



Helping you get back on your feet

Your first step

The first step is a completely free and confidential consultation with one of our Insolvency and Recovery experts. We'll use this time to understand your financial circumstances, where you are now and where you need to be.

Your options

Your options will depend on your circumstances and will be specific to you. There's a range of corporate and personal options available.

What's next

After our initial meeting, we'll be there to guide and support you including help with restructuring debts, negotiating informal arrangements with creditors and formal procedures.

If you're concerned that you or your business are in financial trouble, we can help you get back on your feet.

Larking Gowen's insolvency services are supported by a team of Licensed Insolvency Practitioners and a specialist business recovery team.

You'll get friendly impartial advice, based on years of experience, on how to tackle your financial problems and get your business back on track.



Andrew Kelsall
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Andrew is a Fellow of the Association of Certified Accountants and a Licensed Insolvency Practitioner. He's spent over 30 years working in insolvency, including 14 years as an Official Receiver. Andrew is a Fellow of the Association of Business Recovery Professionals and a director of the Joint Insolvency Examinations Board.



Lee Green
Partner

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Lee has a vast range of experience across all types of formal insolvency work and various business sectors, and has been involved in handling deceased insolvent estates. An affiliate member of the ICAEW and a Licensed Insolvency Practitioner, Lee is also a Fellow of the Association of Business Recovery Professionals (R3).

Personal insolvency

Bankruptcy

Bankruptcy is a formal procedure that can be commenced by either the individual or a creditor. The Official Receiver is initially appointed in all cases and, with limited exceptions, all business and personal assets are realised for the benefit of creditors.

Bankruptcy is an opportunity for a fresh start but there are a number of restrictions and statutory costs, particularly in respect of asset realisations. The restrictions often make continuing to trade very difficult and, except with permission of the court, it's not possible to act as a director or to be involved with the promotion, formation or management of any company during the bankruptcy period.

After 12 months the bankrupt is usually released from bankruptcy restrictions and debts. Assets that were part of the bankruptcy estate during the bankruptcy period will be used to pay creditors.

Individual Voluntary Arrangement (IVA)

This is a formal agreement between an insolvent individual and their creditors, which requires the support of those creditors before it becomes legally binding. It provides greater flexibility and fewer restrictions than bankruptcy. Individuals will usually continue to trade or remain in their current employment and contribute any surplus income into the arrangement for a predetermined period (often five years). Alternatively, the voluntary arrangements can provide some breathing space whilst assets are sold (i.e. properties) or third party funding is obtained and introduced as a lump sum.

Debt Relief Order

A Debt Relief Order is a formal procedure managed by the Insolvency Service and entered into via an authorised debt advisor. In order to qualify for a Debt Relief Order individuals cannot have debts of more than £30,000, surplus monthly income of more than £75 or assets worth more than £2,000. A Debt Relief Order has similar restrictions to bankruptcy.

Deceased Insolvent Estates

It's a common misconception that when a person dies, their debts are automatically cleared. Unless an insurance policy is in place to discharge those debts then they must be paid from the estate. Where there are insufficient assets to meet all the debts, the estate is insolvent.

If a person dies after a bankruptcy petition is presented against them, the estate is dealt with as a normal bankruptcy but with some amendments. However, if a person dies before a bankruptcy petition is presented, there are two ways of handling the estate.

Option 1:

Present a petition for an Insolvency Administration Order. This incurs similar costs and charges to a bankruptcy but the advantage is that it enables an appointed trustee to recover any assets that may have recently been transferred out of the deceased person's estate.

Option 2:

Follow the process contained in Article 4 of the Administration of Insolvent Estates of Deceased Persons Order 1986.

This process follows insolvency legislation but avoids the Insolvency Service's charges and should increase any potential returns.

Informal Arrangement

If there are a number of supportive creditors involved, it can be possible to negotiate an informal settlement agreement with them. The benefit is that this is a low cost option but it can be difficult to implement and does not legally bind creditors, who may still take court action.

To reach an informal agreement an individual must first work out a manageable budget to calculate what they can reasonably afford to pay in total towards the combined debts. The proposed repayment plan must then be submitted to creditors. Whilst debts must be paid in full, creditors may agree to freeze interest and charges on the debt. However, this is done at their own discretion and is not guaranteed.

Corporate insolvency

Administration

Administration is a rescue procedure which allows the business to continue trading and prevents creditors from taking any action to recover outstanding debts. Administrators can continue to trade the business to complete any work in progress, arrange a sale of part or all of the business or to provide time to propose a Company Voluntary Arrangement to creditors.

A Pre-Pack Administration is where a sale of the business is arranged prior to the company entering Administration. This is often a strategic way of maximising returns to creditors and preserving the business in part or as a whole.

Company Voluntary Arrangement

Company Voluntary Arrangement (CVA) is a formal agreement between an insolvent company and its creditors, which requires the support of those creditors before it becomes legally binding. An arrangement allows viable businesses to continue to trade and gives them time to repay historic debts, often from future profits or third party funding. This option may involve restructuring the business to remove any unprofitable areas.

Liquidation

When a business is insolvent and cannot be rescued it's likely that the business will enter Liquidation.

A Creditors' Voluntary Liquidation is initiated by the directors and it requires the passing of resolutions by its shareholders to appoint a Liquidator. The Liquidator's role is to realise the company's assets and, if possible, pay a dividend to creditors. There is a greater involvement of the directors and more opportunity to achieve a controlled sale of the assets. This procedure can take effect in a matter of days.

A Compulsory Liquidation is a court-driven process and results in the Official Receiver being appointed as Liquidator. An insolvency practitioner may subsequently be appointed as Liquidator depending on the value of assets and/or creditors' wishes. If a Liquidator is appointed, the winding up proceeds along similar lines to a Creditors' Voluntary Liquidation.

A Members' Voluntary Liquidation is the formal process of bringing a company to an end and distributing the remaining assets to shareholders. This is commonly used when a company has fulfilled its purpose, the management wishes to retire or where there have been changes in the market and the company is no longer sustainable. The company must be solvent. This is often a tax-efficient way to wind up the company as distributions made to shareholders are treated as capital as opposed to income and are therefore subject to the lower rate capital gains tax. If a shareholder qualifies for Business Asset Disposal Relief then tax could be payable at a further reduced rate of 10%.

Additionally, any physical assets (such as property) can be distributed directly to the shareholders.

S.110 Reconstruction

A Members' Voluntary Liquidation can be used in a tax-efficient way where the company, often with more than one business, wishes to dispose of one or more businesses or parts. This is known as a Section 110 Reconstruction and it allows the transfer of assets into other companies in consideration for shares in those companies. This procedure is attractive because of its tax savings.

Voluntary Strike Off

A Voluntary Strike Off is the process of removing a company from the register held by Companies House. Distributions to shareholders made as part of a Voluntary Strike Off are treated as capital and it is not necessary to place the company into Members' Voluntary Liquidation. However, the company is restricted to distributing a maximum of £25,000 to shareholders and it must not have traded or owned stock in the three months prior to the strike off.



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