

## Debt Management Plans

If you are having difficulty keeping up with your debts (such as loans, credit cards, overdrafts etc) and find your monthly payments too much to manage and need some help, then a Debt Management Plan may be a good solution for you.

This factsheet outlines some of the key information of a Debt Management Plan in order to give you an idea if it is the best solution for you.

### What is a Debt Management Plan?

A Debt Management Plan is an informal Debt Solution that allows you pay back your debts to creditors with a lower, more affordable monthly payment that you can afford.

Because the plan is informal, it is also flexible. You can opt out of it at any time, so it can be treated as a temporary debt solution, until finances improve, or you can maintain it for a longer period of time, even until your debts are fully repaid

### How do I set up a Debt Management Plan?

You can arrange a debt management plan yourself or you can go with an appropriate Debt Management Company who will be responsible for dealing with all creditors, correspondence and payments on your behalf. A good Debt Management Company can negotiate with creditors to get your interest and charges frozen.

### The criteria for a debt management plan

- » Your debts must amount to £5,000 or more
- » You must have atleast two or more debts with one or more creditors
- » You must have an available amount of atleast £100 per month aside from general household expenses, but excluding your current debt payments.

### Benefits of a Debt Management Plan

- » A Debt Management Plan is an Informal agreement that can be stopped at any time as your circumstances change (for better or worse)

- » Interest & Charges could be frozen if creditors agree
- » Creditor pressure eased as they deal with us
- » 1 easy monthly payment to cover all unsecured debts
- » A debt management company will negotiate with creditors on your behalf, so offers are more likely to be accepted and interest frozen than if you try to do this yourself
- » A debt management company will help you prepare your plan, including agreeing the level of your household and personal spending based on guidelines, which can then be used to put your case to the creditors

### Disadvantages of a Debt Management Plan

- » Can remain on credit file for sometime after completion if a default notice has been issued
- » If your creditors refuse to freeze or reduce interest this can lead to increased debt level as repayments are less than original contractual payments. Any further collection actions may incur costs that will normally be added to the debt
- » Debts will be repaid over a longer period of time than if contractual payments were made
- » You will repay debts until they are paid in full
- » Repaying debt over a longer period may increase the total amount to be repaid
- » Your ability to obtain credit will be affected in the short term and might be affected in the medium to long term

If you want to discuss Debt Management with our team at Business Debt Advice, we will determine if it is the most suitable debt solution for your circumstances. We will analyse your information and determine what your optimum monthly payment would be. If you are happy to proceed we will begin negotiating with your creditors.

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## Procedures for Presenting a Winding-up Petition

relating to the debt and the demand for repayment. If repayment was sought by letter then the petitioner needs to state what the debt was for, the amount demanded and the date of the letter. If repayment was sought by invoice then the petitioner needs to state what the debt was for, the amount demanded and the date of the invoice.

If the petitioner obtained a court judgment in respect of the debt then the petitioner needs to state the amount of the judgment, the costs obtained, any further interest claimed, the date of the judgment, the court where the judgment was made and the case number.

If the petitioner sought repayment of the money by making a statutory demand, then the petitioner needs to state the amount demanded and the date that the statutory demand was served on the registered office of the company. At least three weeks must have elapsed since service and the debt must be more than £750.

In all cases the petitioner should state that the company has not paid the debt or a specified part of it and that they believe that the company is insolvent and unable to pay its debts.

If the company has been dissolved that should also be stated along with the date it was struck off and the petitioner will need to ask the court to restore the company to the Register of Companies before making the winding-up order. Such restoration requires the consent of the Registrar of Companies and the Treasury Solicitor (BV). For more information look up: <http://www.bonavacantia.gov.uk>

Form 4.2 also requires a statement about whether the EC Regulation on Insolvency Proceedings 2000 does or does not apply and if it does whether the proceedings will be 'main', 'secondary', or 'territorial'. The EC regulation applies to companies registered in England and Wales and mainly carrying out business there and the proceedings will be main proceedings. The petitioner should obtain advice if circumstances differ from these.

### Serving the winding-up petition

The petition must be served at the address shown at Companies House as being the registered office of the company in any of the following ways:

- » hand the petition to a person who there and then acknowledges themselves to be a director or other officer or

employee of the company or to be authorised to accept service on behalf of the company;

- » hand the petition to a person who, to the best of the server's knowledge, is a director or other officer or employee of the company;

If there is no such person at the registered office, then the following methods of service are acceptable:

- » placing the petition in the letter box;
- » placing the petition on a table, desk, chair, floor or radiator;
- » placing the petition on the reception's desk;
- » fixing the petition securely to the front door - the server in this instance must state in the witness statement the method by which the petition was fixed.

### Providing evidence of service of the winding-up petition

It is usual to employ a process server to provide proof of service. If unable to serve the petition in any of the ways described above, the petitioner must apply to the court for leave to serve by some other means e.g. by post to a director at his last-known address. Court staff can advise on how to make such an application.

Where the company has been dissolved the additional copy of the petition should be served on the Treasury Solicitor for his consent to be obtained. Immediately after the petition has been served on the company the petitioner must file a certificate of service with the court using form 4.4 or, if unable to serve the petition at the registered office, form 4.5. A statement of truth stating how the petition was served together with a copy of the petition attached should be filed at court at least five business days before the hearing.

### Advertising the winding-up petition

The petitioner must advertise the petition in the London Gazette no sooner than seven business days after the petition was served on the company and no later than seven business days before the date of the winding up hearing. The advertisement (form 4.6) must show the date of the petition hearing and the petitioner's name and address, inviting others to contact the petitioner if they wish to support or oppose the petition.

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## Certifying compliance

The petitioner must file a certificate of compliance (form 4.7) with the court at least five business days before the hearing and have attached to it a photocopy of the full page of the London Gazette containing the advertisement of the petition. The petitioner must also file the list of persons intending to appear at the hearing (form 4.10) with the court by 4.30 p.m. on the day before the hearing, this list being compiled based on notifications received by the petitioner (form 4.9).

## Withdrawal of the petition

If the petitioner wishes to withdraw the petition where for example the company pays the debt, there is a procedure for this which can be advised by court staff depending on the stage that the petition has reached.

## Opposing the petition

If the company wishes to oppose the petition, it must file its statement of truth with the court at least five business days before the hearing.

## What happens at the hearing of the winding-up petition and after an order is made

See our fact sheet **The Winding-up Hearing and its Aftermath** for details of what happens at the hearing and after a winding-up order is made.

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