

# Bankruptcy: what you need to know

**advisors for more information before taking any further steps.**

## Bankruptcy: what you need to know

If you're struggling to pay your debts, one solution that may be available to you is to be declared bankrupt. Bankruptcy writes off your unsecured debts so you can make a fresh start. But it isn't something to be undertaken lightly, as it can have serious implications if you own your own home. And – in some cases – it can also affect your job.

To apply for bankruptcy, your unsecured debts have to be greater than any assets that you own (property or vehicles, for example). If your assets are worth more than your unsecured debts, bankruptcy probably isn't the right solution for you.

Someone else may make you bankrupt, even if it's not what you want to do (the minimum amount of debt for which someone can force you into bankruptcy is £5,000). The good news is that high-street lenders rarely make people bankrupt, as many prefer to work with individuals to find other ways for them to pay off their debts.

**If you are thinking of going bankrupt, or someone else is about to make you bankrupt, we strongly recommend that you call our**

### Did you know?

An estimated 3,967 companies entered insolvency in the first quarter of 2017, consisting of 2,693 creditors' voluntary liquidations, 836 compulsory liquidations and 438 other insolvencies. (Source: Insolvency Service).

### How do you apply for bankruptcy?

To apply for bankruptcy in England and Wales, you used to have to file a bankruptcy petition at your local county court. But since April 6th, 2016, all bankruptcy applications are made online. So now, instead of having to go to court, you apply for bankruptcy via the central UK government website <http://www.gov.uk/apply-for-bankruptcy>

The online application form has been designed to be easier to access as well as more simple to use and understand than the old paper application. Once you submit it, your form is reviewed by an adjudicator within the Insolvency Service. The adjudicator decides whether or not a bankruptcy order can be made – if it is, your case is then transferred to the Official Receiver, who takes

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control of your money and property and deals with your creditors.

If the adjudicator refuses to make a bankruptcy order, you have 14 days to request a review. Then if the adjudicator upholds their original decision not to grant a bankruptcy order, you have 28 days to make a court appeal. You also need money in order to go bankrupt. The bankruptcy fee is £680. For more information visit [www.gov.uk/bankruptcy](http://www.gov.uk/bankruptcy)

Note: In Scotland and Northern Ireland the bankruptcy process and fees payable are different to that in England and Wales. If you live in Scotland, you can find out more about sequestration (Scottish bankruptcy) at [www.sequestration.net](http://www.sequestration.net). If you're in Northern Ireland, there's information about bankruptcy at [www.nidirect.gov.uk](http://www.nidirect.gov.uk).

## What happens once you're declared bankrupt?

The Official Receiver will look through your finances and decide if you have to pay anything towards your debts. Depending on your circumstances you may have to make a monthly contribution towards your debts for up to three years (though most bankruptcies and the associated restrictions generally end after a year). But you won't have to pay anything if you can't afford to, and the Official Receiver will always leave you with enough money to live on each month.

Meanwhile, if you have any valuable possessions such as property, a car or jewellery, the Official

Receiver may arrange for them to be sold to pay back some of your debts.

## What debts are included in bankruptcy?

If you're declared bankrupt, it covers all your unsecured debts (that is, debts that are issued without anything being used as security against non-payment), including the following:

- Credit cards and store cards
- Overdrafts
- Personal loans
- Utility arrears
- Catalogues payments

Secured debts are not included in the bankruptcy, such as:

- Mortgages and secured loans
- Hire purchase agreements

Other debts that cannot be included in the bankruptcy include:

- Court fines
- Student loans
- Social fund loans
- Benefit and tax credits overpayments (but only in certain cases)

Note: Creditors who are owed these debts may take action to recover their money at any time.

Joint debts A joint debt is one in which you and another person are both named on the

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agreement. If you have a joint debt and only one of you goes bankrupt, the other person named on the agreement will be responsible for paying the full amount of the debt back to the creditor.

## What effect will bankruptcy have on you?

There are advantages and disadvantages to going bankrupt, so it's really important that you weigh everything up before making up your mind. Depending on your personal circumstances you may feel bankruptcy is an ideal solution to your debt issues. On the other hand, you may decide it's not right for you.

### Advantages

- All your unsecured debts (other than those stated above) will be wiped clean.
- You don't have to deal directly with your creditors.
- The court will let you keep a reasonable amount to live on.
- You can keep any tools, books, low-value vehicles and any equipment you need for your job or your business.
- You can also keep things like clothes, bedding, furniture and basic household items.
- When the bankruptcy order is over, you can make a fresh start. In many cases, this can be after only one year.
- You'll still be able to have a bank account, but it will be a basic bank account. This means you won't be allowed to have an overdraft or a cheque book.

### Disadvantages

If you're a home owner, one of the main disadvantages of bankruptcy is that you may have to sell your home. That, however, depends on how much equity there is in your home (the Official Receiver will decide whether or not it should be sold). If there is little to no equity, you may be allowed to stay there.

If your home is mortgaged and you do not keep up the payments, your mortgage company may be able to sell your home (if you have a mortgage shortfall, this will be included in the bankruptcy). But if your husband, wife or children are living with you, you may not have to sell your house until the end of the first year of your bankruptcy. If that happens, your local council may find you somewhere to live.

On the other hand, if you rent your home you'll probably be able to continue living there unless you have rent arrears. However, check your tenancy agreement, as some have clauses terminating the tenancy if you go bankrupt.

Being declared bankrupt also means you can't get any more credit while you're bankrupt, and your credit rating will be affected for six years. Your current bank may not allow you to remain with them once you've gone bankrupt (especially if you owe them money), so you may have to open an account somewhere else.

Other disadvantages include the following:

- If you own your car outright, the Official Receiver may ask you to sell it unless it is only worth a very small amount. If your car is under a credit agreement, it's likely the

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company will end the agreement and you'll have to return the car.

- You may lose your job. So check your employment contract or speak to your HR department to make sure bankruptcy won't affect your employment before you apply.
- You can't hold certain public positions.
- If you own a business, the Official Receiver may well close it down, dismiss your employees and sell off the assets.

It's also worth being aware that bankruptcy is always made public. The details will be recorded on the Insolvency Register, which is available to read on the internet. However, bankruptcy notices aren't usually put in local papers.

## Alternatives to bankruptcy

Before applying for bankruptcy, it's worth taking a look at other available options for dealing with unmanageable debts, such as individual voluntary arrangements (IVAs), debt relief orders and debt management plans. An IVA, for instance, may be worth considering as it can give you more control of your assets than bankruptcy.

To find out which of the different options would suit you best, visit [gov.uk/pay-off-debts](http://gov.uk/pay-off-debts). You'll be asked questions about how much you owe, your assets and your income; and, depending on your answers, you'll receive relevant advice about what help is available.

## Useful links: where to go for help with debt problems

If you are experiencing any of the issues covered in this guide, in the first instance call our free helpline on 0808 801 0550. Our Advisors will listen without judging and will work with you as best they can to achieve a positive outcome. If you prefer you can email:

[helpline@ltcharity.org.uk](mailto:helpline@ltcharity.org.uk) Visit our website: [www.licensedtradecharity.org.uk](http://www.licensedtradecharity.org.uk) It's full of useful information about the kind of issues we know people who work in the licensed trade face.

## Other sources of information:

### Business Debtline

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

Freephone 0800 197 6026 (9am to 5.30pm Monday to Friday) Free telephone debt counselling service for self-employed people and small businesses. Business Debtline is a charity – part of the Money Advice Trust.

### Business support

[www.gov.uk](http://www.gov.uk)

Business Support Helpline (England): 0300 456 3565  
Business Wales Helpline: 0300 060 3000  
Business Gateway (Scotland): 0845 609 6611  
Invest Northern Ireland: 0800 181 4422

For free advice and support online and over the phone:

### Citizens Advice

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

For free, practical, up-to-date advice. CAB advisors do not judge or criticise anybody, and what you tell them is completely confidential. You can find their address and phone number in your local phone book.

### StepChange

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

Freephone 0800 138 1111 (8am to 8pm Monday to Friday) StepChange is a registered charity to help people in financial difficulty. It provides free, independent, impartial and realistic advice. Advisors can help you wherever you live, no matter how much debt you owe.

## **The Insolvency Service**

### [www.gov.uk/government/organisations/insolvency-service](http://www.gov.uk/government/organisations/insolvency-service)

insolvency.enquiryline@insolvency.gsi.gov.uk  
0300 678 0015 (9am to 5pm Monday to Friday)  
This is a government agency, with offices throughout the country. It provides information about bankruptcy, and copies of official forms needed. But it can't give individual advice.

## **National Debtline**

### [www.nationaldebtline.org](http://www.nationaldebtline.org)

Freephone 0808 808 4000 (9am to 8pm Monday to Friday, 9.30am to 1pm Saturday) This is a national telephone helpline for people with debt problems in England, Wales and Scotland. It is free, confidential and independent.

## **PayPlan**

### [www.payplan.com](http://www.payplan.com)

Freephone 0800 280 2816 (8am to 8pm Monday to Friday, 9am to 3pm Saturday) A free debt advice and debt management agency. No matter how large the debt, PayPlan can help find an individual solution that will avoid borrowing more money.