

PERSONAL DEBT SOLUTIONS

GIVING THE RIGHT ADVICE

Dunedin Advisory offers a range of services to assist individuals and partnerships with financial difficulties including formal and non-formal debt solutions. We work with individuals and business owners who face financial pressure often working alongside money advisers, banks, solicitors and accountants.

HOW CAN WE HELP

Our advice is tailored to an individual's own circumstances. At the outset we will consider what solutions are available that could avoid an insolvency process. This can include:

- Arranging a moratorium (breathing space) that stops creditors taking new legal action.
- A debt payment plan under the Debt Arrangement Scheme 'DAS'.

This allows an individual or partnership to come to an arrangement with creditors to pay them back in full in a reasonable timescale, based on what the individual or business can afford. Interest and charges are frozen at the time the DAS is accepted with repayment of the principal sum only.

- Negotiations with creditors to pay a percentage of the debts payable in full and final settlement.

Where informal negotiations and settlement with creditors are not possible then a formal insolvency procedure may be necessary. Individuals entering these procedures are referred to as the "debtor".

PROTECTED TRUST DEED ('PTD')

WHAT IS IT?

A PTD offers an alternative to bankruptcy and is a legally binding agreement with creditors. It usually lasts for 4 years and is available only to debtors residing in Scotland. Under a PTD a Trustee, who must be a licensed Insolvency Practitioner ('IP') will be appointed to deal with the debtor's financial affairs. Our IPs can accept such appointments.

To qualify for a PTD a debtor must have available assets which can include the capacity to make agreed contributions from earnings throughout the duration of the PTD.

HOW CAN WE HELP

We will prepare all the necessary documentation and correspond with creditors on the debtor's behalf to reach agreement with creditors. The PTD must be published in the Register of Insolvencies and details of the debtor's assets, liabilities and current financial position will be sent to creditors. If, within 5 weeks of the advertisement date, the majority of creditors have not objected to the Trust Deed, it will obtain 'Protected' status. This then prevents any creditors taking further legal action. At the outset we will advise of the options should Protected status not be achieved and generally we have an idea from a debtor's circumstances as to whether Protected status is likely.

WHAT HAPPENS WITH HERITABLE PROPERTY AND OTHER ASSETS?

Equity in property will normally be realised for the benefit of creditors. In many cases, agreement can be reached with a third party (such as family or friends) to buy the Trustee's interest in the property. In other cases, it may be possible to undertake a re-mortgage or to extend the term of the PTD such that additional contributions are made to buy out the equity. Occasionally the only option is for the property to be sold.

Other assets, such as motor vehicles, shares, investments, debts due to the debtor, inheritances, antiques, jewellery and claims for damages will be looked at on an individual basis. The debtor will be allowed to retain a motor vehicle if the value is less than £3,000 and tools of trade with value up to £1,000.

DEBTOR OBLIGATION

The main obligation on the debtor is to co-operate with the Trustee. Non-adherence to the terms of a PTD (such as the cessation of contribution payments) will result in the failure of the PTD. This leaves the debtor vulnerable to future action by creditors. In addition, the Trustee may decide to petition for bankruptcy in certain circumstances.

SEQUESTRATION (BANKRUPTCY)

WHAT IS IT?

This is the statutory form of bankruptcy in Scotland and in cases where an individual is able to petition for his or her own sequestration, then such an application is made to the Accountant in Bankruptcy. There are certain restrictions on individuals applying for their own sequestration.

Debtors must be resident in Scotland, owe at least £1,500 and must not have been made bankrupt in the preceding 5 years.

HOW CAN WE HELP

If the criteria is met we can assist the debtor in making an application to the Accountant in Bankruptcy by one of two routes:

Firstly, using the 'apparent insolvency' route where a creditor has taken court action to enforce or demand repayment of a debt due or the debtor has been in a debtor payment programme ('DPP') and the DPP has been revoked.

Secondly, where a debtor can show inability to pay the debts as they fall due, our IP can grant a certificate verifying that this is the case.

WHAT HAPPENS WITH A DEBTOR'S ASSETS?

Assets will be looked at and any equity in property will require to be recovered. Other assets will be looked at on an individual basis as noted in the information on PTDs.

DEBTOR OBLIGATION

Debtors will normally receive a discharge from sequestration after one year meaning they are discharged from their debts included in the sequestration and not under the restrictions placed on an undischarged debtor (ie cannot be a director of a limited company; cannot engage in business unless criteria met; cannot borrow more than £2k). This is not an automatic procedure and can be delayed if the debtor does not co-operate with their Trustee.

If a contribution from earnings can be made this will be assessed throughout the 4 year period and sought for a period of 4 years.

The debtor must cooperate fully with the Trustee and make full disclosure of financial circumstances advising of any substantive changes within the 4 years. As a minimum a statement of income and expenditure requires to be provided to the Trustee each 6 months.

CLIENT TESTIMONIALS

A member of your team assisted our client before her case was submitted to AiB. She was excellent with our client and very empathetic to her situation and we thought her customer service was fantastic

Thank you once again for your thorough and efficient service, I will happily provide a glowing endorsement of you and your business.

Please speak to us if you have the skills and service lines that support our work as Advisors and Insolvency Practitioners. We can help you and your clients assess their situation, explore options and develop solutions.

For more information, please call Christine Convy or Linda Grant.



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