



# Insolveny

## Is your company insolvent?

A Guide for directors and owners  
who think their business may be  
insolvent.



[MyInsolvency.co.uk](http://MyInsolvency.co.uk)

**NACFB**  
Helping Fund UK Business





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## Is your company insolvent?

Insolvency is a term used to describe a state of business operations in which a company is unable to meet its financial obligations and has debts and liabilities that exceed the combined value of all its assets.

However, the exact definition of insolvency, according to UK Law, is a bit more complicated.

Section 123 of the Insolvency Act 1986 states that a company is deemed insolvent if it cannot pay its debts as they fall due (the cash flow test) or if its liabilities exceed its assets (the balance sheet test).

If your company has had a hiccup (i.e. a customer or supplier going bust, the general economy, fraud, overtrading, litigation, withdrawal or reduction of finance) this may impair its short term viability. As a director you need to act quickly in order to survive and avoid formal insolvency proceedings such as CVA, Liquidation or Administration.

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The state of your company's balance sheet is a clear indication of your company's solvency or insolvency (i.e. have you more liabilities than assets?).

- How up to date are your company's accounts?
- What management information do you have available?
- Do you prepare and monitor your forecasts

Another clear sign of your company's probable insolvency can be gleamed from pressure on your company's cash flow

- inability to settle suppliers overdue accounts
- avoiding creditor phone calls
- not answering the phone
- "the cheque is in the post..."
- struggling to meet the weekly or monthly payroll
- unable to settle VAT or PAYE obligations
- Your overdraft facility has been reduced or removed
- Creditors are threatening legal action
- Your bank wants you to agree to an independent business review
- CCJ's / writs

Why cash flow might suffer

- Lack of credit control
- Lack of funding
- Too much focus on sales rather than cash
- Inadequate or poor forecasting
- Failure to have key performance indicators
- Poor management decisions

Whilst the above are warning signs the directors need to ensure that any cash flow stresses do not spiral out of control. The directors have statutory and fiduciary duties, failure to adhere to these could result in civil or criminal action against the directors.

By contacting My Insolvency and using a structured and organised approach to your company's problems this will put you in the driving seat, as working proactively achieves best results for all parties. By addressing the problems you and your company may be suffering, we may help to

- Develop a business strategy
- Maximise asset realisations
- Protect or Limit any personal guarantees you may have provided
- Prevent or Limit criticism for trading whilst insolvent, selling an asset at an undervalue or preferring one creditor in front of another

We have put together our guide to help you assess whether your company is insolvent and what you can do in the event that it is.

If, however, you feel you would like to take further advice from one of our licensed insolvency practitioners call 0800 009 6106 for a free confidential chat about the issues you may be facing.

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## How to tell if your business is insolvent?

It is likely that your company could be insolvent if one or more of the following conditions apply:

- Your business is unable to keep up with its current financial obligations and is regularly late making payments to creditors or HMRC.
- The amount of money your company owes in current and contingent debts and liabilities is greater than the fair market value of all of the company's assets (i.e. - bank account funds, debtor book, equipment, property, etc.)
- A creditor has already obtained a County Court Judgment (CCJ) or has issued statutory payment demand against the company that has gone unpaid for longer than 21 days.

If you feel that your company meets any of these conditions then you could be at risk of having a winding up petition issued against your business.

Or, if you've already received a petition, you must act immediately to avoid further consequences.

Call My Insolvency on 0800 009 6106 and let one of our advisors experienced in insolvency and turnaround matters help you. The free, confidential no obligation call starts with our advisor gaining an understanding of your business, the problems it currently faces and your aspirations for the future of your business. We will seek to establish the real financial position and understand the pressure you are under before explaining the options available to you and your business.

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# Warning signs that your company could soon be Insolvent...

Even if your company does not suffer from any of the above conditions, there are further checks you can do to investigate whether insolvency could be an issue in the near future.

## Cash Flow Test

Is your company unable to afford investments and or lacks the cash needed to cover basic operating expenses? If so, insolvency could be a real possibility.

## Creditor Pressures Test

If your bank, HMRC, lenders, mortgagors, credit card companies, or other creditors have been chasing or calling or sending emails requesting immediate payment for a debt due then a payment demand or winding up petition may be imminent. If this is the case, you need the help of My Insolvency.

## Ceiling Borrowing Test

Has your business been borrowing the maximum allowed amounts from the bank and/or suppliers over a continued amount of time? This is known as ceiling borrowing, and it is a common indicator that a company is on the brink of insolvency.

## Overtrading

Has your business expanded rapidly without having the necessary working capital to do so. This can cause otherwise successful businesses to run out of cash and fail.

With a strengthening economy this is exactly the time most business rescue specialists expect businesses to overtrade.

## Warning signs of overtrading

- Suppliers accounts are at their limit
- Overdraft is constantly at its limit
- Order book increasing
- Running out of stock
- You cannot accept new orders because you cannot get the raw materials from your suppliers

If you recognise the above tell tale signs of overtrading then call My Insolvency on 0800 009 6106 and let one of our experienced advisors discuss how we might be able to assist you getting you back on track, this could be done by reducing the length of the cash cycle by insisting on faster payment by customers or negotiating slower payments to suppliers. Alternatively it could be that through raising additional funds you might avoid a creditor forcing you into insolvency, when this might otherwise be avoided.

## Director Payments Withheld

If the directors of your business are not being paid due to insufficient funds, then this is a clear sign that you need help.

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