

# Tasks and activities of the business rescue practitioner: a strategy as practice approach

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## ABSTRACT

A business rescue practitioner's (BRP) tasks are complex, vaguely stated and involve a wide range of competencies not accessible to the average business person. Details about what exactly BRPs do during a rescue need to be determined in order to guide licensing and build a qualifications framework for the education of BRPs. Through an adapted 'interview to the double' (ITTD) process, information that 47 BRPs gave as instructions to a 'double' was elicited. All these instructions were framed as practices and praxis, then categorised into activities associated with the tasks as identified by the practitioners. Fifteen activities were derived from the practices and praxis in support of five tasks, namely: taking control, investigating the affairs, compiling a rescue plan, implementing the plan and complying with the statutory process. Five activities, namely: analyse feasibility, meet with stakeholders, analyse viability, prepare the rescue plan and follow statutory process, contributed 55% of what BRPs do, thus guiding the findings to give structure and direction to establishing what the educational requirements for BRPs should be.

Key words: business rescue, practitioner, tasks, activities, practices, praxis, turnaround, qualifications

## Introduction

Turnaround CEOs are appointed to 'catch a falling knife' (McCann 2009: 7). So, if someone has not completed at least 'CEO 300' for managing a business, it would not be advisable to accept a rescue appointment, as that may well expose the rescue

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practitioner's shortcomings. In South Africa, Chapter 6 of the Companies Act (No. 71 of 2008) came into effect on 1 May 2011. This Act has led to the birth of a new phenomenon: the business rescue practitioner (BRP). BRPs face a challenging job. The rescue industry is less than two years old, following this new legislation, and the rescuer's 'new' trade is generally unstructured, complex, not generic, as well as being business and industry specific, thus making for complex and challenging decision-making. There is, as yet, little case law and only scanty scientific research to support rescue as a strategy.

The Companies and Intellectual Property Commission (CIPC) as the regulatory body may license any 'qualified' person to practise as a practitioner in terms of Chapter 6, and may also suspend or withdraw any such licence. The Minister (through the CIPC) may make regulations prescribing standards and procedures to be followed in carrying out its licensing functions and powers.

Even more demanding is to teach this newly-created 'BRP phenomenon'. Qualifications for a BRP equate to a course addressing knowledge and skills associated with a 'CEO 300 advanced class'. The required competencies are complex, as they must cover ventures in distress – real emergency-ward business. Rescue implies high-level business management and financial expertise, human relations skills and knowledge of legal and related frameworks and processes. According to Midanek (2002: 24), turnaround managers need 'war-zone' experience.

Du Preez (2012: 74) delineated the turnaround regimes from the US, UK, Canada and Australia as different in approach and focus from that of South Africa as a result of the powers and control functions allocated to the practitioner in Chapter 6 of the Act. Suffice it to say that none of these international regimes requires its practitioner (administrator, monitor or turnaround CEO) to formally take over full control with liability (director's liability) as part of the responsibilities of the business under rescue. Thus, while there are commonalities with these more 'informal' processes, no conclusive directives are available due to differences in approach, legislative requirements and rescue culture (previously judicial management in South Africa).

Current approaches to understand and apply to the BRP phenomenon are limited to turnaround theory. Research into the traits and characteristics of BRPs is not expected to yield real direction similar to marginal contributions from entrepreneurial, managerial and leader characteristics research. Except for a few antecedents, characteristics research contributed little to a long list of paradoxical conclusions and findings. Unfortunately these antecedents are not exclusive to any entrepreneurs, managers, leaders or BRPs. TMA (2009: 4-1), in a dedicated chapter on the characteristics of turnaround managers, describes the required characteristics only in general terms as including strategic, tactical and leadership skills, because

virtually every situation is unique. There is no mention of unique differentiators for turnaround managers from the characteristics of entrepreneurs and business managers. Underlying this paper is, thus, the need to advise the Commission and future license applicants on an education and qualifications framework as well as giving guidance on the training of BRPs in the future.

Behaviour research to date has only marginally improved our knowledge, as it still does not have conclusive discrimination power. More recently, prototype research (mental schemas) brought some new insights to the fore and led to discrimination value between novice and experienced entrepreneurs (Baron & Ensley 2006). Knowing the prototype differences assists in the development of more effective training programmes. To date, no such works about prototypes of BRPs have been found.

Nienaber (2010) succinctly describes the tasks and activities of managers and leaders in a comparative study that also gives some generic direction to the actions of the BRP; while Kierulff and Petersen (2009) report 'back to basics' management practices for turnaround. Boyd (2011) also contributes steps that depend on specific action components. This paper intends to apply the strategy-as-practice approach and focuses on expert rescue practitioners. Practitioner strategising includes the actions they take and the practices they use in carrying out the activity of business rescue (Chia & MacKay 2007: 232; Jarzabkowski & Whittington 2008: 282; Jarzabkowski & Spee 2009: 69; Whittington 2002: C1).

This paper investigates the specific set of practices and praxis for BRPs to execute their jobs successfully. When identified, such practices and praxis can eventually direct the activities to be included in the education of BRPs and, potentially, direct a qualifications framework required to assess practitioners when licensed. Because business rescue is still such a new area, only modest focused research with regard to specific practices of BRPs has been reported to date. Associated research on entrepreneurs, managers and leaders has been done in various settings and thus, because the concepts are applicable, some similarities can be deduced as applicable to business rescue, but within a range of more volatile external factors (distress conditions).

This study reports, firstly, the relevant aspects of Chapter 6 of the Companies Act of 2008 and its prescriptions and requirements as boundary conditions. Secondly, it reports briefly on the relevant literature about strategy-as-practice with its specific applications as the cornerstone of the research on 'how' BRPs operate; then it describes the methodology of this theory construction research. It then reports the findings and, finally, discusses the findings.

## Research question

Business rescue practitioners claim that up to now, they ‘have been flying blind’ and ‘learning as they go’. Government, through the CIPC as regulator, pursues a wait-and-see approach, while business rescue education verges on being non-existent. The Act serves as the sole guideline on tasks, but contains no details of activities, practices and praxis; nor are the competencies required by BRPs specified. Whatever knowledge and skills that do exist appear to be tacit in nature and are protected as ‘intellectual property’ by BRPs. Therefore, the research question is: What are the core activities of the business rescue practitioner’s tasks?

## Literature review

As this paper aims to build new theory, this section sketches the context of business rescue for the reader and introduces the research frame of strategy as practice.

## Background to rescue in South Africa

In May 2011, Chapter 6 of the Companies Act (No. 71 of 2008) came into effect. This introduced a rescue procedure vaguely comparable to Chapter 11 in the USA and administration in the UK. Currently, BRPs in South Africa are licensed conditionally for a specific rescue project on application by the distressed company. The CIPC, as regulator responsible for licensing, requires relevant experience and appropriate references of a track record, together with some elimination provisos to grant the ad hoc licence. At present, there is no clearly prescribed set of focused prerequisites for the licensing of practitioners. To date, several problems have arisen with the system, and this study therefore addresses the search for minimum qualifications, expertise, skills and competencies to guide future governance by providing a better understanding of the exact practices that BRPs perform.

## Current appointment requirements for business rescue practitioners (Section 138)

According to Section 138(1), the main requirement for appointment as a practitioner is briefly described as follows: the person must be a member in good standing of a legal, accounting or business management profession accredited by the Commission or must be licensed by the Commission, not be subject to an order of probation in

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terms of section 162(7), would not be disqualified from acting as a director of the company in terms of section 69(8), not have any other relationship with the company which could lead a reasonable and informed third party to conclude that the integrity, impartiality or objectivity of that person is compromised by that relationship, and not be related to a person who has such a relationship with the company. There is no mention of specific activities or competency requirements.

### Removal of a practitioner from rescue (Section 139)

Some guidelines of activities by the BRP can be deduced from this section. A practitioner may be removed in the following cases: incompetence or failure to perform the duties of a business rescue practitioner of the particular company; Subsection 139(2b) states that failure to exercise the proper degree of care in the performance of the practitioner's functions; engaging in illegal acts or conduct, if the practitioner no longer satisfies the requirements set out in section 138(1); if a conflict of interest or lack of independence exists or if the practitioner is incapacitated and unable to perform the functions of that office, and is unlikely to regain that capacity within a reasonable time. Here, only skills are implied, without specific details about competencies.

### General powers and duties prescribed for the practitioner (Section 140)

This section of the Act gives some broad direction about what a BRP can do and the responsibilities endowed by the appointment. During a company's business rescue proceedings, the practitioner, in addition to any other powers and duties set out, has full management control of the company in place of its board and pre-existing management; may delegate any power or function of the practitioner to a person who was part of the board or pre-existing management of the company; may remove from office any person who forms part of the pre-existing management of the company; or appoint a person as part of the management of a company, whether to fill a vacancy or not, and is responsible for developing a business rescue plan to be considered by affected persons, and implementing any business rescue plan that has been adopted. Certain management skills are implied in this section.

Finally, the BRP is an officer of the court, has the responsibilities, duties and liabilities of a director of the company, as set out in Sections 75, 76 and 77, and may be held liable in accordance with any relevant law for the consequences of any

act or omission amounting to gross negligence in the exercise of the powers and performance of the functions of practitioner.

### Specific instructions for the practitioner (Section 141)

As soon as practicable after being appointed, a practitioner must investigate the company's affairs, business, property and financial situation, and after having done so, consider whether there is any reasonable prospect of the company being rescued. If, at any time during business rescue proceedings, the practitioner concludes that there is no reasonable prospect for the company to be rescued, the practitioner must take the prescribed action.

### Status quo of BRP scenario: the first 21 months

Typically, BRPs appointed to date originate from business, legal, accounting, banking or liquidation professions. The BRP's main goal should be to rescue the financially distressed business through turnaround procedures or, alternatively, to construct a solution for creditors and shareholders that would result in a better return than immediate liquidation. The regulating authority requires a qualifications framework to better govern the appointment of BRPs in future. Jacobs (2012) seriously questions the inclusion of liquidators, referring to their tasks in accordance with Bradstreet, (2010: 207) as 'undertakers' and not 'doctors', who are needed for rescue, and thereby calls into question their implied competencies (currently unknown to the industry).

During the first 21 months of the Act's existence, 120 practitioners were licensed, 807 rescues filed, and three BRPs removed for various reasons (excluding those who were forced to resign through various processes). Case law on business rescue is sparse but slowly increasing (Lothering, personal communication 2013). Bi-annual meetings with BRPs and banks have been instituted by the CIPC to improve communication and address issues relating to the tasks of the BRP.

From Chapter 6 of the Act, it appears that the tasks of the BRP are like the proverbial tip of the iceberg: visible to the observer, but revealing very little about the detailed inputs and actions that are executed in the process of a rescue. Often these detailed practices and praxis are seen as the practitioners' 'intellectual property' or 'competitive advantage', and therefore are not shared easily or publicly. If shared, the information is vague and rarely useful.

This study responds to the fact that there is a need for research to develop an understanding of cognitive processes during the different stages of business rescue and, simultaneously, to point out the key variables that determine each specific task.

This paper focuses on the practices and praxis of BRPs within the main tasks of the rescue process. Similar to the work of Shook, Priem and McGee (2003: 381), it proposes a conceptual organising framework for the BR process that describes tasks and activities at every stage.

### Turnaround versus rescue clarification

It is crucial at this early juncture to distinguish between the concepts of turnaround and rescue, as this distinction may have a material influence on interpretation. Turnaround is the US concept from the Chapter 11 regime for 'reversal in a firm's decline in performance'. Turnarounds are also done informally (voluntary and not necessarily governed by legislation) and suggest that such interventions are generally done in the early stages of decline to return the business to 'normal' operations (Pretorius 2009). Turnaround managers act under more flexible conditions in what is metaphorically referred to as a 'sick' business. The turnaround management regime could include the management that caused the business to decline in the first place. US research has focused mainly on turnaround strategies.

Rescue, however, suggests it is about firms that are in distress and close to failure, metaphorically referred to as 'terminally ill' cases. Chapter 6 appears much more legally and process driven with stigma-ridden consequences. A key differentiator is the alternative that BRPs can follow, stating that if the business cannot be rescued in its current form, then a second option may be considered, whereby the best return for creditors and shareholders, similar to a liquidation regime, is sought. Rescue prescribes no engagement before filing, while turnaround allows for pre-packaging of the Chapter 11 event.

This distinction is important, yet the terms 'turnaround manager' and 'rescue practitioner' are often still mistakenly used interchangeably due to some overlaps in the processes and functions. Their underlying approaches are inherently different as determined by the different contextual factors. Chapter 11 has been in play for several years, underwent redrafting and is supported by case law, while rescue suffers the 'liability of newness'.

### Strategy-as-practice approach for this research

Both strategy practitioners and academics are attracted to the deeper connection between strategy theory and the practice of strategy, which has led to the development of a 'new' approach to strategy research: strategy-as-practice (s-a-p) (Haugstad 1999;

Johnson, Melin & Whittington 2003; Whittington 2002: C1; Whittington 2007: 1575).

S-a-p is concerned with the detailed aspects of strategising; how strategists think, talk, reflect, act, interact, emote, embellish and politicise; what tools and technologies they use, and the implications of different forms of strategising for strategy as an organisational activity (Jarzabkowski, Balogun & Seidi 2007: 5). S-a-p, as an agenda, researches the flow of organisational activity that incorporates the content, process, emergence of thinking and acting of strategy. It supports the false division of formulation and implementation (i.e. strategizing) (Jarzabkowski & Whittington 2008: 285).

Various researchers have sought to explore the 'doing of strategy' (Jarzabkowski & Spee 2009: 69). Their research asks strategy questions such as 'How it is done?', 'Who does it?' and 'What do they use to do it?' The findings support the field of practice research to address the theory gap between the theories of strategy and actual practice.

The field of strategy practice has received much interest, but less so the field of business rescue and its connection to business strategy and performance. S-a-p fits the research objective of this study well and was therefore chosen as its theoretical foundation.

### Micro-level strategising and business rescue

The evolution of strategy research communicates the shift from a purely economic perspective on strategy research to a more sociological view (Hughes 1971). In the light of this shift, the working definition of strategy is that strategy is something that people do (an activity) in society, while strategising (Whittington 2006: 613) explores the activities on a micro-level and includes the actions that people take and the practices they use in accomplishing the activity of strategy (Chia & MacKay 2007: 217).

*Practitioners* are actors (strategists) who shape the construction of the practice of strategy because of who they are, how they act and what resources they draw upon (Jarzabkowski et al. 2007: 18). The actors are those who do the work of strategy, including 'internal actors'. Practitioners may also be 'external actors' such as consultants and analysts (Johnson et al. 2003: 15). This study accepts that the BRP is the main strategist driving decision-making.

*Practices* are the cognitive, behavioural, procedural, discursive, motivational and physical resources that are combined, coordinated and adapted by the practitioner to construct practices (Jarzabkowski et al. 2007: 5). Practices include material tools and



models used every day. Practices have been broken down into three types, namely: administrative, discursive and episodic. Administrative practices in strategising include the organisation and planning mechanisms such as budgets, forecasts and performance. The discursive practice provides the discourse for strategy language, academic concepts, tools and techniques that populate strategy classes. Lastly, episodic (periodic) practices refer to those practices that create opportunities for and organise the interaction between practitioners in doing strategy, including meetings, workshops and PowerPoint presentations (Kaplan 2006; Orlikowski 2000: 404). The practices of the BRP are central to this research.

*Praxis* points to socially accomplished flows of activities that are strategically consequential to the direction and the survival of the organisation (Jarzabkowski et al. 2007: 15). Strategy praxis comprises the interconnections between the actions of practitioners and their utilisation of resources, the organisation's actors and the organisation within which these individuals and groups act. This flow of activity is, however, not only in a singular direction: these actions run parallel, intersect, diverge from or depend on one another or even collide (Grandy & Mills 2004: 1157). The praxis of the BRP is fundamental to this research.

Sufficient for this research is the inclusion of both practices and praxis, as the interest is in 'What BRPs (the practitioners) do'.

## Methodology

### Research design

The research aims to describe the activities, with their associated tasks, that BRPs must perform when executing a business rescue in South Africa under Chapter 6 of the Companies Act of 2008.

In attempting to answer the research question, the researcher was aware of his own methodological values, beliefs and philosophical assumptions. These assumptions could influence how the research was conducted, and this information is thus provided in order for the reader to understand the 'intellectual climate' in which the research was conducted. The theory of knowledge (epistemology) of the researcher describes how one can discover underlying principles about social phenomena and how one can demonstrate knowledge. The researcher's personal experience with a business failure ignited his interest in business rescue. At the same time, as an academic and turnaround consultant, he has a preference for factual directives. To mitigate his biases and subjectivity, a structured data-gathering method ('interview

to the double’) was used to capture the activities and experiences of the subjects during their evaluations.

Ontological position comprises the researcher’s view on the very nature and essence of the research reality. The researcher is an objective realist who believes that knowledge comes from facts associated with real-life cases and their context. If the researcher found repeated mentions of practices and praxis, he could ‘generalise’ them. His interest was mainly to identify directives to guide the future education of BRPs.

#### *The roots of the interview to the double*

The research applied the technique called ‘interview to the double’ (ITTD) to identify the practices and praxis in question. Nicolini (2009) postulated that the ITTD process requires interviewees to imagine that they have a double who will take their place in their workplace on the following day. The interviewee-instructor is then asked to provide the necessary detailed instructions that will ensure that the interviewer-double is not unmasked as an impostor.

The ITTD is generally used in one-on-one interviews and reported in the literature as an application to raise the awareness that subjects as a ‘homogeneous group’ are bearers of valid and precious ‘know how’. Typically, the interviews are carried out during training workshops, with the researcher acting as the double and the subject as the instructor. The subjects are not interrupted and their long monologues, often lasting hours, are tape-recorded and transcribed using categories.

The original intent of the technique was to expand the ITTD as a method of data collection and as a way of understanding and representing practice (Bruni & Gherardi 2001; Gherardi 1995; Nicolini 2006, 2007). It is from this perspective that the adapted process is described. This primary data collection was done to access BRPs directly in one session rather than in consecutive individual interviews. To execute this successfully, the interview to the double process was administered to all BRPs in one session, using slides to post the specific instructions, while each BRP responded by writing down the instructions personally.

The ITTD was chosen for its ability to eliminate self-serving bias compared to surveys where subjects must rate their performance. It also contains a form of ‘anonymity’ and ‘neutrality’; the focus is on outputs, while it forces the subjects to reflect on what they do in practice to compile the instructions. ITTD has been used to study workers, nurses, managers and entrepreneurs.

It was an opportunity for the BRPs to reflect on and progressively enrich the image of their own work. The process of data collection thus constituted an opportunity for

the BRPs to expand their possibility of acting in the world. The adapted tool was revealed to be useful both to capture experience and to enrich it through reflection.

### *Sample*

A purposive sampling strategy was used. BRPs licensed at least once before were selected to participate. The final sample consisted of 47 BRPs from a population of 105 (at the time) previously licensed practitioners. While biographical data for each BRP were available from the CIPC, this information was not accessed for this research. The sample contained 26 (55.32%) senior BRPs, 16 (34.04%) experienced BRPs and five (10.63%) junior BRPs.

### *Data collection procedures*

Firstly, Chapter 6 of the Act relating to task prescriptions was studied to guide category development for the BRP task groupings of practices. Secondly, a modified interview to the double (ITTD) process was applied to BRPs during a workshop setting to collect primary data. The ultimate output of the full study was to set up an education and qualifications framework based on BRP competencies.

The phenomena investigated were practices and praxis associated with the tasks of practitioners during the business rescue process. Using the ITTD process required the subjects firstly to include their perspectives, thinking and decision-making priorities, and secondly, their experiences of real-life cases that they had executed within their specific contexts. The boundaries between the subjects and the practice contexts were not clear, as they had prior involvement with their own experiences (rescues performed). This meant that the researcher could pursue all angles of evidence to seek convergence and divergence. Moreover, because their experiences were recent, there was sufficient access to short-term memory and associated learning from their practical experience.

Subjects were invited by the regulatory authority (CIPC) for a bi-annual workshop. After other formalities, presentations and discussions, a structured process was introduced by the researcher where BRPs were asked to give seven to ten written instructions to a 'double' who would replace them in a rescue for which they had just been appointed.

Subjects participated voluntarily and were relaxed during their involvement, as shown by their asking clarification questions and even bantering about potential instructions. It is believed that these positive conditions led to unbiased sharing and meaningful contributions drawn from the prompting of their perceptions and experience.

### *Modified data collection process for the ITTD in this research*

After some formalities, an instruction was displayed on two slides: one describing the situation and another with the specific instruction to the BRPs. The exact content was as follows:

- Situation (slide 1): You have been appointed as BRP to a company. Unfortunately, before you could investigate and with no pre-assessment, you have to go away urgently and you send a 'double' to act in your place. There will be no contact between you and the 'double' after giving the instructions.
- Instruction (slide 2): Identify a minimum of 7–10 absolutely key tasks to be deliberately performed by this person leading up to the business rescue plan's substantial implementation. Focus on 'what s/he must do' to ensure smooth and successful business rescue execution and process.

An example of a sticky note (See Figure 1, left picture) with the format was shown at this point, and there was an opportunity for clarification questions that were repeated and answered for all participants to obtain maximum clarity. Thereafter, BRPs were given the opportunity to complete the instructions they had identified as key on separate sticky notes. Sufficient time was allowed for all to complete this task.

After writing the instructions on the sticky note (Figure 1, left picture) through structured facilitation and guidance, subjects were asked to rate the tasks for importance, transferability of the task, knowledge level required, skills classification and ranking (Figure 1, right picture). Each evaluation task was completed before moving on to the next. The outcome of this phase is not reported in this paper due to space constraints.

On completion of the task, subjects were asked to attach each sticky note individually to one of four large boards marked: 1) take control, 2) investigate the affairs, 3) preparation of the plan and 4) implementation as prescribed by Section 140 and 141 of Chapter 6. Figure 1 (right picture) shows the format of the final sticky notes after the phased development process and adding the individual components.

### *Strategies for ensuring quality data and interpretation*

There was only one source of evidence (BRPs). The researcher did a quality check as the interviews progressed by asking questions to establish the underlying understanding of the instructions. As the focus of this study was mainly exploratory, asking 'what', the ITTD process also elicited 'how' things were perceived as the sub-

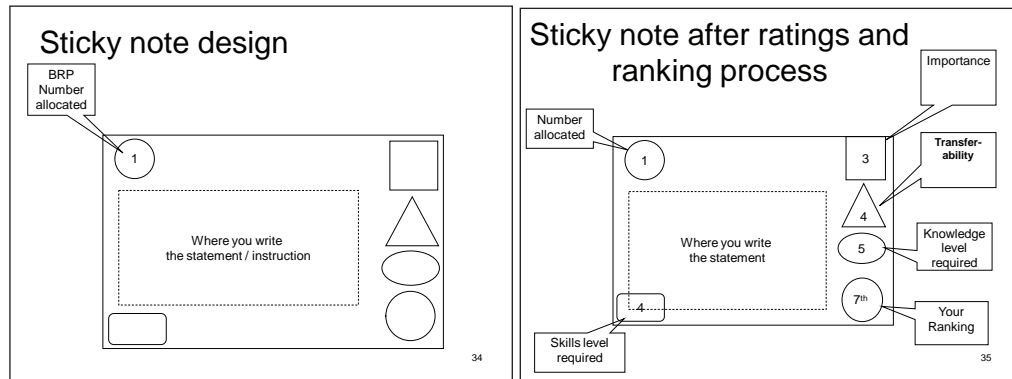


Figure 1: Format of the sticky note both at the beginning and after the facilitated process

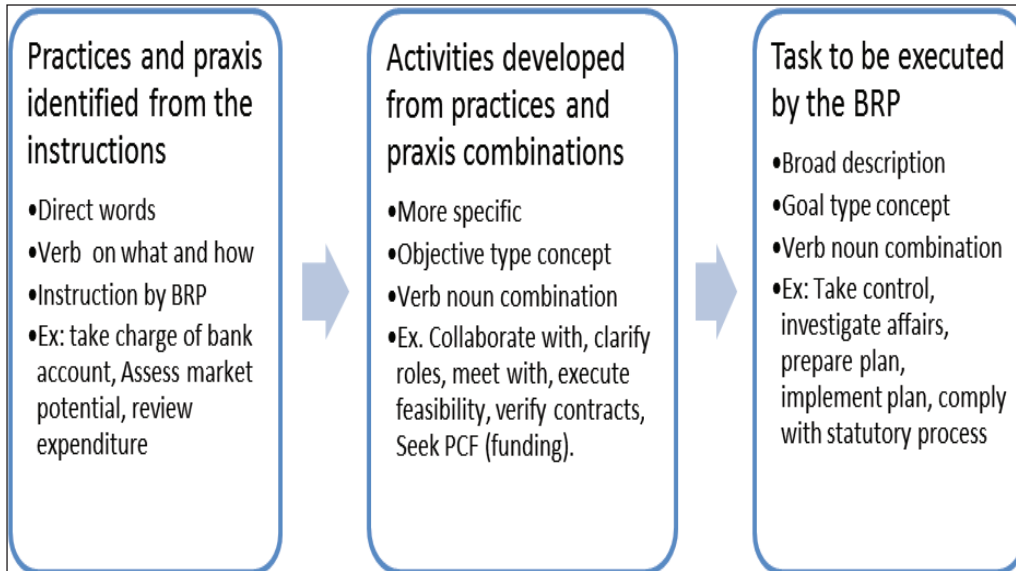
jects described them, thus using ‘explanation building’ to improve internal validity (Yin 2003: 34). The BRPs wrote their own responses.

As there was only one researcher, he depended on several readings of the instructions given. Based on his experience in rescue and with extensive preparation, meaningful categories could be constructed. Once categories were obtained, each instruction was ‘sub-categorised’ to confirm the specific function within the category to which it was allocated. This led to the original category being challenged, and occasionally re-categorisations took place until agreement was reached.

Finally, when an instruction contained more than one category concept, the researcher judged it and decided, based on the spirit of the instruction, which category it fell into.

## Data analysis

The subjects’ cognitive experiences and knowledge of business rescue were the main source of data. After a word-for-word transfer of the instructions to an Excel spreadsheet, the key practices and praxis (first order) were identified, coded, categorised, re-coded and re-categorised to extract the facts, essence and spirit of the instructions. Activity categorisation (second order) was then done by the researcher. The iteration process was repeated at least five times until a point was reached where further iterations would have no material bearing on the category outcomes. Figure 2 explains the relationship between practices and praxis, activities and tasks.



Note: PCF = post-commencement finance

Figure 2: The relationship between practices and praxis provided, activities developed and tasks from Chapter 6

Though there was only one key source of evidence (the subjects), the researcher used ‘grounded theory principles’ (Corbin & Strauss 1990) to extract as much richness as possible from the findings. The 47 subjects supplied 440 individual instructions that could be interpreted by the researcher. Each instruction contained the rating and ranking, although some missing values were noted.

Each instruction was coded for collective categories that surfaced as they were read, interpreted and re-read several times. Specific categories emerged and were refined, concluding with a total of 15 categories of activities (see Table 2). Each category was measured based on the number of times mentioned, and a percentage could be calculated. Five main categories were identified, which formed the focus of further analysis. Interrelationships between activities, phases and tasks were also identified and reported in the discussion of the findings.

The style was exploratory in order to identify the activities as directed by first order practices and praxis, and to describe such activities and how they are applied in the execution process of the business rescue tasks. Thereafter a framework was proposed for how activities relate to the business rescue process.

## Findings

### Practices and praxis, activities and tasks

Tasks in this research refer to the ‘work to be done’ and are generally described by a verb and noun combination, such as take control, investigate affairs, prepare plan, implement plan. Mostly a task gives a *broad* description of what must be done, without specific measurement. A task is similar to the concept of a goal – to be achieved and described in Chapter 6. These tasks generally have a time sequence in rescue, similar to phases, but overlapping in duration.

Activities similarly refer to the practices and praxis to be done in support of the task. Activities are also verb focused, but with a detailed specific noun such as: determine cause of decline, stop bleeding, reduce spending, calculate liquidation value, do valuation and so forth. Activities are much more *specific*, with direct outcomes (adjective plus noun), such as: calculated value or output value. Activities have the characteristics of objectives. Through this research, BRPs identified practices and praxis leading to 15 activities associated with the rescue phases and tasks. The relationships between practices and praxis, activities and tasks are explained in Figure 2.

Practice and praxis (first order) are the direct instructions given by the BRPs, which were later categorised into the 15 activities (second order) by the researcher.

### *Tasks of the BRP*

Chapter 6 of the Act states four main tasks that BRPs must execute, namely: taking management control of the business, investigating the affairs of the business, preparing a rescue plan and finally implementing the plan, if approved. After identification of the practices and praxis (instructions) to be executed by the ‘double’, subjects were asked to place the individual instructions under one of these tasks for categorisation. Table 1 shows how BRPs categorised the activities per task.

Table 1 shows how rescue practitioners categorised their instructions to the double within the four tasks described in Chapter 6. Investigating the affairs and preparing the plan contributed 62% of the tasks as determined by the BRPs. Taking control of management was the category that received the third most allocations.

**Table 1:** Instruction (sticky note) categorisation by BRPs of business rescue tasks

	BRPs' tasks from Chapter 6				
	Take management control	Investigate affairs	Prepare rescue plan	Implement rescue plan	Total
Number of instructions allocated per task by BRPs (sticky notes)	98	142	131	66	437
Percentage	22.4	32.5	30.0	15.1	100
Number of instructions per task by researcher	171	123	48	14	429
Percentage*	39.9	28.7	11.1	3.3	83.5

\* Five categories of tasks appeared through the analysis, with the supreme task = 16.5%

Table 1 also shows that there was a difference in magnitude between categorisations of the task and categorisations of the researcher. The data analysis led to the identification of a fifth task, referred to as the 'supreme task', namely: to comply with the statutory process. This task was not one of the original tasks, so practices and praxis belonging to this task were therefore scattered across the other four categories by the BRPs.

Table 2 shows the results of the analysis process. It presents the practices and practices (first order) groupings to make up the 15 activities (second order). Activities were categorised under the tasks, and in the final columns, reasons to support the categorisation and role of the activities are presented.

Taking management control and investigating the affairs contained 69% of the practices and praxis, while preparing the rescue plan and implementing the plan make up only 14% of the practices and praxis compared to the BRP allocations in Table 1. The main divergence between the BRP allocations per task and the researcher allocations was found for the preparation of the rescue plan. It must be stated that many practices and praxis could have been allocated under other tasks. The researcher applied his insights to this judgement to select the most appropriate task for each activity based on its core objective. Each task is now briefly explained, whereafter the main activities are analysed in more detail.

Task 1 is taking management control (39.9%) and consists of the following activities: take management control, take financial control, clarify roles, meet with stakeholders, execute feasibility, execute day-to-day actions and communicate openly. The percentage contributions of the individual activities are shown in Table 2.



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**Table 2:** Activity categories with typical associated practices, praxis and reasons

First order practices and praxis (% contribution to category)	% of practices and praxis	Second order activities	Reasons
Task 1: Take management control = 39.9% of practices and praxis			
Become visible, introduce yourself, take charge of management, engage with decision structure.	4.9	Take management control	In association with other activities, to establish authority.
Obtain signing powers, assume payment control, control daily cash.	3.3	Take financial control	To bring key decision-making and information flow to BRP.
Advise management and directors of responsibilities (>80%), establish delegations, inform staff of rights, educate all affected people.	4.2	Clarify roles	To improve open communication and collaboration within the rescue regime. Establishes authority and delegations.
Determine causality (16%), determine future demand (8%), confirm capacity (8%), calculate financial model (37%), determine cash flow position (11%), identify caveats (5%).	9.1	Analyse feasibility	To answer the question: 'Is there a reasonable prospect?' (S141), leading to the viability investigation under 'investigate the affairs'.
Meet with shareholders, management, creditors, employees, key suppliers, legal advisors, banks, customers and affected persons.	11.0	Meet with stakeholders	To obtain information, clarify roles, obtain insight, enhance collaboration and establish control.
Monitor operations, run daily affairs, visit daily, oversee delegations.	1.9	Execute day-to-day action	To supervise the operations of the business.
Communicate regularly, constantly inform internally and externally as well as informally and formally.	5.6	Communicate openly	To ensure perception of impartiality, block rumours.
Task 2: Investigate the affairs = 28.7% of practices and praxis			
Obtain details, investigate caveats (litigations, sureties), confirm reporting lines.	6.1	Investigate affairs	General information to understand and verify leading to viability.
Verify data (for integrity) (39%), investigate cash status (19%), develop balance sheet (10%), create workable financial model (19%).	14.0	Analyse viability	To establish key elements for judgement and decision-making and to inform the rescue plan.
Identify key employees, assess capabilities, establish key positions, involve as 'heroes' or process champions.	3.7	Intervene in HR	To create team for execution of daily operations through delegations.

Table 2 continued

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Table 2 continued

First order practices and praxis (% contribution to category)	% of practices and praxis	Second order activities	Reasons
Build trust, ensure participation, involve parties, be inclusive, engage in decision-making.	4.9	Collaborate with Stakeholders	To determine the style of the rescue and the cooperation of stakeholders.
Task 3: Prepare plan = 11.1% of practices and praxis			
Prepare plan, which includes several types such as skeleton, draft plan. Involve relevant role players in preparation.	8.2	Prepare plan	Key requirement of Act and is the clear output of the BRP.
Understand extent of needs, engage possible sources (bank, creditors, external) seek funding.	3.0	Seek post-commencement finance (PCF)	Most rescues depend on PCF or some kind of financial injection.
Task 4: Implement plan = 3.3% of practices and praxis			
Execute the plan.	3.3	Execute the plan	Key goal of rescue.
Task 5: Supreme task = 16.5% of practices and praxis			
Observe dates and timelines, comply with procedures, notify properly, hold meetings, file notices and report regularly, take responsibility.	14.0	Follow statutory process	Case law suggests: no partial compliance. The first essential factor.
Be cautious, do not get bullied, remain impartial, be open-minded, work with resistance to change.	2.1	Choose approach/attitude	Key to eventual collaboration.
Obtain director statements, establish status of litigations, confirm sureties, determine agreements, establish informal relationships.	0.7	Verify contracts	Can be fatal flaw/constraints to the plan.

Task 2 is investigating the affairs of the business (28.7%) and consists of the following activities: investigate affairs, analyse viability, intervene in human resources and collaborate with stakeholders.

Task 3 is preparing the rescue plan (11.1%) and appears to be the ultimate goal of the BRP. It consists of only two activities, namely: preparing the plan and seeking post-commencement finance (PCF). Practices and praxis and detailed characteristics of the proposed plan are visibly absent. It would appear that preparing the plan is the ultimate output of the BRP, and opinion is divided on whether this task should be the sole measurement of the BRP's success. The rescue plan is at the centre of much decision-making.

Task 4 is implementing the plan (3.3%) and was shown as a key task, but few practices and praxis were directed towards it. This skewed picture may be the result

of the early stage pressure and the newness of the industry, with only a few plans in the implementation phase.

Task 5 is the supreme task to comply with statutory process (16.5%) and consists of the following activities: follow statutory process, choose attitude and verify contracts, which constitute the legal component of the overall tasks.

Figure 3 shows the tasks relative to the timeline and infliction points of the business rescue process. Each task also shows the core tasks within it.

### *Core activities of the BRP*

The 15 activities, which appeared through the analysis of the findings, contributed differently based on the number of practices and praxis allocated per category. The number of practices and praxis gives some magnitude to the importance of the activities. Each activity is explored in this section with reference to its contribution to the practices and praxis.

The identified practices and praxis formed the basis of the activity categories that were further analysed.

From the analysed practices and praxis (first order), Table 2 shows the categories (second order) of activities. Five were identified as main activities according to size order (but not sequence) as: viability analysis, following the statutory process, meeting with stakeholders, analysing feasibility and preparing the rescue plan. Table 2 also shows more detailed practices and praxis within the main activities and their percentage contribution within the category.

*Viability analysis* (14.0% of practices and praxis) in business rescue refers to a detailed review of all aspects of the rescue event and context, including correctness of date, business model (profit), financial model (cash), balance sheet, legal drivers (contract, securities) and any other relevant material factors (caveats) that may influence the viability of the rescue plan presented for implementation at the second creditor meeting. Midanek (2002: 23) refers to it as a 'glass assessment', which is in line with Kierulff and Peterson (2009: 45), who postulate that understanding of the financials, cash flow and verification of data (data integrity) are key turnaround management practices. Viability analysis mainly takes place between the first and second creditor meetings while investigating the affairs and follows the initial feasibility analysis that is executed immediately after appointment, while taking control of the business and in preparation for the first creditor meeting. Table 2 also shows the percentage contributions that practices and praxis reported for this activity.

*Feasibility analysis* (9.1% of practices and praxis) in business rescue suggests that all the elements required for a potentially viable business model do exist and if combined

appropriately, a profitable venture could ensue: one worthy of saving. Typically, these elements include future demand, capacity to generate (resources, process, human resources and so on), an economically profitable model, cash generation and no caveats (fatal flaws or constraints). Practitioners state that they 'have a business' if all elements are affirmative. Gottfredson, Schaubert and Hirzel (2008: 29) equate this feasibility analysis to 'determining the point of arrival', and the viability analysis as 'determining the point of departure' in the turnaround process.

Frequently, the judgement of feasibility is made based on perceptions, insights, experience and the intuition ('gut feel') of the practitioner, founded on the initial information as gathered before the first creditor meeting. The BRP reports this to creditors if s/he believes there is a reasonable prospect of creating a rescue plan to do so. Often a feasibility judgement suffers a data integrity liability (Pretorius & Holtzhauzen 2008), which is addressed by the viability analysis where verification is done. Once identified, the BRP embarks on a proper due diligence to overcome this liability.

*Meeting with stakeholders* (11.0% of practices and praxis) does not inform the reader directly unless the associated reason (see Table 2) is understood. Meeting with the different role players is a praxis (activity) contributing and relating to taking control, role clarification, improving collaboration, opening communication and, to a lesser extent, verification of contracts, intervening with staff and the execution of day-to-day operations. Meetings are crucial to the statutory process, with prescriptive meetings (inflection points) in the Act (see also Figure 3).

*Preparing the rescue plan* (8.2% of practices and praxis) is a key instruction stated by the practitioners, but without detailed practices and praxis. Some schools of thought suggest that this is the unique task of the BRP. Obtaining post-commencement financing is the only other practice in this category. Several of the other practices and praxis for activities such as feasibility and viability analysis elements are directly associated prerequisites for achieving this activity. Ultimately, the rescue plan depends strongly on the outcomes of the feasibility and viability analyses as well as the successful involvement of stakeholders by holding meetings with them.

Finally, the main activity of the 'supreme task' is *to follow statutory process* (14.0% of practices and praxis). This activity is not described directly in any sections of the Act but being *the* legal framework, it suggests that the Act is the ultimate guideline with which the BRP must comply and within which s/he must operate. Without compliance (there is no partial compliance, as shown by the ATE judgement of 2012), none of the other tasks are possible. BRPs were very cognisant of this in their instructions, with many practices and praxis stressing compliance (second-highest number).

While not constituting a single activity, three other activities, namely: taking management control, taking financial control and clarifying roles, together contribute 8% of the mentions. Scherrer (2003: 53) suggests combining financial, production, marketing and distribution control as a similar category. In this study, these activities were part of the task of 'taking management control'.

It is relevant at this point to highlight the fact that the number of rescues that have entered implementation involving turnaround is unknown. However, it is suspected to be a relatively low percentage and may be the reason why so few practices and praxis that were reported in this study are associated with implementing the plan. Still, the practitioners allocated 15.1% of the instructions to the task of implementing the plan.

'Delegation' is noticeably missing from the findings as an activity, with only sparsely scattered mentions referring to it under the role clarification and managing day-to-day activities, and one under interfering with human resource functions. The underlying reasons for this should be investigated, as delegation plays an important role in management.

## Discussion of findings, key theoretical components and contribution of the study

To enhance meaningful coverage of the findings, this section considers aspects of the findings as they appeared during the process. The findings, the first in this field, are then elaborated on and explored for improved understanding to guide the proposal of the activities framework and to answer the research question: 'What are the core activities of the BRP?'

A range of specific practices and praxis were determined through the ITTD process as first order elements (see Table 2). These fell into 15 second order activities, each with its own percentage contributions. Clear activity categorising could then be done, and activities were associated with the tasks of the BRP. Five main activities, namely: analyse viability, analyse feasibility, meet with stakeholders, prepare rescue plan and implement the plan, constituted 55% of the total activities.

Three additional activities under the task of taking management control are: taking management control (4.9%), taking financial control (3.3%) and clarifying roles (4.2%), which contributed another 12.4% of the total practices and praxis mentioned by BRPs. Thus eight activities explained 67% of the practices and praxis.

While activities were categorised under the different tasks, there were potential overlaps in phases and timing of activities across the various tasks. Figure 3 proposes a conceptual framework based on the research findings during this study. Firstly,

it shows the business rescue timelines (prescribed in Chapter 6) with key inflection points and thereafter depicts the five tasks with important main activities on the timeline. Many of the activities start at the beginning of the rescue and diminish in intensity over time. Clearly visible in Figure 3 is the degree of both task and activity overlaps and how the intensity of the tasks and activities diminish over time. The fifth task identified, namely: to comply with the statutory process, which is not specifically mentioned in the Act (but implied), came to the fore.

Several detailed findings and observations are now expanded.

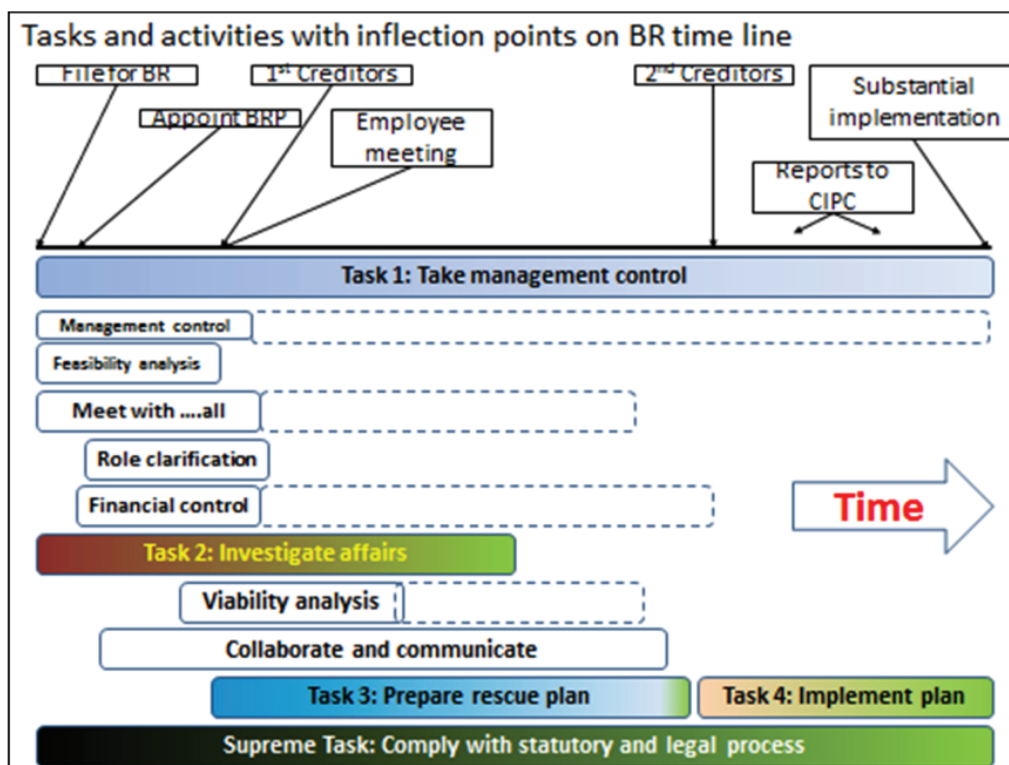


Figure 3: Tasks and key activities superimposed on the rescue timeline with inflection points of the business rescue process

BRPs could identify the key practices and praxis (see Table 2) by including and implying them in their instructions to the double. The first order practices and praxis are fairly detailed about 'how' to do 'what' and 'when'. From these, the main activities could be identified after they were derived through the iterative process of this research. The nature of the ITTD process required BRPs to focus on important

aspects. Therefore the higher percentage practices and praxis indicate the relative importance of the main activities.

The rescue process has phases, tasks and inflection points (key requirements of the statutory process), as already shown in Figure 3. The tasks overlap and intersect to some extent, but most activities require execution and immediate attention early in the rescue process. This high intensity of activities reduces over time without becoming less focused upon.

## Conclusions

This study identified the tasks and activities of BRPs during business rescue. There are five tasks and 15 activities derived from the practices and praxis supplied by the BRPs when instructing a double to execute the rescue.

## Implications for the rescue industry

When judging the findings of this exploratory research, several contributions and improved insights for theory building were observed. The research question asking ‘What are the activities of the BRP?’ was clearly answered, as shown in Table 2 and Figure 3.

Firstly, observing Figure 3, the overlapping of activities (especially within the first weeks of appointment) is highlighted. Particularly in complex rescues involving multiple affected parties, the effect thereof may be intense and require inputs above the capacity of one person. This should be addressed, and BRPs, despite being appointed in their individual capacity, have already started to function as teams. The related skills of prioritising, delegation and time management are deemed basic prerequisites in the rescue process. The question arises whether such elements should be deemed relevant as training content for BRPs or should it be assumed to be part of the make-up of future applicants.

For BRPs, especially novices, the activities can serve as directive to focus their attention. Future research into competencies underlying the activities is needed. Similarly the regulator may find directives towards the competency framework for accreditation. Without understanding the related practices and praxis, competency measurement will be impossible.

Finally, educational institutions can apply the findings by incorporating the second order activities as the basis for rescue-specific training courses. The CIPC, for example, as the governing body controlling the qualifications of BRPs, can now use the activities to guide both the training and examination of BRPs. Further

research into these activities would be required to establish a competency framework for business rescue qualification. This is an urgent and prerequisite step for the development of the framework. Focusing on the five main activities should serve as a guideline for newly-licensed BRPs.

## Limitations and further research

Despite the data having been obtained directly from the primary source, namely BRPs, the main scientific limitation of this research is researcher bias during both the data analysis and interpretation of results phases. Subject bias has also been pointed out, and therefore the results should serve as guidelines rather than absolute criteria. From a practical perspective, however, the results are meaningful in assisting and directing the focus of BRPs.

Perceptions of the double to whom the instructions were given could have influenced the subjects when writing the instructions, since giving instruction to a competent double may be different from instructing an incompetent double, similar to the underlying principles of situational leadership (Rue & Byars 2004: 262). This might have affected the detail and specificity levels of the instructions collected during the research.

Future research should seek validation, searching for the specific detailed techniques applied by BRPs to achieve the tasks and support young practitioners. The practices and praxis also require further investigation. This further research may contribute towards an extensive education framework for BRPs and give direction to the competencies required for a qualifications framework.

As the 'ultimate' business rescue activity of the BRP, preparing the rescue plan should become a research focus. Everything a BRP does eventually leads to the compilation of the plan.

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