

Managing Multiple Debts

Experiences of County Court Administration

Orders among debtors, creditors and advisors

Elaine Kempson and Sharon Collard
University of Bristol

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The Research Unit, Department for Constitutional Affairs, was formed in April 1996. Its aim is to develop and focus the use of research so that it informs the various stages of policy-making and the implementation and evaluation of policy.

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The views expressed are those of the authors and are not necessarily shared by the Department for Constitutional Affairs or the Insolvency Service.

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Executive summary

Administration orders are a court-based debt management scheme for people with multiple debts totalling no more than £5,000, one of which must be a judgment debt. Once an order is granted, the county court takes over management of the debts and creditors included in the order can not take any further action to recover their debt without leave of the court.

The Department for Constitutional Affairs commissioned this study as part of a broader review of the administration order scheme. The overall aim of the research was to provide a 'walk through' of administration orders from the perspective of debtors and creditors, to inform options for the reform of the scheme.

The research was largely qualitative and comprised depth interviews with people who had administration orders, as well as creditors and money advisers. In addition, analysis was conducted on data provided by the Department for Constitutional Affairs relating to 550 administration order cases.

The characteristics of administration order applicants

The majority of people who applied for an administration order were relatively young and lived on low incomes. They had unstable lives, with a high level of family breakdown and frequent changes in income. They also had long-standing health problems, and mental health problems in particular. The financial difficulties they faced had mostly been caused by a drop in income or poor money management. At the time they applied for an administration order, many were facing eviction, action by bailiffs or constant visits from debt collectors.

The administration order process

Most debtors found out about administration orders from an adviser and were helped to apply. Those who had applied unassisted found the form difficult to fill in and often ended up with higher payment levels, suggesting either that they had under-stated their expenditure or had offered a payment level that was unrealistic. The majority of people took the form to the court themselves and, if there was a hearing, had not been accompanied by an adviser. They had all been very nervous about going to

court but found the procedures and staff much less intimidating than they had expected.

On average, administration orders covered five debts, totalling just under £3,000 (including court fees). The average administration order payment set by the court was about £29, although this varied widely. On the whole, people felt that the payments set by the court were reasonable and affordable. Creditors were divided in their views of payment levels. Some regarded them as paltry sums, others thought that they were all that could be expected given the debtors' circumstances, and that any money they recovered was better than none.

Current guidelines state that if a debtor is unlikely to be able to discharge their debts within three years, a composition order can be made by a district judge, reducing the total amount to be repaid. According to court records, about a quarter of administration orders included a composition order, even though many more than that would not be cleared in three years at the payment level set. The average level of composition was 23 pence in the pound. There were no obvious circumstances when composition orders were granted. Debtors with composition orders who were interviewed were both amazed and delighted to be told that their debts had been reduced in this way. Creditors, on the other hand, generally felt that there was little consistency in when or how composition orders were granted, and some routinely objected to them.

Compliance with administration orders

Secondary analysis of court records indicates that levels of missed payments on administration order payments are high, with three-quarters of people missing at least one payment. The most significant factors associated with compliance were how long the administration order had been in force and the number of administration orders made in the court.

In addition, analysis of the depth interviews highlighted a number of risk factors that were associated with repeated default. These included having above-average payment levels, difficulty getting to the court, and health problems. Poor money management and being a heavy spender were also important. Taking on new credit commitments and repaying debts not included in the administration order did not seem to greatly affect people's ability to keep up their payments.

The limited options for paying an administration order (cash, cheque or postal order) caused difficulties for a significant minority of people and led some to miss payments. Money advisers also felt that they contributed to the risk of arrears. Creditors were in favour of direct debit or standing order payments, as were some of the debtors who found it difficult to get to the court. Other debtors would have preferred to have the money deducted at source from their social security payments or to pay at the post office.

The benefit of administration orders to debtors

Without doubt, the main benefit that debtors derived from administration orders was peace of mind. Most had been in an emotional and financial turmoil when they had applied for an administration order, with a number of creditors and/or debt collection companies pressing them for payment.

They therefore welcomed both the protection the court offered them and the opportunity to get their finances back onto an even keel with a single affordable repayment. A small number of creditors, however, did not comply with the restriction on further debt recovery once an administration order was in place.

There was little evidence that debtors were either seeking or hoping for debt relief when they applied for an administration order. For the applicants who were not working, however, it is arguable that debt relief would have been a more appropriate outcome than a repayment programme.

The impact of administration orders on debtors' circumstances and ability to make a 'fresh start'

Evidence of the longer-term impact of administration orders on debtors was more mixed. Being granted an administration order had had a large impact on just over a third of the people we interviewed. These people were determined to keep up with repayments and had made significant changes to the way they managed their money to avoid falling into arrears either on the order or on any of their other commitments. They had vowed not to borrow money in the future, even if it was offered, and a minority of them had even begun to save money.

In contrast, a further third seemed to have learnt nothing along the way and many of these were people who had had their orders revoked. They were still as disorganised

with money management as they had been before they were granted the order and many had since fallen behind with payments on household commitments. Their access to borrowing was often barred, but even so a number of them had borrowed further since the administration order was set up.

In between was a group of people for whom the administration order was buying time. Some had seen their circumstances improve and the likelihood of further financial difficulties recede. Others were on an even keel but still living on very low incomes that could easily be disrupted.

How administration orders might be made a more effective tool

The administration order scheme was designed for people who are, or might soon be, in a financial position to make repayments to their creditors, but not at a level that all of their creditors will accept. Unfortunately, the current £5,000 limit on indebtedness means that many in this position are excluded from applying. These people require protection from further enforcement and the help of an arbiter to set a level of payment that is fair to both creditor and debtor. The court seems to be the best way of providing these functions. Once a repayment level has been agreed, a channel for distributing and monitoring payments to creditors may help prevent default. Evidence from this study suggests that these functions could probably be carried out more efficiently and effectively than at present.

There are, therefore, two possibilities for meeting the needs of this group of people: the existing administration order scheme could either be reformed or replaced by something new. If it were reformed, the present limit of £5,000 would need to be increased to at least £10,000. Orders would ideally be time-limited to, say, five years, with a minimum payment level. This would require a detailed assessment of the debtor's ability to pay, so that anybody unable to afford the minimum payment would automatically be considered for debt relief. If orders were to last for five years, there would need to be periodic reassessments of debtors' circumstances and payment levels adjusted accordingly. In such circumstances, composition orders would seem to be inappropriate.

A more radical solution would involve not only the reforms outlined above, but also removing the distribution and monitoring of administration order payments from the Court Service altogether. The courts would, however, need to continue to provide

protection from further enforcement and also to act as an arbiter, setting the terms for repaying the debt. The debtors interviewed for this study valued the intervention of the court in both these ways. Without it, a minority of creditors would continue to make unreasonable demands of them.

For people who can only afford to make token payments towards their debts, debt relief would seem to be more appropriate than an administration order. Yet most of the people who currently apply for an administration order fall into this category.

However, some of the people who were interviewed for this study were very resistant to the idea of bankruptcy, and were deterred by the stigma they would face given the relatively small sums of money they owed. The money advisers also indicated that the fees for bankruptcy were a deterrent for people on low incomes.

A simplified debt relief procedure would, therefore, seem more appropriate for people on very low incomes that are unlikely to increase, who owe relatively small sums of money (say, less than £10,000) and have no assets to realise. This could be called something other than bankruptcy, to overcome the stigma that people feel and differentiate it from the full bankruptcy procedure.

1. Introduction

Originally devised in the nineteenth century, administration orders are a court-based debt management scheme for people with multiple debts totalling no more than £5,000, one of which must be a judgment debt. Once an order is granted, the court takes over management of the debts and creditors included in the order can not take any further action to recover their debt without leave of the court.

In their present form, administration orders are made under the County Courts Act 1984; the procedures of the scheme are governed by the County Court Rules 1981. In 1988, the Civil Justice Review recommended that administration orders should be improved and used more widely. This resulted in section 13 of the Courts and Legal Services Act 1990, which removed the requirement for applicants to have a judgment debt; removed the £5,000 limit for indebtedness; and set a three year time limit for orders. Section 13 was, however, not put into practice.

In March 1998, a comprehensive review of the enforcement of civil court judgments was announced by the Lord Chancellor. One of the aims of this review was "... to consider what, if anything, is needed for the successful implementation of section 13 of the Courts and Legal Services Act 1990". A White Paper on Effective Enforcement, published in March 2003, concluded that section 13 of the Courts and Legal Services Act 1990 would not be implemented because of concerns about the expansion of the administration order scheme.

Against this backdrop, the Department for Constitutional Affairs has carried out a comprehensive reassessment of the administration order scheme. It has also considered other options for multiple debtors in the light of Government initiatives such as the 'Fresh Start' proposals for personal bankruptcy and the policy underpinning the Enterprise Act 2002; the social inclusion agenda; and the Government's policy on tackling over-indebtedness. Ultimately, the policy aim is to ensure that there are repayment options for people who can afford to repay their debts, as well as debt relief options for those who cannot. Where possible, these two groups of people would be removed from the court system, leaving enforcement processes directed at those who refuse to pay their judgment debts.

1.1 Research aims

The Department for Constitutional Affairs commissioned this study as part of its in-depth review of the administration order scheme. The overall aim of this research is to provide a 'walk through' of administration orders from the perspective of debtors and creditors, to inform options for the reform of administration orders.

Within this overall aim, there were a number of more specific objectives:

- To investigate the impact of entry criteria, including how they affect debtors' entry to the administration order scheme.
- To explore how debtors and creditors view the administration order process, including which parts of the process are the most helpful, how easy debtors find it to comply with an order and creditors' views of the impact of orders on their likelihood of receiving repayment.
- To determine whether or not administration orders benefit debtors and, if they do, to ascertain whether it is in terms of enforcement relief, assistance with financial management or debt relief.
- To explore the impact administration orders have on the debtors' circumstances.
- To ascertain whether administration orders enable debtors to make a 'fresh start'.
- To identify how administration orders might be amended to make a more effective tool of debt enforcement.

1.2 Research methods

This was primarily a qualitative study, involving depth interviews with debtors with administration orders, creditors and money advisers.

In total, 30 debtors were interviewed. These people were identified from the records at four county courts and were purposively selected to include people who had kept up with their payments as well as others who had missed payments. As such, they are illustrative of the types of people with administration orders rather than representative of them. The 30 people interviewed comprised:

- eight people who had not missed any payments on their current administration order;
- seven who had been late with, or missed, the odd payment on their current order;

- ten who had failed to make several payments on their current order; and
- five people whose orders had been revoked because of non-payment.

Apart from one person, all of those who were interviewed had had an administration order in place for six months or more. In around three-quarters of cases, the order had been in place for at least 12 months.

Each interview was conducted face-to-face using a topic guide and lasted about an hour. All the interviews were tape recorded and transcribed in full.

In addition, seven money advisers were interviewed, drawn from all sectors of not-for-profit advice agencies. All had considerable experience of administration orders.

Interviews were also held with ten creditors. These were selected to include a range of approaches to debt recovery (re-interviewing many of the creditors who took part in an earlier study¹). They comprised different types of creditor, including: two utility companies, a local authority Council Tax department, a bank, two credit card companies, a mail order catalogue company, a home collected credit company and two debt collection agencies that acted on behalf of a range of creditors. A mortgage lender and a local authority rent arrears department were also contacted, but neither had much experience of administration orders.

The interviews with money advisers and creditors were carried out by telephone and lasted about half an hour, on average. Again, they were tape recorded and transcribed.

Finally, short telephone interviews were held with staff in each of the four courts that provided the sample of debtors. The purpose of these interviews was to ensure that we understood fully the processes involved with administration orders, as these can vary between courts and debtors' accounts of what happened were often based on hazy memories.

In addition to these depth interviews, the Department for Constitutional Affairs provided anonymised data relating to 550 administration order cases, selected from

¹ N Dominy and E Kempson (2003) *Can't pay or won't pay: a review of creditor and debtor approaches to the non-payment of bills*. London: Lord Chancellor's Department

11 courts during 2001. This was imported into SPSS and detailed analysis undertaken, including both bivariate and multivariate (regression) analysis.

1.3 This report

The report begins, in Chapter 2, with an overview of who applies for an administration order and why, drawing mainly on the court data and interviews with debtors. Chapter 3 reviews the administration order process, drawing together the viewpoints of debtors, creditors and money advisers along with the accounts obtained from court staff. Chapter 4 looks at compliance with administration orders, exploring the level of and reasons for default, monitoring of missed payments, creditor compliance with administration orders and what happens following revocation. Chapter 5 explores the impact of administration orders from the point of view of debtors, money advisers and creditors, and presents their suggestions for possible reform of the scheme. The final chapter provides a summary of the main findings and the conclusions drawn from the study.

2. Who applies for an administration order and why

On the whole, administration orders are used by younger people aged under 40 who are in quite serious financial difficulty and have few other options. They have failed to set up arrangements to repay all their creditors, as they are predominantly living on low incomes and some of their creditors are unwilling to accept a level of repayment they can afford. Most know nothing about administration orders until they seek advice about their financial difficulties. In applying, they are hoping to get relief from the actions of their creditors, to get their finances back under control and to set up an affordable way of repaying the money they owe.

2.1 The characteristics of debtors

There is little doubt that debtors with administration orders are drawn quite disproportionately from the younger and poorer people who have fallen into arrears with their regular commitments. They also tend to be people who have a high degree of change in their lives and who either have health problems themselves, or care for someone else in the household who does.

2.1.1 Age and family circumstances

Analysis of court records showed that administration order applicants tended to be fairly young, with two-thirds aged 40 or under (Table 2.1). Over half (57 per cent) were aged between 25 and 40, while one in ten (10 per cent) were aged 18 to 24. Hardly any were over retirement age – just one per cent were aged 65 or more. They were certainly a lot younger than the population as a whole and, according to a recent survey of over-indebtedness carried out by the Department for Trade and Industry (Kempson 2002), even younger than the generality of people in arrears (Table 2.1).

Women greatly outnumbered men (65 per cent compared with 35 per cent) and single people outnumbered those living with a partner (62 per cent compared with 38 per cent). Even so, the majority of people with administration orders (70 per cent) had dependent children – far higher than in the population as a whole and many more than among those in arrears (Table 2.1).

It is not surprising, therefore, that applicants included a high proportion of lone parents - about four in ten (38 per cent) of all those with administration orders². This compares with 6 per cent of the population and 17 per cent of those in arrears in the DTI survey of over-indebtedness (Table 2.1). Recent research has also shown that single parents are more likely than other family types to experience justiciable problems, including problems with money and debt (Pleasence et al, 2003).

The second largest group comprised two parent families (32 per cent), who were also over-represented compared with the general population, but not when compared with people in arrears. Single people without children accounted for a further quarter of applicants (24 per cent), while childless couples were very much in the minority (6 per cent). In fact, childless couples were greatly under-represented among administration order applicants compared with both those in debt as well the general population.

Among single people without children, there were roughly equal numbers of men and women. Likewise, among couples the administration order was as likely to be in the woman's name as the man's. This is perhaps less expected, as most household commitments tend to be in the man's name. The depth interviews offered two explanations for this. Most commonly, it was because the County Court Judgment was for debts on mail order catalogues that were in the woman's name. In a small number of cases, the man had run up debts in his partner's name and left her to face the consequences.

² In addition to the 30 per cent of lone parents, 26 per cent of people with administration orders were two-parent families and a further 14 per cent were people with children where the marital status was missing. If we assume that these were divided pro rata between one-parent and two-parent families, 38 per cent of all applicants would be lone parents.

Table 2.1 Characteristics of people with administration orders, compared with those in arrears and all households

Column percentages

	All*	In arrears*	Has admin order**
Age			
40 or under	31	56	67
Over 40	69	44	33
Dependent children			
Yes	29	48	70
No	71	51	30
Household circumstances			
Lone parent families	6	18	38
Two parent families	24	32	32
Single, no children	28	23	24
Couple, no children	30	16	6
Housing tenure			
Owner	69	45	17
Tenant	31	55	74
Other	-	-	9
Economic activity status			
Working	52	56	29
Not working	18	34	70
Retired	30	10	1
Bank account			
Yes	90	83	65
No	10	17	35
Base	1,648	210	528

Source: * DTI Over-indebtedness survey; ** Court administrative data

These household characteristics were mirrored among the people who were interviewed in depth. Moreover, they generally had a high degree of instability in their family lives. Two-thirds of those who were interviewed had undergone some change in circumstance in recent years, with a minority experiencing more than one change. About half of these changes had taken place prior to the administration order; the remainder occurred after it had been set up.

Most common was a relationship breakdown, which was experienced by nearly half of applicants, split evenly between those who had separated before the administration order and those whose relationship broke down subsequently. A third of the applicants who were interviewed had had a baby, most of them after they applied for an administration order. This often followed a relationship breakdown, leaving them to cope with the new baby alone.

Case study 1, Relationship breakdown

Mary was 32 when she applied for an administration order. Until recently, she had been in a relationship with a man who turned out to be a seasoned criminal and who had led her into a life of drug-taking, heavy drinking and shop-lifting. They separated before she applied for an administration order. She was pregnant at this time and the baby was born after they had separated.

A minority of people had set up home with a new partner after applying for an administration order. In a similar number of cases, disruption was caused by a child leaving home unexpectedly. One applicant's son was admitted to custody; in a further two instances, the child was taken to live with the applicant's estranged partner. Two of these three events occurred after they had applied for an administration order.

2.1.2 Income and work status

Although the information collected from court records did not include household income, there were clear indications that people with administration orders were likely to be on low incomes.

First, they included very few homeowners. The great majority of them (74 per cent) were renting their home and, in fact, the proportion of tenants was a good deal higher than among people in arrears and more than twice the proportion in the general population (Table 2.1).

The proportion of people not working was also high. Seven in ten people with administration orders (70 per cent) were of working age but not in employment – twice the proportion found among people in arrears and four times the proportion in the population as a whole (Table 2.1). Moreover, despite the fact that they included hardly anyone over retirement age, about a quarter of them (24 per cent) had not worked for more than five years.

The circumstances of people who were interviewed were, again, consistent with this more general picture. The depth interviews also showed that, among those who were

working at the time they applied for an administration order, almost as many had part-time jobs as were in full-time employment and none of them had two earners in their household. The sorts of jobs they did tended to be low-paid and all of them had experienced disruptions to their earned income. Some were in work when they were interviewed but had either had spells of unemployment shortly before they applied for an administration order or had experienced a drop in earned income. One man, for example, had lost overtime payments when his shifts changed. Health problems meant that other people were in and out of work for a number of years, both before and after the administration order.

In fact, the depth interviews identified a high degree of income change among applicants generally. In recent years, two-thirds of them had experienced a fall in household income, the main causes being a loss of earned income due to ill-health, redundancy or relationship breakdown. As noted above, a few

Case study 2, Changes in income

Clive was a widower in his 50s who lived with his teenage son. His financial difficulties had begun several years earlier, when he was off work for over a year because of health problems. As he was not entitled to any sickness benefit, he sank all his savings into setting up a small business with a friend. The business folded after a year and, with no income, his creditors '*just came down on me*'. Although he had since returned to full-time work, at the time of the interview he was once again on sick leave.

people had experienced drops in their earned income. Most of these income drops occurred before the administration order was set up and, as we see below, had contributed to the financial problems people faced.

Two people had seen their state benefits fall since they applied for an administration order – a single man when he was transferred from Incapacity Benefit to Income Support, and a lone mother whose ex-husband took one of their children to live with him, resulting in a loss of Income Support and Child Benefit income. Another two mothers were preparing themselves for a similar loss of benefit income when their children left home. Even though their outgoings would decrease when their children left home, this disruption to their incomes would be likely to create difficulties for these women.

Around a third of people had seen some improvement in their finances since they had applied for an administration order. Most of these people had now got an earned income, having previously been reliant on state benefits. They divided about equally between people who had taken part-time jobs and those who had moved into full-time work, albeit usually only in recent months. Only one of these applicants had had

a full-time wage for more than six months. However, it was also apparent that many of these income increases were precarious. Some were already on the brink of giving up work – usually through ill-health but in one case as a result of pregnancy. Finally, one woman had experienced an increase in income from state benefits, when she started to receive Disability Living Allowance in addition to Income Support.

2.1.3 Health

Health problems, too, were prevalent among the administration order applicants who were interviewed in depth. Almost two-thirds of them either had serious health problems themselves, or cared for someone in their immediate family who was ill or disabled. Mental health problems were the most common, with a third of applicants receiving care or treatment for a range of conditions including agoraphobia and depression. The physical health problems suffered by applicants were more diverse and included three people had undergone major operations and a further two people who were waiting for surgery.

Other applicants were full-time carers, including a man who had to give up work to care for his clinically depressed wife; a mother with a terminally ill child; and a young single woman who, with her brother, provided round-the-clock care for their father.

Finally, a small number of applicants had learning difficulties or a history of drug addiction or alcoholism.

In all these cases, people's health problems were sufficiently serious to impair their ability to take paid work. Most were unable to work at all, while others were in and out of work because of their ill-health. These problems were predominantly long-standing and pre-dated their application for an administration order. Only three people had not been ill at the time they applied for their administration order - two people who suffered from depression that had been triggered by their debt problems and a lone parent who was waiting for an operation.

2.1.4 Access to bank accounts and savings

Reflecting their economic profile, the analysis of court records indicated that a third (35 per cent) of people with an administration order had no bank or building society account of any kind. Again, this is a lot higher than in the general population and also higher than the level among people in arrears (Table 2.1). Even so, it is worth noting that two-thirds *did* have a bank or building society account and, if the facility were

made available, could have set up a direct debit or standing order to make the payments on their administration order. A very similar pattern of account-holding was identified among the applicants who were interviewed in depth.

According to court data, only 13 per cent had any money in savings and in all but one per cent of cases this was less than £100. Conversely, 19 per cent were overdrawn on a current account and the average overdraft was a fraction under £1,500.

2.2 Reasons why people were in debt

The depth interviews with debtors showed that there were two principal reasons why people fell into debt: changes in circumstance leading to loss of income and failures in money management.

2.2.1 Changes in circumstance

Previous research has shown that changes in circumstance are the main reason why people tend to fall into arrears. The study of over-indebtedness undertaken for the DTI, for example, found that four in ten people who were in arrears gave this as the reason why they had fallen behind with household commitments (Kempson, 2002).

Given the high level of change in the lives of administration order applicants, it is not surprising to find that in almost half of cases this was the key factor that precipitated their financial difficulties. There was, however, considerable variation in

Case study 3, Changes in circumstance

Bev's financial problems started when her marriage broke up and she was left to care for her two children on her own with no financial support from her ex-husband. Bev continued to work part-time for a while, but had to give up her job and move onto Income Support because of child-care difficulties. The reduction in her income led her to borrow to make ends meet and she also fell behind with some of her household bills.

the causes of their loss of income, which included redundancy and small business failure, loss of a wage earner through relationship breakdown, job loss through ill-health or the need to care for a relative, and drops in wages.

2.2.2 Failures of money management

The DTI survey showed that around two in ten people attributed their arrears to some aspect of money management, including over-commitment, withholding payment and forgetting to make payments on time (Kempson, 2002). Among the administration orders applicants who were interviewed, it was apparent that failures in money

management had played a major part in the debt problems faced by about half of them.

The circumstances underlying these failures in money management were diverse. Some people had clearly spent beyond their means, like a lone mother with two children, one of whom had a limited life expectancy. She spent more than she could afford trying to ensure that her daughter's short life was as good as it could be.

... I was making sure that she was comfortable, because at the time the doctors told us she would never live, so it was making sure the house was okay, taking her on holidays and spending quality time with her. The cost of it didn't matter then.

As she was unable to work, she had financed this spending by borrowing quite a bit of money from home-collected credit companies and buying goods on credit from a number of mail order catalogues. In addition, the costs associated with her daughter's disability were high, as both the washing machine and central heating were in constant use. Although she did not regret having spent freely on her daughter, she acknowledged that she needed to be more organised when it came to money management.

Others had also used credit extensively, but to make ends meet rather than to support a lifestyle that was beyond their means. A couple in their late thirties, for example, had four children still living at home. Neither partner was in paid employment, although both were looking for work. They had always borrowed when money was short, and often did not have enough money in their bank account to cover their direct debits. Being the money manager of the household, the wife accepted full responsibility for their financial difficulties and felt ashamed about the situation they had found themselves in.

Disorganised money management often contributed to the problems faced by those who had over-spent or over-borrowed. In other cases it was the main reason why people fell into arrears, such as one lone mother on Income Support who admitted that she had always been a poor money manager. She had borrowed heavily in order to set up home some years earlier and often ignored household bills because she could not afford to pay them.

I would get the bills and not even look at them, just throw them in the bin.

Finally, there was a small group of people whose ability to manage money was impaired by mental health problems. A married man in his late fifties, for instance, suffered from quite serious mental health problems, which became worse when he gave up his job. He subsequently started to drink heavily and to build up large balances on several credit cards. Both his health and his ability to manage his money were further impaired when his wife left him and his benefit income was reduced.

2.2.3 Other reasons

A small group of people had fallen into arrears for reasons other than poor money management or a drop in income. For some, it was a consequence of living on a low income for a long period of time. According to the DTI survey, 15 per cent of people in arrears attributed them to being on a low income long-term (Kempson, 2002). A couple with three children, for example, had lived on benefits for a number of years as neither of them could take paid employment for health reasons. After a period of time, *'things got on top of us financially'* and they started to fall behind with their commitments. A large unpaid bill brought matters to a head. Things had, however, started to improve as, despite her health problems, the wife had recently taken a full-time job as a care worker.

Others we interviewed were left with debts by an ex-partner who had moved out of the family home. This was rather more prevalent than among the people in arrears in the DTI survey, only two per cent of whom gave it as the explanation for their financial difficulties. One woman in her late fifties used to run a small business with her ex-husband. Following the closure of the business, their marriage broke up and her husband not only took all her savings but also left her with debts of almost £1,000. Poor health prevented her from finding another job and she was quite unable to find the money to repay these debts from her Income Support.

2.3 The debt situation when people applied for an administration order

People's memories of their debt situation at the time they applied for an administration order were often very confused. All of them were being pursued for payment by a number of creditors, many of whom were threatening or taking action for debt enforcement. Moreover, as we note above, just about all of them had other disruptions in their lives or suffered from poor health. Consequently, they often had difficulty remembering exact details. The pictures they painted were of financial and emotional turmoil and, above all, of situations that had got out of control.

Of course, everyone interviewed in depth already had at least one County Court Judgment, although many could not remember which creditor had taken them to court and some people seemed unaware that they had a County Court Judgment at all. At least half of them said that they were either facing eviction and/or seizure of goods by bailiffs.

I had bailiffs at the door, bailiff's letters every day, and I just knew I couldn't cope...

In addition, most people were regularly contacted by debt collectors, either on the phone or in person.

...they kept sending me letters and some of them kept coming round but I never answered the door to anybody when I owed that money. I was really frightened, it was a horrible life actually, just all hid in there...because I just didn't have any money to offer anybody.

In desperation, one woman even borrowed money from an illegal lender in order to stave off the threat of enforcement from one of her creditors.

Despite this turmoil, at least two-thirds of the people with administration orders had tried to negotiate with their creditors to repay the money they owed. They had varying degrees of success. Some creditors were quite amenable to offers, even if they amounted to very small sums of money. Others insisted on regular amounts that were way beyond the debtor's ability to pay.

Previous research has shown that creditors differ greatly in their approaches to arrears management and debt enforcement and recovery (Dominy and Kempson,

2003). Some creditors make every effort to help people get up-to-date with payments and to avoid taking to court people who cannot afford to pay. They invest heavily in systems to help them identify why customers are in arrears and take a 'holistic' approach, tailoring arrears management and debt enforcement to the circumstances of the debtor. At the other extreme, there are creditors who adopt a 'one-size-fits-all' approach and have standard procedures for all customers in arrears, regardless of their circumstances. In between these extremes, other creditors adopt what has been described as a 'hard business' approach, seeking to ensure that arrears are repaid quickly and at minimum cost. It is only in the later stages of debt recovery that they really begin to tailor their procedures to the circumstances of individual debtors, to ensure that they are as cost effective as possible.

This range of approaches was very evident in the experiences of people who had applied for an administration order. In fact, some had succeeded in setting up affordable repayment plans with the majority of their creditors when one 'broke ranks' and applied for a County Court Judgment.

It was also very apparent in the interviews with creditors. Those who took a 'holistic' approach said they often had workable repayment plans with customers who, following court action by other creditors, then applied for an administration order. In contrast, creditors who inclined to a 'hard business' or 'one-size-fits-all' approach tended to report that customers with administration orders had stopped paying them and made no arrangement to settle their arrears.

2.4 How debtors found out about administration orders

The research indicates that people often find out about administration orders through a not-for-profit money advice service. The money advisers who were interviewed said that most of their clients were not previously aware of administration orders; none could remember having been approached by a client who wanted help to set one up. One adviser estimated that her agency helped between 50 and 60 clients a year make applications for administration orders. In 2002, their local court only made 69 orders in total. This view was confirmed by interviews with creditors and court staff, who believed that few debtors knew about administration orders until told about them by an adviser.

It was also very apparent from the depth interviews with debtors. The vast majority of them (four-fifths) had only found out about administration orders when they sought advice or help with their debt problems. Most of these had contacted either a Citizens Advice Bureau or a money advice service; a few people had consulted a solicitor. The remainder had generally found out about the scheme from someone they knew, who had applied for an administration order personally and suggested that they did likewise.

2.5 Why debtors decided to apply

The great majority of people decided to apply for an administration order because the person from whom they sought advice said it was the best course of action. The exceptions were the people told about the scheme by friends or relatives, but even then they had usually been advised that it was the best thing they could do and had contacted an advice service to make sure that they would qualify.

2.5.1 *The impact of entry criteria*

Debtors generally had poor knowledge of the entry criteria for administration orders – a County Court Judgment and debts of not more than £5,000. Prior to getting an administration order only three of the 30 people interviewed had any understanding at all, which had been gained from people they knew who had an administration order themselves.

On the other hand, the entry criteria clearly had a big influence on the advice given by money advisers, who said that they recommended administration orders whenever a client fitted the criteria. There were, however, some caveats to this. They tended only to recommend an administration order where a client's situation was unlikely to improve and they faced more than a temporary 'blip' in their finances. They did not, however, advise people to apply for an order if they could not afford to make the payments.

Neither the number of debts nor the type of creditor involved influenced money advisers' decisions to recommend an administration order – although people with large outstanding balances on credit cards tended to be over the £5,000 limit. Some advisers, however, routinely excluded certain priority creditors from administration order applications; this is discussed further in Chapter 3.

A few money advisers encouraged their clients to withhold payments from one or more of their creditors in order to get a County Court Judgment and so qualify for an administration order. As we discuss in Chapter 5, most money advisers, and many creditors, felt that the entry criteria were too restrictive and excluded people who might benefit from an administration order.

2.5.2 Other options considered by debtors

Beyond trying to negotiate with their creditors, the people who had applied for an administration order had few other options for sorting out their financial difficulties.

Personal bankruptcy

The other option most commonly considered was personal bankruptcy. Almost a third of the debtors interviewed in depth had given this at least some thought, often because it was raised as a possibility by the money adviser or solicitor who had suggested an administration order. Several people said that they were advised that bankruptcy was not the best course of action in their circumstances.

Overall, the debtors who were interviewed did not like the idea of filing for personal bankruptcy. Some wanted to pay the money they owed, while others were worried about the stigma of being declared bankrupt.

It's just that word, isn't it, 'bankrupt', it's like your name is in the paper and everything like that.

Re-financing and debt management companies

There is widespread concern that people in serious financial difficulty either try to borrow more money to pay off existing creditors or they seek help from one of the fee-charging debt management companies. A minority of people with administration orders had either tried or considered each of these options. One woman had applied for a debt consolidation loan secured on her home but was turned down. With hindsight, she was glad this had happened.

... all I would have done was swap one set of debt for another. It would give me breathing space but I know that in a couple of year's time that would have caught up with me.

Another couple had considered doing the same, but decided '*that was no answer*' to their problems. In addition, three people contacted debt management companies.

One man was turned down because the company only assisted people with debts of £10,000 or more, and he owed far less than this. Two others were accepted as customers of debt management companies but their problems continued to get worse because the payments they made to the company were not passed to their creditors. As a consequence, they sought help from a not-for-profit advice service.

Other options

No other option was at all common. One woman had received an offer from a family member to clear all her debts for her. She turned this down, because she wanted to sort things out for herself. Two people said that they had taken a job, specifically to try and repay the money they owed. One was a lone parent who took a part-time job while the administration order was being set up. Ill-health meant that she was currently off sick and would probably have to give her job up. The other was a single woman (mentioned earlier) who shared the full-time care of her father with another relative. She took an evening job for a time but gave it up when she discovered she was no better off financially as she had to pay rent and Council Tax.

2.6 What debtors hoped to achieve by applying

Money advisers and creditors who adopted a 'holistic' approach identified three main purposes of administration orders. They saw them as a way of helping people with limited means to manage multiple debt through a single, affordable payment. Secondly, they felt that administration orders relieved the stress of dealing with a number of creditors and offered a safe haven from enforcement. Thirdly, with a composition order, the scheme gave debtors in difficult circumstances some '*light at the end of the tunnel*'. Indeed, these were also the three things that were upper-most in the people's minds when they decided to apply for an administration order.

Given the financial and emotional turmoil they were experiencing at the time of their application, it is hardly surprising that nearly half of the people interviewed said they were attracted by the prospect of their creditors being unable to take further action against them. Indeed, some of these were facing quite serious threats – of eviction, distraint and even imprisonment.

Likewise, a similar number of people (about half) were looking for a way of getting their finances under control. Quite a few of these people talked about the possibility of some '*light at the end of the tunnel*' or a '*fresh start*'. And most of them were

attracted by the prospect of making a single payment that would be distributed among their creditors.

Finally, given their failed attempts to negotiate with creditors, it is not entirely surprising that around a quarter of people explicitly said they were drawn by the prospect of being able to set up an affordable level of repayment.

Some creditors, who adopted either a 'hard business' or 'one-size-fits-all' approach, believed that people who apply for administration orders have little intention of repaying the money they owe. There was little evidence from the depth interviews to support this point of view. Only one person said they were attracted to the scheme because the total amount they would have to repay their creditors would be reduced. On the contrary, quite a number of people specifically said that they accepted full responsibility for their debts and wanted to pay their creditors in full.

2.7 Summary

The majority of people who applied for an administration order were relatively young and lived on low incomes. They had unstable lives, with a high level of family breakdown and frequent changes in income. They also had long-standing health problems, and mental health problems in particular. The financial difficulties they faced had mostly been caused by a drop in income or poor money management. A small number of women had been left with debts by ex-partners.

At the time they applied for an administration order, debtors had been in emotional and financial turmoil. Many were facing eviction, action by bailiffs or constant visits from debt collectors.

Few were aware of the existence of administration orders until they sought help from a money adviser or solicitor. They also had few other options open to them and the great majority had had great difficulty negotiating affordable repayments with their creditors. Under these circumstances, they were attracted to the administration order scheme by the fact that they could gain relief from the pressure being exerted by creditors; get their finances back onto an even keel; and make a single affordable payment to discharge all the debts that they had. Although some creditors suspected that many people applied to avoid repaying the money they owed, there was no real

evidence to support this point of view. On the contrary, most applicants seemed very committed to repaying the money they owed in full.

3. The administration order process

Anyone who has a County Court Judgment and owes not more than £5,000 can apply to their local county court for an administration order to be set up. If they ask at the court they will be given an application form to complete; in practice, though, most applicants are either given the form by an independent money adviser or a solicitor. This application form collects details of the extent of debt – who is owed money and how much, plus details of the County Court Judgment(s) against the applicant. It also collects details of the applicant's circumstances, which are used by the court to set an appropriate level of repayment. These include whether the applicant is working or not, their total income and full details of their regular outgoings.

The debtor must then take the completed form to the court, swear on oath or affirm that it is a true record of their circumstances and sign the form to this effect. Court staff normally check that the form has been completed both fully and correctly before taking the oath or affirmation. Often it is not, especially if the applicant has filled it in themselves without the help of an adviser. In some courts, staff will help applicants to fill the form in correctly; in others, applicants are signposted to a local advice centre for help.

A notice of intention to set up an administration order is sent to the debtor and to all creditors listed on the application form; they then have 14 days to lodge any objections to the proposed order. If there are objections, a hearing is held before a district judge. If there are no objections, the administration order is usually set up within four to six weeks. If there is a hearing it could take about three months.

The handling of administration order applications varies slightly between courts. In some courts, all of the administrative work is handled by a single administrative officer or clerk; in others, it is spread across a number of staff in the enforcement section. Likewise, in some courts all administration orders are considered by just one district judge, while in others they are heard by any of the district judges in that court.

In general, county courts said they worked with local independent advice agencies, signposting applicants to them as necessary. One of the courts covered by this research had gone further and set up a more formal arrangement, whereby court staff contact the local money advice service whenever an administration order

hearing is listed (about every ten weeks). The agency then sends an adviser to the court on that day to assist applicants. The letter informing applicants of the hearing date also tells them that an adviser will be available in the court if they require advice or assistance. At the time of the research, this arrangement had been running for about 12 months and court staff felt that it was working well.

3.1 Application process and court hearing: the debtor's perspective

The depth interviews indicated that, in the majority of cases, the application form was completed by an adviser – usually an independent advice worker, but occasionally a solicitor in private practice. This assistance was concentrated in three of the four localities where the interviews took place. In the fourth area, hardly any of the people who consulted an advice agency were helped to fill in the application form; indeed some were even referred to the court to collect it. This may well reflect the patchy provision of specialist money advice that has arisen due to poor levels of funding (see, for example, Collard et al, 2000).

Altogether, about a quarter of applicants filled in the form personally. Most of them had collected the form at the court, sometimes having been signposted there by an adviser; a small number were given the form at a Citizens Advice Bureau. Several people admitted that they found it difficult to fill in the form themselves.

It was hard, they don't give you enough space especially if you've got a lot of debts like I've got. It's working out all your finances as well, you can't put a specific price on how much food you are going to buy, your bus fares and whatever, you can't really put a price tag on that because it varies from week to week.

In a few cases, court staff had explained how to fill the form in and then checked to ensure that applicants had done it properly.

3.1.1 Filing the application

In contrast to the high level of assistance people received with form-filling, about two-thirds of applicants took the forms to the court themselves. Most were really quite nervous about going to court and swearing an oath or affirmation, and some had taken either a friend or relative with them for moral support. Without exception, they were pleasantly surprised by how helpful the court staff were and how simple the procedure turned out to be. The people who were accompanied by an adviser when

they filed the papers were similarly very nervous and valued the support they received.

3.1.2 The court hearing

Over half of the people interviewed said there had been a court hearing, although a small number were not sure whether there had been one or not. Of those who reported a hearing, half went to it alone; a quarter of them were accompanied by an adviser; and a quarter did not attend at all.

People who went to the court without an adviser were all very apprehensive, as they had no idea what to expect. One woman even thought she might receive a community service order as she was 'a first-time offender'. Again, all were pleasantly surprised and commented that the hearing was not at all intimidating.

I didn't know what to expect, I'd never been in court before, ever, and that was the worst part. But it lasted two minutes and he [the judge] was lovely, a really nice man...

... it was like going to see your GP – there's something wrong with you and he has the advice for you. He [the judge] didn't look down his nose, he talked educated and stuff like that but he didn't look down his nose at me.

Even so, several people felt it would have been helpful if they had been told what to expect in advance, to allay their fears.

The people who were accompanied to the hearing by an adviser were no less nervous and one of them had no recollection at all of what had happened. Most played little part in the hearing and were content to let their adviser speak on their behalf. Again, these people found the proceedings less intimidating than they had expected. One woman, however, complained that the district judge continued to address her adviser even when she tried to answer his questions herself, which made her feel rather stupid.

3.1.3 Length of application process

On the whole, administration orders that were granted without a hearing took just under a month to be put in force. Where there was a hearing, however, it typically took between three and six months. During this time, many people continued to come under pressure from some of their creditors - mail order catalogue companies, sub-prime credit card companies and local authority Council Tax departments, in particular.

3.2 The orders made

Court records show that, on average, administration orders covered five debts, totalling just under £3,000 (including court fees). Just about all orders included credit commitments, while only around a half included household bills. Most of the applicants who were interviewed in depth, however, struggled to remember which debts had been included or how much money was involved. This was particularly the case where an adviser had completed the application form for them. Most of those who could remember the details of their administration order had completed the forms themselves.

3.2.1 Number of debts

There was quite a wide variation in the number of debts included on administration orders, as Table 3.1 shows. So while one in ten people owed money to only one or two creditors, about one in twenty people owed money to ten or more.

Money advisers reported that the number of debts did not influence whether or not they advised a client to apply for an administration order. A survey undertaken by Citizens Advice showed that the average number of debts among their clients was 5.5 (Edwards, 2003).

3.2.2 Amounts owed

Likewise, while one in ten people with an administration order owed £1,000 or less, about a quarter were near the limit of £5,000. It was, however, apparent from the interviews with money advisers that they can only recommend a minority of their clients to apply for an administration order as, due to rising levels of consumer borrowing, a large proportion of them owe more than the £5,000 limit. Research by Citizens Advice has shown that half of new debt clients at Citizens Advice Bureaux have debts of £5,000 or more; the average was £10,700 (Edwards, 2003). One of the money advisers interviewed said that the average debt of their clients was between £15,000 and £20,000; another put the figure in their agency at £20,000 to £24,000.

Table 3.1 Number of debts and total amounts included in administration orders

	Percentage
Number of debts	
1-2	10
3-4	33
5-6	32
7-9	19
10 or more	6
Amounts owed (inc. court fees)	
Under £1,000	10
£1,000-£1,999	17
£2,000-£2,999	23
£3,000-£3,999	24
£4,000-£4,999	23
£5,000 or more	3
Base	550

Source: Court administrative data

In fact, the court records showed that a small number of people (three per cent) had administration orders for more than the £5,000 limit. Most of these people owed just over £5,000 and clearly it was the court fees (10 per cent of the amount owed) that took them over the limit. A minority, however, owed considerably more than the limit, with the largest amount - £9,626 – being almost twice the limit.

The reason why administration orders were granted for sums that greatly exceeded the £5,000 limit is not clear. Only one of the people interviewed in depth owed substantially more than the limit - £7,042 including the court fee. A possible explanation in this case is that the administration order may have covered both him and his wife, as both of them had orders against them. This would not, however, apply to the cases in the court records, most of whom were single men – although even here it is possible that the debts were joint liabilities with ex-partners. Around half of the cases from the court records that greatly exceeded the £5,000 limit were in one court, suggesting that this might be predominantly a local practice. However, as the number of cases involved was small this conclusion should be treated with some caution.

3.2.3 Debts included

The application form for an administration order asks applicants to provide a list of all the debts they have, including not only specific household bills and credit commitments but also other unpaid commitments, such as fines, solicitor's fees, child maintenance and money owed to the Department for Work and Pensions in benefit overpayments or Social Fund loans.

Court records show that almost all administration orders (95 per cent) included credit commitments, the most common ones being money owed to banks, finance houses, mail order and store cards. The low incidence of credit card debt (13 per cent) is notable (Table 3.2), although money advisers indicated that people who get into difficulty with credit cards generally owe more than the £5,000 limit for an administration order.

Debts on household bills were less widespread. Just over half (54 per cent) of administration orders included debts on one or more household bills, the most common ones being utility bills, followed by Council Tax and telephone bills. Hardly any orders included rent or mortgage arrears.

Table 3.2 Main types of debt included in administration orders

	Percentage
Any consumer credit	95
Banks	61
Finance houses	51
Mail order	43
Store cards	42
Credit cards	13
Any household bill	54
Utility bills	31
Council Tax	20
Telephone bills	19
TV licence/rental	7
Solicitors	5
Base	550

Source: Court administrative data

This balance between consumer credit and household bills is in contrast to that found in the DTI over-indebtedness survey (Kempson, 2002), where about two-thirds of the people in arrears had fallen behind with household bills; only around a half had missed payments on consumer credit commitments. The depth interviews with administration order applicants suggest that there are two plausible reasons for this. First, people with administration orders included more whose financial problems arose from over-borrowing. Secondly, people added to their administration orders credit commitments which they were struggling to repay but where they were not currently in arrears.

3.2.4 Debts that are excluded

Courts can exercise discretion in excluding certain debts from administration orders, and this is particularly the case with priority debts that can be enforced in some other way, for example rent and mortgage arrears. This almost certainly explains why very few orders in the sample of court records included these two types of debt. Council Tax arrears may also be excluded if action for recovery has been taken through the magistrates' court. One of the problems with the administration order scheme, however, is that there is no statutory definition of what can be included as a debt, leaving it open to legal challenges. For example, in its judgment *Preston Borough Council v Riley [1995]*, the Court of Appeal clarified that Council Tax arrears fell within the definition of a debt for the purpose of an administration order.

Only two advisers reported restricting the debts that they included in an application. One adviser did not include rent arrears for tenants of private landlords in administration orders, if an agreement to repay the arrears had been reached. Another routinely excluded rent and mortgage arrears from applications because he felt these could be dealt with more effectively outside the court.

Lack of a statutory definition of the type of debts that can be covered by an administration order meant that money advisers were unsure whether debts to the Department for Work and Pensions and the Child Support Agency could be included in an application. There was also uncertainty about how to deal with mortgages – in particular, whether arrears alone could be included on an administration order, as the capital sum owed would take most people way beyond the £5,000 limit.

As noted earlier, creditors are given the opportunity to object to being included in an order. Interviews with money advisers and court staff indicated that, in practice, few do so. The most common objections came from local authority Council Tax departments, especially if the case had been taken to the magistrates' court. The creditors who were interviewed confirmed that it was rare for them to object to being included in an administration order. One Council Tax department, for example, said that they had a policy '*not to be the fly in the ointment*'; others said it was not worth the expense involved.

If any of the creditors do object, the case has to be heard by a district judge, who will decide whether they should be included or not. In practice, judges often overrule the objection of creditors and include them in the administration order. Indeed, one creditor said that their company had routinely objected in the past (a fact that was corroborated by court staff in their area) but had stopped doing so as the district judges always ignored their objection.

Just over half of the debtors interviewed were aware that they had some debts that were not included in their administration order. Reflecting the discussion above, none of them had debts omitted because the creditor objected. (Although one person's local authority had objected to the inclusion of Council Tax arrears, this was overruled by the district judge). Only a handful of people had rent arrears included in their administration order; while about a quarter of applicants had rent or, much less commonly, mortgage arrears that were excluded. In most cases, repayment of these arrears had been negotiated separately, with payments of between £12 and £22 a month.

A few people had other priority debts where separate arrangements had been made to repay the money owed. Two people were repaying fuel bills through prepayment meters, and one man was paying off his Council Tax arrears through an attachment of earnings order. For the most part, though, these types of debt were usually included in the administration orders people had.

Over a third of the people interviewed had not included all their credit commitments in their application for an administration order. The types of debts they had omitted included loans from home collected credit companies, credit cards, mail order catalogues, bank loans, loans from unlicensed lenders and a student loan. There was a range of reasons for their exclusion. Some people wanted to retain this credit

facility for future use and so negotiated a way of repaying the money owed themselves. In other cases, the debt seemed to have been written off by the creditor. Two people who owed money to unlicensed lenders were advised that these debts were unenforceable because there was not a written agreement. Finally, in the case of the student loan, payment was deferred.

Only a small number of people omitted debts to keep within the £5,000 limit for an administration order. One person, for example, excluded a bank loan of over £3,000. His money adviser subsequently negotiated repayments of £1 a week with the bank.

A minority of people had raised the money to settle some of their debts in full. Some of these had received help from family or friends. They included a woman who had borrowed from her family to repay rent arrears; a woman whose father paid off her gas and mobile telephone bills; and a third woman whose mother had settled her credit card bills. In addition to these three people, one person had cashed in an endowment policy to pay off their mortgage arrears and another had received a grant from a trust fund to settle arrears on their water charges.

3.3 Levels of repayment

In deciding the level of repayments, courts take into account the circumstances of the debtor but not the total amount owed. When they apply for an administration order, debtors are asked to give a full breakdown of their income and their expenditure and have the opportunity to indicate the level of repayment they can afford. Interviews with court staff indicated that they calculated an applicant's disposable income by subtracting the stated expenditure from the income. On the whole, they only included essential expenditure, so that things such as car-running costs might be excluded.

How courts used this information varied according to local practice guidance. Some courts relied quite heavily on the level of repayment suggested by the debtor. Where there was an apparent discrepancy between the amount offered by the debtor and their disposable income, court staff usually referred the case to a district judge. This could result in either an increase or a decrease in the repayments. Staff in one court, for example, estimated that debtors' offers were accepted in nine out of ten cases. In contrast, staff in another court relied more heavily on their own calculation of disposable income, and set a repayment level that would discharge the debt within three years. If this was not possible, they referred the case to a district judge for the

debt to be reduced through a composition order (see below). In a third court, staff reported that district judges would not accept payments of less than £10 a month.

Once they have been sent the notice of intention to set up an administration order, which includes the payment level set by the court, debtors have 14 days to lodge an objection to the amount they have to pay. In practice, very few do.

Court staff indicated that administration order repayment levels generally leave debtors with very little money to spare. Analysis of court records showed that the average level of repayment on administration orders was about £29 per month.

Among the people interviewed in depth, the average amount was slightly lower than this, at £25 a month. There was, however, a very wide variation in the repayment levels, which ranged from £2 to £95 a month. Even within courts, repayments varied quite markedly, although only two of the four courts included in the study set repayments of less than £10 a month. Several people reported that the court had accepted the amount they offered to pay on the application form. In a small number of cases, people who had had a court hearing remembered the district judge discussing with them how much they could afford. In one instance, a lone mother on Income Support offered a monthly payment of around £20, which was reduced by the district judge to £10.

Altogether, one in three of the people who were interviewed were making payments that were above the average. Further analysis of their circumstances indicated two groups of people who tended to have higher payments. Payment levels of people who were in work at the time of the administration order averaged £45 a month, compared with £18 a month among those who were not working. The obvious explanation for this is the different levels of disposable income of these two groups.

Secondly, people who completed the application form themselves had payment levels that were, on average, twice those set for people who had been helped by an adviser (£43 compared with £20 a month), even though half of them were out of work and the other half only had part-time employment. There are two plausible and linked explanations for this second finding. People filling in the application forms unaided may well have omitted items of expenditure that others were advised to include, making their disposable income seem higher than it was. They may also have made higher payment offers to the court or not made an offer at all. Certainly, there was

some evidence to suggest that advisers encouraged people to be more realistic in their offers. For example, one lone mother receiving Income Support wanted to offer to pay £40 a month, but her solicitor reduced this to £10.

As court staff themselves indicated, the payment level set by the court did not seem to be related to either the total amount of debt included on the administration order or the family circumstances of the applicant.

3.3.1 Debtors' views of repayment levels

On the whole, most debtors were relieved at the level of payments set by the court - it was often less than they had expected and certainly far less than their creditors had been seeking outside the court. Only one person thought the repayments were high at the time the order was set up and this was a young lone mother on Income Support whose payments were set at over £60 a month. She was having rent arrears and repayments on a Social Fund loan deducted at source from her benefit payments, leaving her with a weekly income of just £70. Even so, she did not object to the payment level set by the court.

Others with equally high payments also just accepted them. Most did not consider whether the amount was actually affordable. One man, for example, applied without the help of an adviser. Although he was unemployed at the time the order was made, his repayments were set at £95 a month – possibly because he lived with his father and had no regular bills to pay himself. When the district judge asked him if he could afford this amount, he said 'yes' without thinking, as he wanted to clear his debts.

3.3.2 Advisers' views of repayment levels

Advisers generally thought that the levels of repayment on administration orders were affordable for the people they assisted. Several mentioned that their clients could usually only afford to pay four or five pounds a month. One adviser, working at national level, was concerned that the 'determination of means' calculation used by county courts was a crude method of calculating payments, which did not take into account the debtors' particular circumstances.

3.3.3 Creditors views of repayment levels

In contrast, creditors were rather more critical of payment levels. This is perhaps understandable, as court records showed that the average monthly payment of £29 had to be divided among an average of five creditors. One of the creditors

interviewed, for example, reported that 15 of the 24 administration order applications they had recently received offered payments of £10 a month or less. Another estimated that the average amount they received from an administration order was just £3 a month.

Some acknowledged that, as the level of payment was affordable for debtors, creditors at least received some money.

At least we're getting something. Prior to that we haven't got anything from them, so something is better than nothing.

Others were far more critical, describing the sums of money as '*pathetic*' and '*piddling amounts*'. They felt that money advisers sought to keep payments as low as possible and expressed doubts about how rigorously court staff checked the amount debtors could afford to pay. One felt that in order to be cost-effective, payments should be a minimum of £5 a month per creditor.

3.3.4 Revision of payment levels

The level of payment on an administration order can be revised if either the debtor or a creditor requests it. If a debtor's circumstances change, they can apply for the amount to be revised. Equally, if an order has been in force for some time and a creditor has reason to believe that the debtor could afford to pay more, they too can apply to have the amount changed. These applications are referred to a district judge. The other circumstance in which payments may be varied is if a debtor misses payments and the case is reviewed.

Court staff indicated that payment levels were rarely revised and this was borne out by the interviews with debtors. Two people had had their payments increased because they had fallen into arrears: one from £7 to £10 a month; the other from £15 to £20. Three others, who had been paying fairly large amounts, had had their payments decreased. One of them had requested the reduction because of a large drop in income; the others seem to have had their cases reviewed following missed payments. In all three instances the reductions were substantial: from £85 to £45; £85 to £20; and £35 to £20.

3.4 Composition orders

Current guidelines state that, if a debtor is unlikely to be able to discharge their debts within three years, the case should be referred to a district judge who will consider making a composition order, thereby reducing the total amount to be repaid. In practice, it seems that courts sometimes aimed for debts to be repaid over a slightly longer period.

There was, however, some variation in practice across the four courts covered by this research. In one court, administrative staff assessed whether a realistic payment would clear the total amount owed in three years; if not they referred the case to a district judge, who might consider a composition order. In others, composition orders were only considered if requested by the debtor (or their adviser). In all cases, the district judge would take into account both the circumstances of the debtor and the total amount owed.

The courts also differed in terms of when composition orders were made. In two courts this depended on the debtor's circumstance; in the other two it was normal practice to make a composition order following a review of the case after six months. A composition order was usually granted if the debtor had not missed any payments and seemed unlikely to have an increase in income.

It was common practice among the money advisers we interviewed to ask for a composition order. They generally asked for debts to be composed over a three-year period, either because they knew that this was the maximum term for the discharge of personal bankruptcy or because this time period had been recommended in their training. None of them referred to the court guidelines. In their experience, composition orders were normally granted, if not initially, then after six to 12 months. They, too, said that this usually depended on the debtors' circumstances and/or their payment history in the preceding months.

Creditors' opinions of composition orders tended to mirror their views of repayment levels. Some creditors saw them as a way of helping debtors in difficult circumstances and seldom objected when a composition order was proposed.

If we've got any reasons that we feel that perhaps [the debtor is] trying to get away with something, if we've got factual information then we might try and raise an objection. But from my experience, it tends to be the people who

really don't have anything and it really is a way out for them, and in that way there is definitely a place for it.

In contrast, others usually lodged an objection. According to one creditor, this was because they could see no logic or consistency in the use of composition orders and because they objected to the extent to which debts were reduced.

I think one problem we've got with composition orders is the way that they are decided, it seems to be in a very arbitrary, haphazard way. There's no real formula applied to what circumstances a composition order should be made in and, if a decision is that a composition order should be made, what formula should be used to determine the value of the composition order.

3.4.1 Levels of composition

Court records showed that just under a quarter (22 per cent) of administration orders included a composition order, even though more than eight in ten orders would not have been cleared in three years at the payment level set. Among the debtors interviewed, nine in ten would not have been able to clear their debt in three years, yet only about a third of them had a composition order.

Court records also show that, although the average level of composition was 23 pence in the pound, this varied widely, from one pence to 75 pence. Over half of composition orders were set at less than 25 pence in the pound, with three in ten orders being for less than 10 pence in the pound (Table 3.3).

Table 3.3 Composition orders

	Percentage
Composition order	
Yes	22
Composition rate – pence in the £	
Under 10p	30
10p	11
11-24p	15
25p	11
26-49p	13
50p	14
Over 50p	6
Base	550

Source: Court administrative data

3.4.2 Debtors' awareness and views of composition orders

Around a third of the debtors interviewed were aware that they did not have to repay their debts in full, even if they did not always know that this was because they had been granted a composition order. Often these orders had been made following a review. Most people were amazed and delighted to hear that their debts had been reduced.

I was surprised, very surprised. I thought that when they added all these debts up, I would have to pay it all. But when it says I only have to pay 40 pence in the pound, I was surprised.

A minority of the remaining people would be able to clear their debts in three years at their current level of payments. A number of others thought, almost certainly wrongly, that they would only have to make payments for three years and then the rest of their debts would be written off. None of these, however, had a composition order and their current repayment levels would not clear their debts in full.

The rest believed that they would have to repay their debts in full, even though in most cases this would take between seven and seventy years to do so. Only one of these people was aware of composition orders and hoped to apply for one in the near future, as she was worried that her current repayments of £10 a month would take an inordinate time to clear her debt of almost £3,000.

Looking at the circumstances of the people with composition orders, it is difficult not to agree with the creditors who could see little logic to them. Although a number of these people owed between £4,000 and £5,000, others owed much less, including someone who owed just £900. Many were not working but others had full-time jobs at the time the administration order was made and were still in full-time employment. And, as we have seen above, many people without a composition order would have taken just as long to clear their debts. Most people with composition orders had been helped to apply by an adviser, but they also included two people who had not been helped in this way. Moreover, fewer than half of the people who had received help from an adviser had a composition order even when they could not clear their debt in three years. Analysis of court records (both crosstabular and logistic regression) showed that just two factors seemed to explain whether an administration order was composed: the amount owed and the county court. (It should, however, be noted that this dataset did not include payment level.)

All other things being equal, people who owed less than £1,000 were much less likely to have a composition order than people who owed more than this amount. It was also possible to identify some courts where the odds of cases having a composition order were well above average; others where it was well below, even when we had controlled for other factors that might be expected to have an effect. Interestingly, neither family circumstances nor employment status was significant.

3.5 Method of payment

At present, debtors can make cash payments in person at the county court. They can also pay by cheque or postal order, which they can post to the court if they wish. Debtors who are in work can have payments deducted directly from their wages, in the form of an attachment of earnings.

In fact, court records showed that attachment of earnings orders were uncommon and had been made for only four per cent of administration orders – despite the fact that 26 per cent of people had been in employment at the time the order was made. Just two of the 30 debtors interviewed in depth were making payments through an attachment of earnings.

The great majority of people, therefore, make payments direct to the court. The depth interviews showed that most made these payments in cash at the court; only a minority of people sent a cheque by post and a very small number took either a postal order or a cheque to the court.

Altogether, more than two-thirds of the debtors interviewed in depth took cash to the court. Most of them did this through choice, often combining it with shopping trips. Some felt that by paying in cash, they were demonstrating a real commitment to pay.

A number of people specifically said that they could not have sent a cheque as they either lacked a bank account altogether or did not have a cheque guarantee card. (As mentioned in the previous chapter, court records showed that a third of people with an administration order did not have a bank account.) Others were worried about cheques or postal orders going astray in the post. Indeed, one man would have preferred to pay by post as he often had to wait half an hour or more to pay at the

court. But he did not trust the ordinary postal delivery service and could not afford to send the payments by special delivery.

Quite a few others would have preferred to pay by some other means as they had real difficulty getting to the court. Most would have preferred to set up direct debit or standing order arrangements, like one woman who was housebound due to poor health and had to rely on a close relative to make payments on her behalf. Another woman suffered from agoraphobia and had to be accompanied whenever she left her home. Although she managed to get to the court with the help of friends, she would have preferred to make her payments at the local post office, which she already visited once a week with either her carer or a neighbour.

Advisers identified similar problems with the current payment methods. First, many of their clients did not have bank accounts, and so were unable to post cheques to the court. Secondly, buying and sending postal orders was costly. Thirdly, travelling to the court to make cash payments could be time-consuming and expensive for those debtors who did not live locally. Moreover, once at the court, debtors may have to wait some time to actually make the payment. They felt that these difficulties could undermine the sustainability of the order.

Likewise, creditors were also critical of the existing payment methods, regarding them as 'out-moded'.

If you've got to make that effort, it's hard. If you're a single parent, it's very hard. Many courts are on the third floor. If they pay £5 or £10 a month, it's not feasible somehow. It's not at all user-friendly.

They questioned why payments could not be made by standing order or direct debit if the debtor had a bank account. They particularly favoured payment by attachment of earnings, as it removed any temptation for debtors to spend the money.

... if they're working I would definitely say that an attachment of earnings would be best all round. It removes the onus from the individual and makes sure they make the payments.

3.6 Transfer of payments to creditors

Once the money is collected by the court, it is distributed *pro rata* to the creditors named on the administration order. With such small sums of money being collected, it would not be cost effective for the courts to make regular monthly payments to creditors. Instead, they pass the money to creditors either when a certain percentage of the debt has been paid or when a set amount has been collected. According to the court staff who were interviewed, payments were made about every four to six months. Creditors, however, said it was typically nearer once a year, although the frequency varied between courts.

This frequency of payment was contrasted unfavourably with monthly payments made by both the Consumer Credit Counselling Service³ and fee-charging debt management companies. It should be noted, however, that clients of these services are usually in full-time work and consequently have higher levels of disposable income than people who apply for administration orders. On the other hand, it was considered to be better than payments on Individual Voluntary Arrangements (IVAs), where creditors often had to wait until the end of the arrangement to get any payment at all.

The creditors who were interviewed also said that, with such infrequent 'dividends', they found it impossible to know whether or not a debtor was still paying.

3.7 Summary

Anyone who has a County Court Judgment and owes not more than £5,000 may apply for an administration order. Debtors can obtain application forms from their local county court or through an advice agency or solicitor. These forms collect details of the extent of debt and the debtor's circumstances, including their income and expenditure. Most of the debtors interviewed completed the application form with the help of an adviser, but about a quarter did so unaided.

When completed, the form must be taken to the court where the debtor swears on oath or affirms that it is a true record. Most people did this without the help of an adviser and, although they were nervous, found it a simple procedure and the court

³ The Consumer Credit Counselling Service provides a national telephone advice service and face-to-face advice free of charge for people in financial difficulty. It specialises in debt management and offers a centralised repayment distribution service for its clients.

staff pleasant and helpful. The debtor and all the creditors included in the order are then notified that an application has been made and given 14 days to make any objections. A hearing is held if any of the creditors object for any reason or the debtor objects to the repayment amount. Court staff also have discretion to refer cases for a hearing to set an appropriate repayment level, especially if the debt is unlikely to be cleared in three years. About half of the people interviewed said there had been a court hearing and most attended without an adviser, if they attended at all. Again they were very nervous, but did not find the hearing intimidating in practice. Administration orders took less than a month to be put in force if there was no hearing; three to six months if one was held.

On average, administration orders covered five debts, totalling just under £3,000, including court fees. Almost all orders covered unsecured consumer credit commitments; about half included household bills. Courts have discretion to exclude certain debts (particularly priority debts, such as rent, that can be enforced in other ways) and debtors themselves may choose not to include all of their commitments. Debts may also be excluded if a creditor objects, although in practice their objections are often overruled. In the absence of any guidelines, there was some uncertainty among money advisers about exactly which debts could be included in an order. Just over half of the debtors interviewed had some debts that were not included in their administration order. Rent and mortgage arrears were often excluded; some arrears on fuel bills were being collected through pre-payment meters. Over a third of people did not include some of their credit commitments for a range of reasons. Some wanted to retain the facility, some had had the debt written off and others had unenforceable credit agreements. Only a minority omitted debts to keep within the £5,000 limit and none had debts excluded following a creditor objection.

In deciding the level of payments, courts take into account the circumstances of the debtor and/or any offer of payment they have made. The average payment set by the court was about £29, and generally left debtors with very little money to spare. There was, however, a wide variation in payment levels, with the highest amounts being paid by people who were in work or who had filled in the application form without the help of an adviser. On the whole, debtors were relieved at the level of payment set by the court as it was often less than they had expected, based on their experiences of trying to negotiate direct with creditors. Advisers, too, thought that payments were generally affordable for their clients. In contrast, some creditors were rather more critical of the small amounts they received. The level of payment can be revised if

either the debtor or a creditor requests it, although this seldom happens in practice. More commonly, payments are revised if a debtor defaults and the case is reviewed.

Current guidelines state that if a debtor is unlikely to be able to discharge their debts within three years, a composition order can be made by a district judge, reducing the total amount to be repaid. There was some variation in the way individual courts put this into practice. According to court records, just under a quarter of administration orders included a composition order, even though many more than that would not be cleared in three years at the payment level set. There were no obvious circumstances when composition orders were granted. The average level of composition was 23 pence in the pound. Debtors with composition orders who were interviewed were both amazed and delighted to be told that their debts had been reduced in this way. Some creditors saw composition orders as a way of helping debtors in difficult circumstances; others routinely objected to them.

At present, debtors can make payments in person at the county court by cash, cheque or postal order; they can also post a cheque or postal order to the court. Those in work can pay through an attachment of earnings order, although this was rare. Two-thirds of the people interviewed paid in cash at the court and many did so through choice. A number of people would have preferred to be able to pay in ways not currently offered by the courts: including direct debit, direct deductions from social security payments or in cash at a post office. Usually these people had difficulty getting to the court. Both money advisers and creditors were critical of the existing payment arrangements, seeing them as outdated and potentially increasing the likelihood of default.

Payments made to the court are distributed *pro rata* to creditors on the order. The small sums of money involved meant that this often happened only every six to 12 months. These infrequent 'dividends' meant that creditors did not know if a debtor was still making payments to the court.

4. Compliance with administration orders

Secondary analysis of administrative data collected from 550 cases of administration orders indicates that the level of missed payments was really quite high. Payments had not been made according to the repayment dates set on 75 per cent of orders. Analysis carried out by the Department for Constitutional Affairs on a sample of 500 closed orders revealed similarly high levels of default. It indicated that around two-thirds of orders were only partially paid and a further fifth had never been paid at all.

The debtors who were interviewed in depth were purposively selected to include people who had kept up with their payments as well as others who had missed payments. As such, they are illustrative of the types of people with administration orders rather than representative. The 30 people interviewed comprised:

- eight people who had not missed any payments on their current administration order;
- seven who had been late with, or missed, the odd payment on their current order;
- ten who had failed to make several payments on their current order; and
- five people whose orders had been revoked because of non-payment.

In three cases, people had also defaulted on an administration order in the past, which resulted in revocation. These orders were subsequently reinstated.

4.1 Factors associated with default

Possible explanations for the high level of missed payments were sought through more detailed analysis of the court data. On the whole, administrative factors seemed to play a larger part than the personal characteristics of debtors. That is not to say that personal circumstances played no part at all, as it is clear that the people subject to administration orders were predominantly living on low incomes and would be particularly likely to default for that reason.

4.1.1 Administrative factors

Table 4.1 looks at administrative factors related to the orders and shows that two were statistically significant: the age of the administration order and the number of

administration orders made in the court. In general, default rates were higher the longer the order had been in force. They were also highest in courts with a low throughput of administration orders. Unfortunately, the data did not include either the repayment level or the method of repayment, as the depth interviews showed that these almost certainly influence the level of missed payments. This is discussed more fully below.

Table 4.1 Administration order characteristics by whether all payments made

Column percentages

	All	All payments made	Missed payments
Age of order*			
Less than 3 years	54	69	49
3-6 years	24	15	27
6-10 years	12	10	12
More than 10 years	10	6	11
No. of orders in the court 2001/2*†			
Low (under 25)	30	17	35
Medium (66-164)	30	30	30
High (397-812)	40	53	35
Number of debts			
1-2	10	11	10
3-4	33	32	33
5-6	32	28	33
7-9	19	19	29
10 or more	6	10	5
Total amount of debts			
Under £1,000	10	7	11
£1,000-£1,999	17	14	18
£2,000-£2,999	23	21	23
£3,000-£3,999	24	26	25
£4,000-£4,999	23	29	21
£5,000 or more	3	3	2
Composition order			
Yes	22	18	24
No	78	82	76

Source: Court administrative data

* statistically significant at the 99% level

† these represent the actual ranges for numbers of administration orders made by the courts

In fact, age of the administration order and the number of orders in the court both correlated strongly with some of the personal characteristics of people with administration orders. Further multivariate analysis was therefore carried out to ascertain the factors that seemed to have an independent influence on non-payment.

This identified four important variables, which together predicted 64 per cent of cases correctly. Again, the two reaching the highest level of statistical significance were how long the administration order had been in force and the number of administration orders made in the court, both of which were significant at the 99 per cent level.

In general, older administration orders had lower odds of being paid when we controlled for other factors likely to have an impact. So, orders set up in the past three years had twice the odds of being paid as those in force for more than three years. This was borne out in the depth interviews - people who had missed several payments tended to have been repaying for a longer period of time than those who had either met all their payments or only missed the odd one. In fact, many advice agencies now routinely ask for a three-year time limit.

All else being equal, levels of payment were highest for administration orders made in courts with a medium throughput of orders (66-164 over a two year period in our sample). Orders made in these courts had two and a half times the odds of being paid as those in courts making fewer than 25 orders in the same period. Interestingly, when we controlled for other factors, payment rates in courts were not a lot higher in courts with particularly heavy workloads of administration orders. This suggests that the extent to which courts chase payment may be playing a part. Those with small number of cases may not have set up systems for chasing at all; while those with heavy caseloads may find they lack the time to do so.

4.1.2 *Personal characteristics of the debtor*

Although there were slight variations between the personal characteristics of defaulters and those of non-defaulters, none reached statistical significance at the 95 per cent level in bivariate analysis. Multivariate analysis, however, found that age and housing tenure did have a small independent effect, when other factors were taken into account. But both were only significant at the 95 per cent level and the effects were not large. All other factors being equal, the odds of people aged over 40 not missing a payment were 1.7 times greater than those of younger ones. Likewise, the odds of homeowners making all the payments on their administration order were 1.8 times greater than that of tenants. As the income of the debtors was not included in the data, these findings may well reflect the degree of financial strain in the household, which is known to be highest in younger households and among tenants.

At present, debtors can make cash payments in person at the court. They can also pay by cheque or postal order, and may post these to the court if they wish. Our analysis shows that a third of applicants would not be able to pay by cheque because they do not have a bank or building society account. They may also be reluctant to spend money on postal orders. Paying in cash, in person at the court may therefore be the preferred option. With this in mind, it is very likely that the distance people live from the court will have played an important role in people's payment records. So, too, will their access to private transport and the availability and affordability of public transport.

4.1.3 Other factors identified from the depth interviews

Analysis of the depth interviews indicated that a number of other factors almost certainly influenced people's compliance with their administration order.

Almost all the people with above-average payment levels had missed payments, as had all those who had anticipated the payments being a struggle from the outset. Similarly, most of the people who said getting to the court was difficult had fallen behind with their payments.

Health and mental health problems were commonplace among the people interviewed – but were especially common among those who had missed payments. This suggests that, even if they did not lead directly to default, these problems almost certainly played a part. In particular, this included people being treated for depression.

There was also a clear link with money management. Almost all of the people who described themselves as being disorganised money managers had missed payments. So, too, had the majority of people who admitted to over-spending. Indeed, there appeared to be some association between the reason for people's financial difficulties in the first place and their subsequent payment history. Around half of the people who had either missed several payments or had their administration orders revoked had originally got into financial difficulties because of failures in money management. In contrast, most of the people who had not missed any payments had originally got into debt because they had experienced a drop in income.

Finally, while people generally said that they were committed to complying with their administration order, those who had not defaulted seemed particularly determined to do so. Above all, they were concerned about the consequences if they stopped making payments, including the possibility of renewed contact from creditors and the prospect that the order might be revoked. One woman was very worried that the police would become involved if she did not comply with the terms of her order.

Interestingly, default was not more common among people who had to pay other debts that were not included in their administration order. Nor was it especially common among the people who had borrowed more money since their administration order was set up. There are a number of possible explanations why people were able to continue paying their administration orders despite having additional commitments. One woman who had taken out a car loan was repaying her order through an attachment of earnings and so could not default on it. Others felt their financial situation had improved since the administration order was in force and so seemed to be able to accommodate the extra borrowing in their budgets. Finally, despite having to help her husband repay the additional credit commitments he had taken on, one woman managed to maintain her administration order payments with financial help from her family.

4.2 Reasons for missed payments

The people interviewed in depth who had missed payments on their administration order were all asked for their own explanation of why they had not paid.

Affordability was by far the most common reason for non-payment among those who had either missed several payments on their current order or had their orders revoked. In contrast, people who had only missed or been late with the odd payment generally attributed it to an oversight, problems getting to the court or a disruption in income.

4.2.1 Affordability of payments

About a third of people who were interviewed said they had missed payments on their current order because they could not afford to pay. There were two reasons for this. Some said it was because the repayment levels had been set too high; others that they were generally experiencing strain on their household budget.

The first group of people, all of whose orders were eventually revoked, stated that their inability to comply was due to the high payments they were expected to make. All were required to pay above-average amounts, ranging from £35 to around £100 a month. Indeed, three had to pay upwards of £60 a month to the court, even though none of them were in work. Despite this, none of them had objected to the level of payments: they had either accepted the amount set by the court or thought they would be able to manage.

All of them defaulted on their payments within a relatively short space of time. Indeed, one woman did not make any payments at all - she was taken to court because of rent arrears and paid off this debt rather than her administration order. As discussed in the previous chapter, two people subsequently asked for their payments to be reduced, in one case from £95 to £45 a month and in the other from £35 to £20 a month. Both were successful, but even at this reduced level they were still unable to manage. They missed further payments, which led to the revocation of their orders.

The second group of people had fallen into arrears because of additional pressures on the household budget rather than the level of payment on their administration order. Indeed, the amounts of money they were required to pay were much lower, ranging from £5 to £15 a month; most were paying £10. On the whole, they found these amounts manageable, and all but one of the orders had been in force for a year or more. They either missed, or were late with, payments when they had to find money for other things, for example: for Christmas or family birthdays; additional expense during school holidays; or quarterly household bills.

Almost all of these people had managed to make up the money they owed, either by making the payment a few days late or paying double the following month. One man managed to pay off several months arrears in a lump sum; the court subsequently increased his monthly payments from £15 to £20, which he could just about afford with help from his friends.

The exception to this was a lone parent on Income Support, whose administration order had been in force for around eight months at the time of the interview. She was supposed to pay £10 a month but had missed the last three or four payments because of the extra costs associated with having her teenaged sons at home during

the summer holidays and then having to buy new school uniforms for them. She intended contacting the court to make an arrangement to pay the money she owed.

4.2.2 Problems getting to the county court

About a quarter of the people interviewed said that they had difficulties getting to their county court and most of these had fallen behind with payments. But only about half of them (four of the 30 people interviewed) said that these difficulties were directly responsible for them failing to make payments on time. And most of these had so far only missed one payment, in what seemed to be one-off incidents.

One man was the main carer for his wife and children, and could not get to court on one occasion when his children fell ill. He had not missed any other payments in the six months that his order had been in force and intended to make up the money he owed. Two people were a day or so late making their payments because they could not get to the court on the set day – one was a young man who worked shifts, the other a woman who had to look after a sick pet for a relative.

For the fourth person, however, getting to court was a persistent headache. A lone mother with three pre-school aged children, she travelled there by car. The nearest car park to the court was expensive and some distance away.

... because I have the children, it's difficult. Parking is a nightmare, for half an hour you are paying £3, so it takes me half an hour to walk from the car park to [the court], it's at least an hour.

Consequently, she tended to pay her administration order every two months rather than monthly, as she should have done. Not surprisingly, she would have much preferred to pay by direct debit if this had been possible.

In other cases, while difficulty getting to the court was not the stated reason for default, it did seem to be a contributory factor. One woman's life, for example, revolved around her sick daughter, who needed constant care and was frequently hospitalised. As a result, getting to the court was sometimes out of the question. From her point of view, having the payment deducted directly from her benefits would have been much better.

4.2.3 Error and oversight

A minority of people (four out of 30) had failed to comply with the terms of their administration order because of error or oversight. For two, this had only happened once in the year or more that their order had been in force. One woman defaulted on her order when her son took her on holiday. Another mistakenly thought she had sent off a cheque to the court when she had not. Both arranged with the court to pay double the amount the following month.

In contrast, the other two people had forgotten to pay on several occasions, and had either paid late or made additional payments the next time. One woman put her absent-mindedness down to the fact that she had recently returned to full-time work after a long spell on benefits. She relied on her mother to remind her to make payments or to make them on her behalf. Both of these people admitted to being poor money managers; both also had health problems that may have affected their ability to manage their finances. Given the high incidence of missed payments among people who were disorganised money managers, these two people might well have been more candid than others.

4.2.4 Disruptions to income

Finally, two people reported that they had been unable to make payments because of a disruption to their income. In one case, this seemed to be no more than a 'glitch'. This was a woman who used the Child Benefit she received to pay her administration order. A delay in her benefit payment meant that she was unable to pay on the due date; she had telephoned the court to explain this. Although her payment was slightly higher than the average, this was the first occasion in over a year when she had not paid on time.

The other case was rather different and involved a lone mother on benefits who experienced an unexpected drop in income. For the first six months that her administration order was in place, she managed to pay the required £10 a month without any difficulty. When her two eldest children left home within a short space of time, however, she experienced a substantial reduction in her benefits, which left her unable to pay the court and led to the eventual revocation of her administration order.

It is worth noting that two other people who had unstable employment, moving in and out of work, had managed to keep up with the payments on their administration order.

4.3 Monitoring of missed payments

Analysis of a small sample of administration orders⁴ indicated that court staff identified around three-fifths of missed payments; the remainder were detected by creditors. There was considerable variation between the courts, ranging from those where court staff had identified all the missed payments, to others where just about all of them had been identified by creditors. The extent to which creditors were responsible for bringing default to light is notable, given the long delays before money is passed to them.

The great majority of missed payments were followed-up by court staff. The standard procedure for chasing missed payments is to send the debtor a notice of revocation. This informs the debtor that they are in arrears and gives them an opportunity to repay the money they owe or, if they cannot afford to do this, to make a repayment arrangement with the court. Although it varies from court to court, these letters are usually sent out after one or two payments have been missed. Creditors may also receive a copy of the notice to revoke, although again this depends on the court. The creditors who were interviewed were divided in their views about how efficient the courts were at monitoring missed payments. Some thought the level of monitoring was poor, and reported that it could take several months before they were informed of missed payments, if they were told at all. Others related better experiences, with fairly prompt contact from the courts and even some improvement over time in the flow of information about missed payments.

Of the 22 people interviewed in depth who had missed payments on their current administration order, only five remembered receiving a notice of revocation and most of these had defaulted on more than one occasion. The rest either said they had not been contacted by the court or could not remember. In fact, many of them had only been a few days late with payments or had paid their arrears the following month and so were unlikely to have been sent a notice of revocation.

⁴ In 50 of the 550 cases, more detailed information was collected regarding payment history.

Two people, however, said they did not receive any notification that they were in arrears, even though they had not paid for several months. One woman only found out that her order had been revoked when she received a letter from one of her creditors; this was confirmed when she telephoned the court. The other said she was so worried that she dare not contact the court when she began to fall into arrears.

I can get very frightened of people in certain situations and I clam up, so it was like not acknowledging it and pushing it to the back of my mind ... I know I was deceiving myself because it wasn't going to be all right and the longer I left it the more it got harder to actually do anything about it ... I wish I actually had the courage to go or write a letter to the court and state the situation I was in because it wasn't actually my fault, it was due to my money dropping.

Her order was later revoked as well.

4.4 Creditor compliance with administration orders

While an administration order is in force, debtors are legally protected from their creditors. Indeed, as we saw in Chapter 2, this was one of the attractions of an order from the debtor's point of view. Evidence from the depth interviews, however, indicates that creditors did not always comply with this requirement.

Overall, a third of people who were interviewed reported being contacted by one or more of their creditors after their administration order was in force, demanding full or part payment of their arrears. Most often mentioned were local authority Council Tax departments and one particular mail order company. In addition, two people were contacted by several different debt collection agencies employed by the same sub-prime credit card company. This continued (and illegal) contact from creditors was at best an annoyance; at worst, it caused considerable distress.

I put the phone down on them. I weren't taking the hassle, I didn't want to know. As far as I was concerned, it were done. We'd been to court, all cut and dried. I said 'I don't mean to insult you, I'm sick and tired of people ringing up. It's an administration order, this, it's being paid. I don't want to talk to you, don't ring again, please.'

... I have actually been hounded and hounded by [credit card company]... It's scary stuff, you feel like someone is going to come and knock your door down, it's quite aggressive.

People attempted various ways of bringing this unwelcome contact to a halt, such as writing to their creditors, seeking help from the court or re-contacting the adviser who had helped them apply for an order in the first place. Although half were successful, the other half continued to receive letters and phone calls. Indeed, two people were still being chased for payment by debt collection agencies more than a year after their administration order had come into force.

4.5 Revocation of administration orders

Analysis of a small sample of administration orders carried out by the Department for Constitutional Affairs indicated that around one in ten orders were eventually revoked. It was clear, however, that debtors stood a fairly good chance of having their order re-instated. This was supported by one of the creditors we interviewed, who reported that nearly two-thirds of the revoked administration orders dealt with by his company in 2003 were subsequently reinstated. As we go on to discuss, the depth interviews provide further corroboration of this point.

Of the 30 people we interviewed, eight had had an administration order revoked. In three cases, the order was later reinstated. As mentioned above, affordability was the main reason why orders were revoked – people simply could not manage to keep up their payments. Around half of the revoked orders had been in force for two years or less. Several people had kept up payments for longer, including one woman who mistakenly thought that her administration order was satisfied after three years and stopped making payments.

People's memories of revocation were rather hazy. Only two remembered being informed by the court that their order had been revoked. One of these people was notified that a hearing would be held to discuss her case. As she was unable to attend, she contacted the court to explain why she had defaulted on her order. She was later told that her order had been revoked at the hearing. Others said that the first they knew about it was when their creditors contacted them; one of these people had, however, failed to give the court her new address when she moved, and so she may not have received letters sent by the court to her previous home.

4.5.1 Creditor action following revocation

The creditors we interviewed varied quite considerably in their response to the revocation of administration orders, generally in accordance with their overall approach to debt recovery.

At one extreme, two commercial companies said that they did not take any action against debtors once an administration order had been revoked. One of these had a holistic approach to debt recovery, but the decision not to pursue the outstanding debt was pragmatic – currently understaffed, they concentrated their efforts on cases where they had a good chance of recovering the money owed. The other company adhered to a one-size-fits-all method of recovery and wrote off debts included in administration orders from the outset.

At the other extreme, two creditors said that they always sought to enforce the remaining debt once an order had been revoked. One of these was a Council Tax department with a one-size-fits-all method of recovering the money it was owed; the other was a utility company that generally took a hard business approach.

The remaining companies fell somewhere between these two extremes. Some contacted the debtor to try and set up a repayment arrangement to recover the outstanding debt. Others only restarted recovery procedures if they felt that the debtor was in a position to repay the remaining balance. All of these were commercial companies that tended to take a holistic approach to debt recovery.

Most of the debtors we interviewed who had had an administration order revoked said that they were subsequently contacted by at least one of their creditors. In the main, creditors were seeking to make a payment arrangement to recover the outstanding debt. One woman, however, was threatened with enforcement by a mail order company if she did not pay the money she owed in full. This company was one of the most aggressive with regard to debt recovery, but was not among those that we interviewed.

4.5.2 Debtor action following revocation

Although a high proportion of debtors sought advice and help to apply for an administration order, fewer did so following revocation. Of the eight people interviewed who had an order revoked, all but one had originally received help to apply for an administration order from a third party, usually an advice agency. Once their order had been revoked, however, only half of them went back for further advice; the rest tried to resolve matters themselves.

Over half of the debtors with a failed administration order had tried to have the order reinstated. All but one of these people was successful, providing further evidence that debtors who fail to keep up their payments stand a fairly good chance of having their administration order reinstated if it is revoked.

The ability of these debtors to keep up their payments following the restoration of the order was mixed – one person had not missed any payments for fear of the order being revoked again, while three people had made payments late or missed them altogether on a number of occasions. Indeed, one woman was unable to maintain her payments even though the amount had been reduced when the order was reinstated. With the help of an adviser, she applied unsuccessfully to have her payments reduced further, from £20 to £5 a month. Her administration order was subsequently revoked for a second time. At the time of the interview, she had not been contacted by any of her creditors, and had been told by her adviser not to contact them in the hope that the debts would be written off.

One person, however, was unsuccessful in his attempt to have his order reinstated. A single man in his 40s, he had contacted the court to request that his order be restored when he moved from benefits into work. He was told to send a letter outlining his case, to be put before the district judge, but failed to do this. Since the order had been revoked, he had been contacted by one of his creditors, to whom he paid £5 when he could. Despite several attempts, he said he had been unable to get the details of his other creditors from the court.

Among the remaining debtors who had not applied for re-instatement, one woman had sought further advice from the agency that helped her to apply shortly after her administration order was revoked. She was told to come back and see the money adviser but had not yet done so, intending instead to wait until her creditors contacted her.

Another woman would have liked to apply for another administration order, but did not know if this was possible. She was, however, reluctant to seek advice from the advice agency that had previously helped her, as she wanted to sort things out herself. Consequently, when she heard from two of her creditors after the order was revoked, she came to arrangements with both to repay the money she owed. Although it had been a struggle, she had managed to keep up the payments and only had a few more to make. She said she had not contacted her other creditors because she did not have their details.

A third woman had also been contacted by one of her creditors, demanding full payment. She could not afford to settle what she owed, and the issue remained unresolved. Having applied for the administration order by herself, she had no idea where to turn to for help and advice.

4.6 Summary

Secondary analysis clearly shows that levels of missed payments on administration order payments are high, with three-quarters of people missing at least one payment. The most significant factors associated with compliance were how long the administration order had been in force and the number of administration orders made in the court. Consequently, orders set up in the past three years had twice the odds of being paid as those in force for more than three years. And administration orders made in courts with a medium throughput had two and a half times the odds of being paid as those made in courts making low numbers of orders. Age and housing tenure of the debtor were also significant, but had much less of an effect.

Analysis of the depth interviews indicated that a number of risk factors were associated with repeated default. These included having above-average payment levels, difficulty getting to the court, and health problems. Poor money management and being a heavy spender were also important and the strength of commitment to pay the money owed may have an impact on compliance as well.

Taking on new credit commitments and repaying debts not included in the administration order did not seem to greatly affect people's ability to keep up their payments.

Overall, the most common reason given by people who had defaulted on their administration order was that they could not afford to make the payments. Indeed, this was the main reason for non-payment among people who had either defaulted several times or had their order revoked. Above-average payment levels were the main problem for debtors whose orders were revoked; additional pressures on the household budget had led others to miss several payments since their orders had been in force. The main reasons given by people who had missed only the odd payment were difficulty getting to their county court, errors or oversight or a drop in income.

The majority of missed payments were detected by court staff and followed up by sending the debtor a standard notice of revocation, usually after one or two payments had been missed. Some creditors were critical of the monitoring carried out by court staff, reporting that it could take several months before missed payments were noticed. Others felt the system worked fairly well. Only a small number of the debtors who had defaulted remembered receiving a notice of revocation. In some cases, this was because they had only paid a few days late or paid their arrears the following month. Two people, however, were adamant that they had not received any notification of their arrears even though they had not paid for several months.

While an administration order is in force, debtors are legally protected from their creditors. A third of the people interviewed, however, said their creditors had demanded full or part payment of their arrears after their administration order came into force. Some had successfully brought this contact to a halt, others continued to receive letters and phone calls.

Secondary analysis of a small sample of administration orders indicated that around one in ten orders were eventually revoked. Creditor responses to revocation varied, from some companies who did not take any further action to others who always sought to enforce the remaining debt. In between these two extremes were companies that tried to set up repayment arrangements with debtors and those that only re-started the recovery process if they felt the debtor was in a position to repay what they owed. Most of the debtors who were interviewed had been contacted by their creditors post-revocation, usually to try and establish a payment arrangement. One woman, however, was threatened with enforcement if she did not pay off her arrears in full.

Only around half of debtors whose orders were revoked sought advice and help after the event. The most common course of action they took following revocation was to try and have their administration order reinstated, and on the whole they were successful. This supported evidence provided both by the secondary analysis and by one of the creditors who was interviewed, that debtors stand a fairly good chance of having their order restored if it is revoked. The remaining debtors generally waited for their creditors to contact them.

5. The impact of administration orders and suggestions for reform

The debtors who were interviewed were overwhelmingly positive about the administration order scheme, even if they had found it difficult to maintain payments. Indeed, several had recommended administration orders to others they knew who were in financial difficulty. While these recommendations were mostly on an informal basis, two women who were employed as support workers had passed information on to some of their clients.

On the whole, debtors and money advisers felt that any drawbacks of the scheme were generally outweighed by the perceived benefits. For creditors, the opposite was true and they thought that the scheme either needed radical reform or should be scrapped altogether.

5.1 The benefits of administration orders for debtors

As discussed in Chapter 2, debtors had often lost control of their financial situation by the time they applied for an administration order. Consequently, the opportunity to gain protection from their creditors and arrange a single affordable payment to repay their debts was very appealing.

For around a third of the people interviewed, the fact that their creditors had stopped contacting them was the main advantage of having an administration order.

The best thing was the relief of not having different people knocking at my door demanding money, no letters coming through, 'This is your final notice, we are going to take you to court'.

A similar number of people said that, for them, bringing their finances back under control by means of a single affordable payment was the biggest benefit of an administration order.

All I have to do is pay twenty five pounds a month... to me it takes a hell of a lot of weight off... before I had the admin order, I'd get up in the morning thinking, who's going to be wanting money off me this time? Picking up the letters and thinking 'Oh here we go again'. But now I don't have that.

... it's helped me pay whoever I'm supposed to pay on a regular basis and they're happy because they're getting their money and I'm doing it in one lump sum, but it's not much to pay a month

The creditors who were interviewed also felt that these were the key benefits of administration orders for debtors. Other advantages mentioned by debtors included the reduction of the amount to be repaid through the granting of a composition order; the ability to pay by attachment of earnings, thereby minimising the risk of default; and the fact that interest is frozen on all outstanding credit commitments included in the administration order.

As alluded to in the above quotations, these tangible benefits often brought with them peace of mind. Three-quarters of the debtors who were interviewed mentioned the great sense of relief they felt once their administration order was in force. For half, it was the best thing about the scheme.

It was a massive relief when I walked out of that court. I'd had months of worry and nasty letters and it was lovely to think it was all over. It was very positive for me and all the family.

In addition, one woman who suffered from manic depression felt that her condition had improved since she had stopped receiving letters and phone calls from her creditors.

5.2 The drawbacks of administration orders for debtors

The people who were interviewed identified a number of drawbacks to the administration order scheme, the main ones being the limited options for making payments and the lack of information and publicity about the scheme. Others included the level of payments set; the need to have a County Court Judgment in order to apply for an administration order; and lack of access to credit. On balance, however, the positive aspects of the administration order scheme generally outweighed these drawbacks in most people's minds.

5.2.1 Limited payment options

As discussed in earlier chapters, taking cash to the court was by far the most common method of paying an administration order. But about a quarter of the people who were interviewed found it difficult to make this journey, because of physical or mental ill-health, working hours, transport difficulties or having a young family. For most of them,

this was the main disadvantage of the scheme. In addition, a few people disliked the inconvenience of having to go to the court. While only a small number of people cited difficulties getting to the court as the *main* reason why they had missed payments (Chapter 4), it was notable that most of those who considered paying at the court to be disadvantageous had either missed several payments or had their orders revoked.

Not surprisingly, those people who regarded the limited payment options to be a drawback of the scheme would generally have preferred to pay in some other way, either by direct debit or standing order, at a post office or by direct deduction from benefits.

5.2.2 Lack of information and publicity

The majority of people we interviewed were unaware of the administration order scheme before they sought advice about their financial difficulties. Overall, about a quarter regarded the lack of publicity and information about the scheme to be a drawback. Based on their own experience, they felt quite strongly that information about the scheme should be made more widely available, to enable people in financial difficulties to apply for an administration order sooner rather than later.

... it would be great to see easily understandable, straightforward information, maybe in places like post offices.

In addition to the lack of general information about the scheme, a few people were critical of the level of communication between the county court and the debtor once an administration order was in place. In particular, they would have welcomed regular statements from the court, say once a year, outlining how much they had repaid and how much was still outstanding. They would also have liked some confirmation of the date when the order would be satisfied.

5.2.3 Other drawbacks

Other drawbacks of the scheme were each mentioned by a small number of people. For three people, the above-average payment level set by the court in their case was by far the biggest drawback. In all three cases, their administration orders had been revoked because they were unable to maintain the payments.

The need to have a County Court Judgment in order to apply for an administration order was also mentioned as a shortcoming. With hindsight, two people said they

would have applied for an administration order sooner, had they not been required to have a County Court Judgment against them. Both acknowledged, however, that they had only found out about administration orders when they sought help and advice once their creditors took legal action against them. Another person disliked the stigma attached to having a County Court Judgment.

Finally, while some people welcomed not having access to further credit facilities, a few people considered it to be a distinct disadvantage of having an administration order. As we discuss in the following section, some debtors did in fact take out further credit while repaying their administration order.

5.3 Impact on household money management

About a third of the debtors who were interviewed felt that having an administration order had changed the way they managed their money. In particular, they talked about regaining financial control; becoming more organised about financial matters; and being better able to manage on their income now that they were making one repayment to their creditors.

Most people had not taken on any further credit commitments since their order had been in force and had generally managed to keep up with payments on their household bills. Even so, about a third had continued to borrow and a quarter had fallen behind with household commitments. A small number of people (three in total) seemed to be heading for serious financial difficulties, having both taken on more credit and accrued further arrears on household bills. One of them had already had their administration order revoked. None of the people we interviewed had added further debts to their existing administration order.

5.3.1 Credit use

Given their poor credit histories, it is hardly surprising that two-thirds of people had not borrowed commercially since their administration order came into force. They all recognised that their chances of getting credit were extremely low, at least until their administration order was satisfied. In fact, several people welcomed being blacklisted and intended not to borrow at all in the future if they could help it.

... I would never take another loan out or anything like that. I would sooner struggle or go without if we had to... I want to get these debts paid off.

Moreover, in order to avoid the need to borrow in the future, two people had recently started saving.

I've learnt to save now. I go Christmas shopping at the weekend and I have saved for that... this is probably the first year where I haven't thought, oh God I've got to get this money for this Christmas present and that, I've already got it...It has made me very aware of money.

The remaining third of people had, however, taken on further credit commitments. They included two people whose orders had already been revoked and one woman whose husband continued to borrow, even though her administration order largely comprised debts that he had run up in her name. Failures in money management had contributed to the original debt problems of around half these people, suggesting that they had learnt little from their experiences.

Loans from home collection companies were the most common form of borrowing among this group, typically to make ends meet from time to time or to pay for things like Christmas and birthdays. In addition, two people had successfully applied for pre-approved credit cards from sub-prime lenders; a third person had been offered a credit card by her bank. Other forms of borrowing included buying goods on rental purchase, buying a car on credit and taking out a Social Fund loan.

On the whole, people had managed to keep up with the payments on these commitments. In some cases, this was because their income had increased following a move from benefits into work. As discussed in Chapter 4, others felt their financial situation had improved since getting an administration order. The two people using credit cards from sub-prime lenders had, however, both borrowed up to their limit and were only making the minimum payments required. One of these people had also taken out several loans from home collection companies, which had been paid off for him by relatives.

5.3.2 Household bills

Altogether, over two-thirds of the debtors who were interviewed had included household bills on their application for an administration order, most commonly Council Tax and water charges. Once an administration order was in place, people generally managed to keep up-to-date with these commitments. In some cases where gas and electricity arrears were included in an order, suppliers had installed

prepayment meters to prevent further financial difficulties. For the same reason, one woman was now having her water charges deducted directly from her benefits.

Having got an administration order, about a quarter of the people interviewed had accrued further arrears on regular household commitments. In some cases, this seemed to be due primarily to poor money management; in others, the arrears were the result of a drop in income or confusion over payments. Moreover, people who had fallen behind with priority payments (such as rent, Council Tax or fuel bills) had often also missed payments on their administration order, including two people who had had their orders revoked.

More positively, most of these people had either managed to make arrangements with their creditors to repay what they owed or were in the process of doing so, although two had been threatened with enforcement. In one case, this was because of an unpaid television licence, in the other because of Council Tax arrears.

5.3.3 Overall impact

Bringing this together, having an administration order seemed to have a positive impact on the way that just over a third of people managed their money. These people had taken various steps to prevent financial difficulties in the future. Most of them had either kept up with their administration order payments or they had missed or been late paying the odd one. Two people had missed several payments because of their mental health problems.

Case study 1, Positive impact

Anita was a lone mother in her 30s, who got into debt through over-spending, although poor money management made matters worse. Since the administration order, she had taken various steps to ensure that her bills were paid, including using direct debits, prepayment fuel meters and a fee-charging bill-payment company. She had opened a savings account and made regular deposits by direct debit to avoid using credit in the future.

At the other extreme, a third of the people interviewed seemed to have learnt very little from their experiences. Almost all of them had either continued to borrow money or they had fallen into arrears, and a number had done both. In addition, all but one of them had missed a number of payments on their administration order, and they included four of the five people whose orders had been revoked and not reinstated. The only person who had not missed any payments at all had been paying through an attachment of earnings order.

In between there was a smaller group, comprising just under a third of the people interviewed. In these cases, the administration order seemed to have bought them time. While they had not changed their approach to money management, they had so far avoided further financial difficulties. They had not borrowed any more money, and had remained up-to-date with their household bills. There was no clear pattern to the payment history on their administration orders.

It is worth noting that the overall impact of the administration order was not linked to the reason why people had fallen into financial difficulties in the first place. People whose problems stemmed from a failure in money management were

Case study 2, No impact

Kim fell into arrears when she separated from her husband, but admitted that she was disorganised with money and this had not helped. She did not seem to have learnt much from getting her administration order. She was still juggling bills and had fallen behind again with her Council Tax and water payments. She had also taken out a number of loans from a home collected credit company at Christmas and had released equity from her home to pay for a holiday and some home improvements.

found in all three of the above groups. Where the administration order had had a positive impact, people had realised just what poor managers they were. As a result, they made arrangements for their bills to be paid regularly through direct debits, fuel meters and, in one case, a fee-charging bill payment service. Those with credit cards had cut them up. The poor money managers for whom an administration order had merely bought time had both experienced a change in their circumstance. In one case, this was a large increase in income which gave them a greater margin for error. The other had recently married and his wife now managed the household budget.

5.4 The benefits and drawbacks of administration orders for creditors

Regardless of their approach to debt recovery, creditors considered there to be few benefits of the administration order scheme, save the fact that they need not take any further action while the order was in place.

I think the upside, and probably the only upside for us, is an agreement is in place that's monitored by somebody else so it's less admin for us, if you like. If it's a monthly payment, then we haven't got to monitor it every month and haven't got to chase them up.

Perhaps not surprisingly, creditors' criticism of administration orders centred on their ineffectiveness as a means of debt recovery, due predominantly to the low levels of payment set by the court; the use of composition orders; and the high incidence of

default. Indeed, some of the creditors who were interviewed reported that the costs of collecting administration order payments were greater than their value.

...they're really not worth collecting. Once someone's got an admin order it's almost like it's a dead debt if you like. The cost of collecting it in probably outweighs what you're actually getting in.

Somewhat inevitably, therefore, creditors felt that their own methods of recovery were superior to the administration order scheme.

Other drawbacks of administration orders mentioned by creditors included the poor communication between the county courts and creditors and that fact that the courts were very slow to distribute payments from debtors. A small number of creditors regarded administration orders as a 'cop out' – a way for people to have their debts effectively written off. One creditor who was interviewed also felt that, because additional debts could be included in an administration order once it was in place, the system was open to abuse. As mentioned earlier, there was no evidence of this among the debtors that we interviewed.

5.5 Suggestions for reform

All the money advisers we interviewed saw the administration order scheme as a valuable means of debt recovery, even if it could do with some reform. Many also felt that the scheme enabled them to assist more people, as once an administration order was set up, the case could effectively be closed. In contrast, other multiple debt cases involved negotiations with a number of creditors and could remain open for a year or more.

The opinion of creditors was more divided. Some thought that it required radical reform to become more effective; others that it should be scrapped altogether.

5.5.1 Views of money advisers

Money advisers' suggestions for reform focused particularly on the need to increase the £5,000 limit. The need for a County Court Judgment was also seen as a frustration, but views on this were more reflective.

They believed that the existing £5,000 limit on debts denies access to the type of people for whom an administration order would be the best solution. The other

options for such people are fairly limited, especially where they are unable to afford the fees for bankruptcy or an IVA and can only afford to make small repayments to their creditors. Even so, there was a feeling that an increase in the administration order limit would reduce the number of bankruptcies and IVAs.

There was general agreement that the limit should be raised, as it is some time since it was set at £5,000. Most thought that a limit of £10,000 would be appropriate. Some thought it should be set higher, at £15,000 or even £25,000 – the higher figure being the current upper limit for agreements covered by the Consumer Credit Act. But since this limit is likely to be removed, it does not seem to be a useful yardstick.

There was also a lot of support among advisers for finding a way of removing the requirement for a County Court Judgment without opening the floodgates and leaving administration orders open to potential abuse. Advisers acknowledged that safeguards would be even more crucial if the limit were raised from £5,000.

One adviser expressed real fears that a high limit, coupled with a removal of the need for a County Court Judgment, would encourage fee-charging debt management companies to become involved with administration orders. They would inevitably advertise their availability, thereby encouraging people who had run up large credit commitments through overspending to apply. Earlier research carried out for the then Lord Chancellor's Department identified a group of people in these circumstances who try to avoid paying their creditors (Dominy and Kempson, 2003).

Two advisers suggested that if the requirement for a County Court Judgment were removed, administration orders should still be placed on the register of County Court Judgments and incorporated into the records of credit reference agencies, with the same status as a County Court Judgment. Both also thought that, in these circumstances, there would need to be further checks and balances on the people applying. One of them thought that anyone applying should be referred by the court to a registered not-for-profit advice agency before an administration order was granted. The other thought that applications should only be made by 'registered individuals' to prevent exploitation by fee-charging companies.

Two advisers commented on the length of time it can take to set up an administration order. One quoted delays of three to four months in a court that had only 16 administration orders in 2002; the other cited delays of four to six weeks in a court

handling 282 orders in 2002. During this time, their clients often continued to be chased for payment by their creditors. One option would be to try and speed up the procedures; the other to put a block on further enforcement from the date that an application is made for an administration order.

Other suggested improvements included:

- Making composition orders an integral part of administration orders.
- The need for guidance on which debts can be included in an administration order and, in particular, whether mortgage arrears can be included without also including the capital sum outstanding.
- The need for guidance on dealing with cases where there is joint and several liability for a debt.
- The need to raise awareness about administration orders among debtors generally and certainly among those who receive County Court Judgments.
- The need for more training of court staff, especially in courts where the level of administration orders is low.

Finally, two advisers felt that any review of administration orders should be undertaken in a wider context, looking at them in relation to personal bankruptcy and individual voluntary arrangements so as to offer an integrated package of solutions to debt problems in difficult circumstances.

5.5.2 Views of creditors

Views of creditors were more divided. About half agreed with the money advisers that, with reform, administration orders still have an important part to play for people who have experienced a change in circumstance and cannot afford to pay the money they owe. Others thought that administration orders were out-dated and such cases would be better dealt with in other ways.

For the most part, creditors who favoured reform thought that the £5,000 limit was too low. Most of them would find an increase to £10,000 acceptable as it would encourage people away from fee-charging debt management companies and IVAs, reducing the costs to debtors and ensuring more money is repaid to creditors. One creditor was even prepared to see the limit increased to £25,000, provided orders were time limited, there were no composition orders and debtors' circumstances were reviewed regularly to see if the repayment level could be increased. In contrast,

creditors who favoured abolition of administration orders feared that raising the limit from £5,000 could open the system up to abuse.

Most of the creditors who supported reform were also happy to see the requirement for a County Court Judgment removed – but only if an administration order carried the same weight and appeared on the Register of County Court Judgments. Again, the ‘abolitionists’ did not share this point of view.

Other suggestions for reform included better investigation and review of debtors’ circumstances, so that realistic repayment levels could be set that would ensure debts were repaid. One creditor (mentioned above) also suggested time-limiting administration orders, with the total debt to be repaid over five or six years. He was also in favour of abolishing composition orders; failing that, he felt that clear guidance was required on when they should be granted and how the level of composition should be determined.

Creditors who favoured abolishing administration orders thought debtors were either in a position to pay their creditors or they were not. Administration orders fell half-way between – providing a means for people who could not really afford to pay to attempt to do so. Two creditors thought that it would be better if cases were dealt with by organisations like the Consumer Credit Counselling Service (if people have the money to pay) or through bankruptcy (if they do not). Another considered the Scottish Debt Arrangement system to be a preferable alternative to administration orders.

The Scottish debt arrangement scheme seems to seek to replace what we currently have in England and Wales by quite a simple process – you’re either not in debt, you’re in debt and in a scheme, or you’re insolvent, and that seems to me to be perfectly equitable... It just seems to me to be the right way without this sort of grey area in the middle, where I think there will always be scope for people to, I suppose manipulate is not quite the right word, but certainly enjoy using the system at that point in time...

5.6 Summary

The debtors we interviewed were extremely positive about the value of administration orders, even if they had experienced problems maintaining their payments. For them, the main benefits of the scheme reflected the reasons they had applied – it brought contact from their creditors to a halt and allowed them to get their household finances back onto an even keel. There were drawbacks to administration orders, notably the

limited options for making payments and the lack of information and publicity about the scheme, but for most people these were heavily outweighed by the perceived advantages.

In the longer-term, about a third of debtors reported that having an administration order had changed how they managed their money. Indeed, most of those who were interviewed had not taken on any further credit commitments once their order was in force and had generally managed to keep abreast of their household bills. Two people had even started to save, so that they would not need to borrow in the future.

In about a third of cases, however, people continued to borrow, despite the fact that failures in money management had often contributed to their debt problems in the first place. Loans from home collection companies were the most common form of borrowing; in addition, three people had taken out credit cards. Although they had generally managed to keep up with the payments on these additional credit commitments, two people had borrowed up to their credit card limit and were only making the minimum payments required.

Most of the people interviewed had included priority creditors on their application for an administration order. For about a quarter of them, keeping up-to-date with payments such as Council Tax, rent and utilities continued to be a problem after their order was in place, because of poor money management, a drop in income or confusion over payments. Apart from two people who were facing enforcement proceedings, they had generally been able to come to an arrangement to pay what they owed, or were in the process of doing so.

Overall, having an administration order seemed to have a positive impact on the way that just over a third of debtors managed their money. In a similar number of cases, it had had no apparent impact at all.

From the creditors' point of view, there were few, if any, benefits of being included on an administration order. They considered the scheme to be largely ineffective as a means of debt recovery, particularly compared with their own systems and procedures.

Money advisers saw the administration order scheme as a valuable option for people with limited means to pay their creditors, although they generally considered that it

needed some reform. All thought that the £5,000 limit needed to be raised – to at least £10,000 – as currently many people who might benefit from the scheme are denied access. There was also a good deal of support for removing the requirement for a County Court Judgment, but only if administration orders were recorded on the Register of County Court Judgments. They had various other suggestions for making administration orders more effective, include the routine use of composition orders.

Creditors views were more divided. Some could see the value of the scheme for debtors in difficult circumstances, even if it is an ineffective means of debt recovery from a creditor's point of view. These people advocated fairly radical reform, raising the £5,000 limit to at least £10,000 and removing the requirement for a County Court Judgment, albeit with administration orders being listed in the Register. At the same time, they wanted more realistic payment levels to be set and composition orders to be abolished. Other creditors, however, favoured abolishing the administration order scheme altogether, arguing that debtors can either afford to repay the money they owe or they cannot. They saw administration orders as sitting uneasily in the middle – a scheme designed for people who can afford to pay but used by people who can't.

6. Summary and conclusions

Earlier chapters of this report have provided a 'walk through' of administration orders from the point of view of debtors, creditors and money advisers, ending up with their suggestions for making the scheme more effective. In this final chapter we bring together information on a number of key areas, including:

- The impact of entry criteria, including how they affect debtors' entry to the administration order scheme.
- Debtors' and creditors' views of the administration order process, including which parts of the process are the most helpful, how easy debtors find it to comply with an order and creditors' views of their likelihood of receiving repayment.
- Whether or not administration orders benefit debtors and, if they do, whether it is in terms of enforcement relief, assistance with financial management or debt relief.
- The impact administration orders have on the debtors' circumstances and whether they are able to make a 'fresh start'.
- How administration orders might be amended to make a more effective tool of debt enforcement.

6.1 The impact of entry criteria

The £5,000 limit on debts that can be included on an administration order means that the people who apply are drawn quite disproportionately from households on low incomes, who will almost inevitably face difficulties with payments. Other research has shown that, over a four-year period, three-quarters of lone parents and other low-income families had fallen behind with their regular commitments (McKay, Kempson and Willetts, 2004). Home collected credit companies lending in this market recognise this fact and expect that someone with a 26 week loan will typically miss around four payments (Kempson and Whyley, 1999). They are generally prepared to reschedule the loans in such circumstances. Moreover, the types of people who have administration orders are also the ones that, according to previous research, many creditors would not pursue through debt recovery until their circumstances improve (Dominy and Kempson, 2003).

The £5,000 limit has remained unchanged since the 1980s. As a consequence, although administration orders were originally intended for people who can afford to pay the money they owe, they can now only really be accessed by those who can't afford to do so.

All the money advisers and some of the creditors who were interviewed thought that the limit should be raised. Most thought that a limit of £10,000 would be appropriate.

Views on the need for a County Court Judgment were more reflective, both among money advisers and the creditors who were in favour of reforming administration orders. Those in favour of removing the requirement felt that it would mean that people could be assisted before their arrears situation reached a crisis. At the same time, they felt that being granted an administration order should have the same status as a County Court Judgment.

6.2 Debtors' and creditors' views of the administration order process

Most debtors find out about administration order from an adviser and are helped to apply. Those who had applied without such help had found the form difficult to fill in and often ended up with higher payment levels, suggesting either that they had under-stated their expenditure or had offered a payment level that was unrealistic.

The majority of people took the form to the court themselves and, if there was a hearing, had not been accompanied by an adviser. They had all been very nervous about going to court, whether this was to file the form and swear the affidavit or to attend a hearing. Without exception, they had found the procedures and staff much less intimidating than they had expected and wished that they had known in advance what it would be like.

On the whole, people felt that the payments set by the court were reasonable and affordable. That said, the people whose payments were above average did not feel able to ask for them to be reduced, even if they thought they would struggle to pay. Others were so relieved to get the order they just accepted the payment amount without question. Some judges had queried offers of payment that seemed unrealistic; others had set payment levels that were very high given the debtor's circumstances and these had, inevitably, led to default. Creditors were divided in

their views of payment levels. Some saw them as paltry sums, others thought that they were all that could be expected given the debtors' circumstances, and that any money they recovered was better than none. They tended to be more opposed to composition orders, as they felt that there was little consistency in when or how these were granted.

The current options for paying an administration order caused difficulties for a significant minority of people and led some to miss payments. Money advisers also felt that they contributed to the risk of arrears. Creditors were in favour of direct debit or standing order payments, as were some of the debtors who found it difficult to get to the court. Other debtors would have preferred to have the money deducted at source from their social security payments or to pay at the post office.

Although creditors understood why 'dividends' were made infrequently, this meant that they did not know whether or not payments were still being made.

6.3 The benefit of administration orders to debtors

Without doubt, the main benefit that debtors derive from administration orders is peace of mind. Most had been in an emotional and financial turmoil when they had applied for an administration order, with a number of creditors and/or debt collection companies pressing (and even harassing) them for payment.

They therefore welcomed both the protection the court offered them and the opportunity to get their finances back onto an even keel with a single affordable repayment. That said, a small number of creditors did not comply with the restriction on further debt recovery once an administration order was in place. These included local authority Council Tax departments and particular mail order and sub-prime credit card companies.

There was little evidence that debtors were either seeking or hoping for debt relief when they applied for an administration order. For the seven in ten applicants not working, however, it is arguable that debt relief would have been a more appropriate outcome than a repayment programme.

6.3 The impact of administration orders on debtors' circumstances and ability to make a 'fresh start'

Evidence of the longer-term impact of administration orders on debtors was more mixed.

Getting an administration order had had a large impact on just over a third of the people we interviewed. These people were determined to keep up with repayments and had made significant changes to the way they managed their money to avoid falling into arrears either on the order or on any of their other commitments. They had vowed not to borrow money in the future, even if it was offered, and a minority of them had even begun to save money.

In contrast, a further third seemed to have learnt nothing along the way and many of these were people who had had their orders revoked. They were still as disorganised with money management as they had been before they were granted the order and many had since fallen behind with payments on household commitments. Their access to borrowing was often barred, but even so a number of them had borrowed further since the administration order was set up.

In between was a group of people for whom the administration order was buying time. Some had seen their circumstances improve and the likelihood of further financial difficulties recede. Others were on an even keel but still living on very low incomes that could easily be disrupted. In one case this had already happened, resulting in further arrears on household bills and the revocation of the administration order.

Given the low level of use of composition orders and the low payment levels on administration orders, a considerable number of people have administration orders that will last many years before the debt is repaid. Moreover, most of the people interviewed had no idea how long it would be before they satisfied their order. For these people, an administration order certainly does not offer a 'fresh start' in the same way that bankruptcy can.

6.5 How administration orders might be made a more effective tool

Debtors can be divided into three main groups according to their ability to repay:

- Those who can set up repayment plans that are both affordable for them and acceptable to their creditors.
- People who are (or might soon be) in a financial position to make repayments to their creditors, but not at a level that all of their creditors will accept.
- People who are not realistically in a financial position to make anything more than token payments and are unlikely ever to be able to do so.

In deciding whether, and how, administration orders need to be reformed we have taken three factors into account: what assistance debtors need, what the courts are realistically able to offer, and what is fair to creditors.

6.5.1 People who can afford to pay

Few people who can afford to pay their debts apply, or would be likely to apply, for an administration order. They do not really require the protection of the court and their needs are generally met in other ways. Some negotiate direct with their creditors, while others seek help from a money advice agency or debt management company that negotiates on their behalf. They may make payments direct to creditors or through a payment distribution service, such as those offered by the Consumer Credit Counselling Service, Payplan and the fee-charging debt management companies.

6.5.2 People who can afford to make more than a token payment

The administration order scheme was designed for people who are, or might soon be, in a financial position to make repayments to their creditors, but not at a level that all of their creditors will accept. Unfortunately, the current £5,000 limit on indebtedness means that many in this position are excluded from applying. This group of people requires protection from further enforcement, and the court seems to be the best way of providing this. Only some creditors are covered by industry codes of practice that include detailed guidance on dealing with customers in financial difficulties (Dominy and Kempson, 2003). Companies with the most aggressive debt recovery procedures tend not to be signatories to these codes.

As we have seen, multiple debtors with more limited means often have difficulty making affordable repayment agreements with all their creditors and are consequently threatened with enforcement. These people need the help of an arbiter to set a level of payment that is fair to both creditor and debtor.

Once a repayment level has been agreed, a channel for distributing and monitoring payments to creditors may help prevent default. Evidence from this study suggests that these functions could probably be carried out more efficiently and effectively than at present.

There are, therefore, two possibilities for meeting the needs of this group of people. The existing administration order scheme could either be reformed or replaced by something new. If it were reformed, the present limit of £5,000 would need to be increased to at least £10,000 and possibly as much as £25,000. Orders would ideally be time-limited to, say, five years, with a minimum payment level. A realistic level of payment seems to be around £25 per month or £5 per creditor per month. This would require a detailed assessment of the debtor's ability to pay, so that anybody unable to afford the minimum payment would automatically be considered for debt relief. If orders were to last for five years, there would need to be periodic reassessments of debtors' circumstances and payment levels adjusted accordingly. In such circumstances, composition orders would seem to be inappropriate. A reformed scheme would also require guidance on what debts can be included in an administration order and how to deal with cases of joint and several liability for a debt. Greater use of attachment of earnings orders would minimise default on orders and reduce costs.

A more radical solution would involve not only the reforms outlined above, but also removing the distribution and monitoring of administration order payments from the court service altogether. The courts would, however, need to continue to provide protection from further enforcement and also to act as an arbiter, setting the terms for repaying the debt. The debtors we interviewed valued the intervention of the court in both these ways. Without it, a minority of creditors would continue to make unreasonable demands of them.

6.5.3 *People who can only afford token payments*

Debt relief would seem to be more appropriate than an administration order for people who, even in the long-term, can only afford to make token payments towards

their debts. Yet most of the people who currently apply for an administration order fall into this category. As a result, they end up making very small payments through the court, which are costly to administer. There are also high levels of default which can increase costs further.

However, some of the people we interviewed were very resistant to the idea of bankruptcy, and were deterred by the stigma they would face given the relatively small sums of money they owed. The money advisers also indicated that the fees for bankruptcy were a deterrent for people on low incomes. Although the £120 court fee can be waived or reduced, the £310 deposit payable to the Insolvency Service cannot. It is not the actual sum of money that is problematic; after all, some people pay more than this for an administration order. Rather, it is the fact that they cannot find all the money in a lump sum and need to be able to spread the cost, just as they can with administration order fees.

A simplified debt relief procedure would, therefore, seem more appropriate for people on very low incomes that are unlikely to increase, who owe relatively small sums of money (say, less than £10,000) and have no assets to realise. This could be called something other than bankruptcy, to overcome the stigma that people feel and differentiate it from the full bankruptcy procedure.

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Managing Multiple Debts

Experiences of County Court Administration Orders among debtors, Creditors and advisers

This study was commissioned as part of a broader review of the administration order scheme. The overall aim of the research was to provide a 'walk through' of administration orders from the perspective of debtors and creditors, to inform options for the reform of the scheme.

The research was largely qualitative and comprised in-depth interviews with people who had administration orders, as well as creditors and money advisers. Analysis was also conducted on data provided by the Department for Constitutional Affairs relating to 550 administration order cases.

The research found that the majority of people who applied for an administration order were relatively young and lived on low incomes. They had unstable lives, and many had long-standing health problems, and mental health problems in particular. The financial difficulties they faced had mostly been caused by a fall in income or by poor money management. Most debtors found out about administration orders from an adviser and were helped to apply. On average, administration orders covered five debts, totalling just under £3,000 (including court fees).

Secondary analysis of court records indicated that levels of missed payments on administration order payments are high, with three-quarters of people missing at least one payment. The report discusses risk factors associated with default.

The administration order scheme was designed for people who are, or might soon be, in a financial position to make repayments to their creditors. The research suggests that the current £5,000 limit on indebtedness means that many in this position are excluded from applying. These people require protection from further enforcement and the help of an arbiter to set a level of payment that is fair to both creditor and debtor. The report suggests that the court seems to be the best way of providing these functions. The authors of this study suggests possible options for reforming or replacing the existing administration order scheme to provide a more efficient and effective service.

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