

## Where to look for support: winding up (dissolution of) an incorporated organisation- Insolvency

**Note this briefing doesn't provide the steps to go through but gives guidance about where you should look for assistance as CAS is not an organisation specialising in insolvency and you will need expert and legal support if you are in this situation.**

For various reasons such as financial difficulties or having solved the problem it was set for, a charity may need to close. How this is done depends on whether an organisation is incorporated or unincorporated, and whether it is solvent (able to pay its debts) or insolvent.

This briefing has been developed for organisations' that are looking at winding-up because they are insolvent.

Please refer to our other guidance Winding up (dissolution of) a charitable company if you are solvent and looking at dissolution.



### Winding up

The process of ceasing to operate: stopping activities and services, dismissing staff, closing premises, paying bills, terminating contracts, dealing with liabilities, and distributing any remaining assets.

(The Russell-Cooke Voluntary Sector Legal handbook: Third Edition: DSC)

### Liquidation

A formal process governed by the Insolvency Act 1986 as amended. Liquidation involves selling or disposing of the assets of a company, charitable incorporated organisation or industrial and provident society and dealing with the liabilities, which includes distributing money released from the sale of assets among those entitled. Liquidation can occur when the organization is solvent or insolvent, and either under a court order (compulsory liquidation) or without (voluntary liquidation).

(The Russell-Cooke Voluntary Sector Legal handbook: Third Edition: DSC)

### Dissolution

The final stage in ending the organisation, when it ceases to exist. Companies, charitable incorporated organisations and industrial and provident societies come into being by registration, and cease to exist only when they are formally dissolved and removed from the relevant register.

Unincorporated trusts and associations may dissolve themselves using the procedure in their governing document. If the organisation is a registered charity, the Charity Commission must be notified that it has been dissolved.

(The Russell-Cooke Voluntary Sector Legal handbook: Third Edition: DSC)

*'An organisation does not become insolvent when it runs out of money. It is likely to have become insolvent much earlier, at the point when it became clear that there was no realistic hope of financial survival.'*

(The Russell-Cooke Voluntary Sector Legal handbook: Third Edition: DSC)

## Tests for insolvency

1. Cashflow test – can you pay your debts when they fall due and can you do so for the foreseeable future (generally the next 12 months)
2. Balance sheet test – are the value of your total assets less than your total liabilities, taking into account current, contingent and prospective liabilities?

It is extremely serious to continue operating while the organisation could become or is insolvent. By doing so exposes the members of your governing body and other individuals – whether they have limited liability or not - in risk of personal liability for the organisations debts.

**If you suspect you are about to become insolvent, you need to take action as soon as possible.**

You will need to contact the Charity Commission as soon as you know or there are risks of being insolvent: Phone the charity commission's general enquiries helpline for advice: 0845 300 0218

Refer to the Charity Commission's guidance: CC12 - [Managing Financial Difficulties and Insolvency in Charities](#)

Read the guidance dealing with debt: how to wind up your own company: <http://www.bis.gov.uk/insolvency/Companies/cl>. You will need to pay a minimum of £1,385 for a winding up petition through the court including the payment of a liquidator.

Read the guidance from Companies House about Liquidation and Insolvency: <http://www.companieshouse.gov.uk/about/gbhtml/gpo8.shtml>. It is quite complex but it is the legal framework.

## Get legal advice:

- Refer to the **Insolvency Service's** website: <http://www.bis.gov.uk/insolvency/contact-us>. It is part of the government department of Business, Innovation and Skills. They have a helpline **0845 602 9848**.
- **Talk to Business Debt line: 08001976026**  
<http://www.bdl.org.uk/englandandwales.asp>
- Charity Finance Group has a free insolvency helpline who will provide phone advice. Please note it is for advice only and they cannot carry out legal work for you:  
<http://www.cfg.org.uk/resources/insolvency-helpline.aspx>
- The Insolvency Service website has a **database of insolvency practitioners**. Insolvency practitioners will charge for their services  
[http://www.direct.gov.uk/en/Dio11/DoltOnline/DG\\_187405](http://www.direct.gov.uk/en/Dio11/DoltOnline/DG_187405)
- **Redundancy Payment service**, National Insurance Fund: your employees might be able to claim their redundancy money if your organisation is legally insolvent. See [http://www.direct.gov.uk/en/Employment/Employees/Pay/DG\\_178525](http://www.direct.gov.uk/en/Employment/Employees/Pay/DG_178525) or contact their helpline: **08451450004**

## Support

If you would like any support with insolvency or any other issues facing your organisation, please contact the Development Team at CAS: [development@casouthwark.org.uk](mailto:development@casouthwark.org.uk) or 020 7358 7020.

**This information is for guidance and is not a statement of the law. It is intended to offer assistance and provide information where appropriate and CAS is not liable for action taken, or not taken, as a result of reading this briefing.**