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Newman & Partners

Licensed Insolvency Practitioners

RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at **insolvency@newmanandpartners.co.uk**

Communicating financial distress – What to tell staff, suppliers and customers

When a business starts to struggle, the instinct for many directors is to say as little as possible for as long as possible. Unfortunately, news and rumours of financial difficulty tends to travel through a workforce or a supply chain long before a formal announcement is made, which means that by the time directors do speak up, silence itself has often become the story.

How that communication is handled, and when, can shape whether a business retains the goodwill it needs to recover. Having seen many insolvency cases in the past, here are some of our insights on communicating a business recovery to key stakeholders.

Staff hear things first, whether you tell them or not

Employees notice when invoices stop being paid on time, when a supplier stops delivering or when a director takes an unusual number of calls behind closed doors. You may feel like these issues are handled discreetly, but people care about their job and if issues are left unaddressed, speculation fills the gap.

That is why a short, honest update, even one that cannot yet offer certainty, tends to do more for morale than saying nothing at all. Confidence and trust is a key part of the employee and employer relationship, which shouldn't be overlooked.

Of course, directors do not need to disclose board-level detail to be transparent. What staff generally want is confirmation that the situation is being taken seriously and to be given a sense of the timeframe involved. Where possible, employers should try to provide clarity on what it means for them in practical terms, including pay and job security where that can honestly be addressed.

Suppliers respond to certainty, not reassurance

A supplier who senses a problem but is told nothing will usually protect their own position first, whether that means tightening credit terms, demanding payment upfront or withdrawing from an arrangement altogether.

Ironically, this is often the opposite of what a struggling business needs at exactly the point it needs it least. In fact, it has led to far greater consequences for a business by saying nothing, rather than addressing the issue head on.

Where a genuine cash flow issue exists, proactively contacting key suppliers with a realistic proposal, rather than waiting for a chasing call, tends to preserve far more of the relationship, as it allows them to adjust their own plans accordingly. Suppliers who are kept informed and treated as a stakeholder in the recovery are considerably more likely to remain supportive than those who find out from a bounced payment. What's more, it may allow you to renegotiate existing arrangements in your favour for the short term to support your recovery.

Customers need to know the business is still viable

For customers, particularly those with ongoing contracts or deposits paid, the concern is usually continuity. Many of us will have been there when a big chain goes bust and we are left wondering whether vouchers or orders will be honoured.

Vague reassurance without substance tends to erode confidence faster than a clear, if difficult, explanation of what is being done to protect their interests.

Where a restructuring process, such as a CVA (Company Voluntary Arrangement) or administration is genuinely likely, preparing key account communications in advance, rather than reacting once the position becomes public, gives a business far more control over how the message lands.

Getting the sequencing right

The order in which stakeholders are told matters almost as much as what they are told. Staff finding out from a supplier or a major customer finding out from a competitor, can do lasting reputational damage that outlasts the financial difficulty itself.

With any communications it is important to be mindful about what is being said and to whom. You will inevitably draw the attention of the press and others who have an interest in the success of the business, including lenders, who may be part of your recovery plan, so always be mindful of this.

If your clients are approaching a point where difficult conversations with staff, suppliers or customers feel unavoidable, then it is time to reach out to us for a clear business recovery plan that can then be clearly communicated by them. Please get in touch if your clients require support.

Understanding the impact of contingent liability in insolvency scenarios

A contingent liability is a potential obligation that only becomes an actual debt if a particular future event occurs, such as a personal guarantee being called in, a warranty claim being upheld or ongoing litigation being lost. Many directors treat these as background risk rather than something requiring active management, right up until the event in question actually happens.

Why contingent liabilities matter more once distress sets in

In a healthy business, a contingent liability might sit quietly on the balance sheet for years without ever crystallising. Once a company is under financial pressure, perhaps due to a cash flow crisis or other trigger, the picture changes. Lenders become more inclined to call in guarantees, warranty and defect claims become more likely to be pursued rather than absorbed.

This may mean that disputes and litigation that effect the potential for recovery that might otherwise have settled quietly can escalate. The result is that a business can appear to have a manageable debt position right up until one or more contingent liabilities become reality all at once, at which point the position can deteriorate very quickly.

Personal exposure for directors

Contingent liabilities are also where the line between company and director risk most often blurs. Many owners choose to incorporate for the personal financial protection that a limited company offers, but a personal guarantee given to secure lending or a lease does not disappear because the company enters a formal insolvency process. If it is called in, the director remains personally liable for that specific sum, regardless of the outcome for the company's other creditors.

Even though many directors agree to these arrangements to help fund their business, it still comes as a shock to many when lenders come knocking. Equally, if a company continues paying dividends or director remuneration without properly accounting for a known contingent liability that later crystallises and tips the company into insolvency, directors can face personal liability for wrongful trading, along with the possibility of disqualification.

Building contingent liabilities into the wider assessment

When we review a company's position, contingent liabilities are assessed alongside the balance sheet debt, not as a footnote to it. That means identifying every personal guarantee, warranty exposure and live dispute, estimating a realistic probability and value for each, before stress-testing the company's position against scenarios where several of these arrangements crystallise together.

This is particularly important where a company is considering an MVL (Members' Voluntary Liquidation) or a solvent restructuring, since an unresolved contingent liability can unravel what otherwise looked like a clean, solvent position.

If any of your clients have personal guarantees, live disputes or warranty exposure sitting in the background of an otherwise stable-looking business, it is worth having that conversation before, rather than after, a crystallising event. Please get in touch and we can talk through the position.

What a CCJ may mean for a company's directors

A County Court Judgment or CCJ against a limited company is a formal court order confirming that a debt is owed and has not been paid. It is a public record and it is often one of the clearest early warning signs that a client's business is under real financial pressure.

Often creditor will usually only pursue a CCJ once other attempts at recovery have failed, but how does a judgment affect the directors of the company once it has been issued?

The company is affected first

A CCJ is registered against the company itself. If the debt is not paid in full within 30 days of judgment, it is recorded on the company's credit file for six years, even if it is later settled and marked as satisfied. That record makes it materially harder to secure new lending, trade credit or favourable supplier terms. This tends to happen at precisely the point a business often needs them most during a recovery.

Enforcement can follow if the judgment remains unpaid, ranging from High Court enforcement officers taking control of goods to a winding up petition, which can ultimately force the company into compulsory liquidation.

When it becomes personal

The limited company structure generally protects directors from personal liability for a CCJ raised against the company. However, that protection is not absolute and it is worth flagging the main exceptions to clients clearly.

Where a director has given a personal guarantee for the debt in question, the CCJ can be pursued against them directly, exposing personal assets rather than just company ones.

Directors who have continued trading while knowing the company could not meet its liabilities can also face personal exposure for wrongful trading if the company later enters formal insolvency. Mixing personal and company finances, such as running personal transactions through a business account, can similarly blur that protection for directors.

Reputational effects beyond the balance sheet

Even where personal liability does not arise, a CCJ against a company is a public record that other creditors, suppliers and even prospective lenders can and do check. A pattern of judgments, or a single large one, can affect how a director's other ventures and borrowings are viewed. This can make future finance harder to secure, even where the underlying business is otherwise sound.

If a client has received, or is at risk of receiving, a CCJ, the earlier we are involved the more options remain open, whether that means negotiating a settlement, disputing the debt or looking at the wider financial position before enforcement begins. Please get in touch to discuss their position.

CAREFUL CONSIDERATION IS NEEDED BEFORE TAKING OUT ANY FORM OF FINANCE AND SPECIALIST ADVICE SHOULD BE SOUGHT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT US.

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