



THE UK INSOLVENCY HELPLINE

WHAT IF A CREDITOR REFUSES MY OFFER OF PAYMENT?

F
A
C
T

S
H
E
E
T

N
O

14

This factsheet contains information on tactics and includes sample letters that you can use to write to creditors who have refused your offer of payment, or who have refused to freeze the interest on your account.

WHAT IF A CREDITOR REFUSES MY OFFER?

When you write to your creditors and make an offer of payment you often get a mixed response, with some creditors accepting your offer and some refusing. If your creditor has refused your offer of payment then you can use **SAMPLE LETTER A** to ask them to reconsider.

- Explain your circumstances again and enclose your personal budget sheet.
- It is a good idea to start making the reduced payments you have offered on a regular basis and point out that you are doing this as a 'gesture of goodwill'.
- It is also worth telling them if any of your other creditors have accepted your offers.

- If you can afford to, send photocopies of letters from your other creditors as proof.
- Explain that you are unable to increase your offer of payment to this creditor without upsetting the other arrangements you have made. Point out that you have to treat all your creditors fairly.

WHAT IF MY CREDITORS REFUSE TO FREEZE INTEREST?

If a creditor has accepted your offer of payment but is still adding interest, then use **SAMPLE LETTER B**. Sometimes creditors refuse to freeze the interest altogether or only agree to reduce the interest that they are charging.

- Point out to the creditor that, if they went to court, then all the interest would be frozen anyway.
- If your offer of payment is less than the interest that is being added on, then the debt will just increase. This means you are never going to pay the debt off. Explain this to your creditors. This means that there will be no 'light at the end of the tunnel' and less incentive for you to keep up with the payments.

WHAT IF MY CREDITORS STILL WON'T ACCEPT THE OFFER?

If you have written again to your creditors and tried to negotiate reduced payments and the creditor still refuses your offer, then you need to decide what to do. This is particularly important where the creditor refuses to freeze interest. You can continue to make the reduced payments you have offered and wait to see whether the creditor takes court action.

Alternatively, you can try to persuade the creditor to accept your offer by using **SAMPLE LETTER C**, which invites the creditor to take you to court.

If you make the decision to send this letter then you usually need to stop making payments to back your decision up and encourage the creditor to take action more quickly.

The letter says you can see no point in continuing to make payments if the creditor won't freeze the interest. **You should only use this option if you are prepared for the creditor to sue you in the county court.**

Your other alternative is to carry on making the payments, but keep trying to persuade the creditors to freeze the interest.

WHAT IF THE CREDITOR THREATENS TO TAKE ME TO COURT?

Sometimes a creditor threatens to take you to court when you feel you have made a reasonable offer of payment. You may have tried repeatedly to persuade the creditor to accept your offer of payment and freeze interest. You may also be making regular payments at the rate you can afford.

Sometimes a creditor will accept the offer then tell you they intend to take you to court anyway. If you do not want to be taken to court to allow the court to decide your rate of payment you can try using **SAMPLE LETTER K**.

What if a creditor refuses my offer?

This letter tells the creditor that under the Civil Procedure Rules the court will expect people to "act reasonably" to avoid having to go to court at all. You can suggest to the creditor that the court may find their refusal to accept your offer of payment as unreasonable. Point out that you will ask the court to look at this argument if they do take action against you.

You may be able to get the creditor to accept your offer at this stage and agree not to go to court.

SHOULD I GIVE UP AND PAY WHAT THE CREDITOR WANTS?

It is very important that you don't give up if your creditors refuse your offer. Make the payments that you have offered and ask creditors to reconsider. Stick to your guns! If you let creditors persuade you to pay more than you can afford then you may fall behind with your mortgage/rent or your other essential household bills. You may also find you do not have enough money left to live on.

COMPLAINTS

If you feel your creditor is unreasonably refusing your offer of payment then you should ask if they are members of a trade association. Most trade associations have codes of practice that their members must follow. Ask the creditor for details of their complaints procedure. You will usually be expected to make a complaint to the creditor before taking it up with the trade association. There is a list of the most relevant trade associations under "useful addresses."

If your complaint is about a bank or building society then they should have a complaints procedure under the Banking Code. If you do not feel they have dealt with your complaint satisfactorily, you may be able to complain further to The Financial Ombudsman Service. The address is under "useful addresses."

USEFUL ADDRESSES

Financial Ombudsman Service

South Quay Plaza

183 Marsh Wall

London

E14 9SR

Tel: 0845 080 1800

www.financial-ombudsman.org.uk

Office of Fair Trading

Fleetbank House

2 – 6 Salisbury Square

London

EC4Y 8JX

Tel: 08457 224 499

www.oft.gov.uk

If your complaint is against a solicitors firm acting for a creditor, a complaint can be made to:

Consumer Complaints Service

The Law Society

Victoria Court

8 Dormer Place

Leamington Spa

CV32 5AE

Tel: 0845 608 6565

www.lawsociety.org.uk

The Consumer Credit Trade Association (CCTA)

Suite 4 The Wave

1 View Croft Road

Shipley

Bradford

BD17 7DU

Tel: 0845 257 1166

www.ccta.co.uk

The Finance & Leasing Association (FLA)

2nd Floor, Imperial House

15-19 Kingsway

London

WC2B 6UN

Tel: 020 7836 6511

www.fla.org.uk

Credit Services Association Ltd (CSA)

(for debt collection agencies)

Wingrove House

2nd Floor East

Ponteland Road

Newcastle upon Tyne

NE5 3AJ

Tel: 0191 286 5656

www.csa-uk.com

Consumer Credit Association (CCAUK)

Queens House

Queens Road

Chester

CH1 3BQ

Tel: 01244 312 044

www.ccauk.org

Mail Order Traders' Association (MOTA)

PO Box 51909

London

SW99 0WZ

Tel: 020 7735 3410

www.mota.org.uk

REMEMBER: You can always contact us for advice about any difficulty you have in dealing with your debts.

Freephone: 0800 074 6918

Website: www.insolvencyhelpline.org

© Copyright Money Advice Trust (updated May 2006)

Whilst we endeavour to keep our factsheets as up to date as possible, The UK Insolvency Helpline cannot be held responsible for changes in legislation or for developments in case law since this edition of the factsheet was issued.

SAMPLE LETTER A
TO BE USED WHEN A CREDITOR HAS REFUSED YOUR OFFER OF
PAYMENT

(Your home address)

Date: _____

To: _____

Dear Sir/Madam

Account No: _____

Thank you for your **letter/telephone call** of _____ concerning the above account.

I am/we are sorry that you feel unable to accept the offer which I/we have made. The majority of my/our other creditors have accepted the offers made to them and I/we have commenced payments. I/we cannot offer you more because I/we can only afford £_____ per month between all my/our other creditors, and it would be wrong to cease or reduce payments to my/our other creditors in favour of your company. The offer made to you is on a pro rata basis, as used by the county court.

In the light of the other creditors agreeing to my/our repayment plan, please would you reconsider my/our offer? I/we will be making the payments in line with the offer to your company, on a **weekly/monthly** basis, as a gesture of goodwill.

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

Yours faithfully

(Your signature)

REMEMBER
TO KEEP A COPY OF LETTERS YOU SEND TO YOUR CREDITORS

SAMPLE LETTER B
TO BE USED WHEN A CREDITOR REFUSES TO FREEZE INTEREST
ON YOUR ACCOUNT

(Your home address)

Date: _____

To: _____

Dear Sir/Madam

Account No: _____

Thank you for your **letter/telephone call** of _____ concerning the above account. I am/we are sorry that you feel unable to suspend interest charges on the above account. The majority of my/our other creditors have agreed to the offer of payment and agreed to suspend any interest charges still accruing. They have accepted that to continue to charge interest would not assist me/us in my/our present financial difficulties, and can only serve to increase our total debt.

As you are aware, I/we have already paid considerable sums in interest to my/our account. If interest charges continue, the monthly installments I/we are paying will not even cover that interest. Also the co-operation of my/our other creditors who have agreed to freeze interest already would be put at risk.

I/We would therefore be grateful if you would reconsider your decision not to freeze the interest. This would mean that the monthly payments I/we make would actually reduce the balance outstanding to your company.

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

Yours faithfully

(Your signature)

REMEMBER
TO KEEP A COPY OF LETTERS YOU SEND TO YOUR CREDITORS

SAMPLE LETTER C
TO BE USED WHEN CREDITORS HAVE TURNED DOWN AN OFFER
OF PAYMENT AND INTEREST IS STILL BEING ADDED AND YOU
WANT THE CREDITOR TO TAKE YOU TO COURT

(Your home address)

Date: _____

To: _____

Dear Sir/Madam

Account No. _____

Thank you for your **letter/telephone call** of _____. I am/we are very disappointed that we seem unable to reach a satisfactory compromise in this case. As I/we have already explained, I/we can only afford £_____ per month at the present time, and I/we feel that it is pointless paying this amount to you only to see the debt increase. I/We invite you therefore to sue me/us for the debt, when I/we shall have the opportunity of offering £_____ per month through the courts.

In addition, once judgment is granted I/we understand that further interest will be suspended in any event. It seems that we can only achieve a reasonable outcome to this matter by allowing the courts to decide, although this will involve us both in extra expense and time wasted with court proceedings.

The offer of £_____ per month plus suspension of interest is of course still open to you to accept.

Yours faithfully

(Your signature)

REMEMBER
TO KEEP A COPY OF LETTERS YOU SEND TO YOUR CREDITORS

SAMPLE LETTER K
TO BE USED WHEN CREDITORS HAVE TURNED DOWN AN OFFER
OF PAYMENT AND ARE THREATENING LEGAL ACTION BUT YOU
DON'T WANT TO BE TAKEN TO COURT

(Your home address)

Date: _____

To: _____

Dear Sir/Madam

Account No: _____

Thank you for your **letter/telephone call** of _____. I am/we are very disappointed that we seem unable to reach a satisfactory compromise in this case. As I/we have already explained, I/we can only afford £_____ per month at the present time. This is the only realistic payment proposal bearing in mind the enclosed personal budget sheet.

You have stated in correspondence your intention to commence proceedings in the county court against me/us. The commencement of legal proceedings under such circumstances could be counter to the 'Overriding Objectives' of the Civil Procedure Rules. You will be aware that the 'Overriding Objectives' underpin everything the court does. Moreover, paragraph 4 of the Protocols Practice Direction states that in cases not covered by an approved pre-action protocols, the court will expect the parties "*to act reasonably..... in trying to avoid the necessity for the start of proceedings*".

I/we would suggest that your refusal to accept my/our offer could be viewed as unreasonable and I/we would ask the court to consider this matter with reference to the 'Overriding Objectives'.

The offer of £_____ is of course still open to you to accept.

Yours faithfully

(Your signature)

REMEMBER
TO KEEP A COPY OF LETTERS YOU SEND TO YOUR CREDITORS