Personal Insolvency (Bankruptcy)

Insolvency is commonly mistaken as being bankrupt. Bankruptcy is merely an option available to a person facing insolvency. Insolvency is the inability to pay debts when and as they fall due.

**Bankruptcy**

Where a person is unable to meet their debt obligations, they may voluntary declare or be forced into bankruptcy. A Trustee will administer the assets of the insolvent individual upon declaring bankruptcy.

- Most debts will be written off – allowing for a fresh start.
- Bankrupt for minimum of 3 years.
- A number of other negative consequences to bankruptcy.

**Alternatives to Bankruptcy**

1. **Informal Arrangements:**
   - Agreement with people whom debt is owed to in writing.
   - Negotiate a payment plan that person facing personal insolvency may be able to meet.
   - Does not involve costs.
   - May be as simple as writing a letter.

2. **Formal Arrangements (Part X Personal Insolvency Agreements)**
   - Offer to pay in instalments or a lump sum less than the full amount.
   - Offer must be accepted by special resolution (people holding at least 75% of the total debt).
   - No threshold limits to be eligible.
   - Must have residential or business connection.

3. **Debt Agreements (Part IV Debt Agreement)**
   - Offer to pay in instalments, a lump sum less than the full amount or for a freeze on debt to get back on feet.
   - Offer must be accepted by general resolution (people holding at least 50% of the total debt).
   - Benefit from release of debt obligations without negative consequences of bankruptcy.

4. **7 Day Moratorium**
   - Stop the people who are owed money from garnisheeing wages (an order from the court to take an amount from wages) for seven days.
   - Stops bailiff or sheriff from seizing assets to recover debts seven days.
   - Use time to speak to creditors, consider options and seek advice.

**Financial Counselling**

- It is recommended that a person facing personal insolvency seek professional financial counselling.
- You may contact the Baptist Care on (08) 8118 5200 for more information on free community financial advisors.

For further information about your rights and responsibilities, contact the Adelaide Legal Outreach Service on (08) 8118 5200 or email us at alos@adelaide.edu.au to arrange an interview.