

# Individual Voluntary Arrangements (IVAs)

(including Partnership Voluntary Arrangements)



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24 Southernhay East  
Exeter  
Devon  
EX1 1QL

Tel: 01392 424 063

Norfolk House  
16 Lemon Street  
Truro  
TR1 1S

Tel: 01872 261132

53 Fore Street  
Ivybridge  
Devon  
PL21 9AE

Tel: 01752 690101  
Fax: 01752 690808

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**RICHARD** | O  
**J. SMITH** | &

Insolvency Practitioners  
Forensic Accountants

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**ICAEW**  
LICENSED INSOLVENCY  
PRACTITIONERS (UK)

# The Insolvency Act 1986

## Individual Voluntary Arrangements

### Description

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If you have financial problems arising from personal expenditure or from your business, you may wish to consider an Individual Voluntary Arrangement (IVA) as a preferable alternative to Bankruptcy.

An IVA is a very flexible procedure. Each proposal is tailored to suit the individual's circumstances. In simple terms it is a legally binding contract between you and your creditors.

### Benefits

- **An Interim Order gives immediate protection against pressing creditors**
- **An IVA may allow the survival of a profitable business**
- **An IVA may allow a debtor to retain his or her home**
- **It is not necessary to offer a payment in full where the facts demonstrate that this is not possible. A fair and reasonable proposal for an Individual Voluntary Arrangement will be treated by creditors on its own merits**
- **If seventy-five percent or more by value of creditors voting agree to accept or modify what is offered, the rest of the creditors are bound by the terms of the proposal**
- **An IVA is not advertised**

### Proposal

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This is prepared with the assistance of either a Licensed Insolvency Practitioner or a specialist lawyer. The proposal sets out in detail what is being offered to creditors. It includes a Statement of Affairs setting out details of assets and liabilities, the estimated dividend, the estimated costs, and provisions covering default. The proposal may not affect the rights of secured or preferential creditors without their agreement.

### Interim Order/No Interim Order

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Once the proposal has been prepared, an Interim Order may be sought from the Court if creditors are pressing. The effect of the Order is that the Court may stay all other legal procedures. No Bankruptcy petition can be heard. No other legal action can be taken against the debtor or his property whilst it is in force. Alternatively, if there is no immediate creditor pressure, an Interim Order may not be necessary and the proposal can be simply forwarded to creditors.

### The Nominee's Report

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The Debtor's proposal and Statement of Affairs are delivered to the Nominee so he can prepare his report. In practice the Nominee prepares both for the Debtor to review. Within 14 days of receipt of the proposal and Statement of Affairs the Nominee must forward the Nominee's report to the Court (where an Interim Order was obtained) and to creditors.

## **Decision Procedure**

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Approval of an IVA with or without modifications must be achieved through a decision procedure. The decision on a date can be achieved through correspondence, electronic voting, a virtual meeting or a physical meeting (if certain thresholds are met).

The decision date for approval of the IVA proposal must not be less than 14 days from the date the Notice of the decision event is delivered to creditors, and no more than 28 days from the date of the Nominee's report or 28 days from the Interim Order hearing in Court to consider the Nominee's report.

The proposal, Statement of Affairs and Nominee's report are considered by creditors. The proposal is accepted by creditors if approved by seventy-five percent or more by value, of those who vote.

## **Appointment**

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The supervisor who is appointed must be a Licensed Insolvency Practitioner. Creditors whose claims have not been ascertained or those who did not receive notice are also bound by the decision of the meeting unless they have been deliberately excluded.

## **Duties of the Supervisor**

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The Supervisor ensures the terms of the proposal are met, deals with the creditors' claims, pays dividends and reports to the Court (if appropriate) and creditors on anniversaries and on conclusion.

## **Partnership Voluntary Arrangements (PVAs) – Multiple Partner business**

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The legislation allows for a PVA for multiple partner business. PVAs are particularly suitable for professional practices and where there are a large number of partners with complex individual estates.

## **Fees and Costs**

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Following instruction, a fixed fee for advice and assistance with the preparation of the proposal and the Nominee's fee will be agreed and is normally paid in advance. The fees of the Supervisor are met from the funds paid into the IVA and will be charged on the basis of time costs.

For more in  
depth advice,  
ask for:

Hamish Adam (Partner)  
[hamish.adam@richardjsmith.com](mailto:hamish.adam@richardjsmith.com)

Sam Bailey (Partner)  
[sam.bailey@richardjsmith.com](mailto:sam.bailey@richardjsmith.com)

Jonathan Trembath (Partner)  
[jonathan.trembath@richardjsmith.com](mailto:jonathan.trembath@richardjsmith.com)

Ivybridge  
**(01752) 690101**

Truro  
**(01872) 261132**

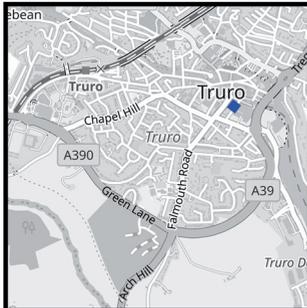
Exeter  
**(01392) 424063**

**Website:**  
[www.richardjsmith.com](http://www.richardjsmith.com)  
**Email:** [info@richardjsmith.com](mailto:info@richardjsmith.com)

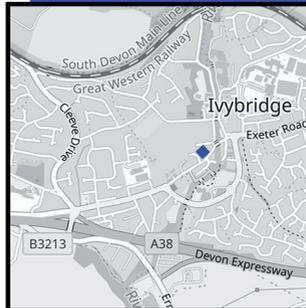
# good reasons to contact us first:

- 1** Consultation up to one hour free of charge at either our Truro or Ivybridge or Exeter offices or at your or your client's premises
- 2** Complete independence
- 3** Confidentiality
- 4** Comprehensive experience in all insolvency matters
- 5** Competitive fees
- 6** Established local practice

16 Lemon Street, Truro



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