

Directors' Legal Duties in Business Distress – Plain English Guide



If your business is under financial pressure, it's vital to understand your legal responsibilities as a company director. This guide outlines the key duties, risks, and practical steps to take if your company is facing insolvency or distress.

1. What Changes When a Business Faces Distress?

Under normal trading, your duty as a director is to act in the best interests of the company and its shareholders. But if the business becomes insolvent — or is likely to become insolvent — your legal duty shifts. You must prioritise the interests of creditors (those the company owes money to).

2. Your Key Legal Duties in Distress

- **Avoid Wrongful Trading:** You must not continue trading and incurring further debts if you know (or ought to know) there is no reasonable prospect of avoiding insolvency.
- **Treat All Creditors Fairly:** Don't prioritise certain creditors (e.g., family, connected parties) over others.
- **Maintain Records:** Keep accurate financial records, board meeting notes, and decisions related to cashflow or restructuring.
- **Don't Dispose of Assets Below Value:** Fire-selling assets or gifting them away may be challenged later.
- **Seek Independent Advice:** It's not a sign of failure — it's a legal safeguard.

3. When Should You Get Advice?

- If you're unable to pay bills as they fall due
- If liabilities exceed assets on your balance sheet
- If HMRC arrears are building up
- If you're considering paying one creditor but not others
- If you're unsure whether you should continue trading

4. What You Can Do Right Now

- Speak to a licensed insolvency practitioner (initial advice is often free)
- Communicate with creditors early — don't go silent
- Keep board minutes and formal notes of decisions
- Focus on preserving business value and creditor interests
- Avoid large financial commitments without advice

Disclaimer: This is general guidance only and not a substitute for legal or financial advice. You should consult an insolvency practitioner, accountant, or solicitor for professional support tailored to your situation.