



My company is in financial trouble... what are my options?

If your business is a limited liability company and not able to meet its debts as they become due, you should seek professional assistance from a solicitor or accountant.

As director or shareholder of the company you must take proactive steps to minimise the impact for creditors. If the company continues to trade and incur debt, you may be personally liable and face prosecution for reckless or insolvent trading.

Professional advice

A professional will be able to provide you with advice on how to best resolve your company's financial position. This may involve the sale of company assets, trading more efficiently, letting staff go, outsourcing of existing and future contracts for work, entering into a composition or payment arrangement with creditors or ceasing to trade for awhile or permanently.

Voluntary administration

Voluntary administration provides a company in financial distress with breathing space from creditors to allow an appointed administrator to review and rearrange a company's affairs to avoid liquidation. Voluntary administration is designed to benefit all creditors rather than just secured or unsecured creditors.

To start a voluntary administration, a professional such as a chartered accountant must be found who is prepared to act as an administrator of the company. The administrator takes control, examines the company's position and negotiates with creditors for possible rescue plans or Deeds of Company Arrangement.

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Voluntary liquidation

Shareholders may place their company into voluntary liquidation.

This involves the shareholder(s) passing a special resolution appointing a liquidator to wind up the company's affairs. A liquidator is usually a chartered accountant who has experience in the investigation of a company's financial affairs and the sale of company assets and interests for the benefit of company creditors.

The Official Assignee cannot be appointed liquidator in cases of voluntary liquidation unless the shareholder is bankrupt and the Official Assignee is passing a special resolution as part of the bankruptcy administration.

Court-ordered liquidation

Creditors may take the step of applying to the High Court to place a company into liquidation. The Court will make a determination based on submissions made by the creditor and the company about non-payment of debts. If the company is not in a position to pay the debt or enter into an arrangement to pay, the Court may place the company into liquidation.

The Court can either appoint a private liquidator (such as a suitably qualified chartered accountant) selected by the creditor or the Official Assignee as liquidator.

