

Business Rescue Pack

 *A Comprehensive Guide To Rescuing Your Business!*

Introduction

What is the purpose of this pack?



Debt can be an unavoidable and necessary part of running a business and many companies can't operate without committing to some debts.

Businesses may need loans to buy equipment, mortgages to buy premises and credit agreements with suppliers. If all things are well and good these debts aid the growth of business and are completely manageable.

In some cases however, the way the rest of the business operates, the payment behaviour of clients or economic circumstances conspire to make managing a business's debts a real struggle - a struggle that some cannot overcome without help.

If your business has problems handling debts there are various

options available and it is important to ensure that you are as well informed as possible, so you can make the best decisions. This pack has been written to give you practical advice on how to deal with your business debts and minimise the effect they have on the business and its employees.

It is advised that you work through this pack chapter by chapter, but if you are only looking for a particular section, please locate it from the contents page and find the appropriate text.

Top tips

Always remember that there is more than one opinion. Seek advice from more than one source to ensure that whatever the financial issues are, you are as well informed as possible.

Deal with the problems as soon as you become aware of them. The longer they are left, the worse they will become.

Stay positive and proactive.

What is covered in this pack?

This pack covers the many aspects of dealing with business debts and business recovery.

It includes:

- ✓ **How to recognise that the business is falling into debt.**
- ✓ **An explanation of business insolvency and when it becomes an option.**
- ✓ **An outline of the insolvency act and how it relates to your business.**
- ✓ **An explanation of how to deal with priority and secondary debts.**
- ✓ **An explanation of how to deal with creditors and plan repayments.**
- ✓ **An explanation of the options available including, CVA, CVL and Administration.**
- ✓ **An outline of the options applicable to Sole Traders, Partnerships and Limited Companies.**
- ✓ **Details of various bodies and organisations that can be of further assistance.**
- ✓ **A glossary of the main terms that are used in relation to business debt.**
- ✓ **Ideas to get you and your business back onto the road to recovery.**

You'll also find 'Top tips' boxes to help you get the most from each section and Jargon Buster boxes to help you understand some of the terminology along the way.

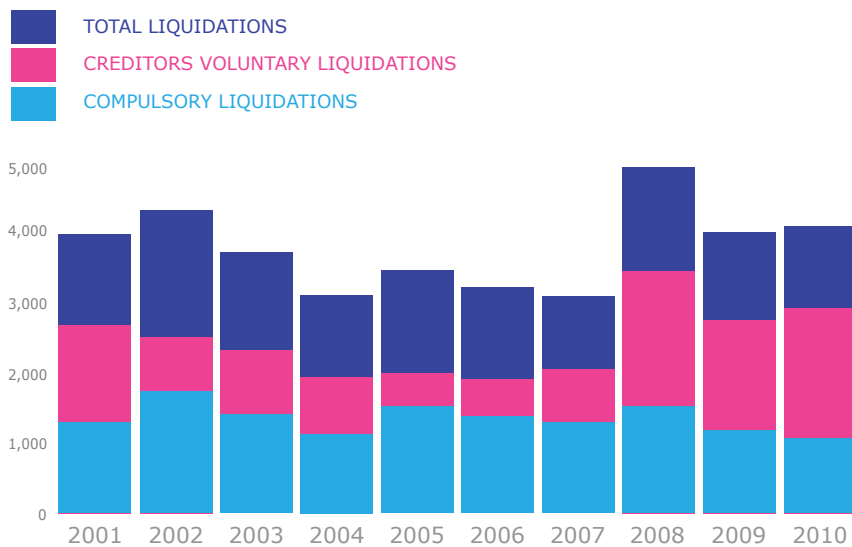
Facts and Figures



Times are hard, especially for small businesses. Take a look at the graphics below, which give a visual representation of government figures.

Company Liquidations

Throughout England & Wales 2001 - 2010

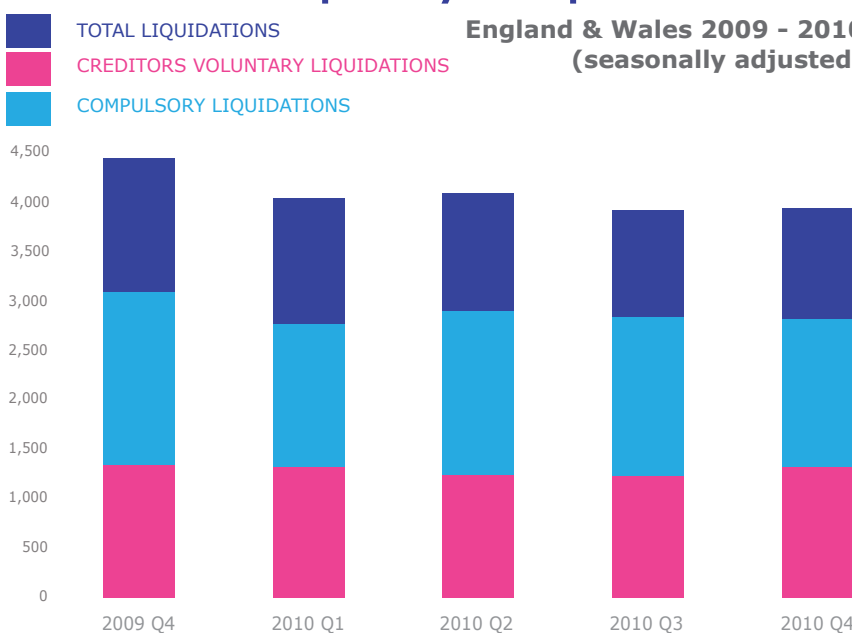


DATA SOURCE - INSOLVENCY SERVICE AND COMPANIES HOUSE

This graph demonstrates the numbers of company liquidations in England and Wales in the first quarter of 2011. Although the number of total liquidations reduced from the third quarter of 2009, numbers still remain higher than earlier in the decade.

Company Liquidations

England & Wales 2009 - 2010
(seasonally adjusted)



DATA SOURCE - INSOLVENCY SERVICE AND COMPANIES HOUSE

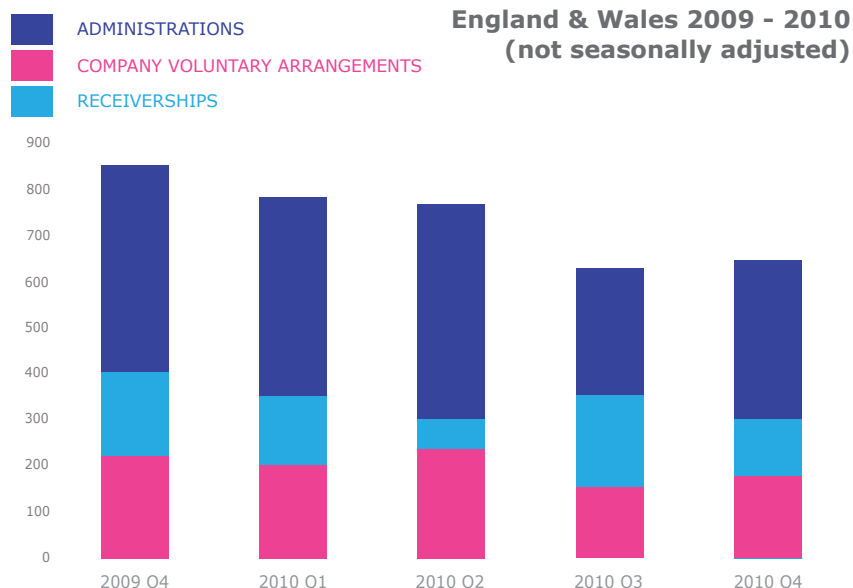
This graph shows company liquidations in England and Wales. The data is made up of 1,200 compulsory liquidations which are up 5.8% on the previous quarter and 2,775 Creditors Voluntary Liquidations which are down 2.6% on the previous quarter.

Facts and Figures

Continued...



Other Corporate Insolvencies



There were 1,114 other corporate insolvencies in the fourth quarter of 2010. These included 302 receiverships, 642 administrations and 170 company voluntary arrangements. Together, these represent a decrease of 42% as compared to the same period a year ago. Administrations were down 24.4%.

DATA SOURCE - INSOLVENCY SERVICE AND COMPANIES HOUSE

According to the latest statistics from the insolvency service (www.insolvency.gov.uk), the fourth quarter of 2010 saw almost 4,000 compulsory liquidations in England and Wales. Although this is down from 11.3% from the same period in the previous year, these figures are still high.

The same figures also show a total of 16,045 compulsory liquidations in 2010, a reduction of 15.1% on the previous year, along with other corporate insolvencies numbering 4,909.

Although the number of corporate insolvencies has been seeing a drop, the level is still 23% higher than it was before the credit

crunch, which means that the fall in 2010 does not mean much in the grand scheme of things because the rates in 2009 were abnormally high. As such, businesses are still suffering throughout the country, and are seeking various rescue and insolvency options.

2011 is looking slightly better for businesses than in 2010 with credit card information group Experian announcing that January saw the number of business failures dropping 10% from 1,226 on January 2010. Business failures are still expected to drop by 6.3% in 2011, but corporate insolvencies are not likely to see significant drops until after 2015.



Jargon buster

- **Insolvent** - A term that is used when a company or individual cannot pay or cover their debts with the assets or funds they have because their liabilities exceed their assets.

Facts and Figures

Continued...



Reasons for High Insolvency Rates

The recent recession, which started during 2008, has been one of the most influential factors in contributing to the high numbers of corporate insolvency. Rising unemployment, and lack of credit access also contributed to these numbers.

Also having an impact, the VAT rise has had more serious effects on businesses that rely on consumers and their spending. As a result, businesses have either had to take on the VAT rise themselves, or transfer it onto their customers, which in turn results in reductions in demand. The austerity measures will also affect companies in many ways as government spending reduces the contracts available to private businesses, this will have a knock-on effect to the consumer.

A casualty of the recession was Connaught PLC, a UK group operating in the social housing, public sector and compliance markets. Going into administration in 2010,

this was widely seen as a result of the government cuts. According to business recovery experts R3, almost a third of small businesses are reliant on public sector contracts. The research also points to 150,000 small businesses claiming that they would be at significant risk of becoming insolvent if their public sector contracts were terminated.

Higher interest rates are also a real concern, if they are raised from their current low levels. This could have a domino effect on the levels of business failures. This makes it very difficult to evaluate and predict the confidence and security of businesses over the next few years in the UK.

The Insolvency Acts

- 1986 and 2000



Dealing with all areas of company insolvency, the Insolvency Act became law in 1986.

For limited companies, the act covers all aspects of insolvency, administration and the process of winding up companies. The 1986 Act also introduced the Company Voluntary Arrangement (CVA) which is an increasingly popular option for businesses facing insolvency

The year 2000 saw an update to the 1986 Insolvency Act with some important changes. The most significant change was the introduction of a 28-day moratorium procedure into the CVA for small businesses with debt issues.

The reason for the change was a weakness found in the existing CVA procedure, where a company proposing the use of a CVA did not have the benefit of any statutory moratorium or protection from creditors.

The Enterprise Act of 2002 made further changes to the process of insolvency, mainly focusing on administration procedures. The primary aims of this were to make the administration procedure more efficient as a whole, and to improve the rescue process for troubled businesses before they are forced into liquidation.

How the Act Helps Businesses with Financial Issues

The Insolvency Act is primarily aimed towards business rescue, with the objective of saving businesses at risk of liquidation. Additionally, it provides protection from aggressive creditors, allowing businesses the breathing space to get the expert help they need in refinancing, setting budgets and managing their debts and payment plans.

Businesses already face many logistical needs and obligations; add financial trouble to this and it is easy to get snowed under. The Insolvency Act gives businesses some much needed space to appraise their situation and start exploring options to begin resolving their financial problems and move towards rescue and recovery.

Company Voluntary Arrangements are one of the more important ways that the Insolvency Act has helped companies. It is a legal agreement between a business and its creditors, with particular advantages for the business. When beginning the process of a CVA, a business avoids liquidation and prevents any court action by creditors, enabling the company to continue trading as normal. It is also very flexible, as it is a private arrangement and is adaptable depending on the situation of the company concerned.



Jargon buster

- **Moratorium** - A period of time during which a certain activity is not allowed or required, usually put in place to protect a person, business or company.
- **Administration** - When a company goes into administration, it is usually because it has fallen into financial difficulties, so an administrator is called in to run the company to see whether the company can continue or be sold so that new owners can turn the company around. If it can't, then the company will be closed down and the assets sold to cover its financial responsibilities.
- **Creditors** - A company or individual who is owed money by another company for services provided. Creditors are classed as liabilities as it is money outstanding

Toptips

- Remember that the business does not need to close when filing for insolvency.
- If the business is facing legal action, do not procrastinate. Ignoring it will only do more damage.
- Be realistic and pragmatic - Do not be too optimistic or feel defeated. Take a step back, appoint an Insolvency Practitioner to help you and see the situation as it is.

What are the signs the business is in trouble?



Sometimes, due to high levels of stress or denial, some business directors find themselves looking for business financial solutions when it may be too late.

If you can answer *yes* to more than one of the questions below it may be a sign that your business is in financial trouble and you will need to start looking into things in more detail...

- **Are VAT and PAYE/NIC payments constantly late?**
- **Is the overdraft at its limit? This could indicate cash flow problems, especially if the account is at its limit for a prolonged period of time. Check the company finances regularly to spot any warning signs.**
- **Is the business dependant on contracts? Is the next big deal meant to solve cash flow problems? A business should not depend on one sale or contract to carry on business functions. Start making plans for alternative actions.**
- **Is the business unable to secure new credit from banks unwilling to take on the risks?**
- **Is cash flow consistently tight?**
- **Is there trouble with stock because suppliers are not being paid?**
- **Is the business receiving red warning letters and threats of legal action?**
- **Does the company concentrate on only one or two major clients, depending on receiving business from them?**
- **Are calls from creditors being avoided?**
- **Are you feeling stressed, unable to sleep and falling out with family and employees?**
- **Are the directors of the business taking a wage from the business?**
- **Are the directors of the business using personal money to pay suppliers and wages?**

Do's and don'ts of business debt



What You Should Do:

- **Prioritise debts.**

Tackling high priority debts ensures that you will be able to explore all options before they are no longer available. Priority debts can include debts which could close down a business, leading to other business critical utilities such as phones, electricity and gas to be shut down. Priority and Secondary debts are covered in more detail later in this pack.
- **Address government debts.**

The highest priorities you should address as soon as possible are all debts and issues with HMRC, PAYE, National Insurance and other such obligations. Contact details for these are at the end of this pack. Talking to them may bring solutions to light that you hadn't previously considered.
- **Get in contact with everyone the business owes money to.**

This will calm creditors who may pursue the business less intensely and preserve any bridges that may be needed in the future. It could prevent things from getting worse and by not contacting those that the business owes money to, any hopes of goodwill or lenience will disappear.
- **Keep copies of all correspondence.**

Keeping track of any letters, court forms, phone conversations and any other forms of communication with creditors will help you stay on top of an on-going situation and can prevent the process becoming overwhelming.
- **Read the small print.**

Always understand all the technicalities when preparing to sign a loan, mortgage or any other type of monetary document. Do not agree to unrealistic payback terms or high interest rates, and do not borrow money you know that you will not be able to pay back.
- **Do your research.**

And be well informed when selecting who to talk to and which options are available to you.
- **Seek multiple opinions.**

To help prevent bad advice and get as much knowledge as possible before making important decisions.
- **Go to court hearings.**

If you are called into a hearing, it does not mean the business is acting criminally. Court can often be the first step to resolution.
- **Take another look at your business budget.**

From here you will be able to allocate funds and form a repayment plan which will give you clear targets to reach.
- **Use this Rescue Pack.**

There is a lot of information in this pack that can help you guide your business to recovery. All the information has been written to be as simple to understand as possible and just might highlight some options you didn't know were available.

Do's and don'ts of business debt

Continued...



What You Should Not Do:

- **Ignore the problem or put it on hold.**

Your options will decrease the longer you leave things: interest rates will continue to pile up and you may find the business in a cycle that is extremely difficult to get out of. If the business's finances mean that it can't make payments you must talk to your creditors and work out new plans and agreements. Lenders can be more accommodating if you plan things well in advance and stay in constant contact with them. It reassures them that you plan to pay what is owed and as a result they may make allowances or be more flexible. Ignoring them will aggravate them and you will find options become very limited.

- **Borrow money to pay off debts.**

Without carefully thinking it through, you could end up further jeopardising your long term business recovery by looking for a quick, temporary fix.

- **Only pay the bare minimum.**

Although you may want to keep some cash flow to help with day to day business functions, paying above the minimum will clear your debts quicker, reflect better on your credit score and will also demonstrate your repayment commitment to creditors.

- **Seek insolvency as your only option.**

Although in some cases insolvency is the only viable option, many directors do not properly explore viable alternatives and may miss out on a solution that doesn't involve insolvency.

- **Believe everything you hear.**

If something sounds too good to be true, seek a second opinion. Some companies will provide bad advice on purpose to profit them or convince you that their service is your only way out. Always explore your options thoroughly and get advice from multiple sources before making a decision.

- **Be bullied or pressured.**

Don't let anyone make you feel that you need to act before considering all the options and have allowed time to read any agreements. Do not sign anything you don't fully understand and always consult others before making a decision.

- **Make promises you cannot keep.**

If a repayment plan has been agreed upon, ensure that the payments are at a level you can maintain. By arranging a repayment plan, creditors have already offered a measure of leniency, and not sticking to it may reflect badly on you and frustrate your creditors.

- **Give up.**

If you are not getting what you feel is a fair repayment plan or financial agreement, keep trying. Even if creditors are being difficult, there are always compromises that can be made. Stay firm, polite and realistic, but if you are not presented with an ideal solution straight away, continue your negotiations.

Top tips

- A business should contact trusted sources or reputable business debt advice firms if in need of extra help or advice.

- Work out reasonable debt repayment schedules, no matter how small. This will settle creditors and may buy more time or flexibility.
- Act quickly – options will disappear the longer problems are left unresolved.

Understanding Business Insolvency



What is Business Insolvency?

When a business is unable to pay debts as they become due, they become insolvent. There are two types of insolvency: cash flow and balance sheet.

- **Cash Flow Insolvency** takes place when a business is unable to pay its debts when they are due. This is usually because of poor cash availability in the business.
- **Balance Sheet Insolvency** is when the total value of a company's liabilities exceeds its assets.

The difference between these two types is that cash flow insolvency is used when a company is unable to pay debts due to a lack of cash, yet their assets are still worth more than their liabilities. When their liabilities exceed their assets, they are balance sheet insolvent.

Once a business owner decides to pursue insolvency, there are a number of different ways it can be carried out, not all necessarily resulting in liquidation. A company will only go into liquidation once it becomes impossible to rescue the company through any other means.

What are the Differences Between Liquidation and Insolvency?

Insolvency is a process where a business is unable to pay back debts, but it is not a legal process and exists to merely describe the situation. If a business is insolvent, it is not required to declare itself as being so, and is usually a precursor to being wound up. To put it another way, insolvency is an accounting or financial term, not a legal one.

Liquidation can be either voluntary or compulsory and is the process where a business or company is 'wound up' and the property of the company is redistributed amongst creditors.

There are three types of liquidation in the UK; Creditors Voluntary Liquidation, Compulsory Liquidation and Members Voluntary Liquidation.

Top tips

- Insolvency does not have to be a last resort. Using a turnaround practitioner could rescue the business before it becomes insolvent.

- Seek professional help as soon as you realise that you are insolvent.
- Do not borrow any more money. While this may seem like a good short-term solution, it may cause you more problems in the future.



Jargon buster

- **Assets** – An asset is something which you own that holds value should you come to sell it, i.e. a business premises or stock etc.

How Can Admitting Your Business Is Insolvent Help?

- The processes that you may follow can give you time to formulate and implement a business rescue or turnaround plan.
- Directors can remain in control of their business while solutions to the problem are investigated.
- Creditors may become more likely to agree to give the business more time to pay or write off of some parts of the debt if they can see that the business is making efforts to rectify the situation and find ways of clearing the debts.

Priority Debts



Priority debts are debts owed to creditors that can take serious action against a business if it fails to repay them. They are not necessarily the business's biggest debts in a monetary sense, but they are the most important because of the potential consequences that come with not paying them.

Consequences of Not Dealing with Priority Debts

There are a number of potentially serious consequences which can occur when a business fails to pay back its priority creditors.

These can include:

- Fines
- Having gas or electricity supplies cut off (utility debts)
- Repossession of the business premises (mortgage arrears)
- Distraint and being summoned for court actions

However, before any of these actions are taken the businesses creditors will always give a warning so that there is time to come to an arrangement.

Types of Priority Debts

There are a number of debts that should be considered as priority debts.

These include:

- HMRC Debts: PAYE, Corporation Tax, National Insurance, Business Rates, VAT.
- Court Fines
- Mortgage
- Rent
- Gas and electricity bills
- Telephone

In the case of all of these debts, creditors will be able to take serious action; these can include the cutting off of services and utilities and taking the business to court.



Jargon buster

- **Distraint** - means that an agent of the landlord can affect entry to remove goods or as sets for sale to pay for the debt due. A court judgement does not need to be passed and nor do they have to wait for a long time. In theory 1 week after a rent payment is due they can distraint.

HMRC Debts



Paying business debts to HMRC should be at the top of the list of priorities. If a company does not budget or plan for their taxes, this can lead to some serious problems in the future.

Preventing HMRC debt can be as simple as ensuring that tax bills are paid on time and prioritising these debts on top of everything else. If the business cannot pay its HMRC debts, it should initially consult its accountants and they can help reach the most appropriate solutions and find ways to pay. It is also important that the problem is not ignored; HMRC should be contacted as soon as possible to discuss the matter as the consequences of not paying these taxes could result in bailiff or court action.

PAYE

An employer usually pays both income tax and National Insurance as part of the PAYE (Pay As You Earn) system, and deducts the amounts from wages. If an employer or contractor is late to settle PAYE obligations they will be charged late payment penalties on the amounts due. Before this happens, they will receive a late payment penalty warning letter about two weeks after the payment is due. The purpose of the letter is to notify them that HMRC did not receive the payment when it was due, and that there may be a penalty charge. It also explains how to avoid a penalty in the future and outlines the various ways the outstanding amounts can be paid.

It will also outline details of what to do if the owner feels that the penalty is inaccurate or wrong. The penalty rate will depend on how much is late, and how many times the payments are late within an entire tax year. If the full amount is not paid, this will count as a late payment, unless there is a special arrangement in place with HMRC such as an IR35 or modified PAYE arrangement.

If you cannot pay your PAYE, you must contact HMRC immediately at: www.hmrc.gov.uk/payinghmrc/problems/bpps.htm to discuss the situation. It will always be better to contact them before the payment is due instead of afterwards.

VAT

VAT is a tax that is charged on most goods and services that registered businesses provide in the UK. It is charged when a registered business sells to their customers. A business has to register for VAT if it has a turnover that exceeds the VAT threshold (which as of 2011 is £73,000).

It is the responsibility of the company to account for VAT on all of its products and services, and to fill out the VAT return, return it and pay on time. If the payment is missed, there will be a requirement to pay a 'default surcharge' which consists of a percentage of the unpaid VAT. If payments continue to be late, the percentage will increase. This also applies to incorrect VAT returns. If a business is having difficulty paying VAT, they must contact HMRC before the due date of the return. If they do not submit a return at all, HMRC will estimate the amount of VAT that is outstanding and base the amount of the surcharge on this amount. This is known as an assessment, and if you still have not sent a correct return after receiving the assessment,

HMRC will increase the amount you owe and base a new surcharge on that amount.

In case a business is having trouble paying VAT, it is recommended that they continue to organise and hand in returns on time but contact HMRC's Business Payment Support Service before the VAT is due.

The Business Payment Support Service can be found at: www.hmrc.gov.uk/payinghmrc/problems/bpps.htm

If a business is able to submit their VAT returns, it is very important to ensure that the information is up to date and accurate, or there may be a penalty. If a business is liable for a penalty, they will be told in writing. This does not happen until after some initial contact with HMRC where the tax arrears would have already been discussed.

HMRC Debts



Corporation Tax

Corporation tax is a tax on the profits of limited companies. These taxable profits can include profits from income such as trading and investment profits, excluding dividend income which is taxed differently. Capital gains are also taxed and known as chargeable gains for corporate tax purposes.

It is up to the businesses themselves to work out how much corporate tax is owed, which is known as Corporation Tax Assessment. This is done by filling out a Company Tax Return and sending it to HMRC on the dates they are due.

If a business's Corporation Tax is not paid according to deadlines, they will face a penalty. This can be mitigated by paying the tax as soon as possible and correcting any errors there may be. If a Company Tax Return is filed late, there will be a flat rate fine of £100 pounds. If the return is late by more than three accounting periods in a row, the penalty increases to £500 with a further £500 if the return is filed more than three months late.

Business Rates

Business rates are a tax on the occupation of non-domestic properties such as commercial properties including shops, offices, warehouses, pubs, factories and other such buildings. They are used to pay for local services such as waste pickup, local infrastructure maintenance and improvement as well as any other services supplied by the local authority. If a business is using a building or part of that building for commercial and business purposes they will be required to pay business rates.

If a company cannot pay their business rates, it is recommended that they contact their local authority as soon as possible to mitigate any issues that arise from not paying. Failure to pay an instalment will result in a reminder being issued which will be followed by more reminders if payments continue to be missed.

If by this point the rates have not been paid, the options to pay in instalments will be lost and the company will be ordered to pay the outstanding amount in full within seven days. Failure to comply with this will result in recovery action via the Magistrates Court.

There are ways in which businesses can get relief from business rates to reduce the amount that they have to pay. Since April 2005, small-business rate relief has been an option and companies can apply to local councils to find out if they qualify.

Businesses can appeal against the valuation made by the district valuer within six months if they think that they are paying too much. Alternatively, if there are any changes to the building then the rates could be reduced. Companies should always seek professional advice in these situations.

Mortgage Arrears



Mortgage arrears occur when the business owes money due to falling behind on mortgage payments. This is one of the most serious types of priority debt because in some cases it could lead to the businesses premises being repossessed.

Ways to Deal with Mortgage Arrears

The first thing that a business should do whenever faced with mortgage arrears is to contact their lender. The lender will always want to know at the earliest opportunity if there are problems paying the mortgage, and by contacting them early there will be more options available when coming to an agreement.

There are usually a number of options that can be discussed with lenders to help deal with mortgage arrears.

These include:

- Taking a payment holiday where mortgage payments can be temporarily halted.
- Increasing the term of the mortgage, therefore making smaller monthly payments for longer.
- Paying just the interest on the mortgage for a set period of time in the case of a repayment mortgage.
- Reducing payments for a period of time.
- Adding the debt to the mortgage, known as capitalising the arrears.

In more serious cases, companies can join a mortgage rescue scheme where lenders buy back all or part of the property, allowing the business to stay there as a tenant. In any case, much will depend upon the lender and the track record of the business. If this is the first debt problem encountered by the business, lenders are more likely to be flexible.

One golden rule is to always pay back what you can to your lender, even if it is a small amount. This shows that you are committed to paying your debts and as a result you are likely to receive more sympathetic treatment.



Jargon buster

- **Arrears** – A term used when you have not paid invoices/made payments on debts which have built up and need to be paid, if you do not pay, the debt holder may take action to claim the money back.

Business Rent Arrears

This type of debt can result in eviction from the property and the removal of business equipment or stock.

As with other priority debts, it is recommended to inform landlords of any problems as early as possible and try to come to an agreement. An agreement will usually involve adding arrears onto the rent for each month for a period of time until the debt is cleared. If an agreement cannot be made, the landlord could take court action which could end up in eviction from the premises.

Alternatively, the landlord might be able to remove company equipment and stock without the need for a court order, or they may hire bailiffs to carry out this task.

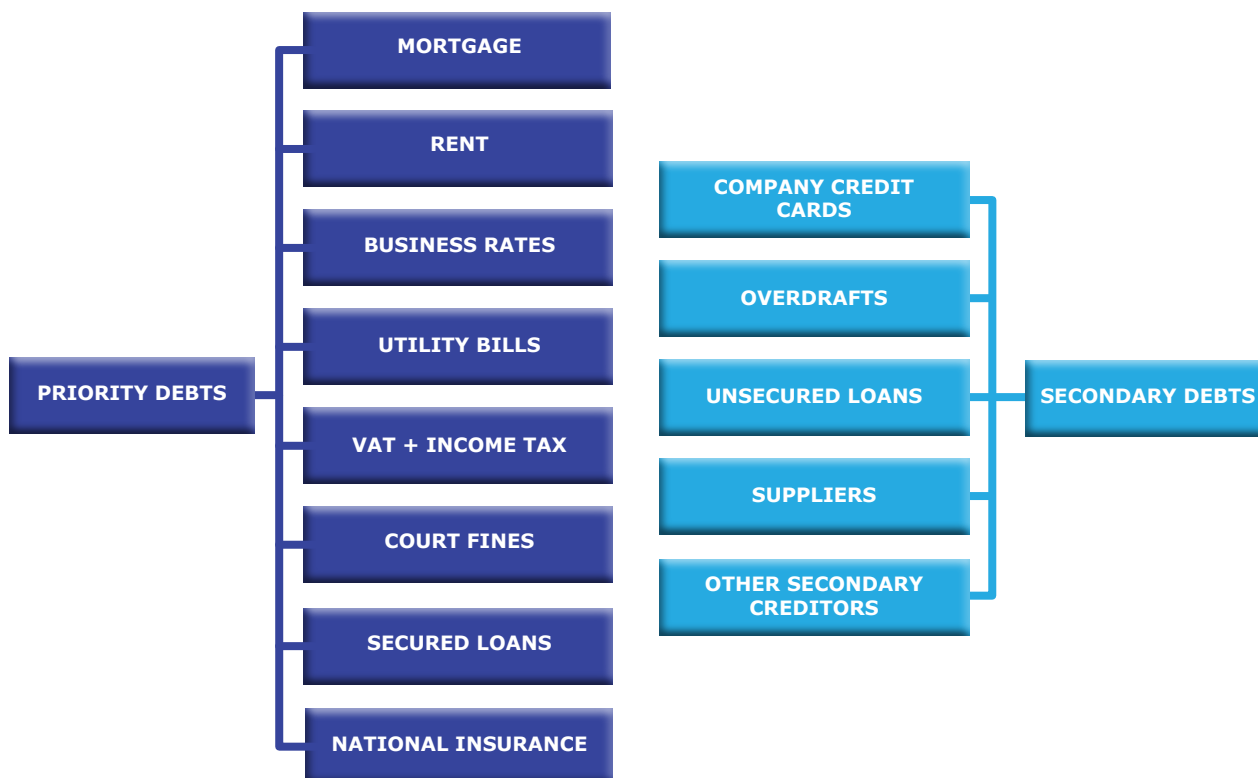
Companies should always go to any court hearings to ensure that they get the chance to put their case forward. They should also make sure to stick to any payments agreed through the courts to prevent the landlord from taking further action.

Even if a business stops trading, it may still have to continue to pay rent for the business property; this will depend on the conditions of the lease. With a long-term lease, they may have to pay rent until the lease expires or a new tenant is found. Businesses should always seek professional advice if they are unsure about their responsibilities which can prevent any problems from getting worse.

Secondary Debts



Priority Debts vs. Secondary Debts



Secondary debts are debts that are owed to creditors who do not have the same powers to force you to pay as priority creditors.

They include:

- Company credit cards overdrafts and unsecured loans
- Suppliers
- Other secondary creditors

How to Deal with Secondary Creditors

Always deal with your secondary debts after you have already made arrangements with your priority creditors. The best way for a business to start to deal with secondary debts is to first work out how much they can afford to pay.

Working Out How Much You Can Afford Each Creditor

If you haven't already, you should create a budget of all of your incomings and outgoings and come up with a figure for how much you can realistically pay to each of your secondary creditors. Take this figure and divide it between your secondary creditors in proportion to how much you owe each one (known as pro rata).

Secondary Debts



Coming to an Agreement with your Creditors

Once you have worked out how the business can afford to pay back to each of the secondary creditors each month, you should contact them all with a copy of your budget and a cover letter to explain your situation and try to come to an agreement.

The best course of action normally involves asking creditors to accept your offer and to stop charging interest. Even if all you can afford to pay back is a very small amount, you should still try to pay back a token

offer because most creditors will prefer you to pay back at least something.

If you don't have any money left over to pay your secondary creditors then you should make this clear. Send them a copy of the budget to show that you have no money left to pay them and accompany this with a letter explaining your situation. Your best option is to ask for a suspension of payments for a period of time such as three or six months.

Dealing with Responses

If your secondary creditors accept your offer then you should start making your payments straight away and begin to clear your debts. However, they may not all accept your offers, and some of them may carry on charging interest.

If some of your creditors accept your offer whilst others do not, write back to these creditors and mention that

other creditors have accepted your offers or stopped interest from being added to see if this has any effect.

In any case, begin making repayments to your creditors even if they do not accept your offer because you will be showing that you are committed to repaying your business debts.

How to Deal with Creditor Harassment

When the business cannot afford to repay its debts it may begin to be harassed by creditors, and it's important to know what action they are legally allowed to take.

In any situation, your secondary creditors cannot:

- Be misleading.
- Be dishonest.
- Apply charges that are unreasonable.
- Threaten to inform other people about the businesses debts.
- Refuse to negotiate completely.
- Phone an unreasonable amount of times.

What Happens if Creditors Take Court Action?

If you cannot come to an agreement with your creditors then they may take court action. The first thing you will usually receive is a claim form which will contain all the details of the money that you owe, and this will come with a defence form in case you don't agree with the amount.

If you agree then you should fill in the admission form to offer a monthly payment that the business can afford, and send this back to the creditor within 16 days. If they accept this amount then you just have to make the payments, but if they do not then it will be up to the court to decide what the business should pay. Again, if the court decides on an amount that the business cannot afford then you should ask them to re-evaluate the figure within 14 days. It is a good idea to seek professional advice in this situation.

Top tips

- Discover the full extent of your debts. Collate bank statements; track down all missing information and make lists of how much is owed, and to whom.

- Remember that creditors are more likely to be flexible if you communicate with them and offer whatever you can, however little.
- Once you feel that you are clear of your debts, take pre-emptive methods to ensure that they do not occur again in the future.

Sole Traders

What is a Sole Trader?



With over three million sole traders in the UK, it is both the simplest and most popular way of setting up business.

As a sole trader, an individual's personal finances and business are considered the same for tax purposes and they are taxed under self-assessment rules, with a requirement to fill in tax returns each year with details of how much money they have made. Sole traders enjoy less administrative hassle than other types of business, and are not required to fill in the legal and administrative paperwork that other business types do. If you are thinking of becoming a sole trader, it is highly advisable to speak to your accountant who will be able to explain the implications to you, to ensure you are making the right choice.

Being a sole trader does consist of some risks. As a sole trader owns and controls their own business, they have unlimited liability, meaning that they are personally liable for all debts incurred by the business. Also, as sole traders usually start off on a small scale, it is difficult to raise finance because banks are reluctant to lend them large sums. If a sole trader is taken ill or are unable to work due to any other personal reasons, the company will have trouble continuing normal business operations unless provisions are taken to mitigate their absence.

Bankruptcy

When an individual cannot pay debts when they are due, bankruptcy is one option that can be considered. It should be noted that before exploring the possibility of bankruptcy, all other alternatives should be considered. Declaring that you are bankrupt means you are financially insolvent, cannot pay the debts under any circumstances and need to be relieved of your outstanding debts.

IVA

An IVA, otherwise known as an Individual Voluntary Arrangement is a formal agreement between the individual and their creditors, where an agreement is reached to repay debts. Repayments are usually achieved through a schedule which is approved at a meeting with the creditors. When preparing proposal for creditors, a licensed insolvency practitioner will need to be appointed. An IVA is flexible and can involve elements such as repayment holidays, monthly contributions or a one off payment.



Jargon buster

- **CCJ** – A County Court Judgment or court action where a company/person will take you to court because you have not paid a debt. The court will order you to pay the debt within an allotted time and if you don't, the company will be able to take further action.

Sole Traders

Continued...



Administration Orders

An administration order allows a sole trader to make monthly payments to the court which will then be shared out amongst all of their secondary creditors. To be eligible for an administration order the individual will have to owe a maximum of £5,000 to at least two creditors and have already received a CCJ (County Court Judgement). This is only an option for individuals and not for businesses.

The process starts with the application to the court using form N92, and the court will then make an order based on how much they can pay as well as how long the order will last. When the debt has been paid in full, a Certificate of Satisfaction can be obtained for a fee and sent to credit reference agencies.

In the event that circumstances change and it is no longer possible to make payments, it is recommended to ask the court to review the administration order.

Advantages of administration orders include:

- Debts can be put into more easily managed monthly payments.
- The payment will be worked out from what a business can afford to pay.
- Creditors cannot take any further action against the business.

Disadvantages of administration orders include:

- The court will charge up to 10% of the amount of the debts on top.
- The order could fail or be revoked if payments are missed.

Partnerships

What is a partnership?



A partnership is a business that has more than one owner, but has not been incorporated as a corporation or limited liability company.

It is the simplest and least expensive business structure where each owner has a direct hand in the running of the business. As such, all risks are shared between partners and conversely, all profits are usually equally shared, unless a pre-existing partnership agreement states otherwise. It is possible to have a 'sleeping' partner, who contributes funds for the company,

but is not directly involved with day to day business operations.

In a partnership, each party must register as self-employed with HMRC and as such complete an annual self-assessment. Before entering into a partnership, it is recommended that agreements are written up under the supervision of legal counsel, and that each member signs the agreement.

Options for Partnerships

Joint Several Liability

If a business being run as a partnership is facing financial trouble, it becomes more difficult because no two individuals will have the same personal assets to use as payment. If the business fails and debts cannot be paid from the business, the debts become the responsibility of each individual partner on the basis on a joint several liability which dictates that

creditors can pursue the individual that has more assets available to pay the debt. If one partner has no assets, they can declare themselves bankrupt, leaving the other to pay which can lead to hard feelings and a feeling of unfairness. It is important to remember this possibility when entering a partnership.

Partnership Voluntary Arrangement

A PVA is similar to a CVA in that it is an arrangement between the partnership who owe the money and the creditor. If the indebted partnership cannot pay its debts on time, or they are insolvent, a PVA can

be arranged to bring all the collective debt together and make payments towards settling the debt at predetermined and manageable intervals.



Jargon buster

- **HMRC** – Her Majesty's Revenue and Customs: the government body which collects and regulates PAYE, VAT, and so on.

Partnerships

Continued...



Limited Liability Partnerships

A Limited Liability Partnership gives business owners the benefit of limited liability, whilst at the same time retains many of the characteristics found in a traditional partnership. The LLP is a separate legal entity from its owners, and therefore protects their personal assets from being at risk.

In the past, business owners have had to set up limited companies to protect themselves, and were therefore subject to corporate tax. LLP's are taxed differently, in that profits are treated as the personal income of each member, as if they were running the business as a standard partnership.

When forming an LLP, it is important to consider third parties; creditors such as banks will require personal guarantees from members as if they were shareholders. Legislation requires that the profit share of the highest earning member to be published if the profits of the LLP exceed £200,000 and further tax consideration must be made in the case of overseas operations.

As the debts of an LLP are not incurred by members, it is required that the LLP maintains thorough accounting records which are to be delivered annually to the registrar of companies. Additionally, each individual member must also make self-assessment tax returns each year to HMRC in the form of a personal tax return.

The key features of an LLP are:

- It is a corporate body and is therefore separate from its members.
- Any debts incurred are the debts of the LLP.
- There are no directors or shareholders, only members.
- No requirements for general or board meetings for decisions by resolution.

Advantages of a Partnership

- Risks are spread out between both members of the party, thus reducing it as compared to being a sole trader.
- They are relatively easy to set up.
- With more than one person owning the business, the ability to raise funds is enhanced.
- Partnerships can bring a broader range of skills as each member will come from a different background.

Disadvantages of a Partnership

- As business partners are jointly liable for debts, one may have to pay for any debts that the other party may incur for the business.
- Profits will be spread.
- As decisions will have to be made jointly; this may result in disagreements.
- The future and stability of the business may be compromised if one partner incurs injury and is not able to work.

Limited Companies

What is a Limited Company?



Also known as a limited liability company, a limited company is a form of business ownership which has a significant effect on the way a business is run.

A limited company protects individuals within the business from being personally liable for the businesses debts. The owners of the business then become directors of that business and are responsible for the day to day running and management of the business but not necessarily its debts.

If you are the director of a limited company, you are legally obligated to ensure that all company finances are in order. If you allow a business to continue trading when it is insolvent and it is not likely that the situation will improve, you may be putting yourself at risk and you may end up being prohibited from being a company director for a period between 2-15 years. If you are facing the prospect of prolonged financial difficulty, seek expert advice as soon as possible.

Options for limited companies:

If there is a net monthly profit available, informal negotiations between the company and creditors can take place. It is recommended to address priority creditors such as the HMRC before considering secondary and unsecured lenders. Alternatively, a limited company can use a CVA to arrange a legally binding arrangement to pay the outstanding amount.

If a limited company does not have monthly profits available to pay off debts they may be forced by a court order to enter compulsory liquidation, where the company will be obligated to be wound up. Other options include a CVL and Pre-Pack Administration which both concern the sale of assets to cover costs.

A limited company that has no assets to sell and cannot afford to appoint a liquidator or administrator can be struck off. To be eligible to be struck off, a company must not have traded or advertised its intention to carry on business in any way. Similarly, they must not change the company name or dispose of any assets in the last three months. Additionally, a company cannot be eligible to be struck off if they are subject to any insolvency proceedings. For a company to be struck off, they must cease all trading and inform all creditors and members of their intentions.

Advantages of a Limited Company

- **A limited company is responsible for its own debts, and as a result creditors can only claim the company's assets in case of debt, not the assets of the officers of the company. This means that if the company becomes insolvent and is obligated to 'wind up', only the business property can be utilised to pay creditors.**
- **There are a number of tax benefits that limited companies can enjoy. Profits are not normally subject to personal income tax, which is normally higher; therefore the tax liability can be lower.**
- **If a business is having issues it can try and sell off issued shares to raise finances.**

Limited Companies

Continued...



Directors Obligations

The directors of a limited company have certain legal and financial responsibilities which they must respect to ensure that the company's best interests are protected. Under the rules outlined in the Companies Act 2006, directors are obligated to ensure that there are no conflicts of interests, do not profit from their offices and have a duty of care. The seven general duties are:

1. Duty to act within their powers

This is to ensure that Directors use their powers under the terms that were agreed upon their appointment.

2. Duty to promote the success of the company

Directors must act in a way which would be most likely to promote the success of a company such as relationships with suppliers, customers and respecting the impact of their decisions.

3. Duty to exercise independent judgement

This is to impinge on 'sleeping directors' who do not play an active role in the running of the business, although a director is not in breach of this duty if they make a judgement to follow the suggestion of a sleeping director.

4. Duty to exercise reasonable care, skill and diligence

This ensures that a director exercises their decisions in the capacity a reasonably diligent person would, and that they possess and carry out their duties with the relevant knowledge and skill.

5. Duty to avoid conflicts of interest

Directors must avoid situations where they have interests which conflict with the interests of a company, particularly in regard to transactions between a director and a third party, such as the exploitation of information or property.

6. Duty to not accept benefits from third parties

Directors are not permitted to accept benefits from a third party by reason of them being a director and therefore able to make important decisions to affect the success of a company.

7. Duty to declare interest in proposed transaction or arrangement with the company

This ensures that a director discloses their interests to the board of a company whenever a transaction is proposed between something that she or he has an interest in, and the company. For example, if a director wants to purchase new equipment for a company that will directly benefit them, the director must declare the nature and extent of the interest.

Top tips

- If entering into a partnership, be aware of Joint Several Liability.

- Be aware that if you are a sole trader, you are personally responsible for paying debts.
- A limited company has protection from personal debts, but is more complicated in terms of accounting and setup.

Disadvantages of a Limited Company

- The costs of setting up the business and running the business financially can be greater than those of sole traders and partnerships. This can put an extra strain on the business.
- More complicated when it comes to your accounting records as you will have to provide them to Companies House at the end of the financial year.
- Lenders may ask for personal guarantees and collateral against a loan, rendering the concept of limited liability as redundant.
- The business will have to pay corporate tax.



Jargon buster

- **Personal Guarantee**
– A personal guarantee is a tool which financial service providers request the director partner in a business to personally guarantee the debt regardless of whether the debt is used by the company or not. Should the debt default, then the bank will call on this personal guarantee and the guarantor may/will have to pay the remaining debt.

What are my options?

If your business is in a difficult financial situation, there are a few options to choose from, each with advantages and disadvantages.

This section aims to describe and outline each of the main available options, together with their pros and cons to help you decide what the best way forward is for you and your business.



Business Turnaround

Before considering pursuing the more 'final' options available such as winding up your business, all possible options to rescue your business should be considered.

While you may have some cost-cutting ideas in mind and other logistical corners you can cut to raise capital, consulting a professional business turnaround expert is a good place to start.

Business turnaround is the process where a turnaround practitioner (who can also be an insolvency practitioner) works with business owners to audit all business operations and see where things can be improved. This is so that areas of the business which are not running at full efficiency can be found and fixed, contributing to the recovery of a company.

Initially, the practitioner will spend time to get to know the company, its objectives and how it goes about reaching them. They will speak to employees, meet with directors and get an idea of the day to day running of the business. They will then arrange a meeting with creditors to show them that steps are being taken to improve the business and begin their investigation into where the problems lie within the business. All issues are identified, prioritised and analysed to ascertain the best way to move forward to begin the actual business turnaround process.



Jargon buster

- **Turnaround Practitioner**
– An advisor who specialises in helping ailing companies solve their problems and get back on their feet, a simple analogy of this would be to describe a turnaround practitioner as a company doctor.



Voluntary Liquidation



Voluntary liquidation is the dissolving of all of a business's assets to pay employees to satisfy redundancy laws, creditors and shareholders.

It is usually a last resort, and is the last option that a business may have as a result of no interest from buyers or takeovers.

There are likely to be expenses involved, which do not make the best returns for business owners or creditors.

Advantages of Voluntary Liquidation

- Once a company has been liquidated, all outstanding debt must be written off by creditors, leaving a clean slate for directors to start again afresh.
- Directors and investors have the opportunity to focus efforts and funding on growing a new business.
- The directors control the closure process and can choose their liquidator.

Disadvantages of Voluntary Liquidation

- Creditors may end up not getting what they are owed, leading to bad feelings and an impact on their own business.
- The closure of a company will result in employee redundancy, with no guarantee that they will receive their full redundancy sum.
- Company directors cannot continue to trade once insolvent, and if caught doing so will be disqualified.



Jargon buster

- **Directors Disqualification**
– If a person is declared bankrupt or has committed certain insolvency offences then he or she can be barred from acting as a director by the DTI. It becomes illegal for that person to be a director or manager of a company for the period of disqualification.
- **Insolvency Practitioner**
– This is a professional who specialises in insolvency and is licensed by the DTI. Insolvency practitioners often act to close a company in the best possible way for all parties involved. Only IP's can be a liquidator or administrator.

Types of Liquidation

Creditors Voluntary Liquidation

When a company cannot pay its debts, they may go into a CVL and the shareholders and directors decide to place the company into liquidation because it is insolvent. This involves the appointment of an Insolvency Practitioner acting as a liquidator, whose duty is to ascertain and collect the assets of the

company and distribute them amongst creditors. This process is used when a company is insolvent and cannot pay its debts, and the business is no longer viable and directors are not prepared to continue running and trading the company. investigation work that is required.

Voluntary Liquidation



Types of Liquidation

Compulsory Liquidation

Otherwise known as compulsory winding up, compulsory liquidation is carried out under the order of the court, usually as a result of petitions by creditors or shareholders who have given up trying to recover money from the insolvent business. The insolvent business is referred to the official receiver by the court who becomes the liquidator. If the company assets are enough to cover the administrative costs, the official receiver will arrange a meeting with the creditors to appoint a different liquidator if required. The official receiver is responsible for investigating the directors and any other investigation work that is required.

Members Voluntary Liquidation

This is the process where all the company shareholders decide to liquidate a company, providing that there are sufficient assets to settle debts before doing so. After the decision has been finalised, it is recommended to seek to advice from a licensed Insolvency Practitioner. This is to ensure that standard practice is carried out and all documents are correctly filled in and processed. If the liquidator decides that the company will not be able to pay off all debts in full within the agreed period, a meeting with the creditors is called and the process can be converted into a Creditors Voluntary Liquidation (CVL).



Jargon buster

• Official Receiver

The Official Receiver is a civil servant in The Insolvency Service and an officer of the court. He or she will be notified by the court of the bankruptcy or winding-up order. They will then be responsible through his staff for administering the initial stage. This stage includes collecting and protecting any assets and investigating the causes of the bankruptcy or winding up.



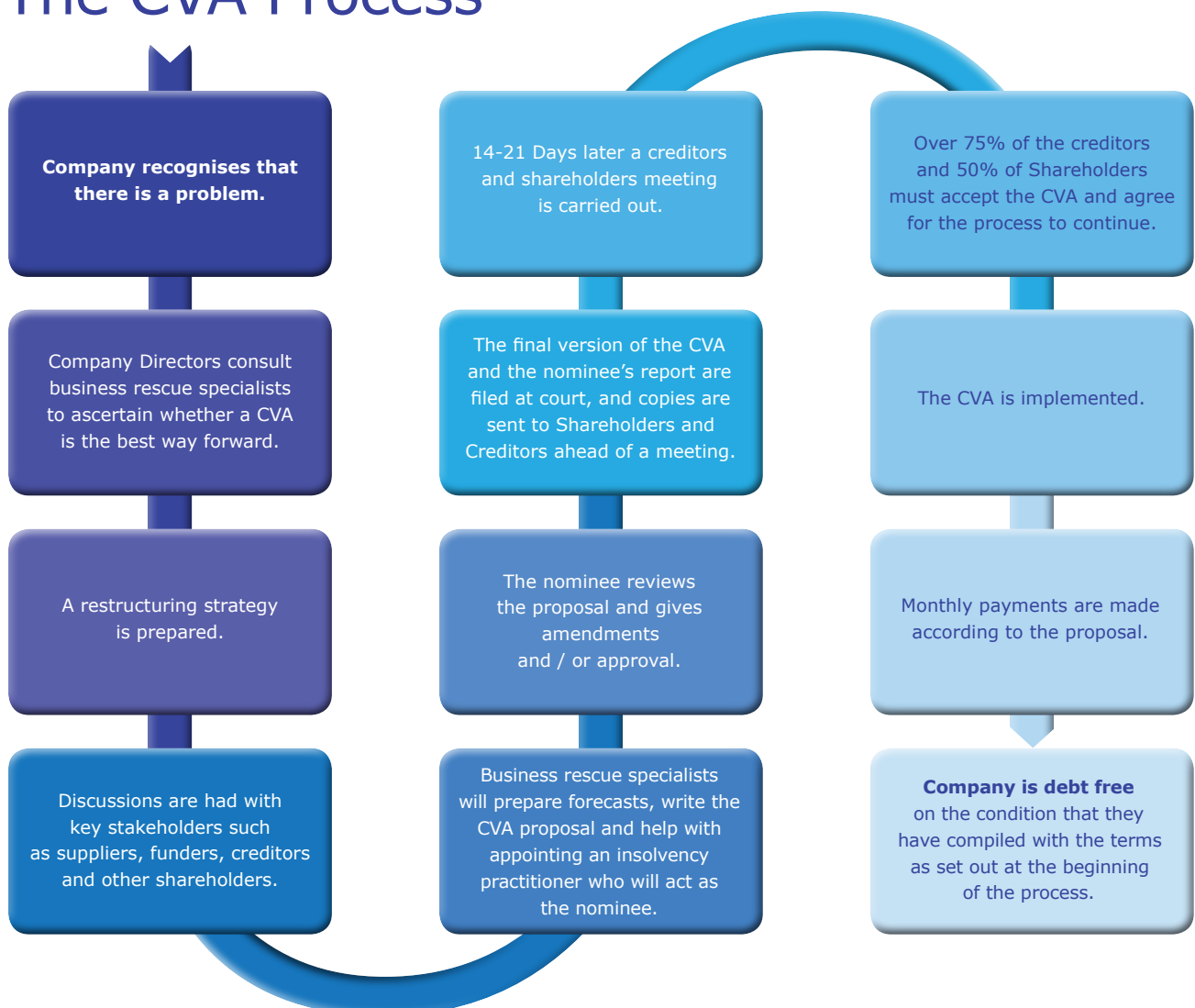
Creditors Voluntary Arrangement



A CVA is a deal between creditors and the insolvent company, that places a legal framework around the company to stop creditors attacking it.

This is known as a moratorium. It paves the way for a struggling business to repay all or part of its debts out of future profits, over a time which has been previously agreed. Part of UK law since 1985, it is one of the government's preferred rescue solutions. The CVA requires 75% of creditors to approve the process, and if it is approved the remaining creditors are obligated to be a part of the agreement.

The CVA Process



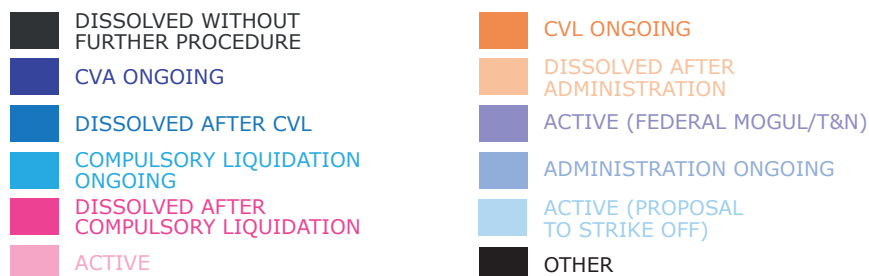
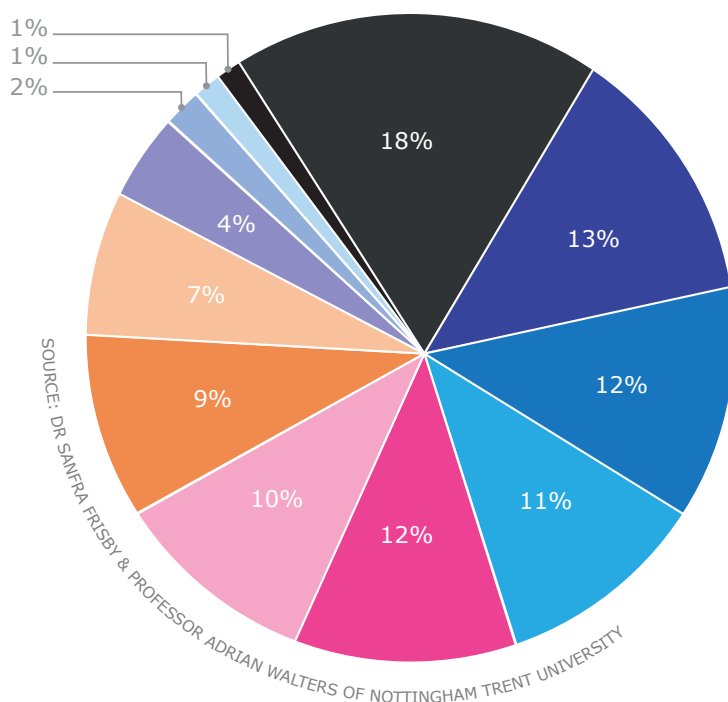
Creditors Voluntary Arrangement



The chart below demonstrates the outcomes for CVAs, and can be useful to weigh your options and decide on your best course of action.

CVA & CVL Outcomes

since 2006



Advantages of a CVA

- It is a private agreement, so customers and suppliers you don't owe money to do not need to know of the situation.
- Once agreed upon, repayments to creditors will be reduced to an affordable amount. At the end of the agreements, any outstanding debt is written off.
- No upfront payments – practitioner fees are taken from the monthly payments.
- The company can continue to trade.

Disadvantages of a CVA

- Creditors will receive less than they are owed, but their returns are more than if the business was liquidated.
- The CVA is recorded against the business's credit file, making it more difficult to borrow in the future.
- The company may be wound up by the practitioner if payments are not honoured and maintained.

Pre-Pack Administration



Pre-pack administration (or a pre-packaged sale) is the name given to the process where insolvent businesses assets are sold off to new owners whilst the business is still trading.

The process is handled by an insolvency practitioner and the purchaser could be a competitor, someone new to the company or even the existing management.

Advantages of Pre-Pack Administration

- Although creditors may not receive everything they are owed, a Pre-Pack Administration will still give them more than if the company was closed.
- Customers and suppliers will still have an opportunity to trade with the new business, which would be impossible if the business was liquidated.
- A new business can begin trading in place of the old one without the legacy debts.
- Existing employees can be retained, unlike in the case of liquidation where employees will be made redundant.

Disadvantages of Pre-Pack Administration

- Up-front investment may be required to buy the assets of the old business.
- Under European law all existing employees must be transferred to the new business under the same terms and conditions. As such, Pre-Pack Administration cannot be used to avoid a redundancy process.
- Although some debt will be paid, creditors will still suffer losses.

A Fresh Start



A fresh start is when a company finds it desirable to completely end things, and start again fresh due to their business being insolvent and past the point of recovery.

Together with a business rescue company, the process can be relatively simple and can be completed in a matter of weeks. With the help of a business debt company, the process will usually include:

- The formation of a new company.
- Negotiations with your bank.
- Asset protection.
- Safeguarding of personal guarantees.
- Legal Protection every step of the way.

In order to restrict abuse of the fresh start method, there is a restriction on the re-use of the same or similar business name until five years after liquidation. The only way to re-use an existing or old company name is to pay money for the privilege.

Top tips

- If you are setting up a new company after a pre-pack or fresh start, consider invoice factoring to support the cash flow of the new business.

- Seek advice: The gold standard of any financial difficulties, make sure that you are aware of all of your options.
- If going into liquidation, ensure that you are getting the right price for your assets. Get a third party involved to evaluate them.

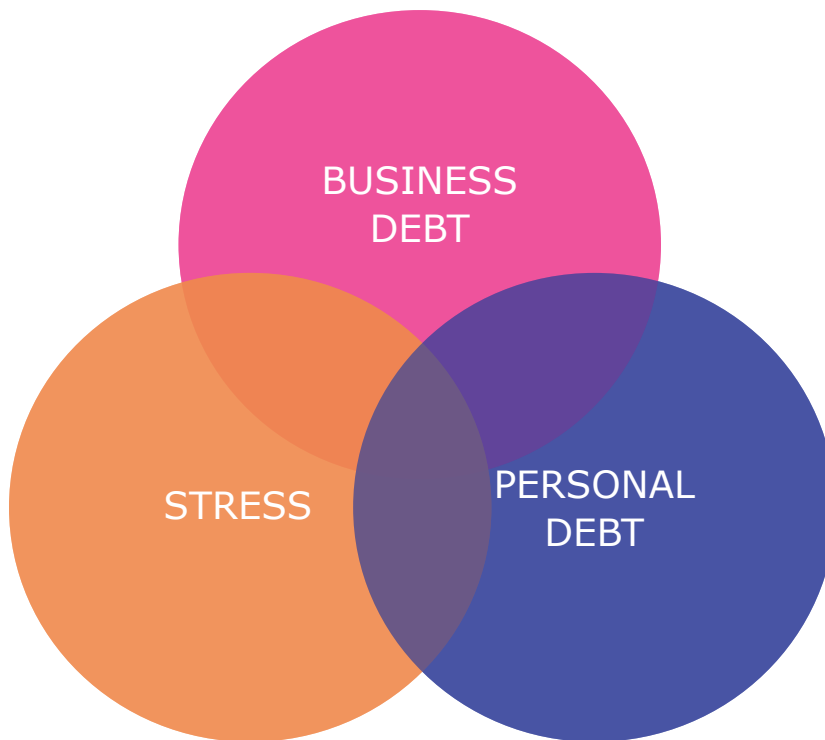
When business debts become a personal problem



Business debt can sometimes have a number of undesirable effects on our personal lives.

It is not uncommon for people to find that the strain of managing their business debts raises their stress levels, affects their morale and causes them to lose sleep and head towards more serious problems such as nervous breakdowns or damage to personal relationships. Some also experience associated health problems, such

as insomnia or an exacerbation of existing medical conditions. If you are finding or suspect that your business debts are beginning to affect your health, speak to your GP for confidential advice. Stress is recognised as a modern problem and there are now a variety of treatment options, including self-help activities.



Your household income and your business

Managing ways to cover your household budget forms part of the business planning process. This section aims to outline some of the more common difficulties and some widely recognised steps to help you move forward.

Contact a debt relief firm if:

- You are unsure about relating your household budget to your business planning
- Your available business drawings lead to difficulty managing your household budget

Some people find that debt also impacts on their relationships with family and friends. The challenge of managing your finances under some pressure can feel especially acute for those who have dependents. Contact your debt relief company for advice on

tackling the business problems. You can also see your GP for advice on your personal health. Couples and families may also find it helpful to contact a confidential relationship advice service such as Relate (**0300 100 1234**).

When business debts become a personal problem

Dealing with a reduction in your drawings

Should you need to reduce the amount of money you can pay yourself from the business, managing your household finances can be challenging. There are nonetheless a number of steps you can take on a personal basis whilst you attempt to tackle the business problems.

You may like to begin by reviewing your household budget. This can help you with business planning and identifying which steps to take next on a personal basis.

- Draw up a list of all your regular outgoings, without including any credit agreements at this stage.
- Include your mortgage/rent. For an endowment mortgage, list the endowment premium and mortgage payment separately.
- If you have business premises secured against personal assets, include the monthly payments. At this stage, do not include any arrears.
- Do include your council tax and gas, water and electric bills.
- Do include any magistrates' fines.
- List any pension premiums, regular prescription charges and hire-purchase agreements.
- Include your telephone bills and TV licence fee.
- Travelling expenses should also go on your list.
- Include groceries and everyday household items, plus an estimate for shoes and clothing.
- If you have children, include childcare payments and/or any child maintenance payments.
- Finally, move on to list any other regular payments made for any other purpose.

When you can see all your monthly outgoings in this clear format, you may be able to find ways to easily economise. You may be able to identify payments you can arrange to spread over longer periods of time, to bring you back within your budget each month. Switching a utility provider could cut an electricity bill; switching from branded products to 'supermarket own' versions cuts grocery bills. Comparing prices for everything you buy can produce helpful savings.

It's important to review your household income by looking at every available source:

- Include any drawings from the business after tax and National Insurance deductions.
- Look at your partner's income after tax and National Insurance.
- Include any tax credits or benefits the household receives. Finally, list any other sources of regular income but do not include irregular over-time.
- If your household outgoings exceed your regular household income, contact a professional financial advisor for advice.

Check if you can increase your personal income

- **Contact HMRC to check whether everyone contributing to the household income has been allocated the correct tax code.**
- **Contact the Tax Credit helpline (0845 300 3900) to see if you are entitled to any help you're not currently receiving. If you have children, make sure you're not missing out on any Child Tax Credits you could qualify for.**
- **If your children are over 16 years old and in education, be aware that from September 2011 the Education Maintenance Allowance will be replaced by bursaries and grants. These will be allocated by schools, colleges and training providers. Speak to an advisor about the changes on 0800 121 8989.**
- **Check whether you are entitled to Housing Benefit with your local office.**
- **Check if you or anyone else in the household is entitled to any other benefits, such as Council Tax Benefit, Job Seekers' Allowance, etc.**
- **Over 60s may be able to claim pension credits; call The Pension Service on 0800 99 1234 to find out more.**

When business debts become a personal problem



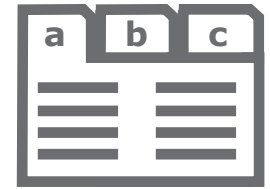
Managing household debts

Good quality debt management advice should help improve your situation, no matter what the circumstances. The best advice is to start tackling the problems as soon as possible. There is always a way to sort your finances out, whereas ignoring personal debts tends to make the problems worse.

- Gain advice to see which debts are categorised as 'Priority Debts' and which are termed 'Secondary Debts'. This division is based on the simple premise of affording you the maximum protection in your unique situation.
- Priority debts are those which attract the more severe legal penalties. One example is persistent non-payment of council tax, which can lead to court action and in some serious cases perhaps even a prison sentence. Another might be utilities, for example, where non-payment could lead to your electricity supply being cut off.
- Secondary debts are those which do still need to be addressed, but have a lower priority against the more serious consequences of the priority list.
- Debt management advice can support you to contact creditors, meaning the institutions, companies and individuals you owe money to. Properly mediated contact with creditors has a tendency to improve the situation, even when it's not possible to immediately meet their repayment demands.
- You should also gain support to look at which option suits you best to end the debts in the longer term. For example, sole traders may benefit from an IVA if the debts they are personally liable for begin to overwhelm their ability to pay.



Glossary of Terms



When talking about business debt and the various areas that it covers, the amount of jargon can be overwhelming. That is why we have put together this brief glossary that covers the main terms to make sure that you fully understand the words and phrases used in this pack and beyond.

Administration

This occurs when a company has fallen into debt and an administrator is appointed to oversee the company and ascertain whether the company can continue trading or be sold to new owners to turn it around. If neither option is feasible, the company is closed down and assets are sold off to cover the company's existing financial responsibilities.

Administrator

Appointed by the court, the administrator is appointed to be in control of a company when it goes into administration and all company actions must pass through them as they have control over the whole business during the process.

Arrears

This is a term used when a business has outstanding invoices and debts which they have not paid and are past their due date.

Asset

An asset is something that business owners have ownership over and has selling value which can be used to pay off debts.

County Court Judgement

A CCJ occurs when a business is taken to court because they have not paid an outstanding debt and will be ordered to pay the debt within an allotted time.

Credit Rating

This is a tool that financial services and banks use to assess the likelihood of a business being able to pay their debts. A good rating will give a business access to more funds and this is assessed on whether the business has any previous court judgments or has defaulted.

Creditors

The person or organisation from which resources have been borrowed and therefore are classed as financial liabilities which must be paid back.

CVA

A Company Voluntary Arrangement is used where an insolvent company sets up an agreement where a percentage of the debt is paid to creditors over an agreed period of time to reduce pressure on directors and free up cash flow.

CVL

A Creditors Voluntary Liquidation is initiated by the shareholders of a company. Carried out by an insolvency practitioner, it involves the liquidation of a company which is required to cease trading and, terminate all contracts and sell all assets to repay creditors.

Debtors

A debtor is the business or organisation which owes creditors money for services or loans that have been provided, placing them in debt.

Directors Disqualification

This means that a person is legally barred from being the director or manager of a company during their period of disqualification which comes from a previous bankruptcy or insolvency offences.

Distraint

A process for landlords or their agents to make entry into an indebted property to remove goods or assets to be sold to pay off debts.

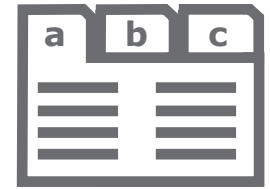
Factoring

A service which is provided by financial institutions such as lenders and banks who pay debts on behalf of a company and assist in collecting the outstanding amounts for a fee, as well as lending the company money for a fee.

Going Concern

This is a company that continues to operate indefinitely and will not go into liquidation and out of business, but must be able to cover costs and make money from normal operations.

Glossary of Terms



HMRC

Her Royal Majesty's Revenue and Customs, which is the government body that collects and regulates various areas of business tax and financial obligations such as PAYE, VAT, business rates and so on.

Insolvency Practitioner

This is a person who specialises in insolvency and is appointed to close an indebted company in the best way for all parties. Licensed by the DTI, they are the only people who can be an administrator or liquidator. They also specialise in business turnaround which is the process of looking at a business as a whole and finding ways to improve or save them.

Insolvent

A term used when a company is unable to pay their debts as their debts exceed their cashflow and assets.

Joint Several Liability

This is used where there are multiple members who are deemed liable for partnership debts in part individually or in full, depending on their ability to pay. Under this process, a liquidator or creditor can pursue the member that they think have the most assets that can be used to satisfy debts.

Liability

A term used when a business owes something to somebody, such as a business loan from a creditor.

Limited Company (Ltd)

This is a business set up in a way where company directors and shareholders are not personally liable to repay debts to creditors and protects their personal assets from being used for payment.

Limited Liability Partnership (Llp) similar to limited companies, but for partnerships.

Limited Liability

This allows limited company shareholders and directors to limit their responsibilities if a business falls into debt, where the shareholders will not lose more than their investment in the business.

Liquidation

Carried out by an Insolvency Practitioner, this is the process where a company is wound up, Removed from the Companies Register and the assets are sold off and distributed to settle debts with creditors, the remainder of which goes to shareholders.

Moratorium

A period of time where certain actions are not allowed to be carried out, giving company directors the breathing space to strengthen the businesses position and finances.

Nominee

A nominee is a licensed Insolvency practitioner who is appointed to help business propose a deal with their creditors to propose a CVA/IVA and takes care of organisation creditors meetings, management account and other logistical aspects of the impending arrangement.

Official Receiver

An officer of the court, the Official Receiver is a civil servant in The Insolvency Services and will be notified by the court in the event of a company winding up order. He is then responsible by use of his staff for administering the initial stages of the process which consists of collecting and protecting any assets and investigating the causes for the debt.

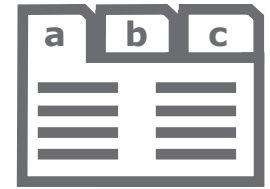
Partnership

Unlike a sole trader, a partnership has more than one owner, spreading the risk (or reward) across more parties that can own different portions of the business.

PAYE

Pay As You Earn is a government scheme where taxes are deducted from monthly wages and paid for by employers to simplify the process and eliminating the need for an employee to calculate their own tax and National Insurance Obligations. It is the responsibility of the employer to collect this tax and pay it to HMRC.

Glossary of Terms



Personal Guarantee

This is a tool used by financial providers to guarantee their debt by requesting the director of a company to guarantee the payment, regardless of whether or not the debt is used by the company. If the debt defaults, the bank will call on the personal guarantee to pay the outstanding amount.

PLC

This is a company with limited liability and trades business shares on the stock exchange which can be owned by anyone. This requires companies to disclose all actions and must file annual accounts within 6 months of the end of the financial year.

PVA

A Partnership Voluntary Arrangement is very similar to a Creditors Voluntary Arrangement and shares the same benefits, but is used for a company that has a partnership, meaning more than one party is liable for debts.

Receiver

This is the person normally appointed by a bank to collect and then administer the assets of a company to pay off debts to the bank and is generally not concerned with other unsecured creditors.

Receivership

In the case of a company defaulting on a loan or payment, the debt holder calls on a receiver to organise the selling of assets to pay back the debt. If a company is in receivership, they will lose control of the business while the assets are being sold, usually resulting in a liquidation.

Simultaneous Voluntary Arrangements

This is the mechanism used to join together a number of individual voluntary arrangements simultaneously to protect a partnership and individual debtors, allowing the partnerships and individuals to deal with their own debts respectively and prevents partnership debts leaking out onto the individual.

SOFA

A Statement Of Affairs is a statement of what assets a company owns, their liabilities and the costs they incur to continue trading.

Sole Trader

This is an individual owner of a business who is totally responsible for the day to day running of the business, and is personally liable for debts.

Statutory Demand

This is a formal demand for a payment of an undisputed debt over £750 which must be paid within 21 days of being issued. This action is taken after a creditor receives a Judgement in their favour and failure to pay the demand can lead to a winding up petition being issued.

Trading Out

This is a phrase used when your company is facing financial difficulty but you continue to trade to try and improve company health and work through the problems.

Turnaround Practitioner

Usually an Insolvency Practitioner, this is a person who specialises in helping companies to solve their problems and improve their situation.

VAT

Value Added Tax is a duty that is charged on goods and services that VAT registered businesses provide in the UK and must be paid to HMRC.

WUP

A Winding Up Petition is a tool used when a debtor continues to miss payments and a company petitions to the court to close the company down.

Useful Contacts and Resources



The Insolvency Service

www.insolvency.gov.uk/index.htm

British Chambers of Commerce

65 Petty France
London
SW1H 9EU

Phone: 0207 7654 5800

info@britishchambers.org.uk

www.britishchambers.org.uk

CBI

Centre Point
103 New Oxford Street
London
WC1A 1DU

Phone: 020 7379 7400

www.cbi.org.uk

IOD

Business information
to professional
development services

www.iod.com

Companies House

Information about UK limited
companies and provides advice to
small business owners.

Crown Way

Maindy

Cardiff

CF14 3UZ

Phone: 0870 333 3636

www.companieshouse.gov.uk

Tax Credits Helpline

Phone: 0845 300 3900

www.hmrc.gov.uk

Federation of Small Businesses

Legal help and support for
small businesses.

Whittle Way
Blackpool Business Park
Blackpool
Lancashire
FY4 2FE

Phone: 01253 336 000

www.fsb.org.uk

Financial Services Authority

Consumer Helpline

25 The North Colonnade
Canary Wharf
London
E14 5HS

Phone: 0845 606 1234

www.fsa.gov.uk

Financial Services

Compensation Scheme

7th Floor
Lloyds Chambers
1 Portsoken Street
London

E1 8BN

Phone: 020 7892 7300

www.fscs.org.uk

AdviceUK

12th Floor
New London Bridge House
25 London Bridge Street
London

SE1 9SG

Phone: 020 7407 4070

www.adviceuk.org.uk

Law Works

Free legal help from solicitors

10-13 Lovat Lane
London

EC3R 8DN

Phone: 0207 929 5601

www.lawworks.org.uk

Samaritans

Confidential emotional support

Phone: 0845 790 9090

jo@samaritans.org

www.samaritans.org.uk

J4B

Database for government and
European funding for small and
medium sized businesses.

Idox PLC

2nd Floor

160 Queen Victoria Street

LONDON

EC4V 4BF

Phone: 0870 333 7101

info@idoxgroup.com

Telegraph Business Club

For the latest articles and news
from the business world

www.telegraph.co.uk/finance/2954618/Welcome-to-The-Telegraph-Business-Club.html

Citizens Advice Bureau

Independent and confidential
advice about debt, money
problems and welfare benefits.

www.adviceguide.org.uk

and www.citizensadvice.org.uk

About BRS



We are Business Rescue Service, an independent and completely impartial team of professionals with over 20 years of experience in helping companies of all sizes in dealing with serious business debt, aiding with their business recovery and assisting with legal and financial solutions.

We have a panel of business turnaround specialists and insolvency practitioners throughout the country who have helped businesses of all sizes and industries navigate through their financial problems, finding the best solution for their individual solutions.

From our experience, we have learned that company directors do not often deal with their financial problems soon enough, perhaps in denial or waiting for the

problem to sort itself out. This is highly inadvisable, as the longer business debt problems are left, options quickly run out.

That is why we have created this guide to help businesses tackle their debt problems as soon as possible, outlining all possible options and providing advice where appropriate.

Contacting BRS

Our website at www.businessrescueservice.co.uk contains information covering the various aspects of business recovery as well as further information about the team and how we can help you. We have many contact options including phone, contact form or email and provide free, impartial advice for anyone who needs it.

©Copyright Notice:

All material in this Business Rescue Pack has been written by BRS and its employees; therefore, you may not reproduce or copy this guide without written permission. In the event that elements of this pack are copied or reproduced without permission, court action may be taken. This pack is free for individuals, but if agencies wish to use it, or any material within, they must first contact BRS for authorisation.

Disclaimer:

This Rescue Pack has been written and intended for businesses in the UK and its contents are to be used as general guidance only, and although all information is based on the latest data available and large effort is made to ensure the information is complete and accurate, the possibility of omissions and errors remain.

Business Rescue Service cannot accept any liability for losses or damages either direct or indirect that may have been incurred by companies, directors, shareholders, designated members, partnerships, partners, sole traders, individuals or anyone who has fully or partially relied on the information in this pack.