Carter Clark
Financial Recovery

Briefing Sheet

Thinking about liquidation?

Background

When thinking of closing a business a myriad of questions often arise. This briefing sets out some of the issues that directors need to consider.

Other restructuring options?

Firstly, give further consideration to the possibility of a company voluntary arrangement. Do you know anyone that might want to buy the business – a competitor or even one of your suppliers? Is a CVA possible with third party funding to keep your current business trading?

What am I going to do now?

If the closure of the company cannot be avoided, a positive attitude helps even in the worst of times. You are not the first person to have encountered business difficulties. The good news is that the opportunity for a fresh start is nearly at hand. Can a new company, free of debt, prosper in the same line of business? What would you do differently? If you want to try again, get a company registered. It will need a bank account, VAT, PAYE and corporation tax registration. Don't forget new telephones, email addresses and website hosting.

A new company is going to need working capital. Start thinking about finance, especially if you want to purchase assets from the liquidator.

Alternatively, if a totally fresh start is needed, think about a job. Perhaps now is a good time to do something totally different? Start networking. Friends, customers and business associates can all help. Get the CV updated.

Personal guarantees

It is often the case that the bank, landlord and trade suppliers obtained guarantees when the business started. Review the paperwork and potential liability. It is often possible to renegotiate repayment terms with banks. If total debts are overwhelming, an IVA might be a viable alternative, funded out of your future income.

Protection of assets

How can the best value be obtained for what is left? This may have significant impact on personal guarantees. Get all invoicing up to date. Can ongoing contracts be finished and invoiced? Would a sale of assets prior to liquidation get a substantially higher value? Ask valuers and think about possible purchasers.

Executive summary

Directors are sometimes faced with the difficult task of closing their business. Often this experience is new and daunting.

This briefing sets out some of the things that need to be considered before asking an insolvency practitioner to start the winding up process.

Have a question?

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Thinking about liquidation?

Minimising loss to creditors

Stop delivery of new supplies. Don't take any more customers' money in advance if delivery will not be possible prior to liquidation. Don't take on new work if it cannot be finished.

Termination of contracts

Once a resolution to wind up is passed, it often automatically terminates contracts. Examples include leased equipment, franchise agreements and software licenses. Check lease or hire purchase agreements. Were things like cars bought in the company name or are they owned personally?

Employees

Sooner or later the company's employees are going to have to be told. Bitterness is sometimes a result. To reduce the likelihood of any future disruption, get hold of computer passwords, alarm codes and keys. The Redundancy Payment Office operates a scheme to make basic payments to employees of insolvent companies for arrears of wages, holiday pay, redundancy and payments in lieu of notice. Ask the insolvency practitioner for details.

Books and records

Make sure all the company's books and accounting records are safe and up to date. Get software backups. Check passwords. Make sure personnel records are safe as the RPO will need payroll information to process employee claims. The liquidator will also need all the company records to try to maximise asset realisations and deal with creditors claims.

Personal tax position

Contact your accountant and consider both the company's and your personal tax position. Are there any directors' loans either to or from the company? Are dividend documentation and supporting board minutes, up to date?

Director's conduct

When things get tough, it's sometimes easy to make bad judgments. Every liquidator has a duty to investigate the company's failure and make a report to the Insolvency Service.

Don't be tempted to:-

- hide or give away assets
- sell assets below market value
- pay off friendly creditors
- clear loans by voting bonuses
- destroy company records
- order goods on credit
- accept payments for future work

And finally…………..

You are not alone. In 2009 approximately 19,000 businesses were wound up in the UK. On average 12,000 companies are wound up each year in the UK. Learn from the experience and don't be scared to try again.

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