

Business Rescue Service

Economic downturn, rapid market changes, new competitors, failure of customers to pay overdue accounts, the loss of a major contract or strategic errors — any or all of these can plunge a business into serious financial distress and leave it struggling to survive. Sole traders or partners are at immediate risk but so are company directors who can be held personally liable (jointly and severally) for the debts of the company if it is held that they allowed the company to trade whilst insolvent and they are guilty of “wrongful trading”. (See *below for definitions*.)

When a business finds itself experiencing increasing cash flow problems, the pressures of chasing the next sale, collecting money owed, paying impatient suppliers and meeting payroll commitments can cause much distress. Quite often the owner of the business or the board of directors feel they have no options available to them. Carraghyn offer a protective buffer that will give you breathing space and a good night’s sleep. We will advise you of your options and by engaging us to provide advice company directors can protect themselves against personal claims.

We undertake assignments of all sizes and complexity, from large corporations to small family owned businesses. Our focus is to provide clients with objective, independent advice and deliver creative solutions to complex problems. Whatever the situation, we can help find the optimum outcome by identifying and understanding the causes of decline and putting in place a recovery programme.

How We Work

We never judge. We never blame. We simply guide and advise you through difficult times and help you rescue, recover and renew your business. We have developed the following tried and tested approach to helping businesses who find themselves in difficulties.

1. **Alleviate Creditor Pressure:** We will deal directly with all creditors and negotiate on your behalf. We will also put any necessary defence measures in place to protect you from creditor and predator attacks.
2. **Getting to the Root Cause:** By using our proven Business Health Check process, we will get to the very core of your business and identify the cause of your problems. Following on from our investigations, we will present a set of recommendations that will take your business forward. Often this can involve significant changes within the business which could impact:
 - **Cash Management:** Understanding the cash and working capital cycle in your business.
 - **Operations Management:** Analysis of the day-to-day operation, communication and flow of information through your business.
 - **Pricing Policy:** re-evaluating your pricing policy, and looking for innovative ways to make your product or service more attractive to customers.
 - **Product/Service:** Recommendations for modifying your range of products/services and considering the potential for range consolidation or expansion.
 - **Marketing:** Assessing your existing marketing strategy, your existing markets and identifying new market potential.
 - **People:** Consider whether or not you have the right team in place to take your business forward. Help with redundancy/outplacement, or recruitment and training.
 - **Pre-pack or Phoenix:** Sometimes the recovery of the viable core business is possible by rescuing assets before liquidation. This process can only be undertaken after serious consideration and with specialist knowledge.
3. **Moving Forward:** Actions will probably need to be put in place to take your business forward. We have an extensive toolkit of options, services and processes to help you including:

- **Finance:** helping you restructure your business finances and where necessary guiding you through the process of approaching banks and investors.
 - **Legal:** we can offer support and advice through any legal matters. We can recommend and instruct specialist lawyers, barristers, mediators and other legal experts on your behalf.
 - **Human Resources:** the right people in the business can make the difference between success and failure. We can help you with redundancy and outplacement, recruitment or training and development programmes.
 - **Marketing:** getting the right message to the right people at the right time is vital in business. Our marketing experts can help with branding, communications and your online presence.
4. **Ongoing Safety Net:** If required – by you or by any investor or other funder - we will work alongside you to help you turnaround, restructure and re-grow your business. We will provide an objective sounding board for important decisions and a professional backup to keep you on the right track. This may involve the appointment of a non-executive director to your board or a consultancy appointment.

Fees

We aim offer an open and transparent fee structure but given that no two cases are ever exactly the same it is not possible to quantify all options. The following is a guide:

- **Initial Consultation:** We offer a FREE telephone consultation to discuss your situation and get a feel for the options open to you. Typically this takes between 30 and 60 minutes.
- **Fact Finding Meeting:** One of our associates will visit your place of business to discuss matters more fully and to look at your financial and other records. Ideally they will want to speak with any staff and also expect you to provide them with originals or copies of any relevant CCJs, defaults, bailiff demands or whatever. This meeting is expected to take between 1 and 3 hours and is FREE of charge. However you will be required to pay a nominal set fee towards travel costs of £100 (plus VAT). *In some circumstances it may be possible to carry out this fact find by telephone or video conference.*
- **Business Health Check:** Following the fact finding meeting we will quote you a fee to deal with urgent matters, such as defending you against creditor actions in court or by bailiffs, and for completion of the detailed Business Health Check report. Without knowing full details of your business and its problems it is impossible to quote a set price, however the normal fee for a report ranges from £800 upwards. Fees for toolkit options advised will then be agreed in advance.
- **Ongoing Safety Net:** Fees will be agreed as appropriate.

Given that your business is experiencing financial problems you will appreciate that we will normally require payment in advance of doing any work though we may offer stage payment terms on the basis that we are always acting for business owners or managers on a personal basis and not for their company.

<p>What is Insolvency?</p> <p>There are 3 basic tests to see if a company is insolvent.</p> <ol style="list-style-type: none"> 1) The Cash flow Test: Can the company pay its debts when they fall due for payment? For example. If your trade creditors sell to you on say 30 days terms and you regularly pay on 90+ days, then the company could be insolvent. 2) The Balance Sheet Test: Do you owe more than you own as a company or are the company's assets exceeded by its liabilities? If yes, then the company could be insolvent. 3) The Legal Action Test: If a creditor has obtained a County Court Judgment, this may demonstrate the company's insolvency and the creditor may petition to wind up the company. <p>A director has a legal requirement to understand this issue. If he or she believes that the company has insufficient cash to pay its liabilities on time then they must take advice/action.</p>	<p>What is Wrongful Trading?</p> <p>The tests for wrongful trading actions include:</p> <ol style="list-style-type: none"> 1) Not filing Annual Returns or accounts at Companies House. 2) Not operating the PAYE scheme correctly, failing to pay PAYE and NIC when due, building up arrears. 3) Not operating the VAT scheme correctly, building up arrears. 4) Taking excessive salaries when the company cannot afford them. 5) Taking credit from suppliers where there was no "reasonable prospect" of paying the creditor on time. 6) Wilfully piling up debt. <p>Action for wrongful trading can only start after a commencement of Creditors Voluntary Liquidation, Administration, Administrative Receivership or Compulsory Liquidation. It does not apply in Company Voluntary Arrangements, Trading Out, or Refinancing.</p>
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