Association of Business Recovery Professionals

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Alec Pybus,
[redacted]

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Dear Mr Pybus,

CVL Research Report for The Insolvency Service ('Report')
- R3 response

I am writing to you in response to the Report published by The Insolvency Service ('INSS') about the efficiency and effectiveness of the Creditor Voluntary Liquidation ('CVL') process, including an assessment of pre-appointment expenses and fees.

Whilst R3 welcomes the INSS's continued commitment to transparency and the improvement of outcomes within the corporate insolvency framework, the intentions of the Report and its conclusions are unclear, particularly as this Report states that it *"will partially fulfil"* the INSS's commitment to undertake a review of the CVL process. We would welcome clarity on the INSS's next steps to fulfil its commitment in full.

The insights provided by R3's membership present a different perspective—one that underscores the crucial role played by insolvency practitioners ('IPs'), in their capacity as Liquidators, in delivering returns to creditors and maintaining confidence in the CVL process. We are therefore concerned that some of the report's conclusions risk undermining the key role the CVL process plays in dealing effectively with insolvent companies. Also, some of the findings could be misleading to those who do not understand the CVL process.

In our view, the Report undermines the CVL process as an effective tool to wind up insolvent companies in an orderly way with a Liquidator being statutorily obliged to undertake investigations against those previously in control. There is a clear need for a more balanced interpretation and for careful consideration of policy reforms that support both the effectiveness and sustainability of the CVL process.

The contribution of IPs in recoveries for the body of creditors

The report highlights that 86% of the randomly sampled CVL cases resulted in no distribution to creditors, which could be misinterpreted as indicating that IPs routinely fail to return value. This conclusion ignores the structural financial condition of companies entering the CVL process: the majority have minimal to no assets and are insolvent by definition. In many cases, even the basic statutory costs and third-party expenses exceed available assets, meaning that any return at all—however small—represents the recovery of value that would have otherwise been lost entirely.

Moreover, the report itself acknowledges that in cases where distributions were made, they could be significant. These outcomes are not accidental—they result from the careful, skilled actions of IPs in investigating, realising, and recovering assets. This includes complex litigation, pursuing claims under the Insolvency Act 1986, and negotiating commercial settlements, all of which are resource-intensive and often conducted in a difficult environment.

Below are examples from multiple R3 members, in their capacity as Liquidator, who have successfully recovered significant returns for unsecured creditors. The purpose of presenting this data is to demonstrate, with real-world examples, the tangible outcomes that can be achieved through the CVL process when overseen by experienced and diligent Liquidators.

	Amount owed	**Amount distributed**	**Return rate (%)**
Example A	£53,068	£31,965	60%
Example B	£14,969	£14,969	100%
Example C	£914,589	£140,569	15%
Example D	£27,387	£27,387	100%
Example E	£569,679	£569,679	100%
Example F	£105,096	£105,096	100%
Example G	£15,833,658	£5,383,444	34%

Against a backdrop where 86% of the randomly sampled CVLs produce no distribution to creditors, this sample clearly illustrates that well-resourced IPs can and regularly do generate significant recoveries. Overall, these figures provide clear, empirical support for the proposition that competent IPs deliver substantial value to creditors, far exceeding typical industry outcomes.

Remuneration

Consistent with the experience of our many of our members, the data within the Report reveals that a substantial proportion of IPs recover none of their post-appointment fees despite fulfilling statutory duties, while median fees are disproportionately low given the complexity and risk involved. The data indicates that in one-third of cases, IPs recovered none of their post-appointment fees, despite carrying out the statutory responsibilities of an office holder and being "*entitled to receive remuneration for services as office-holder*". The median total fees recovered—£12,937—are modest when compared to the complexity, risk, and duration involved in most CVLs, particularly where director behaviour must be scrutinised or potential claims investigated.

The Report fails to mention that IPs frequently encounter situations where creditors, especially in smaller cases with insignificant funds available to them, are unwilling to actively vote on remuneration or fee requests. This lack of engagement often forces IPs to seek court approval for their fees, incurring additional time and costs that further deplete limited funds, a process that is both inefficient and burdensome. Indeed, when analysing the average length of time a CVL case is open, the INSS Report acknowledges that legal proceedings delay the process. The current system, which often necessitates costly court applications for fee approval due to creditor disengagement, is inefficient and counterproductive.

To address the issues being encountered by IPs, members of R3's General Technical Committee have reviewed existing legislation with a view to proposing a solution to the Service. A central element of the proposed reform is the introduction of a modest statutory fee for a CVL, where otherwise a court application would be necessary.

Comparison to other processes

The CVL process plays a vital role in ensuring insolvent companies are dealt with appropriately. It provides transparency through statutory reporting requirements and ensures creditors are informed and given the opportunity to engage. However, there is growing concern amongst R3 members that there is an increasing reliance on informal or inappropriate means of closure, such as dissolution which can lead to assets being overlooked, meaning creditors lose out on potential returns.

A robust insolvency process such as a CVL upholds trust in the corporate system and discourages the improper use of limited liability. Dissolution is often misused to close down insolvent businesses, despite being intended only for solvent companies with no outstanding debts or liabilities. When used incorrectly, it fails to address creditor interests, leaving debts unpaid and allowing directors to walk away without accountability. This undermines trust in the insolvency framework and disadvantages creditors. Dissolution also avoids the consequences of s.216 of the Insolvency Act 1986 (re-use of company names), another protection for creditors that is only available after liquidation.

In a CVL, the appointed liquidator must conduct a formal review of the directors' conduct and report to the INSS. This deters misconduct and enables action against wrongful trading or abuse. The dissolution process does not require such scrutiny, making it vulnerable to misuse by directors seeking to avoid accountability. It provides no formal mechanism for repaying creditors or investigating company conduct, often resulting in loose ends and unresolved obligations. Creditors must then spend time and money restoring companies to the register simply to enforce their rights — a process that adds unnecessary strain to the system.

Furthermore, CVLs typically results in a more cost-effective process compared to, for example, a compulsory liquidation where the Official Receiver (OR) is initially appointed by the court. Involvement of the OR brings fixed statutory fees that can be significant, even in cases with few or no assets which reduces overall recoveries to creditors. In contrast, access to IPs encourages directors to seek advice at an earlier stage. IP-led CVLs tend to proceed more efficiently and proactively, with earlier engagement between the company, creditors, and the liquidator. This enables faster realisation of assets and earlier distributions.

Conclusion

In conclusion, while we appreciate the INSS's commitment to improving the corporate insolvency framework, the Report on the efficiency and effectiveness of the CVL process presents an unbalanced perspective that risks undermining its crucial role. The Report's focus on the high percentage of historic CVL cases with no distributions to creditors overlooks the inherent financial condition of companies entering liquidation, where minimal assets often preclude significant returns. Conversely, the examples provided by R3 members unequivocally demonstrate that skilled IPs, through diligent investigation and asset recovery, consistently deliver substantial value to creditors, often exceeding typical outcomes.

IPs play an essential role in preserving economic confidence, enforcing director accountability, and securing returns for creditors in difficult and often commercially unrecoverable circumstances. Their contribution cannot be fully measured by headline distribution rates alone.

We urge the Insolvency Service to recognise the wider public value delivered by IPs and the CVL process compared to a Compulsory Winding Up and/or Dissolution.

Furthermore, we welcome clarity on the INSS next steps on how it intends to fulfil its commitment to review the CVL process, including but not limited to pre-appointment expenses, in full.

We would welcome the opportunity to discuss these points further.

Yours sincerely,

Caroline Sumner
R3 CEO