



Personal insolvency

The first step

The first step is a completely free and confidential consultation with one of our Insolvency and Recovery experts.

We'll use this time to understand your financial circumstances; where you are now and where you need to be.

After our initial meeting, we'll provide practical, impartial and down-to-earth advice on how to tackle your problems.

How we can help

More than any other process, personal insolvency will affect and include both personal and business assets and liabilities.

If you've been made bankrupt or are simply struggling to manage your current level of debt, we can help by

providing clear advice, guidance and direction as to the most appropriate solution.

There are many reasons why a person may find themselves in financial difficulties and personal insolvency can be a particularly stressful and confusing time.

Your options

Your options will depend on your circumstances and will be specific.

There is a range of personal options available, as detailed in this brochure.

Larking Gowen's insolvency services are supported by a team of Licensed Insolvency Practitioners and a specialist business recovery team.

Our insolvency practitioners specialise in solving personal debt problems.

We can help relieve the pressure and provide you with friendly, impartial and proactive advice.

You'll be guided and supported throughout the process of getting your business back on track, restructuring your debts and negotiating with creditors.



Insolvency & recovery advice

Bankruptcy

Bankruptcy is a formal procedure that can be started by either the individual or a creditor. The Official Receiver is appointed in all cases and, with limited exceptions, all business and personal assets are realised for the benefit of creditors.

Bankruptcy is an opportunity for a fresh start but there are a number of restrictions and statutory costs, particularly in respect of asset realisations. The restrictions often make continuing to trade very difficult and, except with permission of the court, it is not possible to act as a director or to be involved with the promotion, formation or management of any company during the bankruptcy period.

After 12 months, the bankrupt is usually released from bankruptcy restrictions and debts. Assets that were part of the bankruptcy estate during the bankruptcy period will be used to pay creditors.

Individual Voluntary Arrangement

This is a formal agreement between an insolvent individual and their creditors which requires the support of those creditors before it becomes legally binding. It provides greater flexibility and fewer restrictions than bankruptcy. Individuals will usually continue to trade or remain in their current employment and contribute any surplus income into the arrangement for a predetermined period (often five years).

Alternatively, the voluntary arrangements can provide some breathing space whilst assets are sold (ie. properties) or third party funding is obtained and introduced as a lump sum.

Debt Relief Order

A Debt Relief Order is a formal procedure managed by the insolvency service and entered into via an authorised debt advisor. In order to qualify for a Debt Relief Order individuals cannot have debts of more than £30,000, surplus monthly income of more than £75.00 or assets worth more than £2,000. A Debt Relief Order has similar restrictions to bankruptcy.

Informal Arrangement

If there are a number of supportive creditors involved, it can be possible to negotiate an informal settlement agreement with them. The benefit is that this is a low cost option but it can be difficult to implement and does not legally bind creditors who may still take court action.

To reach an informal agreement, an individual must work out a manageable budget to calculate what they can reasonably afford to pay in total towards the combined debts. The proposed repayment plan must be submitted to creditors.

Whilst debts must be paid in full, creditors may agree to freeze interest and charges on the debt. However, this is done at their own discretion and is not guaranteed.

Deceased Insolvent Estates

It is a common misconception that when a person dies, their debts are automatically cleared. Unless an insurance policy is in place to discharge those debts then they must be paid from the estate. Where there are insufficient assets to meet all the debts, the estate is insolvent.

If a person dies after a bankruptcy petition is presented against them, the estate is dealt with as a normal bankruptcy but with some amendments. However, if a person dies before a bankruptcy petition is presented, there are two ways of handling the estate.

The first option is to present a petition for an Insolvency Administration Order. Whilst this route incurs similar costs and charges to a bankruptcy, the advantage is that it enables an appointed trustee to recover any assets that may have recently been transferred out of the deceased person's estate.

The second option is to follow the process contained in Article 4 of the Administration of Insolvent Estates of Deceased Persons Order 1986. This process follows insolvency legislation but avoids the Insolvency Service's charges and should increase any potential returns.

Case studies

Bankruptcy

A bankruptcy order was granted against the individual following the presentation of a petition by HMRC. The individual's only asset was his interest in the family home.

Following Larking Gowen's appointment as trustee in bankruptcy, contact was made with the individual's wife to see if she was in a position to purchase the estate's interest in the property. The wife was able to purchase the interest from third party funding that she had obtained.

There were sufficient funds received to pay the costs of the bankruptcy and creditors in full (including interest) and to pay surplus funds of £23,000 back to the individual.

Individual Voluntary Arrangement

The individual was previously subject to a Voluntary Arrangement, however, when his employment unexpectedly ended, he fell behind with his contributions. Due to the arrears the supervisor of the arrangement petitioned for the individual's bankruptcy and it seemed likely that the family home would need to be sold.

Larking Gowen was contacted to provide advice and, since the individual had obtained a new job, it appeared that the approval of a new voluntary arrangement would offer the best results for creditors and the individual. An arrangement, which proposed to repay creditors 100 pence in the pound over a five-year period, was subsequently approved. This arrangement enabled the individual to annul the bankruptcy and keep his family home. Furthermore, additional payments received also ensured that the arrangement completed in under three years.

Administration of a deceased person's estate

The deceased individual had outstanding unsecured debts in excess of £1 million and assets which included a property, two vehicles, two life insurance policies and cash held in a bank account. The deceased person's family appointed Larking Gowen to help them realise the estate's assets and to distribute these to the unsecured creditors. Since it appeared that no assets had been transferred out of the estate it was considered that the process outlined in Article 4 of the Administration of Insolvent Estates of Deceased Persons Order 1986 should be followed.

Formal notice of our appointment was placed in the London Gazette with a request for creditors to submit their details. Claims against the insurance policies were submitted, the property was marketed for sale, an agent was instructed to sell the two vehicles and the funds held in the bank account were recovered.

Administration costs such as property insurance, funeral costs and ongoing council tax and utilities were paid from estate realisations and as part of the administration of the estate, and claims received from creditors were reviewed.

Unsecured creditors received £388,302 which equated to a return of 36 pence in the pound. If the estate had been dealt with under an Insolvency Administration Order then it is estimated that creditors would have received only 24 pence in the pound.





At Larking Gowen, we have teams of experts, covering a range of industries, whose specialist knowledge can help you make the most of your business.

Whatever the size of your business, we look at each of our clients on an individual basis.

We are a major regional independent partnership and one of the UK's top 40 accountancy firms.

We have offices in Norfolk, Suffolk and Essex, with a combined team of more than 350 people.



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Andrew is a Fellow of the Association of Certified Accountants and a Licensed Insolvency Practitioner. He's spent over 30 years working in insolvency, including 14 years as an Official Receiver. Andrew is a Fellow of the Association of Business Recovery Professionals and a director of the Joint Insolvency Examinations Board.



Lee Green
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Lee has a vast range of experience across all types of formal insolvency work and various business sectors and has been involved in handling deceased insolvent estates. An affiliate member of the ICAEW and a Licensed Insolvency Practitioner, Lee is also a Fellow of the Association of Business Recovery Professionals (R3).

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