

Dealing with individuals and companies in financial difficulties

Introduction

Businesses try to predict what we need, and then supply it. Sometimes they get it wrong. Running a business means there is the risk of failure. If a business fails, it has two choices:

- ▶ It can stop trading, and those owed money can be paid from the sale of assets or
- ▶ Look for help to see if it can be rescued.

Businesses may be run by individuals. Examples include sole traders and partnerships. These have unlimited liability. If the business can't pay its debts, the owner's personal property can be taken. An owner can choose to limit liability by forming a limited company. The most the owners can lose if this fails is the value of their shares.

Terms

Businesses own things. These are called assets. They also owe money. These are called liabilities. Those owed money are called creditors. Insolvency might occur when a business can't sell enough assets fast enough to pay its creditors. This is called a cashflow problem. The business may be trading at a profit but not able to pay creditors because its own customers have not been paid. A business that cannot pay the money it owes to its creditors is insolvent.

Dealing with Insolvency

The Insolvency Service investigates the reasons for insolvency. They deal with one type of business insolvency – compulsory liquidation. The Service can sell the assets of an insolvent business. The money from the sale will be shared to as many of the creditors of the business as possible. If The Service thinks the failure is due to bad or improper conduct by the owners, it can make sure the owners are punished by the courts. Directors can be banned or even prosecuted if they have broken the law.



Other types of insolvency are managed by independent professionals – (insolvency practitioners). An insolvency practitioner can try to rescue a business. This process is called Administration. They can also organise the distribution of assets. This process is called Company Voluntary Arrangement (CVA).

Individuals

Individuals who are insolvent may be declared bankrupt by the courts. The Insolvency Service will use the bankrupt's assets to give money back to the bankrupt's creditors. They will also check to make sure the bankrupt has not behaved badly. Bankrupts who have acted badly or improperly can be stopped from further business activity by the courts. Most bankrupts are people who have got into debt.

An insolvency practitioner can help a bankrupt to agree a method to pay their debts over a fixed period of time. This is an alternative to bankruptcy. It is called an Individual Voluntary Arrangement (IVA).

Conclusion

Businesses will always fail. The Insolvency Service is responsible for the insolvency process. They make sure assets are distributed fairly for individual and business failure for the benefit of the creditors.

