

## Winding Up - DISSOLVING

Contact – Better Business in Childcare Business Adviser

### **Is closure necessary?**

The financial position of the setting must be reviewed, use the financial section on the website to help you do this.

- Is expenditure greater than income. Are there inadequate reserves to cover the shortfall?
- Are there any large debts or outstanding wages to be paid, don't forget to calculate possible costs of redundancies?
- Is future income unpredictable?

### **POSSIBLE SOLUTIONS**

- Reduce, staff costs consider restricting recruitment, retirement, reducing hours short-time working (if allowed under the contract of employment) see further information from ACAS with regard to laying off staff or call the Better Business in Childcare Advice Line 01242 864123.
- Reduce premises costs, negotiate reduced rent or move to cheaper premises.
- Reduce administrative costs
- Market your setting to increase children attending for more information use the Better Business in Childcare website online resources – Marketing.
- Consider a Business sponsorship or if you are a Charity launch an emergency appeal.
- Consider a merger.
- Consider a bank loan or charity loan.

### **How long can you stay open without going in to debt?**

Use the financial section on the BBiC website to forecast your position. The cash flow template will help you to predict likely expenses over the next few months.

Make allowances in your predictions for the following-

- Wages and employer's national insurance and pension contributions. Are there any outstanding HMRC payments?
- Rent and rates for premises
- Costs of providing activities and services
- Costs of all amenities - heating, lighting, electricity, water and telephone.
- Insurance and any immediate building costs.
- Administrative costs - stationery, photocopying and postage.
- Bank charges and accounts examiner/auditor's costs
- Outstanding Inland Revenue payments

Identify actual costs of closing.

- any legal fees for disposing of a lease
- outstanding rent for the remaining period of lease
- legal and accountancy fees for winding up if a limited company
- redundancy payments
- any outstanding holiday and maternity payments
- would any Nursery Education Funding need to be repaid

- remember to check any grants you have received may need to be repaid , some funders do not allow organisations to sell premises or equipment bought with their grants

What are the assets of the setting? Calculate the income:-

- money in the bank and cash in hand
- money owed to the organisation
- Realistic resale value of fixed assets such as land, buildings, furniture, equipment.

Check any grants which have to be repaid, as some funders do not allow organisations to sell premises or equipment bought with their grants.

## **Who is Liable?**

### **UNICORPORATED ORGANISATIONS**

Trustees/Committee members are personally responsible for debts incurred by unincorporated organisations. Seek advice from BBiC, the Charity Commission if your setting is a charity and contact your insurers if the setting has trustee and officers' liability insurance.

### **INCORPORATED ORGANISATIONS**

Members have limited liability and are not liable for the organisation's debts. However if the organisation isn't able to pay its debts when they are due the Members/Directors must immediately seek advice from BBiC and Companies House as Members/Directors can lose their protection against liability and be held personally responsible if they continue activities against advice or fail to call in an Insolvency Practitioner.

## **Winding Up A Charity**

The procedure for dissolution or termination of Charity is set out in your charity constitution document. The power to decide such a move usually rest with members of the organisation at a general meeting. Members need to be informed of the situation the options open to them and whether it is solvent or insolvent. It is important to seek advice from the Better Business in Childcare Team.

A general meeting must be arranged giving Members at least 14 days notice. This meeting must be correctly recorded and documented. The Constitution allows the committee or general meeting to select another organisation to which the assets can be transferred. The transfer must be to another charity with similar objects unless you request permission from the Charity Commission. Once a formal decision has been made you must inform:

- employees, employee representatives and unions
- organisation's bank
- Charity Commission
- Current committee members , other members and service users
- Anyone with a fixed charge or mortgage over the organisation's property
- All creditors
- Service users
- Other agencies involved with the setting

Pay all the debts, including redundancy and costs of disposing of premises (if any) and equipment. You will need to prepare final accounts and submit them to the final meeting for approval. Bank Accounts should be closed and headed notepaper destroyed. Trustees must inform the Charity Commission if the organisation ceases to exist. Charity commission website has further information on the forms needed [www.charity.commission.gov.uk](http://www.charity.commission.gov.uk)

**AFTER a charity has been wound up, the trustees have to make sure that its accounts and records are preserved for at least six years. The accounting records that must be kept include cash books, invoices, receipts and any similar record of the charity's financial activities.** If the property has been transferred to another charity, the Commission recommends asking the recipient charity to hold the records. Trustees can arrange for records to be held by a former trustee, a solicitor or accountant, another local charity or an umbrella body.

Within ten months of the end of the charity's financial year, the trustees of all registered charities with an annual income of over £10,000 must send the Charity Commission:

- An annual report
- The accounts
- The annual return

**Further support is available from Better Business in Childcare Advisers**