

## Joint accounts and debts

One of the most difficult things about moving on from a relationship is knowing what to do with joint bank accounts and debts that you may have. It can seem difficult to understand what you will be responsible for and what you are not, but don't worry: your adviser can talk you through it.

### **We have a joint bank account**

Don't worry: a bank is not allowed to use money from a joint account to pay off a sole debt. However - if your account is overdrawn - debts in one person's name may affect the bank's decision on the overdraft limit.

**Remember** - If you discover your partner has run up a debt, it is important to remember that if a debt is not in your name, you are not liable for it even if you are married.

### **We have a joint mortgage**

Debts in one person's name should not affect the mortgage as long as the payments are up to date. However, if one of you is in serious debt it may affect your options when it comes to remortgaging.

If debts in one person's name become very large and payments are repeatedly missed, a lender could take court action. They can then apply to a court to secure a judgment against a joint property using a charging order.

Now - if the debt is in a sole name - a charging order on a joint property can only be made against that person's share of it, but this still reduces the overall value you'll get if the property is sold.

### **What are the legal rights of each party in a joint bank account?**

All account holders are equally responsible for any debts, even if you don't use or access the account. That means that if one person causes the account to go overdrawn, both of you are liable for the debt and could be pursued if it isn't paid off.

The only time that one person does not have to pay debts on a joint account would be if they were to go bankrupt. However, all this means is that the

remaining account holder then becomes liable for the whole debt.

**Remember** - The account can only be closed with the agreement of both account holders, and you'll need to work out between you how to divide any remaining money.

**If you discover your partner has run up debts on your bank account, what can you do to stop it getting any worse?**

Contact your bank to discuss your options. The bank may decide to freeze the account to prevent further debt from building up.

**If you're in debt you can't afford to repay, what are your options at this stage?**

If you're worried that you won't be able to pay back the debt, then ask your bank if you can negotiate an affordable repayment plan.

They will likely ask for evidence of your financial situation first, such as details of your income and outgoings. They may offer you an arrangement such as freezing the interest payments for a few months to give you some breathing space.

## **My partner and I aren't on speaking terms**

If you have any kind of joint bank accounts or credit cards, it's essential that you act to stop them as a matter of urgency. A partner can not only empty the account, but they can also rack up huge debts (either as overdrafts or credit cards) that they will be liable for.

- o **Contact the bank to say the account is in dispute.**

When two or more people open a joint bank account, they have to sign a form called a mandate. The mandate sets out things like – for example - who can sign cheques and take money out.

Either named person can cancel this mandate without the others permission: you can therefore cancel the joint account mandate straight away and this will lead to the account being frozen. Although you can no longer access your money, neither can your partner.

The law states that if all the people pay money into the joint account, it is assumed that they all own the amount jointly (it doesn't matter how much each person pays in). For a husband and wife - or civil partners - it is assumed the money in the account belongs to both people equally, even if only one of them pays into the account. However, for those clients who are not married or civil partners, if one of them isn't paying into the account, it isn't assumed that they are owed any money at all.

At the end of the day, the final decision may rest with taking the issue to court.

- o **Contact the issuer of any joint credit cards.**

These are – unlike bank accounts – never actually joint. There is only one primary user, and one secondary user.

- o If you are the primary user, get your partner removed as the secondary user.
- o If you are the secondary user, get your own name removed from the card. This way, any further costs incurred by your partner will no longer be your liability.