

GUIDE TO

BANKRUPTCY

when?
where
how?
who
what?



CUSTOMER SERVICE EXCELLENCE



INVESTOR IN PEOPLE

dti



The Insolvency Service

The DTI drives our ambition of 'prosperity for all' by working to create the best environment for business success in the UK. We help people and companies become more productive by promoting enterprise, innovation and creativity.

We champion UK business at home and abroad. We invest heavily in world-class science and technology. We protect the rights of working people and consumers. And we stand up for fair and open markets in the UK, Europe and the world.

The Insolvency Service, as an Executive Agency of the DTI, has a major role to play in supporting this objective. We do this by ensuring that financial failure is dealt with fairly and effectively, thereby encouraging enterprise and deterring fraud and misconduct.

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1. About this guide

This guide tells you what happens if you are made bankrupt in England and Wales and about some of the alternatives to bankruptcy.

This booklet is for general guidance only. If bankruptcy proceedings are taken against you, or you are thinking of making yourself bankrupt, you should seek your own legal or financial advice from a Citizens Advice Bureau, a solicitor, a qualified accountant, an authorised insolvency practitioner, a reputable financial adviser or a debt advice centre.

Other organisations also offer insolvency advice and debt counselling. Some of them are entirely reputable and offer a professional service. However, others are controlled by individuals with no obvious qualifications who appear to be motivated mainly by a desire to exploit an already difficult situation. **Beware, particularly of unsolicited approaches through the post or by telephone.**

a. If you are not bankrupt

Bankruptcy is a serious matter. You will have to give up any possessions of value and your interest in your home. (Section 7 gives details of things you do not have to give up.) It will almost certainly involve the closure of any business you run and the dismissal of your employees. Bankruptcy will also impose certain restrictions on you.

You do not have to become bankrupt just because you are in debt. Look at the alternatives to bankruptcy as soon as possible in case they are more suitable in your situation. (See section 13.)

b. If you are already bankrupt

Sections 2-12 explain the bankruptcy procedure. The Official Receiver will give you further instructions. You can still propose a voluntary arrangement (details in section 13) which could annul the bankruptcy.

A separate leaflet called “Can my bankruptcy be cancelled? Information on annulment of a bankruptcy order” is available from your local Official Receiver’s office or on-line at the Insolvency Service website at www.insolvency.gov.uk. You should consider this leaflet if you think that you should not have been made bankrupt or if all your bankruptcy debts and the fees and expenses of the bankruptcy proceedings can be paid or secured in full.

2. What is bankruptcy?

Bankruptcy is one way of dealing with debts you cannot pay. The bankruptcy proceedings:

- free you from overwhelming debts so you can make a fresh start, subject to some restrictions (see section 8); and
- make sure your assets are shared out fairly among your creditors.

Anyone can go bankrupt, including individual members of a partnership. There are different insolvency procedures for dealing with companies and for partnerships themselves. Separate leaflets about these insolvency procedures are available (see section 17).

3. How are you made bankrupt?

A court makes a bankruptcy order only after a bankruptcy petition has been presented. It is usually presented either:

- by yourself (debtor's petition); or
- by one or more creditors who are owed at least £750 by you and that amount is unsecured (creditor's petition).

A bankruptcy order can still be made even if you refuse to acknowledge the proceedings or refuse to agree to them. You should therefore co-operate fully once the bankruptcy proceedings have begun. If you dispute the creditor's claim, you should try and reach a settlement before the bankruptcy petition is due to be heard. Trying to do so after the bankruptcy order has been made is both difficult and expensive.

To find out more information please see the following leaflets:

- **How to petition for you own bankruptcy**
- **How to make someone bankrupt**

4. Where is the bankruptcy order made?

Bankruptcy petitions are usually presented at the High Court in London or at a county court near to where you trade or live. A petition can be presented against you even if you are not present in England or Wales at that time. This can happen when:

- you normally live in, or within the previous 3 years have had residential or business connections with, England or Wales.

Sometimes government departments start bankruptcy proceedings in the High Court in London or in one of the District Registries. If you did not trade or do not live in the London area, your case will usually be transferred to the appropriate local county court and, if a bankruptcy order is made, it will be dealt with by the local Official Receiver.

Once the bankruptcy order has been made, it is advertised in "The London Gazette" (an official publication which contains legal notices) and in a local or national newspaper (or both). In addition the Official Receiver will give written notice of the order to a number of organisations (see section 5).

5. Who will deal with your case?

a. The Official Receiver

An Official Receiver is appointed by the Secretary of State and is an officer of the court. The Official Receiver has responsibility for administering your bankruptcy and protecting your assets from the date of the bankruptcy order. He or she will also act as trustee of your bankruptcy estate unless an insolvency practitioner is appointed.

The Official Receiver is also responsible for looking into your financial affairs for the period before and during your bankruptcy. He or she may report to the court and has to report to your creditors. The Official Receiver must also report any matters which indicate that you may have committed criminal offences in connection with your bankruptcy or that your behaviour has been dishonest or you have been in some way to blame for your bankruptcy.

The Official Receiver will give notice of the bankruptcy order to local authorities, utility suppliers, courts, sheriffs, bailiffs, National Savings and Investments (premium bonds), the Land Registry and any relevant professional bodies. Enquiries will also be made of banks; building societies; mortgage, pension and insurance companies; solicitors, landlords and any other persons or organisations who may be able to provide details of any assets or liabilities that you have, or have had, an interest in (either on your own or jointly with others). Third parties will also be asked about any other matters relating to your bankruptcy.

If you are unhappy with the way your case is handled by the Official Receiver you should follow the procedure set out in our leaflet 'Complaints Procedure: Information on making a complaint'.

You can order copies of our publications by calling the Publications Orderline on 0845 015 0010. Alternatively you can download the leaflet from our website, www.insolvency.gov.uk

b. An insolvency practitioner

Insolvency practitioners are individuals who specialise in insolvency work. An insolvency practitioner, who must be authorised by either the Department of Trade and Industry or the appropriate professional body, can be appointed trustee instead of the Official Receiver. He or she is then responsible for disposing of your assets and making payments to your creditors.

If you wish to complain about the professional conduct of a private sector insolvency practitioner trustee (or liquidator), you should write to his or her licensing body (Recognised Professional Body or RPB). You can find more details in our leaflet 'How to make a complaint against an Insolvency Practitioner'. The insolvency practitioner should give you details of their RPB, or call the Central Enquiry line on 020 7291 6895.

To find out more information please see the following leaflets:

- **What happens when you are interviewed by the Official Receiver**
- **Trustees and liquidators in bankruptcies and compulsory liquidations**
- **Complaints procedure**
- **How to make a complaint against an Insolvency Practitioner**

6. What are your duties as a bankrupt?

When a bankruptcy order has been made, you must:

- comply with the Official Receiver's request to provide information about your financial affairs. The Official Receiver may request that you attend at his or her office for an interview - the Court will give you the address of the Official Receiver. (Note: usually before the interview, you will be sent or given a questionnaire which you should fill in as fully and accurately as possible.) If the Official Receiver does not ask that you attend at the office for an interview, you will be sent a letter which will set out what is required of you. Again it is likely that you will be asked to complete a questionnaire. You should note that in either circumstance, any questionnaire completed **before** the bankruptcy order, supplied to you by an adviser or another third party, will not be acceptable;
- give the Official Receiver a full list of your assets and details of what you owe and to whom (your creditors);
- look after and then hand over your assets to the Official Receiver together with all your books, records, bank statements, insurance policies and other papers* relating to your property and financial affairs;
- tell your trustee about assets and increases in income you obtain during your bankruptcy. (Note: by law you must inform your trustee of any property which becomes yours during the bankruptcy. Such property includes lump sum cash payments that you may receive, for example redundancy payments, property or money left in a will);
- stop using your bank, building society, credit card and similar accounts straightaway (see section 8);
- not obtain credit of £500 or more from any person without first disclosing the fact that you are bankrupt (see section 8);
- not make payments direct to your creditors (but see section 7a).

You may also have to go to court and explain why you are in debt. If you do not co-operate, you could be arrested.

*Your books and papers will normally be destroyed after your trustee has finished with them. However, you can have them back, provided they have not already been destroyed, if the court annuls your bankruptcy (see section 9).

7. How will bankruptcy affect you?

a. In relation to your creditors

If you are made bankrupt, you must not make payments direct to creditors. Creditors to whom you owe money when you are made bankrupt make a claim to your trustee (that is, either the Official Receiver or an insolvency practitioner). They should not ask you directly for payment; if you receive any requests, pass them immediately to your trustee to deal with and tell the creditor that you are bankrupt. There are some very limited exceptions to this non-payment rule. The main ones are:

- secured creditors, such as creditors who have a mortgage or charge on your home
Note: If mortgage payments are not made, the lender may sell your home.
- non-provable debts, such as court fines and other obligations arising under an order made in family proceedings or under a maintenance assessment made under the Child Support Act 1991. Non-provable debts are not included in the bankruptcy proceedings and you are still responsible for paying off such debts; and
- benefit overpayments, where the Department for Work and Pensions (DWP) can recover any benefit overpayments from any further benefits you receive.
- Student loans, since 1 September 2004 all outstanding student loans cannot be claimed in bankruptcy. They remain the responsibility of the (former) student to repay within the terms of the loan arrangement.

If you were made bankrupt before 1 September 2004 you may still have to repay your student loan. Clarification should be requested from the Official Receiver who is dealing with your affairs.

Suppliers of services to your home (gas, electricity, water and telephone) may not demand from you payment of bills in your name which are unpaid at the date of the bankruptcy order. But they may ask you for a deposit towards payment for further supplies or could arrange for the accounts to be transferred into the name of your spouse or partner. You must pay continuing commitments such as rent (if you rent your home), together with any debts you incur after the bankruptcy.

b. Payment to creditors

The Official Receiver will tell your creditors that you are bankrupt. He or she may either act as the trustee or may arrange a meeting of creditors for them to choose an insolvency practitioner to be the trustee. This happens if you appear to have significant assets. You may have to go to this (or any other) meeting of your creditors.

The trustee will tell the creditors how much money will be shared out in the bankruptcy. Creditors then have to make their formal claims. The costs of the bankruptcy proceedings are paid first from the money that is available. The costs include fees that the Official Receiver or the insolvency practitioner charge for administering your case.

At least part of the claims from your employees (if any) may be preferential and are paid next, along with any other preferential debts. Finally, other creditors are paid, together with interest on all debts, as far as there are funds available from the sale of your assets. If there is a surplus, it will be returned to you. You would then be able to apply to the court to have your bankruptcy 'annulled' (cancelled).

When your trustee makes a payment to your creditors, he may place an advertisement about your bankruptcy in a newspaper asking creditors to submit their claims. Depending on how long it takes your trustee to deal with your assets, this advertisement may appear several years after the bankruptcy order.

c. Your assets

You will no longer control your assets.

You can keep the following items unless their individual value is more than the cost of a reasonable replacement:

- tools, books, vehicles and other items of equipment which you need to use personally in your employment, business or vocation;
- clothing, bedding, furniture, household equipment and other basic items you and your family need in the home.

All these items must be disclosed to the Official Receiver who will then decide whether you can keep them.

The Official Receiver/trustee will take control of all your other assets on the making of the bankruptcy order. He or she, or any insolvency practitioner who is appointed as trustee, will dispose of them and use the money to pay the fees, costs and expenses of the bankruptcy and then your creditors. If appointed, the insolvency practitioner's fees for acting as a trustee are also paid from the money raised by selling your assets.

The trustee may apply to the court for an order restoring property to him or her if you disposed of it in a way which was unfair to your creditors (for example, if before bankruptcy you had transferred property to a relative for less than its worth). The trustee may claim property which you obtain or which passes to you (for example, under a will) while you are bankrupt.

A student loan made before or after the start of a student's bankruptcy is not regarded as an asset that the trustee may claim, if a balance of the loan remains payable.

If you have made a claim against another person through court proceedings, or you think you may have a claim (a right of action) against another person, the claim may be an asset in the bankruptcy.

d. What happens to your home

If you own your home, whether freehold or leasehold, solely or jointly, mortgaged or otherwise, your interest in the home will form part of your estate which will be dealt with by your trustee. The home may have to be sold to go towards paying your debts.

If your husband, wife or children are living with you, it may be possible for the sale in the bankruptcy to be put off until after the end of the first year of your bankruptcy. This gives time for other housing arrangements to be made. Your husband, wife, partner, a relative or friend may be able to buy your interest in your home from the trustee. This may be so even if that interest is very small, worth nothing or you owe more on the house than it is currently worth. Such a

purchase would prevent a sale of the property by the trustee at a future date. Your spouse or any other interested party should be encouraged to take legal advice about the home as soon as possible.

If the trustee cannot, for the time being, sell your home, he or she may obtain a charging order on your interest in it, but only if that interest is worth more than £1,000. If a charging order is obtained, your interest in the property will be returned to you, but the legal charge over your interest will remain. The amount covered by the legal charge will be the total value of your interest in the property and this sum must be paid from your share of the proceeds when you sell the property.

Until your interest in the home is sold, or until the trustee obtains a charging order over it, that interest will continue to belong to the trustee but only for a certain period, usually 3 years, and will include any increase in its value. Therefore, the benefit of any increase in value will go to the trustee to pay your debts, even if the home is sold some time after you have been discharged from bankruptcy: **the increase in the value will not be yours.**

If, after a certain time, usually 3 years, your trustee has not sold or obtained a charge over your interest in the property, or applied for an order of possession or obtained a charging order against the property, or you have not come to any arrangement with your trustee about that interest, it may be returned to you.

To find out more information please see the following leaflet:

- **What will happen to my home**

e. Your pension

A trustee cannot usually claim a pension as an asset if your bankruptcy petition was presented on or after 29 May 2000, as long as the pension scheme has been approved by the Inland Revenue.

For petitions presented before 29 May 2000, trustees can claim some kinds of pensions. A separate leaflet called “What will happen to my pension?” is available from your local Official Receiver’s office or The Insolvency Service Publications Order Line (address on back cover).

If you are receiving a pension or become entitled to do so before you are discharged, the pension is included as income for the purposes of an income payments order (IPO) (see section 7i).

To find out more information please see the following leaflet:

- **What will happen to my pension**

f. Your life assurance policy

Generally, your trustee will be able to claim any interest that you have in a life assurance policy. The trustee may be entitled to sell or surrender the policy and collect any proceeds on behalf of your creditors. If the life assurance policy is held in joint names, for instance with your husband or wife, that other person is likely to have an interest in the policy and should contact the trustee immediately to discuss how their interest in the policy should be dealt with.

You may want the policy to be kept going. Ask your trustee: it may be possible for your interest to be transferred for an amount equivalent to the present value of that interest.

If the life assurance policy has been legally charged to any person, for instance an endowment policy used as security for the mortgage on your home, the rights of the secured creditor will not be affected by the making of the bankruptcy order. But any remaining value in the policy may belong to your trustee.

g. Work-related registrations, licences and permissions

Any registration, licence or permission you hold in connection with your work or trade might be affected by the making of the bankruptcy order. You should inform the person who issued the registration or authority of your bankruptcy to establish if it will remain in force or will be cancelled or withdrawn. Any value attaching to these items may belong to the trustee. In considering this issue you should disregard items of a personal nature such as a driving licence.

h. Your business

If you are self-employed, your business is normally closed down and any employees are dismissed. Any business assets will be claimed by the trustee unless they are exempt (see section 7c) and you will have to give the Official Receiver all your accounting records. You are still responsible for completing all tax and VAT returns.

Your employees may be able to make a claim to the National Insurance Fund for outstanding wages and holiday pay, payment in lieu of notice, and redundancy. Employees can claim in the bankruptcy for any money owed that is not paid by the National Insurance Fund.

For further details, you should contact the Redundancy Payments Service on 0845 145 0004.

There is nothing to prevent a bankrupt from being self-employed. So you can start to trade again, subject to the restrictions in section 8. You will be responsible for keeping accounting records for this business and for dealing with the tax and VAT requirements for the new business. You will need to register again for VAT if you meet the registration requirements. You should not continue to use your pre-bankruptcy VAT registration number.

i. Your wages

Your trustee may apply to court for an income payments order (IPO), which requires you to make contributions towards the bankruptcy debts from your income. The court will not make an IPO if it would leave you without enough income to meet the reasonable domestic needs of you and your family. If you have an increase or decrease in income, the IPO can be changed.

IPO payments continue for a maximum of 3 years from the date the order is made by the court and may continue after you have been discharged from your bankruptcy. Or you may enter into a written agreement with your trustee, called an income payments agreement (IPA), to pay a certain amount of your income to the trustee for an agreed period, which cannot be longer than 3 years. There are no fixed guidelines on IPOs or IPAs - each case is assessed individually.

8. What are the restrictions on a bankrupt?

The following are criminal offences for an undischarged bankrupt:

- obtaining credit of £500 or more either alone or jointly with any another person without disclosing your bankruptcy. (Note: this is not just borrowing money - it includes your getting credit as a result of a statement or conduct which is designed to get credit, even though you have not made a specific agreement for it. For example, ordering goods without asking for credit and then failing to pay for them when they are delivered);
- carrying on business (directly or indirectly) in a different name from that in which you were made bankrupt, without telling all those with whom you do business the name in which you were made bankrupt;
- being concerned (directly or indirectly) in promoting, forming or managing a limited company, or acting as a company director, without the court's permission, whether formally appointed as a director or not.

You may not hold certain public offices. You may not hold office as a trustee of a charity or a pension fund.

After the bankruptcy order, you may open a new bank or building society account but you should tell them you are bankrupt; they may impose conditions and limitations. You should ensure you do not obtain overdraft facilities without informing the bank that you are bankrupt, or write cheques which are likely to be dishonoured. Tell your trustee about any money that you have in the account which is more than you need for your reasonable living expenses. Your trustee can claim the surplus amounts to pay your creditors.

To find out more information please see the following leaflet:

- **What will happen to my bank account**

9. Becoming free from bankruptcy

a. How long does bankruptcy last?

If you were made bankrupt on or after 1 April 2004

You will be automatically freed from bankruptcy (known as “discharged”) after a maximum of 12 months. This period may be shorter if the Official Receiver concludes his enquiries into your affairs and files a notice in court.

If you were made bankrupt before 1 April 2004

If this is your first bankruptcy, you will be discharged automatically on 1 April 2005 or, if you currently expect your discharge date to be before 1 April 2005, you will receive your discharge on that earlier date.

If you have been an undischarged bankrupt at any time during the 15 years before the current bankruptcy (unless the previous bankruptcy has been annulled) you will be discharged

automatically on 1 April 2009. Or you may ask the court for a discharge 5 years after the date of the bankruptcy order, but the court may refuse or delay your discharge, or grant it conditionally on terms requiring you to make some payments out of your income.

You will also become free from bankruptcy immediately if the court annuls (cancels) the bankruptcy order; this would normally happen when your debts and the fees and expenses of the bankruptcy proceedings have been paid in full or the bankruptcy order should not have been made.

On the other hand, if you have not carried out your duties under the bankruptcy proceedings, the Official Receiver may apply to the court for your discharge to be postponed. If the court agrees, your bankruptcy will only end when the suspension has been lifted and the time remaining on your bankruptcy period has run. If your discharge has been suspended (stopped) prior to 1 April 2004, you should contact the Official Receiver for information about how and when you may be discharged from bankruptcy.

b. Debts

Discharge releases you from most of the debts you owed at the date of the bankruptcy order. Exceptions include debts arising from fraud and any claims which cannot be made in the bankruptcy itself (non-provable debts - see section 7a). You will only be released from a liability to pay damages for personal injuries to any person if the court thinks fit.

When you are discharged you can borrow money or carry on business without the restrictions previously referred to. You can act as a limited company director unless you are disqualified from doing so as a result of a separate order arising out of your involvement with a company.

c. Assets you owned or obtained before your discharge

When you are discharged there may still be assets that you owned, either when your bankruptcy began, or which you obtained before your discharge, which the trustee has not yet dealt with. Examples of these may be the interest in your home, an assurance policy or an inheritance. These assets are still controlled by the trustee who can deal with them **at any time** in the future. This may not be for a number of years **after your discharge**. Generally, these assets do not return to you, but see section 7d above for details of what happens to your home.

With some assets - such as your home and some types of assurance policy - your spouse, a partner, a relative or friend may want to buy your interest. He or she should get in touch with the trustee straightaway to find out how much they would have to pay.

You must tell the Official Receiver about assets you obtain after the trustee has finished dealing with your case but **before** you are discharged. These assets could be claimed to pay your creditors. You have a duty to continue to assist your trustee after you have been discharged.

d. Assets you obtain after your discharge

Usually you may keep all assets you acquire **after your discharge**.

To find out more information please see the following leaflet:

- **When will my bankruptcy end? Information on discharge from bankruptcy**

10. Bankruptcy restrictions orders and undertakings

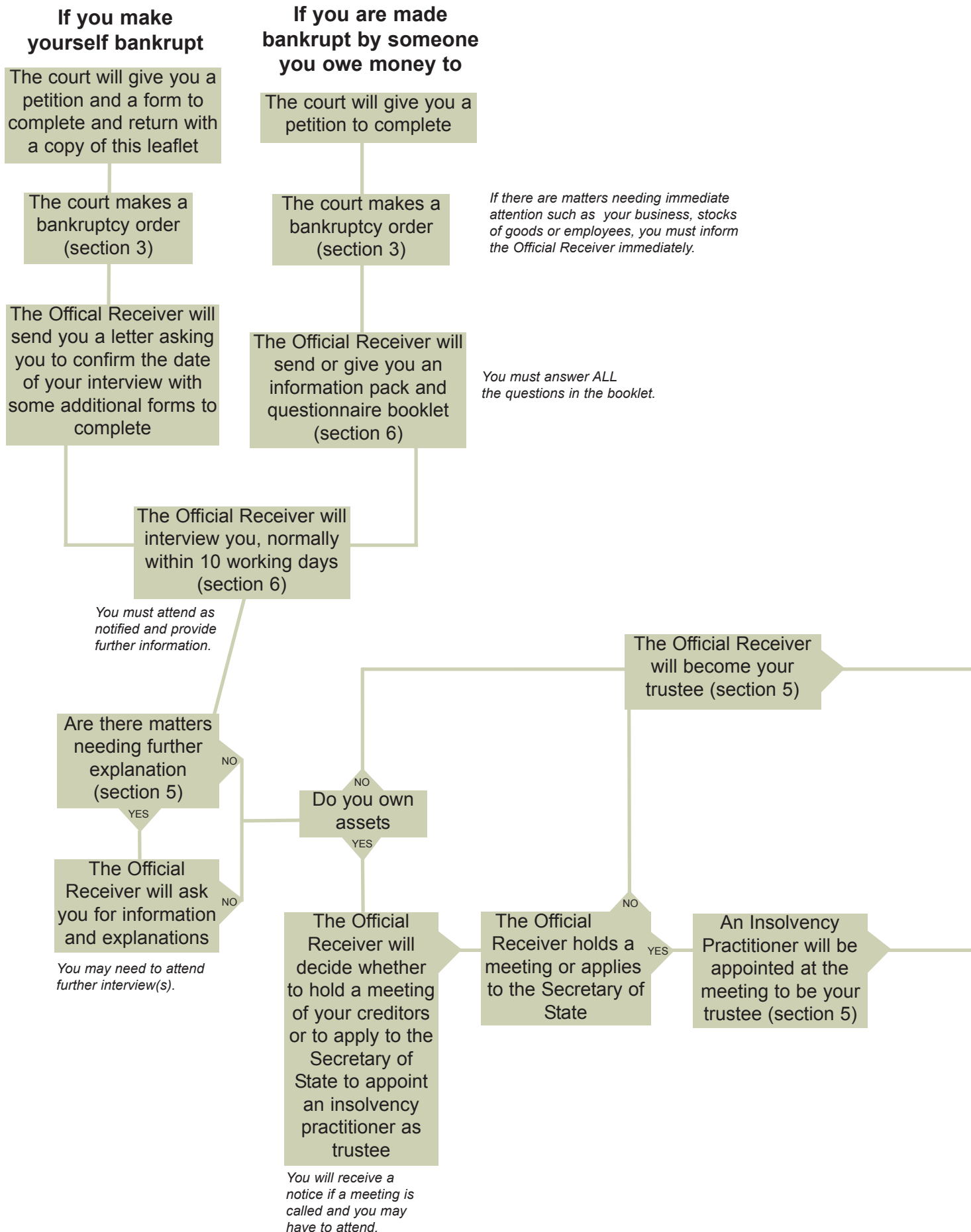
If, during his/her enquiries into your affairs, the Official Receiver decides that you have been dishonest either before or during the bankruptcy or that you are otherwise to blame for your position, he/she may apply to the court for a bankruptcy restrictions order. The court may make an order against you for between 2 and 15 years and this order will mean that you continue to be subject to the restrictions of bankruptcy which are described in section 8 above. You may give a bankruptcy restrictions undertaking which will have the same effect as an order, but will mean that the matter does not go to court.

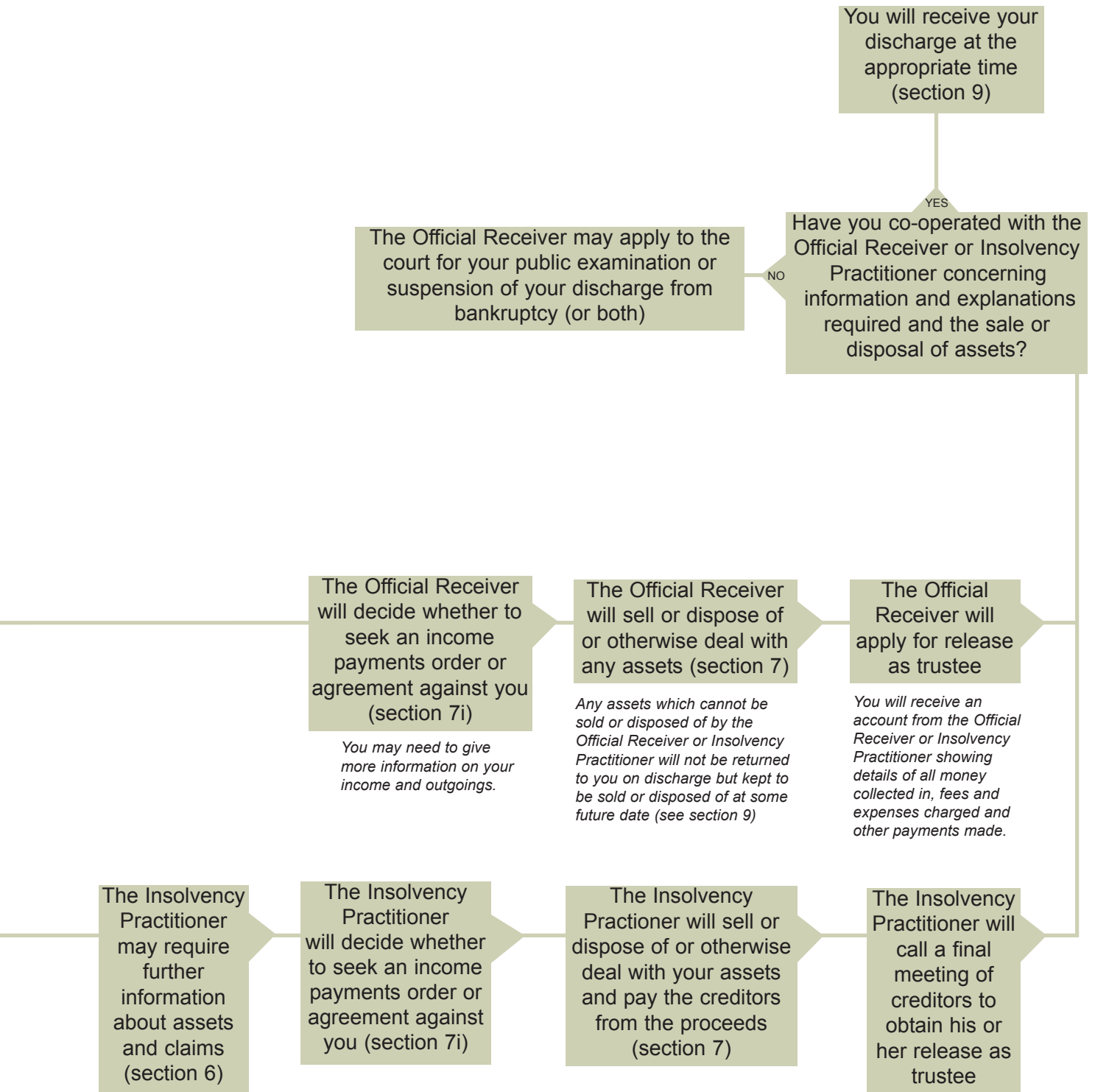
11. Debts incurred after you have been made bankrupt

Bankruptcy deals with your debts at the date of the bankruptcy order. After that date you should manage your finances more carefully. If you incur new debts this could result in:

- a further bankruptcy order;
- prosecution if, when you incurred the debts, you did not disclose that you were bankrupt.

12. The main stages in the administration of bankruptcy





13. Alternatives to bankruptcy

It may be better for both you and your creditors to use one of these alternative procedures instead of bankruptcy.

a. An informal arrangement or “family arrangement”

If you know that you cannot pay all your debts, you could consider writing to your individual creditors to see if you can reach some 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 ignore it later and ask you to pay in full. Your local Citizens Advice Bureau can advise and help you make this kind of arrangement.

b. Administration orders

If one or more of your creditors has obtained a court judgment against you, the county court may make an administration order. Administration is a court-based procedure whereby you make regular payments to the court to pay towards what 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 from the money you pay towards its costs. If you do not pay regularly, the order could be cancelled and you may become subject to the same restrictions as someone who is bankrupt. If your circumstances change and you cannot pay as ordered, you can apply to the court to change the order. The court which made the order will tell you what to do. Details of administration orders are available at your local county court.

c. Individual voluntary arrangements

This is a formal version of the arrangement described at (a). An individual voluntary arrangement begins with a formal proposal to your creditors to pay part or all of your debts. You need to apply to the court and you must be helped by an insolvency practitioner. Any agreement reached with your creditors will be binding on them.

How does it work?

- First, find an authorised insolvency practitioner prepared to act for you as supervisor of the arrangement. (Your local court can give the names of local practitioners.) A list is also available for you to look at in your local Official Receiver’s office. If you are already bankrupt then the Official Receiver may be able to act as the supervisor of an arrangement.
- Then you may apply to the court for an “interim order”. This prevents your creditors from presenting, or proceeding with, a bankruptcy petition against you while the interim order is in force. It also prevents them from taking other action against you during the same period without the permission of the court. You do not have to apply for an interim order to put a proposal for a voluntary arrangement to your creditors.
- The insolvency practitioner tells the court the details of your proposal and whether in his or her opinion a meeting of creditors should be called to consider it.
- If a meeting is to be held, the date of the meeting and details of the proposals are sent to your creditors. Where the creditors’ meeting approves your proposal this will bind every creditor who received, or who was entitled to receive, notice of the meeting.

- At the meeting, the creditors vote on whether to accept your proposals. If enough creditors (over 75% in value of the creditors present in person or by proxy, and voting on the resolution) vote in favour, the proposals are accepted. They are then binding on all creditors who had notice, or were entitled to receive notice, of the meeting.
- The insolvency practitioner supervises the arrangement and pays the creditors in accordance with the accepted proposal.

What will an individual voluntary arrangement cost?

You should ask several practitioners what they charge **before** you ask any of them to act for you. Insolvency practitioners are usually accountants, some are solicitors and their fees are similar to those charged by members of these professions for other kinds of work.

When can you make an individual voluntary arrangement?

It is better and cheaper for you to set up an individual voluntary arrangement before you become bankrupt but you can propose one afterwards. If you do propose an individual voluntary arrangement after bankruptcy, it is possible for you to nominate the Official Receiver to be the supervisor of the arrangement. This type of arrangement is called a fast-track voluntary arrangement and is only suitable in certain cases (a separate leaflet called “Fast-track voluntary arrangements” is available from your local Official Receiver’s office).

Are there any restrictions?

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 arrangement might particularly suit you if:

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

What are the advantages of an individual voluntary arrangement compared to going bankrupt?

- It gives you more say in how your assets are dealt with and how payments are made to creditors. You may be able to persuade your creditors to allow you to retain certain assets (such as your home). You will obviously have to act responsibly and flexibly in order to reach agreement with your creditors.
- You avoid the restrictions which apply to a bankrupt (see section 8).
- Because you will not have to pay some of the fees and expenses which are charged in a bankruptcy, the overall costs are likely to be less.

Can an individual voluntary arrangement be proposed by a member of a partnership?

Yes. You can propose an individual voluntary arrangement on your own 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 the partners. This can be done in two 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 authorised insolvency practitioner must help you to make proposals to creditors. He or she will be able to advise you which procedure to follow.

Warning: If you enter a voluntary arrangement but fail to give full details of your assets and debts or fail to do what you have agreed under the arrangement, then the insolvency practitioner, or any creditor bound by it, may still petition for your bankruptcy.

To find out more information please see the following leaflet:

- **Fast Track Voluntary Arrangements**

14. Insolvency terms - what do they mean?

Annulment

Cancellation.

Assets

Anything that belongs to you that may be used to pay your debts.

Bankruptcy order

A court order making you bankrupt.

Bankruptcy restrictions order or undertaking

A procedure whereby you may have a court order made against you or give an undertaking which will mean that bankruptcy restrictions continue to apply for a period of between 2 to 15 years.

Bankruptcy petition

A request made (by you as the debtor or by a creditor) to the court for you to be made bankrupt and giving the reasons why.

Charging order

An order made by the court which gives the trustee a legal charge on your interest in your home. This continues even after you are discharged from bankruptcy.

Creditor

Someone to whom you owe money.

Debts

Money you owe.

Discharge

Freed from bankruptcy

Estate

Your assets or property which your trustee can deal with to pay your creditors.

Income payments agreement

You may enter into a written agreement with your trustee to pay him or her part of your wages, salary or other income for an agreed period.

Income payments order

The court may order you to pay part of your wages, salary or other income to the trustee if your income is more than you or your family need to live on.

Insolvency practitioner

An authorised person who specialises in insolvency, usually an accountant or solicitor. They are authorised either by the Secretary of State or by one of a number of recognised professional bodies.

Interest

A right to, or share in, a property.

Legal charge

A form of security (e.g. a mortgage) to ensure payment of a debt.

Petition

See “Bankruptcy petition”.

Preferential creditor

A creditor in bankruptcy proceedings who is entitled to receive certain payments in priority to other unsecured creditors. These creditors include occupational pension schemes and employees.

Proxy

Instead of attending a meeting, a person can appoint someone to go and vote in their place - a ‘proxy’.

Public examination

The court may order that a bankrupt be questioned in open court about his or her affairs, dealings and property.

Trustee

The trustee in bankruptcy is either the Official Receiver or an insolvency practitioner who takes control of your assets. The trustee’s main duties are to sell these assets and share the money out among the creditors.

Unsecured creditor

A creditor who does not hold security (such as a mortgage) for money owed. Some unsecured creditors may also be preferential creditors.

15. Where to go for help and advice

The Official Receiver does not send any form of notice to credit reference agencies. If you are concerned about information held by them, a leaflet entitled “No Credit?” is produced by the Information Commissioner’s Office and is available from its website at <http://www.informationcommissioner.gov.uk> or by phoning 01625 545745.

Organisations that may help

These are not the only organisations that may be able to help you. The Insolvency Service and the Court Service cannot accept responsibility for the information, advice, or other services provided by these organisations.

Who they are	How they can help	How to contact them
Business Debtline	The Business Debtline provides a free telephone debt counselling service for the self-employed and small businesses facing financial hardship. Advice is free, independent and confidential.	Call Business Debtline free on 0800 197 6026. Lines are open Monday to Friday from 10am to 4pm and there is a 24-hour answering machine service. www.bdl.org.uk
Citizens Advice	Citizens Advice is a registered charity that offers free, independent and confidential advice from more than 700 locations throughout the UK.	Call 0207 833 2181 to find your local CAB. Lines are open Monday to Friday from 9am to 5pm. The Citizens Advice website contains a directory of local CAB offices. www.citizensadvice.org.uk For advice, visit the CAB Advice Guide website at www.adviceguide.org.uk
Community Legal Service Direct	The Community Legal Service (CLS) is run by the Legal Services Commission (LSC) and it replaces what was previously known as legal aid. The CLS Directory lists solicitors and advice agencies in your area.	Call the Directory Line on 0845 345 4 345. Lines are open Monday to Sunday from 9am to 5.30pm. You can find a CLS-approved legal advisor using the CLS Directory. This directory is available at your local library or at www.clsdirect.org.uk . This website is available in English, Welsh, Urdu, Bengali, Chinese, Punjabi and Gujarati.

Organisations that may help (continued)

Who they are	How they can help	How to contact them
Consumer Credit Counselling Service (CCCS)	The CCCS is a registered charity dedicated to providing free, confidential counselling and money management assistance to families and individuals in financial distress. They provide counselling on budgeting; advice on the wise use of credit; and, where appropriate, achievable plans to repay outstanding debts.	Call free on 0800 138 1111. Lines are open Monday to Friday from 8am to 8pm. The website is www.cccs.co.uk
Consumer Gateway	This is a one-stop service run by the Department of Trade and Industry. The website provides online access to information and advice for customers.	The website is www.consumer.gov.uk
Lawyers For Your Business (LFYB)	LFYB is a Law Society initiative that represents some 1,400 firms of solicitors in England and Wales who have come together to ensure that businesses, especially the smaller owner-managed ones, get access to sound legal advice when they need it.	Call the hotline on 0207 405 9075. Lines are open Monday to Friday from 9am to 5.30pm. You will be sent a list of the member solicitors in your area (including information on specialist areas of work and languages spoken) and a voucher for a free consultation.
National Debtline	National Debtline provides free, confidential and independent expert advice over the telephone for anyone experiencing financial difficulty. Callers will receive a free self-help information pack.	Call free on 0808 808 4000. Lines are open Monday to Friday 9am to 9pm and Saturdays from 9.30am to 1pm. There is a 24-hour answerphone. The National Debtline website address is www.nationaldebtline.co.uk
Small Business Service (SBS): Business Link	The Small Business Service (SBS) is a government agency that has been established to help small businesses and provide them with a single source of high quality information and advice.	Call 0845 600 9006. Lines are open Monday to Friday 8.30am to 5.30pm. The SBS website address is www.sbs.gov.uk www.businesslink.org

16. Data Protection Act 1998 - How we collect and use information

The Official Receiver collects information about you to fulfil his statutory functions in relation to your bankruptcy. The Official Receiver may check information provided by you, or information about you provided by a third party, with other information held by him/her. He/she may also get information about you from certain third parties, or give information to them, to check the accuracy of information or to prevent or detect crime. He/she will not disclose information about you to anyone outside The Insolvency Service unless the law permits him/her to do so. Some of the information held by the Official Receiver will be passed to Insolvency Service Headquarters in discharging his statutory functions.

The Official Receiver is the Data Controller for the purposes of the Data Protection Act 1998. (The Secretary of State for Trade and Industry is the Data Controller under that Act for personal information held by Insolvency Service Headquarters.)

Individuals are entitled to know what information is held about them by the Official Receiver/Insolvency Service. However, we are not required to give you information which would be likely to prejudice the proper discharge by the Official Receiver or The Insolvency Service of functions designed to protect members of the public against financial loss due to the conduct of discharged and undischarged bankrupts.

Most of the information about you is held by the Official Receiver and will have come from you in the questionnaire you completed and your statements made to the Official Receiver. You will, of course, know this information already but you can check its accuracy if you wish to do so.

Please note that computerised information held about you on the Individual Insolvency Register can be read by members of the public. Our leaflet entitled "Individual Insolvency Register" gives details of the type of information held on the register and is available from our website, www.insolvency.gov.uk, or your local Official Receiver's office.

If you want to know more about what information is held about you, or the purposes for which it is held, you should contact the Official Receiver who was appointed to deal with your bankruptcy. He/she will give you a standard data request form to complete and return with appropriate forms of identification and provide full details of the type of information that you can be given. On receiving the completed request form, the Official Receiver has 40 days to deal with your request. When you get the information, if you discover that it is inaccurate and/or incorrect you should, in the first instance, write to the Official Receiver with full details. If information relating to your request is likely to be held by the Insolvency Service Headquarters, the Official Receiver will inform you of that when he/she is responding to your request. To obtain the information from Insolvency Service Headquarters you will need to make a separate request (using a standard data request form and two forms of identification) to the appropriate Section Head responsible for holding the information about you at 21 Bloomsbury Street, London WC1B 3QW. Where several Sections are involved you may be asked to send the form and identification to the Data Protection Liaison Officer for The Insolvency Service at the same address.

You can get further information about the Data Protection Act 1998 from the Information Commissioner's Office at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF (Tel: 01625 545 745) or from their website: www.informationcommissioner.gov.uk.

17. Related Insolvency Service Publications

Information about The Service

A Guide to The Insolvency Service
Complaints Procedure: Information on making a complaint
The Insolvency Service Charter *
The Insolvency Service Publications Scheme

Information about insolvency procedures

A Guide for Creditors *
A Guide for Directors *
Bankruptcy law - what is and what isn't changing under the Enterprise Act 2002
Bankruptcy Restrictions Orders
Can my bankruptcy be cancelled? - Information on annulment of a bankruptcy order
Changes to bankruptcy law under the Enterprise Act 2002
Fast-track Voluntary Arrangements
Individual Insolvency Register
Information and Guidance for members of the Creditors' Committee
When will my bankruptcy end?
What happens when you are interviewed by The Official Receiver *
What will happen to my bank account?
What will happen to my home? *
What will happen to my pension?

Insolvency practitioners

Trustees & liquidators in bankruptcies and compulsory liquidations - Information on the appointment, functions, powers and payment of trustees and liquidators, and their complaints procedure
How to make a complaint against an insolvency practitioner

Dealing with debt

How to make someone bankrupt
How to petition for your own bankruptcy
How to wind up a company that owes you money
How to wind up a partnership
How to wind up your own company

All of these publications are available from our website www.insolvency.gov.uk

* These publications are also available on the website in Urdu and Traditional Chinese. Additionally they are available on audio tape, on request, from Official Receiver offices.

This booklet 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.

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Publications are also available on our website www.insolvency.gov.uk