

Time to shatter the insolvency stigma

Many Australian businesses are teetering on the precipice as a result of COVID-19 but are too afraid or ashamed to consider the one lifeline that could help them: insolvency. And with a fiscal cliff looming, it's never been more important to break the insolvency taboo.



Andrew Spring, Jirsch Sutherland Partner

Jirsch Sutherland Partner Andrew Spring is urging businesses and the community in general to help break the insolvency taboo – and for good reason. During his more than 20 years as an insolvency practitioner, he's witnessed first-hand how the fear and shame associated with insolvency stop people from talking about their financial distress, sourcing information to make informed decisions, and exploring options to resolve their situation.

“Understanding insolvency is actually good business practice, but unfortunately it's a word steeped in stigma. Many people are either too scared or ashamed to flag they're having issues and by the time they decide to explore an insolvency option, it's too late,” says Spring.

“In Australia we have a robust insolvency regime but unfortunately there's so much fear, shame and embarrassment about being associated with one. If you're unwell, then you'll go and see a doctor, so why won't business owners seek professional help if their business is displaying symptoms of financial pain? There is a community bias against admitting you need financial help.



Bill Lang, Executive Director, Small Business Australia

“If discussions around financial distress or insolvency are taboo, then how can a businessperson gather the appropriate information to make an informed decision? As a community, we need to remove that barrier to enable all options to be explored and an informed decision made – even if it’s a tough one. It might not be your fault that your business is in trouble but it is *your* responsibility to explore your options.”

Bill Lang, Executive Director of [Small Business Australia](#) agrees that the perceived shame stops business owners seeking restructure or insolvency help. “When a business faces the need to close, there should be no shame in it, especially when customers have dried up because of COVID-19’s impact,” he says.

Dispelling the myths

According to Spring, one of the main drivers of the centuries-old stigmas is a belief that bankrupts and owners of businesses that become insolvent are incompetent or “crooks”. “This is ludicrous. Most businesses are started with the blood, sweat and personal capital of the director, and more often than not they are the largest creditor,” he says.

Leading corporate and personal insolvency lawyer, author and commentator Michael Murray agrees this is a persistent societal view: “Bankruptcy still has that tone of commercial immorality and wrongfulness, if not quite criminality, that it’s all your fault if you went bankrupt and you should serve your term.”

According to Spring, greater awareness of insolvency procedures is key to helping shatter the taboo. “Until directors and the broader community realise Australia’s insolvency regimes are business-support mechanisms designed to protect the people that make up the business – owners, employees, customers and creditors – statistics around failed businesses will continue to reflect poorly on the outcome from the process,” he says.

It’s a view echoed by Lang, who believes that educating business owners and the community about insolvency can help stop the stigma: “Unless they know someone who has been through

an insolvency procedure, they don't know much about it [and] it's laden with terms most people do not have a common understanding of," he says.

"As with most problems, the head-in-the-sand approach often increases stress and exacerbates problems. Australia's insolvency procedures give people in financial trouble peace of mind, knowing they are taking a course of action that is orderly and legal and focused on achieving the best-possible outcome."

Delaying seeking professional help because of the stigma of insolvency can cause immense stress for:

- **Owners and directors** who may feel they're letting their team down
- **Employees**, as they don't know if they'll be paid and whether they can support themselves and their families
- **Creditors** who worry about the impact on their business's financial position
- **Customers** who rely on products or services to meet their own obligations
- **The families** of all involved, who can be affected financially and emotionally

"By taking action, it can relieve the pressure for so many people," says Spring, adding that it's important to "know your numbers – and if they don't add up, start a conversation with a trusted business adviser. It will be good for the 'business soul'."