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Bankruptcy



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Summary

This briefing paper considers the bankruptcy framework in England and Wales. The bankruptcy process is slightly different if the debtor lives in [Northern Ireland](#), and Scotland has its own separate bankruptcy procedure known as [sequestration](#).

An individual is insolvent when they cannot pay their debts “as and when they fall due”. Bankruptcy is one way for individuals to deal with debts they cannot pay (there are other options such as informal agreements, Individual Voluntary Arrangements (IVAs) and Debt Relief Orders). A company cannot be made bankrupt, only individuals can.

A bankruptcy petition may be presented to the court by one or more creditors who are owed £5,000 or more by the debtor and that amount is unsecured (known as a ‘creditor’s petition’). Alternatively, a debtor may petition for their own bankruptcy using an [online portal](#), the application is determined by an adjudicator acting for the Insolvency Service.

Once a bankruptcy order has been made, an official receiver (a government official and officer of the court) will be appointed to manage the bankrupt’s affairs unless there are sufficient assets to appoint a private sector insolvency practitioner as ‘trustee in bankruptcy’. As at the date of the order, the bankrupt’s estate vests in either the official receiver or the trustee. The bankrupt’s estate essentially consists of all the property which belongs to or is vested in the bankrupt at the commencement of the order.

The function of the official receiver or trustee is to collect in and sell the bankrupt’s assets and to distribute the proceeds to creditors. The trustee’s professional costs are paid out of the bankrupt’s estate. Automatic discharge from bankruptcy usually occurs after one year. Following discharge, the bankrupt is no longer liable for the balance of their debts.

On 5 July 2022, the Insolvency Service launched a [call for evidence](#) seeking stakeholders’ views on the personal insolvency framework and whether it still serves the needs of debtors and creditors. The consultation closes on **24 October 2022**. In addition to summarising the bankruptcy framework in England and Wales, this briefing paper also considers this call for evidence.

Anyone considering bankruptcy should seek proper debt advice based on a full appraisal of their circumstances.

1 Problem debt

1.1 Is bankruptcy the right option?

Bankruptcy is a formal insolvency procedure that writes off most unsecured debts if a person cannot afford to repay them, giving someone in problem debt a fresh start. It is a legal process that may be suitable if the debtor has little hope of repaying their debts in a reasonable amount of time.

However, bankruptcy has serious implications. For example, assets such as the family home may be included in the bankruptcy, some jobs may be affected (such as legal or financial roles), bankruptcy will have a detrimental impact on the debtor's credit file, and bankruptcy will be recorded on a public register.

With the introduction of the new Debt Respite Scheme (see below), debtors are given time to work with an authorised debt adviser to see if bankruptcy is the right solution for them. There is a wide range of debt solutions available, and a debt advisor will consider if one of these options is more suitable given the debtor's situation.

1.2 Debt Respite Scheme (breathing space)

The [Debt Respite Scheme \(Breathing Space Moratorium and Mental Health Crisis Moratorium\) \(England and Wales\) Regulations 2020](#) (SI 2020/1311), commonly referred to as “the Breathing Space Regulations”, came into force on 4 May 2021. The Regulations provide eligible individuals with problem debt a period of protection from their creditors, known as a “breathing space moratorium”. **The aim is to give people the time to access professional debt advice, without the stress caused by spiralling debt and impending enforcement action.** However, payment of all “ongoing liabilities” must continue during this time.¹

The Debt Respite Scheme provides for two types of breathing space: a standard breathing space and a mental health crisis breathing space. A **standard breathing space** is available to eligible debtors seeking professional debt advice (which may be provided in person, on the phone or electronically). The moratorium gives them legal protections from creditor

¹ The [Scottish Debt Arrangement Scheme](#) already provides debtors with a short breathing space and statutory repayment plan

action for up to **60 days**. The protections include pausing most enforcement action and contact from creditors, and freezing most interest, fees, and penalties on their debts.

A **mental health crisis breathing space** is only available to someone who is receiving mental health crisis treatment and it has some stronger protections. This breathing space lasts for as long as the person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).

An individual can only access a standard breathing space after being assessed as eligible by an authorised debt adviser.² The Insolvency Service is responsible for notifying creditors when a breathing space begins. Once notified, creditors must comply with the restrictions for the duration of the moratorium.

For individuals struggling with debt, the Debt Respite Scheme provides them with the time (breathing space) they need to properly assess their options without the threat of creditor enforcement. Further information is available on a [government website](#).³ There is also a Library briefing paper, "[Debt Respite Scheme – a breathing space for those in debt](#)".

1.3

Alternatives to bankruptcy

Bankruptcy is just one option available to someone in financial difficulty and, depending on their circumstances, may not be the best option. Alternatives to bankruptcy include:

- Debt Relief Orders⁴
- Individual voluntary arrangements (IVAs)⁵
- county court administration orders⁶ or
- a non-statutory debt management plan (DMP)⁷

² The Insolvency Service maintains an electronic service that debt advisors use to start the breathing space process

³ Insolvency Service, "[Debt Respite Scheme \(Breathing Space\) – Guidance for Creditors](#)", 7 September 2021

⁴ A **debt relief order** (DRO) is a way for a debtor to have their **debts** written-off if they have a relatively low level of debt and few assets. There is a separate Library briefing paper on "[Debt Relief Orders](#)".

⁵ An **IVA** is a formal and legally binding agreement between the debtor and his/her creditors to pay back debts over a specified period (usually 3 or 5 years). An IVA is approved by the court and all creditors included in the IVA must adhere to its terms. There is a separate Library briefing paper on "[Individual Voluntary Arrangements \(IVAs\)](#)".

⁶ A **county court administration order** is a way to deal with debt if the debtor has a county court or High court judgment against them and they cannot pay in full. In effect, the debtor makes monthly payments to the court and the court then divides this money between the creditors.

⁷ **DMPs** are voluntary agreements between a debtor and some or all of his/her creditors to repay their debts in an extended time period. DMPs are generally administered by **debt advice agencies**.

The Government has also proposed implementing a new statutory debt repayment plan – but has yet to set a date. A statutory debt repayment plan would enable a person in financial difficulty to enter a statutory agreement to repay their debts under a manageable timetable with protection from creditor enforcement action.

An individual in financial difficulty must seek proper debt advice to ensure that they enter the most appropriate debt procedure given their circumstances (see section 6 below).

The remainder of this paper is concerned only with bankruptcy.

2 Bankruptcy

2.1 Personal insolvency

An individual is insolvent if they cannot pay their debts “as and when they fall due”. Bankruptcy is a formal insolvency procedure available to an insolvent individual (including a sole trader or an individual members of a partnership). Under this procedure, the bankrupt’s assets are realised, and the proceeds shared among those who are owed money (creditors).

The main advantage of bankruptcy is that it frees the debtor from overwhelming debts and so enables them to make a fresh start. Bankruptcy procedures also provide for the orderly distribution of the debtor’s assets among his/her creditors. The main disadvantage is that the debtor loses control of their assets and it may be difficult for a discharged bankrupt to obtain credit in the future. A bankruptcy order remains on the individual’s credit reference file for six years.

2.2 Bankruptcy order

Box 1: Grounds for applying for a bankruptcy order can be made for one of three reasons:

The grounds for petitioning the court for a bankruptcy order are as follows:

- Creditor(s) apply to make an individual bankrupt because he/she owes them £5000 or more (known as a “creditor’s petition”).
- An individual cannot pay what they owe and wants to declare themselves bankrupt (known as a “debtor’s petition”).
- An insolvency practitioner makes an individual bankrupt because they’ve broken the terms of an Individual Voluntary Arrangement (IVA).

Creditor’s petition

A [creditor’s petition](#) is dealt with by the court. Under the [Insolvency Act 1986](#) (IA 1986), a court may make a bankruptcy order after a petition has been presented by one or more creditors who are owed £5,000 or more by the

debtor and that amount is unsecured.⁸ Importantly, a bankruptcy order can still be made even if the debtor refuses to acknowledge the proceedings.

Debtor's petition

On 6 April 2016, a new bankruptcy applications regime came into force for debtor's petitioning for their own bankruptcy. Rather than presenting a debtor's bankruptcy petition to the court, they can make an application through an [online portal](#). The application is reviewed and determined by an adjudicator (through the government's Insolvency Service). A similar procedure has been in operation in Scotland since 2008.

⁸ In August 2014, the Government called for evidence to review the creditor petition limit for bankruptcy, which was set at £750 in 1986. The Government asked whether this figure should be increased and, if so, to what level. On 15 January 2015, the Government announced that the creditor petition level would be raised from £750 to £5,000 with effect from 1 October 2015 [[HC Deb 15 January 2015 cc30-31WS](#)].

3 Dealing with the bankrupt's affairs

3.1 Role of the official receiver

Bankruptcy and the sale of property are determined by provisions of the [Insolvency Act 1986](#) (IA 1986) (as amended) and the [Insolvency \(England and Wales\) Rules 2016](#) (IR 2016).⁹

Once a bankruptcy order has been made by the court, an official receiver will be appointed. **It is the official receiver's duty to investigate the bankrupt's financial affairs for the period before and during the bankruptcy.** They must report to the court any matters which indicate that the bankrupt may have committed criminal offences in connection with his/her bankruptcy or that the bankrupt's behaviour has been otherwise dishonest.

As part of the official receiver's investigation, enquiries will be made of any organisations (e.g., banks, building societies etc.) who may be able to provide details of any assets or liabilities the bankrupt has (or have had) an interest in (either on their own or jointly with others). Third parties may also be asked about any other matters relating to the bankruptcy.

3.2 Role of the trustee in bankruptcy

The official receiver will also act as the "trustee in bankruptcy" (the trustee) unless there are sufficient assets to appoint a private sector insolvency practitioner in his place. (In effect, the official receiver acts as "trustee of last resort"). To act in the bankruptcy, a private sector insolvency practitioner must be authorised by an appropriate professional body.

The main function of the trustee is to get in, realise and distribute to creditors the bankrupt's estate. In the carrying out of that function, and in the management of the bankrupt's estate, the trustee can use his/her own discretion.

Proving a debt

Once a bankruptcy order has been made, **creditors can no longer pursue the bankrupt for payment; payment becomes the responsibility of the trustee.** Creditors are required to make a formal claim to the trustee. "Proving" is the process by which a creditor seeks to establish a claim against

⁹ SI 2016/1024

the bankrupt's estate (there is no longer a prescribed form to use).¹⁰ A proof of debt is submitted for two purposes:

- (i) to enable the creditor to vote on matters relating to the insolvency process; and
- (ii) to entitle the creditor to receive a dividend distribution from the insolvent estate.

However, before any distribution to creditors, the costs of the bankruptcy proceedings are paid first from the money that is available. The costs include fees that the official receiver or the insolvency practitioner charge for administering the bankruptcy. Creditors are then paid in accordance with an official "hierarchy" laid down in the [IA 1986](#).¹¹

As a general rule creditors should not ask the bankrupt directly for payment, but there are some exceptions. The following debts are not included in bankruptcy proceedings and the bankrupt is still responsible for paying them:

- secured debts, for example, debts secured by a mortgage or charge on the bankrupt's home (in default of payment, the lender may begin possession proceedings with the aim of selling the property),
- non-provable debts (such as court fines and other obligations arising under an order made in family proceedings or under a maintenance assessment made under the Child Support Act 1991), and any outstanding student loans.

¹⁰ The requirement for 'proving' in a bankruptcy is set out in Part 14 of the [IR 2016](#)

¹¹ Under [section 328](#), Insolvency Act 1986, creditors are ranked as follows: (1) secured creditors with a fixed charge, preferential creditors, secured creditors with a floating charge, and unsecured creditors

4 Assets that pass to the trustee

On the making of the bankruptcy order, the trustee will take control of all assets; the bankrupt loses his/her right to deal with their own property. In practice, the trustee will let the bankrupt keep the following items unless they can be replaced with a suitable cheaper alternative:

- tools, books, vehicles and other items of equipment which the bankrupt needs to use personally in their employment, business or vocation
- clothing, bedding, furniture, household equipment and other basic items which the bankrupt and his/her family need in the home

The trustee is under a duty to sell all other available assets and use the money realised to pay the costs and expenses of the bankruptcy and then the creditors.

4.1 Assets in the bankrupt's possession

As at the date of the bankruptcy order, the “bankrupt's estate” vests in the trustee in bankruptcy. Specifically, [section 306](#) of the IA 1986, provides:

- (1) The bankrupt's estate shall vest in the trustee immediately on his appointment taking effect or, in the case of the official receiver, on his becoming trustee.
- (2) Where any property which is, or is to be, comprised in the bankrupt's estate vests in the trustee (whether under this section or under any other provision of this Part), it shall so vest without any conveyance, assignment or transfer.

[Section 283](#) of the IA 1986 defines the **bankrupt's estate** as:

- (a) All property belonging to or vested in the bankrupt at the commencement of the bankruptcy; and
- (b) any property which is or is treated as being comprised in the estate by virtue of the provisions of the Act which relate to the insolvency of individuals.

In effect, the trustee is legally entitled to seize all property in the bankrupt's estate. Property is defined widely, it includes:

...money, goods, things in action and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property.¹²

Property is also treated as being comprised in the estate where it becomes available after the commencement of the bankruptcy but before discharge. This would include after-acquired property (see **section 3.3** below).

Court order for the restoration of property

Importantly, the trustee may apply to the court for an order restoring property to the bankrupt's estate if the bankrupt disposed of it in a way which was unfair to his/her creditors. For example, if before bankruptcy he/she had transferred property to a relative for less than it was worth.¹³

If the bankrupt has a "live" claim (i.e., a right of action) against a third party in court proceedings, that claim may also be an asset in the bankruptcy. Much would depend on the exact nature of the claim and the circumstances.

4.2

What happens to the family home?

The treatment of the bankrupt's home and, specifically, whether the trustee has the right to force its sale is determined by the [IA 1986](#) (as amended), the [IR 2016](#) and the [Enterprise Act 2002](#) (EA 2002).

As outlined above, assets that form part of the bankrupt's estate pass to the trustee and, subject to certain exceptions, the trustee may act in relation to them as he thinks necessary for the benefit of the creditors. This means that the trustee may need to sell the bankrupt's home if this is the only way to raise money to repay creditors. This applies whether the home is freehold or leasehold, whether it is solely or jointly owned.

In some circumstances, it may be possible for the sale of the family home to be postponed for one year if a spouse or children live with the bankrupt (i.e., one year after the date of the bankruptcy order).¹⁴ After a year, the court will only refuse an order for sale in exceptional circumstances, for instance, if the value of the bankrupt's interest in the property is worth less than £1,000.

The trustee has 3 years in which to deal with the bankrupt's home

Under [Section 283\(A\)](#) of the EA 2002, the trustee has **3 years** in which to deal with the bankrupt's home. If the trustee does nothing (which is unlikely) his interest in the property may revert to the bankrupt.

However, if the trustee is not made aware of the bankrupt's interest in a property (i.e., it was not disclosed by the bankrupt) the trustee will have 3 years from the date on which he/she became aware of the property. The main

¹² [Section 436](#), Insolvency Act 1986

¹³ In the Insolvency Act 1986, referred to as 'undervalue' or 'preference' transactions

¹⁴ A spouse, or any interested party, should take independent legal advice as soon as possible

options open to the trustee for dealing with the bankrupt's home are set out in **Box 2** below.

Box 2: The trustee's options for dealing with the bankrupt's home

Under [Section 283\(A\)](#) of the EA 2002 the trustee has 3 years in which to deal with the bankrupt's home (starting from the date of the bankruptcy order).

The following options may be open to the trustee:

1. apply for an **order of sale or possession** in respect of the property in which the interest subsists and then go on to sell the property; or
2. apply for a **charging order** over the property to the value of the interest; or
3. enter into an **agreement with the bankrupt** (or the bankrupt's spouse or family member) regarding the interest.

If the trustee fails to act within the 3 years (which is unlikely) his interest in the property may revert to the bankrupt.

4.3

After-acquired property

Assets or additional income obtained during the bankruptcy (i.e., after the date of the bankruptcy order and before the date of discharge) are referred to as "after-acquired property".

All after-acquired property must be declared to the trustee. Under [section 307](#) of the IA 1986, the trustee has a limited time frame in which to decide whether to claim all or any of the after-acquired property for the benefit of the creditors (see **Box 3** below).

Box 3: Time limit for claiming after-acquired property

Except with the permission of the court, a notice shall not be served under [section 307](#) of the IA 1986,

- after the end of the period of **42 days** beginning with the day on which it first came to the knowledge of the trustee that the property in question had been acquired by, or had devolved upon, the bankrupt, **or**
- after the end of the period of **42 days** beginning with the day on which the property in question first came to the knowledge of the trustee.

For the purposes of this section –

- anything which comes to the knowledge of the trustee is deemed in relation to any successor of his as trustee to have come to the knowledge of the successor at the same time; **and**
- anything which comes (otherwise than under paragraph (1)) to the knowledge of a person before he is the trustee is deemed to come to his knowledge on his appointment taking effect or, in the case of the official receiver, on his becoming trustee

4.4

What happens to an inheritance?

An inheritance is potentially vulnerable to a claim by the trustee

An inheritance is potentially vulnerable to a claim by the trustee. If the bankrupt inherits before his/her discharge, the trustee must make a “positive” claim to it under [section 307](#) of the IA 1986. If, however, the bankrupt receives an inheritance after discharge, they are usually able to keep it.

The trustee would need to make a positive claim because the inheritance would be classified as “after-acquired property”. A positive claim means the trustee is required to notify the bankrupt in writing of his claim within **42 days** of his becoming aware of the inheritance. In practice, the time would run either from the date the bankrupt informs the trustee of his inheritance or the date the trustee becomes aware of the inheritance by some other means.

In exceptional circumstances, the undischarged bankrupt might make a representation to the trustee as to why they should be allowed to keep some (if not all) of the inheritance. The bankrupt may need to obtain independent legal advice as to whether they have grounds for making such a representation.

Under the IA 1986, the bankrupt has a responsibility to be honest with their trustee about their situation. Specifically, an undischarged bankrupt is obliged to tell the trustee about any inheritance or windfall they receive

within 28 days. If they fail to do so, the trustee has powers to reverse any transaction made by the bankrupt to put assets “outside the reach” of creditors.

4.5

Payments from the bankrupt’s income

If the bankrupt can afford it, the trustee will ask him/her to make regular payments towards their debts from their income through an **Income Payments Agreement** (IPA). For an IPA to work, the bankrupt must have surplus income (often referred to as “real disposable income”). This is money the bankrupt has left after paying normal living expenses. If the bankrupt’s only income is state benefits, the trustee will not usually arrange an IPA.

If the bankrupt and his/her trustee cannot agree on payment amounts for an IPA, the trustee can apply to the court for an **Income Payments Order** (IPO). However, the court cannot make an IPO if it would leave the bankrupt with insufficient income to meet his/her everyday needs. Assuming an IPO is made and the bankrupt refuses to meet these payments, the trustee can apply to the court to extend the period of bankruptcy.

5 Discharge from bankruptcy

5.1 The slate wiped clean

As Bankruptcy usually lasts one year but can be extended. As a general rule, the debtor will be automatically freed from bankruptcy (known as 'discharged') after a maximum of **12 months**, even if:

- no payments have been to the creditors,
- the bankrupt is still making contributions under an income payments order/agreement, or
- some of the bankrupt's assets have not yet been sold.

On discharge, the bankrupt is released from bankruptcy restrictions (see below) and from most of the debts they owed at the date the bankruptcy order was made. The debts a discharged bankrupt is not freed from include:

- any court fines or debts arising from fraud or certain other crimes,
- money owed under family proceedings (maintenance and lumpsum settlements),
- damages payable to anyone for personal injuries,
- debts incurred after the date of the bankruptcy order,
- and all outstanding student loans.

It is important to note that discharge does not return ownership or control of assets to the bankrupt or prevent the trustee from carrying out any remaining functions in relation to the bankrupt's estate. Even after the bankrupt has been discharged, there may be assets which the trustee has not yet dealt with (for example, shares, insurance policies, the family home or other property). These assets remain under the control of the trustee, who can deal with them in the future (see **Box 4** below). In practice, it may be some time after the bankrupt's discharge before all assets are dealt with. The only exception is the trustee's ability to deal with the family home; the [EA 2002](#) imposes a limitation period on the trustee's ability to deal with this asset (see **section 4.2** above).

Box 4: What happens to the bankrupt's assets after discharge?

- Assets that are part of the bankruptcy stay under the trustee's control when the bankruptcy ends. It can take time for all assets to be dealt with.
- The bankrupt must keep making any payments agreed under an Income Payments Agreement (IPA) or an Income Payments Order (IPO).

If the bankrupt's interest in the family home has not been dealt with 3 years after the date of the bankruptcy order, the interest may be given back to him/her. In which case, the Land Registry will be notified by the trustee that the property no longer forms part of the bankruptcy estate and all restrictions can be removed.

It is important to note that even after discharge, the bankrupt has a continuing obligation to attend on and provide information to the trustee if required to do so. However, the trustee cannot lay claim to any property the bankrupt acquires after his/her discharge.

Within 3 months of their discharge, the bankrupt's details should be removed from the [Individual Insolvency Register](#). However, it is not the responsibility of the trustee in bankruptcy to tell the credit agencies when a bankruptcy ends. The bankrupt may need to ask the credit reference agencies to update their records to include details of the discharge.

A serious disadvantage of bankruptcy is that it may be difficult for the discharged bankrupt to obtain credit in the future. A **bankruptcy entry will remain on the individual's credit reference file for 6 years** from the date of the bankruptcy order.

5.2

Bankruptcy restrictions

Once a bankruptcy order has been made, the bankrupt has certain restrictions placed on his or her actions and conduct. In brief, the bankrupt cannot:

- borrow more than £500 without telling the lender that he or she is bankrupt
- act as a director of a company or be involved in the formation, management or promotion of a company without the court's permission

- carry on business in a name or trading style different to the one under which he or she was made bankrupt
- be a trustee of a charity
- work as an insolvency practitioner
- sit or vote in the House of commons or the House of Lords
- be a school governor
- be a solicitor or accountant

These restrictions on the bankrupt end when the bankruptcy ends (i.e., on discharge after one year). However, the official receiver can apply to the court to extend the duration of these restrictions.

Bankruptcy Restriction Orders & undertakings

If, during the investigations into the bankrupt's affairs, the official receiver decides that there is evidence of dishonesty either before or during the bankruptcy or that the bankrupt is otherwise to blame for his/her position, they may apply to the court for a **Bankruptcy Restrictions Order** (BRO). Under a BRO, the bankrupt continues to be subject to bankruptcy restrictions for any period between 2 and 15 years. Instead of a BRO, the bankrupt may agree to a **Bankruptcy Restrictions Undertaking** (BRU), this has the same effect as an order, but the matter does not go to court.

5.3 Debts incurred after the bankruptcy

Bankruptcy deals with a person's debts as at the date of the bankruptcy order. If the bankrupt builds-up new debts during the bankruptcy period or after their discharge, this could result in:

- a further bankruptcy order; and/or
- prosecution if, when the debts were incurred, he/she did not disclose the fact that they were bankrupt to the creditor.

6 Cancelling a bankruptcy (annulment)

The bankrupt may be able to apply to the court to have their bankruptcy cancelled (annulled) if:

- the bankruptcy order shouldn't have been made; or
- their debts and all bankruptcy fees have been paid or secured (guaranteed); or
- they have entered into an Individual Voluntary Arrangement (IVA) with their creditors to pay all or part of their debts.

To avoid bankruptcy, a debtor can propose an IVA before or after a bankruptcy order has been made. An IVA is a binding agreement between the debtor and their creditors to pay all or part of what is owed to them.

Assuming an annulment is made, the individual concerned will return to their pre-bankruptcy status. Any sale of property and assets will remain valid, but any unsold assets will be returned. Importantly, he/she will have to pay any debts not paid in their bankruptcy. Evidence of the bankruptcy will be removed from the [Individual Insolvency Register](#). If an IVA has been agreed, details of this will appear on the register instead.

As a precaution, the person concerned should also apply to both the [Land Charges](#) and [Land Registry](#) to have any bankruptcy entry removed from any properties they still own after paying their debts. If they fail to do this, the entries will remain for 5 years.

7

Where to go for help

A person in financial difficulty should seek proper financial advice as a matter of urgency. The following organisations all offer free and confidential debt advice.

Citizens Advice

Citizens Advice has published online various [guidance notes](#) on dealing with debt, including “[Help with debt](#)”. Local Citizen’s Advice bureaux (CABs) can also help people in financial difficulty, giving face-to-face debt advice. The [Citizens Advice website](#) contains a search tool to help people find their nearest CAB.

National Debtline

Free and confidential advice is available from [National Debtline](#) on 0808 808 4000. This debt charity also offers an [online web chat](#).

StepChange

[StepChange](#), a debt advice charity, offer a free [helpline for advice](#) on debt management. They also offer an [online web chat](#).

Money Helper (previously the Money Advice Service (MAS))

Money Helper can also put a person in touch with a trained debt adviser. Its [website provides information](#).

8 Review of bankruptcy law

On 5 July 2022, the Insolvency Service launched a [call for evidence](#)¹⁵ seeking stakeholders' views on the personal insolvency framework and whether it still serves the needs of debtors and creditors.¹⁶ The Government believes that a review of the personal insolvency framework is needed to ensure it is “flexible, proportionate and meets the needs of the modern economy”.¹⁷ The call for evidence will cover England and Wales.

As outlined in the consultation document, historically, personal insolvency was for individuals running a business, but the framework now primarily serves consumer and household debt cases, with many insolvencies initiated to provide debt relief to people with low incomes and few assets.¹⁸ For the Insolvency Service, this changing landscape presents new challenges and a need for reform:

The current framework is based on recommendations made over 40 years ago. While the framework has been added to on an ad hoc basis over the years, there has been no wider consideration of the regime. In response to a previous consultation on personal insolvency matters, stakeholders called for a full review of the insolvency framework, which Government agreed, starting with a call for evidence.¹⁹

In recent decades there have been amendments to the regime, notably the introduction of Debt Relief Orders (DROs) in 2009, but there has been no substantive review of the entire personal insolvency regime. Many respondents to the January 2021 public consultation, on changes to the DRO monetary eligibility limits, called for a wholesale review of the personal insolvency framework.²⁰ This call for evidence was launched in response.

¹⁵ The Insolvency Service, [Call for evidence: Review of the personal insolvency framework](#) (PDF), 5 July 2022

¹⁶ The last major review of personal insolvency was carried out in 1982, by “The Review Committee on Insolvency Law and Practice”, chaired by Sir Kenneth Cork and commonly referred to as the “Cork Committee”. The focus of the Committee’s reforms was on modernisation and liberalisation. Many of the recommendations of the Cork Report were developed into the Insolvency Act 1986.

¹⁷ The Insolvency Service, [Open consultation - Call for Evidence: Review of the personal insolvency framework](#) (PDF), 5 July 2022

¹⁸ Ibid

¹⁹ The Insolvency Service, [Call for evidence: Review of the personal insolvency framework](#) (PDF), 5 July 2022

²⁰ The Insolvency Service, [Consultation outcome - Summary of responses and Government response](#) (PDF), 9 June 2021

The present call for evidence seeks views on:

- **The purpose of the framework.** What should be the objectives for a modern insolvency framework and where should the balance fall in providing debtors with a fresh start or ensuring returns to creditors?
- **Fees and funding.** How should insolvency solutions be paid for, what are the wider consequential costs of insolvency, and is the current burden of costs apportioned fairly?
- **The current procedures within the personal insolvency framework (bankruptcy, Individual Voluntary Arrangements, Debt Relief Orders) and how they are working.** It asks whether there are underlying areas of concern about the framework. Specifically, what motivates debtors to seek one insolvency solution over another, are there barriers to entry to certain insolvency solutions, and is the framework sufficiently flexible and does it provide the right sort of insolvency solutions for the modern day?

The consultation closes on **24 October 2022**. The Insolvency Service wants to hear views from individuals who have considered or been subject to a personal insolvency procedure, creditors and their representatives, debt advisers and charities, insolvency office holders, insolvency regulators, academics and any other interested parties.

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