

Worst case scenario: survival guide

IN this the final in my series of articles about how to survive insolvency I explore the more personal side of insolvency with a look at bankruptcy. It is no consolation to anyone facing bankruptcy to know that it's on the increase. According to the Department of Trade and Industry latest statistics, in the last quarter there was an increase of nearly 50% in the number of individual insolvencies, compared to the same period in 2004. The increase in the number of Individual Voluntary Arrangements, an alternative to bankruptcy, is reassuring. This at least suggests that people are trying to sort out their financial problems and avoid bankruptcy.



cranfieldrecovery
LIMITED

Business rescue and personal insolvency specialists

Can bankruptcy be avoided?

It's fair to say that the majority of the bankruptcies reported above relate to consumer debt, where in reality there was no likelihood of ever avoiding bankruptcy, given the individual had overspent and been sucked into the consumer spend and credit culture without recognising the future impact. However a significant number of individuals

that go bankrupt could have avoided or quickly exited from bankruptcy, with the right advice.

Every case is different and it's the uniqueness of each situation that requires the experience of the adviser to formulate a scheme for the benefit of the debtor. One such scheme is known as an Individual Voluntary Arrangement (IVA).

Even if an IVA is not appropriate, bankruptcy doesn't carry the stigma it once did and with an automatic discharge in 12 months for most individuals, it is no longer the 3 year burden of a few years ago.

The key factors in deciding whether there is a real alternative to bankruptcy is whether the debtor has assets that can either be re-mortgaged or sold or has a regular income that generates a surplus after the monthly household bills have been paid.

Bankruptcy is not a soft option

Although it's not always under the control of the debtor the decision to declare oneself bankrupt should not be taken lightly. Clearly bankruptcy has an added impact on credit ratings and the ability to obtain credit at competitive rates. There are a few myths around bankruptcy. For example that a bankrupt cannot obtain credit or hold a bank account. This is untrue, however for credit sought over £500 the debtor is required to declare that they are a bankrupt.

The reduction in the period of bankruptcy has come at a cost. The official receiver or trustee in bankruptcy is now more likely to be looking for voluntary contributions out of future earnings to be made for up to 3 years.

It's worth remembering that student loans are not extinguished on bankruptcy and where there is an existing order for maintenance or a child support act assessment that order or

“A significant number of individuals that go bankrupt could have avoided or quickly exited from bankruptcy, with the right advice”

assessment does not cease to have effect on the making of a bankruptcy order.

Finally, according to the inspector general of the insolvency service, “The screw is tightening on those who have been guilty of misconduct.”

And the future?...

Bankruptcies are likely to continue to increase in the immediate future as consumer debt spirals upwards. It is essential that individuals with financial problems and the professionals advising them understand all the options and avoid the potential pitfalls.

For a free, confidential consultation contact Tony Mitchell at Cranfield Recovery Ltd on 01926 450414 or email: tony.mitchell@cranfieldrecovery.com