



**New South Wales
Police Force**

Guidelines for NSWPF Employees Declaring Bankruptcy or a Debt Arrangement

Professional Standards Command

Document Control Sheet

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Modification History

Version #	Version approval date	Author/Position	Summary of changes
1	8 August 2010	Professional Standards Command	Original document
2	15 August 2014	Professional Standards Command	<ul style="list-style-type: none"> Policy statement change to reflect GSE Regulations 2014 References to www.itsa.gov.au changed to www.afsa.gov.au The moneyAssist statement of services amended.
3	5 January 2016	Professional Standards Command	Apply protective marking
4	1 August 2017	Professional Standards Command	<ul style="list-style-type: none"> Changed guideline title to more accurately reflect the employee financial obligations. Changed definition of unmanageable debt to be finance related rather than health related. Added delegation HR 73 Replaced sentence re: removal of bankruptcy/debt notification from personnel file to a sentence requiring notification to be retained. Added sentence requiring employee to inform commander/manager that bankruptcy/debt arrangement has been discharged. Added a definition of bankruptcy section. Updated the definition of composition. Added an employee responsibilities section.

			<ul style="list-style-type: none">• Added www.moneysmart.gov.au Australian Security and Investment Commission website• Added a misconduct prevention section.
5	1 December 2017		<ul style="list-style-type: none">• Update of document classification under GIPA Act 2009

Table of Contents

1.	Scope	5
2.	Definitions	5
2.1	What is unmanageable debt?	5
2.2	What is bankruptcy?	5
2.3	What is a composition?	6
3.	Support services	6
4.	Employee Responsibilities	7
5.	Commander / Manager Responsibilities	7
6.	Misconduct Prevention	7
7.	References	8

1. Scope

These guidelines apply to all NSW Police Force employees regardless of designation, including those employees who are suspended or on any type of leave. The guideline does not apply to casual employees.

The Commissioner of Police has delegated the reporting of bankruptcies and other debt arrangements to commanders/managers within the NSW Police Force under *Commissioner's Delegation: HR73*.

If the employee is the agency head then a report must be made to the Minister to whom the agency is responsible.

Notification of a bankruptcy or entering into a composition, arrangement or assignment for the benefit of an employee's creditors is a requirement for all NSW Police Force employees under Clause 10 *Government Sector Employment Regulations 2014*.

The notification and management of a bankruptcy and other debt arrangement is a risk management strategy. The commander/manager must be satisfied that any corporate risks associated with the notification are adequately managed and that welfare and support services are offered to the employee.

The notification is to remain confidential and filed on the employee's personnel file.

On finalisation of the bankruptcy/debt arrangement a copy of the notice advising the matter has been finalised must be retained on the employee's personnel file.

Shared Services are responsible for the garnishee or attachment of wages as prescribed by the court.

2. Definitions

2.1 What is unmanageable debt?

The perception of unmanageable debt will vary significantly from person to person, but in general personal debt can be considered unmanageable when the level of required repayment cannot be met through normal income streams over a prolonged period of time.¹

2.2 What is bankruptcy?

Bankruptcy is a legal process whereby a person declares that they are unable to pay their debts. Bankruptcy can be entered into voluntarily (debtor's petition) or via a creditor petitioning the court (creditor's petition).

¹ Wiltshire Police Force Policy, *Unmanageable Debt Policy*, 1 January 2013, viewed 15/05/2017

While bankruptcy normally lasts for 3 years and 1 day ² it can have serious long lasting consequences. If considering declaring bankruptcy you should:

- seek advice
- know your options
- understand the consequences.

There may be other options available to you under the *Bankruptcy Act 1966* e.g. debt agreement or through a private treaty with your creditor.

2.3 What is a composition?

Under section 73 of the *Bankruptcy Act 1966*, a person who is bankrupt may make an offer of composition to creditors (via the trustee).

A composition is an offer to creditors to repay a percentage of the debt. If the offer is accepted, the bankruptcy will be annulled. The offer can be made using money or assets that the trustee cannot claim e.g. a relative offers to repay the debt on your behalf.³

If an employee enters into a composition with a creditor the employee must report it to their commander / manager.

3. Support services

There are various reasons why debt may become unmanageable e.g. ill health, breakdown in family relationships, poor money management. It is important to identify financial difficulties early so the situation can be addressed before it becomes unmanageable.

The NSW Police Force provides employees with a telephone counselling service through the Employee Assistance Program (EAP), moneyAssist™. The staff at moneyAssist™ have financial expertise and can provide practical financial advice to employees. moneyAssist™ does not provide investment advice or loans.

There are a number of other options available to deal with unmanageable debt. Assistance can be sought from a:

- financial counselling service
- community legal centre
- registered trustee

² Australian Government, Australian Financial Security Authority, What is bankruptcy?

<https://www.afsa.gov.au/insolvency/i-cant-pay-my-debts/what-bankruptcy>, viewed 15/05/2017

³ <https://www.afsa.gov.au/insolvency/i-am-currently-bankrupt/how-do-i-annul-my-bankruptcy> viewed 1/06/2017

- registered debt arrangement administrator
- solicitor
- accountant.

Further information is available on the Australian Financial Security Authority⁴ and Australian Security and Investments Commission⁵ websites.

4. Employee Responsibilities

Employees must immediately notify their commander/manager in writing of any bankruptcy or debt arrangement.⁶

Failure to notify a bankruptcy or debt arrangement is a breach of point 3 of the *Code of Conduct and Ethics* and may result in management action.

An employee of the NSW Police Force must know and comply with all policies, procedures and guidelines that relate to their duties.

Employees must co-operate with any risk management strategies developed and implemented in relation to their bankruptcy/debt arrangement notification.

When a bankruptcy / debt arrangement has been finalised the employee must supply their commander / manager with a copy of the notice advising the matter has been discharged.

5. Commander / Manager Responsibilities

When a bankruptcy or debt arrangement is reported the commander / manager should identify any associated risks to the employee, their position or the NSW Police Force.

If necessary commanders / managers should develop strategies to manage associated risks and discuss those strategies with the employee.

Commanders / managers should also advise employees of the support services available to employees who are experiencing bankruptcy or who have entered into a debt arrangement.

6. Misconduct Prevention

Debt can put an employee in a vulnerable position. An employee may become the target of individuals or organised crime groups wanting to exploit the employee's circumstances or an employee may engage in other forms of misconduct in order to alleviate their financial situation.

⁴ <https://www.afsa.gov.au/insolvency/i-cant-pay-my-debts>, viewed 15/05/2017

⁵ <https://www.moneysmart.gov.au/managing-your-money/managing-debts>, viewed 16/05/2017

⁶ Clause 10 *Government Sector Employment Regulation 2014*

When a bankruptcy or debt arrangement is reported, the employee's commander/manager will examine the risks involved and if required, develop misconduct prevention strategies to protect the employee and the organisation.

Employees must co-operate in the management of any risks associated with their bankruptcy or debt arrangement notification.

As a condition of employment in a financial management role within the NSW Police Force, the Commissioner of Police (or delegate), may require the person prior to being engaged in the role to make a declaration as to whether or not the person has ever been declared a bankrupt or made a composition, arrangement or assignment to the benefit of the person's creditors.⁷

7. References

Government Sector Employment Regulations 2014

Bankruptcy Act 1966

Code of Conduct and Ethics

Australian Financial Security Authority

Australian Security & Investment Commission

Commissioner's Delegation Number: HR 73

⁷ Clause 10(3) *Public Sector Employment Regulation 2014*