

Charities and Insolvency

24th September 2014



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“Never work with children
OCSR or animals” wc fields



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What is an Insolvency Practitioner?

- Someone who arrives after the battle and bayonets all the wounded.
- The person who rummages down the back of your sofa.

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What is an Insolvency Practitioner

- Provide advice and guidance to corporates and individuals who have got themselves into a bit of a financial pickle.
- Assist in any restructuring or survival plan.
- Assist in any controlled wind down.
- Confidential, sympathetic and professional.

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Solvent Charities

- The charity has come to a natural end.
- Establish the legal form of the charity.
- Read the constitution for the process and where the assets should go.
- Notify OSCR and ask for their consent.
- 42 days must pass.
- Within 3 months notify OSCR that you have dissolved.

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Solvent Charities (further thoughts)

- Employees
- Leases
- Contracts
- Contingent liabilities
- Insurance claims
- Pensions.....

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Insolvent Charities

- Two common tests
- Balance sheet basis
- Pay debts as and when they fall due

- Fine, Imprisonment, Bankruptcy

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Insolvent Charities – the issues

- Drop in charitable giving
- Drop in lottery funding
- Drop in government/council funding
- Increase in operational costs
- Increase in call for the charities
- Success of mega-charities
- Drop in investment values

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Insolvent Charities – the issues

- Contingent liabilities/leases/employees/pension
- Trustees not fit for purpose
- Inability to find new Trustees
- Mismanagement
- Inability to deal with red tape
- Inability to recognize the warning signs - cashflow, KPI's, extend credit terms, HMRC payments missed, breach bank covenants
- Using restricted funds out with scope

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Protection for the Trustee

- Make sure you know how the charity works
- Obtain clear and reliable financials
- Use reliable and realistic cash flows
- Meet more regularly and take minutes, document all decisions that are made and the justification for decisions
- Seek professional advice if required
- Insure against it
- Incorporate
- Last man standing....

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The wind up process

- Speak to an Insolvency Practitioner
- Advise OSCR of the intention to wind up, (ignore the 42 day rule)
- Petition the court for either the appointment of a Liquidator or a Trustee
- The Insolvency Practitioner takes control of the charity. Deals with employees, creditors and other stakeholders
- Realize the assets for the benefit of the creditors
- Pay a dividend to creditors

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Second hand mattress for sale!

- Charity set up to deconstruct mattresses under a back to work scheme
- Balance sheet test, solvent but huge contingent liability and cashflow was critical
- Recycling so needed SEPA license. License holders liable to fines.
- Landlord was in Administration

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Zebra for sale!

- Animal farm for the public, under a back to work scheme and for educational purposes.
- Mixture of farmyard and exotic animals
- Inadvertently got on the wrong side of OSCR
- Caught up in animal welfare issues
- Contingent liability looking after the animals
- Public interest

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I'll take a meerkat!



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Any questions?

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