
Briefing

Directors' Duties in Challenging Times

12 Practical Steps



This briefing was produced by the Institute of Directors in association with McCann FitzGerald for use in Ireland. McCann FitzGerald is one of Ireland's premier law firms, providing a full range of legal services to many of Ireland's leading businesses. Clients include international organisations, major domestic concerns, emerging Irish companies and clients in the State and semi-State sectors.

In this note on directors' duties, we identify 12 practical steps directors should implement where a company is in financial difficulty or is likely to become insolvent.



Financial

1. The directors should prepare a business plan for the next 12 months based on reasonable and justifiable assumptions which demonstrate the long-term viability of the business.
2. The directors should prepare, monitor and update cash flow forecasts.
3. The directors should carefully monitor income and react to any reduction in income.
4. Appropriate steps should be taken to cut costs. To preserve value and minimise the potential losses to creditors, no additional unnecessary expenditure should be incurred.

5. The directors should only sanction payments critical to preserving value in the business.
6. The directors should consider all options for financial support from shareholders, lenders and third parties.



Governance

7. The directors should monitor the company's operations, trading and financial position.
8. The directors should manage the distribution of responsibility. There should be clear and effective reporting channels and tasks should be delegated where appropriate.
9. Before making any significant or strategic decisions, the directors should carefully consider and weigh the advantages and disadvantages of the relevant proposal including alternatives.
10. The directors should obtain professional advice, both legal and financial, as early as possible.
11. Decisions made by the directors should be recorded in writing.
12. The directors should hold regular board meetings and consider all up-to-date trading and financial information. All directors should attend.

For further information on the duties of a director of a company in financial difficulty and the restructuring options potentially available, please contact Michael Murphy, Lisa Smyth, David O'Dea or Áine Murphy or your usual contact within McCann FitzGerald for further information.

Further information is available from



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Alternatively, your usual contact in McCann FitzGerald will be happy to help you further.



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