

RESIDENTIAL PROPERTY

QUESTION

WHAT WILL HAPPEN TO MY RESIDENTIAL PROPERTY

ANSWER – Based on the information provided (if applicable)

The property forms part of the bankruptcy estate and the beneficial interest / equity has to be realised for the benefit of the creditors

You will need to obtain / provide

An up to date Valuation from a registered valuer

An up to date mortgage statement

An up to date statement from all other chargeholders (if applicable)

The property must be dealt with within 3 years of the date of the BKY Order

The Beneficial interest / equity available to creditors will be calculated once the above has been obtained along with additional information

EXAMPLES

If the equity available is negative	Solely owned	Jointly owned
Value £ 85,000	£120,000	£120,000
mortgage £ 90,000	£ 90,000	£ 90,000
equity £(5,000) negative £15,000	£ 30,000	£ 30,000 divided by 2
No action will be taken	Debtors equity £30k	Debtors equity £15k

Property Solely owned

- Need to establish if the debtor is in a position to purchase the equity back.
- If the Debtor is not in a position to purchase the equity back does he/she know someone who may wish to purchase the equity – family member – friend, if they want to protect their interest they can have a charge put on the property.
- If the debtor does not want to keep the property then the trustee may agree to them staying in the property until it is sold
- If no agreement can be reached then the trustee will instruct solicitors to make an application for possession and sale (particularly if it is nearing the 3year limit)

Property Jointly owned

- The trustee will write to the joint owner ie spouse / partner asking if they wish to purchase the debtors share of the equity.
- No action can be taken for a year and a day from the date of the BKY order if the spouse/ partner or children are living with the debtor.
- However, if you stop paying the mortgage then your house maybe repossessed by the Lender.
- If the spouse / partner is not in a position to purchase the equity back do they know someone who can lend them the money – family member – friend, if they want to protect their interest they can have a charge put on the property.
- If the debtor / spouse / partner do not want to keep the property then the trustee may agree to them staying in the property until it is sold.
- If no agreement can be reached then the trustee will instruct solicitors to make an application for possession and sale (particularly if it is nearing the 3year limit).

(Questionnaire on additional sheet)

NOTE

If the property has been adapted in anyway then full details will be required

See Additional Information sheet for the Insolvency Service Guidelines

Questions residential Property

All information is strictly confidential

Name (<i>Last, First, M.I.</i>):	<input type="checkbox"/> M <input type="checkbox"/> F	DOB:	
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Marital status: Single Partnered Married Separated Divorced Widowed

Marital Status: How long have you been married / together -

Occupation: Self
Employed Employed

Address	Home Telephone Number	
	Mobile Telephone Number	
Post Code	Best time to call you?	

DEPENDANTS

Do you have any dependant Children? No Yes (If Yes please complete below, If No move to next section)

Name (Of dependant child)	Age

RESIDENTIAL DETAILS

Do you? Own you own home Live in rented accommodation Live with parents

Type of property? Detached Semi Detached Terrace Bungalow Flat Other - Please specify:

Number of Bedrooms?	When did you buy the property?
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How much do you think the property is worth?

What is the outstanding mortgage?

How is the property owned? In my sole name Jointly with: (Please specify)

Do you have any other secured loans against the property? No Yes (If Yes please detail below)

Name of	Address	Amount Outstanding
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Creditor		

Additional Information – Special Requirements

Has the property been adapted in any way (provide full details)

ADDITIONAL INFORMATION

Insolvency Service Guide to Bankruptcy 21 July 2016

<https://www.gov.uk/government/publications/guide-to-bankruptcy/guide-to-bankruptcy>

If you own your home it can be sold if it is the only way to pay your creditors.

Sole owners

If you're the only owner of the property:

- the value of the property after any secured debts (eg, a mortgage) have been paid transfers to the trustee. This is known as the 'beneficial interest' and is sometimes called equity
- the legal title transfers to the trustee and a bankruptcy restriction is added to the land registry record. This will stop you from selling your home or making deals connected to it

The re Joint owners

If you own the property with someone else:

- your share of the property after any secured debts (eg, a mortgage) have been paid transfers to your trustee. This is known as the 'beneficial interest'
- a 'Form J restriction' is added to your Land Registry record and the trustee will be told of any deals affecting the property, including a sale

You can still sell the property, but the trustee will get your share of the money from the sale. The Form J restriction will be removed once the trustee has been paid this money.

The sale of your home

The trustee can't usually sell the property without your agreement for a year from the date of the bankruptcy order if you have a partner or children living with you.

You can stop a sale taking place later if a family member or friend buys the beneficial interest in your home. The buyer should contact the trustee.

There's a 3-year time limit for selling the family home from the date of the bankruptcy order. If your beneficial interest is less than £1,000 at the end of this period no action will be taken and the interest will return to you. The restriction at Land Registry will be removed.

If your beneficial interest is more than £1,000 the trustee can sell the property or apply for a 'charging order' as an alternative to a sale. A charging order fixes the amount the trustee will get from the property when it is sold.

A 'family home' is any property you, your spouse/civil partner or former spouse/civil partner is living in at the date of the bankruptcy order. If you co-habited with your partner and have now separated, the property that they and/or your children live in is not a family home.

If you fall behind with your mortgage payments, your lender may sell your home.

Rented property

Bankruptcy is unlikely to affect your rental situation if you are up-to-date with your rent but it's a good idea to seek legal advice on what will happen under your tenancy.

If you are behind with your rent your landlord can still apply to evict you even if the rent arrears are included in the bankruptcy