

Debt and Repossession Factsheet 2009

Having some degree of debt is for most people a necessity- after all most of us cannot afford to buy a new car outright or by a home in cash.

For most people it doesn't matter as it is manageable. However debts can all too easily become unmanageable for a variety of reasons including; -



- Redundancy
- Becoming widowed
- Divorce / breakdown of personal relationship
- Reduction in Overtime/Bonuses
- Over spending
- Retirement
- Serious/ prolonged illness /depression.
- Increases in interest rates

How can you recognise when you are heading for an unmanageable or dangerous level of debt?

If your problems have only been caused by a noticeable change in your circumstances then the answer is clear. However for many there may be no fundamental change in circumstances it may just be that debts gradually creep up on you.

To quickly assess whether debts are or could become a problem for you why not ask yourself the following questions; -

1. Do you repay only the minimum amount on your credit cards each month?
2. Is the amount you owe on your cards tending to increase each month?
3. Do repayments on your loans /credit cards etc (not including your mortgage) take up more than 20 per cent of your income?
4. Are you tending to be overdrawn most months at the bank?
5. Do you dread opening bills, or shove them in a drawer and forget about them until the final demand arrives?

If you answer yes to any of these you should look to try and reduce them, if you answer yes to any two or more you may be at serious risk if any of your earnings reduce for what ever reason and we would recommend that you should start to take action to reduce them as quickly as possible.

What can you do?

Well quite a lot surprisingly!

Probably the most important first step, after recognising you have a problem, is to take control – stop burying your head in the sand and hoping it will go away. This is often the road to creditors taking legal proceedings or taking steps to repossess properties etc. Also if you can recognise the problems before you start receiving threatening letters and getting a bad credit reference the easier it would be for you to look at getting better deals on things like a cheaper credit card or mortgage.

The next step is to get a clear understanding of how big the problem is. Work out how much you owe (both in terms of debt outstanding and monthly repayments) and who you owe it to.

Then look at your income and expenditure (before the expected monthly repayments on finance) to establish how much spare income you can use to clear debts. Whilst doing this ask yourself, could we increase our disposable monthly income by perhaps doing overtime or taking a second job or even taking in a lodger, or by reducing our expenditure by cutting out luxuries, shopping at a cheaper supermarket or even finding a cheaper credit card which can offer you an interest free balance transfer or cheaper mortgage?

If your income is low do not forget to check to see if you could qualify for State Means Tested Benefits including:- Income Support, Job Seekers Allowance, Housing Benefit and Council Tax Benefit or if retired Pension Credit. If your income is low because of illness you may be able to get either Incapacity Benefit, Disability Living Allowances, or Attendance Allowance. To check your entitlement to these and other benefits contact your local Citizens Advice Bureau, Job Centre, or Department of Works and Pensions, or simply go on line.

Another important step is to prioritise your debts. Debts are divided into priority (such as council tax, where you could be imprisoned for non-payment) and non-priority, such as credit cards and bank loans. The priority debts should be dealt with first and failure to do so could lead to repossession or even ultimately being sent to Prison. Then depending on the income left make token payments to non-priority creditors, (at least until the priority debts have been cleared).

Look at how much you have in savings. There is no point in keeping more than just a minimal amount of money on deposit earning paltry rates of interest if on the other hand you owe money and are having to pay very high rates of interest.

Then **Speak to creditors**. It is crucial that you tell them you are experiencing problems as soon as possible. Although it can appear daunting, speaking to a creditor about repayment difficulties is far better than simply avoiding the issue. Lenders are experienced in helping customers that have run into financial difficulties and will attempt to help if you are struggling with repayment. Many credit companies and banks will settle for small repayments and freeze the build-up of interest for six months. Thereafter, their attitude will depend on the size of the loan and their assessment of whether it is likely that the situation will improve.

A note of caution however, do not suggest more than you know you can keep to as if you do fail to keep to them this will only anger them and probably give rise to them taking further

action to recover their debts. In the case of a mortgage lender or landlord, this could lead to them seeking repossession.

If you feel you cannot deal with such negotiations yourself then either consult debt charities or we can do it for you but we do make a small charge for writing letters simply to cover the time and postage involved, currently £100 which will cover up to 10 different creditors.

Be disciplined. Don't borrow any more money or take on any more debts until you have repaid what you already owe.

Should such voluntary negotiation prove to be unacceptable or your debt problems are too severe, speak to us about other debt solutions including; -Debt Management Plans or IVA's (Individual Voluntary Arrangements) see below.

Debt Management Plans

A Debt management Plan is an informal debt solution made with your creditors on your behalf by an appointed debt management company to allow you to make one lower monthly payment to the debt management company, for them to distribute each month to all your creditors in line with the agreement they have reached. You need to be aware that commercial debt management companies such as our appointed firm will make a charge for arranging such a scheme and administering your payments to creditors each month (typically all of your first or even first and second months payment and a percentage usually around 15% each month thereafter), nevertheless it does take away from you the stress and anxiety of juggling your own finances and negotiating yourself with creditors. Your creditors are then able to see regular monthly payments being paid to them by the Debt Management company. Please note however, such schemes do not reduce the amount of debt they just make what you have more manageable. Consequently the length of time it will take for you to become debt free will be longer than it would otherwise have taken if you could have kept to your original financial commitments. You also need to be aware that your credit file will be affected by such agreements and as they are an informal debt solution they can be overturned at anytime and anyone of your creditors can instead demand their money back or apply for a County Court Judgment CCJ's, or file for bankruptcy at any stage.

Eligibility - They are only available to those who have 2 or more unsecured creditors and owe at least £2,000 between them and have about £125 or more spare disposable income (the difference between income and expenditure but before you include current monthly credit commitments in any expenditure calculation). Unsecured debts would include Bank Overdrafts, credit cards and personal loans, not any secured loans such as mortgages or secured second charge loans.

To find out more about debt management plans and whether they may be right for you visit, our website at www.uk-debtadvice.co.uk

IVA's

An IVA or Individual Voluntary Arrangement is a legally binding agreement made with your creditors on your behalf by a licensed Insolvency Practitioner, which freezes interest and charges and allows you to pay back only what you can afford towards your **unsecured** creditors over a period of time, usually no more than 5 years. Unlike a Debt Management Plan, it does negotiate a legally agreed reduction on the

amount you owe and which will need to be paid back and will clear your debts within an agreed time frame.

As an IVA is a legal agreement reached with all of your creditors, whilst it will affect your credit rating and probably will stop you from obtaining any fresh credit until cleared, it does have the advantage that it will stop creditors from pestering you or taking further action providing you stick to the terms of the agreement. It also avoids the social stigma and possible career threatening implications that Bankruptcy causes. Please note: If you fail to keep to the terms negotiated, your IVA will fail and your creditors can file to make you Bankrupt. Also if you have any equity in your home or value in any endowment you will probably still have to realise these and pay them to your creditors near the end of your 5 year period.

Eligibility - An IVA will only be an option if you normally have more than 3 unsecured creditors to whom you owe more than £15,000 in total, have more than about £250 spare income (before including your credit commitments as expenditure) and are in employment or self employed.

To find out more about IVA's and whether they may be right for you or to find out other options, visit our website at www.uk-debtadvice.co.uk

What we could do for you.

To help you regain control of debts we would; -

- Give you a free initial consultation with a trained debt adviser during which we would help produce a clear financial statement for you, analyse which debts should be priority and should you not want to, or simply feel you do not have the time to do it yourself, we could write to your creditors for you, for a small fee currently £100.
- If your circumstances would suggest a more formal arrangement is required, with your permission we will introduce you to one of our selected Debt Management Plan and IVA companies to get the help of a Licensed Insolvency Practitioner. Please note- should we do so and your application is accepted we will receive a fee for the introduction.

Repossessions

If you are falling behind with your mortgage and facing the possibility of repossession, the first thing is to realise you are not alone and that there are things you can do to help.

With falling house prices, negative equity and rising unemployment, repossessions are increasing. According to Council of Mortgage Lenders (CML) they are expecting up to half a million mortgages to be more than 3 months in arrears

by end of 2009 and that as a result repossessions will possibly top 75,000 by the same period. This compares to just 129,600 mortgages being 3 months or more in arrears and 26,200 repossessions in 2007. It also states that "Even though lenders will seek to minimise repossessions in 2009, the worsening economic backdrop does point towards an inevitable increase in the number of cases where a sustainable alternative solution cannot be found."



Should you be faced with repossession, what can you do?

First draw up a detailed but realistic financial statement or budget to work out just how much you can afford to pay.

Then contact your lender or landlord – do not bury your head – the problem will not go away. The sooner that you deal with the situation, the more options you have and the less chance you will actually face repossession.

Although the threat of repossession is very frightening, it is very important to remember that repossession is not automatic. The first thing you should do once you realise you are not going to be able to meet the repayments is to contact your lender and explain the situation. Lenders must have policies in place to deal with people who face difficulties and cannot repossess you without first trying to help you and getting the courts in a hearing to agree that they have tried everything and that there is no other option. Indeed only in November 2008 it was agreed that all Lenders would hold off taking any action for repossessions until at least 3 months, and some banks and building societies who have been heavily supported or even taken over by the Government went further and agreed not to take any action until at least 6 months had lapsed.

If you haven't been this open, the first thing that you will probably receive is a letter from your lender, landlord or their solicitor, asking you to put the problem right.

So what can then be done?

- If you have a mortgage and your problem has been caused by either unemployment or illness and you have previously taken out insurances to cover such eventualities, immediately contact the relevant insurance companies and try and claim under the terms of the policy.
- If you have no insurance and are now on low income or State Benefits you should also check to see if you could receive any State help with paying the interest on a mortgage to at least keep the mortgage from falling further into arrears, or if you are renting see if you would qualify for Housing Benefit.
- Assuming neither of these apply and you have a mortgage, your lender may be willing to allow you to take a payments holiday for up to 6 months if you and they feel the situation is only temporary.
- If you have a repayment mortgage they may also be willing to allow you to go on to an interest only basis thereby reducing your monthly repayments. However you shouldn't see this as a long term basis as at some stage you will still need to pay off the debt owed. Also if your mortgage is already a high percentage of your home's value, in a falling market, switching to interest only will only more easily lead to negative equity.

They may also be willing to extend the term of your mortgage to make the monthly repayments cheaper. You should however try and avoid any temptation to extend it beyond your normal retirement age wherever possible.

What happens if even these are not enough?

If the problem persists or they are not happy with your response, your lender or landlord can write to you again asking you to pay back the arrears.

If you are unable to do so it can then take out a court order against you.

What happens if it gets this far?

Well the first thing to remember is that "Possession orders" (the process for taking repossession), are usually only made in the most extreme cases, perhaps where there is absolutely no other option or you have simply made no effort to remedy the problem and have not responded to lenders or landlord letters. At the hearing the judge will hear evidence from both you and your lender or landlord before making a decision. The judge may:

- Adjourn the case to wait for further evidence or to give you more time to find a solution.
- Strike out the application for repossession.
- Allow you to stay in the property provided you keep to certain conditions, such as repaying the arrears in instalments.
- Give you time to sell your property to avoid repossession, or
- Decide that you should be evicted, in which case they will grant a possession order against you.

In most cases judges will assess the financial position and suggest an amount you could pay to the lender each month. **Make sure you do not miss even one such reduced payment, as your lender can apply for a bailiff's appointment straight away. There isn't usually another hearing and you may only get a few days' warning before the bailiffs arrive.** Provided you do stick to it, the court is unlikely to grant an order of possession against you.

Even if the court does grant an order against you, it may still be possible to avoid you losing your home. Repossession proceedings can be abandoned even after an order has been granted if a payment plan can be agreed. Indeed providing the property has not been sold by the lender it is not too late to stop your repossession!

What we could do for you.

- If you have been unable to reach an agreement or have been unable to keep to the payments because of other debts, we may still be able to help. Our appointed firm of Insolvency Practitioners may also be able to offer you the chance of setting up an Individual Voluntary to help reduce your monthly expenditure on other debts in order to help free up some extra money to help you pay the mortgage.

Please note- should we do so and your application is accepted, we will receive a fee for the introduction.

Next Steps

For further information on any of the issues outlined in this factsheet or to arrange for our adviser to contact you to arrange a free initial consultation, please visit our website at www.uk-debtadvice.co.uk, or call us Advice on Money , your local debt advisers and IFA's on 0118 958 6421.

Source:

(1) Council of Mortgage Lenders market commentary 18th December 2008.