

## SCHEDULE OF OPTIONS AVAILABLE TO INDIVIDUALS IN FINANCIAL DIFFICULTY

The most common options available to individuals who are unable to pay their debts are:-

- 1 Do nothing.
- 2 Obtain an unsecured debt consolidation loan.
- 3 Release equity by way of re-mortgage or secured loan.
- 4 Informal arrangement (no assistance).
- 5 Debt management programme.
- 6 Individual Voluntary Arrangement
- 7 Bankruptcy
- 8 Debt Relief Orders
- 9 Administration Orders

### 1 DO NOTHING

Many people try to avoid dealing with their problems because they don't know what to do for the best. Doing nothing may increase the likelihood of your creditors taking recovery action against you by contacting you directly, instructing debt collectors and may culminate in court action, bailiffs, attachment of earnings orders, charging and property sale orders and even bankruptcy.

This can be very stressful.

If you fail to make payments on secured loans repossession proceedings could be commenced.

### 2 UNSECURED DEBT CONSOLIDATION LOANS

A debt consolidation loan allows you to combine all your credit commitments into one monthly payment.

You will need to carefully consider what you can afford to repay each month

Unless you can borrow sufficient funds to clear all your existing debts you may find yourself in a worse position.

#### Advantages

- If you are able to consolidate all of your unsecured debts then you would have only one monthly payment which may be lower than previous commitments and more manageable for you.
- Dealing with only one creditor reduces the pressure of handling multiple creditors
- Lower impact on your credit rating if you can maintain the required contractual repayment.

#### Disadvantages

- The consolidation loan may cost considerably more in the long term as it may be repayable over a longer period of time and may increase the level of the debt with interest and charges.
- There is no debt forgiveness.
- If you do not consolidate all your debts or take out further credit you may be in a worse position.

### 3 RELEASE OF EQUITY & SECURED LOANS/RE-MORTGAGE

This is a debt solution offered by loan companies and banks to home owners in financial difficulty, on the basis that by consolidating unsecured debt in the form of a re-mortgage, the monies can be used to repay existing unsecured debts.

Reduced monthly repayments may arise if lower interest rates can be obtained. the correct level of the re-mortgage would need to be ascertained so that sufficient money could be raised to clear all of the outstanding unsecured debt.

We would recommend you take specialist advice if considering this option.

#### Advantages

- If all of your unsecured debts can be paid off you will have only one monthly payment.
- This payment may be lower than the previous unsecured debt repayments.

#### Disadvantages

- It may cost more in the long term as subject to arrangement fees and interest charged for the duration of the loan.
- If you default on the repayments of the secured loan you may lose your home if the lender commences repossession proceedings.
- It may take longer to repay.
- Banks are now reluctant to approve secured loans for consumers in financial difficulty.

#### 4 INFORMAL ARRANGEMENT (DEALING DIRECTLY WITH YOUR CREDITORS)

If you have a small number of creditors and a low debt level and there is no immediate threat of legal action you could try to come to an informal arrangement with each of your creditors by explaining your financial difficulties and offering them reduced repayments.

#### Advantages:

- There would be no arrangement fees or management fees to pay.
- You remain in complete control (subject to your creditors rights) of your own affairs

#### Disadvantages:

- For an informal arrangement to be effective, it requires ALL creditors to agree to an arrangement.
- There support may be withdrawn at any time and is often revisited every three to six months
- If you then deviate from the agreed arrangement then legal action may be taken against you.
- This option only postpones paying back the debt and there is no level of debt forgiveness.

#### 5 DEBT MANAGEMENT PROGRAMME

A debt management programme is an informal procedure under which a commercial debt management company or advisory body seeks to negotiate on your behalf an agreement with your creditors as to reduced repayments. The company must be licensed and regulated.

The debt management company will usually charge an arrangement fee for setting the programme up and a management fee for managing the programme and distributing payments to your creditors each month. Some advisory bodies provide this service free of charge.

The debt management company with your help will prepare an up to date financial statement regarding your situation and agree with you and your creditors a monthly repayment that you can afford to pay. After allowing for the debt management company's fees your creditors will be offered a pro rata payment out of your surplus income each month.

You would make monthly payments to the debt management company usually by standing order and they will distribute that payment once their costs have been deducted. Advantages

- Relatively cheap to set up and manage.
- There is one affordable monthly payment from you.
- Your creditors receive a pro-rata payment within 5 working days of each of your monthly payments into the scheme, after deduction of any management fee.
- You continue to control your assets.
- Your creditors may freeze ongoing interest and charges but this can not be guaranteed.
- Once the programme is implemented i.e the creditors are receiving regular repayments from you they will usually stop further action against you.
- Where creditors approve a debt management programme this avoids the need for formal insolvency proceedings.

#### Disadvantages

- Your creditors do not have to freeze interest and charges on your accounts and may only do so for a limited period of time.

- Some creditors will continue to charge interest albeit at a reduced rate.
- Creditors will require ongoing information. If creditors refuse to freeze the interest and charges it is possible that the size of your debt will continue to increase during the term of the programme.
- Not all of your creditors may agree to the programme and their support can be withdrawn at any time. Creditors can continue recovery proceedings against you escalating the size of the debt. Some creditors may try to get security over any assets you may own by use of the bailiffs/High Court Enforcement Officers or by way of charging order proceedings over your house. In both cases assets can be sold to repay debts.
- You have no protection from legal action by your creditors who can instigate by court action or other legal process for the recovery of the debt.
- Creditors who object to a debt management programme could also issue a bankruptcy petition against you at court which could result in you being made bankrupt.
- Creditors would expect payment in full in respect of the outstanding debt. No part of the debt would be written off.
- Some creditors have minimum repayment requirements which could make the programme unworkable.
- A debt management programme would have an adverse effect on your credit rating. A debt management programme may take you longer to repay and become debt free.

## 6 INDIVIDUAL VOLUNTARY ARRANGEMENT

An Individual Voluntary Arrangement (hereinafter IVA) is a formal agreement between you and your creditors, and an Insolvency Practitioner under which you agree to make monthly payments or make available to creditors your assets, or both in full and final settlement of your debts.

As you are insolvent, creditors will usually agree to part of the debt being written off. However creditors will expect to receive more than they would in the event of your bankruptcy.

If such an arrangement is accepted/approved by your creditors and successfully concluded, they are not entitled to apply interest or any changes thereafter and thus the level of the debt will be frozen. Essentially if agreed this would form the basis of a new contract between you and your creditors.

An IVA is managed by a licensed Insolvency Practitioner. Whilst the terms of the proposal may vary typically you will be required to make an affordable monthly payment to your Insolvency Practitioner out of your surplus income over a period of usually five years sometimes six. In addition if you own your property and there is equity in it you may be required to introduce a lump sum either by way of re-mortgage or sale of the property at the end of the arrangement. As long as you make the required repayments and do what is necessary you will be debt-free within the time specified in the arrangement. The unpaid balance of what you owe once the IVA has been concluded will be written off by your creditors.

### Advantages

- If you successfully complete your IVA you will not lose control of your assets as you would in a bankruptcy situation.
- If you are a director of a Limited company or self-employed it is easier for you to remain in business. In other words you would not automatically be disqualified from acting as a Director and similarly your business partnership would not automatically be terminated.
- Statutory restrictions on obtaining credit would not apply.
- There is quite a lot of flexibility in the preparation of proposal documents and in particular what assets are offered to creditors. Some assets may be excluded subject to creditor approval.
- As long as over 75% of the creditors voting at your creditors' meeting vote in favour of the proposal then all of your creditors will be bound by its outcome. This avoids the necessity of securing every creditor's specific agreement (as would be required in a debt management programme). Creditors who vote against are still bound by it.
- If approved the IVA gives you security and comfort in knowing that once you have fulfilled your obligations under the arrangement it will effectively bring the IVA to an end and your creditors will not be able to pursue you for any unpaid balances which will be written off.
- It is for a fixed period of time (usually 5 years), or maybe extended to deal with any equity in the property.
- No further legal action can be taken.
- One affordable monthly payment will be made based upon your circumstances and guidelines acceptable to creditors.

- If your circumstances change creditors may agree to revised terms where appropriate.

### Disadvantages

- The IVA may impose more onerous obligations over a longer period than bankruptcy.
- Creditors may suggest modifications which may alter the original scope of the proposal for example require higher repayments over a longer period, assets included in the IVA are held by the Supervisor on trust for the benefit of your creditors.
- If your IVA is approved and you fail to comply with what is required of you in accordance with the terms of the proposal for example if you fail to make the monthly repayments into your proposal without prior arrangement your Supervisor may be forced by creditors to issue a bankruptcy petition against you.
- There are restrictions in obtaining credit whilst you are in an IVA.
- You are released from your IVA only when you have complied with all the conditions of your IVA and your creditors have been notified.
- If you were required to re-mortgage your house at the end of the arrangement you would be left with a higher mortgage.
- If you are unable to secure a remortgage the term of your IVA may be extended (this will require your creditors approval) If not your IVA may fail.
- Debt write off and the freezing of interest and charges only applies on the successful completion of the IVA.
- The Insolvency Service maintains a register of bankruptcies, IVA's and Debt Relief Orders. These registers are accessible not only to lenders but also to other members of the general public. Your credit record will be impacted for up to 12 months after your Iva has been completed successfully.

## 7 BANKRUPTCY

Bankruptcy is a formal insolvency procedure used where someone's financial affairs are such that they owe more money than the value of their assets and their income cannot cover the monthly contractual payments due to creditors.

Bankruptcy can come about either by a creditor who is owed more than £5000 petitioning to the Court, or by you making your own application online to the Insolvency Service. Once a Bankruptcy Order is made your affairs would be dealt with by the Official Receiver or an appointed Trustee in Bankruptcy.

Any assets that you own at the time of your bankruptcy will vest in your Trustee in Bankruptcy and consequently if you own your own home the Trustee would seek to realise any value that you have in it and if necessary by applying to the courts for your house to be repossessed and sold.

The Trustee in Bankruptcy would also seek to sell any investments or shares and will also take control of any savings accounts that you may have. If you receive any assets during your bankruptcy such as a lottery win or an inheritance this will have to be paid to your Trustee in Bankruptcy and such sums would be distributed to your creditors.

In addition having taken into account your income and expenditure the Trustee in Bankruptcy may try to reach agreement with you as to the level of a monthly payment for an Income Payments Agreement. In the event of him not being able to agree a suitable level of income payment, he will seek to make an application to the Court. Such payments usually last for 36 months from the date of any Order and unless the court determines otherwise.

The Trustee in Bankruptcy under bankruptcy legislation is now required to investigate your conduct and the circumstances giving rise to your financial predicament. Relevant conduct can include such matters as borrowing money from creditors when you knew you had no way of repaying it, giving assets away or selling them for less than their value, paying some creditors (usually family members) before others, gambling or fraud.

Such conduct could give rise to grounds for your Trustee in Bankruptcy to make an application to the court for a Bankruptcy Restriction Order and the duration of your bankruptcy may be extended for a period of up to 15 years. This depends very much on the conduct in question.

The costs for applying for your own bankruptcy can be found at [www.gov.uk/bankruptcy](http://www.gov.uk/bankruptcy).

### Advantages

- It gives you an opportunity of a fresh start. It prevents your creditors making any further claims against you or demands for direct repayment of the debts whilst you are bankrupt and they cannot pursue you for repayment once you have been discharged from bankruptcy.
- It is likely to be the quickest procedure as usually you would be discharged from Bankruptcy within one year.
- Relative peace of mind. All legal action against you is stopped in relation to the bankruptcy debts.
- The level of an income payments order may be lower than those required in an Individual Voluntary Arrangement and unless the Trustee in Bankruptcy applies to the Court for a Bankruptcy Restriction Order would only last for 36 months.
- It offers debt forgiveness so debts may be written off.
- You keep personal belongings, tools of trade and a car as long as it is not too high value

### Disadvantages

- If you are to apply for your own bankruptcy you would be required to pay a substantial court fee although you can now pay for this in instalments. Please visit [www.gov.uk/bankruptcy/overview](http://www.gov.uk/bankruptcy/overview) for the current fee amount.
- If you apply to obtain credit of more than £500 during your Bankruptcy, You must disclose that you are an undischarged Bankrupt.
- Any assets that you own at the time of your Bankruptcy will automatically transfer to your Trustee in Bankruptcy.
- You have a duty to provide full information as to your assets and liabilities, income and expenditure and fully co-operate with your Trustee in Bankruptcy. Failure to co-operate may result in the Trustee in Bankruptcy applying to the Court to extend the duration of your bankruptcy.
- The Trustee may make an application to the Court or reach an agreement with your for you to be subject to an Income Payments Order and may require monthly repayments for a period of at least 36 months (unless the Court orders a longer period).
- You would be automatically disqualified as acting as a Director of a Limited Company or taking part in the management of a company except with the Court's prior permission. You may also be prejudiced in your employment if you work in the financial services industry, police or other related areas or perform a management role.
- If you wanted to be self employed you would have to trade under the same name in which you were declared bankrupt and this may make it harder for you to set up on your own.
- Certain debts are not provable in bankruptcy eg student loans, arrears of maintenance, fines and child support agency payments. These will need to be paid even if you are bankrupt.
- As the Official Receiver has to investigate the circumstances giving rise to your present financial predicament if this has been the result of reckless, blameworthy or dishonest conduct, the Official Receiver/Trustee in Bankruptcy appointed by him may apply to the court for a bankruptcy restriction order eg building up credit card debt that you realistically could not pay back. This may extend the duration of your bankruptcy
- Certain conduct in bankruptcy may result in prosecution and can be punishable by a fine or imprisonment of a maximum of two years for example defrauding creditors, concealing assets or destroying books and records.
- Bankruptcy orders are advertised in the London Gazette and depending on the official receiver may be advertised in local newspapers (now rarely). Your bankruptcy would also be entered on a public register.
- It may be difficult for you to operate a bank account during bankruptcy.
- Bankruptcy will affect your credit file for 12 months after discharge.

## 8. Debt Relief Orders (DRO)

A DRO is an alternative to bankruptcy that can help people deal with certain types of debts. You can apply for a DRO if you do not own your own home, have little disposable income and assets worth less than £1000 and/or a car worth less than £1000 and cannot realistically see your situation improving.

A DRO is issued by the Official Receiver (OR) who is an officer of the bankruptcy court via an approved intermediary. The OR will write to your creditors to explain:

- They can not take any action to recover their money without the permission of the court
- You are not able to make any payments towards your debts
- You will be discharged (freed) from your debts when the DRO ends, usually after twelve months. However a DRO can be amended or cancelled if your financial situation improves.

In order to qualify for a DRO you must:

- Owe less than £20,000 to your creditors.
- Have less than £50 a month disposable income. This is the amount left after you have paid essential bills such as rent, utilities, council tax and all necessary living costs.
- Have less than £1000 worth of assets; you can own a motor vehicle valued at no more than £1000.
- You must not have been subject to another DRO within the last 6 years.
- You must not be involved in another formal insolvency procedure at the time you apply.
- You must tell your bank or building society that you have a DRO, they can decide if you can continue to use your accounts. It is a criminal activity to break any of the following DRO restrictions:
- Borrow more than £500 without telling the lender about the DRO
- Act as a Director of a Limited Company
- Create, manage or promote a company without the Court's permission
- Manage a business without telling those you do business with about your DRO
- Work as an Insolvency Practitioner.

You can contact your local citizen's advice bureau (CAB) or the Money Advice Service (MAS) who will be able to help you if you feel a DRO may be suitable for you. They will be able to advise you regarding the online application process and any fees which you will need to pay. The fee of £90 must be made before the application can be made.

### Advantages

- You can keep assets of less than £1000 and a vehicle not exceeding £1000 in value.
- All unsecured debt is written off at the end of the order.
- A DRO is completed after just 12 months.
- It serves to prevent creditor harassment. Any form of creditor harassment is illegal once a DRO has been entered. Creditors included in the DRO cannot take further action against you.
- You are not required to make a monthly payment as debtors aren't expected to contribute towards their debts because there is no surplus income available from which payments can be made.
- Simplicity. An Intermediary, rather than the Official Receiver, will deal with the case. This means that if you do have financial difficulties you will have someone to consult and take care of the more complex aspects of a DRO.

### Disadvantages

- A DRO will be recorded on a public register and at all the major credit reference agencies and therefore will impact your credit rating. This will show on your personal credit reports for a period of 6 years. You cannot take credit of £500 or more without disclosing your DRO.
- A DRO is not suitable if you are an un-discharged bankrupt, have a Bankruptcy Restriction Order (BRO) or are already in an Individual Voluntary Arrangement.
- Only covers debts up to £20,000. If you are seeking to write-off debt above £20,000 you will need to look into an alternative debt solution such as going bankrupt, debt management or an IVA.
- Windfall payments. Should you win or inherit money, it is expected that this will form part of the Debt Relief Order.
- You can apply for a DRO once in any six year period.
- You cannot have a DRO if you own a property.
- You will remain liable for certain debts such as student loan fines and some debts arising from family proceedings.
- Your employment could be affected.

- A DRO may be revoked if you fail to co-operate with the Official Receiver and may receive a restriction order extending the term.
- You cannot act as a Director of a Limited Company.
- 

More information can be found at <https://www.gov.uk/government/publications/getting-a-debt-relief-order/getting-a-debt-relief-order>

## 9. Administration Order

If any of your creditors have already issued a judgement against you and your debt does not exceed £5000 you can apply to the County Court for the court to take over the administration of payments to your creditors. You will be required to make monthly payments to the Court who will distribute payments on your behalf.

Advantages:

- An Administration Order prevents any of your creditors from enforcing the judgement without obtaining permission from the Court. The making of an administration order will ensure that all debts are processed together.
- You will make one monthly payment to Court.
- All debts if below £5000 in total can be included, including council tax arrears and fines.
- These Orders are usually decided by Court Officers without the necessity of a court hearing. Creditors will be given notice of your application setting out what they will receive. A District Judge's involvement will become necessary if your offer of repayment is insufficient to repay your debts in a reasonable time (usually 3 years)

Disadvantages:

You would be liable to pay the Court Costs in administering the order, usually 10 pence in the pound. If your debts are in joint names a couple cannot apply together and individual applications are required. Social fund loans and benefit overpayments cannot be included in Administrations Orders.

- Once approved the Court will make an Attachment of Earnings Order for the monthly payment into the Administration Order to be deducted from earnings. (if you do not wish for this to happen then you will need to let the Court know).
- If you are not making an offer that will discharge your debt in a reasonable time a District Judge may propose a longer repayment period.
- If a Court hearing is required you and your creditors will be given notice and the opportunity to attend in order to make representations to the Court.
- Once the terms of the Order have been determined by the Court details of the terms are circulated to your creditors who have 14 days to object to the level of installments as well as whether they want to be included within the Order.
- If creditors object the Court will list your case for a hearing so that the creditors objections can be considered.