWP is unable to establish a regular rate of income or assess affordability.

- 4.25 An individual's sole account(s) must always be considered first for a DDO before statements for jointly held accounts can be obtained. This is to reduce any impacts on joint account holders who are not responsible for payment of the debt.
- 4.26 Considering bank account statements and information ensures that recovery decisions are based on the most up to date evidence of the individual's ability to repay.
- 4.27 The three notices DWP can issue to banks to request information are: Account Information Notices, General Information Notices and Further Information Notices. These are described in more detail below.

## **Account Information Notice**

- 4.28 This is a notice issued by DWP to a bank, requiring the bank to provide a period of recent bank account statements for an account, as specified in the notice. The notice will contain the name of the person and identify the relevant account(s).
- 4.29 An Account Information Notice (AIN) will only be issued where it appears, from information already held by DWP, by checking their systems including

the Credit Reference Agency system, and/or from information provided following a General Information Notice, that the individual holds the account with that bank and it may be suitable for a DDO.

- 4.30 More than one AIN may be issued for the same recoverable amount, either in respect of one or multiple accounts.

## General Information Notice

- 4.31 This is a notice issued by DWP to a bank, requiring them to provide the following information for each account held by the individual with that organisation.
- 4.32 If the account is a sole account, this will include:
- name of account holder
  - address of account holder
  - account number and sort code
  - account type
  - account restrictions in place
  - balance of accounts and date the balance check was completed
- 4.33 If the account is a joint account, this will also include the name of the joint account holder and their correspondence address.

- 4.34 A General Information Notice (GIN) may be appropriate to give DWP a full view of the individual's financial position. If an Account Information Notice is insufficient to determine the suitability of a DDO, a GIN can be used to identify additional alternative accounts which may be suitable to recover funds from. Similar to an AIN, more than one GIN may be issued for the same recoverable amount.
- 4.35 Obtaining the joint account holders' contact details ensures DWP can provide relevant notices and orders, such as to invite their representations if a joint account is later considered for a DDO.

## **Further Information Notice**

- 4.36 A Further Information Notice may be issued once a DDO is in place, requiring banks to provide further bank statements (as with an Account Information Notice) or information (as with a General Information Notice). The Further Information Notice may be issued when DWP is reviewing or considering whether to revoke, vary, suspend or restart a DDO.

## **Joint accounts**

- 4.37 DWP will only apply a DDO to joint accounts where it is not reasonably possible to recover from a sole account, unless the debt is a joint debt and both account holders are liable for the debt.

- 4.38 Each account holder will be notified separately of the intention to recover directly from the account and invited to make representations. No recovery action, other than safeguarding funds for an LSDDO, will start until all parties have been notified and given the opportunity to make representations.
- 4.39 DWP will presume that joint account holders each have an equal share of the funds, in accordance with the Act, unless there is reason to believe otherwise.
- 4.40 DWP can only deduct from the individual's share of any money held in an account. If an account holder considers the liable person does not have any beneficial interest in the money held in a joint account, or the money is not held in equal shares, an explanation should be provided to DWP by the individual and/or the other account holders. They may be required to provide evidence to support this.
- 4.41 Information on how a joint account holder can contact DWP to discuss beneficial interest will be included in the notification.

## **Business Accounts**

- 4.42 DWP will only apply a DDO to accounts known to be primarily used for business purposes where it is not reasonably possible to recover from another account held solely by the liable individual. Where

a business account is held exclusively by an individual, it will be considered prior to any joint accounts including joint business accounts. Joint accounts which are not used for business will also be considered prior to any joint business accounts.

- 4.43 As with non-business accounts where there is more than one account holder, each account holder will be notified separately of the intention to recover directly from the account and invited to make representations. No recovery will start until all parties have been notified and the relevant period has passed.
- 4.44 Where there is more than one account holder, DWP will presume that joint account holders each have an equal share of the funds in accordance with the Act, unless there is reason to believe otherwise.
- 4.45 DWP can only deduct from the individual's share of any money. If they do not have any beneficial interest in the money held in a joint business account, evidence should be provided to DWP by the individual and/or the other account holders.
- 4.46 Information on how a joint account holder can contact DWP to discuss beneficial interest will be included in the notification.
- 4.47 DWP will not apply a DDO to accounts that are held by corporate bodies, such as limited

companies or limited liability partnerships (unless the corporation itself is the debtor).

## **Step 4: Affordability assessment and consideration of an individual's financial situation and circumstances**

4.48 DWP will use the information obtained through information notices to determine whether a DDO is appropriate, and if so what terms to set. This will happen before any costs are attributed to the individual by the bank and will involve, for example:

- determining an individual's typical income and expenditure, including any disregarded income, essential living needs expenditure, and identifying clear evidence of any other financial commitments they may have
- identifying amounts of income and/or savings which could be used to repay the debt
- complying with relevant safeguards, such as ensuring:
  - i. the deduction amount is not more than the statutory maximum rate (as set out in the Act and in the regulations) for Regular Direct Deduction Orders (RDDO)

- ii. the proposed deduction order would not cause the liable person or other account holder (or anyone living with or financially dependent on them) to suffer hardship in meeting essential living expenses (as defined in regulations)
- iii. if a joint account is being considered whether there is any reason to suspect each account holder does not have an equal share of the funds in the account

## **Protected income to be disregarded from calculation of the deduction amount**

- 4.49 When reviewing bank statements, DWP will take steps to identify and exclude certain types of “protected” income from affordability calculations where these amounts are clearly identifiable.
- 4.50 Some protected income types will not be obvious from the bank statement alone. Therefore, it is important that individuals inform DWP if they believe any of their income should be treated as protected for the purposes of calculating a deduction amount. If it is not clear from the statement it may not be excluded from the assessment.
- 4.51 Examples of protected income include but are not limited to:

- Child Benefit
- Child Maintenance
- Disability Living Allowance (DLA) paid for a child
- Maternity Allowance

4.52 This list is not exhaustive. Where an individual receives other types of income that they believe should be protected, they should contact DWP to discuss.

4.53 When the deduction rate has been calculated, DWP will write to the individual to advise them of the amount and how to make representation. During the representation stage, individuals can disclose any income they feel should not be considered or any personal circumstances that need to be considered.

## **Regular and Lump Sum Direct Deduction Orders**

4.54 After the bank statements have been assessed and any representations properly made have been considered, the DWP Debt Management Enforcement team will determine whether making a DDO would be appropriate. This could be through either a Regular or Lump Sum Direct Deduction Order.

- 4.55 A Regular Direct Deduction Order (RDDO) is where DWP can instruct a bank to make regular deductions from an individual's account to repay their outstanding debt. The first deduction could involve a larger amount, followed by smaller regular deductions.
- 4.56 An RDDO may be more suitable where the individual has sufficient available regular income to repay the debt over time, even if they have some savings.
- 4.57 A Lump Sum Direct Deduction Order (LSDDO) is where DWP instructs the bank to take a single, specified amount from the individual's account to repay all or a large part of their outstanding debts.
- 4.58 An LSDDO would be more suitable where the individual holds enough savings, enabling a large part of the debt to be recovered in one payment, without the need for prolonged recovery through RDDOs. Where an LSDDO only recovers part of the debt, the remainder will be recovered by an RDDO where suitable.
- 4.59 An LSDDO will only be considered where the amount to be recovered would not cause the individual, members of their household or anyone financially dependent on them, hardship in meeting essential living expenses.
- 4.60 Once it has been determined by DWP which type of order is appropriate and the amount that

will be deducted, a notice will be issued to the bank. In the case of an LSDDO, the bank will immediately safeguard the amount as set out in the notice from DWP. Although the funds for the LSDDO have been safeguarded, individuals are still able to contact DWP and discuss alternative payment options.

- 4.61 At any point in the process, an individual can contact DWP to arrange an affordable and sustainable payment plan where the date and amount of the deduction can be discussed and mutually agreed.
- 4.62 If at any time a bank considers it is not reasonably possible to comply with a DDO including because of legal restrictions which may be in place, the bank should notify DWP through the agreed channel.
- 4.63 **Annex D** contains a table detailing the step-by-step process for an LSDDO and **Annex E** contains a table detailing the process for an RDDO.

## Essential Living Costs and Avoiding Unintended Financial Hardship

- 4.64 If it becomes clear that a proposed or actual DDO would cause hardship in meeting essential living needs, as set out in paragraph **4.4** to **4.10** the terms of the order will be revised. For example,

DWP might lower the rate of an RDDO where relevant information is provided during the representation stage to show their essential living needs were greater than initially identified or decide an RDDO is more appropriate than an LSDDO.

4.65 When hardship is confirmed, recovery can be adjusted by:

- agreeing to an affordable payment plan
- varying the terms of a proposed or ongoing DDO, to ensure deductions are at a fair and affordable rate
- proposing an RDDO instead of an LSDDO, or vice versa
- temporarily suspending the DDO to allow time for an individual's financial circumstances to become more stable (including where the individual is in Breathing Space or shows they need time to seek advice and support from a third-party debt advisor)
- in exceptional circumstances, considering whether a waiver referral may be appropriate. More information is contained in Chapter 8 of the Benefit Overpayment Recovery Guide **[Benefit overpayment recovery guide - GOV.UK](#)**

- 4.66 It is important that the individual continues to engage with DWP, to ensure any ongoing recoveries remain appropriate and affordable.

## **Step 5: Notifying the bank of a proposed DDO**

- 4.67 Where a DDO is being proposed, following an assessment of the individual's bank statements, a Pre-Deduction Notice will be issued to the bank.
- 4.68 The Pre-Deduction Notice may require, in the case of a proposed LSDDO, the bank to safeguard an amount in the bank account (or temporarily transfer the amount to a holding account) to ensure the individual cannot move these funds out of reach of DWP prior to any DDO payment. Where DWP decides not to make the DDO or makes an order for a lower deduction amount than has been safeguarded, the funds will be returned to the account.

## **Step 6: Notifying individuals of a proposed DDO and representation window**

- 4.69 At the same time as the Pre-Deduction Notice is given to the bank, or shortly after, DWP will provide the notice to the individual and any other account holder. This notice will explain that DWP is proposing to make a DDO and set out the

terms of the proposed order. Where an LSDDO is proposed, the notice will explain that some or all of the money proposed to be deducted has been safeguarded by the bank and made unavailable to the account holder(s). The notice must be issued to the individual and each account holder as soon as reasonably possible after the bank receives its notice.

- 4.70 The notice will also explain how each account holder can make representations on the proposed order, and that representations must be made to DWP within one calendar month beginning on the day the notice was given. Generally, representations should be made by telephone call, but postal requests will also be accepted. DWP may request evidence to support the representations. The notice will provide details on how individuals can do this.
- 4.71 The representation stage is an important safeguard to allow individuals the opportunity to advise DWP of any circumstances not identifiable from the information obtained from the banks or that DWP is unaware of that may be relevant to recovery action. No deductions will be taken during the representation stage to allow individuals time to engage.
- 4.72 If the individual contacts DWP to request more time to make representations, for example to seek independent advice, DWP will consider extending

the time period for making representations where reasonable.

- 4.73 Where an individual makes representations about the proposed deduction amount, DWP may require individuals to provide further or supporting evidence. DWP may specify the kind of evidence required, and how and where this should be provided within the timeframe. Decisions will be made on a case-by-case basis.
- 4.74 If a Standard Financial Statement, or Common Financial Statement for individuals in Scotland, is available that has been completed by a debt advisor, this can be provided as supporting evidence.
- 4.75 Where reasonable, during the representation stage, DWP will agree to mutually acceptable payment terms with the individual without requiring a DDO.

## **Step 7: Consideration of any Representations Made and Decision on Whether to Make the DDO**

- 4.76 Where an individual has made representations, DWP will consider these as described in **Step 4** considering any additional information as well as the information obtained from banks in **Step 3** and decide whether to proceed with making the DDO. The DDO may be made, as proposed in **Step 6**,

where DWP considers the terms remain fair and appropriate. Alternatively, it may make a DDO with different terms, based on the information provided by the bank and individual(s).

- 4.77 Where an individual discloses to DWP that they are vulnerable, DWP will consider the best course of action. This may include proceeding with the DDO with different terms, agreeing to a voluntary payment plan, or temporarily suspending recovery of the debt.
- 4.78 There are three potential outcomes following representation. DWP may decide:
- not to make the DDO - this may happen if a separate payment plan has been agreed with the individual or where it is clear, in light of further evidence, that the individual is unable to afford payment at that time
  - to make the DDO with different terms - this may happen where new evidence is provided during representations which indicate the proposed terms would not have been appropriate or fair, or would have caused hardship in meeting essential living needs
  - to make the DDO as proposed - this may happen if, following consideration of representations and any additional evidence, DWP is satisfied that the proposed terms

remain affordable, fair and appropriate in the circumstances.

- 4.79 If at any time during the DDO DWP is aware that an individual is now in receipt of a DWP benefit, recovery by DDO will be suspended or end, and DWP will instead seek recovery directly from the individual's benefit where appropriate.
- 4.80 DWP is committed to considering and responding to representations or reviews and to the subsequent decision of whether to make a DDO or not, as soon as reasonably possible. Occasionally there may be delays when dealing with particularly complex cases, or during extenuating circumstances.
- 4.81 Following this, a copy of the DDO (or a notice that no order is to be made at this time) will be given to the individual and any other account holder. They will also be notified of their right to review (see **Step 8**) and, where relevant, a right of appeal to the Independent Tribunal. They will also be informed of any next steps.

## **Step 8: Review period**

- 4.82 Once a DDO has been given, following the end of the representation period, the individual and any other account holder will have one calendar month in which to request a review of the DDO, before any deductions are made. The review may be requested for a number of reasons, including if the

individual or another account holder did not make representations during **Step 7**.

- 4.83 The review period, including the opportunity to provide any relevant supporting evidence, lasts for one calendar month beginning on the day DWP gave the DDO. Where the review is requested before the end of that period, DWP may elect to uphold, pause, vary or revoke the DDO where it is appropriate to do so. The same principles described in **Step 7**, regarding representations, apply to reviews of a DDO.
- 4.84 The outcome of a review may result in the order being upheld, varied (for example, to change the amounts of deductions), or revoked. The individual and any joint account holder will be notified of the outcome and, where relevant, their right of appeal to the Tribunal. They will also be informed of any next steps.

## **Step 9: Recovery by Direct Deduction Order action**

- 4.85 Following the end of the review period outlined in **Step 8**, if no review was requested, the terms of the DDO were amended or the order was upheld following a review, the DDO will be provided to the bank and the deduction(s) will be made from the account by the bank as required by the order.

4.86 A deduction notice will be issued to the individual and, where relevant, each other account holder, if any changes to the original DDO have been made or confirming there has been a decision not to change the DDO following a review.

## **Bank Costs**

- 4.87 When a bank makes a deduction, it can also deduct an amount in respect of its reasonable costs in complying with the order. These will be in addition to the deduction amount taken by DWP.
- 4.88 These costs are limited by regulations. They must be taken into consideration when the terms of the DDO are calculated, to ensure the total amount of deduction is affordable if the maximum amount permitted is charged by the bank. This will ensure deductions are fair and do not cause undue hardship.
- 4.89 Individuals and any account holders will have been notified in advance that any DDO could result in them incurring bank costs.
- 4.90 Individuals can avoid the additional expense of these bank costs by contacting DWP to discuss their situation and agree payment terms. This could include setting up a voluntary payment plan and making the agreed payments as well as the opportunity to advise DWP of any difficulties they are currently experiencing which may impact their ability to repay as proposed. The payment plan

must be agreed with DWP prior to any deductions being taken by the bank as banks are able to recover costs from the individual once a deduction is made.

- 4.91 Individuals can make an offer to set up a reasonable payment plan at any time during the process, including once a DDO is established, as this may mean they avoid additional bank costs. This will typically be accepted unless there is a history of broken payment promises.

## Step 10: Appeals

- 4.92 Where an individual or account holder(s) has made representation to DWP as per **Step 7** or sought a review as per **Step 8** they have the right to appeal the DDO to the First-tier Tribunal, which will independently consider whether DWP's decision was correct. The appeal can be requested by any account holder of the specified account.
- 4.93 Appeals must be lodged directly with the Tribunal within one calendar month, beginning with the day after DWP notified the individual that a DDO would be made (following representation) or upheld or varied (following a review or other variation). Information on how to appeal to the Tribunal is included in the decision letter issued by DWP. More information on the appeals process will be available on Gov.uk.

- 4.94 Individuals can request that DWP suspend recovery during an appeal and DWP will consider whether it is reasonable to do so. Alternatively, the Tribunal can decide to suspend deductions during an appeal.
- 4.95 If there is a risk of harm due to the deductions continuing during the appeal process either because the individual now presents as vulnerable, or for another reason, they should contact DWP at the earliest opportunity. DWP can consider suspending recovery action by DDO until the appeal has concluded.
- 4.96 The time it takes for an appeal to be determined by the Tribunal can vary due to either the complexity of the issue(s) disputed, judicial and Tribunal availability, and case management matters (for example, if further evidence is required). The Tribunal is independent of the DWP, and the department cannot influence the timing or prioritisation of their appeals.
- 4.97 The Tribunal may either uphold, vary or revoke the order. The individual will usually be notified of the outcome by the Tribunal. The Tribunal will also notify DWP who will then take the appropriate action.
- 4.98 Where an appeal is upheld or varied, once DWP have been notified, they will contact the bank to take the necessary action. In some cases, DWP may arrange to refund part or all of the money

deducted under a DDO that has since been varied or revoked by the Tribunal.

## **Step 11: Request for a varied order and future support**

- 4.99 If an RDDO remains in place, the individual (or joint account holder) can request that the order be varied. Individuals should request this by contacting the DWP Debt Enforcement team, either in writing or by telephone.
- 4.100 Notifications will state that a review of deductions can be made at any point during the RDDO and advise an individual (or joint account holder) how to make a request.
- 4.101 Where a request for the RDDO to be varied is made, DWP will consider this application and make a decision based on the evidence provided. If required, a Further Information Notice will be issued to the bank to assess affordability in support of a variation request.
- 4.102 More information on Representation, Reviews and Appeals can be found at **Annex C**.

# 5. Recovery of debt via Direct Deduction Order (DDO): Information for Financial Institutions

## General principles

- 5.1 This Chapter provides further information on information notices and DDOs issued under Schedule 3ZA of the Act. This chapter also provides information on the obligations for banks and potential penalties for non-compliance as set out in the Act.
- 5.2 Neither a DDO, or any information notice, whether an Account Information Notice (AIN), a General Information Notice (GIN) or a Further Information Notice (FIN), is part of any current or future decision on benefit entitlement. The Act sets out that any information shared with DWP following an information notice cannot be used for anything other than debt recovery purposes.
- 5.3 Information notices or DDOs issued by DWP under Schedule 3ZA do not indicate an investigation by DWP of any wrongdoing. Information notices are a request for information from banks to enable DWP to conduct an affordability assessment, when DWP is considering a DDO for a debt owed

under civil law (Part III of the 1992 Act) following an overpayment of benefit. A DDO is similar to a Third-Party Debt Order and deduction orders given by other government departments for civil debts. A DDO will not normally follow any criminal prosecution, proceedings or investigations.

- 5.4 Information notices or DDOs issued by DWP to banks under Schedule 3ZA do not indicate that DWP has any reason to suspect or know the individual who owes the debt has committed any criminal or financial wrongdoing.

## Role and scope of the Financial Services Sector

### Extent of the Power

- 5.5 These powers will only apply to bank accounts belonging to or jointly owned by the individual(s) owing the money.
- 5.6 These powers will be used to recover money owed to DWP. For details of what constitutes money owed to DWP, see chapter 1 of the Benefit Overpayment Recovery Guide (BORG) **Benefit overpayment recovery guide - GOV.UK**

### Accounts In Scope

- 5.7 Money will be recovered directly from deposit-taking bank, credit union and building society

accounts, including Cash Individual Savings Accounts (Cash ISAs).

- 5.8 DWP will identify which bank account an order should be applied to and instruct banks by giving them the sort code and account number, or equivalent identifiers, of the account for which to apply the DDO.

## **Signatory to an account**

- 5.9 A signatory on a bank account is authorised by the account holder to access and manage the account on their behalf.
- 5.10 Unlike a joint owner, a co-signatory may not be the legal owner of the funds. DWP cannot make a DDO for an account where the individual who owes the debt is solely a signatory to manage and access the funds on the legal owner's behalf.

## **Lasting Powers of Attorney and Deputies**

- 5.11 Where the bank is aware that there is a Lasting Power of Attorney or legal deputy (a "deputy") acting on behalf of any relevant account holder, the bank must provide the name and correspondence address of the deputy to DWP following receipt of any information notice, Pre-Deduction notice or direct deduction order (except where the bank has previously provided this information).

# Giving of notices to banks

5.12 The table below shows the most frequent notices that will be issued in relation to each order.

Regular Direct Deduction Order	Lump Sum Direct Deduction Order
General Information Notice	General Information Notice
Account Information Notice	Account Information Notice
Further Information Notice	Further Information Notice
Pre-Deduction Notice (RDDO) - Notice to bank	Pre-Deduction Order (LSDDO) - Notice to bank to safeguard the amount of the funds
Regular Direct Deduction Order (RDDO)	Lump Sum Direct Deduction Order (LSDDO)
Revocation Notice	Revocation Notice

5.13 Notices and orders will also provide general information on how to comply, in addition to the information set out in this Code and in legislation.

5.14 Banks are prohibited from notifying the individual or any other account holder(s) that DWP has requested or obtained bank statements or other information, under this power, until either DWP has notified the bank, individual and any other account holder of a proposal to make a DDO, or 3 months after the information notice was issued (if sooner). This is to prevent an individual from attempting to move or dispose of their money to evade recovery. No deductions will be made in respect of the debt during this time.

5.15 A Pre-Deduction Notice given to the bank will include a minimum of:

- the individual's (or joint account holder's) name
- the individual's (or joint account holder's) address
- the account number
- the sort code to make the deduction from
- a unique identifier
- the proposed terms of the specified order

5.16 A DDO issued to the bank will include a minimum of:

- the individual's (or joint account holder's) name
- the individual's (or joint account holder's) address
- the account number
- the sort code to make the deduction from
- a unique identifier
- the terms of the specified order
- the timescale in which the action needs to be taken by the bank
- details of who the bank need to contact if they are unable to comply
- who to contact if it is unable to comply

- provision for the bank to deduct its reasonable costs

- 5.17 There may be other notices issued by DWP, for example where the individual has reported a change in their circumstances and DWP has decided to vary the terms of an order. Any additional notices will clearly set out the action to be taken by the banks and the timescale for that action.
- 5.18 Initially only statements for accounts and recent transaction periods (usually for the most recent three months') which appear relevant to a direct deduction order can be requested.
- 5.19 Where DWP cannot establish a rate of regular income or other factors as part of an affordability assessment, a longer period of statements may be requested, where three months is not sufficient.
- 5.20 When a Pre-Deduction Notice is issued to a bank, the bank should notify DWP if it is unable to apply the terms of the order to that specific account. Banks will usually inform DWP of the reason(s) they are unable to comply with the order.
- 5.21 If a bank receives a Data Subject Access Request (DSAR), it will not be in breach of the prohibition by telling the individual they have received a notice (either an AIN or a GIN). The Act does not interfere with data protection rights and obligations, in

accordance with the Data Protection Act 2018 (as amended).

- 5.22 If during the period the bank is prevented from disclosing that DWP has requested information or issued a Pre-Deduction Notice and are contacted by the account holder(s) as a result, they can signpost the individual (and any other account holder) to contact DWP using lines to take that will be made available to the bank. This will not be regarded as a breach of the ‘do not notify’ requirement.

## **Relationship to other Orders**

- 5.23 If DWP is aware that an individual has other deduction orders in place, these will be taken into consideration when assessing affordability. This may mean that DWP will reduce the amount of deduction to take account of the other orders or suspend recovery until the other deduction orders end.

## **Insufficient Funds**

- 5.24 If there are insufficient funds in an account for an RDDO, the bank will make another attempt to make the deduction after 7 calendar days. If there are still insufficient funds to make the deduction, the bank must inform DWP. Further deductions should then be attempted, in accordance with the terms set out in the DDO instruction.

- 5.25 If there continues to be insufficient funds in an account for an RDDO, DWP will advise the bank of the next action via a notice which could be to either vary, suspend or revoke the DDO. This will be after no more than three scheduled deductions.
- 5.26 Where the bank receives a Pre-Deduction Notice for an LSDDO, it is required to safeguard the amount specified in the Notice.
- 5.27 Where there are insufficient funds in the account when a Pre-Deduction Notice for an LSDDO is actioned by the bank, the bank should safeguard the amount in the account on that day and advise DWP. DWP will issue a final LSDDO detailing the amount the bank should deduct once affordability has been re-assessed.
- 5.28 When the bank receives the LSDDO, it should only send the amount detailed in the order to DWP. Where this is lower than the amount safeguarded following a Pre-Deduction Notice, the remaining safeguarded funds should be returned to the individual's account and made available to them.

## **How should banks provide the information?**

- 5.29 Notices and bank statements can be provided to DWP by either portal, secure email or post. This may change with improvements in future technology.

## **Varied orders**

- 5.30 If DWP varies the terms of the order, it will notify the bank by giving it the varied DDO. This will replace the previous DDO, and the bank will need to comply with the varied order, including giving effect to any new deduction amount or applying the DDO to another account held by the individual (where this was requested by an account holder).
- 5.31 An order may be varied before or after a DDO has been given to the bank.
- 5.32 An order may be varied in several circumstances including following a review requested by an account holder or following the outcome of an appeal. It may also be varied if an individual makes representation at any time during the order to inform DWP that their circumstances have changed.
- 5.33 When an order is varied, DWP will provide the bank with the varied DDO, which will identify the action(s) the bank needs to take.

## **Decisions to revoke, or not make, a DDO**

- 5.34 Following a Pre-Deduction Notice, DWP may decide not to make a DDO at that time. Where this happens, it will give the bank a notice, which will allow the bank to return any safeguarded funds to the account.

- 5.35 Where a DDO has been given to a bank, and is subsequently revoked, DWP will issue a Revocation Notice to the bank.
- 5.36 An order may be revoked, by DWP or automatically, for a variety of reasons. These include:
- an individual notifying a change in circumstances, resulting in a DDO no longer being appropriate
  - the DDO being revoked following a successful appeal
  - the total debt has been recovered in full
  - the individual dies
- 5.37 No deductions should be taken following receipt of the Revocation Notice. If a deduction is taken, it should be returned to the account or where the funds have been sent to DWP by the bank, DWP will issue a refund to the individual.
- 5.38 Where DWP are notified of the death of an individual following a Pre-Deduction Notice for an LSDDO where the funds remain safeguarded, DWP will issue a Revocation Notice to the bank to allow safeguarded funds to be released to the deceased individual's account.

## How DWP will work with banks

- 5.39 Contact details of the DWP Debt Management Enforcement team will be included in all notices and orders issued to the bank.
- 5.40 DWP and banks will continue to provide feedback throughout the operation of the DDO process to ensure it remains effective.

## Penalty for failure to comply with a notice

- 5.41 DWP may, under Part 2 of Schedule 3ZA to the Act, impose a penalty of £500 on a bank which has failed to comply with its obligations under the Act, including following receipt of a notice or order, without reasonable excuse.
- 5.42 Examples of when a penalty may be imposed include where a bank persistently:
- fails to hold or “safeguard” specified funds in a timely manner in accordance with an LSDDO Pre-Deduction Notice, when required to do so
  - informs individuals (and any other account holder) about information notices before permitted to do so
  - provides incorrect or incomplete information
  - fails to make (or stop making) deductions when required to do so

- 5.43 DWP will make decisions on penalties on a case-by-case basis.
- 5.44 Before a penalty is imposed, DWP will have taken the following action:
- contacted the bank to discuss reasons for non-compliance with the notice(s), order(s) or other requirement
  - provided an opportunity for the bank to make representations about their compliance, including any reasonable excuse for a failure to comply
  - considered any reasons given to determine whether to proceed with imposing a penalty and, where appropriate, discuss the outcome with the relevant bank
- 5.45 If DWP decides it is appropriate, it will issue a penalty notice to the bank. This will include the reason(s) for the penalty, how to make payment and how to appeal the penalty.
- 5.46 A penalty will only be applied where the bank has not provided reasonable excuse for non-compliance with the requirements as set out in **paragraph 5.42**.
- 5.47 Where a penalty has been issued to a bank by DWP for non-compliance, DWP will continue to issue DDO's to that bank where relevant. Further instances of non-compliance as set out in

**paragraph 5.42** will be addressed as set out in **paragraph 5.45**.

- 5.48 Non-compliance by a bank will not result in DWP making a decision to exclude the bank from the DDO process.

## How does a bank appeal against a penalty?

- 5.49 If DWP has imposed a penalty, the bank will have the opportunity to appeal to the First-tier Tribunal. The bank must lodge its appeal directly with the Tribunal within one calendar month of the day after the penalty notice is issued. Appeals lodged after this time may not be accepted by the Tribunal and it is solely the Tribunal's decision on whether to accept a late appeal.
- 5.50 Information on the right to appeal will be provided in the penalty notice, and more information can be found at **Social Security and Child Support Tribunal - Courts and Tribunals Judiciary**
- 5.51 The Tribunal will decide whether it was correct to issue the penalty to the bank. This will likely include considering (a) whether the bank failed to comply with an obligation under Schedule 3ZA; and (b) whether the bank provided, and had, a reasonable excuse for its failure to comply. The Tribunal may uphold (confirm) or set aside (quash) the penalty.

- 5.52 The penalty will not be enforced until either the appeal has been finally determined or abandoned, or the period of bringing an appeal has lapsed.
- 5.53 Where a penalty has been made and is enforceable, DWP can apply to enforce the penalty, as a debt, through court if not paid within a reasonable period of time as notified by DWP to the bank. DWP may apply to the County Court or High Court (in England and Wales) or Sheriff Court (in Scotland) to enforce the penalty.

## 6. Recovery of Debt - Disqualification from Driving

- 6.1 In the most serious cases, DWP can consider applying to the court for an order which, if breached, could result in individuals being temporarily disqualified from driving.
- 6.2 In accordance with the Act, this measure can only be considered by DWP where the outstanding debt balance is a minimum of £1,000 and where it is not reasonably possible to recover the debt by any other means, including by DDO as set out in **Chapter 5** or deductions from PAYE employment (see chapter 5, Para. 5.93 onwards of the **BORG Benefit overpayment recovery guide - GOV.UK**).
- 6.3 In accordance with the Act DWP cannot use the disqualification from driving power for individuals who, at the time of application, are entitled to and in receipt of a DWP benefit.
- 6.4 Where the disqualification from driving power is to be applied, the individual will be notified in writing which will include details of the court hearing.
- 6.5 When considering an application under this power, the court must first determine whether the individual had the means to repay their debt to DWP but did not, without reasonable excuse.

The court cannot make the order if it considers the individual has an essential need to drive, including where it is essential to earn a living. The individual will need to make any essential need clear to the court.

- 6.6 A suspended order will always be made in the first instance, and under this order, the court will set repayment terms. Actual disqualification will not result provided the individual complies with the payment terms set by the court. If they fail to do so, without reasonable excuse, DWP can apply for an immediate disqualification order which may have effect for up to two years from the date of disqualification.
- 6.7 An order must end as soon as the full amount owed to DWP has been repaid.
- 6.8 If an order is not granted by the court, for example where the court accepts the individual has an essential need for their licence, further applications may be made in the future. Additionally, where an immediate disqualification order comes to an end, DWP may apply for another immediate disqualification order for a further period of up to 2 years, if the individual continues not to repay the debt in full.

# Suspended DWP Disqualification Order

- 6.9 The court will firstly make a suspended disqualification order, where the individual will not be disqualified from holding a driving licence as long as they comply with a schedule of affordable payments ordered by the court.
- 6.10 Payments will be monitored by DWP. Individuals must inform DWP if they are unable to make a payment, as there are consequences of not paying in accordance with the order.
- 6.11 DWP will give the individual the opportunity to provide (and evidence) any reasonable excuse for missing the payment before deciding whether to make an application to the court for an immediate driving disqualification order.

# Immediate DWP Driving Disqualification Order

- 6.12 Where the individual has failed to make more than one of the payments ordered by the court (or has failed to make the final instalment due) without reasonable excuse, DWP will make a further application to the court for an immediate disqualification order. If granted, this would disqualify the individual from driving for up to 2 years.

## Right of Representation

- 6.13 An individual will have the opportunity to make representations to the court before an order is made, including why they think an order should not be made, the terms of the payments they must make, or why they consider they have an essential need to drive.
- 6.14 The court may make an order in the absence of the individual, where they fail or choose not to attend or make representations.

## Halting the disqualification process

- 6.15 At any time up until a suspended disqualification order is made, an individual can repay the debt in full or agree and keep to an affordable payment arrangement directly with DWP, to avoid further action being taken which may result in driving licence disqualification. Where an individual's circumstances change, it may be possible to vary the order to change the instalment amounts. See **Paragraph 6.17.**
- 6.16 If an individual repays their debt in full after an immediate disqualification order has been made, DWP will apply to the court to bring the order to an end. If the order is ended within 56 days of being made, the individual's licence can be reinstated or returned by DVLA without a further cost to them. If this occurs after 56 days, the individual will have to

apply to the DVLA to get their licence back and pay the applicable fee referenced in **Paragraph 6.28.**

## Varying the disqualification order

- 6.17 Following a suspended or an immediate disqualification order, the individual can apply to the court to vary the order. The court can usually only vary the order if doing so will make recovery of the debt more likely. The court might vary the order due to a change in what an individual can afford to pay and might, for example, change the amount the individual has to pay in each instalment.
- 6.18 If the individual is complying with the court order and has made a number of payments, and DWP considers they intend to continue paying, DWP is unlikely to oppose a variation request.
- 6.19 If the order is varied and further payments are missed without good reason, the DWP would likely apply to reinstate the immediate disqualification order and reject any further variation requests.

## How will DWP work with the Driver and Vehicle Licensing Agency (DVLA)?

- 6.20 If the DWP is considering making an application to the court, they will enquire with DVLA to obtain the individual's current driving status, if they hold a full

or provisional driving licence and are not already disqualified from driving for some other reason.

- 6.21 The DVLA will not be notified by the court or DWP when a suspended DWP disqualification order has been made. The court will notify the DVLA when it makes an immediate disqualification order so that records and databases are immediately updated.
- 6.22 DWP intends to enter into a Memorandum of Understanding (MoU) document with DVLA for the purposes of exchanging data and giving effect to disqualification functions under the Act.

## **Holding of driving licence for period of disqualification**

- 6.23 Individuals may be required to give their physical driving licence documents to the court following an immediate disqualification order. Even where the physical licence is not initially provided, DVLA records will be immediately updated to show the individual is disqualified from driving, and their licence revoked. DVLA may require licence documentation to be returned to it in accordance with relevant legislation, where this has not been produced to the court or police.
- 6.24 The police will have access to the DVLA records via the Law Enforcement Data Service (LEDS) and will be aware that someone is disqualified, even if they retain their physical licence.

- 6.25 Where an individual has been required to give their licence to the court, the police or another public body, it will be returned to DVLA who may hold or destroy the licence in accordance with normal practice. DWP will not receive or hold an individual's driving licence.

## **Timeframes for disqualification**

- 6.26 If an immediate disqualification order ends or is revoked within 56 days of being made because the individual has repaid the debt in full, they may be entitled to have their licence returned or replaced by DVLA without incurring a fee.
- 6.27 After an immediate disqualification order ends, if the period of disqualification lasted longer than 56 days, the individual will need to apply to DVLA to renew their driving licence and will incur a fee to do so. The disqualification period under an immediate disqualification order may last no longer than 2 years. In some circumstances, where the individual persistently breaches the suspended order by failing to pay without reasonable excuse, more than one immediate disqualification order may be given. This could bring the total time of disqualification to greater than 2 years in total. DWP must apply to revoke an immediate disqualification order whenever the debt has been paid in full. DWP will notify the court that the debt has been repaid, and the court will notify DVLA

that the order has ended. DWP will confirm to the individual that the debt has been repaid.

## Fees Payable

- 6.28 There will be a fee payable to DVLA for an individual to renew their licence, once a disqualification has ended. Details of all fees can be found at **[Driving licence fees - GOV.UK](#)**
- 6.29 If after disqualification an individual has not surrendered their licence, there will be a fee for a duplicate.

## Information for the insurance industry and others

- 6.30 An Immediate DWP Disqualification Order is a civil order. It is not part of criminal proceedings and does not follow a criminal offence. It will not result in penalty points and is not any indication of the driver's road safety. The order has no impact on any other period of disqualification.

# 7. Processing, use and retention of information

## General principles

- 7.1 Information can only be obtained under these powers for the purposes set out in Schedules 3ZA or 3ZB of the Act. The information will only be used for the purposes of recovering debt under Part 3 of the Act (except where the use, disclosure, processing or retention of the information is required for any other purpose in law). For example, where a court orders DWP to provide the information.
- 7.2 The information collected as part of these powers will be handled securely and lawfully, ensuring compliance with data protection legislation.
- 7.3 Only information considered reasonably necessary to carry out the powers under Schedules 3ZA and 3ZB will be collected from banks, the DVLA and other third parties.
- 7.4 DWP may, from time to time, need to consider if the information it holds is likely to remain accurate and relevant, particularly when reviewing or making further decisions (such as whether to vary an order). DWP might therefore need to request further information from individuals or from other parties, such as by issuing a bank a Further

Information Notice (FIN). This may be under DWP's own initiative or may follow a request from the liable individual (or another account holder, where applicable).

## **Information security**

- 7.5 Any information received will be stored and destroyed safely and securely after use. DWP staff will follow information management and security policies including legislation and guidance published by the Information Commissioner's Office ("ICO") when using this data.
- 7.6 Any financial, personal and sensitive information obtained about an individual or an associated person through these powers will be securely stored electronically by DWP. Information held by DWP will only be available to its employees who are directly involved in the recovery of the debt, or matters relating to the recovery. This information includes bank statements, account balances or personal income and expenditure information.
- 7.7 Regulations will provide further provision for how notices, orders and information is to be given by DWP and will include provision for how others (including banks) will be required to securely transfer information to DWP following receipt of a notice or order.

# Information retention

- 7.8 All personal data will be handled in accordance with DWP's retention policy, available as part of DWP's Personal Information Charter information management policies. **Personal information charter - Department for Work and Pensions - GOV.UK**
- 7.9 Personal data will only be kept for as long as reasonably necessary. In accordance with the DWP's data retention policy, it will be destroyed when this purpose has ended.
- 7.10 Information may be retained for continuing or future debt recovery action (including in relation to any potential review, appeal or proceeding). It may also be retained where required under a provision under any other enactment including (but not limited to):
- The Criminal Procedures and Investigation Act 1996
  - The Criminal Procedure (Scotland) Act 1995
  - The Regulation of Investigatory Powers (Scotland) Act 2000
  - The Regulation of Investigatory Powers Act 2000
- 7.11 DWP staff must ensure they comply with the retention requirements when handling personal data which they are responsible for.

- 7.12 DWP must maintain a record of all access to electronic information using the powers in the Act. DWP staff must record this information when required.

## **Data subject rights**

- 7.13 Data subjects are the individuals whose information DWP processes for the purposes of the debt recovery. This Code does not alter rights provided under UK GDPR or the Data Protection Act 2018. It should be read in line with DWP's privacy charter.

## **Oversight and accountability**

- 7.14 DWP and financial institutions are required by law to comply with rules and provisions of data protection legislation, including UK GDPR and the Data Protection Act 2018.
- 7.15 DWP staff have a legal duty to observe rules on confidentiality and information security. The information should only be used for the purpose for which it has been obtained or should otherwise lawfully be used.
- 7.16 DWP staff will follow internal guidelines on information management and security when handling personal data. This includes an assessment of risks through a Data Protection Impact Assessment.

- 7.17 These procedures must ensure that:
- information is only used for lawful purposes
  - breaches and violation are notified to the Information Commissioner
  - access to personal information is limited to those staff who need it to carry out their work
  - personal information is only disclosed to someone else where it is necessary and lawful to do so
- 7.18 DWP may take disciplinary proceedings or other action against members of staff if it is proven that staff have inappropriately accessed or used information that has been provided by an information provider.
- 7.19 Complaints that are not satisfied through internal management routes will be passed for independent scrutiny. This will be in accordance with DWP's existing complaints procedure.

## **Particular considerations relating to Schedule 3ZA**

### **Provision of data from DWP to financial institutions**

- 7.20 DWP will only provide a bank with personal information relating to an individual where the information is required under Schedule 3ZA, or if it

is reasonably necessary to provide the information to enable the financial institution to comply with its obligations in relation to any information notice or DDO.

- 7.21 Any information provided to the bank electronically must be transferred by an appropriate method, in accordance with the Regulations.
- 7.22 Nothing in this Code, nor in Schedule 3ZA to the Act, prevents a bank from complying with a lawfully made Data Subject Access Request (DSAR), or from complying with any other legal duty to disclose information provided to it by DWP.

## **Data provided to DWP from Banks**

- 7.23 Regulations will set out how information should be provided to DWP by individuals, banks and other parties.
- 7.24 Information collected under a General Information Notice, Account Information Notice or Further Information Notice (see **Chapter 4**) should be obtained and processed only for the purposes of debt recovery. It must not be used for other purposes, except where use or disclosure of the information is required by law.

## **Information relating to the recoverable amount**

- 7.25 The DWP must not at any time provide any information to any person (except for the individual,

or their authorised or lawful representative) on the circumstances which led to an amount becoming recoverable for the purposes of Section 80A of the Act, except in circumstances described below

- 7.26 This information can only be disclosed, in relation to the powers, if:
- expressly required under the Act
  - it is necessary for DWP to undertake its functions or comply with its obligations under the Act
  - it is required to allow any other party to exercise their rights, perform a function or comply with an obligation under the Act
  - if the individual (or their lawful representative) has given DWP the express consent to share that information with that other person
  - DWP is otherwise required to disclose the information under the Act, any other enactment or at common law
- 7.27 Apart from identifying the recoverable amount and that it is owed under the Act, no other information about the recoverable amount should be disclosed to any other account holder or financial institution (except where this is required as part of court or Tribunal proceedings).

7.28 This includes information which:

- identifies any benefit which was claimed or overpaid
- the conduct (if any) of the individual which resulted in the amount becoming recoverable
- details about the individual's failure to settle the debt previously (other than DWP's entitlement to recover through a DDO under Section 80A), or that any amount has previously been repaid

## **Particular considerations under Schedule 3ZB**

7.29 Where DWP seeks information on an individual from the Driving and Vehicle Licensing Agency (DVLA), it must only seek information about whether they:

- are at the time lawfully permitted to hold a driving licence in Great Britain and if this is a valid full or provisional driving licence
- at the time are subject to any other disqualification order or proceeding, including where disqualification has been suspended

7.30 DWP may only seek this information in order to consider making an application for a Suspended DWP Disqualification Order or an Immediate DWP Disqualification Order under Schedule 3ZB.

- 7.31 DWP must not share the information obtained from the DVLA with any other person, except where disclosure is required to assist the court in determining the application for a DWP disqualification order.
- 7.32 DWP may, in accordance with the Act, provide personal details to DVLA about the individual, which are necessary for DVLA to provide the requested information described above for the purposes of determining whether to seek an order under Schedule 3ZB in relation to that person.
- 7.33 DWP may, in accordance with the Act, provide copies of any relevant order of the court issued under Schedule 3ZB in relation to that person.

## **Consideration of information sharing and disclosure involving joint account holders, representatives and others**

- 7.34 DWP may obtain or use sensitive information provided by an individual, relevant account holder, or another such as a relative, debt advisor or representative. Notifications will state in what circumstances DWP must obtain the consent of the data subject, or person providing information, before sharing the information with other parties (such as sharing information provided by a joint account holder with the individual or providing

information on a matter to the individual's debt advisor or representative).

- 7.35 The DWP Debt Enforcement team will take into consideration any information provided in confidence, or during court or Tribunal application or appeal proceedings should they consider there to be safeguarding concerns.
- 7.36 If the individual or joint account holder has a person acting on their behalf, including under a deputyship or a Lasting Power of Attorney, DWP will seek to verify that person has the lawful authority for information to be provided on behalf of the individual or joint account holder.

# 8. Identifying and supporting vulnerable individuals

## Definition of vulnerability

- 8.1 The department recognises that as human beings, we all have the potential to be vulnerable at different times in our lives.
- 8.2 The department defines vulnerability as where an individual has needs which require additional support to enable them to engage with DWP. DWP knows that this definition must be flexible and where appropriate and reasonably possible the DWP Debt Enforcement Team will offer tailored support that meets individual needs and circumstances as set out in this section.
- 8.3 Examples of vulnerability can include:
- physical or mental health conditions that affect financial decision making
  - cognitive impairments, such as dementia
  - complex needs, where an individual requires additional support to engage with DWP
  - severe financial hardship (including bankruptcy)
  - life changing events, for example bereavement, the loss of a job or a relationship breakdown etc

- victims and survivors of domestic abuse, as defined in the Domestic Abuse Act 2021, which includes economic abuse as a form of coercive and controlling behaviour
- social and economic vulnerabilities such as low income or poverty, homelessness or risk of eviction.

## Identification of vulnerabilities

- 8.4 There are existing robust processes in place to support vulnerable individuals and those struggling with DWP debts. Individuals can contact DWP at any time to discuss payment terms and DWP can signpost individuals to sources of independent debt and money advice.
- 8.5 Where individuals make contact, and where appropriate, DWP can reduce or temporarily suspend recovery depending on the circumstances. In exceptional cases, DWP can consider waiving recovery of the debt entirely, please see Chapter 8 of the BORG **Benefit overpayment recovery guide - GOV.UK.**
- 8.6 DWP will take all reasonable steps to identify vulnerable individuals. This includes information obtained via bank statements where it is reasonable clear and obvious.
- 8.7 All debt recovery staff undergo mandatory, debt specific vulnerability training which

includes advice on how they may be able to spot and identify indicators of vulnerability. Whilst every effort is made to reasonably identify indicators of vulnerability, it may not always be clear from the information available that an individual is vulnerable.

- 8.8 All individuals are encouraged to self-disclose any vulnerability characteristics, relevant circumstances and/or support needs so that they can be factored into DWP's support and decision making. This disclosure can also be made by a representative such as legal delegate or advocate on their behalf.
- 8.9 It is important that individuals make DWP aware of their situation as early as possible so that appropriate support and adjustments can be considered.
- 8.10 Individuals can contact DWP at any time to discuss their circumstances, even once a DDO or a disqualification order is in place and DWP will take any action appropriate to the circumstance.

## **Information from third parties**

- 8.11 If individuals are experiencing difficulties that affect their ability to manage and pay their debt, they are encouraged to inform DWP at the earliest opportunity or seek advice from independent support services.

- 8.12 DWP will also consider information received from appropriate social workers, medical professionals and other third parties who are supporting the individual.
- 8.13 In appropriate cases, DWP may be able to seek a resolution through their supporting advocate or representative. Any information provided to DWP about an individual's circumstances will be treated sensitively and will be held in confidence unless disclosure to an appropriate body is required, such as when required by law or where someone is at risk of immediate and serious harm.

## **Adjustments for those who are vulnerable**

- 8.14 Where it is identified that an individual is in a vulnerable circumstance or has a support need, DWP will consider if suitable adjustments can be reasonably made when applying the powers. Such adjustments could include:
- ensuring that communications are issued in a format that suits their needs
  - providing extra time for making representations, or before DWP takes an action, so that an individual can obtain the support that they need from an independent advice agency
  - pausing recovery actions for a time to allow someone's financial or health needs to stabilise,

or whilst alternative solutions are explored including, exceptionally consideration of waiver where appropriate

- explanation, if the individual calls, to ensure they understand the benefits of setting up a voluntary, affordable and sustainable payment plan
- adjusting the terms of a DDO to take into account additional needs as a result of an individual's or dependent's vulnerability

## 9. Consideration for victim-survivors of domestic (including economic) abuse (DEA)

- 9.1 Please see **Annex B** for information about domestic abuse as set out in the Domestic Abuse Act 2021.
- 9.2 DWP recognises that victim-survivors of domestic (including economic) abuse may experience DWP debt, fraud or error as a direct result of the abuse, and that there can be long term impacts of this abuse. This could relate to an individual, a partner or a joint account holder.
- 9.3 DWP understands that there may be situations where abusers control economic resources and/or finances, including restricting access to funds, digital banking and/or communications. The abuser may also have exploited or sabotaged their finances accruing debts in the victim-survivor's name because of fraudulent or coercive controlling behaviours. DWP also understands that in some cases, a joint account holder could face ongoing or increased risks of harm if recovery action is taken.
- 9.4 Individuals may self-identify when engaging with DWP and DWP Debt Management Enforcement

Team will receive training on how to spot signs that someone may be experiencing abuse. They will also be trained on how to handle disclosures sensitively and, where possible, offer ways to more safely communicate with DWP.

- 9.5 Where DWP is aware someone is experiencing, or is at risk of, domestic and economic abuse, it will consider whether it is appropriate to take actions under the DDO and disqualification from driving powers, particularly with regards to whether a deduction or disqualification may put an individual at greater risk of harm.
- 9.6 Where this is identified, adjustments may be made, where appropriate, as detailed at paragraph **8.14**. Please also see Chapter 8 of the BORG **Benefit overpayment recovery guide - GOV.UK** which covers waivers.

# Annex A. Glossary

<b>Term</b>	<b>Definition</b>
DWP	Department for Work and Pensions
Bank	This includes any banks, building society, credit union or other financial institutions which can accept deposit or issue electronic money (as defined in paragraph 24(1)-(2) of Schedule 3ZA to the Act)
Bank Statements	Financial statements provided by any bank
Individual/Individuals	The person to whom the debt relates or their representative.
Representative	Anyone who is acting on behalf of the individual such as a friend, a debt charity, an appointee, etc.
DDO re bank accounts	Direct Deduction Order
LSDDO	Lump Sum Direct Deduction Order
PAYE	Pay As You Earn
SFS / CFS	Standard Financial Statement / Common Financial Statement (in Scotland)
RDDO	Regular Direct Deduction Order
AIN	Account Information Notice
GIN	General Information Notice
FIN	Further Information Notice
Joint account holder	Any individual who holds a bank account jointly with the liable individual. This will normally mean each account holder has access to, and responsibility for the account and any funds in it

Term	Definition
Business account	An account that relates to a either a sole trader or a partnership which is used for business or commercial purposes but is held (alone or jointly) by the liable individual. This does not include accounts held by corporations (such as limited companies or limited liability partnerships)
Pre-Deduction Notice	A notice issued to a bank, the liable individual and any joint account holder to advise that DWP intends to make a DDO.
Suspended DWP Disqualification Order or Suspended Disqualification Order	An order by the court requiring the individual to make payments to DWP, in respect of their debt.
Immediate DWP Disqualification Order or Immediate Disqualification Order	An order by the court disqualifying the individual from holding a Driving Licence, and therefore disqualifying them from driving, following a failure to comply with the terms of a Suspended DWP Disqualification Order without reasonable excuse

# **Annex B - Definition of coercive behaviour as set out in the Domestic Abuse Act 2021**

As set out in Domestic Abuse Act 2021, domestic abuse is defined as certain “abusive” behaviours by A towards B, provided both A and B are 16 or over and personally connected to each other. They are “personally connected” if they are, or have been, married, civil partners, engaged, parents to the same child or in an intimate personal relationship.

Coercive control is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim. Coercive and controlling behaviour is at the heart of domestic abuse.

The law recognises that domestic abuse can occur post-separation. Controlling or coercive behaviour can happen, where the parties are no longer in a relationship and are not living together.

Abusive behaviour can be a single incident or course of conduct, and includes any of the following:

- physical or sexual abuse
- violent or threatening behaviour
- controlling or coercive behaviour
- economic abuse (behaviour which has a substantial adverse effect on B's ability to acquire, use or maintain money or property, or obtain goods or services)
- psychological, emotional or other abuse
- the behaviour could be directed towards another person, such as B's child

# **Annex C - What is the difference between representations, reviews and appeals?**

## **Representations on proposed order:**

The individual, and any joint account holder, will have one calendar month to make representations after being given DWP's proposed direct deduction order. They can make representations to DWP on anything relevant to the proposed order, including the affordability and the beneficial interest in the money in the account, and the person can ask DWP to reconsider or amend its proposed order. Account holders may be asked to provide evidence to support their representations.

## **Review of direct deduction order:**

Once the finalised direct deduction order is made, the account holder(s) have a further one calendar month to request DWP review the order before it takes effect. This allows those who did not make representations a second opportunity to challenge the decision or provide information and evidence they consider relevant to the decision, before any deductions are made.

## **Appeal to the First-tier Tribunal:**

Where an account holder either made representations on the proposed order, or requested a review within the above timeframes, and they are dissatisfied that the order was still made (or was not changed), they are given one calendar month to lodge an appeal to the First-tier Tribunal. No permission to appeal is needed. Where an appeal is lodged, DWP can suspend recovery until the appeal is finally determined or disposed of. The Tribunal can either uphold (maintain), revoke or amend (change) the DDO. An appeal of the Tribunal's decision would be subject to normal Tribunal rules, including the need for permission to appeal.

## **Following reviews or requests for a regular order to be varied:**

Where either DWP has completed a review of a DDO, or an account holder asks for the order to be reviewed or varied, the account holder(s) will be given opportunity to make representations. If they made representations, or requested the initial review, they will have one calendar month to appeal the outcome to the First-tier Tribunal.

# Annex D Flow Chart for LSDDO

<b>Step 0 / Previous step</b>
DWP confirms the debtor is not currently making payments, is not in receipt of a DWP benefit, and it is not reasonably possible to recover from PAYE income.
<b>Step 1</b>
DWP will make a minimum of four attempts to contact an individual by both notification and telephone call to agree a payment plan and check for vulnerability.
<b>Step 2</b>
If no response to the contact attempts, DWP will contact the bank and request 3 months bank statements.
<b>Step 3</b>
DWP will complete an affordability and vulnerability assessment based on the bank statements and decide whether to propose a DDO, including the amount of deductions and the type of DDO. If it is clear an individual is unable to afford a deduction from their bank the process will stop here.
<b>Step 4</b>
If an LSDDO is appropriate based on the affordability assessment, DWP will write to the bank with the details of the proposed LSDDO.
<b>Step 5</b>
The bank will safeguard the amount proposed to be deducted, as detailed in the Notice from DWP. Where there are less funds in the account, the bank will safeguard the amount and advise DWP.

**Step 6**

DWP will write to the individual with details of the proposed LSDDO and invite them to make representation.

If an individual makes representation during this time, DWP will consider agreeing a payment plan, without the need for a DDO. DWP will also consider the representations before deciding whether to make a DDO (and if so, the terms of the order).

**Step 7**

After one month, DWP may make the LSDDO and give it to the individual and any joint-account holder. If no representation has been made, DWP will write to the customer advising them that they can request a Review. If they have already made representation, they will be told they can Appeal to the First tier Tribunal at this stage.

**Step 8**

After one month, or following the outcome of a Review, DWP will write to the bank and ask them to implement the terms of the LSDDO.

# Annex E Flow Chart for RDDO

<b>Step 0 / Previous step</b>
DWP confirms the debtor is not currently making payments, is not in receipt of a DWP benefit, and it is not reasonably possible to recover from PAYE income.
<b>Step 1</b>
DWP will make a minimum of four attempts to contact an individual by both notification and telephone call to agree a payment plan and check for vulnerability.
<b>Step 2</b>
If no response to the contact attempts, DWP will contact the bank and request 3 months bank statements.
<b>Step 3</b>
DWP will complete an affordability and vulnerability assessment based on the bank statements and decide whether to propose a DDO, including the amount of deductions and the type of DDO. If it is clear an individual is unable to afford a deduction from their bank the process will stop here.
<b>Step 4</b>
If an RDDO is appropriate based on the affordability assessment, DWP will write to the bank with the details of the proposed DDO at the same time as the individual and any joint account holder.
<b>Step 5</b>
Having been given details of the proposed RDDO, the individual and any joint account holder is invited to make representation.
If an individual makes representation during this time, DWP will consider agreeing a payment plan without the need for a DDO. DWP will also consider the representations before deciding whether to make a DDO (and if so, the terms of the order).

**Step 6**

After one month, DWP may make the RDDO and give it to the individual and any joint-account holder. If no representation has been made, DWP will advise them that they may request a Review; if they have already made representation, they are advised they are able to appeal at this stage.

**Step 7**

After one month if the individual has not requested a Review, DWP will write to the bank and ask them to implement the terms of the RDDO.

**Step 8**

Payments will continue until the debt is fully recovered and then a revocation notice will be issued to the bank to stop deductions, unless DWP decides to suspend deductions, vary the terms of the order or revoke the order before the full amount has been recovered.

