



YOUR IVA EXPLAINED

Welcome to
PARKFIELD
INSOLVENCY



WELCOME TO PARKFIELD INSOLVENCY

As we discussed in our recent telephone call, your IVA Proposal is a legal document which, if approved, will form a legally binding contract between you and your creditors.

As such it is written in language that may appear confusing or difficult to understand. Whilst this is to protect both you and your creditors it may be difficult to appreciate the practical implications of some of the provisions.

This booklet is intended to make things clearer with explanations and examples where they may prove helpful.

We hope that this will be useful to you but if you do still have any questions please do not hesitate to contact us on 0800 0478 826 or email us at customerservice@parkfieldinsolvency.co.uk



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INTRODUCTION

As your proposal is legally binding there are references to the laws and regulations throughout your proposal. The Act and Rules together form the law that governs your IVA

The Insolvency Act 1986 is an Act of Parliament that governs all forms of insolvency in England and Wales for both companies and Individuals. We will refer to it as “the Act” in this document.

The Insolvency (England & Wales) Rules 2016, which we will refer to these as “the Rules”, provide more detail behind the process outlined in the Act.

Statement of Insolvency Practice 3.1 (SIP) specifies that all insolvency proceedings can only be dealt with by a Licensed Insolvency Practitioner (who we will refer to as an “IP”). This is a specific professional qualification and IPs are subject to individual regulation and inspection for your protection. The SIP promotes the best practice when preparing and undertaking an IVA.

The Straightforward Consumer IVA Protocol (2021 Version) is referred to as “the Protocol” the initial version was first introduced in 2008. It is a formal agreement drawn up by representatives of creditors, IPs and the government to document certain standards of disclosure and commitment that are expected of all parties involved in an IVA; you, your creditors and your IP, to ensure that your IVA is fair to both you and your creditors and provides your creditors with the best possible return whilst allowing you a reasonable standard of living during the term of your IVA. In most cases your creditors will be writing off a significant amount of debt at the end of your IVA and while they understand the need to do this they expect to be treated fairly throughout the process and want to be certain that you are making the best offer to them that you can in your circumstances.

Standard Conditions - While each IVA is unique to the individual there are inevitably a number of terms and conditions that apply in every case. For convenience these are included in the Standard Conditions that complement the Protocol referred to above. These conditions are included in a separate document that is attached to and forms a part of your Proposal.

NOMINEE AND SUPERVISOR

When assisting you in the preparation of your IVA Proposal and arranging a virtual meeting of your creditors, the IP is known as the Nominee.

Once your IVA is approved the IP becomes the Supervisor of the IVA.

This section of your Proposal names the IP who will act as your Nominee and Supervisor. It also gives details of the IP's regulator and the procedure to be followed should you or any of your creditors have any complaints in relation to the preparation or administration of your IVA

PERSONAL INFORMATION

Details all of your personal and domestic circumstances and details your employment status. The reasons for your current financial situation will also be explained briefly in this section.

This is to provide your creditors with a picture of your personal situation and commitments in order that they can consider your Proposal in relation to your specific circumstances. It is important that you read this section carefully to ensure that we have recorded this information accurately.

ASSETS

This section deals with any assets you may own and how they will be dealt with in your IVA.

If you own any assets that are not essential for your everyday living then your creditors will expect you to sell these to provide a better return for them. Examples of these may include any investments such as shares or ISAs you may own. We will look at the most common categories of assets in this section.

HOME OWNERS

For many people, their main asset will be their home and it is this that they will be most concerned about. Equity is the difference between the value of your home and what you owe on any mortgage, secured loan or other debts that are secured on the property.

While you may be required to introduce an element of the equity in your home into your IVA either by way of a remortgage or additional contributions, it is important to stress that once your IVA has been approved by your creditors, you will never be required to sell your home to realise any equity for your IVA. This is different to the situation in Bankruptcy. The 2021 Protocol brought in changes to the way in which your property is dealt with. These are now in accordance with 3 straightforward options. These will be properly explained to you in the preparation of your proposal.

MOTOR VEHICLES

Any motor vehicle you may own is also classed as an asset and will also be a concern to anyone considering an IVA. Creditors however accept that in all but exceptional cases a vehicle will be required for domestic and work purposes and will not require you to sell your vehicle so long as it is not considered to be of excessive value. If they think that your car is extravagant for your day to day needs they may ask that you sell the vehicle and buy a cheaper alternative but this would be rare. This will always be discussed with you before any final decision is made.

If your vehicle is subject to hire purchase or lease agreement then you must continue to pay the monthly instalments due on it and an allowance will be made for this in your income and expenditure account included with your Proposal. If a hire purchase agreement runs out during the term of your Proposal you may be asked to increase your contributions into your IVA by the amount of the HP payment.

If at any time during the term of your IVA your vehicle needs to be replaced because it is no longer reliable or roadworthy then you should speak to us about how you might replace your existing vehicle

ASSETS (CONTINUED)

INVESTMENTS

Investments can include savings accounts, ISAs or shares that you may own. This will include share saving schemes operated by employers. Your creditors will expect you to surrender any such investments and pay the proceeds into your IVA.

ENDOWMENT POLICIES

Homeowners may have endowment policies that are attached to their mortgage and are intended to repay their mortgage at their maturity date. In such circumstances the endowment policy will be assigned to the mortgage company and will not be an asset of the IVA.

In other circumstances however, homeowners or former homeowners may have historic endowment policies that are no longer attached to a mortgage. In those circumstances such policies may be capable of being cashed-in to provide further funds for creditors.

LEGAL CLAIMS (including PPI)

Should there be claims for mis-sold PPI or any other legal claims that may exist, we will review all of your financial arrangements to see if any such claims might exist and you will be expected to assist in getting back any compensation, which would then be paid into your arrangement.

WINDFALLS

Windfalls would include things such as a lottery win or an inheritance and under the terms of your IVA are to be introduced in full up to the point where it would pay all of your debts in full including expenses of running the IVA.

PENSION SCHEME

Occupational or personal pension funds are in most cases excluded from your IVA and you will not be required to surrender or realise your pension for the benefit of your creditors.

Please note however that if you become entitled to a lump sum and income from your pension during the term of your IVA then creditors will expect you to declare this and include an element of any lump sum into your IVA and also to reassess your available disposable income with the inclusion of any pension income.

Entitlement to a lump sum means strict entitlement according to the terms of the pension scheme. You will not be expected to elect to take a lump sum early. If you do elect to do so of your own choice however then creditors will expect you to declare this and make a contribution into your IVA from any lump sum taken in this way.

If you are already receiving your pension at the time you enter into your IVA then the income from this will be included in your income and expenditure account.

LIABILITIES

By law your Proposal must contain details of all of your creditors, including their names, addresses and the amounts owed to them.

Although any secured creditors such as a mortgage or hire purchase agreement will continue to be paid as normal we nevertheless still have to include their details.

All of these details are included in Appendix X of your Proposal.

Your Proposal also makes reference to preferential creditors, although in most cases there will not be any. The main preferential creditors under the law are employees for an element unpaid wages and holiday pay and pension schemes for an element unpaid contributions.

CONTRIBUTIONS

The IVA allows you to repay a proportion of your debts based on what you can reasonably afford once all of your living expenses have been met.

We have calculated your monthly IVA payment, your “contribution”, by reviewing your current income and expenditure. There are recognised guidelines we follow to ensure you can afford your living expenses and that they are reasonable for your circumstances.

The income to be included in order to arrive at your disposable income is your basic salary, tax credits, pension or benefits. It may include any overtime, shift allowances, bonuses or commission payments to show an accurate amount of the money that you receive.

We are obliged to review your disposable income annually. This review is to assess whether your current payments into your IVA remain a fair reflection of what you can reasonably afford. If the amount you have available to pay is higher or lower, your contribution will be changed to reflect this. If your financial circumstances improve in between reviews, you should inform us immediately.

Just before each anniversary of the approval of your IVA we will write to you to request an updated income and expenditure account. We will also ask you to provide us with your payslips, tax credit statements, pension statements or benefit statements for the year in order that we can verify the amount included in your income and expenditure account.

CONTRIBUTION SCHEDULE (CONTINUED)

If at any point, you find it difficult to maintain your payments, depending on the nature of these circumstances there are three main options to help you.

REDUCTION IN MONTHLY CONTRIBUTION - The terms of your IVA allow us to reduce the amount of your monthly payments by up to 15% without the need for creditors' permission. This is best when there is a permanent reduction on your disposable income. Any revised level of contribution is still subject to annual review.

PAYMENT BREAKS - for when you need a temporary break from payments into your arrangement to deal with an unforeseen expense such as urgent repairs to a vehicle or property. As with the reductions referred to on the previous page we only have discretion to allow a payment break once without the need to consult your creditors.

DECISION PROCESS - If you need a reduction in your payments by more than 15%, or you require a payment break longer than 9 months or if you have already had one break and require another, we are able to call a meeting of your creditors to consider what is known as a variation to your current arrangement.

For all of the above, you will be required to provide supporting documents to evidence the need for assistance

REDUNDANCY

If you are made redundant during your arrangement, you will be required to inform us within 14 days. This section of the proposal details what you will need to pay into the arrangement and what you may be entitled to keep. You will also need to let us know as soon as you have new employment arranged and may also need to pay further redundancy funds into your IVA.

BREACH, TERMINATION AND FAILURE OF THE ARRANGEMENT

There are many ways in which your IVA can be adapted to your changing circumstances but you must remember that we can only help you if you keep us informed. The Standard Conditions lists a number of things that will constitute a breach of your IVA.

If you do breach the terms of your IVA then there is a process we must follow that is explained in the Standard Conditions. We will have to issue you with a Notice of Breach and ask you to remedy the breach. If you do not do so or are unable to do so we may be required to terminate your IVA.

You can request a termination of your IVA if you wish to for any reason, at any time.

If your IVA is not completed successfully, you will be liable for the full balances owed to your creditors.

FEES, EXPENSES AND DUTIES OF THE NOMINEE AND SUPERVISOR

The law governing your IVA provides for us to charge two separate fees in relation to the different elements of your arrangement.

The first fee is referred to as the Nominee's fee and is for the work done up to the point at which your IVA is approved by your creditors. This will be a flat fee and will be agreed by your creditors at the time they approve your IVA.

Once the IVA is approved we are then entitled to charge a Supervisor's fee in respect of the ongoing administration of your IVA. This is charged as a percentage of the contributions you make into your IVA.

There may be additional fees charged if we need to vary the original terms of your IVA.

Creditors may ask us to change the basis or the amounts of the fees. This will always be discussed with you before the IVA is approved.

Whatever level of fees is agreed by your creditors they do not affect the amount you are required to pay into your IVA

GENERAL CLAUSES

This section covers some points that we are required to include by law. It will cover the following points;

- Whether or not any third party property to contribution is to be made to your IVA;
- Whether anybody has guaranteed any of your debts or is guaranteeing your IVA contributions;
- Whether you are subject to certain court proceedings.

It also refers to whether you have made certain payments within certain time limits before entering into your IVA which could be challenged by a Trustee if you were made bankrupt. Under insolvency law a Trustee can seek to recover money if it can be shown that you have preferred payments to one creditor over another or if you have given money or assets away before being made bankrupt. None of these provisions apply in an IVA so creditors need to know if they might recover more money by making you bankrupt

DISTRIBUTIONS TO CREDITORS

Your Proposal is required to state when payments will be made to your creditors from the contributions you make into your IVA. We will make monthly payments to your creditors starting from the third month after your IVA is approved or the date when the first contribution is received.

SATISFACTORY CONCLUSION OF THE ARRANGEMENT

If you successfully make all of the payments due to your IVA.

We will complete and issue all the necessary paperwork with your creditors and will issue you with a Certificate Of Completion for your records.

You will now be debt free. Any debts due to creditors at that point must be written off by the creditors.

PROPOSAL TERMS ADDRESSING THE REQUIREMENTS OF SIP3.1

This section of your Proposal confirms that you have been advised of all of your options and that you have chosen an IVA as the most suitable and preferred solution for you.