



FISH PARTNERSHIP LLP
Chartered Accountants



DEALING WITH DEBT

What happens when your customers or suppliers are in difficulty?

In the current challenging market conditions many companies are facing problems with late or non-paying clients. So what can you do if you think a customer or supplier may be in difficulty?

Initially, if a bill or delivery is overdue, you can ask for the money or supplies in writing. If there is no reply within seven days, follow this up with another letter and a phone call - to ensure they have received the letter and to find out if there any specific problems delaying the payment or delivery.

If you keep chasing the company with phone calls, and there is still not a satisfactory outcome, then it is time to pull out the big guns with the threat of legal action or winding-up proceedings.

What can you do if a customer becomes insolvent, leaving you with unpaid bills? If an individual owes you at least £750, then you can petition for their bankruptcy. Your bill would then fall as a debt in their bankruptcy estate, with you considered as an unsecured creditor. Under these circumstances, you would need to complete a proof of debt and the relevant supporting documentation.

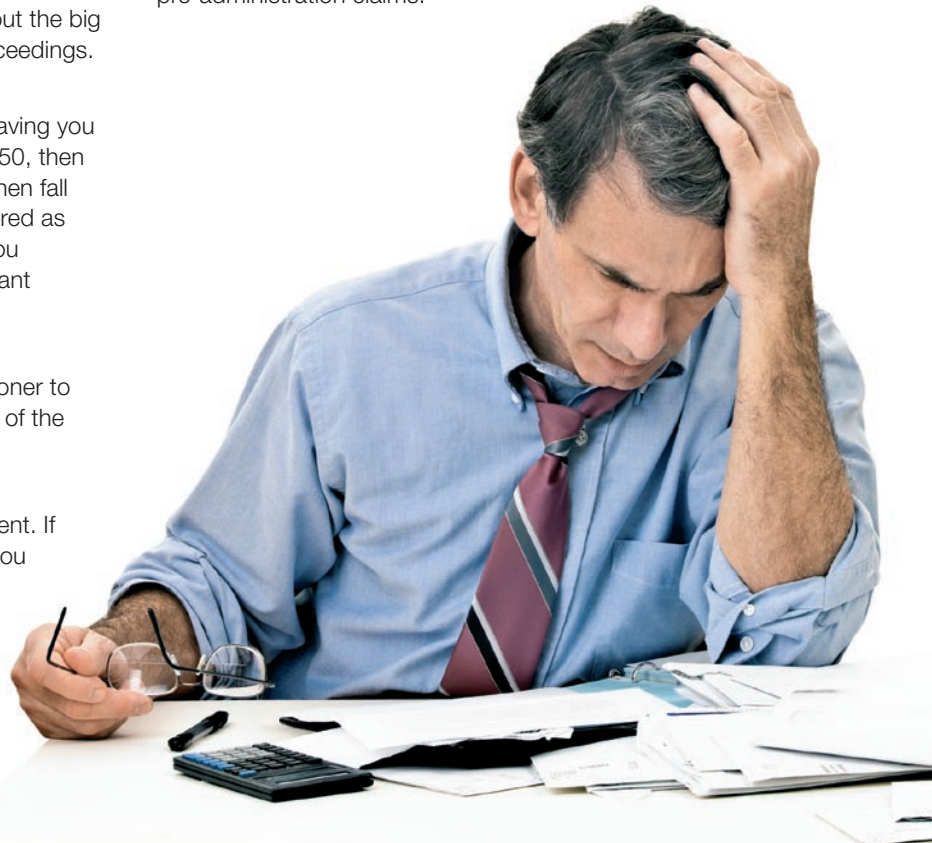
As a creditor, you can nominate an insolvency practitioner to be appointed trustee in order to investigate the affairs of the bankrupt, if a creditors' meeting is called.

Then again, one of your suppliers may become insolvent. If you have paid for goods, but not yet received them, you can try and obtain them if they are clearly identifiable as those that you have paid for. If you can not get them, then you will become a creditor of the insolvent estate. Alternatively, if you have paid for the goods using a credit card, the credit card company may reimburse you.

When a company is placed into administration, its affairs, business and property will be managed by the administrator, who must be a licensed insolvency practitioner.

From the date of the administrator's appointment, any debts to unsecured creditors are frozen. Depending on whether the company can be rescued or not, there are a number of alternative scenarios which can follow administration.

Firstly, if the company survives, the management of the business and its assets can be returned to the directors. The directors and staff of the company will then deal with unsecured creditors' pre-administration claims.



FISH PARTNERSHIP LLP

Tel: (01628) 527956

Fax: (01628) 810385

Email: post@fishpartnership.co.uk



As the company is solvent, the shareholders may decide to put the company into a Members' Voluntary Liquidation. In this case, all creditors have to be paid or the resources have to be available to pay creditors within one year.

If the survival of the company is not possible, but sufficient money can be raised from the sale of the company's business and assets to pay the unsecured creditors, the administrator may be able to deal with the claims.

After administration, the company may enter into a contract, known as a Company Voluntary Arrangement, with its creditors. The company agrees to pay the creditors a certain percentage of their debt over a period of time.

All creditors are bound by the agreement if 75 percent of them agree to it, even if they were not notified by mistake.

Otherwise, any funds left over after paying the costs of administration, will be passed to a liquidator, who will deal with creditors' claims.

When the company becomes insolvent, two types of liquidation are possible. Compulsory liquidation occurs when a company is wound up as a result of a court order, following a petition from a creditor, contributory or director. Secured and preferential creditors (such as employees and the Redundancy Payments Service) are paid before unsecured creditors, who will receive a dividend if enough money has been raised from the company's assets after costs are paid.

The dividend will be a percentage (pence in the pound) of each creditor's total admitted claim, based on the cash available for distribution to the creditors and the total of all the creditors' claims. All unsecured creditors are treated equally.

The alternative is Creditors' Voluntary Liquidation, when the shareholders put a company into liquidation because it is insolvent. In this case, a meeting of the creditors must be called within 14 days of the shareholders meeting, with notice of the meeting being sent to creditors at least seven days before it occurs. At the meeting, the creditors vote to appoint a liquidator.

Once again, secured and preferential creditors are paid before unsecured creditors, who will receive a dividend if enough money has been raised from the company's assets after costs are paid.

You must submit your claim to the liquidator in writing, providing sufficient supporting evidence of your claim, such as copy statements, invoices and correspondence to enable the liquidator to decide whether or not your claim is valid.

Depending on the circumstances of the case, creditors who play an active role in an insolvency can make a significant difference to how much the insolvency practitioner will be able to recover for them. We hope that you will read this guide carefully and consider whether taking an active role as a creditor in this case could benefit you or your business.