

Chapter 4: the A to Z of bankruptcy questionnaire

Updated: 1 May 2024

The A to Z of bankruptcy questionnaire

Your clients' answers to these questions will help them make an informed decision as to whether they are a suitable candidate for bankruptcy. You should explain the consequences of bankruptcy in detail as there may be things your client has forgotten or failed to disclose. Clients should be encouraged to explore other, viable options. Clients need to understand that there can be legal and financial implications if their circumstances change.

a. Is there any urgency (for example imminent enforcement action – garnishee of wages, seizure of goods etc)?

b. Does your client have a judgment debt (or judgment debts) of over \$10,000?

c. Is your client's current financial problem permanent or long term?

d. Are most of your client's debts legally owed?

e. Are your client's debts covered by the National Credit Code? If so, has your client (or someone acting on behalf of your client) applied for a hardship variation or lodged

a complaint in the Australian Financial Complaints Authority (AFCA)?

f. Has your client (or someone acting on behalf of your client) tried to come to a suitable informal arrangement with creditors? (Including reduced settlements)? Has anyone sought a compassionate release?

g. Will your client be released from their debts (or most of them) as a result of going bankrupt?

h. Has your client considered accessing any available superannuation? Is this a good idea in the circumstances?

i. Are there joint debts with another person who is not going bankrupt? Is there a guarantor?

j. Has your client claimed on any insurance policy that could assist to meet their financial commitments? Is your client expecting any type of insurance claim to be paid out in the near future?

k. Does your client own (or partly own) any assets other than household furniture and personal possessions (real estate, cars, boats, caravans, shares, pedigree breeding animals, livestock etc)? Is your client considering selling any available assets to meet their debt?

l. Are there secured debts? Is your client paying off a mortgage on a house/home unit or investment property?

m. Has your client ever made a substantial gift of assets or money or sold/transferred any property for less than its market value (for example. to family or friends)?

n. Has your client withdrawn any superannuation or been paid out under any life insurance or total and permanent disability insurance policy? Have they made substantial extra payments into their superannuation fund?

o. Does your client have any legal proceedings on foot, or are they likely to be involved in legal proceedings in the near future?

p. Is your client separated or divorced? Have they already done a property settlement?

q. Has your client ever received an inheritance? Is your client likely to receive an inheritance in the next 3 to 5 years?

r. Does your client manage a company or hold a directorship? Are they a partner in a business?

s. Is your client in a licensed profession or required to be a member of a professional association?

t. Does your client earn more than the prescribed limit for making contributions during bankruptcy?

u. Does your client want/plan to travel overseas in the next few years?

v. Does your client have long term plans to buy a home or start a business?

w. Has your client been bankrupt before?

x. Were your client's debts acquired through gambling and hazardous speculation, fraud or are they non-provable?

y. Is your client physically or mentally ill?

z. Will bankruptcy make a positive difference to your client?