



## Dealing with debt (April 2008)

Ref IS/23

This information sheet is aimed at people over 60 and refers to the situation in England and Wales. Those living in Scotland or Northern Ireland may wish to contact:

**The Scottish Helpline for Older People – Age Concern**

**Scotland**, tel: 0845 125 9732 (local call rates) Monday to Friday, 10am – 4pm; website: [www.ageconcernscotland.org.uk](http://www.ageconcernscotland.org.uk);

**Age Concern Cymru**, Units 13 & 14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ, tel: 029 2043 1555 (national call rate); website: [www.accymru.org.uk](http://www.accymru.org.uk);

**Age Concern Northern Ireland**, 3 Lower Crescent, Belfast BT7 1NR, tel: 028 9032 5055 (national call rate) Monday to Friday, 10am – 12pm and 2pm - 4pm; website: [www.ageconcernni.org](http://www.ageconcernni.org).

*Brief guidance is given about possible action you can take to deal with debts. If your debt problems are complex it is probably best to seek independent money advice from one of the organisations listed at the end of this sheet. The law in Scotland and Northern Ireland is different – contact a local advice agency if you live in these areas.*

## **How do people get into debt?**

Inadequate pension provision and changes in circumstances, such as retirement, illness and disability, divorce and bereavement can all contribute to debt problems in retirement.

People who have relied on credit cards while they are working may experience a large drop in income when they retire but still have outstanding balances on their accounts and/or continue to use the cards.

Many older people get into debt because they need to use credit to buy essential household goods - such as furniture and clothing – and their income is too low to buy replacements. The cost of credit is often higher for people on a low income because they cannot access the best deals and may be paying very high interest to money-lenders or loan sharks.

If you owe money you are not alone. In 2001 the Citizens Advice Bureaux dealt with over one million debt problems.

But over the last 20 years or so attitudes to credit and debt have changed enormously. Banks and other financial institutions are now much more aware of the causes of debt, understand priorities and are more willing to negotiate when people are in difficulty. So don't ignore the problem; contact those you owe money to as soon as you can, most companies will be helpful.

If you are finding it a constant struggle juggling payments of bills there are many organisations that can help you. Some of these are listed at the end of this sheet.

Don't be panicked into taking out new loans to pay off debts. There are many companies offering 'consolidating loans' to help pay off debts but this can often make the situation worse. Many of these loans are 'secured' which means you could lose your home if you don't keep up with the re-payments. Don't allow creditors to harass you. You have rights – get help and advice.

If you owe money to quite a lot of different creditors it would probably be best to make an appointment with a specialist money advisor. Many people feel ashamed, depressed or guilty about their debts and coping with these emotions while trying to negotiate with creditors can be difficult. An independent, non-judgemental advisor should be able to take some of the pressure off and help you sort out your problems in a practical way. Contact one of the organisations listed at the end of this sheet.

## **Increasing your income**

Sometimes people are in debt because they are not claiming all the money they are entitled to. (At the end of this information sheet you will find a list of factsheets which may help you to work out what you could claim). See whether you can increase your income by, for example:

- checking with your local tax office that you have the right tax code and are not paying too much tax
- checking entitlement to benefits such as Pension Credit, Housing and Council Tax Benefit, Attendance Allowance, Disability Living Allowance, Carer's Allowance
- checking to see whether you qualify for a Council Tax discount and/or the Disability Reduction Scheme for Council Tax
- if you have grown up children living with you make sure they are paying enough towards household expenses
- check to see whether you can get an energy efficiency Government grant which could help to cut heating costs – see Age Concern's Factsheet 1 *Help with heating*
- if you are a home owner you may want to consider releasing some equity from your home (but seek independent financial advice before doing so – see Age Concern's Factsheet 12 *Raising Income or capital from your home*)
- asking for help from charities (see Charity Search details at the end of this Information Sheet)

## Priority debts and emergencies

Some debts are much more important to deal with than others because of what can happen if you don't deal with them. Keeping a roof over your head, keeping warm and having enough to eat are much more important than paying a credit card bill. But it is easy to be panicked into paying a debt like this if you have been sent a threatening letter or a court summons. If you receive one of these and you also have priority debts like those below get advice.

This is a list of the worst things that can happen if priority debts are not sorted out but, with help and advice, these matters can be sorted out well before these stages are reached.

<b>PRIORITY DEBTS</b>	<b>ACTION AVAILABLE</b>
Rent/Mortgage/Secured loan arrears	Eviction from your home
Fuel debt	Supply cut-off
Council tax arrears	Bailiffs/imprisonment
Magistrate Court fines	Bailiffs/imprisonment
Income tax/National Insurance & VAT arrears	Bailiffs/bankruptcy
Maintenance	Bailiffs/imprisonment
Hire Purchase	Repossession of goods

You (or your advisor) will need to make offers of repayment to these 'priority creditors' before you deal with any other debts.

## Non-priority debts

These are credit debts – for example – arrears on bank loans, overdrafts, credit cards, catalogues, charge cards (eg: American Express) personal debts to friends/family. Apart from the personal debts, if you don't pay these types of creditors they can eventually take action in the County Court which is a 'civil' court and does not normally deal with 'criminal matters'. If you don't keep up with payments on a County Court Judgement the creditor can use bailiffs but you can always go back to the court if you are having difficulty paying as described below.

## Holding letters

While your priority debts are being sorted out you (or your advisor) should write to all the remaining creditors asking them to freeze interest on your accounts and provide you with an up-to-date balance. Usually this gives you about a month's breathing space to sort things out. **Keep copies of all your letters and make a note of any phone conversations.**

## Financial Statements

All the companies you owe money to will expect you to draw up a financial statement showing how much income you have and how much you need to spend on everyday living costs. It is important to get a realistic picture of everything you spend money on so include reasonable amounts for cigarettes, alcohol, pet costs and money set aside for birthdays, entertainment etc. The statement should show how much (if any) money you have left over (after you have dealt with your Priority debts). Any remaining money is then divided up between creditors on a pro-rata basis. *(If you are going to deal with your debts on your own it would be useful to get hold of a self-help pack from National Debtline – listed below - which includes a blank financial statement and details about how to do the pro-rata calculation)* It is important to include all the people you owe money to. If you leave one out, the other creditors may not accept the offers.

Don't offer more than you can really afford because you won't be able to stick to the arrangement

Once you have worked out what you can afford to pay, send the statement off to your creditors. If you are on a very low income you may not have anything left over to offer. Send the statement anyway. Debts can be written-off when creditors realize that it would be costly and pointless to pursue them, but you may need an advisor to help you negotiate this.

If you have multiple debts it is probably best to get independent help and advice to draw up this statement.

## What if my creditors take court action?

Many people are frightened of the courts especially when they feel guilty because they owe money. But the County Court is not there to judge anyone guilty or innocent, but to settle disputes about money owed, and how to repay it. The Court is not there to serve the interests of creditors alone.

If a creditor decides to take action against you in the County Court you will receive a Claim Form from the Court. You will not usually have to go to a hearing. Most of the procedure is done through the post. You have to reply to the claim within a certain time limit. It is very important to fill in the reply form making your offer of repayment, including a copy of your financial statement. This is because the Court decides how much you owe and at what rate you can afford to pay – **but only if you explain your circumstances**. If you don't reply the Court will usually give the creditor the amount they are requesting. If you want to dispute the claim or cannot afford to make an offer get advice and help from one of the organisations listed at the end of this information sheet.

If you need to attend the County Court don't worry – sometimes going to court can help because the District Judge will take into account other debts and expenditure and suggest a repayment figure that you can afford. Interest will be stopped and, if you stick to the payment plan, this should stop creditors from pursuing you for the debt.

Unfortunately having a County Court Judgement against you may make it difficult to get credit in future.

These cases are not heard in open court with all the wigs and costumes associated. Instead they are normally heard in a room (called Chambers) with you, your advisor if you have one, and the District Judge, and sometimes a solicitor acting for the creditor.

There are many different ways that the court can deal with debts and we cannot list them all in this paper. The court staff are usually very helpful and will guide you. Again it may be best to see an experienced independent money advisor who is familiar with all the processes and procedures.

If you need to attend a Magistrates Court, for example for Council Tax arrears, get advice.

## Debt Collectors

Some companies use private debt collection agencies. If debt collectors call at your home you don't have to let them in. If they harass you contact your local council's Trading Standards department. There are very firm rules about what they can and cannot do and 'harassment' is a criminal offence. Examples of harassment include calling repeatedly at anti-social hours and calling on neighbours.

## Bailiffs

If payments are not kept up after a court judgement creditors may use bailiffs to try to get payments of debt. They ask the court to issue a '*warrant of execution*' which means that bailiffs will visit your home and try to take goods unless payment is made. It can be frightening to receive one of these warrants but don't worry, this is not as bad as it sounds – ***bailiffs cannot break into your home and you are not under any legal obligation to let them in*** (they sometimes say that you have to let them in but this is not true!) Just talk to them through a closed door or window and say you will be getting advice.

The first time bailiffs come to your home they must enter peacefully. This means they can only enter if you let them in or if you leave a door or window open. If they do get in they will make a list of your goods (this is called *Walking Possession*) and ask you to sign it. If matters are not sorted out they can make a second visit to take the goods. If the bailiffs do get in and you sign the *Walking Possession* order, they can force entry on the second visit.

All this sounds very worrying but be reassured – in practice it happens very rarely and there is a lot you can do.

The best ways to deal with County Court bailiffs is firstly to not let them in and secondly apply to suspend the *Warrant of Execution*. Go along to the court and fill in a form called N245, take a copy of your financial statement to show what, if anything you are able to offer as a repayment. Even if the creditor thinks the offer is too small the Court can decide that this is what you should pay.

Private bailiffs are used by the Magistrates Court to collect fines and Council Tax owed after a Liability Order is made – they also do not have the right to force entry into your home.

### **Money owed when someone dies**

Some creditors may try to persuade the widow or widower of the borrower that they are liable for the outstanding debt. Usually, if the person dies with no assets, leaving debts, there is no liability for the widow/widower to pay unless there was, for example, a joint account of some sort.

If there was money in the estate then debts will be paid from it. But if there is not enough money the creditors should write the debts off.

### **Debt adjustment/negotiation firms**

These companies have increased in recent years. You may see adverts for them in newspapers, on television and on the Internet. Some of these companies may also try to offer you a loan. They may seem attractive at first because you don't have to pay an upfront fee. Usually they offer to help in return for a percentage of the amount you pay the creditors.

Some creditors refuse to deal with fee-charging debt negotiating companies, arguing that you can get free advice elsewhere. As there is a lot of free Money Advice/Debt Counselling around it may be best to avoid these firms.

## Where to get free help and advice

**Age Concern.** Some local Age Concern groups may be able to offer help claiming benefits and with debt advice – you can find your nearest group by phoning 0800 00 99 66 or on [www.ageconcern.org.uk](http://www.ageconcern.org.uk)

**National Debtline**, Tricorn House, 51-53 Hagley Road, Edgbaston, Birmingham B16 8TP. Tel: 0808 808 4000 (free call); fax: 0121 410 6230; website: [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk). A national helpline for people with debts, giving self-help advice, counselling and support over the telephone. Free information packs are available.

**Citizens Advice Bureaux (CAB).** You can find your nearest CAB in the phone book, from your local library or on [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk). Most CABx will be able to offer free advice on debt problems, either by phone or in person.

**Community Legal Service (CLS)** has a directory of providers of advice including specialist money advice services. CLS can be contacted by phoning 0845 345 4345 (local call rate) or on [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

**Advice UK**, 12th floor, New London Bridge House, 25 London Bridge Street, London SE1 9SG. Tel: 020 7407 4070; website: [www.adviceuk.org.uk](http://www.adviceuk.org.uk) – has members who are advice agencies – telephone for your nearest provider.

**Consumer Credit Counselling Service**, 9th floor, Wade House, Merrion Centre, Leeds LS2 8NG. Tel: 0800 138 1111 (free call); website: [www.cccs.co.uk](http://www.cccs.co.uk). A charity with ten regional offices who give counselling sessions (lasting about 2 hours) in person or by phone. Some people can be put on a repayment plan (called a Debt Management Plan).

**Charity Search**, 25 Portview Road, Avonmouth, Bristol BS11 9LD. Tel: 0117 982 4060; fax: 0117 982 2846. A free service set up to help older people in financial difficulty. Signpost to charities who might be willing to help.

## Age Concern Factsheets

A list of relevant factsheets is outlined below. Free copies (up to a maximum of 5) can be ordered by writing to Age Concern Information Line, Linhay House, Ashburton, Devon TG13 7UP or by phoning 0800 00 99 66 (free call). These are also available on our website at [www.ageconcern.org.uk](http://www.ageconcern.org.uk) under 'Information & Advice'.

Factsheet 1	<i>Help with heating</i>
Factsheet 12	<i>Raising Income or capital from your home</i>
Factsheet 15	<i>Income tax</i>
Factsheet 17	<i>Housing Benefit and Council Tax Benefit</i>
Factsheet 18	<i>A brief guide to money benefits</i>
Factsheet 19	<i>The State Pension</i>
Factsheet 21	<i>The Council Tax</i>
Factsheet 34	<i>Attendance Allowance and Disability Living Allowance</i>
Factsheet 48	<i>Pension Credit</i>
Factsheet 49	<i>Help from the Social Fund</i>

If you would like to receive this information in large print phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

Find out more about Age Concern England online at [www.ageconcern.org.uk](http://www.ageconcern.org.uk)

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