

## Creditors' Voluntary Liquidation

<p><b>What is Creditors' Voluntary Liquidation?</b></p>	<p>A creditors' voluntary liquidation (CVL) is the most common form of liquidation in use in England and Wales and brings to an end the operation of the company.</p>	
<p><b>Who can benefit from it?</b></p>	<p>It is used for those companies which are simply no longer viable, which have run out of cash and cannot pay their liabilities on time, and which our free business review has shown not to be in a</p>	<p>position to benefit from the restructuring and recovery procedures identified within this website. See information on our Free Business Review for further information.</p>
<p><b>The Procedure in brief</b></p>	<p>The directors hold a board meeting during which it is resolved that, by reason of its liabilities, the company cannot continue to trade and steps should be taken to place it into liquidation. It is the shareholders which place the company into liquidation (either at a meeting or via written resolution) however the creditors are required to confirm the appointment of a liquidator – creditors' confirmation can either be via Deemed Consent or via a Decision Procedure, further details are provided below.</p> <p>In practice, a Licensed Insolvency Practitioner (IP) will produce the relevant board meeting minutes, notices to shareholders and all appropriate documentation to creditors. Once instruction is finalised at the board meeting the IP will get to work dealing with the formalities of placing the company into liquidation.</p> <p><i>Shareholders</i> It is the shareholders who place the company into liquidation, passing a resolution requiring 75% of shareholders in value to vote in favour. This is done either remotely via correspondence or via a meeting of shareholders, in each instance ensuring shareholders are given 14 days notice (or shorter in the event that consent to short notice can be approved by 95% of the shareholders in value). The date for passing the resolution to place the company into liquidation is usually on the same day as the Decision Date for creditors voting on the appointment of the liquidator (see below). It is possible to place a company into liquidation prior to a Decision Date (so long as the Decision Date is within 14 days of the shareholders resolution being passed) however this is very rare in practice and would only be practical / commercial in unique circumstances.</p>	

**London**

T 0207 317 9160  
F 0207 317 9169  
E [London@harrisons.uk.com](mailto:London@harrisons.uk.com)

**Manchester**

T 0161 876 4567  
F 0161 876 4554  
E [Manchester@harrisons.uk.com](mailto:Manchester@harrisons.uk.com)

**Reading**

T 0118 951 0798  
F 0118 939 4409  
E [Reading@harrisons.uk.com](mailto:Reading@harrisons.uk.com)

<p>Continued...</p>	<p><i>Creditors</i> Although it is the shareholders who place the company into liquidation, the appointment of the liquidator is subject to the ratification / of creditors. This can be achieved either through the Deemed Consent provisions or via a statutory Decision Procedure.</p> <p><i>Deemed Consent</i> Following the implementation of the Insolvency Rules 2016, the creditors' confirmation of a liquidators appointment can be obtained via the Deemed Consent procedure. In these circumstances creditors will be furnished with notice of Deemed Consent at least 3 business days prior to the Decision Date and at least 1 business day before the Decision Date will receive a report which includes the following information:</p> <ul style="list-style-type: none"> <li>• Statutory information on the company</li> <li>• History of the business</li> <li>• Historical financial information of the company</li> <li>• Deficiency account</li> <li>• Statement of affairs</li> <li>• List of creditors</li> </ul> <p>Unless a valid objection is received from a creditor or group of creditors (certain conditions must be met), the appointment of liquidator will be deemed to have been approved by creditors. In order for any objection to be valid, the objecting creditor or group of creditors must represent one of the following Threshold Criteria:</p> <ul style="list-style-type: none"> <li>• 10% of Creditors by claim value</li> <li>• 10% of Creditors by number of creditors</li> <li>• 10 Creditors</li> </ul> <p>If a valid objection is received, the Deemed Consent is not validated and the IP will be required to seek creditor approval via a Decision Procedure – which will be a physical Meeting of Creditors.</p> <p><i>Decision Procedure</i> In some instances, the IP may advise that creditor approval should be sought via a Decision Procedure in the first instance, rather than Deemed Consent – this will be discussed as part of the Free Business Review.</p> <p>Should a Decision Procedure be the preferred route, creditors will be provided with the same report information as outlined above however will receive 14 days notice of the Decision Date and in order for any resolution to be passed, creditors must vote in favour (on a simple majority by claim value). Additional information may also be provided to creditors should further resolutions be sought via the Decision Procedure, most typically seeking creditors' approval for the liquidators' fees.</p>
---------------------	--

**London**  
T 0207 317 9160  
F 0207 317 9169  
E [London@harrisons.uk.com](mailto:London@harrisons.uk.com)

**Manchester**  
T 0161 876 4567  
F 0161 876 4554  
E [Manchester@harrisons.uk.com](mailto:Manchester@harrisons.uk.com)

**Reading**  
T 0118 951 0798  
F 0118 939 4409  
E [Reading@harrisons.uk.com](mailto:Reading@harrisons.uk.com)

<p>Continued...</p>	<p>Please note that in accordance with insolvency legislation, a physical creditors meeting cannot be held in the first instance. However in the event that a creditor or group of creditors which represent the same Threshold Criteria outlined above request a physical meeting, then the IP must comply with such request.</p> <p><i>Physical Meeting of Creditors</i>          If the Threshold Criteria for requesting a Meeting of Creditors is met, then the IP will deal with the appropriate formalities of convening the Meeting. This will include circulating notice of the Meeting, which must be held within 14 days of the Threshold Criteria being met, giving at least 3 business days notice of the Meeting – such notice must be circulated to creditors within 3 business days from the Threshold Criteria being met.</p> <p>At the Meeting, the report on the Company’s financial position and statement of affairs is presented and creditors will have the opportunity to ask the directors and the IP any questions they may have regarding the affairs of the company.</p> <p>After all questions have been dealt with, the meeting moves to the formal business stage at which a liquidation committee can be formed to assist the liquidator in his duties. In order for a committee to be formed, a minimum of three and a maximum of five creditors must be prepared to be on the committee.</p>	<p>If as is often the case no committee is formed, the liquidator’s appointment will be confirmed by a creditor vote. If the IP has elected to seek creditor approval to his fees and disbursements then this will also be voted on at the meeting.</p> <p>It is possible for creditors to change the liquidator at the formal business stage of the meeting of creditors, assuming a majority in value of creditors wish to nominate an alternative liquidator. In these circumstances, the alternative liquidator will take control of the affairs of the company.</p> <p>Following the appointment of a liquidator, it is his responsibility to realise the assets of the company and distribute them in accordance with the Insolvency Act 1986. In calculating a dividend available, a liquidator must take into consideration the rights of secured creditors and preferential creditors prior to payment of a dividend to unsecured creditors. It is also the liquidator’s duty to adjudicate the claims of creditors.</p> <p>The liquidator will also investigate the affairs of the company, particularly in relation to those areas contained within the director’s responsibility section of this website and bring actions against directors or such other parties as appropriate.</p>
---------------------	--	--

**London**  
 T 0207 317 9160  
 F 0207 317 9169  
 E [London@harrisons.uk.com](mailto:London@harrisons.uk.com)

**Manchester**  
 T 0161 876 4567  
 F 0161 876 4554  
 E [Manchester@harrisons.uk.com](mailto:Manchester@harrisons.uk.com)

**Reading**  
 T 0118 951 0798  
 F 0118 939 4409  
 E [Reading@harrisons.uk.com](mailto:Reading@harrisons.uk.com)

<p><b>Key Components for a Successful CVL</b></p>	<p>The true sense of success in respect of this procedure can only really be governed by how smoothly the liquidation process operates and ultimately whether a dividend becomes available to creditors.</p> <p>Although the liquidator can attempt to influence the latter, this can be difficult as he only has the ability to work with the assets available in the liquidation.</p>	<p>If realisations from the assets are insufficient with which to enable a dividend to be paid to creditors, there is very little he can do to influence this other than by identifying alternative actions which may result in a recovery for the benefit of creditors.</p>
<p><b>Advantages of a CVL</b></p>	<p><i>Directors</i> Assuming proper insolvency advice has been taken, the appointment of a liquidator may minimise the directors' exposure in respect of a wrongful trading action.</p> <p>It will provide peace of mind to the directors, who no doubt would have been suffering during this difficult period.</p>	<p><i>Creditors</i> It enables creditors to immediately recover the VAT element of the outstanding liability.</p> <p>In those circumstances where creditors have concerns regarding the actions of the directors, it provides them with the ability to raise these issues with the liquidator for subsequent investigation, which may lead to one of the actions indicated within the directors' responsibilities section of this website. A successful action may enhance the return to creditors from the liquidation.</p>
<p><b>Disadvantages of a CVL</b></p>	<p><i>Directors</i> The conduct of the directors will be investigated by the liquidator who is under an obligation to file a report to the Disqualification Unit of the Insolvency Service. The Disqualification Unit at the Insolvency Service will consider the contents of the liquidator's report before deciding whether or not to bring an action against the directors for a disqualification order.</p>	<p>Liquidators can bring actions against directors and such other parties as are deemed appropriate.</p> <p><i>Creditors'</i> Generally the procedure provides a poor dividend return to creditors.</p>

**London**

T 0207 317 9160  
F 0207 317 9169  
E [London@harrisons.uk.com](mailto:London@harrisons.uk.com)

**Manchester**

T 0161 876 4567  
F 0161 876 4554  
E [Manchester@harrisons.uk.com](mailto:Manchester@harrisons.uk.com)

**Reading**

T 0118 951 0798  
F 0118 939 4409  
E [Reading@harrisons.uk.com](mailto:Reading@harrisons.uk.com)