

Debt advice

About this factsheet

Older people are typically less likely to find themselves in financial difficulty than people in their 20s and 30s, but if they do get into money troubles the effects are likely to be much more hard-hitting.

Whether you are seeking advice for yourself or for someone else, this factsheet will guide you through the stages of debt advice, and help you to resolve debt problems – either by seeking assistance or by helping yourself. It does not discuss housing debt in great detail – this will be covered in subsequent Age UK factsheets.

The information given in this factsheet is applicable in England and Wales. Different rules may apply in Northern Ireland and Scotland. Readers in these nations should contact their respective Age UK organisation for information specific to where they live – see section 18 for details.

Section 18 also has details of how to order other Age UK factsheets and information materials and the telephone number for Age UK Advice.

If you need more detailed advice or representation, it is often best to find a local service. Sometimes this is suggested in the text. Age UK Advice can give you contact details for a local Age UK or you could contact one of the independent organisations listed in section 17.

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1 The debt advice journey

When you begin to address debt problems, it can be difficult to know where to start. You may be receiving telephone calls and letters from creditor(s) that sound very demanding and threatening. The first thing is – do not panic.

This factsheet will walk you through the ‘journey’ of debt advice, taking you from the first steps of gathering up any paperwork (including any unopened bills that may be lurking in the drawer), through to the point where you have an agreement with your creditor(s) or any other appropriate solution.

Whether you seek help, or attempt to resolve your debt difficulties yourself (see section 2, Seeking help), you should take a methodical approach, ensuring that you address the stages shown below:

- get organised
- deal with emergencies
- confirm what debts you are liable for
- work out a realistic budget
- find out if you are entitled to any extra money
- decide your strategy for dealing with your debt.

2 Seeking help

If you owe debts to several creditor(s) and you are struggling to cope, you should seek advice as soon as possible. Free and independent advice is available through a number of debt advice organisations, details of which are listed in section 17. These organisations may provide face to face advice, telephone advice, and if you use the internet many of them also offer a range of free self-help tools online. As part of their service these free organisations will also talk you through your options to make sure that whichever strategy you choose is right for you.

Debt adjustment/negotiation firms

In addition to free debt advice providers, there are firms that offer to negotiate with creditor(s) on your behalf, with a view to reducing the total amount you owe, or re-structuring your payments to an affordable monthly amount.

These firms usually offer to help in return for a percentage of the amount you pay the creditor(s), or by charging a percentage of the amount of debt written off.

This may seem attractive as there is no upfront cost, and the company will distribute your single monthly payment between your creditor(s) on your behalf. However, you should think carefully before paying any firm to manage your debts on your behalf, as this will reduce the amount of money you have to pay off your debts or use for living expenses. The numbers of these companies have increased in recent years and you may see adverts for them in newspapers, on television and on the internet; some of them may also try to offer you a loan to consolidate your total debt. Wherever you seek advice, always ask whether there is a charge for the advice or service provided.

3 What will a debt adviser do? An overview

A debt adviser must always work in your best interests; they will assess your needs and explore all options available to you. Any emergencies will be dealt with first (see section 6, Debt emergencies) and your adviser may ask to see copies of credit or other agreements to confirm that you are actually liable for the debt (see section 4, Getting organised and section 9, Liability for debts).

Note: Many people feel ashamed, depressed or guilty about their debts and there is often a stigma attached to being in debt. Rest assured that if you seek help from an independent and free adviser then they must be non-judgemental and completely confidential.

3.1 Information gathering/assessment

During your initial interview with a debt adviser, you will be asked about the length of time you have had the debt, the reason(s) for getting into debt, and whether you have any insurance such as payment protection insurance (PPI). Your adviser will also want to see any letters that you have received, and be told about any court action or other enforcement action taken against you.

The adviser will also ask you for information about your home life. This may include details of the people that you live with and any illnesses or disabilities (including mental health) that you, or the people that you live with may have.

Do not be alarmed if these questions seem rather probing and personal. Your debt adviser will need to get a full picture of your situation in order to understand how best to support you – debt occurs for so many reasons. The adviser will build a picture of your situation and your needs, so that he/she can advise you on your options, and act on your behalf if necessary.

3.2 Income and expenditure

Your adviser may carry out a benefits check to establish if you are entitled to any financial support or benefits (see section 7, Maximise your income). They may also help you to search and apply for a grant from a charity or trust if appropriate.

Next, you will need to complete a financial statement based on the money you have coming in and money going out. You will need to agree a realistic budget with your adviser based on your individual circumstances, and this may mean you need to cut back on non-essential spending. Conversely, it will also ensure that you budget enough money for essential items, such as fuel and food, before allocating any money towards your debts.

3.3 **Discussing your options**

Once you have completed a financial statement your adviser will explore with you the options available for dealing with your debts (see section 12). These options will depend on whether the debts are 'priority debts' (see section 6), whether you are liable for the debt, and whether you have any money available after accounting for essential expenditure. Your adviser will also look at whether your circumstances are likely to change or remain static, as this will also affect your options. For example, if you are near retirement, your circumstances are likely to need to be reviewed once you have stopped working. A copy of your financial statement will be sent to your creditor(s), and used to justify any proposals made to them.

3.4 **Will my adviser speak to my creditor(s) on my behalf?**

Your adviser may negotiate with your creditor(s) if they offer a case-work service making telephone calls, sending correspondence, and negotiating a repayment. They may also challenge your liability for the debt if they believe you are not liable or if the debt is unenforceable.

If you do not have any money to offer your creditor(s) and your situation is not likely to improve in the foreseeable future, your adviser will explore other options with you, such as (among others) a temporary suspension of any repayments, bankruptcy or a debt relief order (see section 12).

3.5 **Are debt advisers qualified or licensed?**

Aside from a few exceptions, your debt adviser should be licenced by the Financial Conduct Authority (FCA) to provide debt counselling and/or to negotiate with creditor(s) on your behalf. You may find that you are given an assessment of your situation, and then directed to another, more qualified organisation that is better suited to your individual circumstances. In addition to holding a consumer credit licence, many debt advisers gain accreditation and are qualified through the Institute of Money Advisers (IMA). Ask your adviser if they hold this accreditation and whether they are a member of the IMA.

Next steps: If you are seeking help from an adviser, please refer to section 4, Getting organised, first. There are things you can do before you see an adviser that will help them to help you more quickly. If you have any 'debt emergencies' (as described in section 6) do not hesitate in seeking advice as soon as possible.

4 Getting organised

If you seek advice from a debt adviser, you are likely to need to provide them with a range of information so that any advice given and options discussed are based on your individual circumstances. If you can gather this information before seeking advice, it will speed up the process and mean that your first appointment will be spent assessing your circumstances and options for dealing with debt – rather than sending you away to gather the required information – and speaking in general terms only.

Items an adviser is likely to require:

- bank statements for the last three months (or printouts if you use online banking)
- proof of all income received including any benefit award letters
- a list of everyone you owe money to and balances (estimates will do) – even money owed to friends or relatives
- all correspondence you have received relating to your debts (including any debts you may jointly owe with a partner or ex-partner and any debts that you have acted as guarantor for).

You should try to gather all these things before you go to a debt adviser because you will need to complete an accurate financial statement that shows what your income and expenditure are. Most creditor(s) will ask for a financial statement before they agree to any type of arrangement and you will need to justify any course of action that involves reduced payments or no payment at all.

Can't find your paperwork?

- If you don't have all the information listed above, start by requesting it from the relevant places. Some things, like bank statements, may show what benefits or income you receive and so may be sufficient for drawing up your financial statement.
- Consider writing to your creditor(s), asking them to provide relevant information about your outstanding debt and asking them to suspend any recovery action while you seek advice. This is known as a 'holding letter' and creditor(s) should suspend any recovery action temporarily once they know you are seeking help to resolve your situation. They may also suspend any interest charges. See Appendix 1 for a template holding letter.
- Alternatively, if your debt adviser provides a case-work service, they may send holding letters on your behalf if you have not contacted your creditor(s).
- If you are not sure who you owe money to, you could request a credit report, which would show any outstanding credit. See section 5 'Credit reference agencies'.

Note: If your creditor(s) refuse to suspend the recovery of a debt, seek advice immediately. The Financial Conduct Authority guidance on responsible lending states that lenders should suspend the active recovery of a debt for a reasonable period where the customer informs them that they are seeking debt advice.

5 Credit reference agencies

In the UK there are three main credit reference agencies that keep records of a person's credit history over the last six years, including any county court judgments, defaults and any applications for credit made in the last two years. They also collect information about any arrears you may have accrued with a lender and highlight any people with whom you have a financial association – for example, if you hold a joint bank account with a partner. Information held by a credit reference agency may be used to inform a credit provider of a person's ability to afford any credit offered, as well as any risk of default or non-payment. Although information held by these agencies must be factual and not subjective, lenders may make decisions based on it – so it is important that you are aware of what is on your file.

You should review your credit files at least annually if you have debts, so that you can ensure that information held on the databases is accurate and shows any repayments you are making. Even if you are not struggling with debt, it can be reassuring to see and confirm that the information held about you is correct. If you notice any transactions or activity that you don't recognise, seek advice as soon as possible. If you move house you should ensure that you update your entry on any electoral roll, as this information is also held by credit reference agencies.

If you want to find out what information is held about your credit history you can request a credit report from each of the three main credit reference agencies, which are Equifax, Experian and Callcredit. You may have to pay a fee for this information. Their contact details can be found in section 5. You may be able to get a free version of your credit file by accessing your records online - but this free service often expires after 30 days, after which you will be charged a monthly subscription fee unless you opt out.

It can be useful to obtain a report before seeking advice (or early on in the process) if you are struggling with debt. Credit reports will show you exactly what is outstanding and who the original creditor was (and reference number). A credit report will not necessarily tell you whether your debt has been passed onto a debt collection agency, however.

What if the information on your credit file is incorrect or inaccurate?

If you notice that information held about you is incorrect (for example, you have proof that a debt was settled some time ago), you may file a 'notice of correction' to your file. Providing evidence can support your claim, the credit reference agency will amend your records as necessary.

How long does a county court judgement stay on file?

A county court judgment (CCJ) remains on your credit file for six years from the date it was ordered by the judge – if, however, the debt is paid within one month of the judgment this will be removed from the file.

Bankruptcy orders, debt relief orders (DRO), and individual voluntary arrangements (IVA)

The above will all remain on a credit file for six years from the date of order, even if the order is discharged or the debt is settled in full before this time. See section 12 for a brief overview of insolvency options.

Why do you need a report from all three credit reference agencies?

In the UK, different lenders use different credit reference agencies to inform their decisions about your credit worthiness. Also, some creditor(s) will lodge details about your credit history with all agencies, or just one. Therefore if you want to see the information that creditor(s) see about you, you should obtain a credit report from each of the credit reference agencies – this will also help if you are unsure who you owe money to, and how old your debts are.

6 Debt emergencies

Debt emergencies carry a very imminent threat to your home, freedom or essential possessions. If you find that your debts fall into this category you should seek advice from an experienced and free debt advice service immediately (see section 17, Useful organisations).

Examples of debt emergency include:

- receiving a Committal to Prison order from the Magistrates' court (for non-payment of council tax)
- bailiff warrant is about to be executed (belongings seized)
- eviction notice served or repossession action by a lender
- energy supply about to be cut-off.

You should address these debts before doing anything else, because time can make all the difference. You can come back to the rest of your debts once you have prevented any immediate emergency or crisis.

6.1 **Priority debt or emergency? Or both?**

Finding yourself on the receiving end of a threatening phone call or letter demanding payment in full can seem like an emergency – especially if the creditor is demanding that the debt be repaid immediately. In reality, there are few things that constitute an emergency. This does not mean though that something that is not an emergency cannot become one, if not addressed.

For example, your rent is a priority, but being in arrears with your rent does not mean that this is a debt emergency. If ignored, however, it can ultimately result in an eviction order being granted by the court and thus will become an emergency. If in doubt – seek advice straight away.

7 **Priority and non-priority debts**

Juggling all your household expenses is often quite a task, especially if your bills are due on different dates or you use different methods to pay different bills. You could end up forgetting one. You may also find that you don't have enough money to pay all your bills, and so deciding which ones to pay is not always easy.

As a general rule, if you have not got enough money to pay all your bills, when deciding which bills you should pay first you should ask yourself, 'What will happen if I don't pay?' Below is a list of typical household bills and the consequences of non-payment split into 'priority' and 'non-priority' debts, because, as you will see, some carry harsher consequences than others.

Priority debts	Consequence of non-payment
Rent/mortgage/secured loan arrears	Eviction from your home
Council Tax arrears	Bailiffs/imprisonment
Magistrates' court fines	Bailiffs/imprisonment
Income tax/National Insurance and VAT arrears	Bailiffs/bankruptcy/imprisonment
TV licence	£1000 fine
Hire purchase (if for an essential item)	Repossession of goods
Fuel debt	Supply cut-off
Non priority debts	
Credit card/unsecured loan	Court order
Water debt	Court order
Catalogue debt	Court order
Phone bill	Disconnection/court order

The most important thing is to keep your roof over your head and avoid a prison sentence and bailiff action. So it makes sense to put your rent/mortgage and Council Tax first. If you miss a payment on your credit card or loan, your ability to obtain credit in future may decrease, but you can improve this over time, unlike a criminal record or eviction from your home.

Note: The consequences shown above are the worst-case scenarios – seeking advice early gives you a good chance of avoiding them.

8 Maximise your income

Over the last few decades there has been a welcome decrease in the number of older people living in poverty – however 16% of pensioners still suffer in this way (1.8 million people). One contributing factor is that many people do not claim the benefits they are entitled to. Around one in three eligible people do not claim Pension Credit and up to £5.4 billion pensioner benefits remain unclaimed each year.

Therefore, an important part of the debt advice journey and something that everyone should do whether you are experiencing financial difficulty or not, is to ensure that you are in receipt of everything you are entitled to. There are many financial benefits available depending on your situation but it is not always clear what they are, and what the eligibility criteria are for each benefit.

The easiest way to find out if you are entitled to any extra money is to complete a benefit calculation tool online (see section 17, Useful organisations). If you do not have access to the internet you could visit your local Age UK Information and Advice Service, or one of the other organisations listed towards the end of this factsheet.

Questions to ask yourself

- Could you save money by switching energy supplier? (See Age UK's Factsheet 82, *Switching energy supplier* for more information.)
- Are you claiming any Housing Benefit / local housing allowance or Council Tax Support you may be entitled to? (See Age UK's Factsheet 17, *Housing Benefit* and Age UK's Factsheet 21, *Council Tax*. In Wales, see Age Cymru's version of Factsheet 21.)
- Do you receive Pension Credit? (See Age UK's Factsheet 48, *Pension Credit*.)
- Do you receive concessionary travel from your local council? (See Age UK's Factsheet 26, *Public transport and concessions*.)
- If you own your own home, have you thought about releasing some of the equity in your property? (See Age UK's Factsheet 65, *Equity release* – you should seek independent financial advice if you are considering this option.)

- Grants – have you considered that you may be entitled to a grant or other support from a range of benevolent and charitable organisations. Many large employers have a benevolent fund or trust that may be open to former employees. (See section 17, Useful organisations for a database of available grants.)
- Are you receiving the right amount of State Pension? Call the Pension Service on 0800 99 1234.

Note: Age UK's range of information guides and factsheets on welfare benefits and money matters offers further information about benefits available and other ways to increase your income.

9 Liability for debts

This factsheet will not tell you whether you are liable for a debt or whether a debt is enforceable – there are too many possibilities to take into account. But you will find guidance below that will give you an indication of your rights, and at what point you should seek advice.

9.1 A long time has passed since you acknowledged the debt

If it has been many years since you last made a payment towards a debt, wrote to the creditor (or an agent acting on their behalf) or made any acknowledgement that you owe the debt – seek advice. Debts are subject to a time limit and providing court action has not already been taken, the debt may be unenforceable. As a general guide, if you have not acknowledged a debt for six years (in England and Wales, other parts of the UK vary), the debt is likely to be unenforceable. Always seek advice if you think this applies to you.

Note: Two notable exceptions to this rule are care home fees (which carry a time limit of three years) and mortgage arrears (not the interest), which are subject to a 12-year limit.

9.2 Your husband/wife/civil partner has died

If your spouse / civil partner had debts in their sole name before they passed away, you would not necessarily be liable for these. However the estate of your spouse / civil partner would remain liable for their debts, and therefore any debt would need to be paid out of this estate if there is any money available. This may extend to any jointly owned property. Seek advice.

If your council tax and some utility bills are in the name of your late spouse / civil partner, you may be liable for these even if your name is not on the bill. If your debts are in joint names (and you have both signed an agreement), you are what is known as 'jointly and severally liable' for any outstanding debt. This means that the creditor can pursue either party for the whole amount (not half). Therefore if one of you dies, the surviving partner would be liable for the outstanding debt.

If in doubt about your particular situation seek advice immediately.

Note: Check if your partner has any insurance policies that may cover debts in the event of death.

9.3 You are a guarantor for a credit agreement

If you have signed a credit agreement as a guarantor to enable someone else to take out credit, you may be held jointly or severally liable for the debt in the event that the borrower is unable to make payments.

Check what your obligations are under the terms and conditions of the credit agreement and seek independent advice if the person who took out the credit agreement is unable to repay the debt. If, as a guarantor, you do make repayments towards a person's debt you have the right to claim this money back – through the county court if necessary.

9.4 Misrepresentation, fraud and duress

If you feel that you don't owe the debt, have been harassed, bullied or have been the victim of fraud by other people to sign something you didn't want to sign, seek independent advice straight away. See section 17 for a list of free and independent debt advice providers.

10 Mental capacity and debt collection

Under FCA regulations creditors must suspend the recovery of a debt from a customer when

- (1) the firm has been notified that the customer might not have the mental capacity to make relevant financial decisions about the management of the customer's debt and/or to engage in the debt recovery process at the time; or
- (2) the firm understands or ought reasonably to be aware that the customer lacks mental capacity to make relevant financial decisions about the management of the customer's debt and/or to engage in the debt recovery process at the time.

Recovery should therefore be suspended until either the person regains capacity *or* someone else is appointed to deal with the person's financial affairs, i.e. under a power of attorney.

If a creditor refuses to delay pursuing a debt in these circumstances, follow their complaints process and if necessary follow this up with a complaint to the Financial Ombudsman Service (see section 17). You may also wish to refer to the guidance on debt collection contained within the FCA handbook (see section 17).

Taking out credit if you lack mental capacity

This can be tricky. Creditor(s) have a responsibility under FCA requirements to take reasonable steps to establish 'whether the borrower is known (or reasonably known) to lack the mental capacity' to make informed borrowing decisions and understand what they are entering into. However, if someone lacking mental capacity takes out a form of credit, this does not automatically mean that they are not liable for repayment. If you are concerned about the liability of a debt owed by someone lacking mental capacity, seek specialist advice.

11 **Financial statement: putting your budget together**

Once you have made sure that you are getting everything you are entitled to, prioritised and reviewed your spending – and made sure you actually owe the debts – you should list all your income and expenditure so that you can assess your options for dealing with your debts. This is known as a financial statement, and can be used to show creditor(s) what your position is and justify any proposals you make to resolve your debts.

When listing your income and expenditure it is a good idea to review your spending and any unnecessary expenditure. Consider making cutbacks where possible but ensure that you budget enough money to cover your essential housing costs and, of course, food. Any money left over once you have covered your essentials is your 'disposable income'. A debt adviser will be able to help you with budgeting and give you advice on your individual situation.

Once you have listed your income and expenditure, you should consider what options you have for addressing your debts. You may be in a position to offer reduced payments to your creditor(s), or you may have no disposable income from which to pay your debts. There is a brief overview of some options for dealing with debt on the following pages but seek advice before applying for insolvency or if you are unsure about which options may be most appropriate to your circumstances.

12 **Options for dealing with your debt**

12.1 **Negotiating a repayment arrangement with creditor(s)**

If you are struggling to make an agreed payment on a loan, for example, and you miss one or more payments, you should contact your creditor(s) as soon as possible to let them know you are struggling. You may prefer to do this in writing/by email, so that you can keep a record of any correspondence. This is when your personal budget sheet/financial statement (see section 11) can prove very useful.

Once you have completed your financial statement/budget sheet you will be able to see if there is any money left each month to offer to your creditor(s).

If there is some money left once you have paid your essential household bills, you should look to offer your priority creditor(s) a portion of the money first, and then if there is anything left, you can offer this out to the non-priority creditor(s). If you don't owe priority debts, you can share any disposable income between the non-priority debts.

Multiple debts and a disposable income? Calculating a fair offer

If you have more than one loan or debt that you cannot afford to pay, and you have some disposable income available, you need to work out an amount that you can commit to (after you have covered your essential items). This left-over money should then be divided equally between the creditor(s) on what is known as an 'equitable' and 'pro-rata' basis. This means that each creditor will receive a fair portion of any spare income, relative to the size of the outstanding debt owed to them.

Example: You owe £10,000 to Company A and £500 to Company B. Company A would therefore receive a larger share of your available money each month because your offers are worked out using a fair formula.

To work out pro rata offers, you should first of all multiply the individual debt by the available income. Then divide this sum by the total amount you owe to all your non-priority creditors.

The formula is:-

$$\frac{\text{Individual debt} \times \text{Money available}}{\text{Total non-priority debt}}$$

You should list all the balances and offers in your personal budget so that your creditor(s) can see you have worked out the offers in a fair and 'equitable' way. You should also request that the creditor stop any further interest and charges being added to the account so that all your payment is used to reduce your debt. Most creditors will agree to this but if they refuse, you should seek advice.

Note: If you have priority and non-priority debts (such as rent arrears and credit debts), consider seeking face-to-face or telephone advice.

12.2 Debt management plan through a third party

As with above, if you have a disposable income from which you are able to offer reduced payments to your creditor(s), a debt management plan (DMP) may be a suitable option. A DMP will usually be set up with a third party organisation, who will manage payments to each of your creditors on your behalf. This means that providing your offers are accepted, you will only need to make one monthly payment and liaise with one organisation. Debt Management Plans are available free of charge from voluntary or charitable organisations and are distinct from those fee charging organisations mentioned in section 3.5.

DMPs are good because you do not usually have to contact all your creditors individually, removing some of the stress associated with debt. On the other hand, many will not deal with any priority debts that you have. You should check with the organisation first. Also, if you use a DMP it could take you many years to clear your debts and you should explore other options if this is the case.

Note: Be wary of organisations that charge a fee for providing debt management services, as paying a firm to manage your debt means that it could take you longer to pay it off. You can get this service free of charge from some of the useful organisations listed in section 17.

12.3 Full and final settlement offer

If you have, or are expecting to receive, a lump sum of money (for example through the sale of your home or an inheritance), you should consider making a reduced offer to your creditor(s) as a full and final settlement of your debt. This is where you make a one-off payment to your creditor(s) in lieu of the full amount of debt. Creditor(s) may be likely to accept such an arrangement if you do not have a regular disposable income from which to offer repayments. Seek independent advice if you are considering this option to ensure that any offers you make are binding on the creditor and they cannot renege on the agreement.

12.4 Releasing the equity from your home

If you have paid off your mortgage or have some equity in your home, one option for clearing your debts is to release some of the equity and use it to resolve your debt problems.

It is important that you seek advice and thoroughly consider the implications of releasing equity from your home, as some plans involve the forced sale of your property when you pass away.

There is often a set of eligibility criteria for taking out an equity release plan and providers often require:

- a minimum age, usually 60, but some schemes may be open to people over 55
- a maximum amount you can borrow or sell, for example 40% of the property value
- you must own your home and it must be of a certain value
- you have little or no mortgage left
- you have to borrow a minimum amount of money.

In addition:

- some companies will only accept applications from people living in freehold houses, rather than leasehold flats
- some companies will only accept applications from people whose properties have been built using materials such as brick or concrete, not wood-build or prefabricated.

For detailed information about equity release schemes refer to Age UK's Factsheet 65, *Equity release*.

12.5 No disposable income

If, after completing your financial statement, you do not have any disposable income available to make an offer of payment to your creditor(s), the options shown below may be appropriate.

Temporary suspension of debt recovery

If you are anticipating an increased income in the near future, you should consider asking your creditor(s) to suspend payments on your account for a period of time, usually 3–6 months, after which your situation is reviewed again. This is known as a ‘moratorium’. This could be useful if, for example, you are expecting a change of circumstances (such as finding employment, or the sale of an asset).

A moratorium may also be appropriate if you are paying off a priority debt (such as rent arrears) and cannot afford to pay anything towards non-priority debts (such as a credit card debt). If you pursue this course of action, you should request that the creditor suspends the interest charges as well. See Appendix 2 for a template example of a request to suspend debt recovery for three months.

Token payments

If you have a small number of debts and very little disposable income available, or if your creditor(s) have refused to accept a moratorium or suspension of debt repayments, you could offer to make token payments towards your debts. This usually involves making minimal payments (50p or £1 per month) as a token gesture, which again is usually for a set period of time. This can demonstrate to the creditor that you are making an effort to pay something towards your debts – although this should not be viewed as a long-term solution as you will never pay off your debts making token payments. It may also not be suitable if you have lots of creditors because it can be very expensive to pay each creditor £1 per month. Another strategy may be better for you. If in doubt, you should seek advice.

Write-off

If, after a moratorium, or a period of token payments, your situation has not improved or if your financial situation is unlikely to improve in the foreseeable future, you should consider asking your creditor to write off some or all of the debt. This may be a useful option if you have a chronic or long term illness or disability. You would need to provide evidence of your situation from your doctors and/or social services.

Note: This factsheet is intended to give you an overview of some of the options available for resolving debt problems. Always seek advice if you are unsure what course of action is appropriate to your individual circumstances.

12.6 **Deductions from your welfare benefits and pension to pay towards essential bills**

Sometimes, it is possible for creditors to collect money straight out of your benefit in order to pay towards essential bills. If you have missed several payments or have not been able to make an acceptable repayment arrangement, creditors may ask the Department of Work and Pensions (DWP) to make deductions from your benefit in order to pay off the arrears and in some circumstances this may include on-going costs. Only priority bills can be paid off this way, and these include:

- housing costs excluding mortgage interest (for customer's current address)
- care home fees
- rent arrears and service charges (for customer's current address)
- water and sewerage charges (for customer's current provider)
- fuel costs (for customer's current provider)
- Council Tax arrears
- unpaid fines
- Child Maintenance.

These deductions are known as 'Third Party Deductions' and should be used only where other repayment arrangements have been unsuccessful. Usually the creditor, landlord or Local Authority will discuss this with you before making deductions, however in some circumstances creditors may apply to the DWP for a Third Party Payment without your consent, for example, where you have been unable to maintain a payment arrangement. Third Party Deductions may also be used in other situations not covered here, and you should seek advice if you are unsure about what payments are being deducted from your benefit. You can request a statement of any deductions from your benefit from the Jobcentre plus (see section 17, Useful Organisations).

Is there a limit on how much money can be deducted from my benefit?

There are rules around the total amount that can be taken straight out of your benefits which depend on your total amount of income you receive, and whether you are repaying any loans or advances of benefit to the DWP. For more detailed information including the current rates of deduction contact Jobcentre plus (see section 17, Useful Organisations).

12.7 Frequently asked questions

I am receiving debt advice and my creditor(s) are still calling me to demand payments – are they allowed to do this?

The FCA guidance on debt collection states that it may be considered unfair and improper for a creditor to refuse to suspend the active pursuit of recovery of a debt for a reasonable period when it is clear that the creditor is developing a repayment plan (or seeking help to do this through a third party representative). Alert your debt adviser and they will assist with any complaints necessary.

I've received a 'default notice' from my lender – what does this mean?

The default notice is a formal notice from your creditor advising you that you have breached the agreement that you entered into with them. It tells you that you have missed agreed payments and what you need to do to put this right. If you were to do nothing, the creditor could issue a claim against you in the county court, which could lead to enforcement being used (for example, a bailiff). However, creditor(s) will only pursue this as a last resort, so be proactive, seek help, and make an offer of payment. If you can't afford the payment or dispute the debt, seek advice.

What if I can't afford to make a payment that has already been reduced through an arrangement?

If after making an arrangement to make reduced payments on a debt, you find that you cannot make a payment – do not panic. Contact the creditor as soon as possible and explain any change of circumstances. If you have a debt caseworker acting on your behalf, let them know. You may need to review your financial statement to make sure that your payment arrangements are realistic. Creditor(s) often try to assess whether a customer 'can't pay' or 'won't pay' and are far more likely to be flexible if you keep them informed of any changes to your situation.

I have rent arrears and council tax arrears, and I am worried about being evicted from my home – what can I do?

If you are struggling with rent or Council Tax payments, seek advice immediately. Rent and Council Tax are priority outgoings (see section 8), and if you do not address these essential payments you could find yourself facing legal action. If you are struggling with your rent or Council Tax, check if you are entitled to any local authority support or benefit – millions of pounds of which go unclaimed every year.

I have received a county court claim for a credit card debt I owe – what does this mean?

The court claim form is a formal declaration to the court that states what the creditor claims that you owe, and what action the creditor has taken to try and obtain payment from you. The form asks the court to agree that you owe the money and to allow enforcement to commence via the court. This means that if you still don't pay your debt the creditor could use methods of enforcement to recover the debt, such as the use of a bailiff to seize goods from your home. If you receive a court claim, seek advice and act straight away. You will have the chance to dispute that you owe the debt (if applicable), or propose a repayment arrangement.

For more information on debts in the county court, seek further advice from the useful organisations in section 17.

12.8 Overview of insolvency

Debt Relief Order

A Debt Relief Order (DRO) is an alternative to bankruptcy for people on a low income. To qualify your debts must not exceed £15,000 and you must have less than £50 per month disposable income, after paying your essential bills. You must not have assets worth more than £300 and so homeowners are excluded from this strategy.

DROs are administered by the Insolvency Service and you do not have to go to court to apply for one. Instead, an 'Approved Intermediary' (someone authorised to administer a DRO) will look at your circumstances and process your application if you meet the eligibility criteria. You can find an Approved Intermediary by contacting the Insolvency Service (see section 17, Useful organisations) or by speaking to your local Citizens Advice.

Debt Relief Orders cost £90, which is much less than a bankruptcy order. Once an Approved Intermediary has identified that you meet the eligibility criteria, and you decide to proceed with a DRO, you will be given the opportunity to pay the fee by instalments. Once you have paid the fee the Intermediary will apply for the order and will confirm the outcome with you.

Generally speaking, a DRO protects you from any enforcement action from your creditors for 12 months. During this period you will be subject to similar restrictions to bankruptcy, for example if you apply for credit exceeding £500 you will need to notify creditors that you are subject to a DRO. After this period, if your circumstances remain the same, your debts will be written off. Not all debts can be included in a DRO and you may only apply for a DRO once every six years, so if you think this strategy may be appropriate for you, you should seek advice.

Bankruptcy

There has traditionally been a stigma attached to bankruptcy but it can be an effective 'last resort' if you have no means to repay your debts and your situation is unlikely to improve significantly in the near future. In the UK, someone is declared bankrupt every 4.5 minutes. Bankruptcy means that your debts are taken over by the Official Receiver, who will establish whether you are able to pay anything towards your debts, or whether the debts should be written off completely.

You can file a petition for your own bankruptcy, and if you owe more than £750, creditors can apply to make you bankrupt. In either case, it is a good idea to seek advice when considering the implications of bankruptcy for your situation.

If you decide to declare yourself bankrupt you will need to pay a court fee and a deposit. These fees are fairly high and much more than for a DRO. You will need to present a 'petition' at the county court, where a District Judge will consider your circumstances and may grant an order if s/he is satisfied that the information you have provided is correct. You will then need to speak to the Official Receiver or a Trustee who will conduct a more thorough investigation into the events leading up to your bankruptcy. The extent of the Official Receiver's investigation will depend on how complex your financial affairs are, and you may be asked to make a contribution towards your debts if you are found to have assets or if the Official Receiver decides that you can afford to make some payments. As with a DRO, bankruptcy is unlikely to be a suitable option for a homeowner. Whilst you are bankrupt you will be subject to certain restrictions and may be unable to hold certain public offices.

Once you have been declared bankrupt your creditor(s) should no longer contact you directly regarding your debt and will be notified of your bankruptcy. However, there may be a period where you are still contacted by creditor(s) and you should provide them with your bankruptcy reference number if you find yourself in this position.

How long will a bankruptcy stay on my file for?

The legal procedure of investigating your affairs, and the eventual write-off of your debts, can take between one and three years. This depends on the complexity of your financial situation. Whilst this process can be concluded in a relatively short amount of time, the bankruptcy will be recorded on your credit file for six years and will probably make it difficult for you to obtain credit during this time.

Will my pension be affected?

If you have a private or occupational pension scheme, the Official Receiver may be able to tap into this as a means of recovering some of your debt, depending on when your bankruptcy petition was granted, and depending on when you are able to claim or draw your pension. Your State Pension will not be affected at all.

If you were declared bankrupt on or after 29 May 2000 your pension contributions are likely to be protected from bankruptcy if you have an HMRC approved pension scheme. However, if you are eligible to draw a lump sum before you are discharged from bankruptcy, the Official Receiver may be able to lay claim to some of it.

If you were declared bankrupt before 29 May 2000 your pension may be claimed by the Official Receiver. This means that the Official Receiver may take payments from your pension when it becomes payable, even if this is years from the date you were declared bankrupt.

If you were already receiving pension payments when you were declared bankrupt, they would be treated as income. This would be taken into account and the Official Receiver might ask you to make payments through an Income Payments Arrangement if you were found to have disposable income.

Note: It may be possible for the Official Receiver or Trustee to force you to cash in your pension if you are an un-discharged bankrupt and of qualifying age to draw your pension (*Raithatha v Williamson*, 2012). Always seek advice on how any pension will be affected before choosing bankruptcy as a strategy.

Individual Voluntary Arrangement (IVA)

An Individual Voluntary Arrangement or IVA is a legally binding agreement between a debtor and their creditors to repay debts over a negotiated length of time. As an alternative to bankruptcy, an IVA is authorised by a court and supervised by a qualified Insolvency Practitioner who will work with you to produce a financial statement and offers of repayment to each of your creditor(s). Your creditor(s) will then get the chance to vote on your proposals and if 75% (by value) or more agree, your arrangement will become a legally binding arrangement.

IVAs are more suitable for people with assets or a larger available income. Your IVA may contain specific conditions about how you manage your money during the period of your IVA; for example, if you come into any money while subject to an IVA. Some organisations and companies can offer you free advice about whether an IVA is right for you and will provide details about how much one would cost you. Details of which are in section 17 'Useful organisations'.

Administration Order

This strategy for dealing with debts may be appropriate if you have one or more creditors, one of which must be a county court judgment, and debts of £5,000 or less. Similar to a debt management plan, you would make one regular payment that would be distributed by the county court on a pro-rata basis. The court can also order that you pay back less than you owe. Once an order is granted, any creditors included in it cannot take further enforcement action. Unlike bankruptcy there is no application fee but the court charges a fee of 10% of the monthly payment as an administrative fee. Administration orders are entered on the Register of Judgments, Orders and Fines and recorded with credit reference agencies for six years. This may make it difficult for you to obtain credit in the future.

13 Creditors behaving badly

If you are struggling with debt, you may find yourself receiving various letters, telephone calls or even personal visits from your creditor(s) or a nominated third-party debt collection company. Although you may find this process uncomfortable and even intimidating there are clear rules and guidance about how creditor(s) and debt collectors must behave when collecting debts. For example, according to the Financial Conduct Authority handbook:

- communications such as letters must not be misleading (for example you may find that you are threatened with a personal visit from a debt collector but they should not be confused with a bailiff).
- telephone calls and other contacts – debt collectors must not contact you at unreasonable times and/or at unreasonable intervals.
- Debt collectors should not place you under undue pressure –for example, if you are encouraged to pay more than you can reasonably afford, or to take out additional credit to pay off debt this may be considered improper business practice.

The above are all examples of potentially unfair tactics that could lead to a debt collector having their licence revoked. If you experience any of these (or other bad practice) please seek advice and follow the complaints process in section 14.

14 Making a complaint

There may be other instances where you need to complain about your creditor(s). If you are not satisfied with an aspect of a creditor's conduct or service, you have the right to make a complaint and receive a detailed response within eight weeks. If you have a complaint about a creditor you should always request details of their complaints process and follow this until you get a response. If, after receiving a response to your complaint, you are still not satisfied, consider referring the matter to the Financial Ombudsman Service (FOS) (see Section 17, Useful organisations).

What is the Financial Ombudsman Service?

The FOS is an independent and free service set up by the Government to investigate complaints relating to financial services and consumers. They can give you advice about making a complaint, as well as act as a 'next step' if you do not receive a satisfactory response from your creditor.

Using the FOS can be an effective way of resolving a dispute without having to go to court. They will investigate the details of your complaint and provide you with their findings, which may or may not uphold your complaint. If you choose to accept their findings, this is a binding decision on the creditor or business you are complaining about.

15 Appendix 1: Holding letter template

This letter can be used to send to creditor(s) to request time to sort through your affairs and seek advice. It informs the creditor that you are dealing with your debts and will be in touch with proposals once you have sought advice.

123 Merry Road
London
WC1 XYZ

Date

Credit Cart Ltd
10 Card Lane
Whitby
SY2 8AA

Dear Sir/Madam

Re:- Account/Reference Number XYZ-ABC

I am writing to inform you that I am seeking advice and assistance regarding my current financial difficulties.

To this end, I would appreciate it if you could hold any action on the above account for a period of at least 28 days.

Also, during this period, could you please freeze interest and/or any other charges accruing on the above account.

I look forward to hearing from you as soon as possible.

Yours faithfully

A.N. Other

16 Appendix 2: Moratorium letter template

This letter can be used to send to creditor(s) to request a suspension of debt recovery for a specified time, where you have no immediate disposable income.

123 Merry Road
London
WC1 XYZ

Date

Credit Cart Ltd
10 Card Lane
Whitby
SY2 8AA

Dear Sir/Madam

Re:- Account/Reference Number XYZ-ABC

I/we have enclosed a financial statement prepared using realistic budgeting figures, given *my/our* current circumstances. This also shows the current level of debts outstanding. You can see from this information, that *I/we* are finding it difficult to meet even *my/our* basic needs at this time so *I/we* are currently unable to make any realistic offer of payment.

I/we request therefore that you give consideration to allowing a suspension of the payments on the account for a period of 3/6 months, when the situation can be reviewed.

Include here any possible future potential to start repayments again (if appropriate) e.g. expecting to go back into work.

If interest and charges are being added to the account, it would be appreciated if you would agree to waive these during this time, so that the debt does not increase further.

I/we hope you will be sympathetic to *my/our* request as this would greatly relieve some of the stress the *I/we* are experiencing.

I/we would appreciate any help you can give *me/us*.

Yours faithfully

A.N. Other

17 Useful organisations

Callcredit

Credit reference agency offering information about your credit history.

Tel: 0845 366 0071 (for queries on your credit report)

Website: www.callcredit.co.uk

Charity Search

A free service set up to help older people in financial difficulty. They can signpost charities that may be willing to help.

Charity Search, Freepost (BS 6610), Avonmouth, Bristol, BS11 9TW

Tel: 0117 982 4060

Email: info@charitysearch.org.uk

Website: www.charitysearch.org.uk

Citizens Advice Bureau

National network of free advice centres including advice about national housing provision.

Tel: 020 7833 2181 (for contact details only – not telephone advice)

Website: www.citizensadvice.org.uk

Citizens Advice Cymru

This is an administrative office and no advice is available here. For advice call their Advice line.

Cardiff Field Office, Ground Floor, Quebec House, Castlebridge, 5-19
Cowbridge Road, East Cardiff, CF11 9AB

Advice line on 08444 77 20 20

Consumer helpline on 08454 04 05 06

Website: <http://www.adviceguide.org.uk/wales.htm>

Equifax

Credit reference agency offering information about your credit history.

You need to log in to Equifax's member's database to get their contact telephone number.

Website: www.equifax.co.uk

Experian

Credit reference agency offering information about your credit history.

Landmark House, Experian Way, NG2 Business Park, Nottingham,
NG80 1ZZ

Tel: 0844 481 8000 (for queries on your credit report)

Website: www.experian.co.uk

Financial Conduct Authority

Regulator of the debt advice industry

Tel: 0800 111 6768

Email: consumer.queries@fca.org.uk

Website: www.fca.org.uk

Financial Ombudsman Service

The official independent expert in settling complaints between consumers and businesses providing financial services.

Tel: 0800 023 4567 (free for people phoning from a 'fixed line', for example a landline at home)

Tel: 0300 123 9 123 (free for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02)

Website: www.financial-ombudsman.org.uk

Gov.uk

The official government website for citizens with easy access to and information about public services including money, tax and benefits and a specific section for the over-50s.

Website: www.gov.uk

HM Revenue and Customs (HMRC)

For information about taxes, including Income Tax and Inheritance Tax, contact your nearest HMRC enquiry centre, details should be in phone book.

Website: www.hmrc.gov.uk

The Insolvency Service

Now part of the Department for Business, Innovation and Skills; this service provides information about insolvency, and administers bankruptcies and debt relief orders in the UK.

3rd Floor Cannon House, 18 Priory Queensway, Birmingham, B4 6FD

Tel: 0845 602 9848 (Insolvency helpline)

Website: www.bis.gov.uk/insolvency

Jobcentre Plus

For information about job seeking and welfare benefits, including queries about third party deductions from your welfare benefits.

Tel: 0345 606 0234

The Money Advice Service

Free money advice covering life events, such as pensions and retirement or divorce and separation, as well as everyday money advice covering basic banking, insurance, and offering a range of financial planning tools. Service is available online, over the phone, or in some areas face to face.

Tel: 0300 500 5000

Website: www.moneyadviceservice.org.uk

National Debtline

The national telephone helpline for people with both personal and business debt problems in England, Scotland and Wales. The service is free, confidential and independent. It has existed since 1987 and is now part of the Money Advice Trust.

Tel: 0808 808 4000 (free call)

Website: www.nationaldebtline.co.uk

Payplan

A free service offering advice and help setting up a repayment plan.

Tel: 0800 280 2816

Website: www.payplan.com

The Pension Service

Provides details of State Pensions, including statements and how to claim your pension.

Tel: 0845 60 60 265

Textphone: 0845 60 60 285

Website: www.gov.uk

Shelter

A national charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs and housing benefit.

Tel: 0808 800 4444 (free call) (textphone for deaf callers)

Website: www.shelter.org.uk

In Wales contact, **Shelter Cymru**:

Tel: 0845 075 5005

Email: advice@sheltercymru.org.uk

www.sheltercymru.org.uk

Stepchange

Stepchange offers free and independent debt advice, and can help you explore your options including setting up a debt management (repayment) plan.

Tel: 0800 138 1111

Website: www.stepchange.org

Turn2us

Organisation offering free benefit entitlement check and database of charitable grants and other financial help.

Tel: 0808 802 2000

Website: www.turn2us.org.uk

18 Further information from Age UK

Age UK Information Materials

Age UK publishes a large number of free Information Guides and Factsheets on a range of subjects including money and benefits, health, social care, consumer issues, end of life, legal, employment and equality issues.

Whether you need information for yourself, a relative or a client our information guides will help you find the answers you are looking for and useful organisations who may be able to help. You can order as many copies of guides as you need and organisations can place bulk orders.

Our factsheets provide detailed information if you are an adviser or you have a specific problem.

Age UK Advice

Visit the Age UK website, www.ageuk.org.uk, or call Age UK Advice free on 0800 169 65 65 if you would like:

- further information about our full range of information products
- to order copies of any of our information materials
- to request information in large print and audio
- contact details for your nearest local Age UK

Age UK

Age UK is the new force combining Age Concern and Help the Aged. We provide advice and information for people in later life through our, publications, online or by calling Age UK Advice.

Age UK Advice: 0800 169 65 65

Website: www.ageuk.org.uk

In Wales, contact:

Age Cymru: 0800 022 3444

Website: www.agecymru.org.uk

In Scotland, contact Age Scotland

by calling Silver Line Scotland: 0800 470 8090

(This line is provided jointly by Silver Line Scotland and Age Scotland.)

Website: www.agescotland.org.uk

In Northern Ireland, contact:

Age NI: 0808 808 7575

Website: www.ageni.org.uk

Support our work

Age UK is the largest provider of services to older people in the UK after the NHS. We make a difference to the lives of thousands of older people through local resources such as our befriending schemes, day centres and lunch clubs; by distributing free information materials; and taking calls at Age UK Advice on 0800 169 65 65.

If you would like to support our work by making a donation please call Supporter Services on 0800 169 87 87 (8.30 am–5.30 pm) or visit www.ageuk.org.uk/donate

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