

Procedure for approving intermediaries under the Debt Relief Order scheme

Introduction

AdviceUK has been notified by Insolvency Service that it has been designated by the Secretary of State as a Competent Authority under Regulation 3 of The Debt Relief Orders (Designation of Competent Authorities) Regulations 2009.

This means that advisers and volunteers working for organisations that are members of the AdviceUK network are able to apply to AdviceUK to become an Approved Intermediary under the Debt Relief Orders scheme.

The following procedure describes: -

- The criteria that AdviceUK will use to assess applications received from advisers who wish to become intermediaries
- The form in which applications must be made and the supporting evidence required
- How applications will be assessed and decisions notified
- The circumstances in which approval may be withdrawn
- How complaints will be dealt with
- How this procedure will be monitored and reviewed and how AdviceUK will monitor and review the performance of intermediaries that it has approved.

This procedure has been designed to be compliant in all respects with the provisions of The Debt Relief Orders (Designation of Competent Authorities) Regulations 2009 (referred to elsewhere in this procedure as 'the Regulations').

Criteria

AdviceUK will apply the ineligibility criteria laid down in Section 14 of the Regulations when assessing applications from advisers who wish to become Approved Intermediaries under the scheme.

Section 14 states: -

Individuals of any of the following descriptions are to be deemed not to be fit and proper persons to act as intermediaries and, accordingly, may not be approved by a competent authority to act as intermediaries—

- (a) individuals convicted of any offence involving fraud or other dishonesty or violence whose convictions are not spent;
- (b) individuals who have contravened any provision or committed any offence in any enactment contained in insolvency legislation;
- (c) individuals who, in the course of carrying on any trade, profession or vocation or in the course of the discharge of any functions relating to any office or employment have engaged in any deceitful or oppressive or otherwise unfair or improper practices, whether unlawful or not, or which otherwise cast doubt upon their probity;

- (d) individuals who have no experience, education or other training in the provision of debt management or debt counselling services;
- (e) individuals who have not acted with the independence, integrity and the skills appropriate to the proper performance of the duties of a provider of debt management or debt counselling services or of an approved intermediary;
- (f) undischarged bankrupts;
- (g) individuals in respect of whom there is or has been in force a bankruptcy restrictions order or undertaking or an interim bankruptcy restrictions order or undertaking or any bankruptcy restrictions order or undertaking made under the Insolvency (Northern Ireland) Order 1989 or the Bankruptcy (Scotland) Act 1985;
- (h) individuals to whom a moratorium period applies or in respect of whom a debt relief order or application for a debt relief order, has been made;
- (i) individuals in respect of whom there is or has been in force a debt relief restrictions order or undertaking or an interim debt relief restrictions order or undertaking;
- (j) individuals who are or have been subject to a disqualification order or undertaking accepted under the Company Directors Disqualification Act 1986 or to a disqualification order made under Part II of the Companies (Northern Ireland) Order 1989 or to a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002;
- (k) individuals who are patients within meaning of section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 or have had a guardian appointed to them under the Adults with Incapacity (Scotland) Act 2000 (asp 4);
- (l) individuals who lack capacity within the meaning of the Mental Health Capacity Act 2005 to act as intermediaries between a person wishing to make an application for a debt relief order and the official receiver;
- (m) individuals who neither possess a consumer credit licence nor are validly covered by a group licence; and
- (n) individuals who are not covered, either individually or by way of a group policy, by personal indemnity insurance.

In addition to the ineligibility criteria laid down in the Regulations, AdviceUK will use the following additional criteria when assessing applications: -

- The organisation for which the applicant works must be a fully paid up member of AdviceUK at the time that the application is made. If this is not the case, then the applicant will not be eligible to be approved as an intermediary by AdviceUK in its capacity as a Competent Authority until such time as the organisation for which s/he works becomes a fully paid up member of AdviceUK that has been approved for membership by the AdviceUK board of trustees.
- The organisation for which the applicant works must have a complaints procedure in place that is compliant with the provisions of Section 7 of the Regulations as well as meeting AdviceUK's own membership criteria requirements in relation to complaints policies.
- The applicant must have at least 12 months full time equivalent experience of debt advice and must also meet or exceed the Money Advice Standards for Competence at

Caseworker Level (these are reproduced as Appendix B to the AdviceUK's Approved Intermediary application form).

- The applicant must produce a Certificate of Attendance issued by the Money Advice Trust as evidence that s/he has satisfactorily completed the training required to act as an Approved Intermediary. This certificate does not need to be submitted at the same time as AdviceUK's Approved Intermediary application form. However, AdviceUK will not approve the application until a copy of the certificate is produced.

AdviceUK will also take into account any other relevant factors that may cast doubt on whether the applicant is a fit and proper person to be approved as an intermediary under the scheme.

Application Form

Applications will only be accepted in writing and in the prescribed form, i.e. AdviceUK's Approved Intermediary application form must be used in order for an application to be processed.

The following matters will be stated in the application form, as required by Section 16 of the Regulations: -

- (a) the individual's full name and address, date of birth and gender;
- (b) a description of the individual's current occupation or activities
- (c) a description giving reasons why the individual should be considered suitable for approval;
- (d) whether the individual is a member of any relevant body and if so which;
- (e) that the individual is a fit and proper person to be an approved intermediary;
- (f) the individual's educational or professional qualifications;
- (g) the source of the individual's income and the individual's current financial status;
- (h) details of the individual's expertise in the provision of debt management or debt counselling services including details of any education, training and development which the individual has undergone and any qualifications the individual has acquired in connection with the provision of debt management or debt counselling services;
- (i) details of the consumer credit licence which the individual has in place, or, if none, how the individual proposes to secure that he or she has in place, or is validly covered by, a consumer credit licence;
- (j) details of any personal indemnity insurance which the individual has in place, or, if none, how the individual proposes to secure that he or she has in place, or is validly covered by, appropriate personal indemnity insurance.

The applicant's undertaking on page 2 of the form must be signed and dated by the applicant.

The Manager Checklist on page 4 of the form must be completed, signed and dated by the applicant's line manager.

The application must be accompanied by copies of the documentation required by Section 17 of the Regulations: -

(1) The application shall be accompanied by—

(a) copies of documents confirming the individual's name, address and date of birth;

(b) copies of material relating to the educational, training and development experience referred to in regulation 16(h);

(c) copies of material relating to its professional or other qualifications;

and such other information or evidence as may assist the competent authority to determine the application.

(2) The competent authority may request the individual to supply such further information or evidence as may be reasonably required by the competent authority for the purpose of determining the application.

The signed and completed application form, together with copies of supporting documentation, must be sent to AdviceUK at the address stated on the application form.

Assessment Process

The Membership & Marketing team at AdviceUK will process the application within one month of receipt of the application.

Checks will be made on the following:

- That all sections of the application form have been fully completed
- That the applicant undertaking on page 3 of the form has been signed and dated
- That the Manager Checklist on page 4 has been completed and signed and dated by the applicant's line manager and that the line manager has confirmed the applicant has at least 12 month's equivalent experience of debt advice
- That copies of the following documents have been sent with the application: -
 - Evidence of the applicant's identity, address and date of birth
 - Evidence of the applicant's professional training and qualifications
 - A copy of the organisation's complaints procedure
- That the money advice standards for competence at 'Generalist' and 'Caseworker' level are confirmed
- That the eligibility conditions as detailed in Appendix C of the application form are satisfied
- That the organisation's complaints procedure is compliant with the requirements of the regulations

AdviceUK will also carry out: -

- A search on the applicant's name on the Insolvency Register, and

- A search on the Office of Fair Trading's Consumer Credit Act Public Register to confirm that the organisation for which the applicant works has a current Consumer Credit Licence (this search will only be undertaken in situations where the organisation is not covered by AdviceUK's Group Debt Licence).

Further enquiries and/or requests for further information may be made if there are any concerns about the applicant's fitness to be approved as an intermediary under the scheme.

The section of the application form marked 'AdviceUK – Office Use Only' will be marked to show that the application form has been checked and other checks undertaken and recorded electronically on AdviceUK's Contact Record Management system.

Once processed the application will be approved by either AdviceUK's National Money Advice Co-ordinator or the Head of Membership and Marketing.

Notification of decision

When the assessment process is complete, AdviceUK will notify the applicant in writing of the decision about the application.

The notification letter will inform the applicant whether his/her application has been approved. If an application is approved, then the applicant will become an Approved Intermediary under the scheme.

The notification letter will also inform the applicant of his/her right to complain (see Complaints and appeals below for further details).

Withdrawal of approval

AdviceUK will withdraw its approval for an individual to act as an intermediary in the following circumstances: -

- Where the individual requests that approval is withdrawn
- Where approval is withdrawn with the individual's consent
- Where it becomes clear to AdviceUK after approval that the individual: -
 - Was ineligible at the time of approval
 - Has become ineligible for approval
 - Is at any time not or no longer a fit and proper person to act as an intermediary
 - Has failed to comply with any provision of Part 7A of the Insolvency Act 1986 or any rule, regulations or orders made under it, including The Debt Relief Orders (Designation of Competent Authorities) Regulations 2009
 - Has furnished AdviceUK with any false, inaccurate or misleading information

- Where the member organisation for which the intermediary works ceases to be a member of AdviceUK
- Where the intermediary ceases to work for the member organisation from which the application was submitted
- Where it seems otherwise reasonable for AdviceUK to withdraw its approval

Complaints and appeals

If the applicant, or the applicant's line manager, has a complaint about the way in which AdviceUK has dealt with the application process then s/he has the right to complain using AdviceUK's complaints procedure.

AdviceUK will not operate a separate appeals procedure in connection any decision it makes whether or not to approve an individual's application to become an intermediary under the scheme. If an individual is not satisfied with the decision made on his/her application, then s/he has the right to complain using the complaints procedure.

Monitoring and review

AdviceUK will monitor the effectiveness of this approval procedure and review it in the light of this monitoring on at least an annual basis.

AdviceUK will take a proportionate and risk-based approach in relation to its monitoring and review of the performance of any intermediaries that it has approved. In practice, this means that an intermediary's performance will be monitored in situations where concerns have arisen about the intermediary's eligibility under the scheme or about his/her knowledge, skills or behaviour.

Examples of where such concerns might arise include: -

- Information is received that suggests that the intermediary no longer satisfies the eligibility criteria as laid down in the regulations
- A complaint has been made about the intermediary
- A claim has been made against the Professional Indemnity Insurance policy held by the member organisation for which the intermediary works

The above examples are not intended to be exhaustive.

Where it considers it appropriate to do so, AdviceUK will suspend its approval of an intermediary whilst it conducts its investigations into the intermediary's eligibility or fitness under the scheme.

AdviceUK will withdraw its approval for an individual to be an intermediary under the scheme if it decides that the intermediary is no longer a fit and proper person to be an intermediary.