

Restructure to see off the recession

Recessions come and go, but even the prospect of eventual recovery cannot offer solace to companies facing insolvency. Trading conditions across the board have deteriorated, and every insolvency will have a knock-on effect on the companies which rely on the failed firm for custom or for payment. But while recovery may still seem far away, the reality is that companies are becoming more attuned to the necessities of trading.

"I believe that there is a greater sense of realism out there, compared with previous recessions," said Declan Devereux, senior associate and head of recoveries and insolvency at O'Rourke Reid.

Recoveries and insolvency at O'Rourke Reid, one of Ireland's fastest-growing law firms with offices in Dublin, Belfast and Leeds. "This is more the case on the debtor side of the equation, where companies which are in trouble are beginning to see that there is no point in hiding their heads in the sand. The problems won't go away, which is why it is best for companies to take advice from professionals, formulate a plan and act upon that plan in a timely fashion."

The key to survival – even for companies which are not yet teetering on the brink – is to conduct a thorough review, or what Devereux described



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as "due diligence of their business model".

This is done to identify and quantify debtors and creditors, and to use this information to formulate a plan and a strategy for trading into the future. It also allows companies to manage their communications with stakeholders, whether those are banks, employees, contractors or customers.

"Banks don't like operating in a vacuum," he said. "It's always better to come to your creditors with a plan – and with your advisers. It gives the impression that you are serious and have taken the time and the effort to put some-

thing together, and that can make a real difference."

Obviously, the benefit of taking advice from an experienced practitioner is that you are leveraging off their commercial and/or legal experience.

The day-to-day business of a solicitor involves negotiating, and lawyers have spent years honing the sort of skills which come into play in a restructuring environment, where companies need to negotiate with various parties, whether they are creditors, customers or employees.

"Creditors need to be realistic – they need to realise that they won't always recover

the full amount of what is owed," said Devereux. "That's not to say that they are going to take 'I can't pay' at face value; but the key thing is the communications structure. If creditors keep on top of who their debtors are, then they will be in a position to make informed judgments. And in a time when a half a loaf is better than none, it pays to have a firm hold on the bread knife."

A solicitor with specific experience in recovery and restructuring will be in an ideal position to advise on the best path for both creditors and debtors to take – whether it is a scheme of arrangement or a settlement. The key point is

that there are numerous mechanisms which apply to restructuring and one size never fits all, so the adviser needs to understand the business to be able to identify which solution suits their client best.

"It all depends on the size of the business and the scales of the debts involved," said Devereux. "For example, some of the applications for examinerships that we have seen – especially the headline cases – are perhaps least suited to the process."

Whatever mechanism is most appropriate, the crucial issues are around formulating a plan, managing communi-

cations, executing the plan and being adaptable. This is true across all facets of restructuring, from financial arrangements to a reappraisal of the business model.

"You need to look at what can increase inflow and stem outflow," said Devereux. "And it's not always straightforward – you need advice across the board, and you will be calling on various disciplines."

You can't just focus on one aspect; you need to see the whole picture – and at O'Rourke Reid we have a range of legal expertise to be able to deal with the situation."