



LawCare Ltd.  
Health Support and Advice for Lawyers



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*Please note that legal information in this pack applies to England and Wales only.*



“Interest never sleeps nor sickens nor dies; ... Once in debt, interest is your companion every minute of the day and night; you cannot shun it or slip away from it; you cannot dismiss it; it yields neither to entreaties, demands, or orders; and whenever you get in its way or cross its course or fail to meet its demands, it crushes you.”

*J. Reuben Clark Jr.*

We live in a world in which everything happens **now**. We see endless quantities of attractive things in the shops, or on the Internet, offered at temptingly low prices. We see wonderful holidays offered at “this week only” prices. We know that the children really need a new computer, and that the kitchen has simply got to be replaced. We forget the considerable skill and psychological tricks that commercial organisations use to sell their goods and to get us, the customers, to part with our money.

Money is freely available. We are daily sent offers of credit cards and store cards, and see an endless stream of TV advertisements offering secured and unsecured loans, remortgages, consolidation loans and even ways to “unlock” the equity in our homes. The loan companies are getting ever cleverer – many are now disguised as car showrooms which will let you have a new car when other routes are closed to you. What they really want you to have is expensive credit.

Many of these loans offer deceptively low payments. They may spread out the debt repayment out over many years with the result that the monthly figures look great, while the end figure to be repaid may be astronomical.

In many cases, the need to borrow is quite logical. The salaries that can be enjoyed in a legal career mean that it is reasonable to take out a loan for higher education and other training, as well as necessary living costs. Most people will also need a loan to buy a car. With property arguably usually a safe investment, taking out a mortgage is more sensible than renting. However, it’s worth remembering the words on every contract and mortgage advertisement - “Your home is at risk if you do not keep up payments on a mortgage or loan secured on it.”

Unfortunately the wide availability and acceptability of credit has led more and more people to find themselves in financial difficulty. Calls to National Debtline in the UK increased from 36,321 in 1994 to 274,442 in 2006, with 52% of callers reporting that they owed over £15,000 in loans and on credit cards. Whilst the legal profession may be perceived as one where there is a high earning potential, at LawCare we hear regularly from lawyers who have nevertheless managed to run up debts which leave them with a monthly payment obligation higher than their salary.

If you have found yourself in financial difficulties, the situation can look very bleak, but it’s important to take control and deal with the issue. Ignoring it will not make it go away.

### **What to do if you are in debt.**

#### Be Honest

Admit to the problem, and take step to deal with it immediately. The sooner you deal with it, the sooner the problem will be resolved and the easier it will be. You need to be completely honest and open, with yourself, your family, your creditors and the Court.

#### *Be Honest with Yourself*

Sit down with a piece of paper and work out your exact financial situation, listing all your income, and all your financial obligations. Include household utility bills, car running costs and groceries. Appendix 1 may help you to do this. Try to discover exactly how much more money you have going out than coming in.

### *Be honest with your family*

As awkward and embarrassing as it may be, your loved ones need to know the situation. If extended family are among your creditors, then it is particularly important that you tell them the situation and that you are taking steps to deal with it. It may be hard to admit to, but it might ultimately prevent much more ill-feeling later. Similarly, let your family know the situation and keep them apprised of it. Children, for example, will need to know why they cannot have the latest games console, and why there will be no foreign holiday this year.

### *Be honest with your creditors.*

You will be surprised how helpful your creditors will be. Lending money to ordinary people like us means that they know that sometimes things will go wrong. Usually they will simply want to resolve matters and will often bend over backwards to help if it means that they can eventually get all, or at least some of, their money back. Interest payments may be frozen and repayment programmes agreed that will allow you the time you need to recover.

Write the list of your creditors in order of priority. Debts which could cause you to lose your home or have electricity or gas cut off should take precedence. So, too, should the Inland Revenue and Customs and Excise if you are self employed. A vital creditor to speak to is probably the Bank or Building Society with which you have your mortgage or business borrowing. An estate agent, charged with selling several repossessed properties during the recession of the early nineties, commented:

“Too many people get into difficulty, and just walk into the bank and put the keys on the counter. They shouldn’t. The last thing the bank want is the house. They want their money – with interest – and they are prepared to be patient for it if necessary.”

Be sure to speak to all your creditors, and if the first person you speak to is unhelpful or unsympathetic, ask to speak to someone else. Keep trying to reach an agreement, and offer to pay the lowest monthly sum they will accept. It’s tempting to want to clear the debt quickly and offer a higher payment, but it is over committing yourself which got you into this mess in the first place, and you need to keep the promise you made to repay the amount. They will not be as understanding if you fail to make the repayments this time.

### *Be Honest with the Court*

If you receive a County Court summons, don’t ignore it. It may be worth approaching the creditor directly to see if you can agree a repayment schedule and avoid a County Court Judgement (CCJ) but at this point they might prefer the payment to be enforceable and the judgement to proceed.

Make sure you reply to all Court papers, and be sure that the Court has all the facts. Always attend Court hearings, and take a copy of your personal budget with you, including agreements reached with other creditors. Keep copies of notices or letters you receive from the court.

### Maximise your Income

Check that you are receiving all the benefits, tax credits, etc you are entitled to, and call in any debts due to you. Are you paid overtime for any additional hours worked, or are you due a salary review? If you have lost your job, check whether any of your debts are covered by payment protection insurance. You might even consider selling items on the internet or at car boot sales, or encouraging your teenage children to take part-time jobs.

### Cut Down your Spending

Cut up your credit cards and store cards and look carefully at your household budget and outgoings. Get rid of any non-essential spending, such as expensive restaurant lunches. Face the fact that, if you have been a Waitrose or Marks and Spencer customer, you may now need to go to cheaper stores such as Tesco or even Lidl, Aldi and the like. Similarly, if you have bought branded products in the past, try the store’s own brand or even value/basic ranges, and look out for offers

and money-off coupons. Every penny saved goes towards getting you out of debt sooner. Be imaginative and creative about saving money.

Look at what the major expenses are in your household, and where savings can be made. A car is a particularly large expense – if you are a two-car household, could you manage with one car? Perhaps buy a bicycle and get fit (you could cancel the gym membership too)? Get into the habit of asking how essential it is to have something each time you are tempted to spend money.

### Don't Pay to get out of Debt – Unless you really have to

Many agencies will offer to help you with your financial obligations – by arranging an IVA for you, or offering a consolidation loan. Remember that you should never have to pay to get out of debt. Advice is available free, and consolidation loans may lower your monthly payment but often the ultimate price you pay will be higher.

If you really feel that you cannot face contacting your creditors, drawing up a budget or doing all the work yourself a **Debt Management Programme** can be set up by a specialist company. They will manage all the above procedure for you and will take a percentage of your repayments as their fee for doing so. Figures of approaching 20% are typical so this is not a cheap option. If you can manage to go through this procedure yourself, then 100% of whatever you can afford will be put towards the re-payment of your debts, rather than perhaps the remaining 80% or so. However, if all this frightens you too much this is an option and the company will provide guidance and have a certain amount of “clout” with your creditors.

### IVAs

IVAs were introduced by the Government as part of the Insolvency Act 1986 to provide a realistic way to clear debt without the manifold downfalls of bankruptcy. An Individual Voluntary Agreement is a formal and legally binding arrangement with your creditors which allows you to repay your debts in affordable monthly payments over a fixed period of time. Because of its formal and legally enforceable nature it is set up by an Insolvency Practitioner whose fee will be included in the overall proposal put forward to creditors and lodged into Court.

If your assets are at risk because of action taken by creditors, application can be made to court for an Interim Order, which means that they cannot take any action against you and your assets unless the Court permits it. A meeting of your creditors is held and they vote on whether to accept, alter or reject your proposals. If 75% (by value) accept the others are bound to do so as well. As long as your proposals demonstrate a genuine desire to repay as much of your debt as you can afford, it is likely that creditors will accept (indeed you may find that many will not actually bother to attend the meeting). Your insolvency specialist will guide you as to what kind of offer is likely to be acceptable so that you have the best chance of success. Once your IVA is approved all interest and charges on your unsecured debt are frozen. An IVA also allows you to repay a proportion of your debt, so as long as you adhere to the agreed terms the remaining balance of your debt may be written off.

**Entering into an IVA may not affect your right to practise, though you may have an obligation to notify your professional body of the IVA and provide them with a copy. Check with the Law Society Practise Advice Service on 0870 606 2522 or the SRA Ethics Department on 0870 606 2577.**

## Bankruptcy

Also usually managed for you by an insolvency practitioner, bankruptcy should be considered as a last resort if you really cannot meet your obligations, or repayments on your DMP or IVA. There are a number of consequences that flow from an act of bankruptcy.

- The Law Society will automatically suspend your practicing certificate, although you can apply for this suspension to be lifted.
- You will lose control of your assets – primarily your home.
- You will not, in future, be able to obtain credit for over £250 without specific permission of the lender.
- You cannot act as a company director.
- You cannot take any part in the promotion, formation or management of a limited company (LTD) without the permission of the court.
- You cannot trade in any business under any other name unless you inform all persons concerned of the bankruptcy.
- You may not act as a Justice of the peace (JP).
- You may not become a member of parliament.
- You may not become a member of the local authority.
- You may be publicly examined in court, with proceedings reported in the press.

An individual can choose to be made bankrupt (Debtor's Petition), but can also be made bankrupt by a creditor to whom they owe more than £750 (Creditors' petition), or by the Insolvency Practitioner or supervisor managing their IVA. A bankruptcy order can still be made by the Court even if the individual refuses to acknowledge the proceedings or agree to them.

A petition is presented to court and the order will be made if the court official considers bankruptcy appropriate. This is followed by an interview with the Official Receiver, who initially acts as Trustee in Bankruptcy. The Official Receiver has 12 weeks to decide whether an independent Trustee should be appointed to manage the bankruptcy and if so, whether a meeting should be held to appoint the Trustee.

As of 1st April 2004 the discharge period for bankruptcy is twelve months after the date of the Order, or sooner if the Official Receiver reports that there are no matters of concern. Whilst bankrupt, if you have surplus income after taking into account your reasonable costs of living, the Trustee will ask for a monthly contribution from your income for a period of three years; as such payments continue beyond the discharge period.

The assets excluded from bankruptcy comprise:

- Personal possessions of a reasonable value
- Tools of trade, for example a car that is needed for work purposes
- Equity in property of £1,000 or less

However, the Trustee can insist that assets which have a material value, for example expensive cars, furniture, etc are sold and replaced with cheaper alternatives (although if you were trying to manage your debt prior to the bankruptcy, you should already have done this).

## Managing your Money in Future

Many professionals, despite their expertise in other areas, are poor at managing money, but managing money is as important as earning it. Having a high-paid job is pointless if the amount of interest you pay each month leaves you poorer than your more prudent secretary. Here are a few money management tips which will help prevent you from falling into the same trap in the future:

- If you feel you cannot be trusted with a credit card, then don't have one. Use a debit card instead. If you really must have one, set up a standing order with your bank to pay off the full balance each month, and keep careful track of everything you spend on the credit card so that there is money in your bank account to cover it.
- Remember that your overdraft limit is not money available to you to spend. It is money you will owe, and will pay heavily for. The only money available to you is whatever is the credit balance on your account.
- If there is something which is not necessary which you are tempted to buy, walk away and think about it for a week. If you still want it at the end of a week, then buy it for cash.
- Use comparison websites to ensure that you are getting the best possible price for utilities, insurance, etc.
- Set a household budget and stick to it. Keep track of your spending, and look for areas which need to be addressed.
- Stop trying to keep up with the Joneses. Learn to be content with what you have.
- Ensure that you save a regular amount every month, ideally using your maximum tax free ISA allowance each year.
- If you have a pay rise, or other unexpected income, don't increase your budget to match it – use it to pay off any remaining debts, and then add it to your savings amount.
- Aim to earn, not pay, interest.

Organisations which can help

Organisation and Website	What is Offered	Area Covered	Phone Number
National Debtline <i>www.nationaldebtline.co.uk</i>	Free independent advice	UK	0808 808 4000
NHS Credit Crunch Stressline	Free support and referral to specialist advice	UK	0300 123 2000
Citizens Advice Bureau <i>www.adviceguide.org.uk</i>	Free advice in centres across the UK	UK	See your local phone book for numbers and locations in your area
Solicitors Benevolent Association <i>www.sba.org.uk</i>	Financial assistance. Will not pay your debts, but might be able to provide help with living expenses.	Solicitors on the Roll of England and Wales only	020 8675 6440
Barristers Benevolent Association	Financial Assistance, as above.	Barristers in England and Wales only	020 7242 4761
UK Insolvency Helpline	A group of lawyers and accountants offering free independent advice	UK	0800 074 6918
Solicitors' Assistance Scheme <i>www.thesas.org.uk</i>	A panel of specialist solicitors offering one hour's free advice to fellow solicitors	Solicitors in England and Wales only	020 7117 8811
LawCare <i>www.lawcare.org.uk</i>	Emotional and pastoral support for lawyers, their staff and families.	UK and Ireland	0800 279 6888 0800 279 6869 0800 018 4299 1800 991801

## Appendix 1 – A Sample Budget Sheet

### Part 1 - Income (monthly)

Income	Amount	Notes
Wages/Salary		
Partner's wages/salary		
Tax credit		
Child benefit		
Other _____		
<b>TOTAL INCOME</b>	<b>A</b>	

### Part 2 – Basic Outgoings (Monthly)

*Note: The amounts in this table should be the basic monthly cost, not including any arrears or debts.*

Outgoings	Amount	Notes
Mortgage / Rent		
Second mortgage		
Endowment / Life Insurance policy		
Buildings and contents insurance		
Council Tax		
Water		
Gas		
Electricity		
TV License		
Broadband		
Travel costs		
Childcare		
School fees / meals		
Telephones		
Groceries		
Other _____		
Other _____		
Other _____		
<b>TOTAL OUTGOINGS</b>	<b>B</b>	

INCOME (A) \_\_\_\_\_ MINUS BASIC OUTGOINGS (B) \_\_\_\_\_ = \_\_\_\_\_ (C)

The amount at C above represents the amount of money available to repay your arrears and debts. Write a list of all your creditors, in order of importance (secured loans and council tax first), and allocate an amount from this fund to pay to each of them every month. Contact each creditor and explain the situation, asking them to freeze any fees and interest in return for your paying this regular amount until the debt is cleared.

Appendix 2 may provide a helpful plan for clearing debts.

## Appendix 2

Marvin J. Ashton suggests a simple way of clearing debts as quickly as possible. Once the amount available has been established, it does not vary. Once one debt is paid, the amount which had been used to pay it goes towards the next one. Once that is cleared, the next debt is cleared, and so on, as in this example, where the amount available each month after household expenses (see Appendix 1 part 2) is £700.

Debt	Amount due	Monthly Amount paid January - March	Amount paid April	Amount paid May	Amount paid June	Amount paid July	Amount paid August
Mortgage arrears	£1,200	£400	Debt cleared				
Loan	£1,300	£100	£100 + £400	£500	Debt cleared		
Overdraft	£1,100	£100	£100	£100	£100 + £500	Debt cleared	
Credit card	£5,000	£100	£100	£100	£100	£100 + £600	£700
<b>Total</b>	<b>£8,600</b>	£700	£700	£700	£700	£700	£700

In the above example the final debt – the credit card – would be paid off the following January. So debts of £8,600 have been cleared within a year, simply through setting aside an amount specifically for debt payment, and using it only for debt payment.

Obviously this has been simplified somewhat, but the table below may help you to set up a similar plan.

Amount available after household expenses for debt and arrears repayments _____								
Debt	Total amount due	Monthly amount allocated	Month _____		Month _____		Month _____	
			Paid	Remaining	Paid	Remaining	Paid	Remaining
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	
			Paid		Paid		Paid	
			Remaining		Remaining		Remaining	