

Stage 6:

Dealing with non-priority debts

01

Before dealing with these debts make sure you have dealt with all the priorities listed in Stage 5.

Negotiation with non-priority debts is best done in writing, enclosing a copy of your financial statement. Some creditors send debts to a debt collection agency. If so, write to the agency instead of to the creditor.

What do I do if I'm making offers?

Send a standard letter and copy of your financial statement to each non-priority creditor.

A sample letter is included in this pack.

Each letter should:

- give the relevant account number and/or reference number
- explain any specific reason why you are in financial difficulties, for example unemployment, sickness or relationship breakdown
- ask for further interest and charges to be frozen
- ask for a paying in book or standing order form
- say when the payments will start.

Start making payments as soon as possible. If you don't know how to make payments, phone the creditor and ask.

What do I do if I can't afford to pay anything?

Send a standard letter and copy of your financial statement to each non-priority creditor, explaining there is no money available.

A sample letter is included in this pack.

Each letter should:

- give the relevant account number and/or reference number
- explain any specific reason why you are in financial difficulties, for example unemployment, sickness or relationship breakdown
- explain why you can't afford to make payments now, perhaps a low income and/or high payments to a priority creditor
- say when and why you expect to be able to start payments
- ask the creditor to suspend payments and freeze interest plus charges until that time.

If your financial situation is not likely to improve soon, as you will be on a low income long-term, ask the creditors to write off your debt.

If you have got an overdraft or loan at a bank or building society that your earnings or benefit are paid into, you need to be careful. They can take any money in your account to pay off anything you owe them. Speak to the lender. If they don't agree to your offer, open a new account so that your income can be paid into this. Or you may decide to open a new account and arrange to have your income paid into it before contacting the lender, just in case.

Stage 6:

Dealing with non-priority debts

02

What do I do if a creditor refuses my request?

Write again and ask them to reconsider, mentioning any creditors who have agreed to your request. If you made offers, continue to make your payments. If the creditor is refusing to freeze interest, point out that your offer is based on their freezing interest, otherwise the debt won't reduce. If a creditor persists in saying no, remember that they can do nothing to get their money without first taking court action. Remember also that you worked out your financial statement to offer your creditors as much as you can reasonably afford and to be fair to all creditors. If you now allow one creditor to persuade you to pay more than your offer, you won't have enough money for your expenses and other creditors.

The County Court and non-priority debts

If a non-priority creditor takes legal action because you've fallen behind with payments, it will be through the County Court. Before starting any action the creditor has to send you a default notice. They can then ask the court to issue a claim form, which the court will send to you together with a response pack.

How should I reply to the claim form?

First, read through the claim form, the 'notes for defendant' attached to it and the instructions in the response pack. Also in the pack are:

- a defence and counterclaim form for you to use if you disagree with any part of the claim and/or are claiming money from the other side
- an acknowledgment of service form to use if you want extra time to reply
- an admission form for you to use if you agree that you owe all or some of the money your creditor is claiming.

What if I don't agree that I owe all the money the creditor is claiming?

Get advice as soon as possible. You can use the acknowledgment of service form to give yourself more time to reply.

Stage 6:

Dealing with non-priority debts

03

What if I agree that I owe the money the creditor is claiming?

Read the instructions on the admission form, and fill it in. This is similar to a financial statement and allows you to make an offer and explain your financial situation. If you have a low income you could make a nominal offer of £1 a month. It's a good idea to enclose a copy of your financial statement. Start paying your offer as soon as possible.

An example of a completed admission form is included in this pack.

Your creditor, or their solicitors, will send your admission form on to the court, saying whether or not they accept your offer.

- If the creditor accepts, you simply continue paying
- If the creditor doesn't accept, the court decides how much you should pay based on your financial circumstances. If you are unhappy with the court's decision, ask the court to look at the matter again.

What happens after the judgement?

As long as you keep up to date with payments, the creditor can't take any further action. All County Court judgments are registered with credit reference agencies.

See the section on frequently asked questions.

What about legal costs?

These will be included in the amount of money your creditor claims on the claim form. Further costs could be added only in the unlikely event of there being a court hearing, or if you later don't pay as ordered by the court and your creditor takes further legal action.

What should I do if I can't or didn't pay?

Get a Form N245 (application for suspension of a warrant and/or variation of an order) from the court. The second page is similar to a financial statement. At the end of the form, tick the space to say that you can pay by monthly instalments and enter your offer in the space provided. If you have a low income you could make a nominal offer of £1 a month. It's a good idea to attach a copy of your financial statement. Start paying your offer as soon as possible.

An example of a completed Form N245 is included in this pack.

What happens if I don't do anything?

The creditor can ask the court to make:

A warrant of execution. The creditor asks the court to collect the debt by the court bailiffs.

A charging order. This secures the debt against your home, and could result in you being forced to sell your home.

Get advice

An attachment to earnings order. This means payments can be taken directly from your earnings. If a creditor is asking the court for this, read the information that the court will send you. Then fill in the reply form and return it to the court immediately.

Stage 6:

Dealing with non-priority debts

04

Order to obtain information from judgement debtor

A creditor can request the court to ask you about your financial circumstances. You will be asked to go to your local court. Take a copy of your financial statement, any documents that the court requests and any other proof of your financial circumstances that the court officer might want to see.

Administration order

This allows you to put all your debts together provided:

- they are not more than £5000
- **and** you have at least one County Court judgment.

They can't include mortgage or rent arrears.

Once an administration order is made the creditors included in it can't take further action. You make one payment each month to the court. The court takes a small fee and then the rest is distributed among the creditors.

If you think an administration order may be appropriate in your case, get advice.