



What happens when you are interviewed by the official receiver

A BIS SERVICE

This leaflet covers the questions you are most likely to ask about the process and timescales of bankruptcy or compulsory liquidation.

How does a bankruptcy or compulsory liquidation happen?

Who is the official receiver?

What are my duties?

How does the official receiver obtain information from me?

What should I do before the interview?

What happens at the first interview at the office?

What happens at the first telephone interview?

Will I need to be interviewed again?

What happens next?

How long will the process take?

How do I get more information?

How does a bankruptcy or compulsory liquidation happen?

A court makes an insolvency order (a bankruptcy order against an individual or a winding-up order against a company) after a petition has been presented at the court and served on you or the company. The petition is usually presented either by:

- you (in a bankruptcy); or
- one or more creditors who are owed at least £750.

Who is the official receiver?

Official receivers are civil servants in The Insolvency Service and are officers of the court. The court notifies them about a bankruptcy or winding-up order.

Your local official receiver is responsible through their staff for administering the initial stage, at least, of your insolvency case. This stage includes collecting and protecting any assets and investigating the causes of the bankruptcy or winding up.

What are my duties?

As a bankrupt or a director of a company in compulsory liquidation, you have a duty to comply with the official receiver's request to provide information about the financial affairs of you or the company, including attending for interview as and when asked. More information about your duties is available in our leaflets 'Guide to Bankruptcy' and 'Guide for Directors',

which are available from your local official receiver's office or The Insolvency Service website (www.insolvency.gov.uk).

How does the official receiver obtain information from me?

The official receiver's staff will contact you immediately if they know that action is urgently needed in relation to your or the company's assets. Otherwise, they will contact you within 2 working days of receiving the insolvency order. Usually they will arrange an appointment for you to attend the official receiver's office for interview, normally on a date that is convenient to all parties. Alternatively, and in relation to bankruptcy only, the official receiver may suggest a telephone interview. Telephone interviews are usually carried out where:

- you have presented your own petition
- you have not recently traded
- you have not previously been made bankrupt
- a telephone number for you is available.

If you are offered a telephone interview but would prefer to be interviewed in person, please tell the official receiver. Whether you are interviewed in person or by telephone, you will receive a letter setting out what is required of you and you may be required to complete a questionnaire. The more organised you are, the more straightforward the process will be.

If you have presented your own bankruptcy petition you may be interviewed by the official receiver, at court or at the official receiver's office, directly following the making of the bankruptcy order.

What should I do before the interview?

Before the interview you should do 3 things:

- Telephone the official receiver immediately to confirm the appointment if you have not already done so or if:
 - you have any infirmity, disability or other difficulty which you consider may require special facilities when attending their office or during the telephone interview
 - there are any matters that need to be sorted out urgently
 - you need to rearrange the appointment
 - the official receiver has requested a lot of paperwork or accounting records and you need more time to collect them.
- Fill in the questionnaire (if you have been asked to complete one) and make a note of any points you do not understand.
- Collect all the financial records, paperwork, and any other information you will need for the interview. This means all accounting records; financial papers (for example letters, statements, bank records,

hire-purchase agreements, credit card statements); the last set of your or the company's accounts; any other relevant paperwork about you (and your business) or the company.

If you are having a telephone interview, you must return the completed questionnaire to the official receiver by a fixed date. If you fail to do so or do not fully complete the questionnaire, you may be asked to attend for interview in person. You should have the financial records, paperwork and any other information available when the telephone interview takes place.

If you are being interviewed in person, you should take the completed questionnaire and the financial records, paperwork and any other information with you to the interview.

Do not ignore the official receiver's staff in the hope that they will go away. They will not. If you do not co-operate, you may have to attend court to be questioned and could even be arrested if you still fail to co-operate. In a bankruptcy, you could also have your discharge from bankruptcy proceedings suspended, which would mean that your bankruptcy could last much longer than the normal 12 months. In a company, non-cooperation could also be a reason for disqualifying you from future involvement in company management for a period of 2-15 years.

What happens at the first interview at the office?

You should go to the reception desk when you arrive. You can expect to be seen at the time of the appointment, or certainly no later than 5 minutes after the fixed appointment time. Then, in a private interview room:

- your questionnaire (if you have been asked to complete one) will be checked by a member of the official receiver's staff. If you have not completed the questionnaire, you will be asked to do so there and then
- you will be interviewed by an examiner (a member of staff who is a specialist in insolvency matters) who will go into the details of your or the company's assets and debts, and the facts and circumstances that led to the insolvency
- you should hand over all your or the company's financial records and papers. They will be examined and recorded then or at a later interview and will be kept by the official receiver.

You should feel free to ask any questions about the proceedings or your case when you are at the official receiver's office.

Depending on the nature of your case, the interview may take 2-3 hours to complete.

What happens at the first telephone interview?

You will be telephoned by an examiner at the agreed date and time. The examiner will:

- check the information in the questionnaire (if you have been asked to complete one)
- ask for any necessary additional information about your assets and debts, and the facts and circumstances that led to the insolvency
- deal with any queries you may have about the proceedings or your case.

The examiner will also tell you if you need to supply further information relating to your affairs. Telephone interviews usually take at least half an hour, and may take longer.

Will I need to be interviewed again?

You may be asked to attend another appointment, particularly if:

- the examiner needs more time to complete enquiries into your or the company's affairs
- you cannot, or do not, provide all the financial records requested by the official receiver
- the examiner needs more details of your or the company's assets, debts and financial affairs
- you cannot provide all the information the official receiver needs
- you do not arrive for any appointment

What happens next?

After the interview, the official receiver will check the information you have given. They will issue a report to creditors (and shareholders in a winding-up), setting out your or the company's assets and debts. This report will usually be issued within 8 (but in any event within 12) weeks of the insolvency order. If there are material assets, they may seek the appointment of a private sector insolvency practitioner to act as trustee or liquidator to deal with the realisation and distribution of the assets. To do this, the official receiver will either call a meeting of creditors to enable them to appoint a practitioner or ask the Secretary of State to make an appointment. If a meeting of creditors is appropriate, it will usually be held within 12 weeks (but in any event within 4 months) of the insolvency order. You may be asked to attend the meeting of creditors. You will be notified if an insolvency practitioner is appointed as trustee or liquidator. You will need to help the trustee or liquidator to deal with your or the company's affairs by giving your full co-operation. If there are no material assets, the official receiver will continue to deal with everything.

How long will the process take?

What happens next, and how long it takes, depends on the complexity of the case. If you have provided all the necessary information and no problems

are expected in dealing with the assets, you may not hear from the official receiver again. Any remaining matters, such as telling the official receiver of any change of address, may be dealt with by letter or telephone. In a winding up, that may be the end of the matter. If your trustee makes a payment to your creditors, they may place an advertisement about your bankruptcy in a newspaper asking creditors to submit their claims. If it takes your trustee a long time to deal with an asset, this advertisement may appear several years after the bankruptcy order.

Length of bankruptcy. In a bankruptcy, you will normally remain bankrupt for a maximum of 12 months. This period may be shorter if the official receiver concludes their enquiries into your affairs sooner and files a notice in court. After this time you will be automatically discharged from the restrictions of bankruptcy. If your conduct has been dishonest or you have been in some way to blame for your bankruptcy, a bankruptcy restrictions order may be made against you. This will mean you will continue to be subject to the restrictions of bankruptcy for a further 2-15 years. If you fail to co-operate with the official receiver or trustee, the court can be asked to suspend the discharge period. If the court agrees, your bankruptcy will only end when the suspension has been lifted. Discharge from bankruptcy does not end your trustee's administration of any assets that became part of your bankruptcy estate.

Co-operation. The more difficulty the official receiver has in finding out what caused the insolvency or administering the assets, the longer the whole process will take. As part of the process, they may require you to:

- submit a statement of affairs (a summary of your or the company's assets and debts)
- provide accounts for you or the company
- provide an account of all dealings in cash and goods

If you do not co-operate with the official receiver, they may also apply to the court for your public examination. This means you will be questioned in open court about your or the company's affairs, dealings and property.

Your or the company's creditors may also be there and can ask you questions as well.

Under the insolvency and other legislation there are provisions about **criminal offences and unfit conduct** by directors and bankrupts. The official receiver will report to The Insolvency Service's Investigations and Enforcement Services if there seems to be evidence of criminality or unfitness. The official receiver does not start out by thinking that every bankrupt and director has committed offences or is unfit - it is their job to establish the facts. In the vast majority of cases, those facts do not suggest that it would be in the public interest to begin criminal, disqualification or bankruptcy restrictions proceedings.

How do I get more information?

This leaflet is for general guidance only. If you have any queries about the progress of your case, please contact the official receiver's office (or the insolvency practitioner if one has been appointed) where your case is being dealt with. **The Insolvency Service and its official receivers cannot provide legal or financial advice.** You should seek this from an authorised insolvency practitioner, a solicitor, a qualified accountant, or a reputable financial adviser or advice centre.

The Insolvency Service Charter outlines the service that we expect to provide to the public. The Charter is available in office reception areas and from all courts dealing with insolvencies.

A range of Insolvency Service publications are available from your local official receiver's office. They also appear on The Insolvency Service website at www.insolvency.gov.uk

The Insolvency Service's performance results are published in its Agency Annual Report and Accounts. The Service also publishes a General Annual Report on insolvency statistics. You can read copies of each report at your local official receiver's office or buy them from The Stationery Office – telephone 0870 600 5522. We cannot give away copies of either report.

© Crown copyright 2010.

The information in this booklet is subject to Crown copyright protection.

The Crown copyright material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a derogatory manner or in a misleading context. Where the material is being published or issued to others, the sources and copyright status should be acknowledged. If there were a restriction on reproduction, any other proposed use of the material would be subject to the approval of Her Majesty's Stationery Office Unit. Application should be made in writing to the Copyright Unit, HMSO, St Clements House, 2-16 Colegate, Norwich NR3 1BQ.

The permission to reproduce Crown copyright material does not extend to any material in this booklet which is identified as being the copyright of a third party. Authorisation to reproduce such material would need to be obtained from the copyright holders concerned. For further details on the licensing of Crown copyright, see current guidance at www.hmso.gov.uk/guides.htm issued by Her Majesty's Stationery Office.



The Government Standard



INVESTOR IN PEOPLE

You can obtain further copies of this
publication by email from:
publications@bis.gsi.gov.uk

Publications are also available on our website
www.insolvency.gov.uk
<http://www.insolvency.gov.uk>

September 2010

URN 10/1151