

## Some Common Misconceptions:

*“I’ll just pay off the petitioning creditor’s debt and ask for an annulment”*

This is the first trap that many individuals fall into after being made bankrupt. They think they can simply pay the debt due to the petitioning creditor then ask the Official Receiver for an annulment of the bankruptcy order. However, this is not possible for the following reasons:

- a) All unsecured debts become due for repayment including credit cards, store cards, bank loans. Even though payments may be up to date, the balances are now liable to be repaid in full.
- b) Assets vest in the Trustee. Bank accounts will be frozen. An entry in your name is placed against any property at H M Land Registry. This means that the bankrupt cannot access funds or re-mortgage to realise equity in their property to pay off their debts.
- c) It is the bankrupt who must make a formal application to court for an annulment. All relevant parties must be served with the appropriate legal documents.
- d) Obtaining an annulment is not easy without legal input and costs.

*“The Official Receiver or Trustee in Bankruptcy will help me and tell me what to do”*

The Trustee in Bankruptcy cannot provide legal or financial advice to the bankrupt. He is not allowed to recommend any particular firm or organisation where you may be able to obtain independent advice. He acts for the benefit of creditors and has a duty to maximise the return to them by selling the bankrupt’s assets.

*“I’ll ask my local solicitor or Citizens Advice Bureau to sort this out for me”*

Obtaining an annulment (or cancellation) of a bankruptcy order is not a simple process. Indeed, many general practice solicitors are often confused by the raft of legislation concerning such matters.



*“I’ll seek advice from my accountant or financial advisor”*

The vast majority of accountants, financial advisors and mortgage brokers will not have access to annulment funds and will have no idea of how to go about resolving the anomaly that arises where funds need to be raised against a property to pay the bankruptcy debts and costs:

### “Catch 22”

Firstly, mortgage companies will not lend without receipt of a bankruptcy annulment order or certificate of discharge, and

Secondly, the court will not grant an annulment order without first being satisfied that all the debts, costs and expenses of the bankruptcy have been paid or secured in full. A mortgage offer is not sufficient evidence of this.