



Your initial discussion with one of our insolvency practitioners

1. Speed of response and quality of advice

When a problem arises it can be crucial to get reliable advice quickly. At James Cowper you can normally speak with one of our qualified and regulated insolvency specialists straight away and we will generally be available to meet with you within 24 hours of initial contact

Unlike unregulated insolvency advisors you can take comfort in the knowledge that we have the appropriate qualifications and experience to advise you and your business offering you a level of protection that others cannot (1).

2. What happens at our initial discussion?

Speaking with an insolvency practitioner as an individual with debt problems or as a director or owner of a business can be a daunting prospect; there may be worries about the meeting itself, concerns over loss of control and fears for the future.

We try to put people at their ease by asking them about their situation and financial worries and discuss what they want to happen. Then we explore with them whether the business is, or is capable of being, viable.

If a business is insolvent we will look for the most appropriate way to deal with the immediate concerns and discuss things such as; turnaround plans, raising finance / realising assets to release funds, payment plans with creditors, sale of the business as well as formal insolvency procedures.

Issues often relate to an inability to pay creditors such as HM Revenue and Customs (HMRC). We regularly help with these issues and therefore are well placed to give advice on the current policies of HMRC, the banks and other large creditors.

3. Is an insolvency procedure inevitable?

No, more than 50% of businesses that meet with us will not need insolvency procedures. Often all that is needed is guidance to put things back on track in a way that protects directors from personal risk. Individuals have a number of options and a formal procedure is often avoidable.

4. Directors' responsibilities and potential liabilities

In the case of a limited company we will discuss directors' responsibilities in relation to managing insolvent companies and practical ways that directors might deal with the risks. Personal guarantee liabilities can be an issue and we can look at ways in which we might help mitigate their impact.

It might be, for instance, that the burden can be eased through effective negotiations over quantum and timing.

We have prepared a guide to directors' responsibilities that arise when a company is insolvent which is on our website.

5. What information should I have to hand?

Whilst it is always helpful to have up to date and reliable management and other information to hand, you should not feel that you cannot meet with us because we might ask for information that you cannot readily provide.

At a first meeting we do not need to be swamped with business plans, credit card statements and large amounts of detailed information.

Appendices A and B schedule some of the information it might be useful to have to hand for business and individual respectively.

6. Confidentiality

Details of any discussion are not disclosed with anyone unless you give us authority to do so(2). There is no requirement to tell any authority about the solvency position of the business.

7. Following the meeting

We will not recommend a formal insolvency procedure unless it is necessary but when we do we will suggest that directors take time to consider the advice given, even if that is only overnight.

We will provide a written summary of the advice. Having this can be essential where a decision to continue trading is finely balanced. If the company later fails the directors should be able to demonstrate that they have taken appropriate advice and acted on it responsibly.

¹ It is important to bear in mind that there are some individuals or firms purporting to offer competing services to directors. Many promote themselves as being unfettered by a licensed practitioner's duty to have due regard to the interests of creditors.

² Except in very rare instances, such as fraud, where we are compelled to do so by law.

Appendix A – Useful information – Businesses

It is useful **but not in any way essential** to have the following information to hand if it is applicable.

- The most recent set of management accounts and detailed statutory accounts
- A list of debtors and the amounts owed
- A list of any company assets and whether or not they are financed.
- A list of trade and expense creditors

- Details of any sums owed to crown creditors, local authorities or other Government bodies
- Copies of any documents related to legal proceedings which have been brought or threatened - including demands for payment, county court actions, judgments, statutory demands, walking possessions or executions, fines or penalties and petitions for winding up or administration
- Copy bank statements and details of any standing orders or direct debits
- Any shareholders' agreements, property leases or assets valuations

Appendix B – Useful information - Individuals

It is useful **but not in any way essential** to have the following information to hand if it is applicable.

- Any available information about freehold and leasehold properties and any recent valuations
- Statements showing the amounts of any mortgages or other secured debts
- Details of any other assets such as investments, shares in businesses, antiques etc
- Details of amounts owed to other creditors such as credit cards, utilities, banks or lending institutions, HMRC etc
- An estimate of the household income and expenditure on a monthly or annual basis
- Copy bank statements
- Details of standing orders and direct debits
- Details of any legal proceedings threatened or brought

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