

6 - After debt advice - dealing with creditors on your own

Once you have your debts under control, this leaflet will help you to manage your creditors on your own.

Read leaflet '5 – Understanding the process for getting debt advice', to remind yourself about non-priority debts.

Read leaflet '7 – After debt advice – do you need more help?' for guidance on when you may need more professional help.



Creditors your debt adviser tells you are not a priority (known as 'non-priority creditors') don't get a particularly good deal out of the debt-advice process. Remember, they only get their part of what is left over, if anything. As a result:

- they may hope to get more out of you once you no longer have a debt adviser supporting you;
- they may want to try to persuade you that they have more powers than they really have; and
- they may want to review your circumstances very often to find out if there has been any improvement.

So, it is quite likely that you will often receive letters from non-priority creditors.

Main messages

- ✓ If non-priority creditors threaten or take new steps to make you pay:
- ✓ you should not be bullied into paying more than you can afford;
- ✓ you should not be persuaded to treat one non-priority creditor more favourably than the others; and
- ✓ you should not do anything that would put payments to your priorities at risk.

However, when non-priority creditors start court action, start to enforce their powers after taking court action, or serve you with a notice to demand that you pay, you should take this more seriously. Get advice if necessary.

Some of the steps that a non-priority creditor may take, and how you should respond, are set out on the following pages.

Being asked for an update on your circumstances

Provide an update if the creditor asks you to. If there is no change, say so, and offer to continue the existing arrangement. If there is a change in your circumstances, see the following pages which explain what to do in this case.

Being told that the special arrangement has ended

The creditor may tell you that the agreement you made with them (for example, to pay nothing, to pay only token payments or to pay a reduced amount) lasted only for a fixed time and you must now make a larger offer.

This is pressure that you should resist. If your situation has not changed, offer only to continue your existing arrangement. If your situation has changed, read leaflet '7 – After debt advice – do you need more help?' for advice on what to do. If the creditor does not accept your offer to continue the existing arrangement, take whatever reasonable steps you can to try to pay (what you have offered, not what they have asked for).

Being told by a new organisation that it is now instructed to collect the debt

- Deal with the new organisation and stop dealing with the old one.
- Make exactly the same offer, and exactly the same arguments to support your offer, as you would have done with the old organisation.

Some creditors move debts between different organisations quite quickly. You may need to check the amounts involved and the reference numbers to identify which debt you are being asked to pay.

Debt collectors starting to contact or visit you

Debt collectors may phone you or visit you at home.

- Remember that debt collectors are not bailiffs, and that they have no powers to force you to pay money.
- You should not allow the phone calls or visits to persuade you to pay anything more for that particular debt. Stick to whatever you have offered.
- If the phone calls or visits are worrying you because of how often they are made, because of the nature of the threats, or because, for example, you are being contacted at work or in some other public way, this may be classed as harassment. You may need to involve Trading Standards (a part of your local council, which can investigate complaints of harassment by creditors). To find out where your local Trading Standards office is based, go to www.tradingstandards.gov.uk.

Being served with a default notice

This is something that a creditor must do before going to court. It may not be important for the following reasons.

- It may have been produced automatically as part of the process for the creditors to take action against you.
- The creditor may hope it will persuade you to change or improve your offer, but you shouldn't let it persuade you to do these things.
- The creditor may serve you with a default notice but never actually go on to take court action. This is more common than you may expect, and it usually happens if your creditor knows your circumstances and realises that they cannot justify the costs of taking court action against you.

A default notice is certainly not something that should persuade you to do what it asks (for example, to pay a certain amount in full). On the other hand, it is indeed sometimes followed by court action, so you could treat it like a 'letter before action' (see below).

Being sent a letter before action

A 'letter before action' is simply a letter that gives you warning that someone is going to start court action against you. You may get a letter about consumer credit debts, simply as another letter in a series of letters persuading you to pay. You should get them if some other kind of creditor is threatening to take you to court.

You should not be frightened into paying what you cannot afford or paying more than you have offered. But there can be some benefit in replying to the letter.

If this is the case, you can say that:

- you are making regular payments, and that you will continue to do so;
- you believe that what you are paying is the same as what a court would order you to pay; and
- you will be asking the court to make an order to excuse you from paying court because court proceedings were totally unnecessary.

Leaflet '8 – Debt advice – other sources of information' includes details of where you can get self-help guides and sample letters over the internet or by post.

Being sent a solicitors' letter

At some stage, you may receive letters from solicitors acting for the creditors. Just as you have to remember that debt collectors are not bailiffs, you have to remember that the solicitors are not the judge in your case. Solicitors also have no way of making you pay anything other than what you have offered. They may set out what they would ask for if they were to take you to court. But you should remember that the whole process for getting debt advice is based on what a court will actually do.

You should not be pressured into making any payments other than those that you have already offered or agreed.

Being sent a court summons

If a court sends you a document called a summons, it means your creditor has actually taken you to court. At this point, you should act quickly. You should not ignore the summons. This is your opportunity to make your case. You may be:

- disputing that you owe all or part of the money;
- setting out your financial situation and asking the court to confirm what you should carry on paying;
- disputing that you should pay court costs (see 'letters before action' above); or
- making some kind of application to the court to rewrite some terms of the agreement.

If you don't know what you should do with the summons, **get advice** but don't ignore the summons.

If you can't find out what to do in time, read the paperwork carefully and try to follow what it says. It will help you to respond – probably this will be a defence if you think you may have one, or an offer to make the payment in instalments. You can always change your response later.

If you do nothing, the creditor is likely to:

- get a judgement for you to pay the full amount immediately, as soon as your time for responding has ended; and
- start to use other methods of enforcing through the court, such as charging orders, bailiffs, and so on.

Being sent a statutory demand

A statutory demand is a formal notice that a creditor plans to make you bankrupt. There are advantages and disadvantages to being made bankrupt, which are explained briefly in leaflet '5 – Understanding the process for getting debt advice'. Unless you are sure that there is no harm in you being made bankrupt, you should get advice on whether or how you should respond to a statutory notice.

Remember, you can always get more information or support – see leaflet 8 for useful sources of help.

This leaflet is part of a series of eight leaflets.

- 1 – Making money go further
- 2 – Why do I need independent debt advice?
- 3 – How do I get independent debt advice?
- 4 – Preparing for your appointment to get debt advice
- 5 – Understanding the process for getting debt advice
- 6 – After debt advice – dealing with creditors on your own
- 7 – After debt advice – do you need more help?
- 8 – Debt advice – other sources of information

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