

North East Derbyshire Citizens Advice Bureau

citizens
advice
bureau

Fact Sheet #1: Basic Bankruptcy Guide

Introduction

Bankruptcy can be the best option for dealing with debts in many cases allowing people to clear their debts and make a genuine stress free new start with their lives. It is a perfectly legitimate way of dealing with your debts and should always be considered along with all other options available.

There now seems to be much less stigma attached to bankruptcy with many people now choosing this route as a long term solution to their debt and financial problems.

Please note you should **always** seek proper advice on all your options from the Citizens Advice Bureau or another recognised agency / professional before deciding on bankruptcy as a method of dealing with your debts as there are advantages, disadvantages and possible serious implications.

Some advantages of bankruptcy

- Genuine fresh start with your debts legally written off.
- Stress and pressure relieved because you no longer have to deal with creditors.
- You are usually allowed to keep all your essential household goods etc.
- Allowed a reasonable amount of money to live on.

- In **some** cases you may be allowed to keep your car (depending on value) if you need it for work or if disabled (eg. DLA mobility scheme).
- Discharged in one year or as little as six months in some cases.

Some disadvantages of bankruptcy

- If you own your home or have any valuable assets both could be at serious risk of being sold to raise any equity or monies, however in **some** cases you may be able to keep your home (eg. negative or very small equity).
- Your employment could be at risk in some professions (you would need to check your contract of employment).
- If you own a business it is more than likely that the Official Receiver will close it down and dismiss your employees and sell off any assets.
- Some details of your bankruptcy (eg. name and address) are recorded on the Insolvency Service Public Register and advertised for one week/day (usually in a small print section) in local and national newspapers.
- You may be subject to a three year income payment arrangement / order (IPA/IPO) (depending on circumstances).

- A bankruptcy restriction order (BRO) may be applied to you if you fail to co-operate with the Official Receiver or there are discrepancies in your petition etc.
- Some debts are not written off in bankruptcy, for example court fines, student loans, CSA and **some** rent arrears (always check this area).
- Bankruptcy orders are kept on credit files for six years and you cannot obtain credit of more than £500 without advising the creditor that you are bankrupt.

How are you made bankrupt?

- Voluntary - You petition for bankruptcy yourself.
- Involuntary – By a creditor owed £750 or more.
- The Supervisor or anyone bound by an IVA.*

* If you have problems with your IVA and / or feel that you may not have been properly advised before entering into it you may still be able to petition for bankruptcy yourself, however you should **always** obtain proper advice first.

North East Derbyshire Citizens Advice Bureau have dealt with enquiries regarding problems with IVAs and continue to do so. In some cases we have advised and assisted clients in making the transition from IVA to Bankruptcy.

Please note there is clear evidence of organisations and individuals contacting those who are bankrupt or subject to IVAs after obtaining their details from the Insolvency Service Register. It appears that some of these organisations and individuals are offering services and / or solutions (often with a fee or costs involved) that they claim would be beneficial to those already subject to bankruptcy or IVAs.

Our position regarding the above is that you should **always** contact your Insolvency Practitioner and / or seek independent, impartial advice from a recognised agency such as the Citizens Advice Bureau **before** making any decisions or committing yourself to any course of action.

How much does bankruptcy cost?

There are fees and costs to pay if you wish to petition for bankruptcy yourself, these are Official Receiver £525 and court costs of £175*

* If you are in receipt of some social security benefits or on a low income the £175 court costs may be fully or partially waived. To apply for exemption you will need to obtain and complete form ex160 which must be taken to court along with relevant proof of income (usually no older than 1 month).

Possible help with bankruptcy costs

There are a number of charities that may help with bankruptcy costs and fees depending on eligibility (examples below).

- Severn Trent Trust Fund and other water trusts
- EDF Energy Trust
- Royal British Legion
- Some Trade Unions

Please note you will usually need the assistance of a recognised Debt and Money Advice Worker in completing applications relating to the above.

How you petition for bankruptcy

Find out which court you will need to present your petition (this will usually be the local county court in the area you have been living in for greater part of the last six months) or in

London the High Court. If you are not sure you should always contact your local county court to confirm.

You will then need to obtain the necessary forms 6.27 (Debtors Bankruptcy Petition) & 6.28 (Statement of Affairs) & ex160 exemption form (if applicable), these can be obtained from your local court, some CABs or the Insolvency Service website.

You will need to fill in these forms (on line if applicable) providing all the information requested which includes all creditor details, current bank accounts, assets and your income and expenditure. Your local CAB may be able to assist you in completing and / or checking your forms for free if you have any difficulty or problems with them.

You should then contact your local court and confirm a bankruptcy hearing date.

What normally happens at court?

You will need to attend court (on time) taking your **fully** completed forms (some courts also request two copies) and the necessary fees (in cash). If you are applying for remission of court fees you will also need to take a completed ex160 court form and recent proof of income or benefits (usually **dated** within one month).

At your hearing a member of the court staff will swear your affidavit and check through your forms and take your fees. Please note that in our experience you will always be asked if you have had proper advice on bankruptcy at this stage. (You should **always** have sought proper advice on bankruptcy before making the decision)

If your forms are in order they will then be put in front of a District Judge who should make the bankruptcy order there and then, however he or she could ask for further information or suggest another solution (very rare). It is therefore very important that you have taken

proper advice on bankruptcy and your other options as stated earlier.

On some occasions the District Judge may ask to see you to check you have had the right advice and that you understand the possible implications etc, you should not worry about this as in our experience the District Judges are extremely polite, helpful and reassuring.

After you have been adjudged bankrupt you should be issued with a standard order sheet which will contain your bankruptcy hearing details eg. B/R number, time and date, District Judge, etc. You should keep this safe and can use it to quote the details to any creditor that may happen to still contact you after your order. (You may wish to send a standard letter to your creditors informing them of your bankruptcy details)

You may then be contacted by someone from the Official Receivers Office while you are still at court or at a later date (this varies depending on the court). They normally ask you a number of basic questions and then confirm your interview date or this will be confirmed by post.

Please note on the day you may spend some time at court waiting around but don't worry it will soon pass and you will be on your way home probably with a relieved smile on your face.

Official Receiver Interview

In our experience consumer bankrupts are usually interviewed over the phone (on time) which can be on your home phone or another designated number (some of our clients use the bureau office). However in some more complicated cases you may be asked to attend a face to face interview at the relevant Official Receivers Office.

The examiner who conducts the interview will go through your petition with you and ask you a number of questions relating to your bankruptcy. It is our experience that the Official

Receiver Examiners are polite, reassuring and helpful and are not there to judge you and our advice is that you should not worry and try to answer all questions where you can and cooperate fully with the Official Receivers Office.

The Official Receiver will inform your creditors of your bankruptcy and send them a report on your financial situation. The Official Receiver will agree what will happen to any valuable assets you may or may not have and discuss with you if any Income Payment Arrangement (IPA) may be relevant in your case.

When does my bankruptcy end?

You will normally be discharged from bankruptcy after one year or in some cases as early as 6 months, however if you have an IPA / IPO you will continue to pay for up to 3 years.

If you are subject to a Bankruptcy Restriction Order (BRO) or have agreed to a Bankruptcy Restriction Undertaking (BRU) these will continue to run their course after your discharge (however these are relatively rare).

Useful contacts and publications

The following guides are available on the Insolvency Service website: www.insolvency.gov.uk

- Guide to Bankruptcy
- How to petition for your own bankruptcy
- When will my bankruptcy end?
- What will happen to my home?
- What will happen to my bank account?
- Can my bankruptcy be cancelled?
- Individual Insolvency Register
- What happens when you are interviewed by the OR?
- What will happen to my pension?
- Bankruptcy Restrictions Orders

- IPO / IPA (Income Payment Orders and Income Payment Agreements)
- Alternatives to Bankruptcy
- Online Forms Service - Thinking of Bankruptcy? Complete your forms online

Free Bankruptcy and Debt Advice / Assistance

- Consumer Credit Counselling Service
0800 1381111
www.cccs.co.uk
- Business Debtline
0800 197 6026
www.bdl.org.uk

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