



**FOCUS**  
INSOLVENCY GROUP

## **A Guide to Administration**

**Licensed Insolvency Practitioners  
& Business Recovery Professionals**

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## **Contents**

Introduction

Is my company insolvent?

What is wrongful trading?

When is administration appropriate?

Advantages of administration.

The administration process.

Why choose Focus Insolvency Group?

## **Introduction**

The idea of administration is to act as an alternative to winding up the company so that where possible the company or at least its business can be rescued.

Sometimes a company is not able to trade out of cash flow problems and does not have enough money to pay its debts as and when they fall due. In these circumstances the company is insolvent and the only appropriate course of action is for the directors to cease trading and seek professional advice.

If a company falls into financial difficulties the directors or a third-party will sometimes appoint an administrator to run the company.

Administration is a key insolvency tool to implement the rescue and survival of the business and provides the company with immediate protection from its creditors.

## Is my company insolvent?

There are three insolvency tests to establish if your company is insolvent.

### **Cash flow test.**

Can the company pay its debts as and when they fall due?

If you are finding that the company is suffering from poor cashflow and as a result it is unable to meet payment terms of its creditors or maybe it is not paying national insurance and income tax contributions for directors or staff, then your company is more than likely insolvent.

### **Balance sheet test.**

Does the company owe more than it owns, or in other terms are the company's assets exceeded by its liabilities? If the answer is yes, then the company is more than likely insolvent.

### **Legal action test.**

If a creditor has taken legal action and has obtained a county court judgment (CCJ) or a statutory demand against the company, this may indicate the company's insolvency and allow the creditor to petition to wind it up.

Therefore if your company has one or more CCJs and/or a statutory demand, it is more than likely insolvent.

**If you believe that your company has failed any of the above tests, it is crucial that you take immediate action to address the company's insolvent situation.**

Directors of a company have a legal obligation to seek appropriate advice or take action if they believe the company has insufficient cashflow to pay its debts as and when they fall due? If they don't, then Directors can find themselves personally liable for the debts that they have accrued since they should have taken those steps. The 'Company Director Disqualification Act 1986' deals harshly with Directors who ignore the early warning signals and continue to trade.

## What is wrongful trading?

Directors of a company have a legal obligation to seek appropriate advice or take action if they believe the company has insufficient cashflow to pay its debts as and when they fall due? If they don't, then directors can find themselves personally liable for the debts that they have accrued since they should have taken those steps. The 'Company Director Disqualification Act 1986' deals harshly with directors who ignore the early warning signals and continue to trade.

## When is administration appropriate?

With administration the company will continue to trade under the administrator where appropriate while the best outcome for creditors and the company is put into place.

If it may be possible to trade out of the situation, or continue in business, other insolvency procedures such as a company voluntary arrangement (CVA) need to be explored. Or if the company is no longer a going concern then options such as liquidation may be considered. It is for this reason that directors should contact Focus Insolvency Group who can guide you through your options.

### Administration will be appropriate where:

- The company is insolvent
- A CVA is not immediately appropriate
- The company is considered a going concern
- The company has a chance to trade out of its financial problems if given some time and restructuring implemented

Before accepting an appointment an administrator must be satisfied that one of the following outcomes can be achieved.

- **Rescue** – The company would still continue to exist in its original form and eventually be returned to the directors with some sort of debt restructuring or Company Voluntary Arrangement (CVA) in place. The company must continue business as a trading viable concern.
- **Better result for creditors** – This would allow for a better return to creditors than if the company were to be wound up. The main core of the business may be sold on and survive as a going concern with any unnecessary parts being stripped away and sold. This is the most usual outcome of administration.
- **To allow distribution to secured and preferential creditors** – This allows for a better outcome for this class of creditor but other unsecured creditors would receive nothing. This may be a useful option if trading needs to continue for a limited period, for example to complete a contract. The business would not normally survive in this case but is the least likely occurrence out of the three outcomes.

In some circumstances, it may be possible for the directors to form a new company and have this company buy back some or all of the assets of the old one, so as to ensure the business survives and continues trading from a position of strength having been restructured. Focus Insolvency assesses every situation and provides directors with the best options available to them.

## **Advantages of administration**

Administration can have a number of major advantages for directors and shareholders of a company that has overwhelming debt problems.

### **The main advantages of administration are:**

- Administration offers full legal protection from all creditors whilst a strategy is formulated in respect of the future of the company.
- Gives directors or third parties an opportunity to buy back the business as a going concern.
- Offers vital breathing space whilst a business recovery or restructuring package is implemented.
- An administrator can be appointed very easily merely by filing the necessary documentation in court.
- Provide peace of mind to the directors.
- Stop demands from creditors.
- You no longer have to deal with creditor's letters and phone calls.
- Costs are taken from the available assets in the company.

When you enter into administration with Focus Insolvency we will become the point of contact for your creditors, this means that you do not have to take anymore harassing phone calls and any threatening letters can simply be sent to our office for us to deal with.

It is the administrator's duty to deal with all creditors and realise the assets.

## **Administration Process**

### **Stage 1:**

An Insolvency Practitioner at Focus Insolvency Group will help you explore your options. They will discuss the company's financial position with you, review the company's viability, financial forecasts and background and explain the various insolvency procedures, such as a voluntary liquidation, CVA or Administration and discuss which would be appropriate for your company.

**Our consultation and advice is completely free of charge.**

### **Stage 2:**

There are three routes into administration

- The company and its directors can file a notice at court
- The holder of a qualifying floating charge can file a notice at court (such as those that have a debenture over company assets)
- A court order can be made to place the company into administration.

The administrator will be a licensed insolvency practitioner and has the power to trade, manage and sell the business as a going concern in order to maximise the return to creditors. They will take full control of the company finances, affairs, business and property while an outcome is negotiated and achieved.

### **Stage 3:**

Once an administrator is appointed he or she has 8 weeks to produce formal proposals to the outcome of the administration, copies of these would be sent to the Registrar of Companies and all known creditors.

### **Stage 4:**

Within 10 weeks the administrator must hold a meeting of creditors at which the proposals will be agreed upon. Once these proposals are agreed the administrator must manage the company in accordance with them to achieve the agreed outcome of the administration.

## Why choose Focus Insolvency Group?

Focus Insolvency has successfully established itself as a top 20 Insolvency firm. We pride ourselves on having the correct blend of expertise, experience and professionally qualified staff to deliver all the necessary services and products, but with the traditional bespoke personal service of a local and friendly company at a competitive cost.

We understand that a company can find itself in financial difficulty for a variety of different reasons and we will take time to meet with Directors and key management to understand what has happened within the company and how we can help. We provide this service completely free of charge and without obligation.

Our team work with management to identify the available options, understand their implications and agree a course of action designed to result in the best possible outcome.

### Our Company Values.....

Our success and progression has been built on a number of core company values;

- INTEGRITY –** We have strong ethics and are always open, honest and reliable.
- QUALITY -** Delivering excellent standards consistently from our experienced and qualified directors and staff.
- SERVICE –** We take pride in delivering the highest standard of service possible.
- VALUE –** We strive to deliver exceptional value to our Referrers and their clients.
- INNOVATION –** We strive to be better every day and we take steps to make this happen.
- ACCOUNTABILITY –** We accept that we have an obligation to take responsibility and account for our actions and will do so willingly.
- POSITIVITY –** We have a 'can do' attitude and are passionate about our business.

## **Further Information**

If you would like further information or guidance on anything that you have read in our guide Focus Insolvency Group are here to help you. With extensive experience in helping people and companies regain control of their finances; our immediate aim is to provide you with free advice and assistance and to structure that correct solution to your problem.

The expert advice we will offer will always be the 'best advice' for you, dependant on you or your company's circumstances and financial situation.

Rest assured that we will not charge anything until a debt solution is in place!

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