

# Free Debt Help, Information and Options Guide

*This booklet guide has been produced by Citizens Advice North East Derbyshire to provide information and assist people with debt and financial problems.*

- Priority Debts
- Non-priority debts
- The court, legal and recovery action available to creditors
- The options and solutions for dealing with debts explained
- List of useful agencies and their contact details

We have produced two further booklets in this series (see below)

- 2a) CABmoney Debt Management Plan (Starting a New DMP)
- 2b) CABmoney Debt Management Plan (Transferring From an Existing Plan)

All three guides can also be found at [nedcab.cabmoney.org.uk](http://nedcab.cabmoney.org.uk)

**Disclaimer:** Citizens Advice North East Derbyshire has produced this guide in an effort to explain most of the processes and procedures involved in debt cases. We have developed this guide in good faith and cannot accept any responsibility for any actions taken as a result of following these guidelines.

**Free, Independent, Confidential, Impartial advice**

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## **INTRODUCTION**

Figures show that more and more people are facing debt and insolvency problems for many different reasons with the trend likely to continue in these uncertain economic times.

If you are facing or experiencing debt and financial problems try to stay calm, it is always best to not ignore the situation, you are not alone and help is available.

This free debt resource has been designed to help you understand your situation and assist you in dealing with your debt and financial problems.

If appropriate there is also a free flexible Assisted Debt Management Plan (DMP) for those that feel confident enough and wish to manage their debts themselves.

If you are not certain about anything or have any doubts get genuine free full in depth independent, impartial advice

## **PRIORITY DEBTS**

The law states that some debts are more important than others and give creditors different options to recover their money. These are called priority debts and should always be dealt with and paid before less important non-priority debt. (Always check any insurance cover re: priority debts).

### Examples of Priority Creditors

- Rent / mortgage / secured loans / charging order (loss of home)
- Council Tax (attachment of earnings / bailiffs / prison / bankruptcy)
- Magistrates Court Fines (bailiffs / prison)
- Electricity / Gas (pre-payment meter / disconnection)
- T.V. Licence (fine / prison)
- Income Tax (bailiffs / bankruptcy / other)
- Hire Purchase (loss of car / goods)
- Child Maintenance (attach to earnings / bailiffs / prison)
- Court Judgments (attach to earnings / charging order / bailiffs)
- Telephone (disconnection)

If you have problems with priority creditors, don't wait for arrears to mount up or for legal action to commence, contact them as soon as possible (examples below). You may need to draw up a detailed income/expenditure form (Financial Statement) outlining your offers - see the CABmoney Budgeting and Debt Calculator for information and help with a Financial Statement.

### **Mortgage / secured loans**

If you have mortgage arrears, your lender may try and repossess your home. To do this they will need to follow a procedure which involves getting a court order. They can't make you leave your home without going to court first.

In some cases, even though they take you to court to repossess the property, they may agree to let you stay in the property and suspend the process as long as you agree to pay back the money you owe and don't fall behind with your mortgage again.

*Contact your lender to discuss options / try to come to a long term or temporary arrangement / arrangement / offer the normal monthly payments plus an affordable amount to clear your arrears. Check any possible DWP mortgage interest payment entitlement. If you are facing repossession / eviction / homelessness or not sure about anything get specialist advice and assistance (for the threat of possession / eviction there are also schemes such as the Mortgage Rescue Scheme (MRS)).*

## **Rent**

If you have rent arrears, your landlord may try and evict you. This is called seeking possession. To do this, in most cases they will need to follow a procedure which involves getting a court order. They can't make you leave your home without going to court first. If they do make you leave without taking you to court first, this is against the law.

In some cases, even though they take you to court to evict you, they may agree to let you stay in the property and suspend the eviction as long as you agree to pay back the money you owe and you don't fall behind with your rent again.

There are several stages involved before a tenant can be evicted for rent arrears.

If your landlord is a social housing landlord, such as a local authority or a housing association, they must follow a rent arrears pre-action protocol. It sets out several steps which your landlord must take before starting court action

Your landlord must give you notice to leave your home, this is called a notice of seeking possession or a notice to quit. If you haven't left by the time the notice has run out, your landlord can apply to court for a court order and you will receive court papers. At court your landlord can ask the judge for an order called a possession order.

If the possession order requires you to leave your home and you haven't left by the date on the order, your landlord can ask the court for a warrant of possession.

You would then get a notice of eviction sent to you by the bailiffs saying when the eviction will take place.

*Contact your landlord and try to come to an agreement / offer the normal monthly payment plus an affordable amount towards any arrears / check any housing benefit entitlement. If you are facing possession / eviction / homelessness or you are not sure about anything get specialist advice and assistance.*

## **Council Tax**

When you have not paid an instalment of council tax on the date it is due, your local authority must issue a reminder, asking for payment within seven days. If you fail to pay within this period, you lose the right to pay by instalments and a full year's council tax becomes payable.

If you don't pay this within the next seven days, your local authority can then ask the magistrates to issue a liability order which will allow them to use various forms of enforcement.

They can instruct Enforcement Agents (Bailiffs) to attend your property with a view to take goods to settle the debt. The Enforcement Agents must send you a Notice of Enforcement giving you seven clear days before attending your property. The fee for the notice is £75. Once they attend your property, they can then charge a visit fee of £235 whether they take control of goods or not.

The Enforcement Agents do not have the right to force entry into your property to take control of your goods and they can enter only by means that people would usually enter, so they cannot climb

in through windows. **You do not have to let the bailiffs in.** Any goods outside your home but on your property or the highway are at risk, so for example if you have a car on your drive the Enforcement Agent could take control of this.

If they do enter by peaceful means they can then take control of goods and they can then do the following things:

- They can secure the goods on your property with a view to returning later to take them.
- They can remove the goods immediately if full payment is not made.
- They can ask you to sign a Controlled Goods Agreement. This is where they will accept a weekly/monthly payment and in return they allow you to continue using the goods. This is the most common method used to collect council tax arrears.

If a Controlled Goods Agreement is completed and payments are not made, they could come back and force entry.

They are only allowed to take your goods or goods you jointly own, so third party goods cannot be taken, for example, goods of children or parents. If they did try to take these goods, please come back to us and we can explain the process for making an application to stop this. You can remove goods from your home once you have received a Notice of Enforcement, but you cannot dispose of the goods (sell them or give them away)

If you fail to come to an arrangement with the Bailiffs, then your debt will eventually be returned to the local authority and they can consider starting committal proceedings (a prison sentence)

- If you are receiving benefits the council can apply to deduct money directly from your benefit income.
- If you are employed the council can apply for an attachment of earnings to deduct money directly from your wages.
- If you own your own home, they can also make an application for a Charging Order if you owe over £1,000. This secures the debt on your property. This is rarely used but if the council did make this application please contact us immediately so that we can give you further advice.
- If the total amount owed is over £5,000, the council can make an application for your bankruptcy. The first step in this process is that you're served with a statutory demand; then 21 days after service they could issue a bankruptcy petition. If you are served with a statutory demand, please contact us immediately for advice.

*Contact the relevant local authority and offer an amount on top of your normal payments before an application for a liability order is made (check any council tax benefit entitlement) If a liability order has been obtained you may still be able to negotiate with the local authority and discuss options before further recovery action is taken. If your accounts have been passed to the bailiffs you will need to contact them with an offer of payment or ask the local authority to take back the account back. Where applicable an offer of payment be taken direct from your from your benefits may be accepted. If threatened with a charging order / bankruptcy or you are not sure about anything get specialist advice and assistance.*

## **Tax Credit Overpayment**

If you fail to make payments towards these arrears, then HMRC may act to recover these arrears, which can include;

- Asking you to pay them directly in monthly instalments
- Passing the debt to a debt collection agency to contact you.
- Taking money directly from your benefits
- Taking money directly from your wage by increasing the amount of tax you pay. HMRC can do this for debts of up to £3,000, if you earn less than £30,000. If you earn more than this, they can collect larger debts through your tax code, up to a maximum of £17,000 (if you earn more than £90,000 a year)
- Take you to court and get a judgment or decree
- Send bailiffs to your home. HMRC don't need a court order to send bailiffs, but they rarely use this power.

## **Charging Order**

Check application papers / contact the relevant creditor and try to make an arrangement / attend final charging order court hearing / make application to vary any payment order / if you are threatened with an order for sale or you are not sure about anything get specialist advice and assistance.

## **Magistrates Court Fines**

The Magistrate court can use various enforcement methods to collect their debts. Failure to repay the fine can result in imprisonment.

The debts can be collected by Enforcement Agents (Bailiffs), they *do have the power to force entry into your premises without first gaining peaceful entry.*

If they do enter, they can then take control of goods and they can then do the following things:

- They can secure the goods on your property with a view to returning later to take them.
- They can remove the goods immediately if full payment is not made.
- They can ask you to sign a Controlled Goods Agreement. This is where they will accept a weekly/monthly payment and in return they allow you to continue using the goods.

Any goods outside your home but on your property or the highway are at risk, so for example, if you have a car on your drive or on the highway, the Enforcement Agent could take control of this.

They are only allowed to take your goods or goods you jointly own, so third party goods cannot be taken such as goods of children or parents. If they did try to take these goods, please come back to us and we can explain the process for making an application to stop this. You can remove goods from your property once you've received a Notice of Enforcement, but you cannot dispose of the goods sell them or give them away. But once the Enforcement Agent has taken control of the goods already you cannot remove or hide your goods.

- If you are employed the Magistrates Court can apply for an attachment of earnings order. The amount of money deducted from your wages is on a sliding scale and is based on your earnings.
- If you're receiving benefits, they can apply to deduct money directly from this at a weekly rate.
- If you own a property it is possible that they can also apply to the county court for a charging order. If you receive any court papers about this, please contact us immediately for advice.
- In certain circumstances, you may have the grounds to ask the court to consider reducing your payments/remitting the fine because your fine may have been set too high/you're experiencing exceptional circumstances.

*Contact the relevant court to discuss options / make an affordable offer of payment or request for a means enquiry hearing. If bailiffs are involved, contact with offer of payment / if threatened with imprisonment or you are not sure about anything get immediate specialist advice and assistance.*

### **Electricity / Gas Current Suppliers**

If you don't pay your current gas or electric bills you are at risk of your supply being disconnected.

Your supplier can collect the debt you owe using a debt collection agency. They can also apply for a court warrant to enter your home to fit a pre-payment meter (the costs for this warrant will be added to your debt). The arrears will be added to the pre-payment meter and a set amount will be deducted each week. This means you must pay the arrears at a set weekly amount or lose the supply. Your supplier can also remove the meter and cut off your supply, although this is rare. If no payments are made to the pre-payment meter, the arrears carry over to the following week.

*Contact your supplier and offer an amount on top of your current usage costs. Other options are: request a pre-payment meter or offer a payment taken direct from your benefits if applicable. If you are threatened with a magistrates warrant for disconnection or not sure about anything get specialist advice.*

### **T.V. Licence**

Contact TV Licensing regarding various payment schemes (0870 241 6468)

### **Tax/VAT**

If you fail to make payments towards these arrears, then HMRC may act to recover these which include;

- being prosecuted or sent to prison for tax evasion,
- taking your possessions, including vehicles, to sell at auction
- taking money directly from your bank account, if your debt is £1,000 or more
- take court action
- make you bankrupt, or close your business

We've referred you to Taxaid who help those on a low income (usually below £20,000 income per year for a single person) to resolve difficult tax problems. Their contact details are: 0345 120 3779, Mondays to Fridays, 10am to 12 noon. When you call them, please make sure you have your



letters, your personal information, details of your income and details of what you owe to hand.

*Contact HM Customs and Excise and try to come to an arrangement / discuss options / if threatened with bankruptcy or you are not sure about anything get specialist advice and assistance.*

### **Hire Purchase / Conditional Sale**

This is goods that you are in the process of buying such as a vehicle or in some cases household goods. Failure to maintain the payment can mean the goods are repossessed. If you have paid less than a third of the total payable these goods can be repossessed without a court order, but the creditor would need to have issued a default notice under the consumer credit act 1974 and the time for complying with this has expired. If the goods were household goods and you did not allow the creditor entry, they would need to apply to court to get permission to enter your property to take the goods

If you have paid over a third of the total amount payable, then the creditor would need to obtain a county court order before they can take possession. We also advised that if the agreement had not been terminated by the creditor you have the right to terminate this yourself and limit your liability to 50% of the total amount payable under the agreement.

You could apply for a Time Order to help with this debt. This is where you apply to the court for them to alter the payment and/or interest on an agreement.

#### **Advantages**

- You can reduce the interest rate
- You can extend the period of payment
- You can reduce the repayment rate
- It can help you retain the use of goods on hire purchase etc.

#### **Disadvantages**

- There is a hearing which you would usually need to attend
- There is no guarantee that the courts would allow it as you would have to show it was just to both you and the creditor
- It is usually viewed as a short-term remedy although some time orders have been made over extended periods
- There may be court costs involved before the application can be processed.

*Contact lender and try to come to an arrangement / offer normal payments plus amount to clear any arrears.*

## **Child Maintenance**

*Contact Child Support Agency and co-operate fully / where liability order, charging order / order for sale / and other enforcement action threatened get specialist advice.*

## **Court Judgments**

*Complete court forms with offer and return within time limits / apply to vary current payment order / make an application to suspend a warrant of execution and reduce payment order.*

## **Telephone/Internet**

*Contact provider try to come to an arrangement / offer normal payments plus amount to clear any arrears.*



If you require in depth advice and information on dealing with priority debts (including court hearings, eviction and bailiffs) there are a number of fact sheets on our website covering these issues. Alternatively, you can contact the bureau for further advice.

Please see the "What are my options?" section for further in depth advice and information on dealing with your creditors and debts.

## **NON-PRIORITY DEBTS**

These include numerous types of debts where the creditor does not have the extra powers of recovery (for example they cannot take your home or seize goods). This means they will not have to be treated as priority and offers only made after arrangements have been agreed with your priority creditors.

### **Common Examples of Non-priority Debts**

- Credit Cards
- Catalogues
- Unsecured Bank and Building Society Loans
- Personal Loans (including Doorstep Lenders)
- Overdrafts
- Book Clubs
- Water and sewage charge arrears
- Parking penalties issued by Local Authorities
- Credit Unions

If you have problems paying your non-priority creditors you should always check if you have any relevant insurance cover on your accounts.

### **Others Which May Be Non-priority (depending on circumstances)**

- Rent Arrears / Mortgage Shortfalls (previous properties)
- Electricity and Gas (previous property or old supplier)
- Hire Purchase (where goods have been re-possessed)
- Telephone (disconnected accounts land and mobiles)
- Rental Agreements (old accounts, TV / Sky etc)
- Clubs (example health / slimming)
- Benefit Overpayments (where benefit no longer paid and not subject to a DWP Direct Earning Attachment pilot scheme DEA)
- Social Fund Loans (where benefit no longer paid and not subject to a DWP Direct Earning Attachment pilot scheme DEA)

Please note that it is common practice for some non-priority creditors to attempt to pressure people into paying them before more important priority debts. Examples are doorstep collectors, collection agencies and call centres. You should always make sure that your priority creditors have been dealt with before making arrangements with, or paying any non-priority creditors.

You should always check your creditor correspondence as non-priority creditors sometimes take legal action including County Court Judgments (CCJs). If you do receive a Court Claim, you will need to respond within a set time. Don't panic, check the details before completing and returning the relevant form. If you are not sure about anything get immediate independent advice.

If you have problems paying your non-priority creditors or any other debts you should get proper independent impartial advice on all your options and solutions before making any decisions on a course of action.

Please see the "What are my options?" section for further in depth advice and information on dealing with your creditors and debts.

## **COURT / LEGAL AND RECOVERY ACTION**

If you fail to maintain payments to your creditors, then they will normally register a default on your credit file, and this will then stay on your file for up to 6 years. Once the default has been registered your arrears may be passed or sold onto a Debt Collection Agency (DCA).

### **a) Debt Collection Agencies (DCAs)**

On occasions creditors can pass accounts / debts on to and around external collection agencies / solicitors for recovery without going to court.

Debt Collection Agencies and their callers can only write, phone or visit your home to talk to you about paying back your debt.

It is important to remember that Debt Collection Agencies and their callers don't have the same powers as bailiffs and cannot enter your property and seize your possessions.

If they visit your home you are under no obligation to speak to them and can ask them to leave your land / property.

However, if you fail to come to an arrangement with the DCA then your creditors could take further action by starting the County Court process, as outlined below.

### **Complaints about debt collectors**

If you feel that you are being harassed by debt collectors there are guidelines and laws in place to protect you.

If you feel that you have been threatened, physically or verbally, you can contact the police.

There are independent regulatory bodies and other agencies that may be able to help or who you can complain to (see links below). These agencies also provide valued information on guidelines, protocols and up to date news relating to the debt collection and credit industry etc.

- Find your local Trading Standards Office      [www.tradingstandards.gov.uk](http://www.tradingstandards.gov.uk)
- Financial Ombudsman Service                      [www.fos.org.uk](http://www.fos.org.uk)      0800 023 4567
- Lending Standards Board                              [www.lendingstandardsboard.org.uk](http://www.lendingstandardsboard.org.uk)

## **Debt Collection and Recovery Agency Associations**

There a number of professional associations who are active in the field of debt recovery, finance, consumer credit etc.

The membership of these organizations include debt collection and tracing agencies, banks, subsidiaries of banks and building societies, motor finance along with others.

These associations provide useful information on member details, complaints, guidelines, practices, policy issues, up to date news and more.

- Credit Services Association [www.csa-uk.com](http://www.csa-uk.com)
- Finance & Leasing Association (FLA) [www.fla.org.uk](http://www.fla.org.uk)

## **Forums**

Forums can be useful for asking questions and also seeing that other people are going through the same things as you. You will have to sign up to them to post new messages but can read them without.

- Consumer Action Group [www.consumeractiongroup.co.uk](http://www.consumeractiongroup.co.uk)
- Money Saving Expert (Martin Lewis) [forums.moneysavingexpert.com](http://forums.moneysavingexpert.com)
- Legal Beagles [www.legalbeagles.info](http://www.legalbeagles.info)

## b) Examples of Court and Legal Action

There are occasions where creditors you owe money to resort and take legal action to recover debts. If any of your creditors take you to court it is really important that you do not ignore the situation and that you act / respond within any relevant time limits.

If you act / respond quickly you may avoid the situation getting serious / worse. If you don't take action quickly and within any relevant time limits you could end up with bigger debts, losing your possessions, car or even your home / liberty.

### Examples of court and legal action

Mortgage / secured loan	arrears, possession proceedings, eviction and loss of home
Rent arrears	possession proceedings, eviction and loss of home
Council Tax arrears	liability order, bailiffs - loss of goods, attachment to earnings, charging order, imprisonment, bankruptcy
Magistrates Court fines	bailiffs, imprisonment
Electricity and Gas	arrears, payment meter, disconnection
TV Licence	magistrates court fine
Tax / VAT	bailiffs, bankruptcy
Hire Purchase and Conditional Sale	loss of goods
Child Support (CSA)	arrears, liability order bailiffs, loss of goods, attachment to earnings, charging order, imprisonment
Unsecured Loans and overdrafts	county court judgments, bailiffs, loss of goods, charging orders, bankruptcy
Credit Cards	county court judgments, bailiffs, loss of goods, charging orders, statutory demands, bankruptcy
Other unsecured debts	county court judgments, charging orders, statutory demands, bankruptcy

### County Court procedure

Your non-priority creditors may seek to obtain a County Court Judgement against you. You will receive a claim pack by post, and you will have the opportunity to admit the claim and make an offer of payments or to deny the claim and ask for more time to prepare a defence. If you fail to respond to this claim pack, then the county court can order you to pay forthwith [immediately] or by instalments. Creditors do have the right in some circumstances to apply statutory interest or to continue to apply the contractual interest.

If the judgement is forthwith and you do not pay, or if you do not pay an instalment on time, the creditor can then ask the court to authorize further enforcement action.

## Examples of enforcement action:

- **Attachment of Earnings.** If you are employed, the creditor can apply for an attachment of earnings order. The amount of money deducted from your wages is on a sliding scale and is based on your earnings.
- **Charging Order.** If a creditor obtains a county court judgement on or after 1st October 2012, they can apply for a charging order straight away against any interest you may have in a property or other asset, even if the court orders the judgement to be paid by instalments and you are up to date with payments. Charging Orders have the effect of securing a debt against any interest you may have in a property or other asset. Once this happens most creditors take no further action provided payments are maintained. If the property is sold the debt is repaid with any equity from the sale of the house minus the cost of the sale. If a creditor is not prepared to wait, they may apply to the court for an 'Order for Sale' but this is rarely granted and only after a full court hearing.
- **Petition for Bankruptcy.** If the total amount owed is over £5,000, the creditor can make an application for your bankruptcy. The first step in this process is that you're served with a statutory demand; then 21 days after service they could issue a bankruptcy petition. If you are served with a statutory demand, please contact us immediately for advice.
- **Third Party Debt Order.** This is where a creditor applies to a third party through the court to freeze money and pay them, it is very rarely used but it is an option that can be used where, for example, you have money in the bank or someone who owes you money.

## Useful Contacts

Citizens Advice Bureau		<a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>
Stepchange (CCCS)	0800 138 1111	<a href="http://www.stepchange.org">www.stepchange.org</a>
National Debtline	0808 808 4000	<a href="http://www.nationaldebtline.co.uk">www.nationaldebtline.co.uk</a>
Shelter	0808 800 4444	<a href="http://www.shelter.org.uk">www.shelter.org.uk</a>
Business Debtline	0800 197 6026	<a href="http://www.businessdebtline.org">www.businessdebtline.org</a>

## c) Bailiffs and Enforcement Agents/Officers



### **Rules for bailiffs now in force**

On 6th April 2014 the rules about how bailiffs must behave and the fees they can charge changed.

The information in this booklet has been updated accordingly.

If you are struggling to meet or are falling behind with payments to creditors and getting into debt you need to take early steps to deal with these issues. Failure to deal with your creditors and debts could eventually result in bailiffs being instructed to act against you. Bailiff action, which could include home visits, can be a stressful and upsetting experience. Bailiff action can result in extra charges and fees. The bottom line is not to ignore the situation.

### **What is a bailiff?**

A bailiff can either be a court official or employed by a private firm. They are also called Enforcement Agents and any paperwork you receive from a bailiff will use this term. A bailiff is someone who has the legal power to collect certain debts. Bailiffs may exercise their legal powers by asking you to pay what you owe or by taking your goods with the intention of selling them to raise money towards your debts and their charges / fees.

### **Bailiff fees and charges**

You may incur fees and charges as a result of bailiffs being instructed to collect debts from you. Bailiffs are allowed to charge a fee for each stage of action they take against you. There are three separate stages of action, these are compliance, enforcement and sale. You can check that any charges are correct and challenge them if you think they are wrong.

### **County Court Judgments (CCJs)**

If a creditor has obtained a County Court Judgment against you and you do not make and maintain payments as ordered your creditor may take enforcement action. To do this your creditor would have to obtain another court order. One of the enforcement options being to send bailiffs to your home to take your goods. You may be able to stop or suspend bailiff action by applying to the court.

### **Recovery in the High Court (HCE)**

If a creditor has a County Court Judgement (CCJ) against you, they may be able to enforce it in the High Court by taking control of goods. Business and trade creditors are likely to do this. Also, it can sometimes be done for unpaid nursery fees; funeral charges water charges, credit union loans, old electric and gas debts. This is because these types of debt are not covered by the **Consumer Credit Act 1974**.

'Taking control of goods' involves High Court Enforcement Officers (HCEOs) visiting you. HCEOs are High Court bailiffs. If the HCEOs gain entry, they may list your goods and ask you to sign a 'controlled goods agreement'. This allows you to keep using the goods listed. However, if you do not pay, the goods listed on the controlled goods agreement can be removed and sold. In some



situations, your goods may be removed straight away or, as a last resort, locked up in a room on your premises.

Your creditor cannot enforce your judgment in the High Court if the debt is covered by the **Consumer Credit Act 1974**.

The order which allows HCEOs to act is known as a 'writ of control'. You will have no notice that your creditor has applied for a writ.

The HCEO should give you **seven clear days'** notice that they are due to visit you to take control of goods. This is sometimes known as the 'enforcement notice'. 'Clear days' do not include Sundays, Christmas Day or bank holidays.

When the writ of control is issued, HCEOs have a right to try to take control of your goods. This applies even if you move the goods or give them to someone else at any time, even if this is within the **seven clear days'** notice period.

If your judgment was made in the County Court, your creditor **may** choose to apply for a writ of control if:

- the amount owing under the CCJ is **£600** or more;
- the debt is not regulated by the **Consumer Credit Act 1974**; and
- you have not paid the CCJ as the court ordered.

The creditor **must** apply for a writ of control if:

- the creditor wants to use bailiff action against you;
- the amount owing under the CCJ is **£5,000** or more;
- the debt is not regulated by the **Consumer Credit Act 1974**; and
- you have not paid the CCJ as the court ordered.

If your judgment was made in the High Court, the creditor can apply for a writ of control:

- as soon as the judgment has been made, unless you have applied for a stay of execution; or
- as soon as a payment becomes overdue under the terms of a stay of execution.

You do not have to let HCEOs into your home. HCEOs are only allowed to force their way into your home if **all three** of the following points apply.

- You have let them in on a previous visit, and they took control of your goods.
- You have broken the controlled goods agreement you made with the HCEOs by missing at least one payment.
- They have given you **two clear days'** notice that they are coming to inspect or take these goods.

If you have not let the HCEOs in before, keep your doors locked. Although HCEOs should not enter through a window, it is a good idea to keep windows closed. HCEOs can take control of goods outside your home, so if you have a vehicle, keep it in a locked garage. If you park the vehicle on your drive, the HCEOs could clamp and possibly remove it.

You could park the vehicle away from your property, but if you park it on a public road and the HCEOs find it, they could force entry to your car and possibly clamp and remove it.

### **Business Premises**

HCEOs can break into your business premises even if they have not been in before.

- The HCEO will not usually take away goods on their first visit.
- They may ask you to sign a 'controlled goods agreement'. This allows you to keep using the items listed on the agreement. However, if you break the terms of the controlled goods agreement, the HCEO can return and take the goods doing this. If you don't sign the agreement, the HCEOs may lock the goods up in a room in your property. Alternatively they may remove the goods straight away. Contact us for advice.

An HCEO may not be able to take goods that are worth more than you actually owe. If they threaten to do this, contact us for advice.

Even if you have signed a controlled goods agreement, you can still apply to the court for a 'stay of execution'. The court may be less willing to agree to this if you have done so.

Under the law, HCEOs have to leave you paperwork telling you what they intend to do or what they have done. For example, they should give you a written notice when they:

- intend to visit you;
- have taken control of your goods; and
- intend to re-enter your premises after entering before.

There are strict rules about the information this paperwork must contain. If the HCEOs do not give you the correct paperwork, you can complain or consider taking legal action against them.

You can make an application for a 'stay of execution' on a court form called an N244. This application should be made to the court that issued the writ of control. You will have to pay a fee to make the application (unless exempt using court form EX160). Explain that you are requesting a stay of execution, with an offer of payment. This could be by instalments or a lump-sum payment of the whole amount by a certain date. We always advise that you contact the Court dealing as some procedures can vary. Some Courts also request court form N245 (request for variation and/or suspension of a warrant).

We can assist with the court applications if applicable by breaking in if necessary. They must give you **two clear days'** notice before

### **What can the bailiffs take?**

If a CCJ has been obtained for collection of a debt and has not been paid as ordered, the creditor can apply to the court for a warrant of control. The warrant means that county court bailiff is now authorised to try and take control of your goods in order to encourage that you pay what you owe.

County court bailiffs work for Her Majesty's Courts and Tribunals Service. They are responsible to the delivery manager of the county court hearing centre they work for.

You do not have to let bailiffs into your home. They can only enter a home if they have given two clear days' notice and:

- You have let them in on a previous visit
- They have taken control of goods
- You have broken an agreement you made with them.

If bailiffs have never been in your property before then keep your doors locked. Bailiffs should not enter through windows, however best practice is to keep windows closed.

Vehicles – Bailiffs can take control of goods outside of your home so try to keep a vehicle in a locked garage. If parked on a public road or on your drive then a bailiff could clamp it and possibly remove it.

They can take non-essential items such as televisions and possessions outside your home or in unlocked garages or sheds (e.g. cars and garden items).

Bailiffs should not take essentials such as clothing, bedding, fridges, cookers, most furniture and the 'tools of your trade' (e.g. a computer you use for work).

### **Stopping bailiff action liability and payment negotiation**

If bailiff action has started you will need to address the situation and check you are liable for the debt. You may need to make an arrangement to pay what you owe. Bailiffs and your creditors may be prepared to take part in reasonable negotiation. You may need to apply to the court to suspend a warrant to avoid your goods being taken.

You can stop the bailiff from trying to take control of your goods by suspending the warrant of control. An application should be made on court form N425, which can be obtained from the local county court. There is a fee to pay with this application. If you have low income or receive certain benefits you may not have to pay the fee. Fee remission is applied for on court form EX160, which can also be obtained from the county court. Court forms can also be found by using the court form finder on the HM Courts and Tribunals Service website.

### **Council Tax**

If you are in arrears with your council tax or business rates and a Liability Order has been obtained through the Magistrates Court this gives the Local Authority concerned numerous enforcement options one of which is to involve bailiffs to recover any monies owed to them.

### **Magistrates Court Fines**

If you have been fined for a criminal offence the court can send private bailiffs if any agreed payments are not kept up and will usually try to recover the fine as a lump sum. They have the power to gain initial entry to your home by force (though they should only do this as a last resort).

### **Mortgage and Rent Arrears (eviction)**

If you fall behind with your mortgage or rent payments and your lender / landlord has obtained an eviction warrant the bailiffs will attend on the given time and date to evict you and secure the property. To make an application to stop or suspend an eviction warrant you will need to complete an N244 form outlining your proposals and reasons and take this to the relevant court within the specified time limits (eviction date). You should then be given a hearing to state your case.

## **How to complain about a bailiff**

If you wish to make a complaint about a bailiff you should first complain to the bailiff firm by following their complaints procedure. This should be done in writing.

If the bailiff firm does not respond to you positively, you may have the option of taking your complaint further by referring the complaint to the relevant bailiff trade association. You could also complain to an ombudsman service if your creditor is a local council or the HMRC.

## **Useful Website**

Citizens Advice      [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

## **Forums**

Forums can be useful for asking questions and also seeing that other people are going through the same things as you. You will have to sign up to them to post new messages but can view them without signing up

Consumer Action Group (CAG)	<a href="http://www.consumeractiongroup.co.uk">www.consumeractiongroup.co.uk</a>
Money Saving Expert (Martin Lewis)	<a href="http://forums.moneysavingexpert.com">forums.moneysavingexpert.com</a>
Legal Beagles	<a href="http://www.legalbeagles.info">www.legalbeagles.info</a>

## **WHAT ARE MY OPTIONS FOR DEALING WITH DEBT?**

### **a) Do Nothing**

This means you don't contact your creditors or make any payments. Not engaging with your creditors can be useful in rare situations however; this option is not without its risks.

#### **Advantages**

- Can buy you some time, for example, if a time limit on an old debt will soon expire, or you're waiting for a court order that can help you access other options such as an Administration Order
- You're not paying anything to your creditors

#### **Disadvantages**

- The debts could get bigger as further interest and charges could be added
- A creditor will likely continue to contact you to try to recover the debt
- A creditor may start court action to recover the debt and this could add costs and increase the amount owed
- Your credit rating will be affected as missed payments are marked as defaults on your credit report. This can make it harder for you to borrow money in future
- This may cause you additional stress and your debt situation will not be resolved

## **b) Moratorium**

This is where you ask your creditors to hold recovery action for a specific reason or for a period to give you some breathing space. In this situation if they agree creditors won't seek payment from you. This can be useful if your circumstances are about to change, for example, you are about to start work or are selling an asset, such as your home. It can also be useful if you need time to clear priority debts or time is needed to find out more information. Creditors may ask to see a financial statement that shows payments are currently unaffordable.

### **Advantages**

- Allows time to gather necessary information
- Removes any immediate pressure you may be experiencing
- Creditors are aware of your situation and are notified of any difficulties and/or future changes
- Many creditors will suspend action for a short period of time, usually 30 days, if you need extra time, they should also give you a further 30 days.
- Many creditors will freeze interest and charges to stop the debt from increasing

### **Disadvantages**

- There is no guarantee that creditors will freeze interest and charges
- This is a temporary short-term option that is usually followed by another option or strategy
- Your credit rating will be affected as missed payments are marked as defaults on your credit report. This can make it harder for you to borrow money in future
- Creditors may agree to hold action for a period of one to six months and will then seek a review of your situation
- This won't resolve your debt situation

## **c) Full and Final Settlement Offers**

A Full and Final Settlement Offer is an offer of part payment to creditors in the form of a one off lump sum payment in turn for having the remainder of the debt written off. A Full and Final Settlement Offer could be a suitable strategy to clear debts if you have access to a lump sum of money - this may be from-

- the sale of assets such as property
- savings
- re-mortgaging
- third party donation from family / friends
- windfall such as lottery / inheritance

### **Why might creditors accept?**

- avoid expenses of trying to recover / legal action that is not guaranteed to be successful
- may prefer a smaller overall lump sum now rather than small instalments over a long period
- your other options such as bankruptcy may mean no return to them

### **Some Advantages**

- if the offer is accepted you pay less overall
- the debt would be paid off sooner allowing a 'fresh' start
- creditors should mark the debts as a partial settlement
- credit rating may improve

### **Some Disadvantages**

- no guarantees that the creditor(s) will accept
- a lump sum may need to be used which could have been used for something else
- once creditors become aware that you have access to a lump sum they may demand payment of the full debt
- clearing the debt in this way will not remove any default notice or county court judgment previously obtained from your credit record, they will remain on file for six years
- issues around the arrangement being legally binding

Full and Final Settlement Offers should be made by the way of a pro-rata settlement with written evidence / proof from creditors confirming their full acceptance.

Making pro rata settlement offers/ payments would not make the arrangement legally binding. There will be a legally binding agreement if either:

- an arrangement is made with all your unsecured creditors; or
- the funds are made available by a third party (eg, a relative) and the offer is made by him / her on your behalf; or
- the agreement is embodied in a formal document known as a 'deed' The services of a solicitor will be required you want a deed to be drawn up. (eg, a deed may be required if there are any doubts as to the trustworthiness of any particular creditor)

## **d) Consolidation Loan / Re-Finance / Mortgage**

Apply to a lender to clear your debts.

A consolidation loan basically means that all (or the majority) of your debts are replaced by a single 'affordable' loan resulting in overall lower monthly payments.

Smaller loans, payday loans, store and credit card debts and others can charge high rates of interest and in some cases extraordinarily high rates of interest.

The very best interest rates are usually only available on bigger loans - that means that combining all your debt into one consolidation loan could reduce the overall rate and amount that you pay.

To work out if you can reduce your overall monthly payments you would need to add up all your debts and make a note of the rate you're paying on each. Then, compare debt potential consolidation loans and see what interest rates you could pay.

A consolidation loan will only really help if:

- it is used to pay some or all of the existing debt
- the new payments are lower than those (combined) that are being paid towards the existing debts
- the new payments are 'affordable'

If the above does not apply then it is likely that a loan may make the problem worse

### **Some Advantages**

- one affordable monthly payment
- the monthly payment should be lower depending on the interest rates charged

### **Some Disadvantages**

- there may be fees involved in setting up the loan
- the lender might insist that the loan be secured on your property which may lead to the home being put at **SERIOUS RISK** if payments are not maintained
- the size of the overall debt may increase significantly
- longer payment duration
- if all the existing debts are not cleared with the new loan then it is possible that the situation could be made worse and / or make it still difficult to maintain payments
- a poor credit rating may make it difficult to obtain a loan / refinance or result in less favourable terms / conditions / interest rates being offered

If you feel that refinancing would be a suitable solution for dealing with your debts then it is strongly advisable to seek independent advice and obtain / compare at least three separate quotes from reputable lenders, carefully checking the terms / conditions / fees / charges / interest rates etc. before making any decisions.



## **e) Administration Order (Admin Order)**

An Administration Order is a court based procedure whereby the debtor makes regular payments to the court which in turn shares them amongst the creditors.

There are no fees to pay with Administration Orders however the court will take a small percentage of the payments you make towards its costs.

To be able to ask the court to make an Administration Order a debtor must:

- have debts of £5000 or less and have at least two creditors
- have a county court judgment (CCJ) or High Court Judgment entered against them

### **Some Advantages**

- none of the creditors listed in the Admin Order can take further action without the courts permission
- the court deals with the creditors and distributes the payments to them
- no up front fees
- you can apply to make payments for a limited time, such as 3 years, using a composition order, if payments are maintained anything still owed on your debts does not have to be paid
- if circumstances change / worsen, an application can be made to reduce payments

### **Some Disadvantages**

- creditors can object and ask the court to be left out of the order, however the court need not agree
- if payments are not maintained the order may be revoked (cancelled) and the protection of the court lost

Details of Administration Orders can be obtained from the County Court

### **Useful Contact**

Her Majesty's Courts Service

[www.gov.uk/government/organisations/hm-courts-and-tribunals-service](http://www.gov.uk/government/organisations/hm-courts-and-tribunals-service)

## f) Debt Management Plan (DMP)

People can often find themselves in difficulty maintaining payments towards their credit cards and loans after essential expenditure and priority debts are accounted for. If you have problems maintaining payments towards credit cards, catalogues, loans and other non-priority creditors then a Debt Management Plan could be a suitable long or short term solution / option.

A Debt Management Plan is an informal arrangement where after payments for essential living costs and arrangements have been made with priority creditors, you make reduced, pro-rata or token offers to non-priority debts out of any available disposable income (all creditors should be treated the same)

### How does a Debt Management Plan work?

- Details of all priority and non-priority creditors, debts, income and expenditure need to be gathered together and made available
- Arrangements need to be made with priority creditors where normal payments and any arrears are concerned.
- Contact non-priority creditors (usually by a holding letter) informing them of the problems you have with payments, request account details and ask for a temporary hold on any recovery action / interest / charges.
- When all account balances have been received / assumed an accurate Financial Statement needs to be drafted.
- A Financial Statement and offer letters then need to be sent to all non-priority creditors and await their response.
- Payments made / follow up letters sent to creditors where relevant

### Token offers or Pro-rata?

**Token offers** is where you ask your creditors to accept a small payment, usually between £1 and £5 per month. This can be a useful option if you have little disposable income, no assets or capital. This is not a long-term solution. It can also be a useful option if you can afford to make small payments and your financial situation may improve in the short to medium term or if you need time to clear priority debts. You'll need to send your financial statement to creditors to show these payments are affordable and that all your creditors are treated in the same way.

**Pro-rata offers** is usually an option for non-priority debts only and there is no minimum or maximum level of debt. If you can't afford your contractual payments but you have some available income, you can offer reduced pro rata payments your creditors. Payments are calculated fairly, so the larger the amount owed, the greater the proportion of available income the creditor will receive; this is called a pro rata offer. Your financial statement automatically calculates pro rata offers where there is available income. Any offers less than £1 per month are usually rounded up to this amount.

### Some Advantages

- recognised / fair procedure for dealing with your debts
- backing from the Financial Conduct Authority (FCA) guidelines on debt collection
- flexible procedure / solution if there are changes in circumstances
- can be implemented and self-administered via assisted and self-help means
- creditors may consider part or full balance write offs after a period of time, if:

- you have made every effort to pay back what you can
- you maintain regular payments
- you have serious health problems
- your circumstances are unlikely to improve
- Temporary solution while awaiting improvement in circumstances or for a long term formal debt option such as bankruptcy, Debt Relief Order (DRO), IVA.

### **Some Disadvantages**

- accounts defaulted / credit ratings damaged
- on occasions, creditors may be reluctant to formally agree to proposals and offers. However they should not refuse any payments you make and would be expected to follow the FCA guidelines on debt collection
- interest and charges may still be added or re-instated
- accounts may be passed to internal collection departments and agencies however again these would be expected to follow Financial Conduct Authority (FCA) guidelines on debt collection
- creditors may still take legal and recovery action in the form of court judgments, charging orders, statutory demands and threatened bankruptcy however there are FCA guidelines (CONC 7.0) on debt collection
- possible long and unrealistic timescale for debts to be cleared

### **Financial Conduct Authority (FCA)**

There are guidelines in place for debt collection / debt management plans that creditors and collection agencies should follow in relation to treating customers fairly. Information on these can be found in the FCA Handbook CONC 7.0 in November 2012

<https://www.handbook.fca.org.uk/handbook/CONC/7/?view=chapter>

### **Harassment by Creditors**

If you feel that a creditor or collection agency is not dealing with your account fairly or harassing you then there are guidelines and laws in place

### **Complaints**

If you have any problems with creditors and collection agencies, feel that you are not being treated fair, guidelines are not being followed, then there are procedures and agencies by which and to which to complain (see below)

Financial Conduct Authority	0300 500 0597	<a href="http://www.fca.org.uk">www.fca.org.uk</a>
Financial Ombudsman	0800 023 4567	<a href="http://www.financial-ombudsman.org.uk">www.financial-ombudsman.org.uk</a>
Lending Standards Board	0207 012 0085	<a href="http://www.lendingstandardsboard.org.uk">www.lendingstandardsboard.org.uk</a>

## **Self-administered DMP – CABmoney**

If a Debt Management Plan is the right solution for you, then you might want to deal with the creditors yourself and start a self-administered DMP. You can do this using the tools on **CABmoney** ([nedcab.cabmoney.org.uk/](http://nedcab.cabmoney.org.uk/)), which are easy to use and gives you complete control over your DMP.

You will be guided through the process of creating a DMP and there are letter templates that will help you write to your creditors. All the information you enter is secure and will be saved so that you can return and update your DMP when you hear from the creditors. There are also guides, resources and helpful information on the site, which will keep you in control of the whole DMP journey.

We have produced two booklets that will help you start your own DMP on CABmoney:

- 2a CABmoney Debt Management Plan (Starting a New DMP)
- 2b CABmoney Debt Management Plan (Transferring from an Existing Plan)

These guides can also be found at [nedcab.cabmoney.org.uk/](http://nedcab.cabmoney.org.uk/).

## **Alternative self-administered DMPs**

There are other alternatives to CABmoney and these include:

- CASHflow
- National Debtline

### **Free DMP providers**

- Stepchange (CCCS) 0800 138 1111
- Payplan 0800 280 2816

### **Fee charging companies**

There are also numerous fee charging Debt Management businesses and companies offering this type of service. If you do decide to use one of these businesses or companies, we would strongly advise that you check the terms, conditions, fees (including up front ones) and any hidden charges as there is evidence of misleading advice in this sector.

## **g) Debt Relief Order (DRO)**

A Debt Relief Order (DRO) is a formal debt solution and may be suitable for those with relatively low liabilities, little surplus income, have few assets. It is a cheaper option than bankruptcy for those who meet the required eligibility criteria.

To qualify for a Debt Relief Order (DRO) you must:

- be unable to pay their debts
- have total debts of no more than £30,000 (not including some debts - see "excluded debts" below)
- not have gross assets of more than £2,000
- have disposable income of less than £75 per month
- not own a vehicle (car / motorbike) that exceeds £1999 in value (the value of the vehicle is ignored if it has been adapted for disability purposes)
- be domiciled in England or Wales, or in the last 3 years have been a resident or carried on in business in England or Wales
- not have been subject to a Debt Relief Order (DRO) within the last 6 Years
- not be subject to a DRRO /DRRU
- not be involved in any formal insolvency procedure (this includes an interim order) at the time of application for a DRO
- not have an outstanding bankruptcy petition where you have not been referred for a DRO by the court
- get the permission of a creditor to apply for a DRO where you have been notified that they have presented a bankruptcy petition against you

Debt Relief Orders (DROs) are applied for with the help of an Approved Intermediary (an intermediary is usually a skilled debt adviser who has been given permission to complete the forms and give advice on debt relief orders) and will last for one year after which you will be released from your debts (with some exceptions)

### **Excluded Debts**

Some debts, called excluded debts, are not covered by the DRO. This means the creditor can continue with action to recover the debt after the DRO is made and the client will still be liable for the debt at the end of the DRO. Excluded debts must still be shown on the DRO application but do not count towards the debt limit.

The following debts are excluded:

- magistrates court fines. This includes costs and compensation orders made by the magistrates and financial penalties registered for enforcement in the magistrates court as if they were fines.
- student loans made under the Education (Student Loans) Act 1990 and the Teaching and Higher Education Act 1998
- child support
- maintenance, lump sums and costs ordered in family proceedings
- money due under a criminal confiscation order
- damages payable for personal injury or death because of negligence, nuisance or breach of a statutory, contractual or other duty, or payable under Part 1 of the Consumer Protection Act 1987.

## **Some Advantages**

- debts written off at the end of the Debt Relief Order (with possible certain exceptions)
- none of the creditors listed in the DRO can take further action without the courts permission
- allows you to make a genuine fresh start after one year
- affordable fee (£90) and can be paid in instalments
- allowed to keep a vehicle (car / motorbike) up to the value of £2000
- allowed to keep a vehicle which has been adapted for disability purposes

## **Some Disadvantages**

- details of DROs are entered on the Insolvency Service Public Register
- the DRO could be revoked (withdrawn) if you do not co-operate with Official Receiver during the time the DRO is in force
- your employment may be affected
- damaged credit rating / committing an offence if you obtain credit of £500 or more without disclosing that you are subject to a DRO
- you may have a restriction order (2 to 15 years) made against you if you are deemed to have acted irresponsibly, recklessly or dishonestly
- you cannot act as a director of a company or be involved in its management unless the court agrees
- certain debts cannot be included - for example - student loans, fines, child maintenance, social fund loans, court fines and confiscation orders (these are fines relating to criminal activity)
- if your financial circumstances improve during the period of the DRO (eg. if you find employment) your DRO may face being revoked

## **Useful Contacts**

- Insolvency Service 0300 678 0015

## **h) Individual Voluntary Arrangement (IVA)**

An Individual Voluntary Arrangement (IVA) is a legally binding agreement between you and your creditors usually lasting five years. It is a genuine method of avoiding bankruptcy while still being subject to a formal debt solution. To enter an IVA you must be technically insolvent, usually have disposable income, at least £15,000 of unsecured debt incorporating at least three creditors or two involving three lines of credit (some companies may look at administering an IVA for lower / less). To propose / set up / administer an IVA a debtor must be assisted by an Insolvency Practitioner who will act as Supervisor of the arrangement.

### **Some Advantages**

- once entered into all negotiations are handled by the Insolvency Practitioner
- no creditor pressure
- interest and charges stopped
- one monthly payment (usually for five years)
- homeowners can almost always keep their home (terms and conditions need to be checked)
- avoids the 'perceived' stigma of bankruptcy
- substantial amount of debt may be written off on completion

### **Some Disadvantages**

- homeowners may need to release equity via a re-mortgage or secured loan (2014 protocol) in the 4th / 5th year of the IVA or extend the payments for another 12 months
- damaged credit record (6 years)
- failing to stick to the terms of the IVA may result in bankruptcy with a possible risk to homes
- if the IVA fails early it is possible that a lot amount of money paid in will have gone on fees
- details of IVAs are available on the public Insolvency Service Register
- possible problems with employer (example insolvency clause in employment contract)
- landlord issues (insolvency clause in tenancy agreement possible risk to home)
- tight budget for 5/6 years
- certain debts excluded, examples magistrates court fines / CSA / mortgage

If you decide on an IVA as a method of dealing with your debts you should consult several Insolvency Practitioners comparing their services and fees (some don't charge up front fees). Insolvency Practitioners are usually accountants, some are solicitors and their fees are similar to those charged by members of these professions for other kinds of work.

Regrettably, we have seen clients who have been offered or entered into IVAs which they do not fully understand. In some cases it has been disturbingly clear that other more suitable and considerably less expensive options (example bankruptcy) have not been fully explored.

Always make sure you have had full independent impartial advice on all options before deciding on / signing up to an IVA preferably from a genuinely free agency such as Citizens Advice.

### **IVA Advice / Information / Support Forums**

Forums can be useful for asking questions and also seeing that other people are going through the same things as you. You will have to sign up to them to post new messages but can read them without.

- [www.iva.co.uk](http://www.iva.co.uk) (ask an Insolvency Practitioner a question / compare providers)
- [forums.moneysavingexpert.com/forumdisplay.php?f=159](http://forums.moneysavingexpert.com/forumdisplay.php?f=159) (Martin Lewis MSE)

## **i) Bankruptcy**

Bankruptcy can be the best option for dealing with debts and can allow the debtor to make a genuine fresh start with their lives. It is a perfectly legitimate way of dealing with debts and no longer has the stigma attached it once was perceived to have with many people now taking this option.

### **How are you made bankrupt?**

- voluntary - the debtor petitions themselves online
- involuntary - by a creditor owed £5,000 or more
- the supervisor or anyone bound by an Individual Voluntary Arrangement (IVA)

### **How much does bankruptcy cost?**

- £550 - official receivers fees (no exemptions, everybody has to pay these)
- £130 - adjudicator fee
- There are numerous charities that may be able to assist with bankruptcy fees and costs including the Severn Trent Trust Fund and the Royal British Legion

### **Some Advantages**

- genuine fresh start with debts legally written off
- allowed a reasonable amount of money to live on
- no longer have the stress and worry of dealing with creditors and their agents
- usually allowed to keep all essential household goods
- in some cases allowed to keep vehicles (cars) if they are needed for employment or health / disability reasons (eg DLA mobility scheme)
- some cases able to keep the home (eg negative equity and small equity / third party equity purchase)
- discharged after one year or earlier. An early discharge will only be considered if your bankruptcy order was made on or before 30 September 2013. Early discharge will no longer be considered for bankruptcy orders made after that date following changes to the law

### **Some Disadvantages**

- home and any valuable assets could be at serious risk of being sold to raise equity or monies
- risk to employment in certain professions (check contract of employment)
- some tenancy agreements may include an insolvency clause (risk to home)
- bankruptcy details are entered on the Insolvency Service Public Register and the London Gazette. In some cases bankruptcies can still be advertised for one week/day (usually in a small print section) in local newspapers.
- if the bankrupt person owns a business / ltd company it could be closed down / employees dismissed / assets sold off
- may be subject to an income payment arrangement (IPA) or order (IPO) lasting 3 years
- may be subject to a restriction undertaking (BRU) or order (BRO)
- certain debts cannot be included - fines / CSA / criminal injury / student loans
- unable to obtain credit of more than £500 / credit rating affected for 6 years

Please note there are advantages, disadvantages and possible serious implications with bankruptcy and other dealing with debts options mentioned in this guide. We would always strongly advise that you seek full in depth advice from the CAB or an alternative agency before making any decisions.

Also, see our Basic Bankruptcy Guide for further information.

### **Useful contact**

- Insolvency Service 0300 678 0015



## **j) Debt Write-Off**

If you have no spare money to pay off your debts and have no money or savings, some or all of your creditors may agree to write off your debts.

In certain circumstances it may not be financially worthwhile for creditors to pursue debt payments or administer token payments long term.

Debt write offs will usually only be considered by creditors in exceptional circumstances.

It is most likely to happen if you have low income, no spare money and your circumstances are unlikely to improve. Examples are that you may have serious long term health issues or be very elderly.

You will usually need to provide clear evidence of your situation, for example, financial statement, proof of income, medical evidence, before creditors will agree.

If a creditor agrees to a debt write off it is always best to request that they confirm this in writing.

### **Some Advantages**

- Relief from unwanted anxiety and stress
- No further recovery action
- Potential fresh start

### **Some Disadvantages**

- Some creditors may not agree to a write off
- Creditors may agree but not confirm in writing
- No guarantee that creditors will not pursue in the future
- Your credit file will still be affected

If you feel that asking for a debt write off may be appropriate to your situation you can do this yourself where possible however there may be creditors who may want a recognised adviser to make this request on your behalf.

### **Where to get free advice**

Citizens Advice Bureaux  
National Debtline  
StepChange (CCCS)

0808 808 4000  
0800 138 1111

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)  
[www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)  
[www.stepchange.org](http://www.stepchange.org)

## USEFUL CONTACTS

<b>ACAS</b>	0300 123 1100	<a href="http://www.acas.org.uk">www.acas.org.uk</a>
<b>Age Concern</b>	0800 169 65 65	<a href="http://www.ageuk.org.uk">www.ageuk.org.uk</a>
<b>Business Debtline</b>	0800 197 6026	<a href="http://www.businessdebtline.org">www.businessdebtline.org</a>
<b>Call Credit</b>	0870 060 1414	<a href="http://www.callcredit.co.uk">www.callcredit.co.uk</a>
<b>Equifax</b>	0845 603 3000	<a href="http://www.equifax.co.uk">www.equifax.co.uk</a>
<b>Experian</b>	0344 481 8000	<a href="http://www.experianplc.com">www.experianplc.com</a>
<b>Financial Conduct Authority</b>	0300 500 0597	<a href="http://www.fca.org.uk">www.fca.org.uk</a>
<b>Financial Ombudsman Service</b>	0800 023 4 567	<a href="http://www.financial-ombudsman.org.uk">www.financial-ombudsman.org.uk</a>
<b>HM's Courts &amp; Tribunals Service</b> <a href="http://www.gov.uk/government/organisations/hm-courts-and-tribunals-service">www.gov.uk/government/organisations/hm-courts-and-tribunals-service</a>		
<b>HM Revenue &amp; Customs</b> <a href="http://www.gov.uk/government/organisations/hm-revenue-customs">www.gov.uk/government/organisations/hm-revenue-customs</a>		
<b>Insolvency Service</b>	0300 678 0015	<a href="http://www.gov.uk/government/organisations/hm-courts-and-tribunals-service">www.gov.uk/government/organisations/hm-courts-and-tribunals-service</a>
<b>Local Government Ombudsman</b>	0300 061 0614	<a href="http://www.lgo.org.uk">www.lgo.org.uk</a>
<b>National Debtline</b>	0808 808 4000	<a href="http://www.nationaldebtline.org">www.nationaldebtline.org</a>
<b>Royal British Legion</b>	0808 802 8080	<a href="http://www.britishlegion.org.uk">www.britishlegion.org.uk</a>
<b>Shelter</b>	0808 800 4444	<a href="http://england.shelter.org.uk">england.shelter.org.uk</a>
<b>Stepchange</b>	0800 138 1111	<a href="http://www.stepchange.org">www.stepchange.org</a>
<b>Taxaid</b>	0845 601 3321	<a href="http://taxaid.org.uk">taxaid.org.uk</a>