



THE UK INSOLVENCY HELPLINE

INDIVIDUAL VOLUNTARY ARRANGEMENTS (IVA)

F A C T S H E E T N O 26

WHAT IS AN IVA?

There is an alternative to bankruptcy called an “Individual Voluntary Arrangement” (IVA). This is a formal arrangement through the county court to pay an agreed amount off your debts over a shorter period. This usually means paying a high monthly instalment over 3 to 5 years. The rest of the debts are written off. Some IVAs are set up on the basis of using a lump sum to make offers to the creditors rather than make monthly payments. Some IVAs are a mixture of both.

IS AN IVA SUITABLE FOR ME?

An IVA is not suitable for everyone. It is usually only worth looking at if you have a lot of money to spare every month to pay your creditors and/or you have a lump sum or assets that can be included. **Contact us for advice.**

WHAT IS THE PROCEDURE FOR AN IVA?

An IVA has to be set up by an insolvency practitioner (IP). An insolvency practitioner is usually an accountant or solicitor who is authorised to set up IVAs. Once an IP has agreed to make an IVA proposal for you, they can apply to the county court for an “*Interim*

Order”. This stops your creditors from starting bankruptcy proceedings against you. It also stops any other enforcement action without the court’s permission whilst the Interim Order is in force.

From 01/01/03 you can put forward an IVA proposal without applying for an Interim Order first. This may reduce your costs but means your creditors can still take enforcement action against you until the IVA is agreed.

You can ask for an IVA even after you have gone bankrupt. **See the section on ‘Fast Track IVAs’.** There are no rules on how much debt you have to be in before you can ask for an IVA.

The IP sends the IVA proposal to your creditors and arranges a formal meeting called a “*Creditors Meeting*”, giving the creditors at least 14 days notice. Check with your IP and make sure that all your creditors have been contacted. If creditors have no notice of the meeting they do not have to stick to the terms of the IVA and can pursue you for their debt separately. At the meeting creditors have to vote on whether to accept the IVA. Often creditors send their vote to the IP and don’t actually come to the meeting. If 75% of your creditors “*by value*” who actually vote agree to the IVA, then the rest are bound by the IVA even if they voted against it or did not vote at all. “*By value*” means the creditors to whom you owe 75% worth of debt not the number of creditors you have. So if the creditors to whom you owe the highest amount vote against the proposal then the IVA may not go through. Sometimes creditors will haggle about the terms of the IVA and ask you to agree to pay more every month or include assets you do not want to lose. They may ask you to make payments over a longer period.

Once the IVA is agreed your IP will supervise the arrangement and make sure you make the payments. If a creditor comes to light after the IVA has been agreed, they can claim the amount they would have received as if they had been included in the IVA at the start.

If the IVA does not go through then you are back to the same position as you were in before the Interim Order and you have to negotiate with your creditors separately. You have to wait 12 months before you can apply for another Interim Order.

HOW DO I FIND AN INSOLVENCY PRACTITIONER?

- Your local county court may be able to give you a list of insolvency practitioners.
- You can also ask your local Official Receiver's office for list. If you cannot find your local Official Receiver's office contact The Insolvency Service Central Enquiry Line on 020 7291 6895.
- Check out the Yellow Pages or telephone directory.

WARNING: Be careful of companies who suggest they can put you in touch with an IP if you pay them a fee. These are known as "ambulance chasers". You can contact an IP directly without going through another company.

A list of IP's can also be obtained from:

- The Association of Business Recovery Professionals
4th Floor Halton House
20-23 Holborn
London
EC1N 2JD
020 7831 6563
www.r3.org.uk
- The Insolvency Practitioners Association
52 – 54 Gracechurch Street
London
EC3V 0EH
020 7623 5108
www.insolvency-practitioners.org.uk
- The Insolvency Practitioners Policy Section
The Insolvency Service
PO Box 203
5th Floor
21 Bloomsbury Street
London
WC1B 3QW
020 7637 1110
www.insolvency.gov.uk
- There is an Insolvency Service publication called "*The Directory of Authorised Insolvency Practitioners*". This is kept in local reference

libraries. It lists IPs by area and who regulates them. If they are not licensed then you should not use their services.

- We can also give you details of some IPs but are not in a position to actually recommend any companies listed. 📞 **Phone us for advice.**

FEEES

All IPs will charge fees for setting up and supervising an IVA. It is very important that you shop around to make sure you are getting the best deal. Typical fees are over £4,000 and sometimes a great deal higher. Many IPs will offer an initial free meeting to look at whether an IVA is suitable in your situation. Some IPs will only accept payment of their fees up front. Other IPs will allow you to pay the fees as part of the monthly payments over the term of the IVA.

WHAT IF I CAN'T PAY THE IVA ONCE IT IS AGREED?

You may not be able to keep to the monthly payments under the terms of the IVA. This might be because your circumstances have changed or because the payments were set unrealistically high in the first place. It is very important that you talk to the IP supervising your IVA. The IP can ask the creditors to agree to a lower amount. You may be charged another fee for doing this. If you can't agree a new or "**modified**" IVA then the IP can terminate the old IVA if you cannot make the agreed payments. It is then possible for the IP to apply to make you bankrupt. If the IP decides it is not worth doing this then your creditors can take action against you instead. You will need to try to negotiate payment arrangements with each of your creditors separately to stop this happening.

WHAT ARE THE ADVANTAGES OF AN IVA?

- You may well be running a small business which would be difficult to keep going if you were bankrupt.
- You may be a profession where you could lose your job if you go bankrupt such as accountancy/police/armed forces.

- You may have access to a large lump sum and want a formal arrangement with your creditors to accept the lump sum and write off the rest of the debts.
- You may have a very high monthly available income to make payments.
- You will not automatically lose your house or other assets which can be kept out of the IVA with the agreement of the IP and your creditors, although the creditors will usually want most of the equity in your house. See the section on “**Disadvantages of an IVA**”.
- You will not have the same restrictions on you as you would if you went bankrupt, e.g. you can still use your bank account without saying you have an IVA.

WHAT ARE THE DISADVANTAGES OF AN IVA?

- If you do not keep to the terms of the IVA then the IP or your creditors can make you bankrupt.
- If creditors do not accept the IVA proposal you are back to square one. You cannot make another IVA proposal for 12 months.
- If you paid an up-front fee for your IVA and it is not accepted, then you will have lost the fee and be in a worse position than when you started.
- If you own your house the IP and creditors may make you agree to sell your house as part of the IVA. It is standard for IVA agreements to include a clause that you will get your house valued after a set number of years with a view to giving most of the value or “equity” in your house to the creditors.
- You may be able to pay instalments for an extra year to cover the amount of equity in your home. However it could mean selling your house if you cannot raise the money. Your options may include you or a partner taking out a new loan and even securing it on your house. This may be difficult as your credit rating may not be good enough to get a loan through a reputable lender and you would be putting your house at risk.
- There is a risk that the IVA is agreed on the basis of monthly payments that you cannot afford long term. You must be very careful that the payments are set at a realistic amount in the first place.

- If your circumstances change and you can no longer afford the payments your IVA may end if the IP cannot persuade the creditors to accept a new agreement.

FAST TRACK IVA

From April 2004, under the Enterprise Act, there are new rules on how to get an IVA after you are made bankrupt. You can apply for a Fast Track IVA by putting a proposal to the Official Receiver even after you are bankrupt. The Official Receiver may agree to act as supervisor of the IVA if they feel it will produce a better deal for your creditors than they would receive through bankruptcy.

- There are set fees for this process so costs are reduced.
- There is no formal creditors meeting.
- The proposal is sent by post and creditors can either take it or leave it.
- The IVA proposal cannot be modified.
- If the IVA is agreed, the Official Receiver will annul your bankruptcy order.
- If your IVA fails the creditors could make you bankrupt again but the Official Receiver will not take any further action.

WHERE WILL DETAILS BE KEPT ABOUT MY IVA?

Public Register

Records of IVAs are kept on a public register. To find out if someone has an IVA, records can be searched by anybody including members of the public either in person, by post or by fax. A copy of the search form can be printed from the website below or you can ask the Insolvency Service to send you a form. Your IVA will remain on the register until it is completed or terminated.

The Individual Insolvency Register
 The Insolvency Service
 5th Floor, West Wing
 45-46 Stephenson Street
 Birmingham
 B2 4UP
 Tel: 0121 698 4000
 Fax: 0121 698 4406
www.insolvency.gov.uk

You can also search the register in person by visiting your local Official Receivers Office.

Credit Reference Agency Files

Records of IVAs are held for six years on credit reference agency files. The IVA is marked “complete” by the credit reference agency when they are informed of this by the IP supervising the IVA. Make sure you send a copy of the letter from your IP to the 3 credit reference agencies so that your credit file is up-dated. We have a factsheet on credit reference agencies that you may find useful. 📞 **Phone us for advice.**

COMPLAINTS ABOUT INSOLVENCY PRACTITIONERS

To complain about an insolvency practitioner you need to find out which authorising body they are registered with. This should be given to you by your IP. You should first make your complaint in writing to your IP. If you are still not happy then write to the authorising body for your IP. There is a useful leaflet called “How to make a complaint against an Insolvency Practitioner”. You can get this from the Insolvency Service or 📞 **phone us for advice.**

The Law Society
113 Chancery Lane
London
WC2A 1PL
Tel: 020 7242 1222
Tel: 0870 606 2500 (national rate)
www.lawsociety.org.uk

The Competent Authority
The Secretary of State for Trade and Industry (SoS)
Insolvency Practitioner Section
The Insolvency Service
P O Box 203, 21 Bloomsbury Street
London
WC1B 3QW
Tel: 020 7291 6772
www.insolvency.gov.uk

The Institute of Chartered Accountants (ICAEW)
Gloucester House
399 Silbury Boulevard
Central Milton Keynes
MK9 2HL
Tel: 01908 248 100
www.icaew.co.uk

The Association of Chartered Certified Accountants (ACCA)
29 Lincoln’s Inn Fields
London
WC2A 3EE
Tel: 020 7396 5700
www.accaglobal.com

The Insolvency Practitioners Association
52-54 Gracechurch Street
London
EC3V 0EH
Tel: 020 7623 5108
www.insolvency-practitioners.org.uk

If the Insolvency Practitioner is acting as a Trustee in Bankruptcy you need to complain to the Official Receiver first, followed by the Insolvency Service.

For details of company liquidations or company disqualifications contact:

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ
Tel: 02920 388 588
www.companieshouse.gov.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

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