Individual Voluntary Arrangements

Managing within a Credit Union

Questions/Comments

March 19, 2024

- Is it legal to use those shares to reduce the debt without the members permission after the debt had been in arrears for 9 months?

  Peter Wordsworth: Consumer Duty Services – The IVA is a Statutory debt solution as whilst it is live the Debtor is protected by law from the creditors comprised in the IVA. The IVA must be terminated by the Insolvency Practitioner before any enforcement action can be taken even if they are several months in arrears.

- How to deal with members entering into IVA after taking a loan.

  Peter Wordsworth: Consumer Duty Services - If the IVA is proposed after the loan was granted then the Credit Union should lodge details of their claim with the Insolvency firm submitting a proof of debt form, and vote for or against the proposal being mindful of their new obligations under Consumer Duty. If approved, then the Credit Union will receive all dividends they are entitled to under the IVA. If the IVA proposal is not approved, then the Credit Union can carry on managing the account as usual but may want to take steps to protect itself given the borrower is clearly in financial difficulty.

- How to chase IVA company when no dividend is paid.

  Sarah Cheetham: StepChange – The IVA proposal will outline the expected dividend and when payments will start. The IVA firm should distribute payments on that basis, providing the client has made their monthly payment. If you don't receive your dividend, contact the IVA firm directly and if that doesn't work you can raise a complaint about the practice of the firm.

  Peter Wordsworth: Consumer Duty Services - The Insolvency firm managing the IVA will be regulated by one of the regulatory bodies of which there are several including the IPA , R3 and the ICAEW. The Insolvency firm will make clear on their website which regulatory body they are registered with and any complaints can be escalated to them if a direct complaint toi the IP does not resolve the matter.

- When IVA is finished can we still chase members with the outstanding balance.

  Sarah Cheetham: StepChange – No, the liability to the debt is written off under terms of the IVA and as outlined in Insolvency Act.

- As an FCA regulated entity do we need to consider Consumer Duty when considering an IVA proposal or is it outside of the scope of the FCA?

  Peter Wordsworth: Consumer Duty Services -The FCA have now confirmed that regulated firms DO need to consider their obligations under Consumer Duty when voting on an IVA proposal or amendment.

- Who do you complain to when not receiving dividends and cannot get a reply from the IVA practitioner (e.g Creditfix)?

  Sarah Cheetham: StepChange – We'd recommend you raise directly with the IVA provider but if you don't get a response, you can raise a complaint through the insolvency service complaints gateway or contact their regulator.

- Why are the IVA practitioners paid the whole of their fees rather than an equal share along with the creditors?

  Sarah Cheetham: StepChange – The IVA firm set out the fees in the IVA proposal. A voting creditor can propose modifications to those fees, if you're unhappy with the proposal. However, if you hold less than 25% of the share of the vote this modification might not be go through.

- How do we introduce tighter regulation in this sector?

  Peter Wordsworth: Consumer Duty Services - The Insolvency Service regulates this sector and has consulted recently on potential changes. If you are unhappy with the current regulation then you need to raise this directly with the Insolvency Service.

- What impact if any on IVA numbers of recent changes to DRO (total debt, car value and no fee)?

  Peter Wordsworth: Consumer Duty Services - We believe this will reduce the volumes of lower value IVAs but not have a significant impact.

- What would credit unions like more from IP firms to increase confidence in IVAs?

  Can we share our termination rates, processes etc. to increase confidence that when a referral is coming from someone like StepChange, the IVA outcome is the right solution for a client?

  Peter Wordsworth: Consumer Duty Services - Stepchage has for several years published its failure rate data and has tried to encourage others to follow. To date I believe they are the only IP firm to have voluntarily published their failure rates. The Insolvency Service is however providing more data on IVAs including failure rates and I suggest you review the data available on their website as helpful starting point.

- From a business and debt management perspective, IVAs would seem an appropriate decision regarding outstanding debt, as we follow a formal process for them. However, if we were to consider the customer's perspective, do you think IVAs and debt solutions would ultimately have a negative impact on the customer's ability to manage future debts and finances?

  Peter Wordsworth: Consumer Duty Services - the evidence is that where customer complete an IVA they are often much better at managing debts and finaces moving forward as the process has taught them how to manage their finances better and live within an agreed budget.

- While I agree that IVAs are a good solution in certain situations, do you think the decision is sometimes taken too lightly which could put a customer into a cycle of poor financial decisions or reliance on debt solutions like IVAs?

  The debtor should receive clear advice on the implications of the IVA before entering into this and these requirements are set out in the regulations governing IVAs. An IVA should never be entered into lightly as it is a long term financial commitment.

- Do you think there is more that could be done in regards to encouraging financial education, rather than solutions?

Sarah Cheetham: StepChange – Yes more could be done to encourage financial education, however this is a longer-term strategy and even with financial education some of the main reasons people find themselves in problem debt wouldn't be removed such as relationship breakdown, loss of job, bereavement. So even if financial education was improved, there will still be a need for debt solutions to help those who fall into problem debt.

Typically, where an individual is provided advice in contemplation and they have outstanding credit with a CU, they will be advised that any savings may be offset - this needs to be considered on both sides to.

- What responsibility do practitioners have for checking creditors' details including addresses? We have often missed the opportunity to vote because the practitioner has confused us with the local council (which also has Mendip in its name) and send details to them, or sent them to an address that we were at when the member opened their account (up to 20 years ago!)

  The insolvency Firm should take reasonable steps to validate the creditor information, but it is important to remember that they are acting for and on behalf of the debtor and it is the debtor who will provide the initial information regarding their creditors.

- What about members who are still paying we vote reject but the IVA gets accepted do we then have to remove interest etc ?

  Sarah Cheetham: StepChange - All payments should stop to avoid creditors getting preferential payments. A client should enter an IVA with a sustainable budget to support IVA repayment but also ensure they can meet their priority expenditure and living expenses, therefore making payments outside of the IVA could be detrimental to the client and pose a risk to the IVA.

  You can only claim what was owed at the time the IVA commenced, so interest and charges can't be applied during the IVA. If IVA is terminated, you can apply interest and charges.

- For 7 years in the Credit Union, I have not seen a single good outcome for the customer. They are all in a worse position even if successfully completed the IVA, which itself we see very rare. Successfully completed IVA would pay £5 - £20 dividend payments in total for the whole period of 60-72 months. In reality the only winner here is the IP.