

‘Over disclosure’: the way forward in a digital age?



Registered company insolvencies in Q3 2022 were higher than pre-pandemic levels, driven by a historically high number of creditors voluntary liquidations and an increase in compulsory liquidations. Corporate insolvencies increased by 15.7% in October 2022 to a total of 1,948 compared to September's total of 1,684, and increased by 38.2% compared to October 2021's figure of 1,410.

Post-insolvency co-operation is key: Step one – the director's questionnaire

More insolvencies means more directors (current and those in office over the last two years in the run up to insolvency) being issued director questionnaires from liquidators or administrators as part of their investigations asking them to explain their conduct both before and after the relevant insolvency process. This questionnaire is just one stage of the process which looks back at the events leading up to insolvency and can consist of anything between 30 and 70 questions. These questions are specific to the case in question designed to establish if there are any grounds to bring claims against the [directors](#), for example, wrongful trading or preference claims or even directors disqualification proceedings.

Typical questions might include:

- When, and in what circumstances, did you first become aware that the company was insolvent?
- If applicable, why was trading continued after that date and who was responsible for it?
- What debts were incurred after the company became insolvent?
- What steps did you personally take when you became aware of the insolvency of the company?
- Can you confirm that you have never taken steps to place any of the company's assets beyond the reach



of its creditors?

Although the directors have a statutory duty to co-operate with the office-holder/Insolvency Service generally but also by responding to the questionnaire, they would be well advised to consider taking legal advice before they put pen to paper on their reply.

How we can help

We can help [directors](#) to complete these questionnaires, advise them on their duties and guide them through the key stages of the post insolvency process.

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