

GROWING, SELLING & RISK

Financial Distress: Warning Signs and Your Options

How to recognise a business in difficulty early, what to do first, the options available, and what directors must do to protect themselves.

FOR: DIRECTORS AND OWNERS OF STRUGGLING BUSINESSES • ANY EXPERIENCE

Act early

Most businesses that fail did not fail overnight. There were warning signs for months, and the owner often hoped that a good month, a big order or a cheque would put things right. The sooner you face the problem, the more options you have and the better the outcome for you, your staff and your creditors. Seeking help early is a sign of good management, not failure.

Warning signs

- **Cash is tight every month**, and you rely on the overdraft or the credit card to pay bills.
- **You are paying some suppliers late**, or choosing which to pay.
- **HMRC payments are behind**: VAT, PAYE or corporation tax.
- **Creditors are chasing**, or have sent demands or threatened legal action.
- **Sales or margins are falling**, or a major customer has left.
- **You are not sure what the numbers are**. No up-to-date accounts, or you have stopped looking.
- **You have given personal guarantees** and are worried about them.
- **The business owes more than it owns**, or cannot pay its debts as they fall due.

First steps

1. **Get the facts**. An accurate picture of cash, debts, what is owed to you, and what must be paid in the next three months.
2. **Build a cash forecast**, weekly if need be, showing whether you can pay what falls due.
3. **Talk to your accountant**, and take advice from a licensed insolvency practitioner, even if you are not sure you need to. An initial conversation is often free.
4. **Keep records of the decisions you make** and why.
5. **Stop and think before taking on new credit**, or paying one creditor in preference to another.

Who this is for

- Directors worried about paying bills
- Owners with HMRC arrears
- Anyone who has given personal guarantees

Key points

- Early advice gives the most choices.
- Know your numbers weekly.
- Do not favour one creditor over others.
- Directors have duties to creditors if the company is insolvent.
- Never hide assets or ignore letters.

The options

OPTION	IN OUTLINE
Turnaround and cost cutting	Fix the business, with a forecast and plan
Talk to creditors	Agree payment plans, often with suppliers and HMRC
Time to pay with HMRC	An agreement to pay tax debts in instalments, in suitable cases
Refinance or raise funds	New loans, asset finance or investment
Company voluntary arrangement	A formal agreement with creditors to pay part over time
Administration	A protected process to rescue or sell the business
Liquidation	The company is wound up and its assets sold for creditors
Selling the business or assets	Sometimes the best route, if done properly and at a fair price

The right choice depends on whether the business is viable, what it owes, to whom, and what the directors have guaranteed. A licensed insolvency practitioner can explain each in your circumstances.

Directors' responsibilities

Directors owe their duties to the company. When a company is insolvent or close to it, the law expects directors to give proper weight to the interests of creditors. Directors can be held personally liable if they continue to trade when they should have realised there was no reasonable prospect of avoiding insolvency, or if they favour one creditor over others, sell assets cheaply to connected people, or take money out improperly. Disqualification is possible in serious cases. Keep records, take advice and act sensibly.

Personal guarantees

If you have guaranteed company debts, such as a loan or a lease, you may be personally liable. Check what you have signed, and speak to the lender early. Your position affects the options.

Do not do these

- Do not ignore letters, claims and court papers.
- Do not move assets to family or another company to put them out of reach.
- Do not stop keeping records.
- Do not set up a new company to carry on the same business without advice.
- Do not borrow from loan sharks.

Related guides

- Cash collection
- Budgets and cash forecasts

This week

- Know your cash position
- Forecast the next three months
- List what is owed and when
- Speak to your accountant
- Take specialist advice
- Keep records of decisions

How King Street can help

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We help you understand the numbers, build a cash forecast, and negotiate with HMRC and creditors, and we introduce licensed insolvency practitioners and solicitors when a formal route is needed. We will tell you honestly if we think the business is not viable.

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