

Guide to an Initial Discussion with One of our Insolvency Practitioners



Quality of Advice and Speed of Response

When a problem arises it can be crucial to get reliable advice quickly. At James Cowper Kreston 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.

What happens at our initial discussions

Speaking with an insolvency practitioner as a director or owner of a business or an individual with debt problems or as 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.

Is an Insolvency Process inevitable?

No, many 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 perhaps as part of a refinancing or turnaround process.

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.

What information should I have to hand?

At a first meeting we do not need to be swamped with business plans, bank statements and large amounts of detailed information. We have listed some of the information it might be useful to have to hand for business and individual respectively later in this guide.

Confidentiality

Details of any discussion are not disclosed with anyone unless you give us authority to do so. There is no requirement for us to tell any authority about the solvency position of the business except in very rare instances, such as fraud, where we are compelled to do so by law.

Following the meeting

We will advise on the options available which may include turnaround options or formal insolvency procedure depending on the circumstances. We would typically 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 reasonably.

Useful information – Businesses

It is useful but not in any way essential to have the following information to hand for an initial discussions 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

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

Further assistance

If you would like to discuss any aspect of this guide and how it might affect you please contact one of our team on the contact details below.

Meet the Team



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The information in this newsletter must not be relied upon in any specific case.