

Being prepared is half the victory

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Adrian Houstoun, partner at top 20 accountancy firm Kingston Smith LLP, says clubs should be prepared for the unexpected in order to avoid needless financial pressures during these difficult times.

Surviving the recession is a bit like parachuting – you have to prepare as much as possible, take a leap into the unknown and hope that you land safely. In this article, I focus on the risks and potential costs that golf club managers need to be aware of in order to stand the best chance of survival during the current climate.

A good starting point when preparing for a recession is to make sure your committee is clear about the activities that contribute most to your financial stability and your objectives as a club. Next, you need to identify where your major risks and threats are coming from.

Much has already been said about the banking industry and its role in the recession. For your part, you should be crystal clear about your contractual terms and obligations to your bank. Most banks will need to cut costs, as well as their own debts, so they may well exploit customer lapses that they might previously have ignored.

As a result of the current low interest rates, even some of the best-run businesses have had their terms altered – pretty much against their will – in favour of the banks. Make sure you are aware of your obligations to your bank and either comply with them or talk to your bank if you have any problems.

If, like many golf clubs, you have an overdraft, it is especially important to know what might lead the bank to seek to alter its position. Some clubs have a substantial overdraft which, in certain cases, is guaranteed by several members. These members are likely to have significant assets, otherwise it's unlikely the bank would have accepted the guarantee in the first place. Breach of a covenant may result in the overdraft being recalled, at which point, it may be in the interests of the guarantor members to make donations to the club, enabling the club to pay off its overdraft and subsequently release the members' guarantees. Both the club and its wealthy supporters will be in a more stable position if the overdraft is repaid, averting the risk of dealing with the bank in a forced and imposed manner.

When times are tough, more people choose to take legal action. There have recently been two legal cases, both of which went to the Court of Appeal, which are particularly pertinent for sports club committees.

The first case, which I wrote about in detail in a previous issue of Golf Club Management, concerned a golf club's underground pipe, which carried heating oil from its storage tank to the boiler. This was fractured when independent building contractors carried out work on the ground above. The heating oil escaped through the ground and some 1,500 litres or more found its way into a nearby watercourse, polluting it. Although neither the chairman nor the treasurer of the golf club was personally to blame for what happened, the Courts held that action could be taken against, among others, the chairman and treasurer of a club.

The second case involved a rugby club in a scenario that is far less likely to arise at a golf club. It involved a first XV match between Halifax and Redruth during which the Redruth player, who was a part-time employee of the club, hit the Halifax player, causing substantial damage to his eye socket. The Halifax player subsequently took legal action and was awarded damages of £8,500, which the Redruth player did not settle. The litigation was therefore taken against Redruth RFC, which, it was claimed, was vicariously liable for the behaviour of its employee as he was performing duties under his employment contract at the time. Consequently, Redruth was liable for the damages and probably for the legal costs, too.

It is arguable that under the implied terms of a contract of employment for their part-time staff most clubs would require their players to act within the law and should therefore seek to recover any damages from an employed player. In the case of Redruth, the club's contract with the player did, among other things, state that: "The player shall not physically assault or verbally (sic) abuse match officials, opponents, spectators, colleagues..." However, it is likely that Carroll had a poor financial position, if not initially, certainly as a result of his actions, which is why the Redruth club became liable.

Whilst it is difficult to envisage golf club employees assaulting people when carrying out their duties, there are relevant situations that might arise which need to be thought about. For example, with the increasing numbers of children playing golf, does your club have an adequate child protection policy and child protection panel? Is your committee aware of the law and regulations covering this area?

It is imperative that you are aware of these risks and take reasonable steps to minimise any potential financial losses. This might involve enquiring about the cost of legal fees insurance, knowing what cover is provided by your standard rugby policy and what insurance you might need on top.

Fortunately, to date, the legal situations cited in this article have tended to be the exception rather than the norm. Despite this, you need to be aware of the issues which could occur and take the necessary steps to protect your financial position.

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