

Approaching insolvency*

Insolvency is something to address as a matter of urgency because:

- If you continue to trade when insolvent, there may be significant committee/trustee or director liability, even in an incorporated organisation
- Closing down an insolvent organisation is much more arduous and costly than closing down a solvent one

***COVID-19 update:** The Corporate Insolvency and Governance Act 2020 have introduced new provisions to help organisations continue operating and avoid insolvency during this period of economic uncertainty. The moratorium provides 20 days protection from certain creditor action and is intended as a breathing space to sort out problems. More information is available [here](#).

There are two basic tests for insolvency, both of which you need to pass to be solvent:

- **The cash-flow test:** you will fail this if you are unable to pay your debts when they fall due – now or in the foreseeable future (usually taken to mean the next 12 months)
- **The balance sheet test:** you will fail this if your total assets are less than your total liabilities; if you think you may have to close down in the foreseeable future, you need to include the cost of this (e.g. redundancy payments) in calculating your liabilities

If you think insolvency is a danger, this should be a major concern for the whole committee/trustee or director board. You need to:

- be clear about committee member /trustee/director liability
- be clear about all your contractual obligations
- be clear what your general reserves will cover (x months' operating costs)
- ensure you are maintaining a cash flow forecast, updated monthly
- carry out a formal risk assessment
- consider taking specialist advice

For most organisations, if imminent insolvency is a concern, the first step may be a conversation with your accountant.

It is worth noting that the Insolvency Service Redundancy Payments Office will pay out monies owed to employees of insolvent companies and individuals but not unincorporated associations. In the case of an unincorporated association, a redundant employee would need to pursue individual committee members for any moneys owed.

If you think you may be approaching insolvency and are worried or still not sure what to do, please contact the Capacity building team at Macc in confidence. We cannot provide legal or insolvency advice, but we can be a friendly contact to help you work out what your next steps should be and point you in the right direction.

For more guidance on insolvency see:

- [The Insolvency Service \(central government\)](#)
- [Knowhow non-profit](#)
- [NCVO guidance](#)