

COURT LIQUIDATION

A Court Liquidation is a type of administration that requires an application to the Court by creditors, company members or other interested parties to wind up a company due to unpaid debts. A liquidator is appointed by the Court to administer the insolvency process in order to realise the company's assets and disburse funds to creditors in accordance with established priorities.

The responsibility of the liquidator is to investigate the company's affairs and report any offences and other relevant matters to creditors and ASIC. A court liquidation allows for a systematic approach to winding up a company and bringing its affairs to an end.

What causes a Court Liquidation?

- ⦿ Non-payment of debts to stakeholders, causing interested parties to apply to the Court in order for the company to be wound up
- ⦿ Recovery actions by the ATO and Directors' Penalty Notices (DPNs)
- ⦿ On-going losses and inability to improve trading performance
- ⦿ Directors, shareholders or investor disputes
- ⦿ Directors at risk of insolvent trading
- ⦿ When creditors become concerned that assets are being removed from the company

What are the expected outcomes of a Court Liquidation

- ⦿ Once all assets have been realised, investigations are completed and distributions to creditors are made, the liquidator will apply to ASIC to deregister the company
- ⦿ Creditors no longer have any claim against the company
- ⦿ Secured creditors are still able to exercise their rights
- ⦿ Certain transactions can be recovered for the benefit of all creditors (voidable transactions)
- ⦿ In some cases, insolvent trading actions can be taken against the directors for recovery of funds for the benefit of creditors

How can Helm Advisory Help?

If you are a director and you think you might need to liquidate your company, then you need to establish if the company is solvent or insolvent. If it is insolvent, then you will need a Creditors Voluntary Liquidation and if it is solvent you will need a Members Voluntary Liquidation.

In our view, directors should be seeking external advice from a restructuring advisor well before they contemplate the need for the appointment of an external administrator. If handled properly, early intervention by a qualified restructuring advisor may completely avoid the need to appoint an external administrator in future.

If you need any guidance or assistance with a corporate restructuring, or insolvency matter, please contact one of the Helm Advisory Specialists on 02 9194 4000.