

Free Debt Help, Information & Options Guide

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

- Priority Debts
- Non – priority debts
- The court, legal & recovery action available to creditors
- The options & 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 www.cabmoney.org.uk

Disclaimer: North East Derbyshire CAB 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. The information in this pack is correct as of May 2nd 2014

Free, Independent, Confidential, Impartial advice

North East Derbyshire Citizens Advice Bureau is a company Limited by Guarantee, registered in England and Wales, with Company Number 5933725 and Charity registration number 1118194

© North East Derbyshire CAB 2016 (Licensed for use by CABx in England and Wales)

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

CONTENTS

PRIORITY DEBTS EXPLAINED

NON-PRIORITY DEBTS EXPLAINED

COURT / LEGAL & RECOVERY ACTION

- a) Debt Collection Agencies (DCAs)
- b) Examples of Court and Legal Action
- c) Bailiffs & Enforcement Agents/Officers

WHAT ARE MY OPTIONS FOR DEALING WITH DEBT?

- a) Full and Final Settlement Offers
- b) Consolidation Loan / Re-finance / mortgage
- c) Administration Order (Admin Order)
- d) Debt Management Plan (DMP)
- e) Debt Relief Order (DRO)
- f) Individual Voluntary Arrangement (IVA)
- g) Bankruptcy

Debt write-off

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 & Debt Calculator for information and help with a Financial Statement.

Mortgage / secured loans

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 & assistance. (for the threat of possession / eviction there are also schemes such as the Mortgage Rescue Scheme (MRS)).

Rent

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 & assistance.

Council Tax

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 & assistance.

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

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 & assistance.

Electricity / Gas

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

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

Hire Purchase / Conditional Sale

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 & 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 & Building Society Loans
- Personal Loans (including Doorstep Lenders)
- Overdrafts
- Book Clubs
- Water and sewage charge arrears
- Parking penalties issued by Local Authorities

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 & Gas (previous property or old supplier)
- Hire Purchase (where goods have been re-possessed)
- Telephone (disconnected accounts land & 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 & RECOVERY ACTION

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.

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
- Financial Ombudsman Service www.fos.org.uk 0800 023 4567
- Lending Standards Board 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
- Finance & Leasing Association (FLA) 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
- Money Saving Expert (Martin Lewis) forums.moneysavingexpert.com
- All About Debt forums.all-about-debt.co.uk
- Legal Beagles 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

Useful Contacts

Citizens Advice Bureau
StepChange (CCCS)
National Debtline
Shelter
Business Debtline

0800 138 1111
0808 808 4000
0808 800 4444
0800 197 6026

www.citizensadvice.org.uk
www.stepchange.org
www.nationaldebtline.co.uk
www.shelter.org.uk
www.businessdebtline.org

c) Bailiffs & Enforcement Agents/Officers



New 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.

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.

What can the bailiffs take?

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).

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.

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

CAB Adviceguide www.adviceguide.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 (CAG)	www.consumeractiongroup.co.uk
Money Saving Expert (Martin Lewis)	forums.moneysavingexpert.com
Legal Beagles	www.legalbeagles.info
allabout Debt Forum	forums.all-about-debt.co.uk

WHAT ARE MY OPTIONS FOR DEALING WITH DEBT?

a) Full and Final Settlement Offers

A Full & 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 & 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)

b) 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.

c) 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

d) Debt Management Plan (DMP)

People can often find themselves in difficulty maintaining payments towards their credit cards and loans etc 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 & non-priority creditors, debts, income & expenditure need to be gathered together and made available
- Arrangements need to be made with any relevant 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 & 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

Some Advantages

- recognised / fair procedure for dealing with your debts
- backing from the Office of Fair Trading (OFT) guidelines on debt collection
- flexible procedure / solution if there are changes in circumstances
- can be implemented and self administered via assisted & 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 etc 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 OFT 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 OFT guidelines on debt collection
- creditors may still take legal & recovery action in the form of court judgments, charging orders, statutory demands & threatened bankruptcy etc however there are the OFT guidelines on debt collection
- possible long and unrealistic timescale for debts to be cleared

Office of Fair Trading (OFT) Debt collection guidelines

There are guidelines in place for debt collection / debt management plans that creditors and collection agencies should follow these were revised by the OFT in November 2012 (see sample OFT guideline excerpts below)

- failing to allow for alternative, affordable, repayment amounts when a reasonable proposal is made by yourself or a third party representative acting on your behalf (for example, a debt adviser)
- not having appropriate regard to the principles of the Common Financial Statement
- refusing to engage, appropriately or at all, with a third party representative, such as a debt adviser at a free sector centre or a debt management business or if you are developing your own payment plan, unless there is an objectively justifiable reason for doing so

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 & 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	www.fca.org.uk
Financial Ombudsman	0800 023 4567	www.financial-ombudsman.org.uk
Lending Standards Board	0207 012 0085	www.lendingstandardsboard.org.uk

Starting a DMP

If a Debt Management Plan is the right solution, then there are various options:

Administer your own (Assisted Self-Help)

There is a free assisted self help Debt Management Plan on our website, but other alternatives 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 & 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.

e) 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 £20,000 (not including some debts - see "excluded debts" below)
- not have gross assets of more than £1,000
- have disposable income of less than £50 per month
- not own a vehicle (car / motorbike) that exceeds £999 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 I 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 1 year
- affordable fee (£90) and can be paid in instalments
- allowed to keep a vehicle (car / motorbike) up to the value of £1000
- 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 & 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

f) Individual Voluntary Arrangement (IVA)

An Individual Voluntary Arrangement (IVA) is a legally binding agreement between you and your creditors usually lasting 5 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 5 years)
- homeowners can almost always keep their home (terms & 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 substantial 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 (ask an Insolvency Practitioner a question / compare providers)
- forums.moneysavingexpert.com/forumdisplay.php?f=159 (Martin Lewis MSE)

g) 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 seems to have 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 & costs including the Severn Trent Trust Fund & 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 & 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 & 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

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 & 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
www.nationaldebtline.co.uk
www.stepchange.org

USEFUL CONTACTS

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