

Appendix 1 – Responses to Consultation Questions

<p>1. Is the risk to some outweighed by the benefits of lenders being attracted to, and having confidence in, the Island?</p>
<p>No</p>
<p>2. At what point should creditors have the upper hand (if any)?</p>
<p>It would depend on the length of time the money was owed and also on the history of individual directors of the company.</p>
<p>3. Do you agree the Isle of Man should be a jurisdiction that continues to have primary regard to the interests of creditors?</p>
<p>Yes – debts are incurred by companies and there is a duty to pay these debts. If they are unable to pay, why are they trading (it can also be a deliberate policy to accumulate debts and then set up another company therefore making the debts uncollectable)? The company could be struck off at the Companies Registry and a record available of the Directors in order to highlight any repeat offenders. Depending on the debt, Directors could be personally liable for certain debts.</p>
<p>4. If you answered no to Question 3, do you think the Isle of Man should change its focus and instead become a jurisdiction that has primary regard to the interests of debtors?</p>
<p>Not applicable</p>
<p>5. Is there a 'third way', an "Island friendly" way, that meets the concerns of creditors, who want to be sure they will get their money back, and those who have got into debt and who wish to clear their debts?</p>
<p>There could be a 'third way' but this would involve structured payments and a willingness / ability to for the creditor to allow more time for the debt to be settled. Some creditors may be relying on their debt to be settled in order to pay their own creditors so this would need to handled carefully.</p>
<p>6. Do you believe administrative receiverships should be available in certain circumstances?</p>
<p>Administrative receiverships should be available but this would depend on the size of the debt and the consequences of that debt not being paid. They could also be available should there be no current directors of a company.</p>
<p>7. If you do not believe administrative receiverships should be available please explain why,</p>

<p>and suggest what alternative provision, if any, you think ought to be made in terms of receivership?</p>
<p>Not applicable.</p>
<p>8. Do you have any views in relation to – (a) The concept of the automatic discharge of bankrupts, unless circumstances dictate otherwise, and (b) The period – 3 years is suggested.</p>
<p>There will always be situations where there should be automatic discharge of bankrupts, but three years does not seem sufficient time. The statute of limitations is six years so this would seem more appropriate.</p>
<p>9. Do you think there should be a list of recognised (licenced?) insolvency practitioners?</p>
<p>A list of recognised insolvency practitioners could be useful. This would need to be regulated.</p>
<p>10. Do you agree there should continue to be provision for the appointment of an Official Receiver?</p>
<p>There should be provision for the appointment of an Official Receiver. The person would need to have finance qualifications and possibly legal qualifications. This would seem to sit best in the Treasury Department and funded out of Bona Vacantia funds.</p>
<p>11. Do you think the order of priorities for payment of debts is correct? If you think the priorities for payment of debts ought to be varied, please specify in what way and why you think your alternative order of priorities would be fairer than currently applies.</p>
<p>The order of priorities does generally seem correct.</p>
<p>12. Do you think the Island should adopt some form of provision for ordinary debtors such as those suggested above?</p>
<p>Debt Relief Orders seem very short-lived and do not provide enough time for a debtor to clear their debts. They also do not seem fair for the creditors as they are unlikely to get any funds.</p> <p>With regards to the 'Breathing Space', there are few businesses that would start any legal action within 60 days of a debt being due so this does not seem to achieve anything.</p>
<p>13. Following on from question 12, if you favour debt provision but not the UK model, what</p>

model, and from which country, do you think would work better for us in the Isle of Man?

Debt Relief Orders seem very short-lived and do not provide enough time for a debtor to clear their debts. They also do not seem fair for the creditors as they are unlikely to get any funds.

With regards to the 'Breathing Space', there are few businesses that would start any legal action within 60 days of a debt being due so this does not seem to achieve anything.

14. Views on other issues

Access to the publicly accessible register of debtors as per the Administration of Justice and Other Amendments Act 2021 would be useful. It would also be useful if the Isle of Man Courts were able to appoint an Official Receiver. Douglas Borough Council has had to deal with some companies who had no Directors or had complex arrangements while owing monies to the Council (possibly deliberately in order to avoid payment) and an Official Receiver would have assisted with this.