

Individual Voluntary Arrangements (IVA)

Protected Trust Deeds

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Debt Statistics

Striking Numbers

£1m every 5 min – Growth in UK debt
£330m – Daily increase in UK debt
£56,234 – Average household debt (including mortgages)
£94.5bn – Amount of interest we pay each year
£1,400bn – Total UK debt

- Total UK personal debt at the end of November 2007 stood at **£1,400bn**.
- Average household debt in the UK is **£8,956** (excluding mortgages).
- Average household debt in the UK is **£56,234** (including mortgages).
- Average owed by every UK adult is **£29,500** (including mortgages). £190 increase from previous month
- Average consumer borrowing via credit cards, motor and retail finance deals, overdrafts and unsecured personal loans has risen to **£4,700** per average UK adult at the end of November 2007.
- Britain's personal debt is increasing by **£1 million every 5 minutes**.
- 60% of IVA's entered in to are by adults under the age of 30 and who are not homeowners

Source: Credit Action Today

Today in the UK:

- Consumers will borrow an additional £330m today
- The average household debt will increase by over £13.25 today
- 77 properties will be repossessed today
- 305 people today will be declared insolvent or bankrupt
- 2,750 County Court Judgements (CCJs) issued
- Bank and building societies will hand out £1bn in mortgages today
- Citizen Advice Bureaus will deal with **6,600 debt problems** today
- The average car will cost £15.42 to run today
- More than 7,716 loan repayments are going unpaid every day
- The average home will cost £30 today to run
- £526m will be withdrawn from cash machines today.
- 24.5m transactions worth £1.4bn will be spent on plastic cards today

Source: Credit Action Today

What do we do?

- Assess your full financial situation to provide the best option available to you from a range of products we offer
- Allow you to gain control of your finances by initially putting you on a debt management programme
- Administer your account on your behalf
- Liaise with your creditors on an ongoing basis
- Receive one monthly payment from you and distribute it to the creditors accordingly
- Review your file every three months to see there is another solution available to you

Product Options

- Debt Management
- IVA's
- Trust Deeds (Scotland only)
- Sale and Rent Back
- Full and Final Settlements
- Remortgage

How do they work to suit you?

Debt Management

- allows you to gain financial control of your situation, pay your household debts and your unsecured creditors at a reduced amount suitable to you.
- allows you to bring household arrears payments, such as your mortgage, up to date to prevent losing your home, whilst making minimal payments to unsecured creditors.

IVAs/1 day IVA/Trust Deed

- give you an end date to the situation you are in and allows you to gain control of your finances in a formal arrangement with the creditors lasting 60 months

Sale and Rent Back

- gives you the option to sell your property to a BTL investor, remain in the property by paying monthly rent and use the equity to pay off your debts

Full and Final Settlements

- allow you to pay off your debts at a reduced rate based on the capital you available

Remortgage

- allows you to release equity from your property to use to pay your debts off at a reduced rate

What is an IVA?

FACT: The Insolvency Service said that **111,359**, an increase of **13%** over the previous 12 month people went into bankruptcy or entered into an Individual Voluntary Arrangement (IVA) in the last 12 months

- IVA is a formal agreement with creditors
- It lasts 60 months
- Proposal of payment prepared that is legally binding
- Supervised by an Insolvency Practitioner
- Once accepted interest and charges are frozen on the accounts
- Once completed all remaining debt is written off by the creditors
- Fees involved in an IVA will be deducted from what the client pays each month
- If you are a homeowner the creditors are informed of the value of the property and the outstanding mortgage to establish if any equity is available
- Unsecured debts (credit cards, store cards, catalogues, mail order, personal loans, overdrafts) form the components for an IVA
- HP agreements, mortgages and secured loans are not eligible to go into an IVA

A meeting of your creditors is held and creditors are able to vote on whether to accept, alter or reject your proposals. 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 your IVA. It is our role to guide you on what creditors will find acceptable.

Debts are settled within a reasonable and fixed period of time (normally 5 years). Any interest and debt charges will be frozen and creditors will be prohibited from demanding additional payments.

Once a decision has been made that an IVA is right for you, you will be asked questions regarding your current financial situation. Based on the information they have given, a repayment amount will be agreed. Once proposals have been drawn up you will need to check and sign these and return them to the Insolvency Practitioner (IP).

An application may then be made to the court for an Interim Order. Once this is in place, no creditors will be able to take legal action against you. You may be asked to attend your creditors meeting but this rarely happens, normally they are usually asked to be contactable by phone on the day.

For an IVA to be approved, creditors will be called upon to vote either for or against the arrangement. If only one creditor votes "for" the IVA, the IVA will be approved. However, if only one creditor votes against the IVA and they represent less than 25% of the total debt, the meeting will be suspended for a later date and other creditors who did not vote will be called upon for their vote.

If the creditor who voted against the IVA represents more than 25% of the total debt that is owed the IVA will fail. This is because an IVA will only ever be approved if 75% in monetary value is voted for. If any of the creditors don't vote, it is assumed that they will vote FOR the IVA.

The IVA will be legally binding. As long as the client keeps up the repayments, when the term of the agreement is finished, they will be free from these debts regardless of how much has been paid off.

During the period of the arrangement their financial situation will be reviewed regularly to see if there has been any change in their circumstances.

It is very important that consumers do not confuse an IVA with a Debt Management Plan, which is not legally binding.

Most IVA cases are based around one, affordable, monthly, payment, over a period of 60 months. This one affordable payment is based on their earnings minus expenses (NB. I&E statement).

An IVA proposal has to be prepared by a licensed Insolvency Practitioner (IP) who then presents it to creditors at a creditors meeting.

The rules of an IVA state that providing 75% (in value terms) of those that have voted, vote to accept the proposals (with or without modifications) then the IVA is agreed and becomes legally binding on all other parties whether they voted or not.

When an IVA is accepted the IP's role becomes that of supervisor, monitoring the IVA's progress and ensuring that the terms and conditions that were agreed to at the creditors meeting are properly adhered to.

It is your responsibility to pay the agreed payments to the IP who will then ensure that these payments are distributed to all creditors on a pro-rata basis in accordance with terms and until the successful completion of the IVA. It is in the debtors own interest to maintain their payments as failure to pay will almost certainly result in the failure of the IVA.

Upon the successful completion of the IVA you will be considered debt free even though you may not have actually paid off all of their debts in full. Any outstanding balances are written off (known as a composition of debts) and you are then free to make a fresh financial start.

What is a 1 day IVA?

- If sufficient funds can be raised from a remortgage this can be offered to creditors as a payment in full and final settlement of the total debts
- E.g Client raises £25,000 from remortgage and owes £60,000 the £25,000 can be offered between the creditors in full and final settlement
- The IVA would need to be accepted by creditors before the mortgage could complete

A 1 day IVA is for those with sufficient equity in their home, when considering entering into an IVA, instead of releasing equity in the 4th year anniversary from their property, they could be in a position to release equity from their property by way of remortgage/ secured loan and pay the IVA off on a 'Day 1' basis.

In such an instance an offer of around 40 pence in the pound is typically expected.

For those who have clients that hold sufficient equity in their property this is normally an excellent proposition to the creditors, though the only difference between the 60 month IVA and the Day 1 is that there can be **no disposable income** for a Day 1 IVA to qualify. The distinct other advantage to the Day 1 IVA is that it works excellent as a credit repair tool also.

To summarise:

- This is an ideal solution for individuals who are able to raise a sum of money, but after providing for their reasonable costs of living including their increased mortgage payment, do not have any surplus income.
- A Full and Final settlement IVA is a legally binding arrangement with your creditors which allows you to repay a proportion of your debt in a one off lump sum payment. Normally the lump sum is raised by remortgaging your property or introducing a lump sum from relatives. For individuals over retirement age, an equity release scheme may be possible.
- Creditors are likely to accept your full and final settlement if we can demonstrate that this offers a better return than bankruptcy.



What is a Protected Trust Deed?

- Very similar to an IVA
- Only applicable to people living and working in Scotland for last 3 years
- Lasts 36 months
- Formal Arrangement with creditors to pay a certain amount each month
- Once completed remaining debt is written off

Under Scottish Law (Bankruptcy Act 1985), your Scottish clients could qualify for a Protected Trust Deed, which is a legally binding agreement that provides Scottish residents with a way to repay their debts based on what they can afford. If they do qualify, they could have **up to 90% of their debts written off** and pay the remainder in **36 affordable monthly installments**, leaving them totally debt free.

The Trust Deed will last for a specified period, usually three years. When the specified term of the arrangement comes to an end, any remaining debts are written off. The protected trust deed is supervised by a licensed insolvency practitioner, who is responsible for all negotiations with creditors and who is also responsible for ensuring that the client keep to the terms of the Trust Deed.

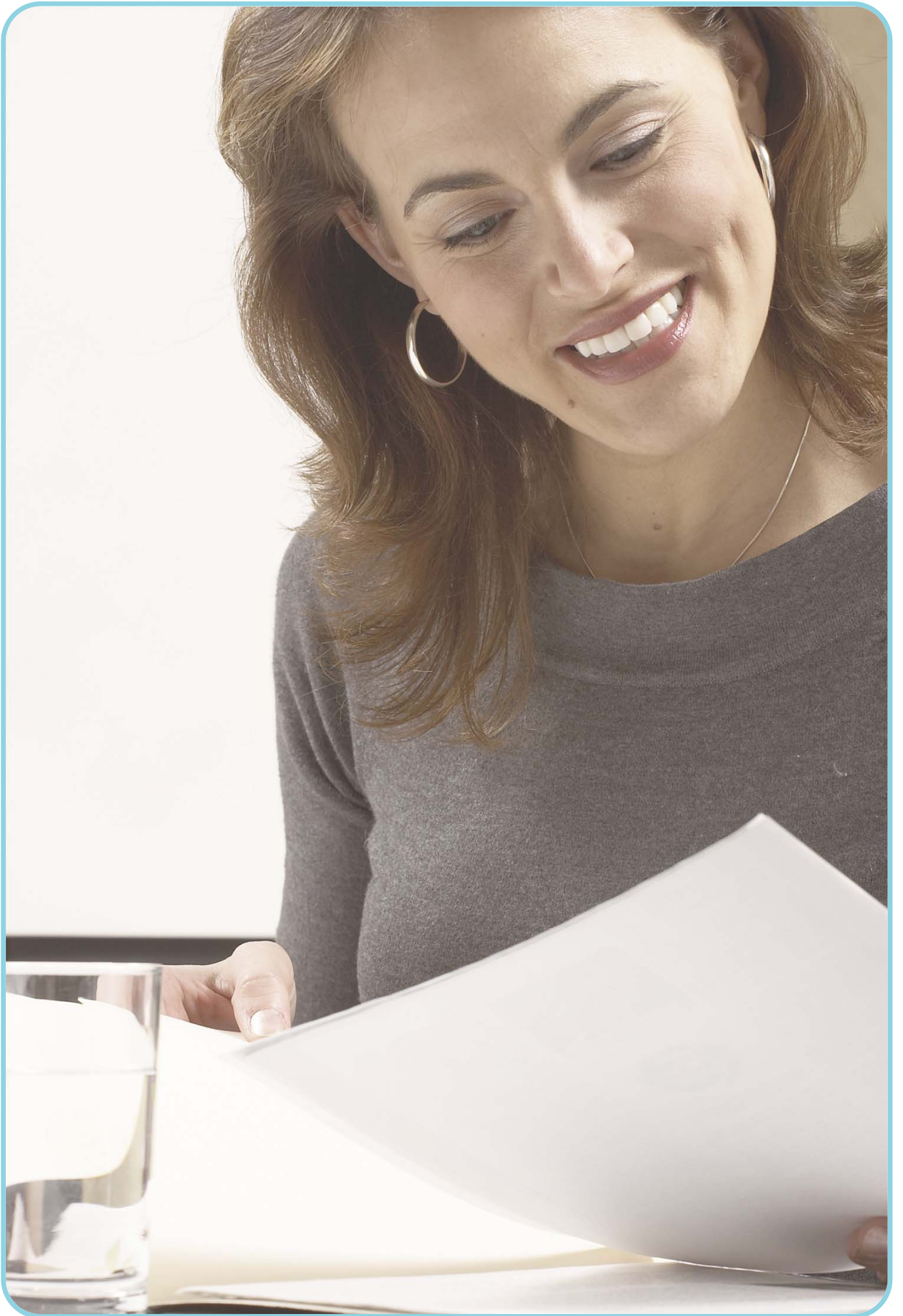
ADVANTAGES

- The trustee handles all correspondence from creditors, therefore relieving the pressure of debt.
- A Protected Trust Deed is usually more flexible and costs less to administer than sequestration (bankruptcy).
- With a Protected Trust Deed, your creditors will be unable to add further interest, charges, or take any further action against you.
- You will in most cases still be able to hold certain public offices.
- You will in most cases still be able to remain self-employed and continue to serve as a director of a company.
- Protected Trust Deeds normally last 3 years, after which any remaining debt will effectively be written off.
- Information about the Protected Trust Deed is not published unlike sequestration (bankruptcy).

DISADVANTAGES

- Existing arrestments and other diligence continue to be effective. It should be noted that Councils who carry out earnings arrestments will generally lift arrestments upon protection of the Trust Deed.
- You cannot be a company director of a limited company unless the company's Article of Association state otherwise.
- The arrangement is binding on you as well as your creditors. If you were to default on the arrangement then the Insolvency Practitioner can petition for your Sequestration (bankruptcy)
- Entering into any arrangement with your creditors may affect your credit rating.

Creditors are not obliged to accept a proposal for a Trust Deed. However, the Trustee will negotiate with all your creditors. Unless creditors, who are owed more than one third of the total debt object (which is extremely rare), the Trust Deed will become protected.



IVA Questions & Answers

What is an IVA?

An IVA is a formal agreement with creditors, lasting 60 months. A proposal is prepared on the clients behalf that puts forward a formal, legally binding offer to creditors and is supervised by an Insolvency Practitioner. The proposal is then considered by creditors who will vote to accept, reject or modify it.

How do I qualify for an IVA?

You need to have over £15,000 worth of unsecured debt to at least 3 separate creditors and must be able to afford more than £200 a month to pay in to it.

Are interest and charges frozen by creditors?

Yes, when an IVA is accepted all interest and charges are frozen.

Can I protect my house?

An IVA prevents creditors from taking action against you and your property. However, before the end of the IVA it may be necessary for you to introduce a sum of money into the arrangement in place of a proportion of your share of equity in your property. This is normally done by remortgaging your property. If remortgaging is not possible, you may be able to extend the arrangement for a further twelve months during which time you pay additional contributions in place of equity.

Is my IVA likely to be approved?

Yes, we would not recommend an IVA as a solution if we did not believe it had more than a reasonable chance of being approved. It would be unfair to you and a waste of everybody's time and energy. It is rare for any of the IVA's that we assist with to be rejected as creditors are generally willing to negotiate.

However, if the IVA is not approved you can put forward other solutions to your creditors including debt management and also bankruptcy.

How does this affect my credit rating?

An IVA will be on your credit record for six years which is the same length of time as any other adverse credit is recorded.

Will I still be able to obtain credit?

The IVA proposal normally states that you can only get credit if your Supervisor allows you to do so. This does not normally apply to individuals in business who can demonstrate that they need credit to be able to continue trading

Will my creditors stop contacting me?

Yes, once your IVA is approved all further contact from creditors should cease. It may take a while for creditors to amend their systems but within 1 to 2 months of the IVA starting, all communication from your creditors will stop. Creditors are legally bound into the terms of an IVA, consequently preventing them from pursuing you for the debt.

Can my arrangement be brought to an early conclusion?

- Yes, we can convene a variation meeting to offer a sum of money in full and final settlement of your obligations under the IVA. The sum of money could be raised by:

- Remortgaging your property
- Funds from a relative
- Creditors are likely to agree to accept a lump sum to bring the arrangement to an early end if you can show that you are paying creditors as much as you can afford.

What happens if I can't pay my contributions?

- If you find you cannot maintain your payments, we can ask creditors to agree to a reduced payment or a payment holiday. Your IVA proposals will be drafted to include the power to put revised proposals to creditors.
- It is important that you keep us informed of any problems. We understand that most of us encounter unforeseen problems and we need to know so that we can help.

Who gets to know about my IVA?

Unlike bankruptcy your IVA is not advertised in a newspaper. Your employer will not know unless you choose to tell them. Your IVA is however, registered and this may be picked up by credit reference agencies who will note your IVA on your credit reference file.

What are downsides of an IVA?

The payment period for an IVA is normally 5 years unless creditors agree an early settlement. In Bankruptcy Income contributions are for a period of three years only. The extra 2 years of contributions with an IVA mean that creditors get a better payout which is why they support IVA's.



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