

R3, the insolvency trade body



# Dealing with money worries - A guide to your options

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# Introduction

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Talking about money can be difficult, but talking about money problems can be even harder. However, if you are struggling with your finances, it is important that you get advice at the earliest opportunity. Finding it hard to pay for basics such as food or rent, using credit cards to pay for essentials or to repay another debt, or feeling stressed by money issues are often signs that you need to seek advice about your situation.

**Getting help with your finances at an early stage can prevent money problems from becoming unmanageable and may mean that you have more options available to you.**

There are a number of different options for dealing with money difficulties, ranging from budgeting advice to debt management solutions and statutory insolvency procedures. All of these options, together with where to go for additional advice, are outlined in this guide. This guide also includes a glossary of some of the terms you might come across (see pages 22-23).

This guide has been put together by R3, the trade association for the UK's insolvency profession. R3's members have extensive experience of helping people who are experiencing financial problems. Our members include insolvency practitioners, who are trained and licensed to give personal debt advice and administer statutory personal insolvency procedures. Most insolvency practitioners will offer one hour of free advice. To find an insolvency practitioner who may be able to provide advice, please visit R3's website, [www.r3.org.uk](http://www.r3.org.uk).

**There is a wide range of sources of free and impartial debt advice, including insolvency practitioners and charities. When seeking advice, it is important to make sure that it is from an impartial source, regulated by the Financial Conduct Authority or, for insolvency advice, an insolvency regulator. Contact information for some providers of debt advice is included the back of this guide.**

It is very easy for finances to have a negative impact on mental health. Contact information for organisations who can help with mental health difficulties are also included in this guide.

**Information in this guide is intended to provide an overview only, and relates to statutory procedures in England and Wales. It is not a replacement for seeking advice specific to your circumstances.**

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## Types of solutions - an overview

Everyone's circumstances are different so what works for someone else might not work for you. It is important to find a solution which fits your unique circumstances. Seeking expert advice is the best way of finding the right solution for your situation.

In this guide, we have divided available solutions into two broad categories:

### **1. Informal solutions:**

These are solutions which may not affect your assets (that is, the things you own) and can be put in place by you – either by yourself, or with the help of an advisor. They will usually involve paying off what you owe in full and may not prevent your creditors (that is, the people and companies you owe money to) from taking separate action to seek repayment.

### **2. Statutory solutions:**

These procedures bind you and your creditors into a formal agreement and can prevent creditors from taking further action to seek repayment. These procedures will involve an advisor assisting you and can affect your assets. Usually they will include an element of debt forgiveness or they will release you from what you owe once the procedure is over.

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# Informal Solutions

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This section covers the following types of **informal solutions** for dealing with your finances:

1. **Budgeting to take control of your finances and ensuring you are maximising income**
2. **Negotiating with your creditors**
3. **Consolidation loans**
4. **Debt management plans**

*This guide covers how these options work in England and Wales. Options in Scotland and Northern Ireland are similar, but are not exactly the same.*

## Budgeting

A simple, early step to take when thinking about money is to budget. Write down how much income you have coming in each month and what your outgoings are. You also need to work out how much you owe, how much you can afford to repay, and when and how often you can repay it.

Working out your budget is the starting point for dealing with your finances, and you won't be able to choose a solution to deal with your situation without one. Advice agencies will typically expect you to prepare a budget before they can discuss your options, though many will help you put a budget together.

Once you have drawn up a budget, you should look at your outgoings to see whether there is any non-essential spending which could be reduced. You should also look at your income and make sure that you are claiming all the benefits to which you are entitled.

Your budget will tell you how much money you have each month, if any, to put towards paying off your debts.

## Negotiating with your creditors

You can contact your creditors one by one and offer each of them a fair share of what is available to pay what you owe. You can base your offer on the budget you have put together. If you have nothing available, you can ask creditors to accept token payments of £1 a month or no payments until your circumstances change.

If your circumstances change, you can change the payments to your creditors. You will be aiming to pay your debts back in full, which may take some time.

Many creditors, particularly lenders such as banks and other finance companies, will have processes in place to help people pay back what they owe. The sooner you speak to your creditors, the sooner they can help you.



## Consolidation loans

If you have lots of different debts and are struggling to keep up with multiple repayments, you might be able to merge them together into one loan. This is a consolidation loan. This type of loan replaces multiple monthly payments to multiple lenders with one, more manageable payment.

You should be careful not to take on further debt until a consolidation loan is cleared, as this could lead to you ending up in a worse position than the one you started in.

Consolidation loans should only be used where you can afford to keep up the repayments until the loan is paid. **It is vital that you seek independent financial advice before you take out this type of loan.** Companies which offer consolidation loans should be authorised by the Financial Conduct Authority (FCA).

# Debt management plans

## What is a debt management plan?

A debt management plan is an agreement between you and your creditors which makes changes to the way you repay your debts. Debt management plans are very flexible and they are not all exactly the same. Typically, however, a debt management plan will involve you making regular payments into the plan which are then distributed among those creditors who have agreed to take part. Like a consolidation loan, a debt management plan can replace several different monthly payments with one affordable monthly repayment.

Often, the aim of a debt management plan is to repay what you owe in full. This may involve lower monthly payments, but it could mean that you are repaying what you owe over a longer period than originally agreed.

Debt management plans will only affect those creditors which agree to the plan, and any party to the plan (you or any of your creditors) can pull out of the agreement at any time.

## How do I enter a debt management plan?

It is possible to set up a debt management plan yourself by talking directly to your creditors, but there are also companies and debt charities which can do this on your behalf. These companies will have experience of helping people to agree plans and they may charge a fee for doing so. This fee is often deducted from your payments into the plan. Companies offering to help put a debt management plan together should be authorised by the FCA.

## Which of my debts and creditors will be affected?

Debt management plans will only affect those creditors who agree to the plan. Creditors may agree to freeze interest and charges as part of the debt management plan but they are not obliged to do so.

## What will happen to my assets and income?

Your assets will not be affected by the debt management plan. Your disposable income will be used to make the payment into the debt management plan.

## Who oversees the debt management plan?

A debt management plan is usually arranged on your behalf by a third party provider, for example, a debt charity or debt management company. They will oversee the debt management plan on your behalf unless you have arranged the plan directly with your creditors, in which case you will oversee it.

## What will happen to my home?

If you keep up with your payments on your debts and your rent or mortgage, your debt management plan should have no direct effect on your home.





### **How long will a debt management plan last?**

The length of your debt management plan will depend on your individual circumstances. It will depend on your level of debt and how much you can afford to repay each month. The aim of a debt management plan is often to repay what you owe in full over a longer period of time. Alternatively, the plan can be used to manage your affairs until your circumstances improve and you can return to making payments to your creditors under the original terms.

### **How else might I be affected?**

A debt management plan could affect your credit history.

### **Can a debt management plan be cancelled or extended?**

A debt management plan is not legally binding. You are not tied in for a minimum period and you can cancel at any time. However, this also means that your creditors are not bound by the agreement and may change their mind and restart work to collect what you owe them according to the original terms of the loan.

### **How do I pay for the debt management plan?**

If you come to an agreement with your creditors yourself, it will not cost you anything. If you use the services of a debt management plan provider they will charge a fee to receive your monthly payment and to distribute this to your creditors. This fee is usually deducted from your monthly payment into the plan. There are some debt management plan providers who do not charge a fee.



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# Statutory Solutions

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The following options for resolving money difficulties are called **statutory solutions** because they are covered by the Insolvency Act 1986. These solutions bind you and your creditors. Your creditors will be bound by the solution regardless of whether they have agreed to it (with some exceptions).

These solutions are open to people who are insolvent. This is where you cannot pay back a debt when it falls due.

This guide covers the statutory solutions which are available in England and Wales. These are:

1. **Individual Voluntary Arrangements (IVAs)**
2. **Debt Relief Orders (DROs)**
3. **Bankruptcy**

*This guide covers how these options work in England and Wales. Options in Scotland and Northern Ireland are similar, but are not exactly the same.*





# Individual Voluntary Arrangements (IVAs)

## What is an IVA?

An IVA is a binding agreement between a person and their creditors. IVAs are very flexible. There are no restrictions on the level of debts or assets an individual can have when they enter into an IVA. IVAs can be used to agree lots of different things: a partial write-off of debt, for example, or a change in the length of time over which debts are repaid. An IVA can be based on monthly payments, lump sum payments, the sale of one or more assets, third party payments, or a combination of any of these.

IVAs are overseen by a licensed insolvency practitioner and are voted for by creditors. Once the IVA has been successfully completed, your outstanding debts will be written off.

Once you have entered an IVA, your creditors will not be able to take action against you in relation to debts that were owed prior to the start of the procedure.

A person in an IVA is not subject to the same restrictions as they would be in a bankruptcy or a Debt Relief Order.

If you do not keep up with the terms of your IVA, the IVA may fail and you will still be liable for the unpaid debts covered by the IVA. Subject to the terms of the IVA, you may be made bankrupt.

During an IVA you will still need to keep up with ongoing commitments, like rent, mortgage payments, or bills, including new credit card or utility bills.

## How do I enter an IVA?

To enter an IVA, you must put together a proposal for your creditors. An insolvency practitioner can help you do this, and they will give you advice about whether or not an IVA is the right solution for you. An insolvency practitioner helping you prepare an IVA is known as a 'nominee'.

You can propose any form of debt restructuring you like to your creditors. Usually, an IVA proposal will involve offering to pay back part of what you owe over a number of years (typically five years).

An IVA proposal is a formal legal document and can be lengthy and complex. Even though a nominee will help you with your proposal, it remains your document and you could be prosecuted if it contains misleading information.

Typically, you will be eligible for an IVA if you have sufficient **surplus income** to make a contribution to the IVA every month. Surplus income is the money you have left after deducting usual household expenses. There is no set amount of surplus income required to enter an IVA, but an IVA may not be possible if your nominee or creditors feel your surplus income figure is too low.

Once you have prepared your proposal, it is put to creditors for a vote. Your IVA will begin if your proposal is approved by creditors owed 75% or more of the value of your debts (out of those creditors voting on the proposal).

Your creditors can propose and vote on modifications to your proposal. You will need to agree to any such modifications if you want the IVA to go ahead but you are not obliged to agree.

To enter an IVA, you must be insolvent: you must be unable to pay a debt when it falls due, and you must be resident in England or Wales.

### Which of my debts and creditors will be affected?

With some exceptions, your IVA will affect the debts you owe to all your creditors – including those creditors which voted against the proposal.

Your secured creditors (see *glossary, pages 22-23*) will not be affected by the IVA unless they agree to be bound by it.

Once you have agreed an IVA, your creditors will not be able to take action against you in relation to any of the debts you owed when the procedure started.

As with all statutory solutions, there are some debts which cannot be written off by the procedure. Once the IVA ends, you will still owe the following:

- Any debts which are secured against an asset you own, such as a house or car
- Child maintenance
- Student loans
- Social Fund budgeting and crisis loans
- Fines for drug offences
- Court-ordered damages or fines
- TV licence debts
- Any debts incurred after the IVA started

### What will happen to my assets and income?

During an IVA, you will retain control of your assets and income. You may choose to sell some of your assets to raise money to contribute to the IVA (this can be part of the IVA proposal). Your creditors might also require you to sell some assets as a condition for their support of the IVA (this may be suggested as a modification to your proposal).

### If I own a home, what will happen to it?

As with the rest of your assets, you may retain ownership of your home if you enter an IVA.

However, you may still be required to sell or re-mortgage your property if this is part of the proposal agreed to by creditors.

### How long will an IVA last?

Your IVA will last as long as agreed to by your creditors. This can vary from case to case as there is no legally prescribed IVA length. Typically, an IVA will last for five years.

Once the IVA has been successfully completed, you will no longer be considered to owe the debts which were covered by the IVA.



## Who oversees the IVA?

IVAs are overseen by a licensed insolvency practitioner. Before the IVA is approved, they will act as the **nominee**. After the IVA is approved, they will act as the **supervisor**. It is the supervisor's job to make sure the terms of the IVA are being fulfilled. The supervisor can bring an IVA to an end if you do not keep up with your repayments, and may petition for your bankruptcy.

In an IVA, the insolvency practitioner will not carry out the same type of investigations into your situation that they would in a bankruptcy. However, the insolvency practitioner will still ask you to provide evidence to support the information you have provided to them.

## Can an IVA be cancelled or extended?

The terms of an IVA can be changed if creditors agree – this includes lengthening or shortening the IVA. This is called a variation. Variations will need to be voted on by creditors.

An IVA can be cancelled if you do not comply with the terms of the agreement. If an IVA fails, you may end up back in the position you were at the beginning.

Your supervisor may also cancel the IVA if they discover you were dishonest about the information provided as part of your proposal.

## How else might I be affected?

If you are in an IVA, you will not be subject to the same restrictions as you would in a bankruptcy or Debt Relief Order. You would still be able to act as a company director, for example.

You will still need to tell organisations (such as a lender) that you are in an IVA if you are asked. You should also check any contracts to which you are a party to see if there are any clauses which relate to IVAs.

Your IVA will remain on your credit history for six years from the date it started. Once you have entered an IVA, your name will also be added to the government's Individual Insolvency Register. This register is publicly available. Your name will be removed from the register three months after the end of your IVA.

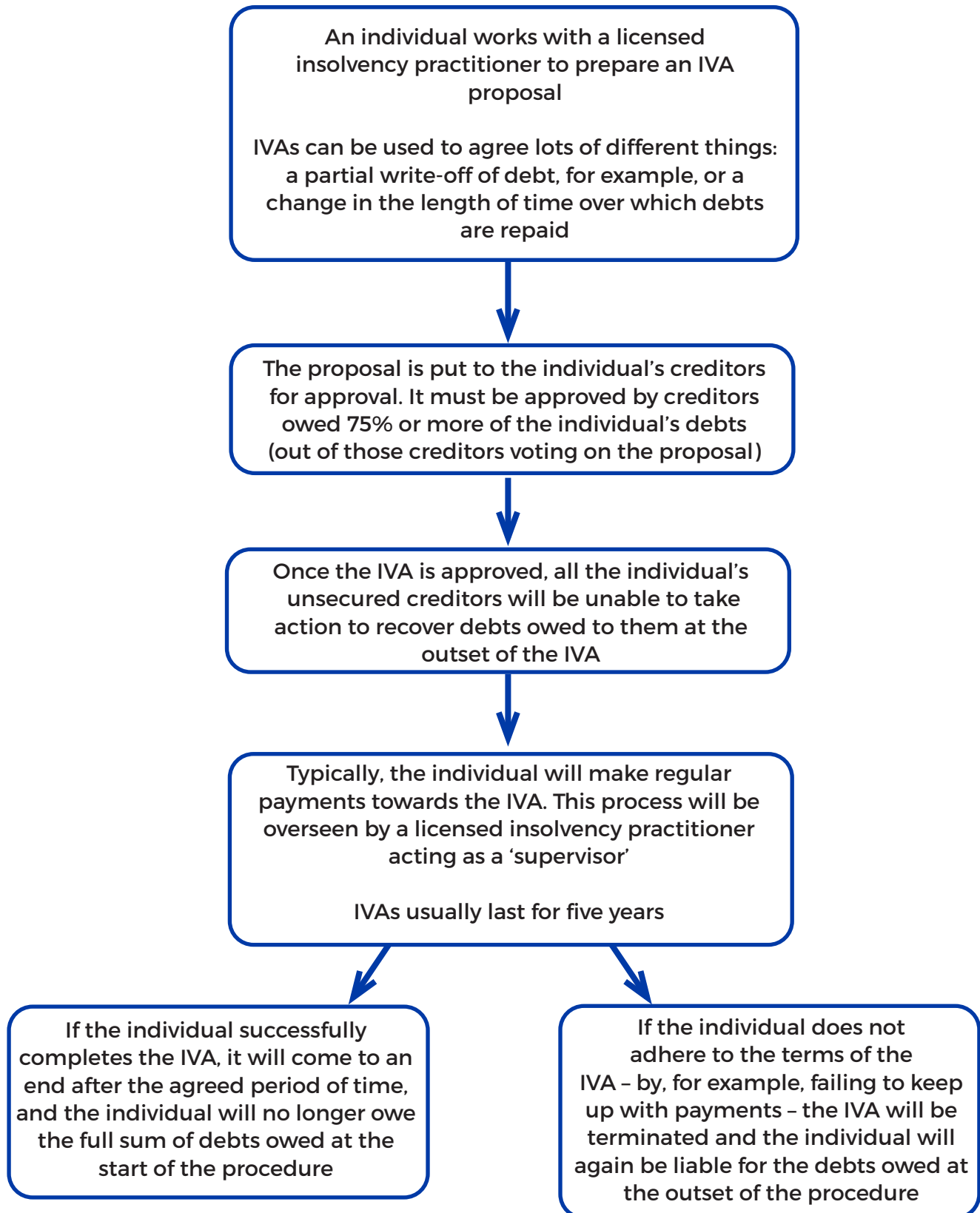
## How do I pay for an IVA?

There are no government fees in IVAs, but you will have to pay for the insolvency practitioner's work. These fees are usually deducted from the money you pay into the IVA and will be included in the IVA proposal. In some circumstances, the insolvency practitioner may require you to pay a nominee fee up front.



# IVAs

Though IVAs are generally bespoke to an individual's circumstances, the process is commonly the same from start to end. The flow chart below provides an overview of the process for individuals.



# Debt Relief Orders (DROs)

## What is a DRO?

A DRO is a statutory solution designed for people with low value debts, low incomes, and few assets. It involves the complete write-off of what you owe your creditors in exchange for you being subject to some restrictions for **one year**.

During a DRO, your creditors will not be able to take action against you in relation to debts that were owed prior to the start of the procedure.

During a DRO you will still need to keep up with ongoing commitments, like rent, mortgage payments, or bills, including new credit card or utility bills.



## How do I enter a DRO?

To enter a DRO, you must:

- owe **£20,000 or less**
- not have assets worth **more than £1,000** (though you may also have a car worth up to £1,000), and
- have **less than £50 spare each month** after paying usual household expenses.

It is not possible to enter a DRO if you have already been in one in the previous six years. You must have lived in England and Wales for the last three years.

DROs are provided by the government's Official Receiver (part of the Insolvency Service) through **approved intermediaries**. Approved intermediaries are typically debt charities. The approved intermediary will apply for a DRO on your behalf. The Official Receiver will then review your situation and decide whether or not to grant the DRO.

To enter a DRO, you must be insolvent: you must be unable to pay a debt when it falls due.

It costs **£90** in government fees to enter a DRO. Sometimes an approved intermediary will pay this fee for you.



## Which of my debts and creditors will be affected?

Your DRO will affect all your unsecured creditors (see glossary, pages 22-23) and will lead to the write-off of what you owe them.

Secured creditors will be unaffected by the DRO. However, given the asset limits in place in this type of procedure, it is unlikely that you will have secured creditors. The approved intermediary will help you work out what type of creditors you have.

As with all statutory solutions, there are some debts which cannot be written off by the procedure. Once the DRO ends, you will still owe the following:

- Any debts which are secured against an asset you own
- Child maintenance
- Student loans
- Social Fund budgeting and crisis loans
- Fines for drug offences
- Court-ordered damages or fines
- TV licence debts
- Any debts incurred after the DRO started

## What will happen to my assets and income?

During a DRO you will keep any assets and income you have. Your creditors will not be repaid anything as part of the procedure.

## If I own a home, what will happen to it?

Given the asset restrictions in place, it is unlikely that you can enter a DRO if you own your own home.

## Who oversees the DRO?

DROs are overseen by the government's Official Receiver. An approved intermediary will help you apply for a DRO.

## How long will a DRO last?

You will be subject to the restrictions of the DRO for one year.



## How do I pay for a DRO?

Beyond the £90 fee to enter a DRO, there are no ongoing costs for you to pay.

## How else might I be affected?

If you are in a DRO, you will be subject to the following restrictions:

- You cannot **borrow more than £500** without telling the lender about the DRO
- You cannot **act as a company director**
- You cannot **start, manage or promote a company** without court approval
- You cannot **apply for an overdraft** without telling a lender about the DRO

It is a criminal offence to break any of these restrictions.

Your DRO will remain on your credit record for six years from the date it started. Your name will also be added to the government's Individual Insolvency Register. This register is publicly available. Your name will be removed from the register three months after the end of your DRO.

## Can a DRO be cancelled or extended?

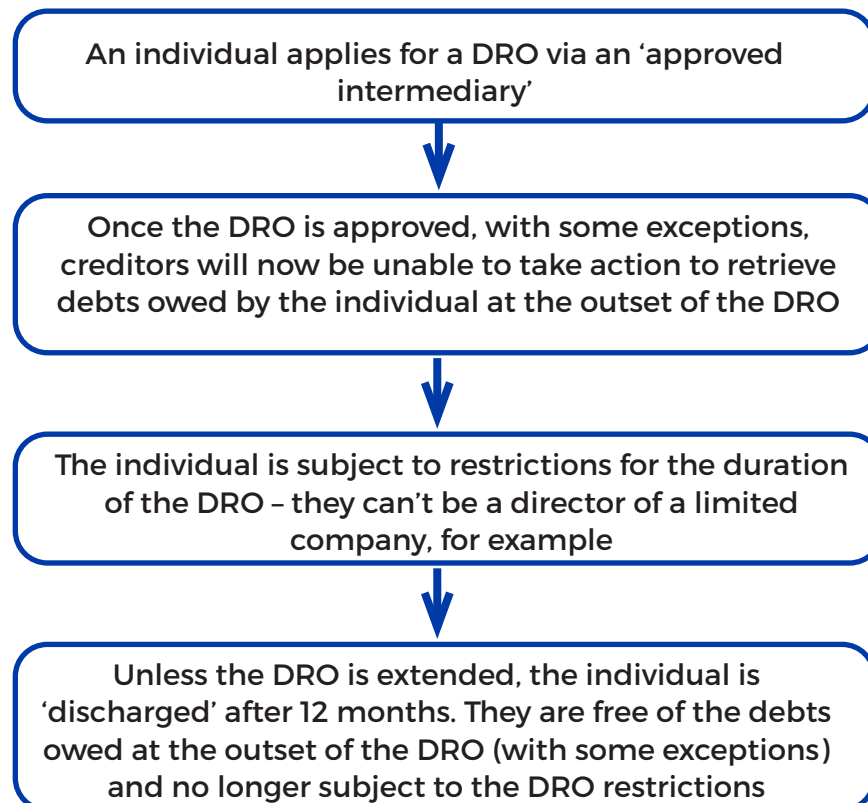
If you are dishonest about your circumstances, or if you are found to have been responsible for your financial position (for example, by spending recklessly), your DRO may be extended by a Debt Relief Restrictions Order. This could extend the restrictions imposed on you as part of the DRO from **two to fifteen years**. The Official Receiver will have to apply to court to do this.

During the DRO, it is important that you tell the Official Receiver about any changes in your circumstances. If your income increases or you receive extra money or assets and are able to start paying off your debts, your DRO may be revoked.



# DROs

The flow chart below provides an overview of the DRO process for individuals from application to discharge.







# Bankruptcy

## What is bankruptcy?

Bankruptcy is a solution designed to help an insolvent person repay as much of what they owe as possible while writing off debts they cannot pay. In a bankruptcy, your assets pass into the control of a **trustee** who may sell these assets to raise money to repay your creditors. The trustee will either be a government official (the Official Receiver) or a licensed insolvency practitioner.

During a bankruptcy, you will be subject to some restrictions for **one year**. Once the year is up, most people will be **discharged** from bankruptcy.

Once you have entered bankruptcy, your creditors will not be able to take action against you in relation to debts that were owed prior to the start of the procedure.

During a bankruptcy you will still need to keep up with ongoing commitments, like rent, mortgage payments, or bills, including new credit card or utility bills.

## How do I enter bankruptcy?

There are two ways to enter bankruptcy. A creditor, or group of creditors, may ask the court to make you bankrupt if you owe them **£5,000** or more. Alternatively, if you wish to make yourself bankrupt, you may apply online to the government's Adjudicator (part of the Insolvency Service).

To enter bankruptcy, you must be insolvent: you must be unable to pay your debts when they fall due. Unlike a Debt Relief Order, there are **no limits** on the value of the assets or debts you can have before entering bankruptcy.

If you wish to enter bankruptcy, it will cost **£680** in government fees. These fees can be paid in instalments, but they must be paid in full **before** the bankruptcy order is made. If your creditors are applying to make you bankrupt, they will pay the costs of doing so.

To be made bankrupt, you must be resident in England or Wales.

## Which of my debts and creditors will be affected?

With some exceptions, your bankruptcy will affect your unsecured debts (*see glossary, pages 22-23*). Once you are bankrupt, your unsecured creditors will not be able to take action against you in relation to any of the debts you owed when the procedure started. It is important to remember that this does not apply to secured creditors, such as a mortgage provider. They may still take possession of your property if you do not keep up with payments.

As with all statutory solutions, there are some debts which cannot be written off by the procedure. Once the bankruptcy ends, you will still owe the following:

- Any debts which are secured against an asset you own
- Debts arising from fraud or fraudulent breach of trust
- Child maintenance
- Student loans
- Social Fund budgeting and crisis loans
- Fines for drug offences
- Court-ordered damages or fines
- TV licence debts
- Any debts incurred after the bankruptcy started.

## What will happen to my assets and income?

In a bankruptcy, any assets you own at the time of the bankruptcy order, or which you acquire before you are discharged, will pass into the control of a trustee. The trustee may sell these assets to raise money to repay your creditors.

There are some assets which will not pass to the trustee. These include everyday household items (like bedding or furniture), tools you might need to do your job, and cars worth less than £1,000. If any of your household items are particularly valuable, these may be sold by the trustee, who may be required to replace them with a reasonable alternative.

The trustee may return assets to you if it is not cost-effective to sell them. The trustee also has the power to retrieve assets you may have given or sold to someone else in the period before your bankruptcy.

You will usually be able to keep any money you have put into a pension, although any money you are receiving as part of a pension will be considered as income.

Your trustee may require you to make a contribution to your creditors out of your income if you have sufficient surplus income to make a contribution to the bankruptcy estate every month. This is known as an Income Payments Order (IPO) or Income Payments Agreement (IPA). These orders or agreements last for three years.

## If I own a home, what will happen to it?

Your trustee will seek to access any equity you have in your home and use this money to help repay your creditors. Equity is the difference between the value of your home and any sums owed to anyone with a charge on your property, such as your mortgage provider. If you are able to raise money equivalent to the equity in your home, you may purchase the interest from your trustee. A third party, such as your partner, a relative, or a friend, may also offer to purchase the equity in your home. If you are unable to raise funds to purchase the equity, you may be required to sell the property or hand the property to the trustee to sell.

If you have low or negative equity (where your home is worth less than the value of what you owe to the mortgage provider), the trustee will be unlikely to try to sell your home. If a trustee has not realised the equity in your family home, or dealt with it by making an application to court, in the three years after the bankruptcy begins, the home is returned to you and the trustee can take no further action.

The sale of your home as part of your bankruptcy will be delayed by up to a year if your spouse/civil partner or children live in the property. This may be extended if there are exceptional circumstances.

Once you have been made bankrupt, you must still keep up with your mortgage payments: as a secured debt, your mortgage is not covered by the bankruptcy. If you stop paying your mortgage, your mortgage provider may take steps to repossess your home. If your mortgage provider is not able to recover all that you owe it once it has sold the property, the outstanding debt becomes an unsecured debt in your bankruptcy and you will no longer owe it once you are discharged.



## Who oversees the bankruptcy?

All bankruptcies are overseen by the government's Official Receiver as trustee in the first instance. The Official Receiver may pass a bankruptcy to a licensed insolvency practitioner to act as trustee in some circumstances.

The trustee will look into your finances and assess your situation. This might involve an interview with you. You must provide your trustee with any information they request from you, and you must provide them with full details about your assets and what you owe. Failure to cooperate with your trustee could lead to your bankruptcy term being extended and will increase the costs associated with your case. These costs will be paid for by the sale of your assets, if you have any assets to sell.

The trustee is responsible to all your creditors equally. They do not represent one particular creditor.

## How else might I be affected?

If you are in a bankruptcy, you will be subject to the following restrictions:

- You cannot **borrow more than £500** without telling the lender about the bankruptcy
- You cannot **act as a company director** without the court's approval
- You cannot **start, manage or promote a company** without court approval
- You cannot **work as an insolvency practitioner**

These restrictions will lift once you have been discharged. It is a criminal offence to break the restrictions.

Some organisations may impose their own restrictions on people who have been made bankrupt.

Your bankruptcy will remain on your credit history for **six years** from the date it started. Once you have been made bankrupt, your name will also be added to the government's Individual Insolvency Register. This register is publicly available. Your name will be removed from the register three months after you have been discharged.

## How long will a bankruptcy last?

You will be subject to bankruptcy restrictions for **one year**. At the end of the year, you will be discharged and will not be responsible for the debts you owed at the start of the bankruptcy. Discharge may be suspended for a variety of reasons, including non-cooperation with the trustee.

After your discharge, your trustee will still retain the assets you had at the start of the bankruptcy and they will continue to work to raise money to repay your creditors. This process can carry on long after you have been discharged.

## Can a bankruptcy be cancelled or extended?

It is possible to apply for the annulment of a bankruptcy order where it can be shown that the order ought not to have been made or the bankruptcy debts and expenses have all been paid in full, or if you have agreed an IVA with your creditors. The annulment of a bankruptcy order effectively restores the position to what it was immediately before the bankruptcy order was made. In other words, an annulment effectively cancels the original bankruptcy order – it is as if the bankruptcy order was never made.

If you have not complied with your obligations during the bankruptcy, you may be made subject to a Bankruptcy Restriction Order. This Order may last up to **15 years**. Under such an Order, the restrictions imposed upon you by the bankruptcy will continue. You may also agree to extend the period for which the bankruptcy restrictions apply by agreeing to a Bankruptcy Restriction Undertaking.

Your trustee may also apply to court for the automatic discharge of your bankruptcy to be suspended.

## How do I pay for bankruptcy?

As above, **£680** in government fees are due at the start of a bankruptcy. Once you have entered bankruptcy, statutory costs and the trustee's costs will be paid for through the realisation of your assets, if you have any. If you do not have enough assets to pay for all the costs and debts associated with your case, you will not be asked to pay more.

Where the Official Receiver is the trustee, they will charge a percentage of the assets they have realised during the bankruptcy.

In cases where an insolvency practitioner has been appointed as trustee, the fees will often be based on the time the trustee has spent on the case. Cooperating with the trustee is therefore an effective way to keep their fees down: cooperation will mean the trustee does not have to carry out additional tasks as they seek to fulfil their legal duties. An insolvency practitioner's fees will be agreed by your creditors.

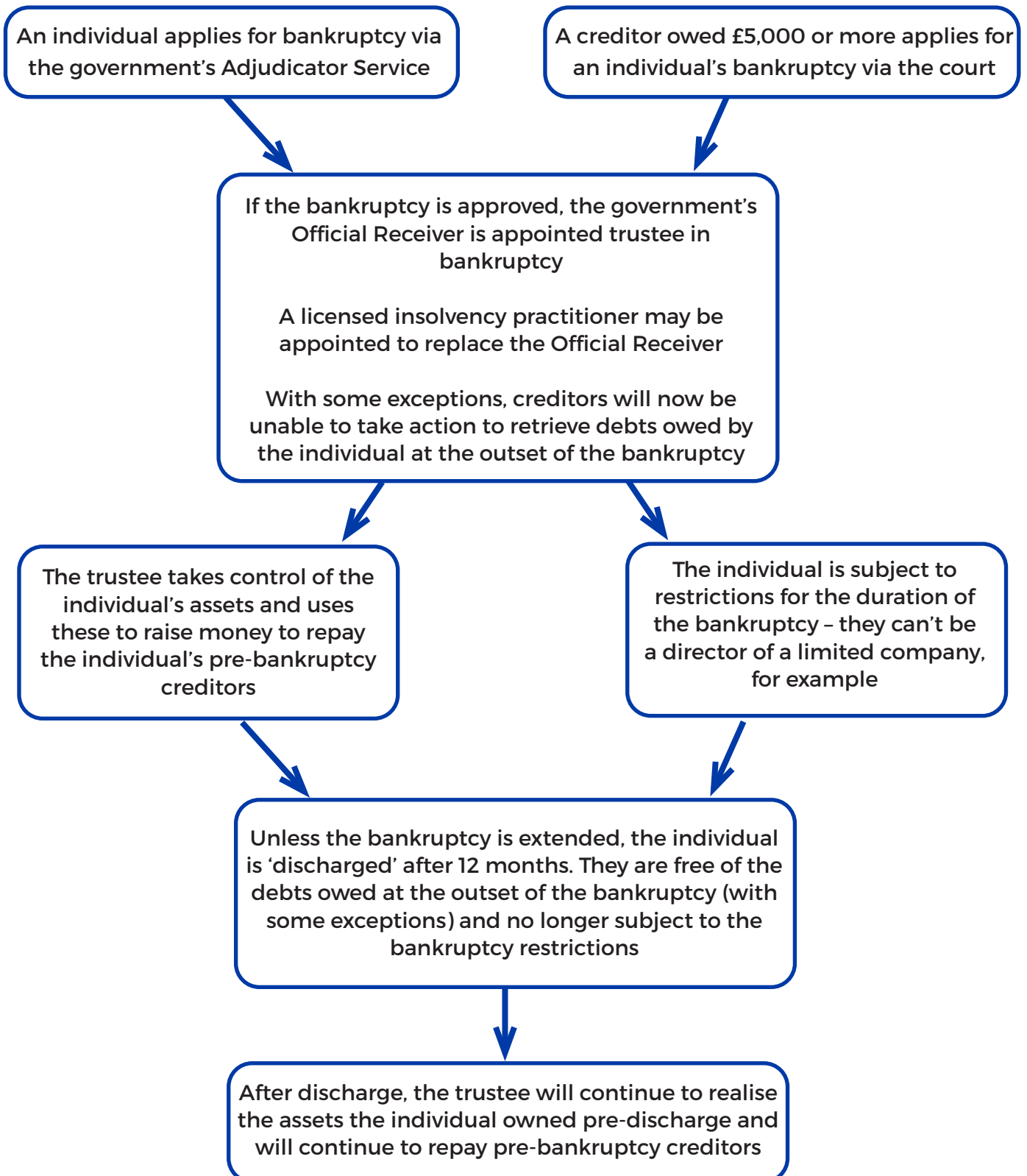
In all cases there will be a government statutory fee of £6,000.

All these fees will be paid out of the bankruptcy deposit and the realisation of bankruptcy assets. Should there be insufficient assets to pay these fees in full, you will not be asked to pay the outstanding amount. However, if you seek to annul the bankruptcy on the basis that your debts and expenses can be paid in full, you will still need to pay this fee.



# Bankruptcy

The flow chart below provides an overview of the bankruptcy process for individuals from application to discharge.



# Statutory solutions – a quick guide

*Important: this table only provides an overview of statutory solutions. For more information, please refer to pages 8-19.*

*You should always seek expert advice before entering a statutory insolvency solution*

	<b>Individual Voluntary Arrangement</b>	<b>Debt Relief Order</b>	<b>Bankruptcy</b>
<b>Are there any limits on what I can owe, own or earn before I enter?</b>	<p>There are no limits on the value of the assets you can own or what you can owe before agreeing an IVA with your creditors.</p> <p>You will need a sufficient level of surplus income for the IVA to be viable, but there is no set value for this level.</p>	<p>To enter a DRO you must...</p> <ul style="list-style-type: none"> <li>• Own under £1,000 of assets</li> <li>• Owe under £20,000</li> <li>• Have under £50 of 'surplus income' every month</li> </ul>	<p>There are no limits on the value of the assets you can own or what you can owe before being made bankrupt.</p>
<b>What debts and creditors will be affected?</b>	<p>An IVA covers all your debts and creditors except for secured debts and things like student loans or court fines.</p> <p>Secured creditors can be affected by the IVA if they agree to it.</p> <p>Once you are in an IVA, your creditors will not be able to take their own actions to ask you to repay what you owe them.</p>	<p>A DRO covers all your debts and creditors except for secured debts and things like student loans or court fines.</p> <p>Once you are in a DRO, your creditors will not be able to take their own actions to ask you to repay what you owe them.</p>	<p>Bankruptcy covers all your debts and creditors except for secured debts and things like student loans or court fines.</p> <p>Once you are bankrupt, your unsecured creditors will not be able to take their own actions to ask you to repay what you owe them.</p>
<b>How do I enter?</b>	<p>A licensed insolvency practitioner will help you put a proposal together for your creditors.</p> <p>Your creditors will then vote on your proposal. It must be approved by creditors owed 75% of the value of the debts owed to those creditors voting.</p> <p>Your creditors can suggest modifications to your proposal.</p> <p>Typically, an IVA will involve offering to pay your creditors a proportion of what you owe them over a set period of time.</p>	<p>An approved intermediary, such as a charity, can apply for a DRO on your behalf.</p>	<p>You can apply to be made bankrupt online via a government portal.</p> <p>If you owe £5,000 to a creditor, or group of creditors, they can ask the court to make you bankrupt.</p>
<b>How much does it cost?</b>	<p>The person overseeing the IVA will charge a fee for their work.</p> <p>This fee will form part of your proposal and will be taken out of your contributions to the IVA.</p>	<p>It costs £90 in government fees to enter a DRO.</p>	<p>If you apply to make yourself bankrupt, you will need to pay £680 before a bankruptcy order can be made. If a creditor presents a petition, they will be required to pay a petition deposit of £990 and court fees of £280.</p> <p>The government charges a further £6,000 in every bankruptcy.</p> <p>The person overseeing the bankruptcy will charge a fee for their work.</p> <p>These fees will be paid for from your assets, if any, and will be deducted from what is returned to creditors.</p>

	<b>Individual Voluntary Arrangement</b>	<b>Debt Relief Order</b>	<b>Bankruptcy</b>
<b>Who oversees the process?</b>	IVAs are overseen by a licensed insolvency practitioner, who is called the nominee while the IVA proposal is drafted, and the supervisor once the proposal is approved.	DROs are overseen by the government's Official Receiver, but you will apply for a DRO via an approved intermediary, such as a charity.	Bankruptcies are overseen by a trustee.  This can be the government's Official Receiver or a licensed insolvency practitioner.
<b>What happens to my assets?</b>	You will retain control of your assets, although assets may be sold as part of the IVA proposal.	You will retain control of your assets.	Your assets will pass into the control of the trustee.  The trustee may sell these assets to raise money to repay your creditors.
<b>What happens to what I owe?</b>	The IVA affects the debts that you owe when the procedure starts.  Once the IVA is successfully completed, you will no longer be considered to owe these debts.	The DRO affects the debts that you owe when the procedure starts.  Once you are discharged from the DRO, you will no longer be considered to owe these debts.	The bankruptcy affects the debts that you owe when the procedure starts.  Once you are discharged from bankruptcy, you, personally, will no longer be considered to owe these debts although you will be required to continue making payments until the end of the IPO/IPA (see page 17). The trustee may continue to repay the creditors affected by your bankruptcy.
<b>How long does it last?</b>	An IVA will last as long as your creditors agree to - there is no set time period.  IVAs typically last for five years. IVAs can be ended early if you do not keep up with agreed repayments or if you have been dishonest in your proposal.	You will be subject to DRO restrictions for one year.  Your DRO can be extended if careless or dishonest behaviour caused your debt problem.  Your DRO may be cancelled if your circumstances improve during the procedure. You should tell the Official Receiver if your circumstances change.	You will be subject to bankruptcy restrictions for one year.  Your bankruptcy term can be extended if you are dishonest, have behaved recklessly, or if you do not cooperate with the trustee.  Regardless of when you are discharged, your trustee will keep the assets you had at the start of the bankruptcy and may continue to sell them to raise money to pay back your creditors.
<b>How else will I be affected?</b>	Your IVA will stay on your credit history for six years after the procedure starts.  Your IVA will be recorded on the government's Individual Insolvency Register for the duration of the procedure. Details will then be removed from the register after three months.	Among other restrictions, while in a DRO you will not be able to act as a company director or borrow £500 without telling the lender you are in a DRO.  Your DRO will stay on your credit history for six years after the procedure starts.  Your DRO will be recorded on the government's Individual Insolvency Register for the duration of the procedure. Details will then be removed from the register after three months.  The Official Receiver will investigate your financial affairs as part of their work.	Among other restrictions, while bankrupt you will not be able to act as a company director or borrow £500 without telling the lender you are bankrupt.  Your bankruptcy will stay on your credit history for six years after the procedure starts.  Your bankruptcy will be recorded on the government's Individual Insolvency Register for the duration of the procedure. Details will then be removed from the register three months after you have been discharged.  The trustee will investigate your financial affairs as part of their work.

# KEY TERMS EXPLAINED



There are lots of terms and phrases which are often used when talking about debt, which makes it all the more important to seek debt advice from a regulated and impartial source who can help make sense of the options available. This section explains some of the key terms.

## Arrears

**Arrears** describes payments that you have missed on your debts and household bills. Arrears can also include interest and charges that have been added.

## Bankruptcy petition

A **bankruptcy petition** is a request put to the court by an individual's creditors to have that person made bankrupt. One or more creditors can petition for someone's bankruptcy if they are individually or jointly owed £5,000 or more.

## County Court Judgments

**County Court Judgments (CCJs)** are one of the actions that creditors can take to recover debts they are owed. A CCJ is a formal declaration that a creditor is owed money, which is issued by the court. Individuals that receive a CCJ have 30 days to respond to the judgment. It is important to reply to the judgment letter in the given timeline, as a creditor could begin further court action if they do not receive a response.

## Creditor

A **creditor** is a person or company that is owed money. Creditors can include, but are not limited to, banks, finance companies, hire purchase companies, HMRC, trade suppliers, employees, or other individuals. In insolvency procedures, creditors are paid according to a strict statutory order:

- **Secured creditors** are creditors who hold a fixed charge and security (such as a mortgage) on an asset and have the right to sell the asset to recover their debt. The right of a creditor to do this is not affected by insolvency. The secured creditor is the first to get paid when the asset is sold. If the secured creditor is owed more than the asset is sold for, any remaining balance will be treated as being unsecured.
- **Unsecured creditors** do not have security over their debts. Most creditors fall into this category.

## Credit rating

**Credit rating** or **history** (also known as a **credit score**) is a system used by lenders to assess how much of a risk it is to lend to an individual. Credit rating agencies will look at an individual's financial history, including records of missed payments or entry into an insolvency procedure.

## Dependent

A **dependent** is an individual that relies on another person as a primary source of income. This could include children or elderly relatives.

## Equity

**Equity** is the difference between how much your home is worth and the total amount owed on any mortgage and other lending that you have secured on it. If your home is worth more than your mortgage and secured lending, there will be equity. If the value of your property is less than the secured lending, there will be a shortfall or negative equity.

## Insolvency practitioner

A licensed **insolvency practitioner** is a regulated individual who will oversee some statutory insolvency procedures, such as Individual Voluntary Arrangements or bankruptcy. In a bankruptcy, the insolvency practitioner will act as a **trustee**. The trustee's role is to identify and realise assets in order to pay the costs and liabilities of the bankruptcy in the prescribed order. As a **nominee** or **supervisor** in an Individual Voluntary Arrangement, the insolvency practitioner will help an individual prepare a proposal to put to creditors and will then oversee the arrangement until its terms are completed.

## Insolvent

A person is **insolvent** if they cannot pay a debt when it falls due.

## Official Receiver

The **Official Receiver** is a government official who oversees bankruptcy cases in the first instance.



## Non-priority debts

**Non-priority debts** are important to address after getting priority debts under control. They are referred to as non-priority debts, because the problems they cause are considered less serious. However, those owed non-priority debts can still take action to collect payment which may result in you losing your home or other assets, or being made bankrupt. Non-priority debts can include credit card or store card debts, overdrafts, catalogue debts, personal debts to family and friends, private parking tickets, payday loans, and business supplier debts if you have traded.

## Priority debts

**Priority debts** are debts that can cause serious problems if they are not dealt with, such as losing a home, or access to certain utilities. Creditors owed priority debts may also have powers to recover what they are owed. Priority debts include rent arrears, mortgage arrears, council tax arrears, and gas or electricity bills (but not water). While these debts may not be the largest debts, it is important to address these before other debts.

## Statutory demand

A **statutory demand** is a written demand from a creditor to pay a debt within the given timeline (usually 21 days), either by repaying the debt or trying to come to an agreement with the creditor. If the statutory demand is not dealt with within the timescale specified, and the debt is over £5,000, the creditor is able to petition for bankruptcy.

## Surplus income

**Surplus income** refers to the amount of money left every month after the payment of rent, mortgages, household bills, food and other essential spending owed.



# USEFUL CONTACTS

## Sources of advice

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### INSOLVENCY PRACTITIONERS

An insolvency practitioner is someone who is licensed and authorised to act in relation to insolvent individuals, partnerships or companies. Many insolvency practitioners will offer one hour of free advice. To find an insolvency practitioner who may be able to provide advice, please visit R3's website:

[www.r3.org.uk/get-advice/find-a-practitioner](http://www.r3.org.uk/get-advice/find-a-practitioner)

Or you can find an insolvency practitioner in your area by visiting:

[www.gov.uk/find-an-insolvency-practitioner](http://www.gov.uk/find-an-insolvency-practitioner)

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### CITIZENS ADVICE

Citizens Advice can give face-to-face debt advice, via thousands of centres and outreach locations. They also offer advice over the phone or by email.

**Tel: 03444 111 444**

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

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### DEBT ADVICE FOUNDATION

The Debt Advice Foundation is a registered national debt advice and education charity offering free, confidential support and advice to anyone worried about loans, credit and debt.

**Tel: 0800 043 40 50**

[www.debtadvicefoundation.org](http://www.debtadvicefoundation.org)

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### MONEY ADVICE SERVICE

The Money Advice Service offers free and impartial money advice and was set up by the government. It provides guidance across a wide range of money matters, including a number of useful tools and calculators to help people manage their money.

**Tel: 0800 138 7777**

[www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)

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### STEPCHANGE DEBT CHARITY

StepChange Debt Charity offers a wide range of debt solutions, to help you no matter what you're dealing with.

**Tel: 0800 138 1111**

[www.stepchange.org](http://www.stepchange.org)

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## NATIONAL DEBTLINE

National Debtline is a free and confidential debt advice service for people in England, Wales and Scotland, run by the Money Advice Trust. Business Debtline can help with debts relating to businesses.

**Tel: 0808 808 4000**

**[www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk) or [www.businessdebtline.org](http://www.businessdebtline.org)**

National Debtline produces a useful booklet, '**How to Deal with Debt**', which contains a lot of helpful information about budgeting, maximising your income, and managing your affairs. This can be downloaded here:

**[www.nationaldebtline.org/SiteCollectionDocuments/how-to-deal-with-debt.pdf](http://www.nationaldebtline.org/SiteCollectionDocuments/how-to-deal-with-debt.pdf)**

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## Help with mental health

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### SAMARITANS

The Samaritans provides confidential support for people experiencing feelings of distress or despair.

**Tel: 116 123 (free 24 hour helpline)**

**[www.samaritans.org.uk](http://www.samaritans.org.uk)**

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### MIND

Mind promotes the views and needs of people with mental health problems.

**Tel: 0300 123 3393 (Mon-Fri 9am to 5pm)**

**[www.mind.org.uk](http://www.mind.org.uk)**

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### MENTAL HEALTH FOUNDATION

A source of information and support for anyone with mental health problems or learning difficulties.

**[www.mentalhealth.org.uk](http://www.mentalhealth.org.uk)**

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### MENTAL HEALTH AND MONEY ADVICE

Clear practical advice and support for people experiencing issues with mental health and money.

**[www.mentalhealthandmoneyadvice.org.uk](http://www.mentalhealthandmoneyadvice.org.uk)**



R3 is the trade association for the UK's insolvency, restructuring, advisory and turnaround professionals. R3's members have extensive experience of helping businesses and individuals in financial distress. Our members include insolvency practitioners, who are trained and licensed to give personal debt advice and administer statutory personal insolvency procedures.

[www.r3.org.uk](http://www.r3.org.uk)

This leaflet serves as a guide to the options and places you can go to for advice on personal debt issues. It is intended only to relate to England and Wales. It is not a statement of the law or a substitute for specific professional or legal advice. We have made every effort to ensure that the guide is accurate, but R3 cannot accept any responsibility for the consequences of any action taken in reliance of its contents.