

The Consumer IVA Protocol 2021 version

Revised 29 April 2021
Effective from 1 August 2021

This document has been published by Anchorage Chambers Ltd incorporating the 2021 version of the IVA Protocol and the IVA Protocol 2021 Annex 1: Standard Terms and Conditions.

Contents

IVA PROTOCOL 2021	3
The consumer IVA protocol	3
General principles	3
1. Scope of the protocol	3
2. The protocol consumer IVA	3
3. Vulnerable consumers	4
4. Transparency by all parties to the IVA.....	5
5. Advice and cooperation	6
6. Financial statement	7
7. Home ownership.....	9
8. Completion of the IVA	13
IVA Protocol 2021 Annex 1: Standard terms and conditions.....	14
Part 1: Interpretation.....	14
Part 2: Your IVA: The start, effect and duration of the arrangement.....	15
Part 3: Transparency and cooperation: your duties and obligations.....	17
Part 4: What happens if you do not meet your commitments under the arrangement	19
Part 5: The supervisor’s functions, powers etc.....	21
Part 6: Arrangement assets	22
Part 7: Provisions relating to homeowners	23
Part 8: Dividends and claims.....	24
Part 9: Creditors who do not have notice.....	25
Part 10: meetings of creditors	26
Part 11: HMRC	26
Part 12: Miscellaneous provisions	27

IVA PROTOCOL 2021

Updated 29 April 2021

The consumer IVA protocol

This protocol is intended to facilitate the efficient processing and administration of consumer individual voluntary arrangements (IVAs), recognising the need to balance the rights of an individual to obtain appropriate debt relief alongside the rights of creditors to seek repayment of what is owed to them.

The overall protocol has the following parts:

- A set of general principles.
- Standard terms and conditions for use in protocol compliant IVAs (Annex 1).
- Legal and regulatory framework (Annex 2).
- Template letter for consumers (Annex 3).
- Template proposal and table of contributions (Annex 4).
- Flowchart to explain the process for potential equity release (Annex 5).
- Table of distributions (Annex 6).
- Comparison table between bankruptcy and IVA expected outcomes (Annex 7).
- Terms of Reference (Annex 8).

General principles

1. Scope of the protocol

- 1.1. The protocol is a voluntary agreement, which provides a standard framework for dealing with consumer IVAs and applies to insolvency practitioners and creditors. Where a protocol IVA is proposed and agreed, insolvency practitioners and creditors agree to follow the processes and agreed documentation.
- 1.2. The protocol does not override the legal and regulatory framework applicable to insolvency practitioners (Annex 2).

2. The protocol consumer IVA

- 2.1. A protocol consumer IVA can last any length of time, however most IVAs will be proposed for 60 or 72 months.
- 2.2. A person suitable for a protocol consumer IVA is likely to:
 - (i) be in receipt of a regular sustainable income; for example, but not limited to, from employment or a regular pension
 - (ii) have several lines of credit or types of debt
 - (iii) have uncomplicated assets

- 2.3. The age and debt level of the consumer should not create a barrier but may impact on the overall viability and suitability of any proposed IVA.
- 2.4. It is accepted that an IVA is a regulated process under statute, which requires certain work to be undertaken, and which may have a cost unconnected with the debt and/or number of creditors of the IVA.
- 2.5. IVAs are unlikely to be suitable for consumers with very low levels of debt. Consumers who meet the criteria for a debt relief order (DRO) may not be suitable for an IVA. Consideration should be given to the suitability of an IVA for consumers with debts below £5,000 and the reasons the consumer chooses an IVA, rather than other available debt relief or compromise options, should be clearly documented in the proposal.
- 2.6. A reasonably steady income stream is necessary. There is nothing to prevent this protocol being used by consumers who are self-employed or with irregular hours, but where income is uneven/unpredictable, this should be highlighted in the proposal.
- 2.7. Where the consumer's income is solely made up of benefits or state pension, an IVA is very unlikely to be a suitable solution for the consumer; however, if an IVA is to be proposed in these circumstances, the reasons why it is considered suitable should be clearly documented in the proposal (see clause 6.6).
- 2.8. The following are indicators that a person's circumstances are unsuitable for this protocol:
 - (i) Disputed debts - there should be no known material disputes in relation to the debts.
 - (ii) Investment properties - those with investment properties would not be suitable for a protocol consumer IVA.
 - (iii) The possibility of lump sum settlement through a gift.
 - (iv) Sole trader with trade debts.
- 2.9. Consumers should be provided with a copy of this IVA protocol before the proposal is drafted. This can be either through provision of a physical copy or providing an electronic link. Consumers' attention should be drawn to their duties to disclose information.
- 2.10. Insolvency practitioners must ensure that all documents sent to the consumer are clear and that anything the consumer is expected to do is easily identifiable. Insolvency practitioners should offer multiple communication channels where possible. Consumers can the select the communication channel which is most convenient for them.

3. Vulnerable consumers

- 3.1. Insolvency practitioners should pay attention to indicators of potential vulnerability and have appropriate policies in place. Vulnerability can take many forms and insolvency practitioners should treat all consumers fairly.
- 3.2. A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care. It

should be noted that being in debt and requiring assistance by way of a debt solution can be a potential vulnerability.

- 3.3. Vulnerability is not static and may arise at any point during the lifetime of the consumer. Insolvency practitioners should be mindful that circumstances may change throughout the IVA term.
- 3.4. Insolvency practitioners should ensure they follow the current published guidance from their regulator on dealing with vulnerable consumers. The FCA guidance is a benchmark for the those providing debt advice to consumers who may have vulnerabilities.
- 3.5. Where a consumer is vulnerable, insolvency practitioners should make appropriate arrangements to ensure that the consumer fully understands the IVA process, its effects and obligations, and makes appropriate arrangements for their needs (which may include, with their consent, liaising with third parties on their behalf).
- 3.6. Explicit consent needs to be obtained from the consumer to disclose and record vulnerabilities, including those relating to health and mental wellbeing
- 3.7. Fully understanding the consumer's circumstances can mean that creditors are able to take any vulnerabilities into account when considering an IVA proposal. Creditors should follow any published regulatory guidance or standards on dealing with vulnerable customers.

4. Transparency by all parties to the IVA

- 4.1. The consumer should disclose details of any previous dealings with the insolvency practitioner who is the proposed nominee for the IVA, or businesses or associates connected with the proposed nominee. The consumer should disclose if they have previously attempted to obtain an IVA or had an IVA approved in the past 24 months.
- 4.2. The consumer should also disclose if they have previously been in or are currently in a Debt Relief Order, Debt Management Plan or Bankruptcy or have been subject to a Bankruptcy Restriction Order or Undertaking.
- 4.3. The consumer may have been referred to the nominee by a third party. The insolvency practitioner should take steps to ensure that any third-party lead generator and/or debt packager referring IVA leads to the insolvency practitioner should be FCA authorised and, if they are not, the insolvency practitioner should direct the consumer to obtain advice from someone who is FCA authorised or the nominee should provide advice under FSMA exclusion.
- 4.4. The nominee has a responsibility under the Insolvency Code of Ethics to ensure that the lead from which they have received the referral for the consumer's case has provided appropriate and detailed advice on debt options and has not misled the consumer in their advertisements. The guidance on monitoring insolvency practitioners: Advertisements, marketing and debt advice provides further information. Where the nominee considers the consumer has not received appropriate advice on the available options, they should ensure that the consumer receives such advice and has made an informed choice as to whether an IVA is the most

appropriate option given their circumstances. This should be documented on the insolvency practitioner's case file.

- 4.5. The nominee will record the identity of the source of any referral of the consumer, the relationship or connection of the referrer to the consumer and, where any payment has been made or is proposed to the referrer, the amount and reason for that payment.
- 4.6. The proposal should set out details of how the funds received by the insolvency practitioner from the consumer will be allocated towards the costs of the IVA, together with a timetable and schedule of expected payments to creditors (Annex 6). Payments made by the consumer into the IVA will be apportioned between the costs of the insolvency practitioner set to draft the proposal and set up the IVA (nominee's fee), supervision of the IVA (supervisor's fee) and dividends to creditors.
- 4.7. In the event the IVA is in breach, the supervisor should complete a review of the circumstances and document the reasons for the breach. If the breach occurred prior to the first payment to creditors, the insolvency practitioner should include in that review consideration of whether the IVA was a sustainable product for the consumer and consider if there are any lessons to be learned. If it is deemed that either the IVA was not the most suitable debt solution for the consumer or there is evidence to suggest that such a breach was likely (both based on the consumer's circumstances and all the information they provided to their nominee, any lead generator or debt packager) any payments made should be refunded and the IVA revoked. If the IVA fails before completion, the consumer should be made aware by the IP that they will be liable for all debts and interest accrued during the term of the IVA.

5. Advice and cooperation

- 5.1. The nominee should carry out proportionate enquiries into, and verification of:
 - (i) income and expenditure
 - (ii) assets and liabilities
 - (iii) financial details provided by the consumer to a lead generator, debt packager, or any other third party to ensure that all the information provided is correct
- 5.2. The nominee should satisfy themselves that appropriate debt advice has been provided by an FCA regulated firm or an individual working under the relevant exclusion who is able to provide such advice and keep records to evidence this. This should include due consideration for the long-term suitability and viability of the proposed IVA.
- 5.3. When considering if the IVA is a viable debt solution for the consumer, the insolvency practitioner should consider and document:
 - (i) whether on the information provided the consumer's circumstances are likely to change within the lifetime of the IVA
 - (ii) sources of income

- (iii) that when using the Standard Financial Statement approved by the Money and Pensions Service the consumer's financial statement is a true reflection of the consumer's monthly outgoings
 - (iv) other appropriate debt solutions and the consumer's reasons for choosing an IVA in preference to any other viable options
- 5.4. The terms and conditions explaining the information that the consumer must provide to the nominee and supervisor throughout the period of the IVA are explained at Annex 1. All parties should act openly and disclose all relevant matters (see Annex 2).
- 5.5. In addition to other regulatory requirements, the insolvency practitioner should ensure that:
- (i) fair treatment of consumers is central to the culture of any firm that the insolvency practitioner is employed by and that debt advice, information and explanations are suitable and appropriate to the consumer's particular circumstances
 - (ii) that clear information is provided to both the consumer and creditors by the nominee when preparing the proposal, and the supervisor during the IVA
 - (iii) there are no barriers stopping consumers from making a complaint about the insolvency practitioner, any firm that employs the insolvency practitioner or anyone else connected with putting together the IVA proposal or operating the IVA. Information about the Insolvency Practitioner Complaints' Gateway must be provided to the consumer at the earliest opportunity and clearly marked on the insolvency practitioner's and/or the firm's website
- 5.6. The nominee should take steps to ensure that the true value of all realisable assets is recorded in the Statement of Affairs. If necessary, an independent valuation should be obtained and documented. The nominee should make all reasonable attempts to verify the amounts due to creditors by obtaining statements, letters or copies of agreements from each creditor dated within six weeks of the consumer's first approach to the nominee.
- 5.7. A credit report should be obtained by the nominee to check the amounts due to creditors against other documents. The nominee should update the IVA proposal, as necessary, to reflect any changes prior to the proposal being circulated. If, for whatever reason, the insolvency practitioner is unable to verify any creditor balances, this should be identified in the nominee's report to creditors.

6. Financial statement

- 6.1. The nominee should work with the consumer to draft a budget which accurately reflects the income and expenditure and the rest of their household (where applicable). Where a budget is only agreed for one individual in a household, an explanation should be included in the nominee's report to creditors as to why this is the case and also the reasons why the debtor and the insolvency practitioners consider that the IVA remains a viable option.
- 6.2. The nominee should take steps to verify the accuracy of all the information provided in the IVA proposal and provide details of that evidence to creditors if requested. Where it is not possible to evidence the position, this should be drawn to the attention of the creditors and documented on the IVA file.

- 6.3. The nominee's report should include a statement that the income and expenditure have been verified by them and provide details of the means used where the individual is self-employed. The nominee is expected to describe the scope of the documents provided and retain a record. This includes, but is not limited to, copies of any P60, payslips, bank statements and any other evidence of income and expenditure.
- 6.4. The income and expenditure statement should be forward-looking (for the duration of the IVA) and in line with the Standard Financial Statement (SFS) approved by the Money and Pensions Service. Generally, there should be no deviation from the expenditure parameters in the SFS but where there are (for example, due to factors such as any health issues, caring duties or above average work-related travel costs) this should be clearly explained in the proposal, any subsequent reports to creditors and documented on the IVA file.
- 6.5. The consumer's income and expenditure must be a realistic reflection of their financial position and at levels that are considered to be reasonably likely to be sustainable over the duration of the IVA. The consumer's income, expenditure and monthly contribution to the IVA must be such that this will not cause any undue hardship to the consumer.
- 6.6. Any state benefits, including those relating to income (universal credit, child benefit and pensions, etc) and also ill-health, disability or caring responsibilities should be included as income. The insolvency practitioner should ensure that any caring related costs are also included as an expense within the relevant section of the SFS.
- 6.7. If the consumer wishes to continue to pay for items (such as their own life, health insurance, or Payment Protection Insurance) the proposal should contain a note stating why this is essential expenditure. Payment Protection Insurance should only be included in respect of any secured borrowing.
- 6.8. Insolvency practitioners acting as either the nominee or supervisor should not sell any insurance policies or products to the consumer. The insolvency practitioner, acting in any capacity in relation to the consumer, should disclose any other products provided or introduced to the consumer which are included in the consumer's budget. Those that reduce the consumer's disposable income, and are not essential, should not be offered.
- 6.9. Where the consumer will be under the age of 55 at the proposed start of the IVA, only minimum contributions to any pension scheme should be allowed. Where the consumer is aged 55 or over at the proposed start of the IVA, an average of the last 6 months' pension contributions may be allowed, subject to a contribution limit of £75 above the minimum pension contribution permitted by the pension scheme per month.
- 6.10. If no minimum contribution is stated by the pension scheme, the consumer's contributions will be limited to the prevailing rate set by the Government for auto-enrolment workplace pensions. Where the consumer is a member of multiple pension schemes, these limits should be applied to the aggregate amount of the consumer's IVA contributions.
- 6.11. The insolvency practitioner should explain to the consumer that any failure to provide accurate information about assets, debts, income and expenditure could result in criminal proceedings and document this (with evidence) on the IVA file.

- 6.12. The supervisor's annual report to creditors should include updated details of the consumer's assets, debts, income and expenditure, based on verified and documented information provided by the consumer. The consumer should be asked to explain any proposed changes to the IVA to be put to their creditors in the arrangement.

7. Home ownership

- 7.1. In any IVA where the consumer is a homeowner (either solely or jointly with others) there should be no circumstances where the consumer will be forced to sell their home (or their share of it) instead of potentially releasing equity into the IVA, unless the consumer's proposal provides for a sale of their home voluntarily.
- 7.2. The terms and conditions relating to potential equity release can be found at part 7 of the standard terms and conditions (Annex 1). A flowchart on calculating and dealing with any equity is included at Annex 5.
- 7.3. The purpose of the equity clause is to set out the actions by the insolvency practitioner in dealing with the consumer's home and calculating any equity, which could be made available for the benefit of creditors when drafting the proposal and included in the IVA. Subsequent references to property should be taken to mean the consumer's home (or their share of it).
- 7.4. Buy-to-let properties are excluded from this provision. If the consumer owns more than one property, a bespoke IVA should be proposed rather than under the terms of this protocol.
- 7.5. At the start of the IVA, any property that is owned solely or jointly by the consumer should be valued by the consumer and must be verified by the insolvency practitioner to determine whether any potential equity can be paid into the IVA. The valuation should be based on a reasonable assessment by the consumer; for example, having used an online source. Where the valuation is based on a range, the mid-point should be used. Where a mid-point valuation is not used, this should be disclosed to creditors together with an explanation.
- 7.6. The equity calculated and agreed between the insolvency practitioner and the consumer at the date the proposal is drafted will be taken as the available amount and will be used to determine if the consumer's equity is above the de minimis amount.
- 7.7. There are three options when dealing with the consumer's property and the calculation will determine how any equity will be proposed to be dealt with in the IVA.
- 7.8. The value of the consumer's equity will be considered de minimis if it is £5,000 or less when valued before the IVA proposal is put to creditors. The calculation should be based on 85% of the value of the property less any secured borrowings (e.g. mortgage). This means that the consumer will retain at least a 15% financial interest in the value of the property in all cases.
- Option 1**
- 7.9. If the value of the consumer's equity is equal to or below the de minimis amount of £5,000, the IVA should be proposed based on a 60-month term with no requirement for a further review of the property value. For clarity, the amount considered to be de minimis relates to

each consumer and, where an interlocking IVA with a jointly owned property is proposed, this amount is £10,000 or less.

Option 2

- 7.10. Where the value of the consumer's equity is above the de minimis amount (of £5,000) and, based on the lending criteria at Annex 5 it is unlikely, to result in any equity release being viable (as the consumer is unlikely to be able to remortgage or obtain a secured loan) the IVA will be proposed based on a 72-month term with no requirement for a further review of the property value.

Option 3

- 7.11. Where the value of the consumer's equity is above the de minimis amount (of £5,000) and, based on the lending criteria at Annex 5 the consumer may be able to release equity, the IVA will be proposed based on a 72-month term that requires a review at month 54. At that time, the property will be valued again and a determination will be made on whether equity can be released by the consumer. If sufficient equity is paid into the IVA, the arrangement can end early. If any equity cannot be released, the IVA arrangement will end at 72 months.
- 7.12. The purpose of these calculations is to give the consumer a clear understanding of their requirements in respect of their home before proposing an IVA, in particular those consumers where equity release is anticipated. It should also clarify to creditors how any equity is proposed to be dealt with in the IVA. A copy of the calculations should be provided to the consumer and also to all their creditors within the scope of the IVA proposal.
- 7.13. The consumer will not be required to consider the release of equity under 7.5.4 where the value of any secured borrowings and other debts secured against the property are equal to, or exceed, 85% of the value of the property.
- 7.14. If the incremental cost of the additional secured borrowings, including the cost of any repayment vehicle, exceeds 50% of the anticipated final payment due into the arrangement, any payments in excess of that amount to reduce the term are at the consumer's discretion.
- 7.15. If the repayment term of the resulting secured borrowings would mean that repayments extend beyond either the consumer's state retirement age, or the repayment term of existing secured borrowings (if the consumer has both a mortgage and second charge) the later of the two will be used.
- 7.16. If any re-mortgage or secured borrowing repayment results in the IVA contribution falling below £50 then the IVA will be concluded.

Option 1: 60-month IVA (no equity release)

- 7.16. A 60-month IVA will not include any further review of the property value or equity release/remortgage calculation. Creditors should be made aware that the proposal will not allow for any available equity to be released into the arrangement.

Option 2: 72-month IVA (no attempt to release equity)

- 7.17. A 72-month IVA, where any release of equity is not proposed, will not include a further review of the property value or equity/remortgage calculation. Creditors should be made aware that the proposal will not allow for any equity to be released into the IVA
- 7.18. The consumer should be made fully aware by the insolvency practitioner that because a further review is not going to take place, the term of their IVA cannot be reduced even if their property value changes, unless a variation meeting agrees such a reduction. It will not be possible to change the terms of the proposal without obtaining creditor approval and the consumer will be required to pay for 72 months into the IVA irrespective of the equity position at a later date during which the IVA is still in place.

Option 3: 60 month IVA and consumer is required to attempt to release equity (additional 12 months in lieu if this is not possible)

- 7.19. Equity can be released by way of a re-mortgage or secured borrowing. Where the consumer is required to attempt to release equity, a further calculation review will be conducted at month 54 (the 'review date').
- 7.20. The consumer should co-operate with the supervisor to determine the revised equity position. This will include another valuation of the property by the consumer (verified by the insolvency practitioner) and the provision of up-to-date balances for any secured borrowings, mortgage redemption costs and any other debts secured against the property. The insolvency practitioner, with agreement from the consumer, should instruct specialist brokers to assess the amount of equity available and identify any suitable equity release providers and products available. This should be based on the consumer's mortgage affordability and the lending criteria and restrictions set out at Annex 5. Any introduction to specialist brokers made by the supervisor must adhere to the 'agencies and referrals' section of the Insolvency Code of Ethics.
- 7.21. If the value of the property, and therefore the available equity, has reduced significantly at the date of review of the equity and is either below the de minimis value (of £5,000) calculated on the basis of 85% of the value of the property, or an amount that would not be suitable for release of equity based on mortgage affordability, the consumer will not have to attempt to release any equity but will pay an additional 12 months into the IVA arrangement.
- 7.22. Where the consumer can release equity, the value (net of any refinancing or other associated costs) will be introduced into the IVA up to 85% of the value of the property and, if this is conditional on bringing the IVA to a successful conclusion, then future expected monthly payments can be ended allowing the supervisor to conclude the arrangement early.
- 7.23. Where the release of equity is not possible, the supervisor will provide creditors with the reasons why this has not been possible. The consumer may then:
- (i) make additional payments for 12 months at the rate of the current monthly contribution at the date the equity was calculated
 - (ii) introduce a third-party contribution equivalent to the total value of 12 additional payments

- 7.24. If an additional 12 months payments are proposed, an annual review at the end of month 60 will be carried out as per the terms of the proposal. Payments may change depending on the result of that assessment.

The consumer decides to sell their home

- 7.25. If the consumer decides to sell their property during the term of the IVA, the proceeds of sale (net of the reasonable costs of sale and moving costs) will be payable into the IVA, restricted to the amount required to pay creditors in full together with the costs of the IVA, excluding statutory interest.

Other obligations relating to the consumer's home

- 7.26. To protect the interests of creditors, the insolvency practitioner will register a restriction against any property at HM Land Registry. To facilitate this, there will be a requirement for all property owners, irrespective of their obligation to release equity, to provide the insolvency practitioner with a signed form RX1 within 3 months of the approval of the arrangement. If the property is jointly-owned, the insolvency practitioner should use best endeavours to secure a signed RX1 for the property and, if this is not possible, inform the creditors.
- 7.27. The supervisor should file a form RX4 within 28 days of the final payment into the IVA by the consumer, when the conditions of the arrangement in relation to equity have been satisfied.

General comments relating to sections Annex 1

- 7.28. Nothing in these sections will alter the provisions set out at Section 19 of the standard terms and conditions (see Annex 1) relating to the ability of the consumer to propose a variation of the agreed IVA, or of the insolvency practitioner's powers to call meetings of creditors to seek their consent to vary the terms of the IVA.
- 7.29. References to a 60-month term or a 60-month IVA and a 72-month term or a 72-month IVA should be read in conjunction with Part 2 of the standard terms and conditions relating to the start, effect and duration of the IVA.

Creditors' obligations

- 7.30. The terms and conditions relating to creditors' participation can be found at Annex 1. In all dealings with a consumer proposing an IVA under this protocol, creditors will always treat the consumer in accordance with the relevant applicable legislation and professional standards. Creditors will co-operate with the duly appointed nominee and supervisor of an IVA in relation to the efficient operation of this protocol.
- 7.31. Creditors will co-operate with the duly appointed nominee and supervisor of an IVA in relation to the efficient operation of this protocol.
- 7.32. A key aim of the protocol is to improve efficiency in the IVA process and to avoid the need for modifications of an IVA proposal, wherever possible. This does not affect the right of creditors to vote for or against an IVA proposal or modification.

- 7.33. Where a creditor (or their agent on their behalf) votes against a protocol-compliant IVA proposal, their reasons for so doing should be disclosed to the insolvency practitioner and documented on the file.
- 7.34. By voting in favour of a protocol compliant IVA, creditors accept that the supervisor has discretion and should not challenge the use of that discretion unless it is considered to be unreasonable.
- 7.35. Creditors should make reasonable endeavours to provide a proof of debt (in the form required by the insolvency practitioner) and proxy form within 14 days of receipt of an IVA proposal and, if possible, at least 7 days before the date of the meeting of creditors called to consider and vote on the proposal.
- 7.36. Creditors should not put forward unnecessary modifications, in particular those which are already addressed in the IVA proposal. The initial creditors' meeting is the appropriate forum for changes to be put forward in respect of the IVA proposal.
- 7.37. Any creditors that do not submit proofs of debt within 2 months of the approval of the IVA or by the date of the first dividend (whichever is the later) will be entitled to participate and receive their full share of dividends (subject to the requirement for the supervisor to adjudicate the authenticity and value of the proof of debt) but are not entitled to disturb a distribution made prior to the submission of their proof of debt.
- 7.38. Creditors will ensure that any agents carrying out instructions or acting on their behalf in relation to a protocol-compliant IVA do so in accordance with the protocol and in accordance with applicable FCA regulatory requirements.
- 7.39. Where a debt is sold after an IVA is approved, creditors should ensure debt purchasers are FCA regulated.

8. Completion of the IVA

- 8.1. Completion of the IVA takes place when all agreed payments have been made by the consumer into the IVA and all other obligations have been complied with in full. The insolvency practitioner will issue a completion certificate to the consumer once all final actions have been concluded and inform all creditors as soon as possible after that payment is made.
- 8.2. A completion certificate should be issued as soon as practicable once the final actions have been completed by the insolvency practitioner within three months of the final payment being made and if there is a reasonable reason why this is not possible it must be issued within six months.
- 8.3. If a consumer proposes a full and final settlement variation to creditors, which is accepted, this will bring the IVA to an end.
- 8.4. The Trust created by the IVA arrangement will be extinguished on termination of the arrangement or the issuing of the completion certificate by the insolvency practitioner.

IVA Protocol 2021 Annex 1: Standard terms and conditions

Updated 29 April 2021

Part 1: Interpretation

1. Definitions

In the arrangement, except where the context requires a different meaning:

- a) “the Act” means the Insolvency Act 1986 (as amended).
- b) “the arrangement” means the IVA proposal and the terms and conditions read together.
- c) “you” or “the consumer” means the person who makes the proposal.
- d) “dividend” means a distribution to unsecured creditors included in the arrangement.
- e) “property” has the meaning given to it in Section 436 of the Act.
- f) “excluded assets” are those assets that are excluded from an estate in bankruptcy and any other assets specifically identified in the proposal as being excluded from the arrangement.
- g) “after acquired assets” means any asset, windfall or inheritance with a value of more than £500, other than excluded assets, that you acquire or receive between the date the arrangement starts and the date it ends or is completed, if this asset could have been an asset of the arrangement had it belonged to or been vested in you at the start of the arrangement.
- h) “the meeting of creditors” is the relevant decision-making procedure as set out in Part 15 of the Insolvency (England and Wales) Rules 2016 arranged to obtain creditor approval to the proposal.
- i) “the effective date” is the date when the arrangement is approved at a meeting of creditors to consider the arrangement.
- j) “the proposal” is the annexed document with modifications and documents incorporated, and is a proposal under Part VIII of the Act.
- k) “the Rules” means the Insolvency (England and Wales) Rules 2016 (as amended).
- l) an “unsecured creditor” is any creditor, except a secured creditor, who is your creditor for any reason that originated or occurred on or before the time and date of approval of the arrangement.

- m) a “secured creditor” is any creditor who holds security in accordance with Section 383 of the Act.
- n) “the supervisor” is the insolvency practitioner(s) for the time being appointed to supervise the implementation of the arrangement; the person responsible for managing the arrangement for its duration.
- o) “the nominee” is the insolvency practitioner(s) instructed to act on the consumer’s behalf to make an application for an IVA.
- p) any term of gender (like ‘he’, ‘she’ or ‘it’) includes any gender.
- q) a “lead generator” is a person or firm that acquires the personal contact details of the consumer and passes their details to an insolvency practitioner firm in return for a fee.
- r) a “debt packager” is a person or firm that gives debt advice then refers consumers to other people or firms to provide the debt solution (e.g. an IVA).
- s) a “variation” is the name given to a ‘meeting of creditors’ held during the term of an IVA, convened specifically for the propose of proposing a change to the original IVA proposal. Creditors will be asked to vote on the amendments. Both creditors and the consumer must agree to any variation proposed.

2. The terms and conditions

The terms and conditions are an integral part of the arrangement. In the event of any ambiguity or conflict between the terms and conditions, and the proposal and any modifications to it, then the proposal (as modified) shall prevail.

Part 2: Your IVA: The start, effect and duration of the arrangement

3. When the arrangement will start

The arrangement will begin when it is approved by the creditors under the Act and Rules. This is its effective date.

4. The nature and effect of the arrangement

- 4.(1) The arrangement is a proposal under Part VIII of the Act for a scheme to manage your affairs, or in full and final settlement of your debts.
- 4.(2) The arrangement will be interpreted as bringing about a settlement or satisfying a debt owed by someone other than you only if the debt is owed jointly by you, the proposal states that it does so and the creditor agrees. Otherwise, provisions apply.

- 4.(3) If the arrangement does not provide guidance to the supervisor as to what action they should take in any given situation, the supervisor shall apply the provisions of the Act and Rules insofar as they relate to bankruptcy with necessary modifications.
- 4.(4) After the arrangement has begun, no creditor may, in respect of any debt to which the arrangement applies:
- (i) take any action against your property or person; or
 - (ii) start or continue any action or other legal proceeding against you.
- 4.(5) Nothing in these terms and conditions affects the following rights in any way:
- (i) the right of any secured creditor to enforce their security unless they agree
 - (ii) the right of the supervisor or any creditor to present a bankruptcy petition under section 264(1)(c) of the Act if you fail to comply with the arrangement
 - (iii) the right of any creditor to bring or continue legal proceedings against you and to obtain a judgment against you for the full amount of their debt for the sole purpose of making a claim against your insurer under the Third Party (Rights Against Insurers) Act 1930

5. How long the arrangement will last

- 5.(1) Unless extended under these terms and conditions, the arrangement will continue until the end of the period stated in the proposal or until such time as early completion might be achieved.
- 5.(2) The supervisor may, for the purposes of fulfilling the arrangement, extend the arrangement by sending a notice saying so to you and to all creditors (“an extension notice”). The notice must include details of the period the arrangement has been extended by and confirm the revised duration of the arrangement.
- 5.(3) The supervisor must include details of any extension notice in the next report to creditors and must state the reasons for the extension. Where the arrangement is in its final year, any extension notice must be sent at least 14 days before the arrangement is due to expire.
- 5.(4) Where an extension notice is sent, the arrangement will continue for the period stated in the notice. The extension will start on the date immediately after the day the arrangement would have expired. The monthly contributions payable will be the same amount as those payable in the last month of the arrangement, before the start of the extension, unless stated otherwise in the notice.
- 5.(5) If you fail to disclose and/or pay exceptional income into the arrangement, its length may be extended by up to a maximum of 6 months to recover any sums due (to remedy the breach) without any modification being required.
- 5.(6) Any extension for a period longer than 12 months must be approved by a formal variation that both you and the creditors must agree to.

6. Completing the arrangement

- 6.(1) When the arrangement ends, and if you have complied with your obligations under the arrangement, the supervisor will issue a certificate (“the completion certificate”) stating that you have fully complied with it. This certificate will be issued within 28 days of all payments and obligations being satisfied and no later than 6 months from the date of the last payment.
- 6.(2) Except as set out, when the supervisor has issued a completion certificate, you will be released from all debts that are subject to the arrangement.
- 6.(3) Once the supervisor has issued the completion certificate and completed all closing actions they will be released from office.

7. Early completion

- 7.(1) Where sufficient funds are paid into the arrangement to pay in full all of the amounts due to your creditors (for example, by way of increased voluntary contributions, additional income, after-acquired assets, the proceeds of any legal claims or any windfall or inheritance) and costs of the arrangement, then:
- (i) no statutory interest will be payable in addition to those amounts due to your creditors at the effective date
 - (ii) your arrangement will be deemed to have been satisfactorily concluded, and
 - (iii) the supervisor will be authorised to bring your arrangement to an early conclusion without the need for any further creditor approval and issue a certificate of completion.

Part 3: Transparency and cooperation: your duties and obligations

8. Your duties in relation to the supervisor

- 8.(1) While the arrangement is in force, you should:
- give the supervisor such information about your assets, liabilities and other affairs as they reasonably require
 - meet the supervisor, their agents, representatives or nominees at such times and at such places as they may reasonably require, having due regard to your own circumstances
 - keep the supervisor informed of your current residential address, telephone number(s), email address(es) and employment details; and
 - do all such other things as the supervisor reasonably requires to carry out their functions and duties under the arrangement

- 8.(2) You should give the supervisor such details of your income and expenditure, for whatever date and period, as the supervisor may reasonably require. This includes, but is not limited to, copies of form P60, payslips, bank statements and other evidence of income and expenditure.
- 8.(3) If at any time during the arrangement you acquire or are left with “after-acquired assets” as described, or where your income increases, you must as soon as reasonably possible tell the supervisor about the asset or increase in income.
- 8.(4) You must get the supervisor’s written consent before you sell, charge or otherwise dispose of any interest you may have in any asset subject to the arrangement.
- 8.(5) During the arrangement, you must not obtain any credit greater than £500 without the prior written approval of your supervisor, except for public utilities, insurance policies or other contractual payments as provided for in your income and expenditure. If you do obtain credit of more than £500 without the consent of your supervisor, this will constitute a breach of your arrangement. This clause does not apply to any remortgage or release of equity in your property for the purpose of the arrangement.
- 8.(6) You must inform the supervisor at any time that you are in receipt of any additional sources of income not already included in the arrangement. A review of your income and expenditure should be carried out as soon as is reasonably practicable and an appropriate payment set up. If you do not do so, you will be deemed to be in breach of the terms of your arrangement and your arrangement could be terminated (see Part 9 for further details).
- 8.(7) Where you are employed, including self-employed, you must report any overtime, bonus, commission or similar to the supervisor if this is not included in your original calculation and the amount exceeds 10% of your normal take home pay. Disclosure to the supervisor must be made within 14 days of receipt and 50% of the additional amount (over and above the 10% referred to above) shall be paid to the supervisor within 14 days of the disclosure. Failure to disclose and/or pay any such amounts into the IVA will be considered a breach of the arrangement and it could be terminated.
- 8.(8) If you receive notice of redundancy you must inform your supervisor within 14 days and continue to make payments into the arrangement. You must pay any amount due to the arrangement within 14 days of receipt of the payment.
- 8.(9) Failure to disclose any such entitlement to redundancy payment or to pay the excess of over 6 months of net take home pay will be considered a breach of the arrangement.
- 8.(10) When new employment is obtained during the arrangement, the supervisor will review your contributions and at that point there will be an expectation that any remaining redundancy funds will be paid into the arrangement. Your compliance or otherwise will be reported to creditors.

- 8.(11) If your circumstances change (for example, you are faced with an emergency item of expenditure or an unforeseen reduction in income) and you are unable to pay either the full amount due or anything at all into the arrangement, you should notify the supervisor immediately. Subject to the discretion of your supervisor, you may be allowed to take payment holidays or make reduced payments without a variation of the arrangement being required. This is subject to meeting all 3 of the following conditions:
- (i) full details of your inability to pay must be demonstrated to the supervisor's satisfaction in total, over the period of your arrangement, no more than the equivalent of 9 months or 39 weeks payments can be agreed to be missed in this way, whether those payments are made monthly or on another schedule
 - (ii) the duration of your arrangement will be extended by no more than 12 additional months to recover the sums due, unless you have otherwise made good the shortfall
 - (iii) any missed payments agreed by your supervisor in this way will not be counted in the arrears of contributions
- 8.(12) You must provide the supervisor with any information that they may require to conduct a review of your income and expenditure, on or just before each anniversary of the start of your arrangement. This includes, but is not limited to, copies of form P60, payslips, bank statements and other evidence of income and expenditure.

Part 4: What happens if you do not meet your commitments under the arrangement

9.(1) Breach of the arrangement

You will be regarded as being in breach of the arrangement if:

- (i) you are in arrears equivalent to 3 or more months of the contributions agreed in the arrangement (and no holiday or reduced payments have been agreed)
- (ii) your debts and liabilities exceed by 25% or more the total figure you have estimated for such debts and liabilities for the purposes of the proposal. In these circumstances the supervisor will ask the creditors what they wish to do
- (iii) Information that was false or misleading in any significant detail or which contains any significant omissions:
 - was contained in any statement of affairs or other document that you supplied under Part VIII of the Act to any person; or
 - was otherwise made available by you to creditors at or in connection with any meeting of creditors held, or any resolution taken, concerning the arrangement.
- (iv) you fail to do anything the supervisor may, for the purpose of the arrangement, reasonably ask of you; or
- (v) you fail to comply with any other of your obligations under the arrangement.

9.(2) Non-compliance with the arrangement

If you do not comply with your obligations after the supervisor has given you written notice specifying how long you have to do so, then the supervisor may end the arrangement at their discretion. The supervisor must report to the creditors when issuing the annual report under Rule 8.28 of the Rules, or earlier if they think appropriate, if any of the following occurs:

- (i) the supervisor becomes aware that a bankruptcy petition has been served against you while the arrangement is in force
- (ii) you fall 3 or more months into arrears with contributions from income (and no holiday or reduced payments have been agreed)
- (iii) You are in breach of any obligation about the realisation of assets or after-acquired property.
- (iv) You fail to comply with any other of your obligations set out in the proposal.

9.(3) Notice of breach

If, at any time, the supervisor thinks that you are in breach of the arrangement, then, unless you correct the breach immediately, the supervisor will as soon as possible send you a notice ("Notice of Breach") identifying the breach. This will require you within 1 month of receiving the notice:

- (i) to remedy the breach if it can be remedied; or propose how the breach can be remedied over a longer period
- (ii) if the supervisor thinks fit, to fully explain the breach

9.(4) Remedy of breach

If, within 1 month, you:

- (i) remedy your breach of the arrangement; or propose a reasonable plan to remedy and
- (ii) if so required in the Notice of Breach, fully explain the breach, then the supervisor will take no further action against you, except to report the breach to the creditors when they next send an annual report to creditors on the progress and effectiveness of the arrangement, or on the next convenient occasion (if earlier)

9.(5) Failure to remedy breach

If you have not acted within the time allowed, or are otherwise unable to remedy any breach of the arrangement, the supervisor must report within 28 days to creditors and either issue a Certificate of Termination or, if the supervisor feels it appropriate, seek creditor views (voting to be as set out in the Rules) to do one of the following:

- (i) vary the terms of the arrangement; or
- (ii) issue a certificate ("Certificate of Termination") ending the arrangement because of the breach; or
- (iii) present a petition for your bankruptcy.

9.(6) Termination on your request

The supervisor may issue a Certificate of Termination if you request this in writing but may delay doing so until the administration of the estate has been completed.

9.(7) Effect of Termination

Upon issuing a Certificate of Termination, any trust over the assets will come to an end.

Part 5: The supervisor's functions, powers etc

10. Supervisor's duties

- 10.(1) The insolvency practitioner must supervise your fulfilment of your obligations under the arrangement and administer the arrangement.
- 10.(2) The supervisor must lodge all funds held for the purpose of the arrangement in a UK bank or building society account.
- 10.(3) The supervisor will have the power to do such things as are necessary or helpful to implement the proposal (without limiting the powers available to the supervisor in law).
- 10.(4) The supervisor will not be personally liable for any liabilities incurred by you or otherwise.
- 10.(5) Completion or termination (or both) of the arrangement will not affect the supervisor's power to carry out such functions and to exercise such powers as are necessary for them to fulfil their duties, obligations and responsibilities under the arrangement, Act and Rules, and to resolve any matters that arise during the arrangement.
- 10.(6) The supervisor will have no duty to perform any act or carry out any function except those specified in the arrangement, Act or Rules.
- 10.(7) The supervisor will have discretion to allow your regular contribution to reduce by no more than 15% (relative to the original proposal or last agreed variation) without referring back to creditors. If a reduction of more than 15% is required, the supervisor must convene a meeting of creditors to request a variation to the monthly contribution. A variation should only be proposed in the first 2 years of the arrangement to reduce contributions if evidence can be provided to creditors that the supervisor could not have reasonably foreseen such a change in circumstance at the start of the arrangement.
- 10.(8) If you cannot reach agreement with the supervisor in respect of your obligation to contribute additional income, then the supervisor has the discretion to issue a notice of breach.
- 10.(9) The supervisor is not required to retain any funds for the petition of your bankruptcy.
- 10.(10) The arrangement shall terminate when the supervisor issues a Certificate of Termination.

11. Removing the supervisor from office

- 11.(1) If a good reason is given, the supervisor may be removed from office by the Court or by a resolution of a meeting of creditors.
- 11.(2) A creditor who is owed at least 25% of the total agreed value of debts may serve a notice on the supervisor requiring them to convene a meeting of creditors to remove the supervisor from office. Such a notice must set out the reasons for the removal.
- 11.(3) The notice sent out by the supervisor to creditors convening such a meeting must state the reasons for the creditor seeking to remove them. It must be accompanied by a report on the supervisor's administration of the arrangement, including an up-to-date summary of receipts and payments.
- 11.(4) If the supervisor wishes to resign their position or is unable to perform their duties as set out in the legislation and this protocol then an application can be made to court for the transfer of the cases to another supervisor under Rule 12.37.

Part 6: Arrangement assets

12. Assets and after acquired assets

- 12.(1) Property other than excluded assets belonging to or vested in you at the date of commencement of the arrangement, which would form part of your estate in bankruptcy, and any other assets specifically identified in the proposal as being excluded, shall be subject to the arrangement.
- 12.(2) Subject to the following sub-paragraph, the supervisor may claim as an asset of the arrangement any after-acquired assets. Any such asset will be subject to and be an asset of the arrangement.
- 12.(3) After-acquired assets must only be sold or realised to the extent necessary to repay the creditors 100 pence in the pound including the costs of the arrangement.

13. Holding arrangement assets in trust

Whilst the arrangement is in force:

- 13.(1) you must hold in Trust, for the purposes of the arrangement, any property in your possession, custody or control that is an asset of the arrangement until it is realised (if required) in accordance with the arrangement. Holding in Trust means that you will not sell, transfer or otherwise dispose of any of the assets that form part of your arrangement
- 13.(2) the supervisor must hold in Trust for the purposes of the arrangement any property in their possession, custody or control that is an asset of the arrangement

13.(3) the trust will remain in force from the commencement of the Arrangement and will be extinguished on the issuing of the completion certificate by the supervisor. In the event of a bankruptcy order being made against the you, any assets not yet realised will not be held as part of the Trust.

14. In the event of your death

14.(1) Should you die during the term of the arrangement, property constituting an asset of the arrangement in your or the supervisor's possession, custody or control shall be held upon Trust for the purposes of the arrangement until it is realised.

15. Excluded assets

15.(1) Assets that would be excluded from your estate in a bankruptcy, as defined in Section 283(2) of the Act, will be excluded from your arrangement.

15.(2) You may seek to exclude other specified assets, if you can demonstrate a good reason to do so, but their exclusion or otherwise will be subject to creditor approval. Your proposal should detail any additional excluded assets.

Part 7: Provisions relating to homeowners

16. Home equity (Net worth)

16.(1) Prior to, or at the date of, the arrangement's commencement you should obtain a valuation of any property that you wholly or partly own.

16.(2) The valuation, which will be agreed by your nominee, will inform what is included in the arrangement.

(i) If the available equity is below the de minimis amount, the arrangement will be drafted for a 60 month term with no further action to be taken.

(ii) If the available equity is above the de minimis amount but does not meet the current lending criteria for a potential re-mortgage as set out in annex 5 of this protocol, the arrangement will be drafted for a 72 month term with no further action.

(iii) If the available equity is above the de minimis amount and meets the current lending criteria for a re-mortgage the arrangement will be drafted for 72 months, and you should obtain a second valuation at month 54. If the second valuation confirms the equity position in the proposal and if a re-mortgage can be obtained, the agreement will be automatically be reduced to 60 months.

16.(3) The amount of the available equity to be released will be based upon affordability and your income and will leave you with at least 15% of your available equity in the property in most circumstances.

16.(4) Where it is appropriate to re-mortgage the property, the specific limits will be:

- (i) Re-mortgages will bring the amount secured against the property to no more than 85% of the total value of the property.
 - (ii) The incremental cost of the re-mortgage, including the cost of any new repayment vehicle, will not exceed 50% of the monthly contribution at the final review date.
 - (iii) The available equity released will not exceed 100 pence in the pound due to creditors.
 - (iv) The re-mortgage term does not extend beyond the later of your State retirement age or the existing mortgage.
 - (v) The amount of money introduced into the arrangement will be the mortgage proceeds less the costs of the re-mortgage, including any costs to redeem any existing mortgage and/or secured loan. Any payments in excess of that amount to reduce the term are at the consumers discretion
- 16.(5) The monthly payments arising from the re-mortgage will be deducted from the contribution. If the increased cost of the mortgage means that monthly contributions fall below £50 per month, such monthly contributions are stopped and the IVA is concluded.
- 16.(6) At the time the consumer is asked to release the available equity in their property, the supervisor, or a suitable member of their staff, must advise him/her that they should seek advice from a specialist mortgage adviser, such advice should include the most appropriate mortgage vehicle and the length of the proposed repayment term.
- 16.(7) For the purpose of the release of available equity at month 54 of the arrangement, the consumer will obtain a valuation for the property on the open market. Any initial valuation can be done at no cost to the consumer via any means the supervisor deems appropriate i.e. online valuation.

Part 8: Dividends and claims

17. Dividends and claims

- 17.(1) The supervisor may accept, for dividend purposes, proofs of debt submitted by creditors as at the effective date. If any creditor does not submit a proof of debt in writing within 2 months after the effective date or by the date of the first dividend (whichever is the later) then that creditor may only participate in dividend payments to the extent set out.
- 17.(2) The supervisor has the discretion to admit claims of £2,000 or less without a proof of debt form, or proofs of debt submitted that do not exceed 120% of the amount stated by you in the proposal, unless this would result in a substantial additional debt being admitted, without the need for additional verification.
- 17.(3) If a creditor submits a late proof of debt, the supervisor will allow this for dividend purposes, subject to the requirement to adjudicate on its authenticity and value. The creditor will be entitled to participate and to receive their full share of dividends, including those paid to date (insofar as funds are or become available) but is not entitled to disturb a distribution made prior to the submission of the late proof of debt.

- 17.(4) The supervisor may ask for any further details or documents that they think necessary to establish the amount due to any person claiming to be a creditor.
- 17.(5) The debts of secured creditors, foreign currency debts, debts payable at a future time, and interest on debts will be dealt with in accordance with the bankruptcy Rules.
- 17.(6) Where Section 323 of the Act applies, and a creditor is obliged (for whatever reason) to make a payment to you during the period of the arrangement, then that payment shall be used first in reduction of that creditor's debt. If such application results in the creditor's claim being entirely extinguished, any surplus will be treated as an asset of the arrangement and paid to the supervisor for the benefit of the arrangement.

18. Unclaimed and returned dividends

- 18.(1) Where a final dividend remains unclaimed 4 months after that distribution has been made, the supervisor shall pay those funds to those creditors whose final dividend has been claimed. Where redistribution of these funds is cost prohibitive (for example the cost of making payment is in excess of the funds in hand) the remaining funds will be dealt with.
- 18.(2) Where an interim dividend remains unclaimed or is returned to the supervisor during the term of the arrangement, the supervisor shall take reasonable steps to allocate that payment. Where it is not possible to allocate the unclaimed or returned dividend, the supervisor may discount the proof of debt received and distribute the funds to those creditors whose dividends have been claimed. A creditor whose claim has been discounted under these provisions is entitled to resubmit a claim that will be dealt with
- 18.(3) The supervisor must pay you any funds they hold representing dividends that are still uncashed, unclaimed 6 months after redistributing funds. Once this has been paid to you, the creditors have no further claim to these funds.
- 18.(4) All amounts paid into the arrangement are intended to be used to pay dividends to unsecured creditors (after the payment of the costs of the arrangement). At the end of the arrangement, any surplus funds must be returned to the consumer.

Part 9: Creditors who do not have notice

19. Creditors who do not have notice

- 19.(1) This voluntary arrangement will be binding on any creditor whose proof of debt has been omitted from it, but who would have been entitled to vote if they had been notified of the meeting of creditors called to approve it.
- 19.(2) On discovering the debt of such a creditor, the supervisor must send immediate notice requiring them to submit their proof of debt as at the effective date.
- 19.(3) Two months after sending the above notice, the supervisor may use their discretion to exclude such a creditor from dividend if the creditor has not by then submitted their proof of debt.

Part 10: meetings of creditors

20. Power to call or requisition meetings of creditors

- 20.(1) The supervisor may, if they deem it to be in the best interests of all parties, call a meeting of creditors for any purpose connected with the arrangement in accordance with the Act and the Rules.
- 20.(2) With your consent, you or the supervisor may propose reasonable variations to the proposal after it has been approved and these may be considered at a meeting of creditors convened by the supervisor for this purpose.
- 20.(3) The supervisor must give at least 28 days' notice of the meeting to the creditors. Rule 15.34 of the Rules will apply to the meetings of creditors in deciding whether the necessary majority has been obtained. If the necessary majority is obtained at the meeting, then the variation(s) or modification(s) will bind every person who is subject to the arrangement. Part 15 of the Rules will also apply when dealing with quorum, conduct, voting rights and the adjournment of meetings.

Part 11: HMRC

21. HM Revenue & Customs ("HMRC") claims

- 21.(1) HMRC's provisional claim in the arrangement will include:
- (i) any tax credit overpayment,
 - (ii) self-assessment payments on account due for the tax year in which the arrangement is approved,
 - (iii) any PAYE/SC/NIC deductions due to the date of approval, and
 - (iv) any other earlier unpaid liabilities.
- 21.(2) HMRC's final claim in the arrangement will also include any self-assessment balancing adjustment for the tax year in which the arrangement is approved, due with the selfassessment return on 31 January of the following year.

22. Income beginning after approval

- 22.(1) You will be responsible for payment of self-assessment/NIC on any source of income that begins after the date of approval of the arrangement.

23. Post-approval statutory returns and payments

- 23.(1) All statutory returns and payments due to HMRC following approval must be provided on or before the date they fall due.

24. Overdue accounts and returns

24.(1) You must send all statutory accounts and returns overdue at the date of the creditors' meeting to HMRC within 3 months of the approval date, with any other information or explanations required.

25. Funds to be paid to supervisor

25.(1) From the date the arrangement is approved to the 5 April ending that tax year, you must pay your monthly charge for income tax/NIC, as it appears in the income and expenditure statement, to the supervisor for the benefit of the arrangement.

26. Restriction on payment of dividend

26.(1) No non-preferential dividend will be made until:

- (i) HMRC has received a self-assessment return for the tax year in which the arrangement is approved; or
- (ii) a VAT (or other levy or duty) return due to HMRC to the date of the meeting has been filed; or
- (iii) a HMRC determination or assessment has been made; or
- (iv) the tax credits renewal due following the end of the year of approval has been received and processed and the supervisor has admitted HMRC's final claim.

27. Set-off of repayments

27.(1) Any repayment due to you from HMRC, relating to a period before the arrangement was approved, shall be applied firstly against HMRC's claim in the arrangement. Any surplus will be repaid to you and you must pay it to the supervisor for the benefit of the arrangement. Any repayment due to you from HMRC, relating to a period after the arrangement was approved, shall be applied firstly against other sums owed to HMRC for the post arrangement period. Any surplus will be repaid to you and you will pay it to the supervisor for the benefit of the arrangement.

28. No response from HMRC

28.(1) If you were not self-employed and have not traded during the tax year in which the arrangement was agreed, and if there are no outstanding returns due to HMRC and no contact has been made by HMRC with the supervisor within 4 months after the effective date, the supervisor has the discretion to disregard the requirement of the standard conditions to not make a non-preferential dividend before the supervisor has admitted HMRC's final claim. If the supervisor commences payment of dividends, notification should be sent to HMRC and funds may be retained to pay an equivalent dividend to HMRC, based on the amount shown in the statement of affairs.

Part 12: Miscellaneous provisions

29. Invalidity or illegality

29.(1) If any part of the arrangement is found to be contrary to the Act or Rules, illegal, invalid, or contrary to public policy, this will not affect the validity of the rest of the arrangement; and the part of the arrangement in question must be interpreted accordingly.

30. Joint liabilities

30.(1) The rights of any creditor who has a joint and individual claim against a third party will not be affected by this proposal.