
Seeking Advice From a Licensed Insolvency Practitioner

We often see people when it is too late to help them. This may be because they are scared to take insolvency advice.

If this applies to you, and this leaflet helps, we would hope that you would speak to us.

Even if you don't want to talk to us, you have made the effort to get this leaflet so we feel a little bit responsible to you and want to make sure you get the best advice you can.

Please either look in a phone book or on the internet for a Licensed Insolvency Practitioner. Only Licensed Insolvency Practitioners have had to take the formal exams, gain the experience and are regulated to give you insolvency advice. There are other people who will also give good advice, but there are also some rogues out there!

Of course, if you like our attitude or can at least see why we take it, please call us!

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 Marc Landsman is licensed to act as an Insolvency Practitioner in the UK
 by the Institute of Chartered Accountants in England and Wales
 A member of the ICAEW Practice Assurance Scheme*

Who does leaflet this apply to?

In general terms, the initial advice stage is the same for individuals or directors of limited companies. The only difference is that the solutions will be different (a person can be made bankrupt, a company can enter liquidation or administration, both can propose voluntary arrangements). Sometimes a company's financial problems can also cause difficulties for the director personally if they have guaranteed the debts, or are unable to find other work.

When should I seek advice?

Generally, the sooner the better. As problems get worse, the number of options to solve them reduces.

In business very often the first sign is when you try to avoid suppliers in case they want you to pay them. For personal debts it can be as simple as deciding to buy 'own brand' food rather than 'premium' as you need to save money rather than thinking 'I wonder if that bloke off the telly is right about the taste?'

How do I get advice?

If you have an accountant, solicitor or financial advisor they may recommend who to talk to. You can, however, just make an appointment to see a Licensed Insolvency Practitioner just by phoning one. It is always worth checking whether the person you will talk to is a Licensed Insolvency Practitioner, works for one, or is just trying to get your details to pass on to one so that they can earn a fee.

How will I get the advice?

If you phone a Licensed Insolvency Practitioner and you have enough information to hand, we may be able to give you advice there and then over the phone. In most cases, though, we will prefer to have a general chat to get an idea of the position and make an appointment for a convenient time to go through things in more detail.

How much will the advice cost?

Most reputable firms will not charge for the initial meeting. Some, like Carmichael & Co will not charge at all until they have agreed a solution with you.

Who do you act for?

If you are getting advice for you personally, we will be advising you. If you are seeking help for a company, we will initially advise for the company, but obviously will cover how it would affect you personally. In most solutions we will ultimately end up working for the creditors so will give you advice that is also sensible for them since otherwise whatever solution we suggest may not actually work.

What should I do before that meeting or phone call

If you have booked the meeting (which may be at our office, your home or office, or even a quiet café or pub) or call, we will have sent you a questionnaire setting out all the information we need. This can also be downloaded from our website.

If you have already prepared the information in a different format we can usually work from that.

What will be covered at the meeting?

We will be looking at how the background of how you got into the situation and the effect different solutions could have on you, what you owe and own, and what your expected future income will be.

Why do you want background information?

When you meet with our Insolvency Practitioner he is trying to get as much information about your financial position and attitude to the debt as possible so that he can make an appropriate recommendation to you that he is confident will actually deal with your problem, even if the solution is not the one you want to hear.

It is possible to type the numbers into a computer package and it will provide an answer - some firms can do this (and their assumptions are reviewed by the regulators to make sure that they give an appropriate solution) but what the computer cannot take into account is whether its answer is one you will actually be able to stick to. At Carmichael & Co we believe that a solution is only the solution if it solves your problems so we like to understand the context for your financial position first.

As an example, if you are a sole trader who has suffered a bad debt the obvious recommendation may be to propose an Individual Voluntary Arrangement as you can repay your debts over a few years whilst you carry on trading. If you are depressed about the debt as it was a personal friend, you may not have the heart to trade on as you have perhaps lost your confidence. This would suggest that bankruptcy may be better as an Individual Voluntary Arrangement usually relies on income. If, however, you have seen that your friend has suffered because of their circumstances, you may decide that you do not want to go bankrupt even if that would be your best way forward. This sort of subjective consideration is most important when the solution could be bankruptcy or an Individual Voluntary Arrangement (or a Company Voluntary Arrangement compared with liquidation).

We will also be thinking about whether a specific solution may not be appropriate because of your job or future plans. As an example, we almost advised a barrister to go into an Individual Voluntary Arrangement until he told us that a lot of his work was from HM Revenue and Customs – they would almost certainly have stopped instructing him in the future.

About what you owe

Ideally we would like to see something from the creditor for every debt you owe. For a bank or credit card company, this will be a statement (though the agreements are also helpful). If you run a business (whether as a sole trader or limited company) we will want to see outstanding invoices from your suppliers. If you do not have them to hand, a list will do at this stage, but some suppliers have 'retention of title' (so can claim back their goods under some circumstances if they are not paid), and this is usually shown on the invoices. Different creditors have different attitudes to debts, so by seeing who is owed the money and for how long an Insolvency Practitioner can usually predict how they will react.

About what you own

If you have personal problems and own your home, we can probably get a rough idea of its value over the internet, but we will not know how much you owe so we will need to know how much your mortgage is. If you are a director of a limited company which owns its premises, we will need similar information.

If you are trading we will need to know whether you have any stock and a rough idea of how much you paid for it. This is not the same as it could be sold for in liquidation or bankruptcy, but we will usually have a reasonable idea based on your cost.

If you have been trading you will normally prepare accounts, and we will want to see the last year or so and a rough idea of the current position. If you use a computer package for your accounts, a Trial Balance or Balance Sheet is ideal.

If you have any other assets such as vehicles or investments we will need to know.

Future Income

The perceived worst case scenario for everyone is bankruptcy or liquidation though these may turn out to be the best. Both of these lead to the loss of assets, but sometimes the biggest asset you or your company has is future income. If you are able to pay all the debts in a relatively short time, this will safeguard assets (including goodwill in a business) which may mean that you can stay on your home rather than move when your children are about to take exams, or you are in the middle of a DIY project that may increase the value of your home.

What we will do

We will look at the difference between what you own and owe, and after taking into account your thoughts and our experience we will make a recommendation. This may be at the first meeting (or phone call if you can email or send us the information), or we may need a bit of time to think more carefully, or we may need some more information from you.

If you do not have a good idea of your debts, we can write to the creditors if you agree, but many do not bother to reply, and others may take it as an invitation to become more aggressive.

We will usually give you our advice in writing, and are happy to answer any later questions.

What happens after I accept your advice?

We will work with you to put the solution into place, this may mean writing a proposal to creditors for a Voluntary Arrangement, or it may be preparing the documents to put your company into liquidation.

What happens if I don't accept your advice?

If this is because we have misunderstood something, tell us since that may be why we have not given the advice you expected. If you still don't like our advice, feel free to get help elsewhere, but please make sure you get the help you need.