





## The content

# Debt Advice Handbook 15th edition

## Description

With living costs and unemployment rising, budgets squeezed and problem debt on the increase, no adviser should be without this essential guide to the practice and process of giving money advice in England and Wales.

Who's this book for?

It is essential for debt advisers, welfare rights advisers, lawyers, local authority and housing association staff, social workers and union official.

What does it do?

The handbook provides the most comprehensive information needed by advisers on the key stages of money advice, including interviewing clients, establishing liability, prioritising debts, preparing a financial statement, negotiating with creditors and dealing with bailiffs. Fully indexed and cross-referenced to law, regulations and official guidance, and to court and tribunal decisions Includes tactical guidance and examples

What's new?

Fully updated to cover all recent changes to legislation, caselaw and court procedure and practice Emphasis is placed on taking due care of vulnerable clients and making sure that any payment arrangements agreed are appropriate. There is a focus on sustainable credit arrangements that do not affect a client's abilities to pay essential living expenses and priority debts.

## Properties

**Author(s):**  
CPAG

**This content was last updated:**  
2025-06-26

**Print publication date**  
Feb, 2024

**Print ISBN**  
978 1 915324 11 5

## 3. Stages of debt advice

Create trust

List creditors and minimise debts

List creditors

Minimise debts

Minimise debts by ceasing to trade

List business income and expenditure

Business income  
Business expenditure  
Maximise income  
Claim welfare benefits  
Draw up a financial statement for a self-employed client  
Sole traders and partners in a business partnership  
Consider any special tax rules that may apply  
Directors of a limited company  
Deal with priority debts  
Services  
Non-domestic rates (business rates)  
Rent arrears (business rent)  
Equipment leases  
Income tax debts  
VAT debts  
Choose a strategy for non-priority debts  
Bankruptcy and individual voluntary arrangements  
Debt relief order

This section highlights factors to consider in the debt advice process, as outlined in Chapter 3, when advising a client who is either running, or has previously run, a business as a sole trader, a partner in a business partnership or a director of a limited company.

## Create trust

Self-employed clients may pose extra challenges for advisers in this area.

Being self-employed often requires independence and self-confidence. This can sometimes make it more difficult for a self-employed client to ask for help because they are usually the person who sorts out any problems. Also, self-employed clients are often emotionally, as well as financially, invested in their business. If the business is struggling, some clients may feel a sense of personal failure. So, in addition to the usual problems that clients face when dealing with debt, these factors can make accepting help and moving forward more difficult.

Some self-employed clients may feel protective of their business and reluctant to share information about the business or its debts. It may help to explain that you are asking for this information to:

- make sure that the client gets the advice they need; *and*
- help the client to get the best outcome for dealing with their situation and protect their

business and assets where possible.

Make sure that a self-employed client is given the appropriate level of responsibility for carrying out tasks needed to deal with their situation. Be aware that some self-employed clients may feel deskilled and disempowered if an adviser takes over simply because they, or their business, is in financial difficulty.

## List creditors and minimise debts

List creditors

Minimise debts

Minimise debts by ceasing to trade

### List creditors

Consider the client's overall situation. Gather information about any personal and business debts for which the client is liable. If the client is a director of a limited company, check whether the client has given any personal guarantees for any limited company debts and whether any guarantees have been called in. Also check whether the client has given an indemnity for any limited company contracts and, if so, whether an indemnity has been triggered.

### Minimise debts

#### Business borrowings secured against a client's home

The security given might not be enforceable if the agreement was entered into as a result of undue influence or misrepresentation by the creditor or another client (see here and here). This may occur if a person, who is not the borrower, is asked to agree to a charge being made on a property that they either jointly own or have an interest in (perhaps because they live with the owner). In one case, it was decided that a charge was not enforceable when a client's wife had signed it but had not been advised to take separate legal advice and had been told that her husband's business would be closed down by the bank if she did not sign. <sup>1</sup> The law is complex in this area. If undue influence or other wrongdoing occurred when the security was signed, get specialist or legal advice.

#### Self-assessment and income tax liability

The payment of tax can use up a substantial proportion of income for some self-employed clients, so it is important to ensure that the client is not paying more tax than they need to. Make

sure that all relevant individual tax allowances, reliefs and expenses that a client and the business can offset against tax are being claimed. If a client is a sole trader or partner in a business partnership and is unsure whether they have considered all the allowances available to them, suggest they look at [gov.uk/expenses-if-youre-self-employed](https://gov.uk/expenses-if-youre-self-employed). You can also signpost to a useful tool at [gov.uk/simplified-expenses-checker](https://gov.uk/simplified-expenses-checker) to check whether simplified expenses could help the business to save on tax. As this can be a complex area, the client may need to speak to their bookkeeper or accountant.

If the client is required to make payments on account for their income tax (see here) and expects that their current year's tax bill will be less than their previous year's bill, the client can ask HMRC if it will agree to reduce this year's payments on account. HMRC will charge the client interest if they reduce their payments on account by too much, so signpost the client to their bookkeeper or accountant for specialist advice before they make the application.

Check whether HMRC has given the client an estimated income tax bill (called a determination) because they failed to submit their return on time (see here). If so, check whether the client is still within time to submit their own return to HMRC and update the amount due. If the client is out of time, but believes that the debt would have been much less if it was based on their actual return, rather than HMRC's estimate, consider whether a claim for 'special relief' may be appropriate. Although this is a difficult test to pass, the special relief rules allow HMRC to reduce the tax owed by the client if it would be 'unconscionable' for them to refuse. <sup>2</sup> Refer the client for specialist help from TaxAid if they have failed to submit tax returns when required to do so.

---

<sup>1</sup> *Royal Bank of Scotland v Etridge* [2001] UKHL 44, reported as [2002] HLR 4

<sup>2</sup> [hmrc.gov.uk/manuals/sacmanual/SACM12215.htm](https://hmrc.gov.uk/manuals/sacmanual/SACM12215.htm)

## Minimise debts by ceasing to trade

If a client is running a business but is seriously in debt, they need to consider whether to cease trading. The client must consider whether the business can improve its situation and trade out of its financial difficulties or, if the situation is unlikely to change, whether trading on will just increase indebtedness. Deciding whether to trade on or close a business is a complex area of advice and help should always be sought from a specialist business adviser, such as Business Debtline or the business's bookkeeper or accountant.

If the client is a director of a limited company, you can advise them that continuing to trade when there is no realistic chance that an insolvent company can trade out of its difficulties could

be deemed a director's offence at a later stage.

If the client is a sole trader or partner in business partnership, assist the client in drawing up a business financial statement. A business financial statement (see [here](#)) is similar to a personal financial statement except that it deals with the income and outgoings of the business.

If the business financial statement shows that nothing is available for the client to take as an income from the business, and the situation is unlikely to change, this usually indicates that trading needs to stop. However, the client must obtain specialist advice before taking such a major step. This is because several issues, such as liability for tax or payments due under a business lease, could make the difference between viability and insolvency.

Self-employed clients also need to look at any assets that are available to the business and consider how this affects the business's viability. The types of assets that a business has varies from business to business. You can help the client to prepare a list of assets.

- Consider the approximate resale value of equipment or machinery. This amount will be different from amounts shown in professionally produced accounts, where the 'book value' may be based on the original cost of an item and its theoretical life.
- Check whether the business has work in hand and consider the contractual status of any agreement. For instance, a painter and decorator may have agreed in the autumn to paint the exterior of an existing customer's house the following spring. If the customer loses their job during the winter, in the absence of any binding agreement, the work may not go ahead.
- Check whether the business has any debts owed to it and assess the likelihood of the business being paid. Draw up a list of payments that the business expects to receive. Consider signposting the client to specialist business advice for information about recovering monies owed to the business.
- Consider the value of vehicles. Items like cars and vans should be valued realistically. There are various used car price guides available online and from newsagents that give a trade price for reasonably modern cars and vans – eg, [parkers.co.uk](http://parkers.co.uk). These can be used as a guide.
- Check whether there is a lease for any business premises. Valuing a lease for business premises is complex and can only be accurately assessed by a professional. Leased business premises are not valued in the same way as domestic premises. The shorter the period that the lease has left to run, the less likely it is to be of any value. Also, if there is no one prepared to take over the lease, that might create a liability rather than an asset because the tenant remains liable for the rent until the lease expires. See [here](#) for information about dealing with an unwanted lease.
- Try to get a realistic value for any business premises that are owned. Ideally, this should be done by a specialist, such as a local estate agent. However, specialists are likely to charge a

fee for the valuation of business premises so a client's estimate of value may have to be used in some cases.

## **If a client is trading as a partner in a business partnership**

This section gives an overview of issues to consider whether a partner in a business partnership wants to cease trading. This is a complex area of advice. Clients should be signposted to specialist advice to help make sure they do all they can to limit their personal liability for any partnership debts.

The decision to stop trading may not rest solely with the client if they are a partner in a business partnership. If the client wants to stop trading but the other partners do not, the client should make sure they formally end (sever) any written partnership agreement. This will help limit the client's liability for partnership debts to those accrued during the period they were a partner.

If there is no partnership agreement, the Partnership Act 1890 applies. The client should seek legal advice so that an agreement can be drawn up to end their links to the partnership.

A client should also seek legal advice to see if there are any viable ways to limit their liability for the partnership's debts and protect them from future claims. For example, a client could ask the partnership creditors and the remaining partners if they will agree in writing that the client is not liable for any debts that subsequently come to light which relate to the period the client was a partner.

A client should also give the partnership's creditors notice that they have left the partnership and the client's name should be removed from the partnership's paperwork.

Sometimes, informal business partnerships exist between people who have personal relationships, such as married or cohabiting couples. During the partnership, either party can usually enter into contracts on behalf of the partnership, for which both partners are jointly liable. In some cases, ending the personal relationship can prompt a need to end the business partnership. Although the same advice applies to these clients, it should be recognised that the couple's previous relationship may complicate matters. In some cases, it may also limit the amount of information available to the client – eg, if the other partner made most of the business decisions. Also, the client may be unaware of their joint liability for the partnership debts. The client will need to take action to find out who their creditors are, and the amount of any debt owed. Complications may also arise if any business debts have been secured against the family home.

## **List business income and expenditure**

## Business income

## Business expenditure

In addition to a personal financial statement, a business financial statement is also needed to assess the position of self-employed clients who are sole traders or partners in a business partnership. See here for the types of business financial statements available and for dealing with other types of self-employed clients.

The business financial statement uses information about how the client's business has performed in recent months to estimate what income the client is likely to get from the business in the future. The statement takes information about the business's income and expenditure (running costs) over a set period to work out an average of the profit or loss that the business produced during this time. This information is used to estimate the amount that a self-employed client can expect to take from their business as income, after allowing for income tax and national insurance (NI) liability. The net business income figure (or loss) should be included in the client's personal financial statement.

### Business income

Only income for the business should be included in the business financial statement. Personal income, such as benefit income or employed income, is covered in the personal financial statement. Unless the client's business is seasonal, you usually need details of the income received by the business during the last three months. This should be based on actual payments received by the business (not on invoices issued by the business). The income figure should not include an amount due for work that the business has completed unless payment has been received. If the client's business is seasonal, a longer analysis of business income may be needed (up to a maximum of the last 12 months). You need to explore how a client's business usually fluctuates to decide what period of time the business financial statement should cover. Specialist advice may be needed.

### Business expenditure

Look at the business's expenditure figures (running costs) for the same period of time that has been chosen to assess the client's business income.

Make sure that you include all relevant expenditure for the business – eg, banking facility and overdraft charges, lease or rental charges (for property and equipment), utility bills (including telephones and waste disposal), payments to suppliers, VAT payments, staff costs (including wages and employers' costs) and accountancy fees. Only include expenditure for the business in the business financial statement. The client's personal and household costs are covered by the personal financial statement.



Be careful not to double count expenses that are shared by the business and the client personally - eg, electricity costs for a sole trader client who trades from home or travel costs for a client who uses a single vehicle for business and personal transport. Double counting (when the full cost, or part of the cost, is added to both the business and personal financial statement) reduces the client's available income and creates an inaccurate assessment of their financial position. Shared expenses need to be divided between the client's business and personal statements based on the client's circumstances. A client needs to work out how much of the cost covers business use and add this proportion to the business financial statement. The remainder of the cost should be included in the personal financial statement. Sometimes, it can be difficult to separate shared costs. Useful advice is available to help work out how much of the client's shared costs should be included in the business statement at [gov.uk/expenses-if-youre-self-employed](https://gov.uk/expenses-if-youre-self-employed). Signpost the client to specialist advice if needed.

## Maximise income

### Claim welfare benefits

The scope for improving the income of a person running their own business can be greater than that of an employee. Specialist business advice can improve profitability – eg, through better marketing, reducing production costs and overheads or diversification. Check whether there are any specialists that can help the client in this area.

Grants and other facilities, such as low-interest loans, may be available to small businesses. More information can be found at [gov.uk/business-finance-support](https://gov.uk/business-finance-support).

Business rates can be a major expense for clients with a business lease. Check for any available exemptions or discounts with the local authority. Information is also available at [gov.uk](https://gov.uk) and [businesswales.gov.wales](https://businesswales.gov.wales).

Energy costs can also be a significant expense for some businesses. While direct assistance is limited, a business may be able to reduce their energy costs by adopting energy efficiency measures for their business. Useful information is available at [businessenergyefficiency.campaign.gov.uk](https://businessenergyefficiency.campaign.gov.uk).

Check that all relevant individual tax allowances, reliefs and expenses that a client and the business can offset against tax are being claimed.

### Claim welfare benefits

Some self-employed people miss out on benefits because they incorrectly assume they are not entitled to claim benefits when they are in business.

- Self-employed clients may be able to claim universal credit (UC). However, the minimum income floor rules usually apply. The minimum income floor is the amount of money an employed person in a similar situation would earn on the national living wage or national minimum wage, after taking off tax and NI. The minimum income floor might not be applied during the first 12 months of the business starting or where a client is not subject to work-related requirements. A UC claim is assessed on a monthly period so there is no need for a projection apart from when the claimant is in their first assessed month.
- A self-employed client may also be able to claim council tax reduction, council tax discounts and disability benefits.
- If the client does not come under the UC system, a self-employed client may be able to claim housing benefit, although this is rarely available for a client under state pension age.
- If the relevant NI payments are up to date and the client is unable to work because of sickness, they may be able to claim 'new-style' employment and support allowance.
- If the client is a director of a limited company and has been paid as an employee through the company, they may be able to claim 'new-style' jobseeker's allowance, although the client will need to meet availability and looking for work conditions.

Since a self-employed client's income can be prone to fluctuations and eligibility rules vary among benefits, a client will likely profit from specialist welfare benefits advice. The Turn2us website, [turn2us.org.uk](https://turn2us.org.uk), provides a personalised benefits check that caters for self-employed clients.

## Draw up a financial statement for a self-employed client

Sole traders and partners in a business partnership

Consider any special tax rules that may apply

Directors of a limited company

Creating a personal financial statement for a client who is running their own business is generally similar to that of an employed person, except that expenses may need apportioning and the amount of income may be less predictable. Both these things should be made clear on the personal financial statement.

How to calculate the amount of income that a client can take from the business depends on the client's trading status and any special rules that may apply to the type of business the client carries out.

### Sole traders and partners in a business partnership

For sole traders and partners in a business partnership, a business financial statement is required to calculate the net income (drawings) the client can take from the business. For sole traders, this is the net profit of the business after income tax and NI have been taken into account. For partners in a business partnership, this is based on the client's share of the business profit, with an amount also deducted to take into account their income tax and NI liability. The business financial statement forms part of the overall assessment of the client's financial position. It uses information about how the client's business has performed in recent months to estimate what income (net of income tax and NI) the client is likely to get from the business in the future.

It is important to complete a business financial statement, and not to simply use the amount that a client says they draw from the business. This helps to provide a more accurate assessment of how the business is performing. It also protects against a client giving figures that are based on what they would like their business to be able to provide, rather than what the business can afford to pay.

It is not unusual for a client who is struggling to pay their debts to be surprised at the net income figure produced by a business financial statement. Some clients may need time to digest this information and assess how this affects what they do next. If a client's business is unable to provide any drawings or is running at a loss, specialist advice is needed. Specialist debt advice organisations can provide templates for a business financial statement. The Business Debtline website provides interactive statements for both sole traders and partners in a business partnership. Both statements can be saved and printed by the client. It is important that the correct business financial statement is selected, based on the client's trading status. For example, for a partner in a business partnership, the statement needs to look at how the business is performing and also calculate the client's own share of any business profit or loss.

## **Consider any special tax rules that may apply**

When dealing with clients who are sole traders or partners in a business partnership, you should always consider how any special tax rules affect the business financial statement they are using. This commonly affects clients who receive a self-employed income as a foster carer, from letting residential property or who are covered by the Construction Industry Scheme. Check that the business financial statement you are using takes account of any special tax rules that apply. If not, a signpost to specialist help is usually needed.

## **Directors of a limited company**

Do not attempt a business financial statement for a limited company. The director of the limited company should obtain monthly drawings figures from the company's bookkeeper or accountant. These figures can be used as income on a personal financial statement.

Always check that the drawings figure provided by the client is net of any personal tax liability.

## Deal with priority debts

Services

Non-domestic rates (business rates)

Rent arrears (business rent)

Equipment leases

Income tax debts

VAT debts

This section gives information about common business priority debts. It is important to look at a client's individual circumstances when deciding how to classify their business debts. In some cases, a debt that is usually considered a non-priority debt may be essential to the running of a business. For example, if an unsecured overdraft is used as cash flow for a business and alternative credit is unavailable, the overdraft facility may need to be treated as a priority. Seek specialist advice if you are uncertain how to classify a business debt.

### Services

If a client is trading from home (or was previously and still has the same supplier), gas and electricity arrears are priority debts. Clients with a commercial energy contract have less protection than domestic customers, so check what type of contract the client has. If a client trades from part of the same building that they live in (eg, they run a shop and live in a flat above the premises), if possible, they should separate the supply to the two premises before arrears accrue. This may help to reduce the risk of disconnection of the domestic premises.

Water companies can disconnect the supply to a separate non-domestic premises. However, water companies cannot disconnect the supply to residential premises and can only disconnect a supply to the premises to which the water was supplied. <sup>1</sup> It is not entirely clear how this affects mixed-use premises. Ofwat has issued guidance stating it believes the disconnection of mixed-use premises could be illegal and reminds customers of their right to take court action if this happens. In practice, companies rarely disconnect mixed-use premises.

If a water company threatens to disconnect the supply to a separate non-domestic premises, check whether the environmental risk of the business being without water could lead to its closure.

---

<sup>1</sup> s1 and Sch 1 Water Industry Act 1999

## Non-domestic rates (business rates)

If the client has a lease for a business premises, they are liable for the business rates for as long as the lease exists. This applies even if the premises are empty, although there are some time-limited exemptions. Check for any exemptions with the local authority.

Non-domestic rates are collected and enforced in a similar way as council tax (see here), except for the following.

- Tools of the trade are not exempt goods. This means that if a liability order has been granted, the local authority can use enforcement agents (bailiffs) to try to take control of a client's property (including at their home address).
- Neither an attachment of earnings order nor a deduction from benefits is allowed for business rates.
- If the local authority has already obtained a liability order for the business rates debt, it cannot apply for a charging order.

Sometimes a local authority may agree to remit, or write off, large amounts of unpaid business rates. Local authorities have the power to remit unpaid business rates if there is 'severe hardship' and if it is reasonable to do so (taking into account the interests of its council tax payers).

Some local authorities use this power to write off unpaid rates if a business has ceased trading and those responsible for the rates depend on benefits, or if a business could close (with job losses) if rates were to be pursued. If an application for remittance is declined, ask a local councillor to support the request.

## Rent arrears (business rent)

### Commercial rent arrears recovery process

If at least seven days' business rent is owed, a landlord can use enforcement agents (bailiffs) to try to take control of goods at the business premises. <sup>1</sup> A landlord can do this without the need for a court order by using the commercial rent arrears recovery process (CRAR). <sup>2</sup> If a client is continuing to trade and their premises are open to the public, it is virtually impossible to stop enforcement agents from making peaceful entry. Priority must be given to making an arrangement with a business's landlord if the client wishes to continue trading. The enforcement agent cannot take control of goods at the client's home address unless the client has taken goods there to avoid them being taken into control.

See here for information about enforcement agents and commercial rent arrears.

## Forfeiture of the lease

A landlord may be able to forfeit a client's premises lease because of business rent arrears. This means that the landlord could take physical possession of the premises (by using peaceful entry) and change the locks without needing a court order. Forfeiture ends the lease and the client's liability for any future rent that would have become payable. In practice, some landlords choose not to forfeit a lease unless another party is available to take on a new lease for the premises. A landlord cannot use CRAR to recover business rent arrears after they have forfeited a lease.

## If a client no longer needs a business premises lease

If the lease has not already been forfeited by the landlord and still has a period left to run, the client will usually be liable for the rent due for the rest of the term unless the lease can be exited. Long leases are common and the client could be liable for many years of rent. If a client has ceased trading or no longer wants the premises, they need to consider how to deal with the unexpired lease. The specific terms of the lease and type of premises it covers will affect which options are available to the client. Leases are complex and a client will usually need specialist advice to make sure they get the best outcome. Consider the following.

- In some situations, an unexpired business lease may create a realisable asset for a client. For example, this may be the case if the premises is part of a redevelopment site.
- With the permission of the landlord, a client may be able to assign the lease to another person.
- The lease may allow a client to sublet part, or all, of the premises to someone else. The landlord's permission may be required and the client may still be liable if the person with the sublease fails to pay.
- The lease may contain a break clause, allowing the client to end the lease early and so limit future liability, although existing rent arrears may affect a client's right to use this clause.
- A landlord may agree to accept the surrender of a lease (ending the tenant's contractual obligations, such as for rent and therefore business rates) if it is clear that they are unlikely to get any more money from a tenant.

Deciding which route to take is complicated. For example, even if a lease can be assigned, a client may still be held responsible for future rent if the new tenant fails to pay. So even if the lease has value, to protect against future liability, the client may need to weigh up whether it is better to try to surrender the lease. Seek specialist advice to make sure that any agreed surrender ends all future liability for the client.

Specialist advice is also needed to check how a client should exercise an option available in

the lease, if any terms are unclear and if the client disputes any liability created by the lease.

---

1 Reg 52 TCG Regs

2 s72 TCEA 2007

## Equipment leases

Many businesses have equipment like photocopiers, electronic scales or games machines that are held on a lease. First, check whether or not the lease is a regulated agreement under the Consumer Credit Act 1974 (see [here](#)). Many lease documents are complex and specialist help may be required.

A business equipment lease runs for a number of years, during which time the owner of the goods (which may be a finance company) simply charges rent to use them. There is no automatic transfer of the goods to the lessee at the end of the period agreed in the lease, although in practice, sometimes the lessors do not take the items back. A lease usually contains provision for early settlement. However, in many cases, this figure is likely to be almost as high as continuing to pay rent until the end of the lease period.

Once a lessee is in arrears with the rent, the courts can intervene under common law and alter any clause designed to penalise a lessee who is in arrears. Because the courts have this power only when arrears arise, it may be useful to allow business leases to fall into arrears if a client has decided to cease trading.

Business leases are complex and, since the sums of money involved can be substantial, expert advice should always be obtained before reaching any agreement with a lessor about early settlement. Trading standards departments may be able to provide advice.

In calculating the amount that should be paid by a client who is in arrears, the courts ensure that the lessor receives only the amount of money that it has lost because of the termination. This should include either the goods or their full value at the time of termination. In addition, lessors should receive the amount that would have been paid in interest less an amount in recognition of the fact that they are receiving this money early. If a lease contains service charges for the leased equipment, the courts may reduce the future service charges that will not be required after the goods are returned.

## Income tax debts

Self-employed people and businesses are responsible for making tax returns to HMRC to show

their business's taxable income. Under the self-assessment system, taxpayers calculate their own tax and make a payment for each relevant tax year. A self-employed client may be required to make payments on account towards their next tax bill. Payments on account are based on the tax that was payable in the previous tax year. The amount is divided by two and payable by 31 July and 31 January. A final balancing payment or refund is calculated once the tax return has been submitted. If the client believes that their current year's tax bill will be less than the previous year's, they can apply to HMRC to reduce their payments on account, although HMRC will charge the client interest if they reduce their payments on account by too much. The rest of the self-assessment process is outside the scope of this *Handbook*.

If HMRC asks the client to file (submit) a self-assessment tax return, the client must do so. If the client thinks that they should not have to file a return, they can ask HMRC if they will agree to withdraw the return. If HMRC does not agree, the client will need specialist advice. Always get specialist advice if the client has not filed tax returns for a number of years, or if any of the tax is disputed. TaxAid is a useful source of help (see Appendix 1).

If the client fails to file a tax return, HMRC makes its own 'determination'. This is an estimation of how much tax is due and is enforceable immediately. Usually, the determination can only be overturned if the client files their return and time limits apply for doing this. HMRC will impose penalties for the late filing of returns and for the late payment of tax. Even if there is no tax to pay when the return is filed, the late filing penalty is still payable, although a client may be able to appeal a penalty on the grounds that they had a 'reasonable excuse' for the failure – eg, because of a bereavement.

HMRC can also add late payment interest for any unpaid tax, and enforces this even after a county court judgment has been granted. <sup>1</sup>

A tax debt should be treated as a priority. The amount demanded by HMRC will be due and payable even if the bill has been estimated.

If the client has an outstanding income tax debt, they may be able to set up a payment arrangement (time to pay) by speaking to HMRC. Alternatively, the client may be able set up a time to pay arrangement online through their Government Gateway account if they:

- have filed their latest tax return; *and*
- owe £30,000 or less; *and*
- are within 60 days of the payment deadline; *and*
- do not have any other payment plans or debts with HMRC.

HMRC's guidance *How to Pay a Debt to HMRC with a Time to Pay Arrangement* is available at [gov.uk/guidance/find-out-how-to-pay-a-debt-to-hmrc-with-a-time-to-pay-arrangement](https://gov.uk/guidance/find-out-how-to-pay-a-debt-to-hmrc-with-a-time-to-pay-arrangement). It explains the process and the information the client will usually need to provide HMRC.



HMRC will not agree to time to pay if the client's self-assessment returns are outstanding. If the client has returns outstanding, it is essential they get the returns up to date.

If a tax bill is unpaid, HMRC has a range of enforcement methods available. These include usual methods, such as debt collectors, county court action (see Chapter 12) and bankruptcy (see Chapter 10). Any threat of bankruptcy by HMRC must be taken seriously. HMRC also has the power to use certain enforcement powers without the need for a court order. This includes:

- taking control of goods (see Chapter 15 and later in this section); *and*
- if at least £1,000 is owed, take money directly from the client's bank account. Usually, the first £5,000 in the account is protected. If a client has a lump sum of money in their bank account, HMRC could access this.

If the client also receives an employed PAYE income, be aware that HMRC may be able to amend their tax code and recover the debt directly from this income.

HMRC also has the power to ask the county court to issue a judgment summons and ask a magistrate's court to recover certain tax debts, but does not currently use these recovery methods. (A county court judgment summons to force attendance could potentially lead to imprisonment. Although rare, such a summons can be used by HMRC when it suspects a client to be avoiding payment. <sup>2</sup> )

---

<sup>1</sup> TMA 1970

<sup>2</sup> [justice.gov.uk/courts/procedure-rules/civil/sched\\_ccr/ccrorder28](https://www.justice.gov.uk/courts/procedure-rules/civil/sched_ccr/ccrorder28)

## VAT debts

VAT is a type of tax. Businesses with a turnover of £85,000 or less a year (2023/24) do not have to register for VAT, although they can choose to register voluntarily. All other businesses have to register for VAT, unless HMRC grants an exemption from registering. VAT-registered businesses must file returns at a frequency agreed with HMRC to show the difference between the VAT they pay to other suppliers (input tax) and the VAT they charge their customers (output tax).

In 2023, HMRC changed how it deals with late VAT returns and payments, moving from the previous default surcharge system to a new penalty-based system. For accounting periods that start from 1 January 2023 onwards, HMRC can add penalties if a VAT return or payment is late. Separate rules apply for late returns and late payments, but in both cases penalties can increase the amount a client owes. HMRC can also add late payment interest if a client does not pay their VAT on time. If a client disputes any penalties (or previous surcharges) that HMRC has applied,

signpost them to specialist advice. Also, be aware that if a VAT return is outstanding, HMRC can estimate the amount of VAT due and issue its own assessment. The amount estimated by HMRC is payable immediately. If a client has an outstanding VAT debt, they may be able to set up a payment arrangement (time to pay) by speaking to HMRC, or by applying online. HMRC will not agree to time to pay if a client has VAT returns outstanding.

If you have a client with unpaid VAT, contact HMRC to explain the position and request time to allow you to assist the client. Signpost to an accountant or bookkeeper if there are concerns about what is owed or if the debt includes an assessed amount. HMRC can be aggressive in recovery of unpaid VAT, particularly where the client is still VAT registered. If the client is still trading and the business turnover has fallen below the VAT deregistration threshold (£83,000 for 2023/24), it may help with negotiations to deregister for VAT. Signpost the client to their accountant or bookkeeper to check how deregistration could impact their business. If the client has ceased trading, they should deregister for VAT.

HMRC has a range of enforcement methods available. These include using debt collectors, county court action (see Chapter 12) and bankruptcy (see Chapter 10). Any threat of bankruptcy by HMRC must be taken seriously. HMRC also has the power to use certain enforcement powers without the need for a court order. This includes:

- taking control of goods (see Chapter 15 and later in this section); *and*
- if at least £1,000 is owed, taking money directly from the client's bank account. Usually, the first £5,000 in the account is protected. If a client has a lump sum of money in their bank account, HMRC could access this.

While HMRC also has the power to ask the court to issue a judgment summons and to ask the magistrates' court to recover certain VAT debts, HMRC does not currently use these recovery methods. (A county court judgment summons to force attendance could potentially lead to imprisonment. Although rare, such a summons can be used by HMRC when it suspects a client to be avoiding payment. 1 )

## **Business premises are vulnerable to enforcement action**

Although approaches can vary, generally local HMRC officers who collect VAT consider they are collecting a tax that has already been paid by a third party to the client, for which they are only a custodian.

If VAT is outstanding and a time to pay arrangement has not been agreed, enforcement action to take control of goods will usually begin. A court order is not needed and although HMRC can obtain a warrant to force initial entry, this is rarely seen.

If a client's business premises are open to the public, it is virtually impossible to stop enforcement agents from making peaceful entry. Negotiation is essential. A client who is still trading from easily accessible premises should try to give the enforcement agents some money towards the debt if possible and treat the debt with utmost priority. This is because taking control of goods can cause or escalate the collapse of a business, both by removing vital stock or equipment and by reducing confidence in the business.

---

1 [justice.gov.uk/courts/procedure-rules/civil/sched\\_ccr/ccrorder28](https://www.justice.gov.uk/courts/procedure-rules/civil/sched_ccr/ccrorder28)

## Choose a strategy for non-priority debts

The impact of a debt strategy on a client's ability to continue trading depends on several factors and varies from business to business. It can depend on the client's business status and may also be affected by the type of business they run - eg, if the business needs a certain type of licence to trade, some strategies may put the licence, and therefore the business, at risk. You will also need to consider whether any agreements essential to the business, such as a premises lease, could be terminated by the creditor if the client enters any type of insolvency. If there is any doubt about how a debt strategy could affect a client's business, signpost the client to specialist advice.

## Bankruptcy and individual voluntary arrangements

Bankruptcy and individual voluntary arrangements (IVAs) are discussed in Chapter 10. Bankruptcy may often be the most appropriate way out of the large debts that can arise after the failure of a business. Bankruptcy does not necessarily mean a sole trader must cease trading, particularly if there are no assets of significant value. However, remember that although discharge from bankruptcy may occur after one year, a person's credit rating is affected for considerably longer. If the client wishes to run a business that will require credit in the future, bankruptcy can be an obstacle to securing credit. Someone with an otherwise viable business but serious debts may be better advised to consider an IVA.

In most cases, if a partner in a business partnership applies for individual bankruptcy, the business partnership is dissolved. If all partners wish to go bankrupt, a joint partnership application can be made. Only one petition fee and only one official receiver's deposit are payable, so the bankruptcy costs are reduced. <sup>1</sup>

A client cannot act as a director of a limited company or member of a limited liability partnership while they are subject to a bankruptcy order without permission from the court.

---

**1** [gov.uk/guidance/technical-guidance-for-official-receivers/52-partnerships](https://gov.uk/guidance/technical-guidance-for-official-receivers/52-partnerships), para 52.99

## Debt relief order

A self-employed client may qualify for a debt relief order (DRO) if they meet the qualifying conditions (see Chapter 10). Business debts are not excluded. If the client is still trading, any stock and materials will need to be valued and count towards the property limit, although usually tools of the trade can be disregarded. There is no specific disregard for business vehicles, although if a business vehicle, such as a van, is also used for domestic purposes, this can be disregarded if it is worth no more than £2,000. If the client has a premises lease, specialist advice is usually required as the lease may count as an asset. If the client is a director of a limited company and also a shareholder, their shares may also count as an asset.

To consider whether a DRO is an option, you will need to work out a monthly average income figure that the client gets from the business. Insolvency Service guidance says that you can use a three-month period to calculate the average. **1** Also, when calculating the client's surplus income, an allowance should be made for their income tax and NI. A client cannot act as a director of a limited company or member of a limited liability partnership during the DRO moratorium without permission from the court.

---

**1** [gov.uk/guidance/debt-relief-orders-guidance-for-debt-advisers](https://gov.uk/guidance/debt-relief-orders-guidance-for-debt-advisers)

Printed from CPAG (<https://askcpag.org.uk>). (c) Copyright CPAG 2025. All Rights Reserved.

Please be aware that welfare rights law and guidance change frequently. This page was printed on Friday, October 17, 2025 and may go out of date.