

# Debt Bulletin: Debt changes and news

Produced by the Active Inclusion Service, Newcastle City Council

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## Case study: a lump sum Individual Voluntary Arrangement?

A resident was recently referred to Newcastle City Council's debt and budgeting team, Money Matters, with around £24,000 of unmanageable non-priority debts. The resident was retired and living with incurable cancer. As such, they wanted a finite solution to their debt problem rather than to look at making repayments over several years. Unlike many residents in debt that Money Matters support, they also had a disposable income of around £390 per month and a lump sum of savings of £3,000. The solution identified by the Money Matters Debt Advisor was a lump sum Individual Voluntary Arrangement (IVA).

Also known as a *Full and Final IVA Settlement*, a lump sum IVA is an arrangement where a one-off payment is made to creditors to repay debts owed. The amount repaid does not need to match the overall outstanding debt total but, to be considered by the creditors, it usually needs to cover a reasonable proportion of the debt. The advantage to creditors in accepting such a payment is that they will receive a repayment a lot quicker than they were otherwise expecting. The arrangement is prepared by an Insolvency Practitioner who puts the proposal to the creditors who vote on whether to accept the proposal to accept a reduced payment in full and final settlement of the total amount owed. The creditors review the proposal and compare it with what they would expect to receive were the debtor to petition for bankruptcy. At least 75% of the creditors who vote on the proposal need to accept it for the proposal to be binding on all the creditors, even those who do not vote.

Due to representations from Money Matters, the Insolvency Practitioner agreed to accept a lower fee which was, in effect, borne by the creditors and not the resident. A proposal was prepared and sent to the creditors, offering only the £3,000 lump sum and not offering any ongoing monthly repayment. In the end, the proposal was accepted, and the resident's IVA was finalised leaving them free of debt within three months of first speaking to Money Matters.



## NHS prescription costs: avoiding penalty charges

Money Matters frequently see residents who have penalty charge notices for having incorrectly claimed free NHS prescriptions or free or reduced cost dental treatment.

Residents are entitled to free prescriptions if they are aged under 16 years old, are aged 16, 17 or 18 years old and are in full-time education or are aged over 60 years old. Certain illnesses can also provide [exemption](#) from prescription charges, as can being pregnant or having a baby under the age of one year old. Pregnant women and new mothers are eligible to claim free prescriptions. However, they may not realise they need a valid maternity exemption certificate, as without a valid certificate they could receive a penalty charge.

Certain benefits, **but not all**, also qualify residents for free prescriptions, so it's important to check entitlement. Pharmacists should be able to support residents with this and should ask to see up-to-date proof of eligibility.

There is an [eligibility calculator](#) on the NHS Business Services Authority website where you can check if someone is eligible for help. The calculator should only take around three minutes to use.

There has been some confusion about how to claim free prescriptions if you receive Universal Credit. The Department for Work and Pensions has recently issued the following guidance:

*“At present, NHS prescriptions do not have a Tick Box option for someone claiming Universal Credit. There have been examples of claimants choosing the Employment and Support Allowance (ESA) option and as a result have received a £135 penalty notice. Until a new print is available **claimants on Universal Credit should tick option K** indicating Jobseeker’s Allowance (JSA) in payment. This is the workaround which has been issued to Pharmacies.”*

For those experiencing financial difficulties who are not eligible for free prescriptions, there are other means of support available, such as prepayment certificates and the NHS Low Income Scheme. For more information, visit [www.nhsbsa.nhs.uk/nhs-help-health-costs](http://www.nhsbsa.nhs.uk/nhs-help-health-costs)

The charge of one prescription is £8.80, whereas a three-month prescription prepayment certificate costs £39.10 and a 12-month certificate costs £104. Many people are unaware that they can purchase a prepayment certificate to save money on their prescriptions. You can save over £105 per year if you need more than two items per month and £315 per year if you need more than four items per month. To apply, phone 0300 330 1341 or visit [www.nhsbsa.nhs.uk/help-nhs-prescription-costs/prescription-prepayment-certificates](http://www.nhsbsa.nhs.uk/help-nhs-prescription-costs/prescription-prepayment-certificates)

## Case law: bankruptcy orders and unpaid Council Tax – Harriet Lock v Vale District Council [2018] EWHC 2015 (CH)

Aylesbury Vale District Council issued a statutory demand for unpaid Council Tax in the sum of £8,067 against Ms Lock. A bankruptcy petition was presented and at a first hearing, in response, Ms Lock provided evidence that a bankruptcy order would provide no benefit to the Council as she had no assets, was living in social housing and was financially dependent upon her daughter. The district judge made the bankruptcy order on

the basis that there were Council Tax liability orders in existence and they had not been set aside or challenged by Ms Lock.

Ms Lock appealed against this decision arguing that the Council knew that she had no assets nor income and that the district judge did not consider her argument that a bankruptcy order would not serve any purpose or benefit to the Council. Under section 266(3) of the Insolvency Act 1986 if a debtor can demonstrate that they do not have sufficient assets to allow for a distribution to creditors, after the costs of bankruptcy are taken into account, then the bankruptcy order may be set aside unless it serves another purpose. In her appeal, Ms Lock argued that the bankruptcy order should be set aside in accordance with section 266(3).

The High Court held that in cases of unpaid Council Tax the burden of proof falls on the Council to show that a bankruptcy order would serve a purpose and that proof of existence of the debt would not, by itself, be enough. In the present case, the court found that there was no evidence that a bankruptcy order would serve any useful purpose or benefit to the Council as Ms Lock had no assets. The court upheld Ms Lock's appeal and found that the bankruptcy order was unjust, and it was set aside.

## Budget 2018

The government announced [several measures](#) in the Budget 2018 that may affect residents in debt. These include:

- raising the National Living Wage to £8.21 per hour in April 2019
- increasing the Universal Credit Work Allowance (the amount that households with children and people with disabilities can earn before their Universal Credit award begins to be withdrawn) by £1,000 from April 2019
- reducing the maximum rate at which deductions can be made from a Universal Credit award from 40% to 30% of the standard allowance from October 2019
- reinstating automatic entitlement for housing support for 18 to 21 year olds
- new policies to help households manage unexpected costs by increasing access to fair and affordable credit, including the Affordable Credit Challenge Fund, and by allowing Registered Social Landlords to refer to sources of affordable credit. The government also announced that it will launch a feasibility study to help design a pilot for a no-interest loans scheme early in 2019

The Budget 2018 also announced a consultation on a breathing space scheme for people with problem debt. The scheme will introduce a 60-day period of protection from creditor action to recover debts to help people make plans to pay back their debts in a sustainable way. The consultation runs until 29 January 2019. To respond, visit [www.gov.uk/government/consultations/breathing-space-scheme-consultation-on-a-policy-proposal/breathing-space-scheme-consultation-on-a-policy-proposal](http://www.gov.uk/government/consultations/breathing-space-scheme-consultation-on-a-policy-proposal/breathing-space-scheme-consultation-on-a-policy-proposal)

## Identifying gambling

Young people are more likely to gamble than to ride a skateboard with 16% of young people (aged 11 to 15 years old), on average, gambling per week. The Gambling Commission, who regulate the industry, estimate that there are 430,000 people in this country experiencing problem gambling with a further two million at risk (Quarterly Account Issue 50, page 10).

Gambling addiction can be difficult to detect, and someone is more likely to seek advice with their debts or other issues without disclosing their addiction, often due to feeling shame or guilt. However, dealing with debts for people with problem gambling is not a solution unless the gambling has been addressed.

It's important to always try and identify how debts have come about. Sometimes it is obvious and sometimes not. Things to look out for are:

- Secretive behaviour
- Income and expenditure forms showing that there should be available income
- Bank statements showing money going out of the account frequently to undisclosed outlets or regular cash withdrawals which can't be explained
- Borrowing money but not paying bills
- Relationship breakdown
- Being late for commitments
- Change in mental health

Gambling can come in different forms, such as bookmakers and bingo, so when discussing items of expenditure with people it's worth exploring different possible gambling habits, including scratch cards or going to the 'bookies'. People might also not see that what they are doing is gambling, so when discussing social activities it is worth considering where people are going, for example, if they are visiting arcades, bookmakers or casinos.

### **Offering help and support**

Online gambling companies licensed in Great Britain must display a link to their responsible gambling section on every page which helps people to exclude themselves. There are also software packages that can be downloaded to prevent access to gaming sites, some of which are free.

GambleAware: [www.begambleaware.org](http://www.begambleaware.org)

National Gambling Helpline: 0808 802 0133 (freephone 8am to midnight, 7 days a week)

### **More information and help**

Can be found on [Newcastle City Council's debt and money advice web page](#).

This debt bulletin was written in **December 2018** by the Active Inclusion Service at Newcastle City Council. It is provided quarterly and is as accurate as possible at the time of writing. The bulletin is part of the Active Inclusion Newcastle offer of support to professionals, which includes debt awareness and benefits **face to face training** and **eLearning**. [For more details see our web page for professionals and volunteers](#).

You may also be interested in the weekly **Active Inclusion Newcastle e-bulletin** which provides a brief update on financial inclusion and homelessness prevention issues. If you want to receive this, or for more details, email [activeinclusion@newcastle.gov.uk](mailto:activeinclusion@newcastle.gov.uk)

If you, or the Newcastle residents you support, need some debt advice you can phone our consultancy line on **0191 277 1050** (Monday to Friday from 8.30am to 4.30pm).