

Bankruptcy Pros + Cons

Bankruptcy is a formal insolvency procedure in which all your financial affairs are taken under the control of an “Official Receiver” or a “Trustee”, who has the power to sell your assets to pay your creditors. The duty of the Official Receiver and Trustee is to investigate and realise assets for the benefit of your creditors. The Insolvency Service states that you should check if there are other ways you can deal with your debts before you apply for bankruptcy.

Pros

- Bankruptcy is a relatively quick process, often lasting 12 months.
- When the bankruptcy order is made interest and charges on included debts will be frozen.
- Creditor collection activity will cease once a bankruptcy order is made. Until such time if you currently have any recovery or legal action this may not be suspended or withdrawn. If legal action starts to recover debts prior to the commencement of bankruptcy this may result in further cost to you.
- Outstanding personal tax liabilities can be included in a bankruptcy.

Things to consider

- An upfront payment of £655 (for Northern Ireland £647) is required in order to access the solution. Further fees are payable and are taken from funds recovered for creditors. You will not be asked to pay anything further; the fees will be taken from any sale proceeds and/or payments you make to your Official Receiver or Trustee.
- You may be required to make a payment into the bankruptcy for 36 months. If your sole source of income is state benefits it is unlikely you will be required to make a monthly payment based on Insolvency Service guidance.
- The official receiver may decide to take your monthly payments through an ‘attachment of earnings’, which comes straight out of your wages. Your employer would therefore be aware of your bankruptcy.
- You stand to lose any assets other than those which are essential to your domestic needs, tools of the trade, and vehicles that you need in order for you to do your job. The main effect of this is that if you are a homeowner and there is equity in your property, you could be forced to sell your property.
- If you do not have any assets, or only those essential to your domestic needs, tools of the trade, and vehicles that you need in order for you to do your job, the impact of this risk may be significantly reduced or not applicable to you.
- Bankruptcy restrictions preclude you from becoming, or continuing, as a Company Director, becoming a Member of Parliament (MP) Insolvency Practitioner (IP) or a Magistrate (JP).
- Bankruptcy may impact your employment; we always recommend checking your employment contract, especially within the Civil Service or Financial Services. If you have concerns regarding the specifics of your employment contract please seek independent advice on this matter.
- If you are self employed you will not be able to trade in any other name whilst an undischarged bankrupt without permission.
- Bankruptcy is a matter of public record - details of your bankruptcy are listed on the Insolvency Service website, which the public can access.
- Your credit rating will be negatively affected for 6 years following the making of the bankruptcy order.
- You will have limited access to credit until you are discharged from bankruptcy, which could mean that you pay higher rates of interest until your credit rating is restored.
- You must co-operate with decisions made by the court or your Official Receiver/Trustee.
- If you are in arrears, the utility providers will be notified of your bankruptcy and you will need to set up a new account. The gas, electricity and telephone contracts may need to be put into the name of another adult that lives with you. If you live alone, you may be required to change these services to a prepayment system.
- If it is determined that you have acted recklessly or dishonestly, this could result in a restriction order/undertaking or delay your discharge from bankruptcy.
- You should expect to lose the use of your personal bank account and be required to open a ‘basic’ bank account with no overdraft and very limited other facilities. This means that direct debits will be restricted and therefore access to cheaper utility tariffs, typically available when paying by direct debit.
- There are risks of failing to continue to pay priority bills which could result in loss of access to essential goods or services or repossession of, or eviction from, your home. A list of these bills and potential consequences of non payment is given below:

Priority Bill Type	What if you don't pay?
Mortgage or secured loan	Lose your home
Rent	Lose your home
Council Tax	Visit from Bailiff, money taken from wages, imprisonment, bankruptcy, debt secured against your home (homeowners only), money taken from benefits
Child maintenance	Visit from Bailiff, money taken from wages, imprisonment, money taken from benefits
TV licence	Fine
Magistrate's Court fine	Visit from Bailiff, money taken from wages, imprisonment, money taken from benefits
Tax, VAT or National Insurance	Visit from Bailiff, money taken from wages, bankruptcy, County Court judgment (CCJ)
County Court judgment	Visit from Bailiff, money taken from wages, debt secured against your home (homeowners only)
Gas or electricity	Disconnection, County Court judgment (CCJ), money taken from benefits
Water	County Court judgment (CCJ), money taken from benefits
Hire purchase or logbook loan	Lose your goods, County Court judgment (CCJ)
Telephone	Disconnection, County Court judgment (CCJ)

- There are potential consequences of not continuing to make repayments under credit agreements or consumer hire agreements. This could include County Court judgements (CCJ), a visit from bailiffs, money taken from your wages or benefits, debt secured against your home (homeowners only) or a creditor petitioning for your bankruptcy (if you owe more than £5,000 to a single creditor).
- You should not ignore correspondence or other contact from lenders, and those acting on behalf of lenders, as this may result in the consequences listed above or lead to you incurring further costs.