

Supporting businesses in financial difficulty during the COVID-19 crisis and beyond

Helping you overcome the worst



Helping you prosper

Managing financial difficulties in a COVID-19 world

The events of the first half of 2020 represent one of the greatest challenges to business in the last 100 years and there is no doubt that the detrimental effect of the coronavirus pandemic on the UK economy will be substantial. The economic downturn that follows will result in many businesses struggling, inevitably with some individuals and sectors coming off worse than others.

You should have taken the critical actions necessary to safeguard your business in the immediate term (see our [dedicated COVID-19 section on our website](#) for details of all Government measures), however, you now need to consider how well equipped your business is to withstand the long haul. It is important to be proactive in assessing the risk and vulnerability of your business, from both an operational and a financial standpoint, and acting decisively to mitigate issues. You may not think that your business will be too badly affected, but what about your customers or suppliers? Will that have a knock-on effect?

Undoubtedly, the biggest impact many businesses will face during the COVID-19 crisis will be a reduction in cashflow. No business can survive without readily available cash to meet ongoing liabilities such as payroll, suppliers and lending commitments. Even profitable businesses need to manage their cashflow, and there's always room for improvement.

Sometimes it becomes apparent that a business cannot and should not continue. However, there are various options available and, if advice is taken early enough, it may still be possible to rescue a business. The quicker you act, the more options there will be available to you.

In this guide, we provide some practical tips about how to spot weaknesses before they become too serious and how to turn things around quickly. We also outline the warning signs of financial crisis and explain the changes to insolvency laws that have been introduced to protect businesses and directors, as well as explaining the different types of insolvency and how we can help if you do find yourself in a distressed situation.





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Practical considerations to help turn your business around

The prolonged disruption of COVID-19 is likely to lead to a recession lasting a minimum of 12-18 months, bringing a need for enhanced business resilience and flexibility.

Few businesses have sufficient cash reserves to be able to survive an extended period during which their cashflows are disrupted. Businesses that are currently struggling for profitability - those with low cash reserves or unstable cashflows - are particularly vulnerable. However, even businesses that appear to be in good financial shape may not be immune, depending on how the situation progresses, and how long it takes for demand and supply chains to return to normal.

Below are some practical tips and advice along with a checklist of key management practices you should be addressing to help you ensure your business is in the best position to weather the storm.

Undertake a strategic review of the market, your business and your competitors

Whilst it is undoubtedly a worrying time, never forget that a recession offers opportunity as well as difficulties. Think about your competitors and whether or not they are robust enough to survive. If you sense vulnerability, consider whether you should target their customer base or even whether an approach might be possible, with a view to a merger or takeover. We may be able to assist with this review.

Prepare cashflow forecasts

Whether it be on a sheet of paper or using one of the latest software models (or ask for our help), ensure you have a clear idea of how cash will flow in and out of your business over the coming months. Consider the financial impact of losing clients, delayed payments and other scenarios such as the closure of an office or premises.

Watch your credit control

It is imperative that you retain tight control over your debtors. If you cannot convert the debtor into cash in a reasonable period of time, you will need to decide if you should be investing your working capital in that customer. If you have credit insurance, check to ensure that the customer is still credit insured and that you operate within the credit insurers' credit limits.

Speak to your customers to determine whether or not they are in financial difficulty

If they are, find out if there is anything you can do to help, such as allowing them to pay in instalments. Ensure you credit check new and potential customers before commencing work.

Turn invoices into cash quicker

Send out invoices early and consider adjusting your payment terms to reduce the number of days within which a customer is required to pay.

Cut costs in a targeted way

Resilient companies cut their costs in a targeted way. Review every cost from the bottom up with a view to cutting and saving, where possible. Streamline your business to concentrate only on profitable core activities; you need to burn off the fat to thrive during this time.

Review leases and loans

Take the opportunity to reduce your fixed costs by renegotiating fixed outflows such as lease and loan terms, for example, your agreement with your landlord.

Take stock

If you cannot sell it in a reasonable period of time then do not stock it. Clear out old stock at cost or below to generate cash.

Close non-profitable parts of your business

During the COVID-19 lockdown, the population has been forced to make greater use of online resources. Offline parts of a business may need restructuring or even closing if they were struggling before the shutdown.

Consider additional loans and alternative funding

Alternative funders are open for business and looking to lend to the right opportunity. It is worth investigating sources such as crowdfunding, crowdsourcing, asset finance, supply chain finance, invoice factoring and pension led funding. We have good relationships with alternative lenders, such as asset-based lenders and crowd funders, and can facilitate introductions.



Make the most of Government support

During COVID-19, cashflow has been assisted by various Government schemes, such as the [Coronavirus Job Retention Scheme](#), which allows businesses to temporarily cut costs whilst retaining employees. This gives you time to re-evaluate staff in line with your business strategy.

Resilient companies do not just cut costs, they target the recovery and invest in R&D and marketing so they are best placed coming out. The [Coronavirus Business Interruption Loan Scheme \(CBILS\)](#) will provide 12 months of interest free funding. If your business utilises the funds effectively, this may provide greater returns to propel the recovery and subsequently repay the loans. CBILS loans below £250,000 do not need personal guarantees. However, do remember that these loans have to be repaid, so account for it going forward.

Various online tools and resources are available to help businesses determine what financial support is available to them during the coronavirus pandemic. The Government has launched a 'support finder' tool, [available on GOV.UK](#), which can be used to easily determine what support is available for you and your business in a matter of minutes.

Surviving COVID-19 will involve teamwork and support. We are and will be here throughout to assist with both grant and furlough claims, loan applications as well as general support and advice.



Spot weaknesses before they become too serious

You need to be in a position to take a quick and realistic view of current options so you can rapidly turn things around, if necessary. This means identifying and acting on opportunities for strategic, operational and financial change, including potential expansion.

There is no room for complacency, particularly during the current environment, so it is essential to ensure the correct management procedures are in place to keep good financial control. We recommend you carry out the following practices as a matter of course:

- Have a current written business plan. This should be updated to reflect your position in relation to the impact of COVID-19
- If opportunities exist, you should ensure that you have a war chest or access to funds to enable you to take advantage
- Review costs and overheads as well as sales
- Prepare regular management accounts
- Prepare annual projections and regular cashflow forecasts
- Review actual performance regularly against the projections
- Prepare and use aged debtors and creditors lists
- Meet regularly with your directors to formally review progress
- If you are on your own, set aside time just to understand your financial position
- Ensure you know how much you owe and how much you are owed
- Seek professional advice as early as possible when required.

You should be as honest with yourself as much as possible about these practices – if some of them make you feel uncomfortable, you should seriously consider seeking professional advice.

If you conclude your business has a cash shortfall, or is forecasting a shortage of funds, it's essential that you act quickly so your business has access to as many options as possible. We are experienced in helping businesses with a variety of cashflow issues, from improving cash management controls to maximising cash inflows, and unlocking other sources of funds.



Warning signs of financial crisis

Whether you are concerned for your business' health, or that of a customer or client, many of the early-warning signs of financial difficulty are the same.

The following are typical signs of a business facing a potential financial crisis:

- Deteriorating debtor collections
- Increasing WIP value that is not billed on time
- Cash at bank is reducing/the overdraft is steadily increasing
- Rising stock levels and static/deteriorating sales
- Slow or late payment of suppliers' invoices
- Clearing debts by lump-sum payments on account
- Increasingly making payment by post-dated cheques
- Leave paying old invoices until you need delivery of a new order
- Using disputes to delay payment to suppliers
- Receiving an increasing number of final demands and writs from suppliers
- An ever-widening search for new suppliers who will make more credit available
- Escalating VAT and PAYE arrears
- Receiving a statutory demand for payment

If any of the above applies to your business, or that of a customer or client, you should seek urgent professional advice from a licensed insolvency practitioner who will provide suitable business turnaround solutions. If advice is taken early enough, it may still be possible to rescue your business, or prevent a potential bad debt. It could also avoid the consequences of potential personal liability of directors for allowing their company to trade on without reasonable prospect of avoiding insolvency.



Changes in UK insolvency law to protect businesses and directors

The Government has made amendments to certain aspects of insolvency law, designed to enhance the rescue features of the insolvency regime, as well as specific temporary measures to protect companies and their directors who have been adversely affected by the coronavirus outbreak with a view to assisting them to continue trading while they explore options for restructure and rescue.

What aspects of insolvency law are changing?

The Corporate Insolvency and Governance Act received Royal Assent on 25 June 2020 and has now become law. It is a mixture of long promised reforms along with reliefs and prohibitions directly related to COVID-19.

Temporary measures:

Measures blocking legal action being taken against a company, to allow for added breathing space while a rescue plan is developed

This temporary measure provides companies with formal breathing space from creditor action if they are, or are likely to become, unable to pay their debts, giving companies struggling as a result of COVID-19 the opportunity to survive. Please note that this is only in respect of companies suffering as a result of COVID-19 and not for companies that were experiencing difficulties prior to the COVID-19 impacting businesses.

The suspension of wrongful trading legislation

The Act introduces a temporary suspension of personal liability for directors while they make their best efforts to continue to trade during the period associate with the COVID-19 pandemic. However, whilst this purported suspension of wrongful trading was trumpeted by the Government in an announcement on 28 March 2020, the drafting of the Act does not provide a clear and blanket 'suspension' of liability. It provides that in considering any application by a liquidator under Section 214 of the Insolvency Act 1986, the court, when making an assessment of the director's liability to contribute to the losses of the company in the period of wrongful trading, should "*assume that the*



person is not responsible for any worsening of the financial position of the company or its creditors that occurs during the relevant period". All other checks and balances on directors will remain in place.

The removal of the threat of statutory demands and winding up petitions based on unpaid debt due to the pandemic (two measures)

The Government has legislated to temporarily prevent winding-up proceedings being taken on the basis of statutory demands and to temporarily stop winding-up proceedings where COVID-19 has had a financial effect on the company, which has caused the grounds for the proceedings. This gives businesses the opportunity to reach realistic and fair agreements with all creditors. Statutory demands served between 1 March 2020 and 30 September 2020 cannot form the basis of a winding-up petition presented at any point after 27 April 2020.

The provision for virtual AGMs

The Act allows companies that must legally hold an AGM or General Meetings to do so by other virtual means, even if company protocol does not normally allow this. As a result, directors will not be exposed to liability for measures that need shareholder endorsement, and shareholders rights are preserved.

Further relaxation of rules around filing requirements

Companies House made changes to filing requirements during the COVID-19 emergency, including extending deadlines and therefore countering the threat of penalties for late submissions. However, more flexibility may be required, so the Act allows the Secretary of State to temporarily make further extensions, enabling struggling businesses to focus on the things that matter most while they have reduced resources and restrictions.

Extra protection for businesses with a ban on evictions for commercial tenants

The Government have laid a statutory instrument to amend the Coronavirus Act to extend the time period for suspension of the forfeiture of evictions from 30 June to 30 September 2020, meaning no business will be forced out of their premises if they miss a payment in the next three months. They have also introduced a secondary legislation to prevent landlords using Commercial Rent Arrears Recovery, unless they are owed 189 days of unpaid rent. The time period for which this measure is in force is also extended from 30 June to 30 September.

Permanent measures:

Moratorium allowing viable businesses time to restructure or seek new investment free from creditor action

Insolvent companies or companies that are likely to become insolvent can obtain a 20 business day moratorium period which will allow potentially viable businesses time to restructure or seek new investment free from creditor action. The moratorium is extendable for a further 20 business days without the consent of creditors and also up to a year with the consent of certain pre-moratorium creditors, and for any term by way of a court order.

A moratorium is a director-driven process instigated by an out of court application where a monitor, who must be an insolvency practitioner, is appointed and:

- the directors state that the company is, or is likely to become, unable to pay its debts
- the company has not been in an insolvency process within the last 12 months
- A monitor considers it likely that the company will be rescued as a going concern.

The moratorium prevents enforcement of certain pre-moratorium debts but some creditors do not have this 'payment holiday' imposed upon them.

Debts incurred during the moratorium period should be paid but if not they will have super-priority status in any subsequent insolvency, ranking ahead of an office holder's remuneration.

Alternative restructuring procedures for businesses that are viable but experiencing difficulty with debt liabilities

Businesses that are viable but experiencing difficulty with debt liabilities will be able to restructure under a new procedure. The procedure allows courts to sanction a plan based on whether it is fair, equitable and in the interest of creditors. Whilst creditors will vote on the plan, the courts will have the power to impose it on dissenting creditors.

Clause preventing suppliers from stopping or threatening to stop supplying businesses going through an insolvency or restructuring procedure

Until now, when a company enters an insolvency or restructuring procedure, suppliers have often either stopped or threatened to stop supplying the company. The Ipso Facto clauses in the new legislation will prevent suppliers from stopping or threatening to stop supplying businesses going through an insolvency or restructuring procedure. In addition, they will not be able to alter the existing contractual terms. The Act will mean suppliers will not be able to jeopardise a rescue in this way. However, if the supply process causes hardship to their business, suppliers will be relieved of this requirement should the court agree. There will also be a temporary exemption for small company suppliers during the COVID-19 response.

The measures are retrospective from 1 March 2020 and the temporary provisions will remain applicable until 30 September 2020. This is significant change to the insolvency regime in the UK and what are called "Henry VIII powers" will allow the Government to tweak certain aspects by the use of regulations and statutory instruments as issues arise.



Key points to note

- A moratorium can be entered into by simply filing documents at court. There is no requirement to obtain consent or even notify a qualified floating charge holder ('QFCH') or other secured lender. A secured lender will be notified by the monitor alongside all other creditors.
- Lenders will still need to be paid as part of the moratorium, ie. the usual capital and interest payments.
- The moratorium suspends a QFCH's ability to crystallise a charge or appoint an administrator and certain rights may be void. Also the charge holders are unable to enforce security without the consent of the court.





Coping with a distressed situation

As a director, you have a fiduciary duty to act in the best interest of the company as a whole. If your business has become distressed due to COVID-19, it is important you work with your advisers and stakeholders to assess the situation and develop a practical plan.

We can support you in the following ways:

- Advice about the best steps to take to make sure that your business remains viable
- Crisis cashflow management, including how to prioritise cash outflows and other cash demands
- Business assessments and analysis, including preparing cashflow forecasts and undertaking independent business reviews to understand the extent of financial problems
- Support negotiating with suppliers, including in relation to revised payment terms, payment plans or other agreements to unlock essential supplies for your business
- Facilitating introductions to alternative lenders, such as asset-based lenders and crowd funders, who may be able to introduce new funds to your business
- Advice about a director's fiduciary duties and what steps to take should a business no longer be viable
- Restructuring services
- Advice on how to maximise value
- Insolvency services, from formal corporate insolvency to members voluntary liquidation
- Formal Company Voluntary Arrangement to informal voluntary arrangements, including time-to-pay arrangements
- Personal insolvency options

Helping you overcome the worst

We have longstanding experience dealing with all forms of restructuring and insolvency appointments and aim, wherever possible, to prevent needless formal insolvency. We would assess your business by undertaking an independent business review and providing a report that combines technical detail with clear recommendations on financing options.

Sometimes, our assessments may show that although trading activity is viable, because of its weak financial position and additional funding needs, the company is unable to continue. In these circumstances, our turnaround and recovery specialists may act as receivers or administrators, often enabling the business to continue trading whilst new owners are found.

Alternatively, we can act as liquidator, selling the company's assets to meet creditors' claims. But winding up a business is always the last resort. Wherever possible, we recommend ways of rescuing or restructuring the business, often helping it return to a profitable state.

The same is true of our work with individuals facing personal insolvency or bankruptcy. A speedy rescheduling of debt may be all that is needed to avert financial disaster.

Restructuring - Not every company facing financial difficulties needs to enter a formal insolvency process. We can help you avoid this through drawing on our expertise in private equity, management buy-outs, preparation of the business model, financial modelling and business valuation.

We have a large amount of experience in dealing with group simplification, assisting organisations in dissolving dormant companies making their group structure more transparent and reducing operating costs.

Members voluntary liquidation - If your company is solvent but you wish to cease trading and distribute assets to shareholders, you may consider voluntary liquidation. This process can offer protection and an orderly wind down.

Formal corporate insolvency process - It is our priority to advise you on the best way possible to deal with the financial difficulties your company faces and to achieve the best outcome for your company's creditors.

We will advise you on the various options available, including administration, pre-pack administration, liquidation and Company Voluntary Arrangement (CVA), and explore the most suitable option for your particular circumstance. We have outlined the difference between these types of insolvencies on the following page.

Our experienced staff work alongside specialist lawyers and valuation agents to ensure business assets are maximised in distressed circumstances.

What are the different forms of insolvency?

Company Voluntary Arrangement – Coming to a binding formal agreement with your creditors whereby they agree to accept less over a period of time.

Administration - This is an insolvency process by which a company is placed under the control of an insolvency practitioner, to enable them to achieve one of three objectives laid down by statute:

1. to rescue the company (as opposed to the business that the company carries on) so that it can continue trading as a going concern
2. to achieve a better result for the company's creditors as a whole than would be likely if the company were put into liquidation
3. to realise the company's property in order to make a distribution to the company's secured or preferential creditors.

A moratorium is provided by which creditors and others are prohibited from taking or pursuing legal proceedings against the company while it is in administration.

Pre-Pack Administration – This is a formal insolvency procedure in which a company arranges to sell all or some of its assets to a pre-determined buyer prior to appointing an administrator to facilitate the sale.

Creditors Voluntary Liquidation - A formal insolvency procedure which involves the directors of an insolvent company voluntarily choosing to bring their business to an end, and appointing an insolvency practitioner to wind the company up and realise the assets of the company to distribute to its creditors.

Personal insolvency options - We make it our priority to advise you on the best way possible of dealing with the financial difficulties you face. The recommendations made will depend upon your own particular circumstances and may include an Administration Order, a Debt Relief Order, an Individual Voluntary Arrangement or bankruptcy. We will also advise you of the non-formal insolvency options available, together with the risks that are inherent with these other processes.



Don't face the future alone - get in touch today

Please contact your usual UHY adviser to discuss your particular circumstances or alternatively call our free helpline to speak to one of our turnaround and recovery experts on 07771 653 104.

You will be greeted with a friendly, confidential and professional service, and the initial meeting will be free of charge and with no obligation.

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