



The Insolvency  
Service

# Alternatives to bankruptcy

# Contents

Introduction .....	3
You do not have to become bankrupt just because you are in debt. ....	3
Informal Arrangements?.....	3
Informal arrangements, also known as 'family arrangements' or a 'debt management plan/agreement' .....	3
Advantages of an informal arrangement .....	4
Disadvantages of an informal arrangement .....	4
Administration orders .....	4
How does an administration order work? .....	4
Advantages of an administration order .....	5
Disadvantages of an administration order.....	5
Individual Voluntary Arrangements (IVAs).....	5
How does it work? .....	5
What will an IVA cost? .....	6
When can you enter an IVA? .....	6
Are there any restrictions when you enter an IVA? .....	6
What are the advantages of an IVA compared to going bankrupt?.....	6
Will the IVA be advertised in a local paper?.....	7
How long will the IVA last?.....	7
Can a member of a partnership propose an IVA?.....	7
Warning .....	7
Debt Relief Orders (DROs) .....	7
How does it work .....	8
How do I apply for a DRO? .....	8
What does a DRO cost? .....	9
How long does the DRO period last?.....	9
Are there any restrictions when you enter a DRO?.....	9
Will the DRO be advertised in a local paper? .....	9
Help to find support and advice.....	9
Copyright information 2013.....	10

## Introduction

Bankruptcy is a serious matter. If you are made bankrupt you will have to give up, with limited exceptions, any possessions of value and your interest in your home (the part of its value that you own). Bankruptcy will also impose certain restrictions on you and will almost certainly involve the closure of any business you run - though you can start to trade again, subject to restrictions. For more information, see our publication 'Guide to Bankruptcy'.

## You do not have to become bankrupt just because you are in debt.

This publication tells you about alternatives to bankruptcy. If you have money troubles and can't pay your creditors (the people you owe money to), it may be better for you and your creditors to use one of these alternatives instead of you becoming bankrupt.

My Money Steps is a free, independent and confidential online debt advice service from National Debtline. They will provide you with practical money advice you can follow step-by-step. The service can be used by anyone living in England, Wales or Scotland. <https://www.mymoneysteps.org/>

## Informal Arrangements?

### **Informal arrangements, also known as 'family arrangements' or a 'debt management plan/agreement'**

If you know that you cannot pay all your debts when they are due, you could consider writing to each of your creditors to see if you can reach a compromise. Include a timetable of when you will repay them.

The disadvantage with an informal arrangement is that it is not legally binding so your creditors could still ask you to pay in full at some later date.

Your local Citizens Advice Bureau can advise on and help you make this kind of arrangement. You can find details of your local bureau on the website: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Several other organisations can help you make an informal arrangement, but some will charge a fee for this work. When you contact them, always check whether they charge. Some of them are listed in our publication 'Guide to Bankruptcy'.

Informal arrangements are suitable if:

- you have very little money to repay your debts; or
- you are having debt problems but are likely to be able to make the normal repayments again in a few months; or
- you cannot afford the full monthly repayments but can afford a smaller regular amount each month.

The first step in an informal arrangement is to work out how much you can afford to pay your creditors each month after you have paid essential living costs.

You should write to each creditor explaining the situation. Ask them to accept the lower payment until your situation improves and you can make the full repayments.

## Advantages of an informal arrangement

- You, a Citizens Advice Bureau or other advice agency can set up an arrangement quickly and for free.
- It offers an effective solution if your problem is short term.
- It offers an effective solution if your creditors are prepared to accept lower payments.

## Disadvantages of an informal arrangement

- Your creditors don't have to accept your offer of reduced payments.
- If they do accept, they can change their minds at any time.
- They may accept it as a short-term measure only, unless they know from the outset that your situation is unlikely to change.

## Administration orders

If one or more of your creditors has obtained a county court judgment against you, the county court may make an administration order. Administration is a court-based procedure where you make regular payments to the court towards the total sum you owe your creditors.

Your total debts must not be more than £5,000 and you will need enough regular income to make weekly or monthly repayments. You do not have to pay a fee for an administration order but the court will take a small percentage towards its costs from the money you pay. If you don't pay regularly, the court may cancel the order and your creditors will be able to take action against you separately to get back what you owe them.

If your circumstances change and you cannot pay as ordered, you can apply to the court to change the order. The court that made the order will tell you what to do. Your local county court can give you details of administration orders.

### How does an administration order work?

The first step in an administration order is to apply to the court. For information on how to do this, you can contact your local Citizens Advice Bureau.

Further guidance is available from the HM Courts and Tribunals Service website:

[www.justice.gov.uk/about/hmcts/index.htm](http://www.justice.gov.uk/about/hmcts/index.htm)

Look for form N270 under " court forms". You will need to show that you cannot pay your debts and that you have a county court judgment against you.

The court will make an order based on what you can afford. It will state how much you are to pay each month and how long the arrangement will last. Often the court states that you must go on paying until your debts are cleared in full, although some orders ask you to repay only a percentage of your debt. The order may also state that the amount you repay each month must be reviewed from time to time.

You make monthly payments to the court and the court distributes the money to your creditors.

The court charges you for this service – the fee may be up to 10% of your total debt. The court takes a percentage of the court fee every time it pays a share to the creditors.

## Advantages of an administration order

- You only have to make one monthly payment to court.
- The payment you make is based on what you can afford.
- Once the order is in place, your creditors cannot take any action against you without first asking the court.

## Disadvantages of an administration order

- If you miss a payment, the arrangement may fail.
- You can apply for an order only if you owe less than £5,000 and have a county court judgment against you.
- Administration orders are registered in the Register of County Court Judgments. This will make it difficult for you to get credit. When the order is paid in full you can ask the court to mark the entry in the register as 'satisfied' and give you a certificate proving you have paid. You must pay a fee for this.

## Individual Voluntary Arrangements (IVAs)

An IVA is a formal version of the informal/family arrangement described above. It is generally appropriate for people who cannot make their monthly repayments in full but who do have some money to give their creditors each month. If your creditors agree to an IVA, some of your debt may be written off. An IVA is legally binding on you and your creditors, and if you break the terms of the IVA you could be made bankrupt.

An IVA begins with a formal proposal to your creditors to pay part or all of your debts. To draft the proposal you will need the help of a licensed insolvency practitioner (IP).

### How does it work?

First, you will need to find an IP who is prepared to act for you in the IVA. Your local court can give you the names of local practitioners. You can look at a list in your local official receiver's office or access it on our website: <http://www.insolvencydirect.bis.gov.uk/fip1/>

You can also find an IP online through the Association of Business Recovery Professionals (known as R3), an umbrella organisation for IPs. Their website is <http://www.r3.org.uk>.

For an IVA you will have to give the insolvency practitioner (also known as your nominee) details of your current financial situation, including assets such as any share you may own in a property. Based on the information you give, the IP calculates your essential living expenses and deducts them from your income; the rest is your disposable income. Most IVAs involve you making monthly payments to the IP out of your disposable income.

However, the arrangement may draw on other assets such as the value of any share you may have in a property. You and your IP draft a proposal for your creditors, which will set out how much you intend to pay into the IVA, and what, if any, other assets are included in the funds you can draw on.

If your creditors are pressing for payment and threatening legal action, the IP can apply to the court for an "interim order".

This prevents your creditors presenting or proceeding with a bankruptcy petition against you while the interim order is in force. It also prevents them taking other action against you during the same period without the court's permission. However, most IVAs do not require an interim order.

Once your proposal is drawn up, the IP will have to decide whether it has a reasonable chance of being approved and implemented. If it has, the IP will arrange a meeting of creditors to consider it, and will write to everyone registered as a creditor giving the date of the meeting and details of the proposals.

All of your creditors are bound by an approved IVA, so it is important that you have accurate records of all your creditors' names and addresses so that they can be contacted. If a creditor is missed out (an unknown creditor) they are still bound by the arrangement.

At the meeting, the creditors vote on whether to accept your proposals. If creditors holding more than 75% of your total debt vote in favour, your proposal is accepted. Once approved, the agreement will bind all creditors, even those who did not receive notice of the meeting. However, once they become aware of the IVA an unknown creditor may apply to the court to challenge the approved IVA and the court has the power to revoke (cancel) it.

The creditors' meeting should also approve the appointment of the IP as supervisor of the IVA. The IP then supervises the arrangement and pays the creditors in accordance with the accepted proposal.

### **What will an IVA cost?**

You should ask several IPs what they charge before you ask any of them to act for you. Most IPs are accountants or solicitors, and their fees are similar to those they would charge for other kinds of work. R3 requires an IP to give you a publication 'Is a voluntary arrangement right for me?' You can also get this publication from the R3 website (<http://www.r3.org.uk/>).

### **When can you enter an IVA?**

It is usually better and cheaper for you to set up an IVA before you become bankrupt but you can propose one afterwards.

If you are bankrupt, you could also ask the official receiver to help you prepare a fast-track voluntary arrangement (FTVA). FTVAs are only available once you are bankrupt. A separate publication called "Fast-track voluntary arrangements" is available from our website:

<http://www.bis.gov.uk/insolvency/Publications>

### **Are there any restrictions when you enter an IVA?**

Generally speaking no, but the court cannot make an interim order if you have applied for one in the previous 12 months. There is no maximum or minimum level of debt and no maximum or minimum level of repayments, except what is acceptable to your creditors. An IVA may particularly suit you if:

- you have friends or relatives prepared to help pay or contribute towards paying your debts;
- you have enough disposable income to pay regular sums to creditors.

### **What are the advantages of an IVA compared to going bankrupt?**

Generally an IVA gives you more say in how your assets are dealt with and how payments are made to your creditors. You may be able to persuade your creditors to allow you to keep certain assets (such as your home), as long as you act responsibly and flexibly to reach agreement with them. You also avoid the restrictions that apply to a bankrupt (for details of these, see our publication "Guide to Bankruptcy").

## Will the IVA be advertised in a local paper?

An IVA is not advertised in a local paper. However, details of your agreed IVA are entered on the Individual Insolvency Register, an online register maintained by The Insolvency Service. This may affect your ability to get credit.

## How long will the IVA last?

How long an IVA lasts will depend on your proposal; most IVAs are based on monthly contributions from your disposable income and generally last 5 years.

The IVA will end when it is successfully concluded; that is, when all the sums set out in the proposal are paid. If you cannot keep to the terms of the arrangement the IP will end it by giving notice to all your creditors that the arrangement has failed.

The IP could then apply for a bankruptcy order against you.

## Can a member of a partnership propose an IVA?

Yes. As a partner you can propose an IVA, which must take into account the claims that the creditors of the partnership have against you personally. It will not affect the rights of the partnership creditors to take action against the partnership itself or against any other partner.

Alternatively, you and your partner(s) may wish to propose an arrangement involving the partnership creditors and the personal creditors of each partner. You can do this in 2 ways:

- the partners may propose interlocking voluntary arrangements, with each partner making proposals for their own debts and the debts of the partnership; or
- the partnership may propose a partnership voluntary arrangement (usually accompanied by voluntary arrangements for each partner).

An IP must help you to make proposals to creditors. They will be able to advise you which procedure to follow.

**Warning:** If you enter an IVA but fail to give full details of your assets and debts, you could be committing a criminal offence. For more information please see the following publications, which are available on The Insolvency Service website: [www.bis.gov.uk/insolvency/publications](http://www.bis.gov.uk/insolvency/publications).

- Fast Track Voluntary Arrangements
- Guide to Bankruptcy
- Individual Insolvency Register.

On the R3 website ([www.r3.org.uk](http://www.r3.org.uk)) you can find the following publication.

- Is a voluntary arrangement right for me?

## Debt Relief Orders (DROs)

A DRO is a formal insolvency process that is aimed at people who cannot pay their debts and who have no assets, a low income, no other access to debt relief and no prospect of the situation improving. If people do have assets, or there is a possibility of an improvement in financial circumstances, a DRO is not an appropriate solution.



## How does it work

DROs don't suit everyone. You are only eligible for a DRO if you meet all the following conditions:

- You are unable to pay your debts.
- You owe up to a maximum of £15,000 only (not including unliquidated or excluded debts) .
- Your total gross assets must not exceed £300.
- After taking away tax, national insurance contributions and normal household expenses, your disposable income must not exceed £50 a month.
- Your place of domicile (the country legally recognised as your home) must be in England or Wales, or at any time in the last 3 years you must have been resident or carrying on business in England or Wales.
- You must not have been subject to a previous DRO within the last 6 years.
- You must not be involved in any other formal insolvency procedure at the time you apply for a DRO, such as:
  - an undischarged bankruptcy order;
  - a current individual voluntary arrangement;
  - a current bankruptcy restrictions order (BRO) or undertaking (BRU);
  - a current debt relief restrictions order or undertaking (DRRO or DRRU);
  - an interim order.

If you are currently petitioning for bankruptcy (asking a court to make you bankrupt) and the court has not referred you to the DRO procedure, you won't be allowed to apply for a DRO at the same time.

If a creditor is currently petitioning for your bankruptcy (asking a court to make you bankrupt) you must get the creditor's permission before applying for a DRO.

If you have given away any assets or sold them for less than their true value in the last 2 years, the official receiver may not approve your application.

If you have preferred any creditors over others in your payments within the last 2 years, the official receiver may not approve your application.

## How do I apply for a DRO?

DROs are run by The Insolvency Service in partnership with skilled debt advisers, called approved intermediaries, who will help you to make your application. You cannot apply for a DRO without the assistance of an [approved intermediary](#).

You must first seek financial advice from a debt adviser. If you appear to be suitable for a DRO, an approved intermediary (who may not be the debt adviser who gave you advice at first) will be able to help you complete the online application.

An approved intermediary is someone who has been approved by one of the competent authorities. Details of the competent authorities can be found in our publication 'Guide to Debt Relief Orders' which is available from The Insolvency Service website: [www.bis.gov.uk/insolvency/publications](http://www.bis.gov.uk/insolvency/publications)



## **What does a DRO cost?**

The cost is currently £90. If you cannot afford to pay in full immediately you can pay in instalments to suit your financial situation. If you do this you must pay the full £90 within 6 months of paying the first instalment. The fee must be paid in full before the official receiver will consider your application.

Your approved intermediary will tell you how to pay.

## **How long does the DRO period last?**

The DRO will place a moratorium period upon the debts included in it. This means that creditors who are owed debts listed in the DRO cannot take any action for repayment of their debts during this moratorium without the permission of the court. Once this period has ended (usually after 12 months) the debts listed in the DRO will be discharged and you will be free from those debts.

There are some debts that cannot be included in a DRO so you will still be responsible for paying these debts.

## **Are there any restrictions when you enter a DRO?**

You will be subject to the same restrictions as a bankrupt during the DRO period.

For more information on these restrictions and the debts that cannot be included in a DRO see our publication 'Guide to Debt Relief Orders'.

## **Will the DRO be advertised in a local paper?**

DROs are not advertised in your local paper. Details of your DRO will be put on the Individual Insolvency Register on our website: [www.insolvencydirect.bis.gov.uk/eiir/](http://www.insolvencydirect.bis.gov.uk/eiir/)

These details will be removed 3 months after your DRO has ended.

## **Help to find support and advice**

A list of organisations providing free advice can be found on our website: [www.bis.gov/insolvency](http://www.bis.gov/insolvency). There are also many other organisations which can provide advice and set up debt management plans and IVAs, but which may charge a fee for their services. You should always check what this fee will be when you contact them. Alternatively, you may prefer to seek independent legal advice.

You can also contact The Insolvency Enquiry Line for general enquiries on 0845 602 9848, or email The Insolvency Enquiry Line at: [Insolvency.Enquiryline@insolvency.gsi.gov.uk](mailto:Insolvency.Enquiryline@insolvency.gsi.gov.uk)  
8am to 5pm Monday to Friday except bank holidays

## Copyright information 2013

This publication provides general information only. Every effort has been made to ensure that the information is accurate, but it is not a full and authoritative statement of the law and you should not rely on it as such. The Insolvency Service cannot accept any responsibility for any errors or omissions as a result of negligence or otherwise.

*You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).*

This publication is also available on our website at [www.bis.gov.uk/insolvency](http://www.bis.gov.uk/insolvency)

URN 13/725