



## STANDARDS

### Primary Function

The primary purpose and function of the Debt Resolution Forum is to promote professional standards of resolving debtors' financial problems, focussed on the quality of advice provided to 'consumer' debtors by all DRF members across the range of solutions which is available from time to time and irrespective of the areas of solution specialisation of individual DRF members, (in this context 'Consumer' debtors are private individuals who have incurred unsecured indebtedness at a level which they are unable to service in full).

DRF members approach debt resolution on the basis of identifying the solution and the outcome which are most compatible with the financial and personal position of the debtor, while taking into account the interests of the creditors of the debtor and demonstrating to them that the proposal made on behalf of the debtor is reasonable in the circumstances and is achievable.

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## **A. Debtors - Standards applied by DRF members in their work with and on behalf of Debtors**

### **1. Introduction**

DRF members provide advice which is:-

- consistent
- objective
- impartial
- free at the point when they are first contacted by the debtor - see also '**Fees and other charges**' in section G below
- transparent as to the basis of fees and charges collected
- clear as to the risks arising in each of the options available
- based on full knowledge of the debtor's financial and personal situation as disclosed to the member by the debtor
- provided on a basis which is intended to lead ultimately to the financial rehabilitation of the debtor
- takes into account the attitude of the debtor to risk where appropriate

### **2. Extent of indebtedness**

DRF members advise/act on behalf of debtors in relation to debts including but not limited to:-

- credit card debt
- secured and unsecured debt
- student debt
- consolidation (see 5 below)
- Hire Purchase and conditional sale agreements
- overdraft
- mortgage
- council tax
- gas and electricity bills
- fines
- income tax arrears and tax credit overpayments
- national insurance contributions
- rent
- business debts
- VAT
- water charges
- traffic penalties
- mail order
- the home credit industry

### **3. Debt reduction**

Where appropriate, DRF members also assist debtors to use legal remedies to mitigate or reduce liabilities for certain debts, such as:-

- Consumer Credit Act debts
- extortionate credit bargains
- gas and electricity charges.

### **4. Creditor Action**

Where appropriate, DRF members advise debtors:-

- on courses of action in relation to disputed debt

- how to respond to bankruptcy action or other actions to enforce payment, such as distress, execution, attachment of earnings, charging orders
- of ways in which creditors might be challenged in relation to unenforceable debt
- on strategies for dealing with mortgage or other property repossession

#### 5. Income from benefits and tax credits

DRF members will, where appropriate, provide information in relation to income through benefits and tax credits to which the debtor might be entitled.

#### 6. Debtor expectations

DRF members will not raise false expectations as to outcomes, for example by dismissing the significance of the threats which may be received from individual creditors. Where appropriate, members will be positive in their approach to such threats and assist the debtor to face them.

#### 7. Verification of information

DRF members subject information and explanation provided by the debtor as to his/her financial circumstances to rigorous verification (inter alia by obtaining copies of payslips, mortgage statements, property valuations etc.) in the development of a strategy for addressing the debtor's circumstances.

#### 8. Meeting the debtor

Where practicable in relation to the nature of the services provided by individual members, DRF members offer debtors whom they are advising a face to face meeting. If the debtor declines the offer a note is included in the case records.

Where DRF members do not consider that they are able to obtain all of the information and explanation needed or to ensure that the debtor properly understands the options available without a face-to-face meeting, they require such a meeting as a condition of proceeding further.

#### 9. Objectivity and Impartiality

The DRF advisor will always adopt an impartial and objective approach to debtor advice.

#### 10. Debtor involvement/ decision

DRF members involve the debtor in the process of exploring the solution choices which may be available and ensure that the debtor understands the implications of each so that it is clear that in the final analysis the chosen route has been selected by the debtor and not by the advisor.

#### 11. Debtor co-operation

DRF members attempt to ensure that individual debtors are open, honest and committed in their dealings with them.

In the event of non co-operation by debtors at any stage in the debt resolution process, DRF members reserve the right to withdraw from the process and make it clear to debtors from the outset of their involvement that they do so and ensure that debtors are made aware of the potential consequences. DRF members advise creditors promptly of any such withdrawal action and of the reasons for it.

#### 12. Development of strategy

A clear explanation of the tasks to be undertaken by the DRF member and the part which the debtor is expected to play in the development of and adherence to the strategy is set out in writing and a copy provided to the debtor.

#### 13. Adherence to strategy

DRF members will assist the debtor to adhere to the strategy which has been developed,

for example in dealing with priority debts or in the face of harassment by telephone or face-to-face visits from individual creditors.

#### 14. Nature of service agreement

DRF members enter into contractual arrangements with the debtors whom they represent which:-

- are recorded in clear, plain and intelligible English (or in the language/format (eg Braille) most easily intelligible to the debtor)
- set out the nature, range, cost and expected duration of the service to be provided
- indicate the extent to which creditors will be bound by the solution to be put forward by the member on behalf of the debtor and the effect of it on the debtor's credit rating
- identify the consequences and risks to the debtor of the proposed solution and of the debtor failing to adhere to its terms
- make it clear that the member will not seek to prohibit the debtor from corresponding direct with creditors
- indicate, where appropriate, the terms on which the agreement may be terminated by the debtor
- confirm that funds held by the member on behalf of the debtor from time to time will be paid promptly to creditors and will be held in the interim in a client account which is not accessible for use in the member's own business or by parties to whom the debtor may be indebted
- provide for a 'cooling off' period of not less than seven days during which the contract may be cancelled by the debtor
- conform with the Consumer Protection (Distance Selling) Regulations 2000 as amended from time to time.

#### 15. Correspondence/ communication

DRF members deal appropriately and promptly with any correspondence and communications which they receive from the debtor, from creditors and from other parties interested in and reasonably entitled to information about the debtor and the debtor's affairs.

#### 16. Keeping the debtor informed

DRF members keep the debtor informed of the progress of the case throughout and provide the debtor with copies of significant documents and correspondence.

#### 17. Regular case reviews

DRF members are committed to undertaking regular reviews of the debtor's circumstances on a proactive (i.e. DRF member driven) basis as well as in reaction to notification of changes in circumstance received from debtors and in any event undertake such reviews not less than annually.

#### 18. Maintenance of records and confidentiality

DRF members maintain detailed records of the work done on each case and these are accessible on a systematic basis to the debtor and to the level required by the DRF regulatory body and by relevant legislation. Such records are maintained and stored on a secure and confidential basis.

The agreement with the debtor contains a clear commitment to confidentiality in respect of all communications (whether written, electronic, aural or visual) on the part of the member subject to:-

- access to the DRF regulatory body
- reports to creditors

DRF members inform debtors how they plan to use the information provided by them before it is collected.

They also make clear the circumstances (if any) in which such information may be shared with third parties and the extent to which they will obtain the prior consent of the debtor to its release.

*Fees and other charges* - see separate section

*Complaints* - see separate section

## **B. Creditors - Standards applied by DRF members in their dealings with Creditors**

### 1. Balance of interests

DRF members approach debt resolution on the basis of identifying the solution and the outcome which are most compatible with the financial and personal position of the debtor, while taking into account the interests of the creditors of the debtor and demonstrating to them that the proposal made on behalf of the debtor is reasonable in the circumstances and is achievable.

### 2. Financial statements

DRF members seek to use a common form and standard of financial statement for presentation to creditors or such other formula as may be generally recognised, with a view that it should apply to expenditure items falling outside agreed trigger levels, indicate the level of settlement offers which will normally be accepted and agree that accounts transferable to third parties for collection remain subject to DRF principles.

### 3. Fund transfers

DRF members transfer funds received from debtors to the accounts designated by creditors promptly and by such payment mechanisms as may be agreed with individual creditors from time to time or as required by statute in formal insolvency situations.

### 4. Creditor approval criteria and debtor motivation

Individual DRF members seek to communicate regularly with creditors in order to understand their criteria for considering the various categories of debt resolution proposal from time to time.

DRF members will not act for debtors seeking debt compromise in circumstances where they could reasonably maintain their debts on a fully performing basis.

### 5. Communications

DRF members communicate regularly and openly with individual creditors when a solution has been put in place on behalf of a debtor and deal promptly with enquiries received from creditors.

### 6. Creditor representative bodies

The DRF seeks to engage with creditor representative bodies and with other stakeholder bodies on a regular basis.

### 7. Outcomes achieved

DRF members are committed to transparency in relation to outcomes achieved in areas such as returns to creditors, the level of acceptance of proposals by creditors, fees charged, failure rates etc. - all against a benchmark industry average per solution. DRF members recognise that this is an important aspect of enabling the debtor to make an informed choice and to obtain creditor acceptance.

Fees and other charges - see separate section

Complaints - see separate section

Client funds - see separate section

## **C. Training - the training, qualification and continuing professional development of DRF members, management and staff**

The DRF is committed to the development of a comprehensive system of training, qualification and continuing development for the staff of its members in the following disciplines:-

### 1. Types of Debt

HP and conditional sale agreements

Credit card debts

Secured or unsecured debts

Consolidations (see 5 below)

Loans

Overdrafts

Mortgages

Leases

Guarantees given to banks or other third parties

Voluntary charging orders

Council tax

Maintenance

Domestic rates

Tax and national insurance debts

Traffic tickets/fines

Priority of debts

Dealing with continuing debt responsibilities, such as rent, mortgage and utilities payments

### 2. Consumer Credit Act

Scope - Agreements covered by the Act

Hire purchase agreements

Conditional sale agreements

Procedure

Action by creditors to recover money/goods

### 3. Types of Court action; Magistrate/County Court:

Bailiffs - powers and seizure of goods

Financial penalties for non-compliance with Court Orders

Compensation orders

Council tax and community charge

Maintenance Orders

Domestic rates

Tax debts and their treatment (for example in the consolidation of loans)

Traffic tickets/fines

Other fines

Action by creditors to recover money/goods (Consumer Credit Act)

Charging Orders

Repossession Orders

Attachment of earnings Orders

### 4. Dealing with harassment:

Debtor's rights and remedies (Legal and Ombudsman)

Legal constraints on creditors

Debtors' options

Relevance of prior claims

### 5. Debt consolidation

Methodology of debt consolidation - mathematics, legal, practical issues

Display an understanding of the debt consolidation market

Consolidation options with existing lenders  
Early repayment costs/ interest/ fees/ penalties  
Re-mortgage options  
Contrast analysis for best option for the debtor  
Security / asset ratio  
Penalties for default  
Comparison with other 'options' in financial terms and personal implications

#### 6. Debt management plans

Methodology  
Circumstances in which appropriate  
Period of operation  
Extent of creditor commitment  
Level of debtor disclosure of circumstances  
Contrast with other 'options'  
Assets which may be included/ excluded from proposals  
Determining asset values  
Maintaining asset values (eg home and car insurance)  
Comparison with other 'options' in financial terms and personal implications

#### 7. Individual Voluntary Arrangements

Role of the IP as Nominee and Supervisor- Powers and duties;  
Comparisons with bankruptcy  
Contents of proposal; Requirements to bind creditors;  
Procedures for obtaining an interim Order; documentation to be prepared, sworn, etc;  
Modifications to proposal, rights of creditors to challenge;  
Ability to vary during course of IVA;  
Voting rights - approval and effect of approval;  
Position of secured and unsecured creditors;  
Priority creditors  
Default of debtor and failure of proposal;  
Completion  
Record of IVA and publicity  
Comparison with other 'options' in financial terms and personal implications

#### 8. Bankruptcy order

Bankruptcy petition (creditors)  
Debtor's petition  
Interim Order  
Respective positions, functions, powers and duties of Official Receiver and Trustee  
Duty to cooperate with the Official Receiver and Trustee in Bankruptcy  
Position of secured creditors;  
Priority debts;  
Non priority debts;  
Credit agreements covered by the Consumer Credit Act;  
Bank overdrafts - guarantees given to a bank or any other third party  
Bailiffs - powers and seizure of goods  
Assets forming part of the estate and exempt items /funds;  
Hire purchase agreements/ conditional sale agreements  
After acquired property;  
Matrimonial homes; partner's interest and rights  
Re-mortgage;  
Charging Orders;  
Repossession Orders;  
Powers of sale;  
Income Payments Order;

Disposition of Assets before and after Bankruptcy Petition;  
Public and private examination;  
Bankruptcy offences and disabilities;  
Restrictions on undischarged bankrupts  
Bankruptcy Restrictions Orders  
Record of bankruptcy and publicity  
Discharge or annulment of bankruptcy;  
Marshalling claims in joint and several estates;  
Comparison with other 'options' in financial terms and personal implications

#### 9. The Debtor's Property Interests (such as the Matrimonial Home)

Partner's and other parties' interests and rights  
Relevance in IVA and bankruptcy  
Identifying charges holders and dealing with future payments  
Ascertaining debtor's share of value  
Realisation of debtor's share of value

#### 10. Miscellaneous

Doing nothing/ debtors in denial

Income maximisation of debtor, including the qualifying rules and means testing principles for:-

- Income Support
- Income based Job Seekers Allowance
- Pension Credit
- Working Tax Credit
- Council Tax Benefit
- Housing Benefit
- Disability Living Allowance
- Attendance Allowance
- Statutory Sick Pay
- Incapacity Benefit

Savings and investments

Different forms of insurance (life, redundancy, sickness or assets)

Tax coding

Pensions

Training to include role play opportunities for staff

Establishing the full trust and co-operation of debtors.

What creditors can realistically be expected to be paid/ likely to accept.

#### Scotland and Northern Ireland

Parallel training, qualification and continuing development arrangements will be made in Scotland and Northern Ireland.

#### Qualifications

Issues:-

- Levels of qualification to be required of individual debt advisors.
- Qualifications to be awarded by a reputable body or bodies.
- Accreditation of training providers.
- Accreditation of pre-acquired experience (i.e. in relation to exemption from training and qualification requirements)

#### CPD

DRF members are committed to ensuring that adequate opportunities are available to support the continuing professional development of key staff members, as well as:-

- arrangements in place for the checking of CPD undertaken by staff among DRF members (i.e. employer checks)
- the quality of CPD available, the accreditation of trainers and course providers.

## **D. Corporate standards of governance adopted by DRF members**

### **1. Statement of Compliance**

The directors, partners or proprietors of all applicants for membership complete a statement of compliance with the standards of the DRF and re-affirm that statement annually thereafter as a condition of continuing membership.

Compliance of members with DRF standards is normally subject to monitoring and inspection by the regulatory body within six months of admission to membership and on a continuing, risk-assessed basis thereafter.

### **2. Member commitments**

DRF members will, at all times,

- comply with all legislative requirements, with debt management guidance issued by the Office of Fair Trading from time to time and with directives issued by the board of the DRF in relation to the conduct of business
- ensure that they do not act in such a way as to, or which might be seen to, bring the DRF into disrepute
- not condone actively or tacitly unprofessional, improper or illegal activity within their own organisations or agents and third parties with which they deal
- act transparently in their dealings with potential and actual clients and provide full and early disclosure of all contract terms and conditions
- not mis-represent, whether by implication or omission, any term or condition of their arrangements for dealing with clients
- act at all times in the interest of their clients while taking into account the interests of their creditors
- use their best endeavours to ensure that clients fully understand the terms and conditions of the arrangements made on their behalf and the consequences in the event of default
- encourage debtors to read documentation carefully and allow them sufficient time to consider any agreement or proposal to be made on their behalf and to obtain independent advice where appropriate
- not discourage debtors from seeking impartial advice or from "shopping around"
- not employ or permit their staff or agents to employ any high pressure selling techniques or other techniques which the DRF may notify members to be unacceptable from time to time
- provide prospective clients (both verbally and in writing) with full and comprehensive details of all fees and costs to be paid by them prior to any commitment being entered into, including all payments to be made to any supporting or third party involved in the transaction
- advise the client whether, in regard to the proposal, they are to be remunerated by the client alone or by a third party or by a combination of the two
- ensure that debtors are treated equally and that the needs of specific groups or individuals are recognised
- maintain full records of their dealings with debtors and creditors
- ensure that their advertisements and publicity issued comply with all legislative requirements and the DRF Code on advertising/publicity (qv)

### **3. Protection of client data**

DRF members respect the confidentiality of client information (ie debtors' and creditors') and are compliant with the provisions of the Data Protection Act 1998. Individual members explain to their clients the arrangements made to protect client data and to grant them access to it on request.

#### 4. Internal compliance checks

DRF members undertake internal compliance checks on a regular and systematic basis, monitoring in particular the standards of advice provision. This process is designed to maintain standards of performance, to prevent error, to assist in planning and to take disciplinary action where necessary. Staff of DRF members are committed to the compliance process.

#### 5. Dealings with providers of introductions to debtors

DRF members use their best endeavours to ensure that providers of introductions to debtors with whom they transact adhere to standards in their dealings with debtors which are no less rigorous than those applicable to DRF members, mutatis mutandis and will cease to transact with such providers if they do not so adhere.

DRF members respect the provisions of section 154 of the Consumer Credit Act 1974 (re cold calling/ canvassing) and do not accept referrals from credit brokers or lenders without obtaining evidence that the debtor has given informed prior consent to such referral.

#### 6. Staff training and development

DRF members are committed to a continuing process of staff supervision, training, appraisal and development. Compliance by staff with these requirements is subject to monitoring in accordance with the internal arrangements made by DRF members (and are audited by the regulatory body).

#### 7. Senior management

DRF members make available to the regulatory body for audit:-

- the identity and relevant experience of management
- their line responsibilities
- management development and CPD requirements
- internal audit procedures arrangements
- the arrangements in place to assess risk at the corporate level
- the arrangements in place to ensure effective case management i.e. competence of staff, adequacy of management support and capacity of systems
- the arrangements in place to identify and deal with conflicts of interest
- procedures in place for the supervision of advice staff, file review and advisory staff appraisal
- money laundering/proceeds of crime checking procedures

#### 8. Debtor vulnerability

DRF members support debtors where appropriate and possible, recognising the vulnerability of many debtors.

DRF members refer cases where none of the debt resolution solutions appear to be suitable in the debtor's circumstances to suitable alternative agencies (e.g. in the not for profit sector).

#### 9. Regular reviews

DMP members undertake reviews of individual debtor files at least twice each year throughout the life of the financial plan with a view to ensuring, inter alia, that the solution being pursued on behalf of the debtor remains optimal from the point of view of both the debtor and creditors and ensure that any significant findings arising from such reviews are communicated promptly to the debtor.

10. Professional Indemnity Insurance

Individual DRF members carry professional indemnity insurance, the adequacy of which is subject to monitoring by the regulatory body.

Complaints - see separate section

Publicity/ Marketing - see separate section

## **E. Client Funds**

### **1. Protection of client funds.**

DRF members have arrangements in place to ensure that funds held by them on behalf of the debtor from time to time are placed in a client account which is not accessible for use in the member's own business or by parties to whom the debtor may be indebted. These arrangements are subject to audit by the regulatory body.

### **2. Open to audit**

DRF members are committed to transparency in the systems which they use for the collection and distribution of funds received from debtors.

### **3. Failure of DRF member**

The DRF regulatory body will be committed to ensuring that adequate arrangements are in place to ensure the prompt and efficient transfer of debtor relationships and finance plans to an appropriate DRF member or members as determined by the regulatory body in the event of the insolvency or termination of business of a DRF member (other than in the event of an orderly and solvent winding up). DRF members will meet the costs associated with such transfer action by the regulatory body.

## **F. Advertising and Publicity**

Subject to the guidance which follows, DRF members may seek publicity for and/or advertise their services, achievements and products in any way consistent with the DRF code of practice (including internet advertising) but should not project an image inconsistent with that of an organisation bound to high ethical and technical standards.

- (1) Advertisements must comply with the law and should conform as appropriate with requirements of the Advertising Standards Authority and the Independent Television Commission and Radio Authority Code of Advertising Standards and Practice, particularly as to legality, decency, honesty, clarity and truthfulness.
- (2) DRF members ensure that any providers of introductions to debtors ("leads") with whom they have dealings are aware of and understand the standards to which DRF members are committed. DRF members will use their best endeavours to ensure that lead providers' advertising and marketing materials are produced to similar standards to those prescribed in (1) above and will cease to transact with such providers if they do not so adhere.
- (3) An advertisement should be clearly distinguishable as such.
- (4) The preceding considerations apply equally to brochures and other marketing material, including letterheads.
- (5) A DRF member may be required to support or justify the accuracy of any statements made in any promotional material issued by the member or on the member's behalf.
- (6) The DRF seeks to engage and consult on a regular basis with the bodies and authorities who are responsible for setting and applying advertising and promotional standards, with a view to ensuring as far as practicable that they have a good understanding of the services which DRF members provide and of the social and commercial environment in which they operate.
- (7) The DRF is committed to communicating with stakeholders in relation to the development and application of marketing, sales and advertising practices and standards among its members.
- (8) The regulatory body will monitor and deal with complaints in relation to advertising/marketing standards, breach of which will, if upheld, lead to disciplinary action.

## **G. Fees and other charges**

1. DRF members:-
  - i. provide advice to debtors at the point when they are first contacted by them which is free of charge, impartial and designed to enable the debtor to make an informed choice as to the solution which is best suited to his/her financial and personal circumstances, irrespective of the area or areas of solution specialisation of the DRF member providing the advice; ensure that, in cases where a debtor chooses to engage a DRF member to act on his/her behalf in order to implement the chosen solution:-
  - ii. specialisation of the DRF member providing the advice; ensure that, in cases where a debtor chooses to engage a DRF member to act on his/her behalf in order to implement the chosen solution:-
    - a) full disclosure is made of all fees and charges levied by the member from the point of engagement through to completion of the member's work on behalf of the debtor and of the service provided to which individual fees and charges relate (whether the service is provided before, during or after implementation of the solution); and
    - b) the financial plan drawn up by the member includes the amount and timing of payment of all fees and charges due, as well as the source of their payment (i.e. whether payment is made direct by the debtor, deducted from funds paid by the debtor or funded by a contribution from creditors); and
    - c) any commission/ bonus/ incentive payments made to staff providing advice to the debtor are not materially affected by the solution selected by the debtor.
2. DRF members are transparent as to the basis and quantum of fees charged, publishing full details of terms and conditions on their websites and in other media convenient to debtors, creditors and to other stakeholders. The basis and quantum of fees and charges made by DRF members in their area or areas of solution specialisation and in individual cases will be subject to audit by the regulatory body in relation to, inter alia, the level and quality of service provided.
3. DRF members ensure (and provide full disclosure to demonstrate) that any additional fee and charges made in circumstances where an existing solution (e.g. DMP) is converted into another (e.g. IVA) for the same debtor reflect lower costs associated with the provision of the second solution (for example, where the second solution is based largely on information already obtained from the debtor in the arrangement and regular review of the first solution).
4. DRF members ensure that debtors and creditors are made aware of the extent to which fees and charges reflect the additional cost of dealing with modifications to proposals put forward by members on behalf of debtors.
5. DRF members seek to engage further with creditors, regulators and other stakeholders in order to establish the extent to which creditors can assist in reducing the cost of transactions (e.g. by agreeing to electronic transfers of funds, of information and of acknowledgement of receipt of proposals put forward on behalf of debtors and by working to reduce paperwork, postage costs, etc.)

## **H. Complaints**

### **1. Procedures operated by DRF members**

DRF members have internal procedures for dealing with complaints received from debtors, creditors or other stakeholders on a basis which is:-

- fair and open
- accountable
- conducted within a framework which is adequately resourced
- courteous and expeditious
- responsive and adaptable to reflect actions taken in response to complaints received or to trends identified
- adequately publicised and in a manner designed to encourage feedback from stakeholders

### **2. Compensation and Redress**

Individual DRF members provide compensation/redress to complainants in cases where their procedures identify errors or omissions in their handling of cases on a basis and at a level determined by each member (but subject to audit and approval by the regulatory body of the DRF) and as required by the Annex B of the Rules to be introduced with effect from 6 April 2007 under the Consumer Credit Act 2006.

### **3. Transparency**

DRF members publish on their websites and in other relevant media information about their individual complaints handling procedures and the standards to which they are committed.

### **4. Further recourse available to complainants**

Complainants who are dissatisfied with the outcome of complaints made to DRF members may:-

- a) have recourse to the regulatory body of the DRF with a view to investigation of the conduct of the member in relation to the subject matter of the complaint; disciplinary action may be taken against the member in the event of an adverse finding by the regulatory body - issues to be addressed in the development of a complaints procedure by the regulatory body are outlined in '**Some regulatory issues**' below; and/or
- b) seek adjudication by the Financial Ombudsman Service under the Alternative Disputes Resolution Scheme introduced with effect from 6 April 2007 under section 2.6.2 of Annex B of the Consumer Credit Act 2006 Rules (which is available only after the complaints procedure operated by the DRF members has been completed).

## **I. Statements/ reviews/ information provided by the DRF**

### **a) DRF mission statement and objectives**

DRF will publish a mission statement/ set of objectives on its formation/ hard launch in conjunction with publication of the standards to which its members are committed.

### **b) Impact assessment**

DRF will publish an annual impact assessment indicating, *inter alia*, its relevance within the industry and its achievements against its mission statement/objectives.

### **c) Annual report by regulatory body**

The regulatory body will issue an annual report containing statistics and descriptions of its monitoring, inspection and complaints handling during the period as well as details of any disciplinary action taken against DRF members.

### **d) Debtor solutions**

The DRF should publish and keep updated a summary of the circumstance in which debt management plans, consolidation loans, IVAs and bankruptcy respectively are recommended to debtors by DRF members (ie a description of each of the available 'solutions' which would enable the reader to differentiate between them as to flexibility, the extent to which creditors are bound in, period, cost, disclosure, downsides, current failure rates, returns to creditors etc).

### **e) Ways in which solutions are financed**

The DRF is committed to publishing a survey of the different ways and forms in which payments are made for the provision of solutions, whether by the debtor or the creditor, when and how such payments are made and the nature of the services provided in exchange for them.

### **f) Individual member services and performance**

The DRF will publish a description of the services offered by its members and indicate outcomes achieved by them in areas such as returns to creditors, the level of acceptance of proposals by creditors, fees charged, failure rates, etc.

### **g) Harassment**

Publish in consultation with other bodies overseeing standards in the provision of advice to debtors (such as the Money Advice Liaison Group), a summary of harassment and how to deal with it.

## **J. Some regulatory issues**

By way of illustration/ background to consideration of the level and quantum of DRF standards, set out below are some regulatory issues:-

1. The Insolvency Practitioners Association has commenced work, at the request of the DRF, on the establishment of the regulatory body with a view to putting in place a structure which addresses issues such as its ownership, board constitution, identification of committee members, extent of lay representation and, generally, the demonstration of its complete independence from DRF.
2. Clearly, regulatory body secretariat personnel will have to demonstrate expert knowledge, relevant experience, impartiality and independence from DRF and its members.
3. Regulatory tools include:-
  - peer review
  - mystery shopping
  - spot checks on members
  - routine audit
  - self-certification/appraisal
  - desk-top monitoring
  - an independent inspection team
  - complaints investigation capability
  - (review of) internal audit
4. The regulatory/ disciplinary process would include a commitment to the prompt publication and transparency of outcomes i.e. disciplinary action taken against the DRF members would be publicised on the DRF website and in the media.
5. Obviously the disciplinary process would be subject to rights of appeal and a commitment to the provision of a full explanation to the member firm and to a third party complainant of action taken by the regulatory body.
6. The regulatory body would need to be adequately funded/guaranteed/insured in order to avoid the risk of "regulatory capture" in relation to legal challenges by member firms against whom disciplinary action was being taken.
7. At the same time, the regulatory process to be established must be proportionate, relevant, targeted at the areas of greatest risk and cost effective, recognising that the cost of regulation is borne ultimately by the debtors and creditors in the process and that unnecessary/over-regulation and bureaucracy can stifle innovation and competition.
8. The regulatory body will be careful to avoid overlap and duplication in relation to those areas of activity of DRF members which are already subject to regulation and oversight by other bodies. At the same time, the regulatory body will seek to engage with those bodies where appropriate and disciplinary action taken by any of them against DRF members or their staff may give rise to action against the member by the DRF or by the regulatory body in appropriate circumstances.

### **Complaints**

The regulatory body would have a clearly identified complaints procedure i.e. its website would provide an explanation of how to complain about a DRF member, including a commitment to keep complainants informed of the progress of their complaint.

The complaints procedure would include full disclosure of the complaint to the member as part of the investigation process designed to establish whether the member had been guilty of misconduct in relation to a breach of any of the standards applied to DRF members from time to time in connection with the matter which gave rise to the original complaint or to the member's handling of the complaint.

The procedure would include powers to take disciplinary action against the member (see below) and rights of appeal by the member.

In addition to reactive investigation, the regulatory body's arrangements for establishing the effectiveness of the complaints procedures operated by members and of establishing confidence in them among stakeholders might include routine surveys of complainants.

#### Disciplinary action

Types of disciplinary action which might be taken against DRF members would include:-

- Warnings
- Fines
- Restrictions
- Removal from membership

#### Annual report

The regulatory body would issue an annual report containing statistics and descriptions of its monitoring, inspection and complaints handling during the period as well as details of any disciplinary action taken against DRF members.

This should lead on to an impact assessment of the DRF highlighting its relevance and achievements against the mission statement/ objectives set out on formation of the DRF.

## **K. Development of standards**

The DRF is committed to stakeholder consultation in the development of DRF standards, including consultation with creditors, the not for profit sector and other interested parties.