R3 Rescue Recovery Renewal

Recovery

R3, the Association of Business Recovery Professionals / Summer 2026

UNFINISHED BUSINESS

Turning around distressed building projects

UK FRAUD STRATEGY
What IPs should know

FIGHT AGAINST ABUSIVE PHOENIXISM
Joint approach to contrived insolvencies

PLACE IN THE SUN
Ways to recover assets in Spain

Building for the future

The business operating environment is likely to remain highly uncertain and volatile for the foreseeable future. Plus, the UK's GDP growth in 2026 will almost certainly be modest, impacting consumer confidence, profit margins and the solvency of companies. The skills and expertise of the restructuring, turnaround and insolvency profession will inevitably be sought after in these challenging times as directors seek advice and support.

Construction typically serves as a bellwether of the UK economy. Yet, unsurprisingly, given the broader geopolitical and macroeconomic backdrop, statistics reveal a sector that is struggling. The *R3 Quarterly Business Health Report – Q1 2026* found that construction is the most distressed sector in the UK, recording 1,159 insolvency activities for the first quarter of the year.

In recognition of the sector's importance, our Spotlight section in this issue focuses on construction and examines some of the key topics that insolvency practitioners (IPs) need to consider. These include the impact of the Building Safety Act 2022 on the corporate veil (see page 35), considerations arising from the Third Parties (Rights against Insurers) Act 2010 (see page 37) and the challenges associated with retention funds (see page 41).

We also look at a real-life turnaround: the restructuring of a luxury airspace development in Cheltenham. The project provides lots of practical 'lessons learned' for IPs who work with construction businesses. Find out more on page 38.

Neil Smyth is a partner at Mills & Reeve and is the editor of *Recovery*

"The *R3 Quarterly Business Health Report* found that construction is the most distressed sector in the UK"

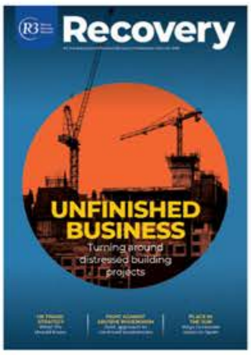
Tell us what you think
Want to share your thoughts on *Recovery* or write an article for a future issue?
Email: editor@r3.org.uk

Alongside construction, we explore many other interesting and timely topics in this issue of *Recovery*. On page 18, we share insights from the administrators of Lehman Brothers International (Europe), detailing the transition of the administration into a members' voluntary liquidation. We also offer analysis of the UK's new Fraud Strategy (see page 24), while the implications of the landmark *THG v Zedra* judgment on limitation periods for Insolvency Act claims are assessed on page 44.

Those of you who are studying for Insolvency Practitioners Association exams will probably want to hear from chief examiner Antoinette Thorpe. She shares her top tips for success on page 63.

Finally, I am delighted to welcome Sonia Jordan as R3's new incoming president. Sonia will collaborate with R3's CEO, senior management team and Council to shape and deliver R3's strategy, while also supporting day-to-day operations. You can find out more about her background and priorities by reading her column on page 10 and the profile interview with her on page 16.

Now that summer has arrived, the sun will hopefully be shining while you read this issue of *Recovery*. Enjoy whatever you have planned over the next few months.



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From patchwork to purpose

Reforming the Personal Insolvency Framework can no longer be deferred. Céara Roopchand explains why

For many in the profession, personal insolvency reform has been 'on the horizon' for well over a decade. Ever since the Insolvency Act 1986 was introduced, the framework in England and Wales has been shaped by successive, targeted interventions, but rarely considered in the round. The result is a regime that many insolvency practitioners (IPs) recognise as fragmented, inconsistent and misaligned with modern debt realities.

That concern was crystallised in the Insolvency Service's 2022 call for evidence on the review of the Personal Insolvency Framework, and in R3's response, which drew on extensive practitioner evidence from across the profession. The many bodies that responded to the call for evidence agreed on some key areas of concern, including:

- The existence of barriers to entry to insolvency processes, including cost;
- Gaps in the provision of options;
- Lack of transparency and understanding of the various options, for both debtors and creditors;
- Inconsistent income and expenditure calculations leading to inconsistent advice and outcomes for debtors; and
- Inability to change solutions where personal circumstances change.

The R3 *Personal Insolvency Framework* white paper builds directly on that work, reflecting a growing consensus: incremental adjustment is no longer sufficient. A more fundamental review is required, rooted in clarity of purpose and a realistic understanding of the role practitioners play in delivering both debtor rehabilitation and system integrity.

Shaped by drift, not design

In our 2022 call for evidence response, R3 highlighted that the framework lacked a clear, articulated policy purpose. Rather than a coherent system, it had become a collection of discrete solutions – bankruptcy, individual voluntary arrangements, debt relief orders and breathing space – each amended or expanded over time without sufficient consideration of how they interact in practice. R3 urges the Insolvency Service to include all formal and informal personal insolvency options in its current review, including debt

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management plans and an assessment of the effectiveness of breathing space.

For those in financial distress, this has produced several practical tensions:

1. Entry points into the system are fragmented. Individuals in financial distress may encounter inconsistent triage, variable advice quality and non-standardised income and expenditure assessments before reaching a formal solution. This situation embeds issues that may later compromise outcomes.

2. The mechanics of different solutions reflect inconsistent policy intent, making it difficult for individuals and creditors to understand each process and the outcomes. Discharge periods, investigative expectations, fee structures and misconduct consequences vary significantly across insolvency routes. Practitioners have long questioned why similar behaviour can lead to starkly different outcomes depending on which solution an individual enters, particularly where choice of route is influenced less by debtor circumstances than by access barriers or cost.

> **R3 urges the Insolvency Service to include all formal and informal personal insolvency options in its current review**

3. The system has not kept pace with the changing nature of personal debt. Formal solutions, originally designed for a relatively small cohort, are now used by tens of thousands of individuals each year, with most instances involving simple, consumer-credit-driven indebtedness rather than business failure or complex asset or debt positions. As R3 noted in both its 2022 call for evidence response and its 2026 white paper, the framework no longer reliably distinguishes between those who cannot pay and those who should pay but may need time, structure or support to do so.

Finally, practitioners are operating within a regime that places growing delivery and risk burdens on IPs, while upstream issues – such as poor advice, misaligned incentives and weak data – remain largely outside their control. This has consequences for professional risk, regulatory engagement and, ultimately, confidence in the system.

R3's case for reform

The R3 *Personal Insolvency Framework* white paper does not argue for reform for reform's sake. Instead, it starts from the premise that the system must be anchored to clear, balanced objectives, against which success can be measured.

At its core, R3 argues the framework should seek to:

- Prevent individuals entering formal insolvency where sustainable alternatives exist;
- Encourage early interaction with professionals, particularly where trading or employees are involved, to increase opportunities for business rescue;
- Support genuine rehabilitation for those in financial distress;
- Safeguard creditor confidence by ensuring debts are repaid where feasible; and
- Deter and address misuse consistently across all routes.

From these objectives flow several key calls that will be familiar to IPs.

Fixing the front door – and allowing IPs to engage earlier

R3 argues that access to free, reliable and consistent debt advice based on a standardised calculation for income and expenditure is essential to improving case quality. The Financial Conduct Authority should expand the debt advice exemption so that licensed IPs are able to provide debt advice even where they do not contemplate an appointment in a subsequent procedure. This would broaden the range of providers of debt advice, increasing access, particularly where individuals are trading, have employees or have complex circumstances.

Establishing a common financial baseline

R3 calls for a standardised income and expenditure assessment to underpin all routing and decision-making, regardless of the option chosen by the individual. For practitioners, this is about restoring a shared evidential baseline – supporting fairness, comparability and confidence across the system.

Allowing movement between solutions without failure

In practice, circumstances change – but the framework does not allow for a debtor to flex their solution when circumstances change, often leading to failures of individual voluntary arrangements and gaps in provision. R3 proposes a statutory transfer mechanism between solutions, enabling IP-led transitions without unnecessary termination, delay or loss of protections. This would allow practitioners to respond ▶

proportionately as cases evolve, improving outcomes for debtors and creditors alike.

Preserving IP-led scrutiny where it matters most

A significant number of individuals in financial distress have no assets or income. R3 is calling for a simple, effective, low-cost and timely process for those individuals providing debt relief and a fresh start with minimal regulatory and legislative burdens.

A simple, easy-to-access, low-cost process for enabling those debtors that can make repayments for the full or partial settlement of their debts is also required, enabling creditors to receive funds and to maintain confidence in the lending landscape.

A core strength of the current regime, however, is the comprehensive suite of investigative and recovery powers granted to IPs to tackle fraud and concealment of assets. We call for the retention of IPs in cases where their expertise and powers are required. The early identification of such cases and the swift involvement of an IP are crucial to the outcomes of such cases.

Retention of IPs would also enable those individuals with complex financial situations – for example, self-employed people, those who run businesses with employees and those with personal guarantee debts or assets held abroad – to directly access IPs for advice and support. It would provide an opportunity to rescue small businesses, retain employees and realise assets under complex circumstances.

The role of practitioners: guardians of system integrity

Reform debates can sometimes understate a simple truth: IPs are not just service providers within the framework; they are central to its credibility.

Practitioners are tasked with balancing debtor rehabilitation, creditor returns, misconduct investigation and regulatory compliance – often within processes that were not designed with today's debt landscape in mind. The white paper explicitly recognises this, arguing that reform must better align policy design with operational reality.

A reformed framework would not diminish the role of IPs; it would arguably strengthen it. Clearer objectives, better entry-point assessment and more coherent solution design would allow practitioners to focus on what they do best: applying professional judgement, managing risk, addressing wrongdoing and supporting sustainable outcomes.

> **R3 is calling for a simple, effective, low-cost and timely process for those individuals providing debt relief**

Looking ahead

For practitioners, the case for reform is unlikely to feel abstract. It reflects daily operational challenges that have built up over years of piecemeal change. R3's message is that the opportunity now exists to move from adaptation to intentional redesign – creating a framework that is fairer, clearer and more sustainable for debtors, creditors and the professionals who operate it. The profession's voice, experience and evidence must remain central to that conversation.

With the Insolvency Service expected to consult on reform proposals this autumn, there is now a timely opportunity to translate that evidence into practical change – and to ensure the profession's expertise helps shape the next phase of policy development.

Céara Roopchand is policy and public affairs manager at R3

R3 unveils new logo

R3 unveiled a new logo in May. Speaking at the Annual Conference, Caroline Sumner, R3 CEO, described the logo as "a cleaner, stronger presentation of R3". She added: "It is designed to represent the value our members bring by delivering rescue, recovery and renewal to individuals and businesses facing financial distress."

R3 members can download the logo for use in their professional communications such as headed notepaper, emails and websites. Using the logo helps to reinforce the profession's credibility and the strength of the association with members.

The logo and guidelines on its usage can be accessed at r3.org.uk/join-r3/logo-download

Association of Business Recovery Professionals
R3
Rescue
Recovery
Renewal

Charlotte Boatman, winner of the R3 Young Professionals Award 2025, received her award from then-president Tom Russell

The R3 Awards: Recognising excellence across the profession

Nominations for the R3 Awards are now open. If you know a member or team who deserves to be recognised, or if you would like to put yourself forward, you can submit your nomination today through our website.

The R3 Awards acknowledge the members, teams and work that continue to shape and strengthen the restructuring, turnaround and insolvency profession. The winner for each category is selected entirely from your nominations. This is a chance to ensure that the achievements of R3 members receive the visibility they deserve. The awarding categories are:

- **The R3 President's Award** honours members who have made significant contributions to advancing R3 and/or the restructuring, turnaround and insolvency profession through setting new standards of excellence.
- **The R3 Young Professionals Award** recognises future leaders under the age of 40 who are actively demonstrating high levels of commitment to the profession and their ongoing development.
- **The Special Situations M&A Faculty Deal of the Year** recognises a significant deal and its contributors in the mergers and acquisitions space, and is a new award this year.

Submit your nominations via r3.org.uk before the closing date of 16 August.

Fit for the next 40 years

We must build a profession whose members reflect the communities we serve, argues **Sonia Jordan**

Since its introduction 40 years ago, the Insolvency Act 1986 has fundamentally reshaped restructuring, turnaround and insolvency practice in the UK. The Act was also a major theme of our Annual Conference in May.

When I joined the profession, this significant piece of legislation was only 10 years old and I never thought that three decades on, I'd have the honour of taking on the role of R3 president. I am immensely proud to step into the role at this pivotal moment and to champion both how far our profession has come, and the work needed to ensure it is fit for the future.

Before looking ahead, I want to thank my predecessor, Tom Russell, for his leadership over the past year and for the strong foundations he has put in place. He has supported several important initiatives aimed at encouraging the next generation of professionals, including the introduction of the R3 mentoring and bursary schemes.

Tom has also driven R3's journey to develop a new website and use technology to improve services for members. The results of that project will be delivered during my year.

Championing what we do

Over four decades, our profession has continually adapted to economic challenges, evolving business models, technological change and rising public and regulatory expectations. Today, our members play a crucial role in supporting businesses and individuals through financial difficulty, preserving enterprise value, protecting jobs and maintaining confidence in the wider economy. Yet I know from talking to many of you during my year as vice president that, too often, this contribution is misunderstood or goes unseen.

> **The Insolvency Act was born in a very different world, but its legacy is a profession defined by resilience, adaptability and expertise**

That brings me to my aims as president. Working with the R3 team and our members, I shall be taking every opportunity to champion the role, value and impact of the profession while improving understanding of our vital work among policymakers, the media, financiers and the wider public.

Political engagement

This links closely to my second aim of supporting R3's ongoing engagement with government, regulators and the Insolvency Service to ensure that we have a proportionate regulatory and insolvency framework that reflects new ways of working and the responsible, ethical use of technology, including artificial intelligence. The breadth of R3 membership gives us a genuinely rounded view, meaning regulators and policymakers listen to us when we explain how insolvency rules could be made less bureaucratic and more fit for purpose, especially in this challenging economic climate.

A profession fit for the future

Equally important is my third and final aim: to make the profession fit for the future by ensuring we build a diverse, engaged and forward-looking sector. By establishing the R3 Equity, Diversity and Inclusion Committee, and working with others to address both perceived and actual barriers to progression, we can develop a profession whose members better reflect the communities we serve.

As well as attracting new talent, it's important we continue to support existing members at every stage of their careers through mentoring, training and professional development.

The Insolvency Act was born in a very different world, but its legacy is a profession defined by resilience, adaptability and expertise. By working with my fellow Council members, our national and regional committees and the R3 team, we can make our profession fit for the next 40 years and beyond.

● *For an in-depth interview with Sonia, see page 16*

Sonia Jordan is president of R3 and a partner at Knights

Sector in distress

Construction is navigating a volatile operating environment and will remain under pressure in the near term, says **Simon Howell**

Construction is a bellwether for the UK economy, being a major driver of economic growth but also vulnerable to variations in confidence and sentiment, at both a business and a personal level. If people and businesses are confident, they invest, they build. Government can try to make up for any shortfalls in investment with capital projects, but that will only fill part of the gap. As a sector, construction is particularly vulnerable during periods of geopolitical and economic turmoil, such as the Iran war.

Where do construction businesses find themselves today? Ongoing volatility poses substantial and immediate risk, with increased energy prices being a major issue. The impact of higher energy prices on vulnerable businesses will be fatal for a considerable number, in my view.

Construction suppliers have reacted to the impacts of rising energy costs with surcharges and price increases. Meanwhile, contractors are paying greater attention to cash management. This is unsurprising, since cash flow is a critical concern in the construction industry and the cause of pretty much every business failure.

Vulnerability to shocks

Can we quantify the risk that construction businesses face today? There are approximately 564,000 construction businesses in the UK, according to financial risk solutions provider Company Watch. The data from Company Watch also highlights that construction has the highest rate of winding-up petitions of any sector, with 1.17% of companies in the sector having a petition against them.

> **“At least a quarter of all construction businesses are vulnerable to shocks, whether those are poor contracts, bad debts, funding problems or input costs**

Furthermore, 26.2% of construction businesses are flagged in the Company Watch H-Score® Warning Area, the category for companies whose financial health has deteriorated to the point where they are defined as the highest level of risk. That indicates approximately 147,968 construction businesses are carrying material financial distress signals. It also means that at least a quarter of all construction businesses are vulnerable to shocks, whether those are poor contracts, bad debts, funding problems or input costs.

That vulnerability to shocks is our major concern as a supplier to construction businesses, and it's where we spend much of our time when assessing risk. We have noted a rise in fixed-price contracts again as main contractors and clients push risk down the supply chain. This strategy has proved disastrous in past economic downturns, causing many struggling construction businesses to fail.

Is there any good news? Well, so far, our experience is that the actual numbers of failures have not been higher in 2026. Also, construction businesses have seen similar problems – with different causes – in recent history, so they may be better prepared this time. Nevertheless, the outlook remains one of very high levels of pressure.

The overall vulnerability of the construction sector has implications for the restructuring, turnaround and insolvency profession. In particular, it underlines that businesses in trouble need to seek help at an early stage, before the situation turns critical. Bringing in insolvency practitioners at a later date will mean little or no return to creditors. That message of engagement needs to be delivered to suppliers who see the problems first. I am certainly pushing that approach.

Simon Howell is senior manager, credit management, at Tarmac

For more on construction, see Spotlight starting on page 35

Beyond the balance sheet

In future, insolvency cases will more frequently present as multifactor distress events, says **Zoë Parkes**

The risk environment facing UK businesses is shifting in ways that will materially affect insolvency work. This is the clear picture painted by the *UK Business Risk Report 2026* from Marsh's Corporate & Commercial team, which is based on a survey of more than 2,000 business leaders.*

For insolvency practitioners (IPs), the shifting risk environment is no academic consideration – it changes what is investigated at intake, how rescue levers are prioritised and which expertise is brought into proceedings.

Foremost among the shifts is cyber. For the first time in the history of this survey, cyber has topped business leaders' list of concerns. Ransomware, supplier compromise and the knock-on operational disruption that follows are increasingly significant causes of failure. An otherwise viable business can be driven into acute cash flow stress by a single major cyber incident. Alternatively, a breach can expose latent weaknesses in working capital and contract positions.

IPs should expect a rise in mandates where cyber is the trigger – and in many more where cyber interruption reveals previously hidden fragilities.

> **For the first time in the history of this survey, cyber has topped business leaders' list of concerns**

Multifactor distress events

Closely linked to cyber is the interconnected nature of modern risk. The report underlines how compliance breaches, people attrition, supply chain failure and regulatory change do not operate in isolation. They cascade.

That means insolvency cases will more frequently present as multifactor distress events, requiring an integrated diagnostic approach. IPs must combine forensic finance with operational reviews, legal risk assessment and cyber triage to form realistic rescue or realisation strategies.

People risk remains a practical, often underestimated, driver of corporate distress. SMEs, in particular, can depend on a small leadership team. As a result, the sudden departure, incapacity or regulatory sanction of a key individual can rapidly tip a business into crisis. That reality requires IPs to move quickly: stabilise customer and supplier relationships, reassure creditors and, where possible, preserve or replace critical capability to sustain value.

Economic pressures – including inflation, rising borrowing costs and constrained access to capital – continue to squeeze liquidity. Meanwhile, companies are investing in resilience, but those unable to fund that transition are more exposed. Expect insolvency caseloads where capital structure and short-term liquidity are the central battlegrounds, not just operational inefficiency.

What does this mean in practice? First, early diagnostic work should routinely include cyber forensics, supply chain mapping and a people risk review alongside cash flow forecasting. Second, revisit valuation assumptions: cyber or regulatory exposures can materially affect asset recoverability and the market for business sales. Third, engage stakeholders early – insurers, major suppliers and anchor customers frequently hold levers that enable rescue or materially improve recoveries.

**Note: While the survey data was gathered in January 2026, prior to the conflict in Iran, the key trends outlined in the report – particularly the rise of cyber as a central insolvency trigger and the prevalence of multifactor distress – are likely to persist.*

Critical questions IPs should ask about cyber insurance

- Does the cyber policy cover business interruption and contingent business interruption arising from third-party supplier compromise, and what are the indemnity triggers and sublimits?
- Is there clarity on contingent business interruption triggers where a third party's failure interrupts your client's business?
- Does the policy cover key person loss and reputational or employment-related liabilities?
- Does the insurance respond to regulatory investigations, fines or mandated remediation costs?

Zoë Parkes ACII CMgr MCMI is head of restructuring and recovery at Marsh

Community champion

R3's new president, **Sonia Jordan**, wants to highlight the value of restructuring, turnaround and insolvency, and speak up for the profession she loves. She explains why to **Susan Field**

For Sonia Jordan, 2026 is a landmark year. As she celebrates 30 years in insolvency practice, she is also taking on the role of R3 president – an opportunity she sees as a chance to give back to the profession that has shaped her career.

"If you love what you do, it's natural to want to serve that community," she explains. "This profession has given me a huge amount and the work we do genuinely matters for individuals, businesses and the wider economy. I'm committed to championing our contribution and building on the work of former president Tom Russell to ensure R3 remains a supportive and forward-thinking home for all members, whatever their background and experience."

Part of a team

Sonia was first drawn to insolvency as a trainee solicitor after completing her law degree. Originally expecting to specialise in dispute resolution, she found herself working closely with insolvency partners during one of her six-month rotations and was quickly hooked.

"I went into my training contract thinking I knew exactly what I wanted to do, but insolvency was the area that really spoke to me," she says. "It turned out to be absolutely the right choice."

From the outset, insolvency practice felt collaborative. Entering the profession in the late 1990s, Sonia found herself working alongside experienced practitioners who were willing to share their knowledge. "It was still very male-dominated, but people were generous with their time," she reflects. "Being thrown into client-facing situations early on helped build my confidence very quickly."

Sonia Jordan is determined to challenge misconceptions

One of the most demanding periods of her career came when she was leading a department on a series of high-profile national cases, dealing directly with counterparts from Magic Circle law firms. At the same time, she was newly married and had a baby at home.

"There was one particular deal when I left home on Tuesday and could not return until Friday evening," she recalls. "I had a lot resting on me, but I did a good job, and for that reason it's actually a career highlight."

To create a better work-life balance while her daughter was young, Sonia spent several years working as a

> **Committee members give an extraordinary amount of time and expertise to R3, and that commitment is what makes the organisation so strong**

consultant before becoming a partner in a firm before the pandemic. That flexibility, she says, has been crucial to sustaining a career in a demanding profession.

A seat at the table

Today, Sonia's practice combines advisory and transactional work alongside contentious insolvency cases. She feels a breadth of experience is a real asset. "Insolvency is a broad church," she says. "Early in my career, I was fortunate to gain exposure to all aspects of the profession, which now gives me a 360-degree view. When I'm advising in pre-insolvency scenarios, it helps that I've litigated cases where steps have been missed, or factors overlooked and I can provide practical, tested solutions."

What Sonia enjoys most is the collaborative nature of the work. "I love having a seat at the table where decisions are made that can have a seismic impact," she says. "It is a real team effort as you're working with insolvency practitioners, valuers and financiers and directors, ideally to re-energise a business, save jobs and protect the trading community."

Journey with R3

That sense of professional solidarity is what drew Sonia to R3. She joined in the late 1990s for the networking opportunities, but found much more.

"It's a welcoming organisation,' she says. "One of the things I've enjoyed the most about my R3 journey is the good friends I've made alongside the ability to call on people with different skills when you need support."

It was a former president, Christina Fitzgerald, who inspired Sonia to take a more active role. When a position became available on the R3 Council in 2022, Sonia put herself forward.

Becoming deputy vice president the following year gave her exposure to the full breadth of the organisation and a new appreciation for the work behind the scenes.

"I was blown away by the dedication and professionalism of everyone involved," she explains. "Committee members give an extraordinary amount of time and expertise to R3, and that commitment is what makes the organisation so strong."

Her first act as president was overseeing the R3 Annual Conference in Budapest in May – an experience she describes as energising and affirming.

"The conference came at a fascinating moment, shortly after Hungary's general election and 40 years on from the Insolvency Act," she says. "It felt like a celebration of the profession, with a forward-looking programme exploring technology, regulation and new ways of working. I hope members left feeling proud of what we do."

Challenging perceptions

One of Sonia's most important priorities as president is to challenge perceptions about the profession.

"When I talk to directors and financiers, I emphasise that our focus is on preserving as much enterprise value as possible, because that's best for employees, creditors and the wider business community. We care about the people involved and we'll go the extra mile to ensure stakeholders are treated fairly."

Sonia is also determined to ensure policymakers understand the profession's role and value.

"What we do affects everybody," she says. "We help keep the economy healthy either by saving viable businesses or enabling people to make a fresh start where the business can't be saved. And we're there to ensure ethical practice by business owners, which underpins the whole system."

Sonia believes R3 has a unique and essential voice. "We bring that 360-degree view when we're talking to government. That's why they need to listen to us when we explain how insolvency processes could be made less bureaucratic and more fit for purpose, especially in this challenging economic climate. Our CEO, Caroline Sumner, plays a central role in that work and it will continue after my term is over."

Respecting difference

Thirty years after joining a sector that felt relatively homogeneous, Sonia is proud to lead R3 at a time of change.

"The business world today is multicultural and multigenerational, and the profession needs to reflect that. When organisations get into difficulties, it's often because of a failure to adapt, and lack of diversity can play a part in that.

"We can't stand still if we want to ensure our longevity. Diversity and inclusion isn't a box-ticking exercise; it is about long-term sustainability. I'm keen to build on the progress made so far by breaking down real and perceived barriers to the profession and promoting insolvency as a rewarding career to new audiences." Part of this includes the establishment of an Equity, Diversity and Inclusion Committee at R3 to support that work.

Together we're stronger

Sonia's message to members is simple: get involved. "R3 is a welcoming community where you can network, learn, mentor and be mentored. We are stronger as an organisation and as a profession when we work together."

Susan Field is a freelance business writer

Defining moment

The transition of Lehman Brothers International (Europe) into members' voluntary liquidation ended a landmark administration, say **Alison Grant**, **Ed Macnamara** and **Steven Sherry**

October 2025 marked a significant milestone in the winding down of Lehman Brothers' UK operations. The High Court approved the conclusion of the 17-year administration of Lehman Brothers International (Europe) (LBIE) and sanctioned its transition into members' voluntary liquidation (MVL).

Once the world's fourth largest investment bank, Lehman Brothers' collapse in 2008 triggered one of the most complex cross-border insolvencies ever undertaken. The orderly conclusion of LBIE's administration represents not only the end of a prolonged and technically demanding process, but also a defining chapter in UK insolvency and restructuring practice.

Legal and technical complexity

The LBIE administration was characterised by its unprecedented scale and international reach, as well as the legal scrutiny involved. Over its lifespan, the courts considered numerous issues of fundamental importance, including litigation in the High Court, more than 10 cases that proceeded to the Court of Appeal, and six that went on to the Supreme Court.

These judgments established important precedents across areas such as:

- Cross-border claims and trust property;
- The priority of subordinated debt;
- The definition and treatment of client money;
- The close-out and valuation of derivatives; and
- The payment of statutory interest in solvent administrations.

The Lehman litigation has had a lasting impact on insolvency jurisprudence and materially influenced reforms to the UK's legislative and regulatory framework for dealing with failing financial institutions. These reforms include strengthened resolution and intervention powers, recovery and resolution planning ('living wills'), the introduction of a specialist investment bank insolvency regime and enhanced client asset protections.

Outcomes at scale

Over the course of the administration, significant distributions were made:

- £17.7bn to unsecured creditors, including full statutory interest, exceeding 100p in the pound;
- £2.2bn to subordinated debt holders, covering principal and statutory interest;
- £552m distributed as equity to the shareholder; and
- Approximately £23bn in custodied securities, investments and associated cash returned to clients.

These outcomes reflect not only the scale of the estate, but also the extensive claims adjudication, litigation management and asset realisation undertaken over nearly two decades.

More than 2,000 PwC partners and staff across 17 business areas contributed to the administration, with over 500 mobilised in the first week following the collapse.

In approving the application to end the administration and transition to MVL, Mr Justice

Hildyard referred to the administration's "remarkable success" and described its closure as a "seminal moment".

Establishing solvency and enabling shareholder distributions

A key turning point occurred in 2020 when the administrators demonstrated that LBIE was solvent following payment of all admitted creditor claims and full statutory interest, with appropriate reserves held for unresolved matters.

The Rt Hon Sir Geoffrey Vos (then Chancellor of the High Court) granted the administrators the ability, upon a request from LBIE's directors, to distribute surplus funds to its sole shareholder, LB Holdings Intermediate 2 Limited (in administration). The court recognised that the scheme of arrangement, previously approved to facilitate payment of statutory interest, had resolved any uncertainty as to solvency and had anticipated a surplus being available to the shareholder.

At that stage, the objective of the administration shifted to rescuing LBIE as a going concern, reflecting its restored solvency. Around £552m was then distributed to the shareholder.

Ending the administration

By mid-2025, the remaining matters were limited in scope. Most long-tail issues had been resolved and a small number of residual matters remained. The administrators concluded that the statutory purpose of the administration had been achieved.

On 8 October 2025, they applied to the High Court for an order that would bring the administration to an end. The question then arose: what was the appropriate mechanism for concluding the process?

Three potential routes were considered:

1. A creditors' voluntary liquidation – this was inappropriate given that no creditors remained.

2. Dissolution – this was deemed undesirable, since it would prematurely extinguish residual matters.

3. A members' voluntary liquidation (MVL) – a solvent liquidation process not expressly provided for within the statutory exit routes under Schedule B1 to the Insolvency Act 1986.

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> **Remaining in administration would have imposed additional cost and complexity disproportionate to the remaining tasks**

The central legal issue was whether the statutory framework of Schedule B1 implicitly excluded transition into MVL, given that it specifies particular exit routes.

The administrators submitted that no such restrictive interpretation should apply. As a matter of substance, LBIE could exit administration, revert to its directors and then enter MVL by shareholder resolution. The proposed approach provided a more transparent and efficient route to achieve the same result.

Why MVL rather than remaining in administration?

A key consideration for the court was proportionality and cost.

Continuing the administration until every residual matter was fully resolved would have required maintaining the full administrative framework including statutory reporting obligations, ongoing court oversight and the infrastructure associated with an insolvency process designed primarily for creditor protection.

By contrast, LBIE was solvent. Creditors had been paid in full, with statutory interest, and the remaining economic interest lay with the shareholder.

The administrators demonstrated that:

- The estimated costs of entering MVL would be materially lower than continuing the administration.
- MVL would provide a simpler and more streamlined governance framework, proportionate to the limited residual work outstanding.
- It would be less procedurally unwieldy, avoiding the need to preserve the more intensive supervisory structure appropriate to an insolvent estate.
- There would be no prejudice to stakeholders, given that creditor interests had been fully satisfied.

Remaining in administration would therefore have imposed additional cost and complexity disproportionate to the remaining tasks. Transitioning to MVL aligned the procedural framework with LBIE's solvency and allowed outstanding matters to be concluded in a more efficient and cost-effective manner.

Mr Justice Hildyard was satisfied that MVL was both legally available and the most appropriate course in the circumstances, particularly given that it would reduce overall expenditure compared with continuing the administration.

Alison Grant and Steven Sherry of PwC were appointed as solvent liquidators later that day.

A lasting legacy

The conclusion of the LBIE administration marks the end of one of the most significant insolvency processes in UK history. Beyond the scale of recoveries, its true legacy lies in the legal precedents it established and the regulatory reforms it helped shape.

It also provides an important practical lesson: where solvency has been restored and creditor interests have been fully satisfied, the procedural framework should reflect that economic reality. The court's endorsement of a transition from administration to MVL demonstrates a pragmatic and proportionate approach, one that prioritises efficiency, transparency and cost-effectiveness while remaining consistent with the statutory framework.

Nearly two decades after the global financial crisis struck, the LBIE administration stands as a landmark case in complex financial restructuring. Furthermore, its eventual conclusion represents a defining moment for UK insolvency practice.

Alison Grant, **Ed Macnamara** and **Steven Sherry** are Lehman insolvency practitioners at PwC

Cracks in the foundations

A squeeze on margins is intensifying the strain on construction

A wave of profit warnings has highlighted the cyclical and structural risks in the UK's housebuilding sector. EY-Parthenon data shows that housebuilders issued seven warnings in the first five months of 2026 – the sector's toughest start to a year since the financial crisis, excluding the pandemic.

Housebuilders had banked on 2026 being a better year than last year, but conflict in the Middle East has pushed up build costs, weakened confidence and dashed hopes of further interest rate cuts. Housing transactions have slowed, particularly among first-time buyers. Recent improvements in visitor numbers and enquiries have yet to translate into a sustained recovery in reservations or completions. To support volumes, some housebuilders have increased incentives such as mortgage contributions, deposit support and part-exchange schemes – but that has come at the expense of margins already under pressure from fuel, material and labour costs.

Challenging times

The effects are feeding through the wider housing ecosystem. Softer activity has affected the supply chain, while weak transaction volumes and subdued repair, maintenance and improvement spending are constraining demand for related products and services.

But the sector was coming under pressure before the conflict.

> **To support volumes, some housebuilders have increased incentives such as mortgage contributions**


Labour shortages are impacting housebuilding

Housebuilders are also contending with a costly structural backdrop of planning friction, regulatory delay, environmental constraints and labour shortages. Recent research from the Home Builders Federation found that the average home build cost has risen by £76,000 since 2020. Significant liabilities over the next two to three years, arising from the Building Safety Act 2022, will put further pressure on sector cash flows.

Land values are also coming under closer scrutiny. Slower sales rates and weaker pricing assumptions are increasing impairment risk, particularly on land bought at peak valuations or under more optimistic assumptions. Write-downs aren't widespread, but the risk is building. For developers carrying higher-cost land or relying on firmer selling prices to support returns, softer markets could put asset values under even greater pressure and make one of the sector's traditional cash-generation levers harder to pull.

Balance sheet divide

Increased pressure is already raising questions around refinancing, covenant headroom and liquidity resilience, making balance sheet strength an important dividing line. Well-capitalised players, with strong land positions and access to funding, are better placed to manage a slow and uneven recovery. Smaller, weaker or more leveraged operators look more vulnerable, particularly if rate relief is delayed or demand softens again.

Traditional self-help measures are becoming harder to execute. Land sales are less attractive in a weaker market, while discounting may support volumes but comes at the expense of margin. M&A and refinancing options remain constrained by investor caution and uncertainty around Building Safety Act liabilities. Some developers may consider turning to the government for support.

Recent cases have underlined how difficult it may be to use formal insolvency processes to restructure around those liabilities, given the potential for building liability orders to extend across the group. Whether restructuring plans or schemes can deal effectively with those exposures remains unclear, but it is likely to become a key issue for the sector over the next 12 to 18 months.

Tim Vance is an EY-Parthenon partner and insolvency practitioner with extensive construction and housebuilding experience.
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A shared fight

HMRC, the Insolvency Service and Companies House are working together to tackle abusive phoenixism. Andy Leggett explains how

The majority of businesses and directors play by the rules, and insolvency remains a vital mechanism for fairly managing genuine business failure, supporting supply chains and, where possible, saving jobs. But there are some who exploit the system.

Accordingly, HMRC, the Insolvency Service and Companies House are committed to working together, and with you – as restructuring, turnaround and insolvency professionals – to restore fairness and protect the standards that underpin our economy.

When the system is abused, we all suffer through lost revenue for public services, the domino effect of nonpayment on other businesses and the distortion of competition. Some directors seek to exploit insolvency or dissolution by repeatedly using companies to evade debts, often leaving a string of creditors to count their losses.

Meanwhile, the legitimate business is left in despair when, having paid its taxes and honoured its debts, it loses contracts to a resurrected business. This is a business that can afford to undercut others simply by walking away from its obligations.

We are determined to tackle abusive phoenixism and other forms of abuse of insolvency procedures. We need to work across government, and in partnership with the insolvency profession, if we are to achieve a real impact. We want to keep engaging with, and listening to, insolvency professionals, tapping into your knowledge and expertise to develop the right solutions that will make a difference.

Working together

The government is intent on tackling the rogue directors behind abusive phoenixism. The Chancellor's Spring ▶

Building the capability of HMRC

At HMRC, we are investing significantly in the people and technology needed to tackle abusive phoenixism more effectively, as set out in our Transformation Roadmap.

The roadmap also reinforces our commitment to work with the Insolvency Service and Companies House to crack down on contrived insolvency. We are expanding the use of securities and increasing enforcement sanctions to double the amount of tax protected. Additionally, we are expanding our insolvency and civil recovery teams as part of a broader growth in compliance capability. Over five years, with additional government funding, we will recruit 5,500 additional compliance caseworkers and 2,400 debt management specialists. More specialist staffing means faster action when corporate abuse is identified, and greater capacity to collect tax debt.

Technology is transforming how we work. We have well-established advanced analytical techniques to spot non-compliance, and are already using artificial intelligence (AI) capabilities, including generative AI, to identify risks earlier, interpret documents faster, and spot patterns across multiple companies and directors. These tools mean we can respond more quickly and target our investigations more accurately to identify or pursue allegations of potential abuse.

Our enforcement teams are using these enhanced capabilities proactively, and working closely with the Insolvency Service and Companies House to review thousands of companies suspected of wrongdoing. Where appropriate, we are bringing claims to recover assets and pursuing directors for their role in repeatedly using companies to evade debts, strip assets or commit fraud.

Statement 2025 committed HMRC, the Insolvency Service and Companies House to delivering a joint plan "to tackle those using contrived insolvencies to evade tax and write off debts owed to others".

Increased investment, new approaches and enhanced powers will facilitate more impactful joint working. Examples include:

- HMRC is making greater use of securities (financial guarantees) by requiring upfront payment to protect taxes, determined by risk, and making more directors personally responsible for company taxes through increased joint and several liability powers.
- Companies House has secured powerful new capabilities to verify identities and flag high-risk directors through the Economic Crime and Corporate Transparency Act 2023. These new powers have transformed Companies House from a collector of company information into an active guardian of corporate transparency. By verifying identities, querying suspicious information and removing false data from the register, Companies House is helping to close off avenues that criminals once exploited to hide their activities behind complex or misleading company structures.
- The Insolvency Service's *Investigations and enforcement strategy 2026 to 2031*, published in July 2025, supports the agency's vision of playing a more prominent role in the fight against economic crime. The focus is on pursuing directors who neglect their duties, swiftly identifying and addressing threats, tackling abusive phoenixism and taking decisive action against abuses of the UK's insolvency framework.

The three departments are working closely to significantly increase sanctions and enforcement actions against rogue directors who abuse the system.

In the Budget 2025, the government announced an investment of £25m, over five years, for the Insolvency Service to create a dedicated Abusive Phoenixism Taskforce. Enhanced cooperation on data and intelligence sharing between HMRC, the Insolvency Service and Companies House will support the objectives of the taskforce, enabling it to target, tackle and disqualify more rogue company directors who abuse insolvency processes.

The government is doing more to modernise and enhance powers to tackle abuse through its consultation on corporate civil enforcement reforms. The consultation, which closed on 17 June 2026, provided an opportunity for insolvency practitioners (IPs) to share their views on reform options aimed at tackling corporate misconduct. This will help shape future policy, build confidence and support economic growth.

These actions send a clear message: directors who abuse limited liability cannot simply walk away from corporate tax obligations.

Delivering results

Working more closely and collaborating more effectively is already delivering results. In 2024–25, the Insolvency Service secured 77 criminal convictions and more than 1,000 director disqualifications. It also wound up 41 companies.

Operation Hammerhead, instigated by the Insolvency Service, led to a coordinated multi-agency National Economic Crime Centre response. It is a great example of how the collective use of our powers and capabilities can optimise the impact we have. HMRC

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spearheaded an initial intensification exercise to visit 11 suspect addresses, providing intelligence that helped Companies House and the Insolvency Service to strike off more than 8,000 companies by April 2025, facilitating the defaulting of more than 22,000 company addresses and placing roughly 11,500 businesses in the strike-off path in total.

This crackdown targeted directors who repeatedly misused corporate structures and included criminal referrals alongside the shutdown of high-risk trust and company service providers. Investigations into many of these companies remain ongoing, and collectively, we are pursuing both civil recovery and director disqualification where the evidence supports it.

Prosecutions show what we can achieve together. For example, a construction boss was jailed for more than two years after fraudulently transferring over £700,000 from failing companies into his personal casino account. The case displayed clear signs of abusive phoenixism with the director systematically asset stripping, and repeated misuse of corporate structures. All four companies stopped trading soon after their corporate funds were removed by the director.

> **These actions send a clear message: directors who abuse limited liability cannot simply walk away from corporate tax obligations**

How insolvency experts can help

IPs have unique insight into director conduct and corporate behaviour. You see the warning signs firsthand, including the familiar patterns, the suspicious transactions and the repeated failures that do not quite add up.

We need your help to stop abusive phoenixism, support those in genuine financial distress and ensure the UK remains a trusted place to do business.

You can report concerns to the Insolvency Service through your director conduct returns to help us stop serial offenders before they harm more creditors. You can also alert HMRC to signs of tax avoidance or fraud (search 'report fraud HMRC' on GOV.UK), to help HMRC pursue compliance investigations, recover assets and hold culpable directors accountable.

We welcome ongoing engagement and are grateful for your partnership.

Andy Leggett is director of the Risk and Intelligence Service at HMRC

Time for action

The UK's new Fraud Strategy must lean on civil process, private-sector muscle and operational boldness, argues Frances Coulson

The Government's *Fraud Strategy 2026–2029: Disrupting crime, supporting economic resilience and delivering justice* is an important statement of intent. Fraud is now the most prevalent crime affecting individuals and businesses in the UK. It is technologically enabled, borderless and increasingly industrialised. There are victims across the board – those defrauded of their money and often their self-respect, or worse, their life. Sometimes the people who commit fraud are victims because they are people who have been trafficked and forced to commit fraud on an industrial scale.

Fraud is only likely to get worse as fraudsters increasingly adopt artificial intelligence. Domestic and international law, action and regulation are not keeping up with the lawless, organised criminals who do not pause to consider, but simply do whatever it takes to get the greatest return without caring about collateral damage.

The Fraud Strategy acknowledges this reality, proposing a coordinated, system-wide answer to fraud built around disruption, safeguarding and response. This approach is supported by a new Online Crime Centre, a revamped national reporting service and the long promised Fraud Victims Charter.

All of that is welcome. But strategies do not stop fraudsters – action does. In my view, the success or failure of the Fraud Strategy will turn less on its architecture, and more on how boldly and practically it is implemented. Key themes include: elevating civil process to the same level of importance as criminal justice, fully mobilising the private sector as an operational partner, measuring success by outcomes that victims actually experience, and acting earlier, faster and at greater scale.

1. Civil process as a first response

The Fraud Strategy commits to delivering justice through both criminal and civil outcomes. That framing is overdue. Criminal prosecutions remain vital for punishment and deterrence, but they are rarely quick enough to stop dissipation of assets or to deliver meaningful, timely redress to victims. Even with significant investment in the near term, criminal courts and prisons will take time to catch up with fraud volumes, assuming the perpetrators actually reside within the jurisdiction. Confiscation orders can take years post-conviction and are fraught with difficulty. Why not prepare for, and seek, the confiscation order on conviction as part of the prosecution case (therefore using fewer state resources) and if not paid, bankrupt the perpetrator, let the trustee take the lot and distribute to victims, who are, of course, creditors?

By contrast, the civil courts already provide a powerful and well-tested toolkit: freezing orders, search and imaging orders, proprietary and tracing claims, third-party disclosure, receivership and insolvency processes, and more rapid cross-border enforcement. These remedies can be deployed within days, sometimes hours. Used properly, they can stop the money moving, expose the mule network and unlock data across banks, platforms and intermediaries long before a criminal case reaches charge. I recall a missing trader intra-community case some years ago where the criminal case took 10 weeks (some time after the civil case was concluded), whereas the civil trial took five days. Same facts, different audience and burden of proof.

Civil process can also deliver pragmatic justice. Interim recoveries, negotiated undertakings and civil settlements can also often return funds to victims sooner and at lower public cost. There is also a strong case for punitive damages and recycling a portion of successful recoveries into further disruption and enforcement, ensuring that fraudsters, rather than taxpayers, fund the fight against fraud.

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2. Harnessing private-sector muscle

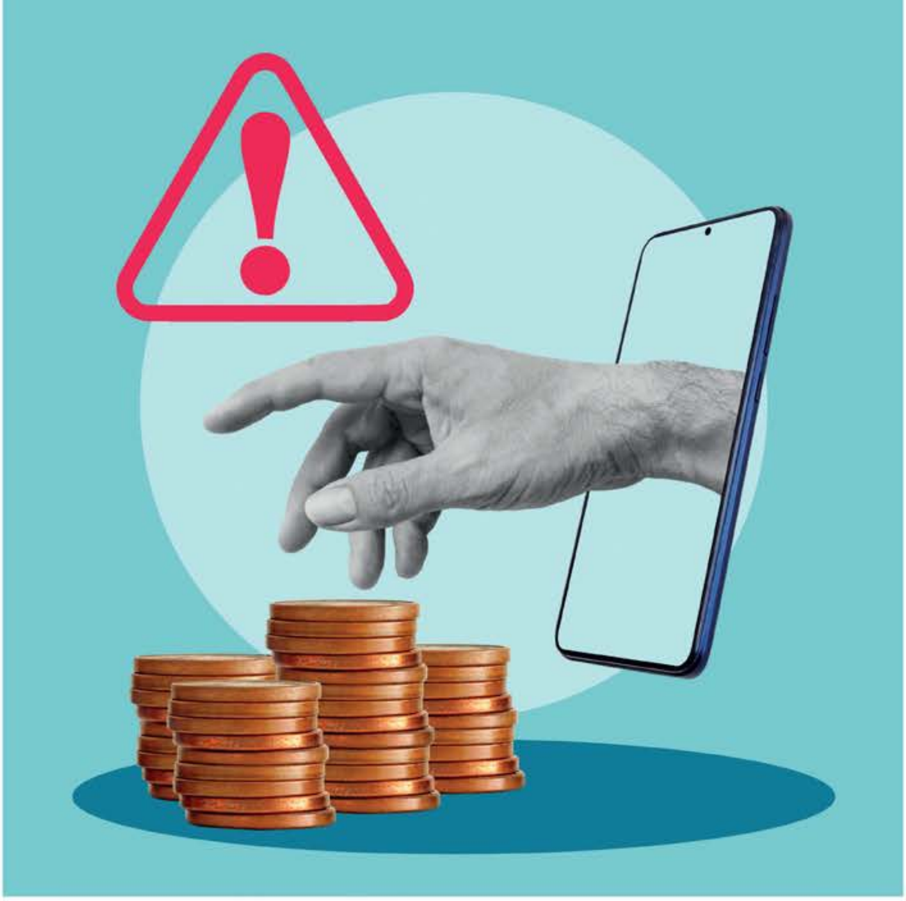
The Fraud Strategy's proposal for an Online Crime Centre intends to bring together government, law enforcement,

> **"Fraud is only likely to get worse as fraudsters increasingly adopt artificial intelligence**

intelligence and private-sector participants in finance, telecoms and technology. There are other participants to consider, including private-sector office holders and creditors (victims). It is also important to get participation from the insolvency sector where both Companies House and the Insolvency Service play an increasingly efficient role. (The abuse of companies registration in England and Wales has been a fraudsters' gift, but now the Economic Crime and Corporate Transparency Act 2023 has given Companies House the power to stop that.) Designing the process to include private-sector muscle is crucial, because the levers that stop fraud at scale – bank account freezes, payment controls, SIM blocking, advert takedowns and platform moderation – sit largely outside the public sector.

If prevention is the goal, the private sector must be treated not as a stakeholder to be consulted, but as a co-designer and co-operator of disruption. That requires regulatory clarity and, where necessary, sensible relaxation to allow lawful, real-time sharing of signals and typologies without the paralysis brought about by the data-protection regime. It means a genuine 'no wrong door' model, where intelligence received by the Online Crime Centre is pushed simultaneously to banks, payment providers, telecoms networks and platforms, with clear and rapid service-level expectations.

It also means industrialising the response: shared analytics to identify ▶



mule herding (recruiting people to transfer stolen money) and high-velocity authorised push payment fraud, pre-agreed platform 'kill switches' for mass takedown of fraudulent content and standard cross-border templates – for example, for data requests – that allow international cooperations to function at the speed at which fraud now operates.

3. Putting victims at the centre

The proposed Fraud Victims Charter and the replacement of Action Fraud with 'Report Fraud' offer an opportunity to reset how the victim experience is judged. Too often, success is measured by inputs: referrals made, reports logged, prosecutions commenced. Victims experience success very differently.

For them, the questions are simple. Of course, they want the fraudster punished, but if the fraudster is a state actor or organised crime group, more interesting questions are: How quickly was the money frozen? How much was recovered? How long did reimbursement take? Was repeat victimisation prevented? A genuinely victim-centred model requires guaranteed triage within hours, not weeks, seamless handoffs between banks, platforms and the police, and clear, fair reimbursement pathways with independent recourse. It also requires communication (within limits so as not to prejudice an investigation). Too often, regulation (or the interpretation thereof) and timidity serve the fraudster, not the victim. Probably the biggest difference could be made immediately by empowering lower and middle operational management in the public sector, with ensuing hindsight audits for governance and for ongoing improvement of actions.

For corporate victims, particularly those affected by complex or organised fraud, the Fraud Strategy could normalise a civil criminal twin track: immediate private civil action running in parallel with law enforcement engagement, possibly with insolvency tools deployed early to preserve books, records and other evidence, compel disclosure and secure assets for distribution. That would save costs in the criminal process provided the audit trail and fairness are kept in mind. The Insolvency Service recently launched a civil enforcement regime consultation suggesting wider powers for the Service and office holders. It wants to make it easier for successful actions to be brought during formal insolvency so that money wrongfully paid to third parties prior to insolvency can be reclaimed and the impact of other transactions that are harmful to creditors can be reversed. This is to be welcomed so long as it is balanced with evidential fairness.

Too often, regulation (or the interpretation thereof) and timidity serve the fraudster, not the victim

4. Operational boldness: earlier, faster, bigger

Fraud is now a data-driven industrial business. Counter-fraud responses must be equally industrial. The Fraud Strategy anticipates coordinated takedowns of infrastructure and cites high-impact operations as a model. The real test will be whether the system can intervene pre-harm and at platform scale.

Effective intervention will demand pre-emptive triggers – using risk signals to introduce payment pause before funds leave a victim's account (as happens with clearing banks now the risk is more at their door); genuine mass takedown capability supported by clear legal gateways; 24/7 operational capacity with access to urgent civil orders; and disciplined after action learning, so every disruption improves the next. There is no point in enquiries with action points that never see the light of day.

Societal outcomes

The *Fraud Strategy 2026–2029* correctly recognises fraud as a major threat to individuals, businesses and economic confidence. Its structural components are sound. The determinant of success will be operational pace, partnership and resolve. If civil process is normalised as a first response, private-sector infrastructure is embedded into the operational fabric, victim outcomes are treated as the primary metric, and the system acts boldly and early, the economics of fraud can be shifted decisively back in favour of the public. Then the UK might become an even nicer place to live.

Frances Coulson is a partner and head of insolvency and restructuring at Wedlake Bell. She is also co-chair of the R3 Fraud and Asset Recovery Group and president of INSOL Europe

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Question of fairness

Growing use of restructuring plans has highlighted issues around the treatment of different creditor classes. **Frank Ofonagoro** and **Gary Lee** explain

Since their introduction under the Corporate Insolvency and Governance Act 2020, restructuring plans (RPs) have become an established tool for financially distressed companies navigating uncertainty. Designed to offer a flexible, court-sanctioned restructuring process, RPs have brought a meaningful shift in UK insolvency practice.

While much has been written about the advantages for debt-laden businesses, far less attention has been given to the impact on creditors, particularly smaller or dissenting stakeholders, and the support they need to navigate the process confidently. This presents a risk and an opportunity: a risk for creditors who remain unrepresented or insufficiently informed, and an opportunity to bring greater transparency, fairness and analytical rigour to the process.

The mechanics of the plan

The defining feature of an RP is its 'cross-class cram down' mechanism. This allows a company to impose a deal on dissenting classes of creditors, provided the court is satisfied that:

- None of the dissenting creditors would be worse off than in the "relevant alternative" under the Corporate Insolvency and Governance Act 2020 (typically administration or liquidation); and
- At least one class of creditors with a genuine economic interest in the company has voted in favour of the plan with a 75% majority by value.

Court oversight remains central, involving both a convening hearing (to determine creditor classes) and a sanction hearing (following voting). Nevertheless, as with many legal and financial frameworks, the complexity lies in the detail, and this is where many creditors can find themselves at a disadvantage.

Increased use, increased scrutiny

RPs are now being deployed across a broad range of sectors, from aviation to property. Their flexibility and court approval status make them a powerful tool for companies seeking to avoid formal insolvency or mitigate reputational damage.

At the same time, their growing use has been accompanied by increased scrutiny. Questions around fairness, particularly in the treatment of different creditor classes, have become more prominent. Landlords, for example, have continued to raise concerns about imposed lease restructurings, while HMRC has demonstrated a greater willingness to challenge proposals it considers inequitable.

This heightened level of challenge, both in court and among stakeholders, reinforces a key point: the presence of legal and financial sophistication in a plan does not automatically mean it delivers the best outcome for all creditors. Independent, objective analysis is therefore critical for those being asked to assess and vote on these proposals.

> **"Objective analysis is therefore critical for those being asked to assess and vote on these proposals**

Need for objective analysis and creditor advocacy

As RPs become more embedded in the restructuring landscape, the need for robust scrutiny has only increased. Creditors are often required to evaluate complex proposals involving financial forecasts, legal thresholds and counterfactual scenarios, areas that may fall outside of their day-to-day expertise.

For many stakeholders, including landlords, HMRC, trade suppliers and non-senior lenders, there remains a lack of clear, independent guidance on both the implications of the plan and how it compares to the 'relevant alternative'.

There is a growing case for the market to evolve in how creditors are supported.

This includes:

- Clear, accessible explanations of the plan's structure, forecasts and underlying business strategy;
- Objective comparison of outcomes, assessing whether the plan genuinely improves returns versus insolvency alternatives;
- Rigorous testing of key assumptions around asset realisations, trading performance and distribution timelines;
- Insight into stakeholder leverage, helping creditors understand whether there is scope to negotiate improved terms or protections.

Too often, dissenting creditors are presented with what appears to be a 'take it or leave it' scenario whereas, in reality, their position may be stronger than assumed. With the right analysis and advice, creditors can engage effectively and, in some cases, influence outcomes.

As courts continue to take a more active role in scrutinising plans, particularly where objections are raised, the value of creditor-side expertise, grounded in practical restructuring experience, is becoming increasingly clear.

Why this matters

Historically, the RP process has been perceived by some as being driven primarily by large advisory firms and legal frameworks, with limited input from smaller stakeholders. That perception is beginning to shift, however. Courts are probing more deeply, creditors are more willing to challenge and the process is becoming more balanced.

This is a positive development. A well-functioning restructuring framework should balance the interests of the company with those of its creditors. That balance depends on stakeholders being properly informed, appropriately advised and confident in their ability to engage.

Ensuring creditor voices are heard, supported by rigorous financial analysis and practical insight, is essential to maintaining confidence in the process.

Where next?

RPs are now firmly part of the UK restructuring toolkit. When used appropriately, they provide a powerful mechanism for business rescue and continuity. But they remain complex and, at times, contentious.

Creditors should not be passive participants in a process that directly impacts their rights and recoveries. With access to independent analysis, clear guidance and strategic support, there is an opportunity to ensure greater objectivity, balance and integrity in how plans are assessed and implemented.

Ultimately, every restructuring should be grounded in a simple principle: what constitutes a fair outcome for all parties involved?


Frank Ofonagoro and **Gary Lee** are partners at Opus Restructuring & Insolvency

Under scrutiny

Forensic accounting is playing an increasingly important role in insolvency investigations. **Will Da Costa** and **Dominic Dumville** explain why

The word 'forensic' (according to our favourite web search provider) comes from the Latin *forensis*, which means 'of the forum' or 'of the court'.

Forensic accounting is a broad, yet specialised, field that can be applied to a spectrum of scenarios, from business disputes and fraud and financial crime to valuation services and marital disputes. The core of what we do, however, is the application of our accounting knowledge, together with audit and investigative techniques, to provide legally defensible conclusions underpinned by a robust financial analysis.

Often at the heart of an insolvency practitioner's (IP's) role is the need to identify assets and maximise recoveries to the benefit of creditors. Increased public scrutiny due to high-profile insolvencies, coupled with ever-evolving and more complex fraud, have intensified pressure on IPs to go the extra mile, particularly in uncovering claims concealed by 'commercial arrangements' and clever accounting entries. Forensic accountants are therefore a powerful ally for an IP when discharging their duties.

Forensic accounting is fundamentally different from audit work. Audit focuses on whether financial statements present a materially true and fair view in accordance with applicable accounting principles. Forensic accounting, by contrast, applies an investigative mindset to corroborate financial and non-financial information at a granular level to understand how and why financial events occurred, often in the context of misconduct or dispute. Accordingly, the investigative principles applied by a forensic accountant lend themselves to the full spectrum of an insolvency investigation.

> **A forensic accountant experienced in litigation support can provide court-ready analysis**

Fact-finding and data collection

Establishing a factual matrix of a case through data collection is fundamental to any investigation. The need to collect digital information is often overlooked, yet digital information will be critical to subsequent legal proceedings. Forensic accountants work with forensic technology specialists, ensuring information such as data from computer hard drives, emails and mobile phones is retrieved following the correct chain of custody. This enables the gathering of viable information that stands up to legal scrutiny in any subsequent proceedings.

Once retrieved, the forensic analysis and interrogation of data have a compounding effect, accelerating a widening investigative cycle that gives rise to further enquiries and increasingly complex data trails, culminating in a firm evidentiary foundation for the fact-finding interviews. A skilled interviewer, often from a legal background, is better able to steer the interviews towards meaningful conclusions when armed with robust, well-analysed evidence.

Asset tracing and recovery

With asset tracing and recovery being an important goal of the IP, forensic analysis of a company's books and records is often vital to identifying assets obscured by complex or deliberately misleading accounting treatments. Corroborating the bank statement analysis of a target entity with the underlying accounting records is invaluable for unravelling what can, at first glance, appear to be chaos. A forensic accountant can bring order to this disorder, identifying patterns of concealment and recovery opportunities that might otherwise be missed.

Litigation and dispute support

One of the most powerful contributions a forensic accountant can make to insolvency investigations is in the support of legal claims made by the IP. Once the investigative work is done, the IP is only just getting started on the road to a recovery. It is at this stage that all the hard work needs to be translated into words (and possibly a few graphs) for the legal team. A forensic accountant experienced in litigation support can provide court-ready analysis to substantiate claims against former directors, professional advisors or associated third parties.

Similarly, for more simple matters, the involvement of an independent forensic accountant early on in legal proceedings can ensure that any claims are well-framed, losses are accurately and reasonably quantified, and the underlying evidence is preserved to form a credible financial narrative.

Stakeholder management

Almost every insolvency has a human element: creditors, lenders, regulators, investors and the public. High-profile insolvencies in recent years have shone a spotlight on the industry, with allegations of misconduct against company directors and documented damage to stakeholders increasing pressure on IPs to ensure a thorough investigation of such matters. IPs also need to manage the expectation gap between what stakeholders believe has occurred and what the evidence ultimately supports.

In our experience, use of forensic accounting specialists is a reassuring sign to the stakeholders in an insolvency that their concerns are being treated with the respect they deserve. The IP is taking every care to ensure creditors' returns are maximised and company directors are being held accountable for their actions; detailed financial analysis transforms allegations into formal charges.

Forensic accountants have the skills to provide the IP with end-to-end, and scalable, investigative services. From a preliminary review of a set of bank statements to the generation of legally robust financial analysis and expert witness testimony, a forensic accountant is an invaluable, and dependable, ally to IPs, courts and stakeholders alike.

Case studies

Mercer & Hole has been involved in the following two cases, which relied on support from forensic accountants:

1. Suspected fraud at a used car business.

We were engaged by the board of a used car sales business to assist with placing the business into company voluntary liquidation. After several days' back and forth with the directors, the IPs were inundated with calls and enquiries from angry customers. Early forensic analysis revealed and quantified multiple forms of suspected fraud, including the misappropriation of sales proceeds through different mechanisms, and possibly the repeated sale of the same vehicle to multiple parties.

We liaised closely with stakeholders, including the Financial Conduct Authority, and the relevant police force, providing them with regular updates on the investigative process and findings. In addition, we are in exploratory conversations with the police as to whether our forensics team will be engaged to convert the work undertaken for the IP into a forensic report to be used in potential criminal proceedings.

2. Sophisticated investment scam.

In another matter, an investigation has unravelled a very sophisticated investment scam leading to multiple sets of legal proceedings. Our forensic accounting team used its strong grasp of accounting principles and analytical skills, together with some out-of-the box thinking, to truly understand what had occurred.

In presenting the investment scheme to the legal team in such a way that clearly demonstrated the scheme's lack of credibility, and the detrimental imbalance of risk versus reward for those 'investing', our forensic team was able to provide sufficient evidence for the initiation of proceedings against the individuals behind the scam.

Will Da Costa is a trained forensic accountant and **Dominic Dumville** is a licensed insolvency practitioner and forensic accountant at Mercer & Hole

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Harmonisation on the horizon

New legislation aims to align Northern Irish insolvency law with England and Wales, but some divergence is likely to remain, as **Sam Corbett** and **Chris Coulter** highlight

When insolvency law across the UK's distinct legal systems was modernised in the late 1980s, Parliament intended to harmonise the laws governing insolvencies throughout the UK. To achieve this, the Insolvency Act 1986 was introduced to govern personal and corporate insolvencies in England and Wales, the provisions of which were virtually mirrored a few years later in Northern Ireland pursuant to the Insolvency (Northern Ireland) Order 1989.

Over the past two decades, however, the Northern Ireland Assembly has been suspended nearly as often as it has been sitting, a knock-on effect of which was that Northern Ireland failed to keep pace with legislative changes introduced by Westminster. For the past decade, therefore, we have experienced a period of substantial divergence between Northern Irish and English insolvency law, making it more difficult for insolvency practitioners (IPs) to practise in both the Great Britain and Northern Ireland insolvency markets. For the most part, this has increased the administrative burden on IPs based in Northern Ireland, compared with their English counterparts. The pitfalls of divergence have also become increasingly apparent following the post-Brexit uptick in intra-UK, cross-border insolvencies, given that many businesses have established a foothold in the Northern Irish market for potentially easier access to the EU.

Now that the Assembly is functioning again, it is beginning to make up for lost time and, on 24 March 2026, passed the Insolvency (Amendment) Bill that now awaits Royal Assent. The Bill sets out 26 proposed legislative amendments to Northern Irish insolvency legislation with the express goal of bringing Northern Ireland back into harmony with England and Wales. Harmonisation will not be achieved overnight, however. The Bill is only the first hurdle that needs to be cleared, as even after the Bill enters into force, there will still be a considerable degree of divergence between the two jurisdictions that can only be remedied by a raft of secondary legislation.

Full harmonisation, therefore, remains firmly on the horizon for the time being (and a distant horizon at that). The purpose of this article is to help IPs navigate which areas of divergence will be remedied by the Bill, and which will remain until further secondary legislation is implemented.

Harmonised by the Bill

Significantly, the Bill will achieve harmonisation in relation to

Parliament Buildings, in Belfast's Stormont Estate, is home to the Northern Ireland Assembly

assignments. Once implemented, the Bill will grant IPs in Northern Ireland the power to assign causes of action that vest in corporate office holders by virtue of their appointment, for example, the ability to claim for a transaction at an undervalue or a preference. To date, the lack of ability to assign such claims has hampered IPs in pursuing these claims in corporate insolvencies. This ultimately prejudices creditors and enables those who have misappropriated assets to avoid scrutiny.

Potentially harmonised by secondary legislation

Northern Ireland is well over a decade behind England and Wales when it comes to insolvency reforms. Northern Ireland still operates under the Insolvency Rules (Northern Ireland) 1991 (the 1991 Rules), which largely follow the Insolvency Rules 1986. Practitioners in Northern Ireland cannot therefore benefit from the modernisations implemented in England and Wales by the Insolvency (England and Wales) Rules 2016 (the 2016 Rules). Secondary legislation is awaited in Northern Ireland to bring the 1991 Rules into line with the 2016 Rules, which primarily impacts the following features of Northern Irish insolvency law:

Engaging with creditors:
Engaging with creditors is much more burdensome in Northern Ireland. "Deemed consent" provisions introduced by the 2016 Rules in England and Wales are not applicable, and the only permissible means of decision-making by creditors pursuant to the 1991 Rules remains physical creditors' meetings (save for certain decisions that can be taken via correspondence). Perhaps more inconveniently, it is not permissible for IPs to serve documents on creditors via websites or even via email. All correspondence must still be delivered to creditors in hard copies by way of post, with first-class post deemed to occur two business days after posting.

Prescribed forms: Northern Ireland has retained mandatory prescribed forms, and actions taken by an IP could be rendered invalid if the incorrect form is used. If an incorrect form is used, it can be quite difficult to rectify the mistake, particularly if the form is already filed with Companies House. An extra degree of caution should therefore be taken with all insolvency filings.

Ongoing divergence

The Assembly's steps towards harmonisation should be welcomed, especially those aimed at easing the administrative burden of engaging with creditors in Northern Ireland. Full harmonisation, however, looks to remain permanently out of reach principally due to the following areas, which are not likely to be amended by the Bill or any related secondary legislation:

Dates: Certain key dates can and do vary between the two jurisdictions, for example, the dates as to when the prescribed part came into effect, when its limits changed and when the prohibition on the appointment of an administrative receiver was introduced.

> **"Once implemented, the Bill will grant IPs in Northern Ireland the power to assign causes of action**

If you are accepting a job in the Northern Ireland market for the first time, you should familiarise yourself with the different dates that might apply.

One court and judgment debts: All corporate and personal insolvency law matters are assigned to the Chancery Division of the High Court in Belfast, where there is one bankruptcy and companies master and one chancery judge. The importance of being familiar with the practice and style of the sole judge and sole master cannot be overstated. For example, the current court guidance directs that any statutory demand, bankruptcy or winding-up petition that is not based on a judgment debt is void and of no effect. This court guidance has consequently made it compulsory for creditors to commence and conclude contentious proceedings against debtors as a precondition to making use of the court's insolvency jurisdiction concerning bankruptcies and liquidations.

The issue of judgment debts is arguably the biggest area of divergence between Northern Irish and English insolvency law. The Bill could have amended the definition of 'debt' within the 1991 Rules to confirm that it does not need to be based on a judgment debt in order to ground a petition, but the Bill did not go as far as this, and the court guidance remains in place. Consequently, unless the court changes its latest guidance, harmonisation between Northern Irish and English insolvency law will, like the horizon, remain forever out of reach.


Sam Corbett is a partner and **Chris Coulter** is a senior associate in the restructuring and insolvency team at A&L Goodbody

The pressure is on

Private credit may be facing challenges, but it will retain its critical role in UK real estate finance


Private credit will remain a key part of UK commercial real estate finance

The rise of private credit has become one of the most significant shifts in UK real estate finance over the past decade. As traditional banks have reduced exposure to higher-risk lending, non-bank lenders (including debt funds, insurance-backed platforms and specialist credit managers) have rapidly expanded into commercial real estate, development finance and construction lending.

Consequently, private credit has grown from a niche source of alternative funding into a core part of the capital stack. Global private credit assets are now estimated at close to $2tn, with the UK emerging as one of Europe's largest markets. The latest Bayes Business School research shows that new lending for UK commercial real estate reached its highest level in a decade in 2025, at £52.7bn, with debt funds among the largest contributors to growth.

How did we get here?

Regulatory reforms introduced after 2008 made development and transitional real estate lending less attractive. Meanwhile, institutional investors facing lower returns in traditional fixed-income markets sought higher-yielding alternatives. Another key theme has been market segmentation, with several investment managers raising large pools of capital dedicated to real estate lending.

Such lenders can often structure bespoke facilities, underwrite complex business plans and execute deals quickly, which is critical in a market where timing pressures are acute. This has been particularly evident in construction and transitional real estate lending, including bridging or mezzanine loans and asset-based lending, which is often short term and operationally complex.

> **If interest rates and asset values stabilise, private credit could demonstrate its resilience and flexibility**

Stress tests

However, the sector is now facing its first meaningful stress test. Rising borrowing costs, refinancing pressures and weaker asset values are exposing vulnerabilities. One of the clearest examples has been the recent collapse of Market Financial Solutions (MFS), a UK bridging and buy-to-let lender that entered administration amid allegations of fraud and collateral irregularities. The failure has highlighted the highly interconnected nature of modern private lending markets, with major banks, institutional investors and private credit funds all exposed as a result.

Meanwhile, regulatory and investor scrutiny has intensified around governance, transparency and underwriting standards amid growing concerns over opacity, the true extent of leverage and covenant structures, which could all amplify the extent of systemic risk if market conditions deteriorate.

Another concern is refinancing risk. Around 60% of UK commercial property lending now relates to refinancing and a significant volume of loans originated in the low interest rate environment of 2020–2022 will mature in the next 12 to 24 months. Private credit lenders, while flexible, are not immune to capital constraints and may be less willing to extend underperforming loans without fresh equity.

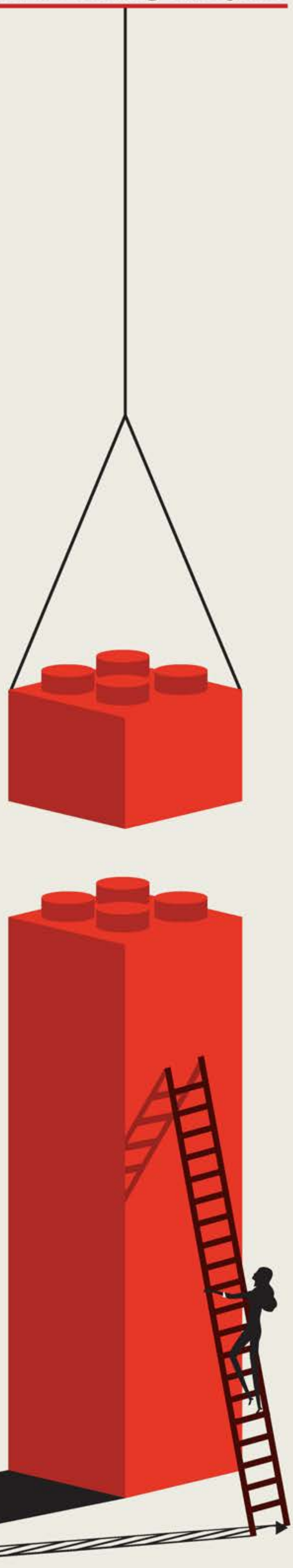
Liquidity mismatches also warrant attention. Many private credit funds offer periodic redemptions while holding relatively illiquid loans. This could create pressure to sell assets or restrict withdrawals, particularly if investor sentiment shifts – as is already being seen.

Looking ahead

Private credit is likely to remain an important aspect of UK real estate finance. Banks are expected to stay relatively cautious and refinancing pressures will persist, leaving alternative lenders with continued opportunities. Meanwhile, stressed and distressed opportunities are increasing, creating a favourable environment for agile and opportunistic lenders that are able to price risk effectively.

While a systemic crisis seems unlikely, the market is entering a more challenging phase, with alternative lenders now facing the demands of a full credit cycle. If interest rates and asset values stabilise, private credit could demonstrate its resilience and flexibility, but economic and geopolitical uncertainty continues to challenge. In any event, the market is likely to see further consolidation and rising restructuring activity in the months ahead.


Nick Hammond is a real estate restructuring expert in the Colliers Capital Advisory team, providing strategic funding and restructuring advice across all UK property sectors



Piercing the corporate veil

Statutory mechanisms introduced under the Building Safety Act 2022 add a new dimension of risk to the insolvency landscape, say **Mark Wilson** and **Dan French**

The corporate veil has long been a fundamental principle of corporate law, and one with which most legal professionals practising in this area will undoubtedly be familiar.

Outside of limited circumstances, this veil has rarely been lifted. Indeed, courts will usually decide to 'pierce' the veil only when there is evidence that a company has been created deliberately to help an individual or entity evade its liabilities or obligations, a concept known as the 'evasion principle'.

The introduction of the Building Safety Act 2022 (BSA), however, has brought with it two significant statutory mechanisms capable of piercing the corporate veil and exposing the wider group to financial liabilities, even when the evasion principle has not been met.

Safety first

The BSA, which was introduced in the wake of the Grenfell Tower fire and granted Royal Assent on 28 April 2022, has fundamentally reformed the roles and responsibilities of those involved in the design, construction and management of higher-risk buildings.

It also aims to ensure that the liability for, and cost of, any remediation works required for current or potential safety defects are borne by the correct entity and not by residents or leaseholders through charges or higher rents. This includes the introduction of safeguards designed to prevent liability for costs ending when a developer is wound up or enters insolvency.

Enter building liability orders (BLOs) and remediation contribution orders (RCOs), two statutory mechanisms that can extend the liability for building safety defects and subsequent remediation costs beyond the original developer to other associated entities.

> **The financial implications are particularly serious for group structures in which assets and liabilities have been strategically distributed**

Beware the BLO

Introduced under s.130 of the BSA, BLOs allow the High Court to order that an entity's 'relevant liability' (such as one incurred under the Defective Premises Act 1972, for example) is shared by its associated entities, providing it is just and equitable.

'Associated' entities are defined in s.131 and can include parent companies or subsidiaries within a corporate group, regardless of whether they were directly responsible for the works on, or ownership of, the relevant building.

A BLO can prevent a special purpose vehicle (SPV) or joint venture from avoiding liability by being ▶

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dormant, dissolved or insolvent after a development project has been completed. It can also expose an associated entity that has acted within the scope of legitimate corporate structuring to significant costs.

Indeed, there are already examples of BLOs being used to establish liability beyond the original corporate entity, such as an insolvent developer, to an associated entity, such as the parent company.

The first of these was granted in *381 Southwark Park Road RTM Co Ltd v Click St Andrews (in liquidation) [2024] EWHC 3569 (TCC)* after the insolvent developer (also an SPV) was found liable for defects in, and damage to, a block of flats in London.

Costly RCOs

In a similar vein to BLOs, RCOs can go beyond an original corporate entity to require developers, landlords or associated companies within the group structure to pay costs related to remediation works.

RCOs, which are defined by s.124 of the BSA, are decided by the Property Chamber of the First-Tier Tribunal (FTT). Crucially, they are also not fault-based orders, which means a respondent can be made to pay the costs regardless of whether they were responsible for the defects or in a position to carry out the remediation works.

In *Triathlon Homes LLP v Stratford Village Development Partnership & Ors [2025] EWCA Civ 846*, for example, the Court of Appeal upheld an FTT order that both the developer and its parent company must contribute to remediation costs.

In so doing, it confirmed that RCOs can be applied retrospectively, and that it is not necessary for the parent company to have carried out the works directly. The Court of Appeal also affirmed that it is reasonable to order an RCO even when the Building Safety Fund is funding the remediation, or where there is a live litigation against the original contractor for the defects.

An insolvency context

Neither BLOs nor RCOs are insolvency-specific, but they do introduce a new dimension of risk for this sector, particularly for group structures that operate in the development and property sectors.

This is because they now provide a practical and effective route for recouping repair costs and recovering damages, even in the event of the insolvency of a developer and/or landlord, by shifting liability to solvent and operational entities within the same group, regardless of whether said entities are responsible for any wrongdoing, dishonesty or direct involvement.

The financial implications are particularly serious for group structures in which assets and liabilities have been strategically distributed. Directors and officers who have overseen such structuring could face criticism for failing to anticipate exposure to a BLO or an RCO.

By extension, lenders and investors could also find that their security or returns are compromised by new liabilities attached to borrower entities.

BSA: Key takeaways

1. BLOs and RCOs extend liability from the insolvent entity to solvent group members.
2. Both the FTT and the courts are willing to grant these orders.
3. The 'just and equitable' test is easy to satisfy.
4. Review corporate group structures proactively, particularly those involving residential development or building ownership.
5. Be aware of the impact contingent liabilities may have on valuations, restructures or insolvency outcomes.
6. Demonstrate proper governance by maintaining records of intercompany arrangements and decisions.
7. Be aware that an insolvent entity could claim against a company's directors if the company was exposed to a liability that could have been identified and that has caused loss.

In restructuring and administration scenarios, insolvency practitioners (IPs) should consider whether group companies are at risk of claims under the BSA and whether contingent liabilities should be provided for or disclosed. While the principle of the corporate veil remains, it is undermined by new routes offered by the BSA to pursue associated companies.

In a building safety and remediation context, insolvency no longer marks the end of liability. As such, funders, lenders, purchasers and IPs should undertake thorough due diligence on a company's group structure to understand where potential liabilities could lie.

Mark Wilson is a partner and head of complex and international recovery and **Dan French** is a partner and an insolvency and business restructuring advisor at Gateley Legal

Time and money

The Third Parties (Rights against Insurers) Act 2010 has implications for administrators of insolvent construction businesses, says **Dan Williams**

When accepting the administration of a new construction company, insolvency practitioners (IPs) should be aware that they are taking on a potentially time-consuming issue. That issue is hidden in the company's professional indemnity insurance claims history.

The Third Parties (Rights against Insurers) Act 2010 came into force in 2016. Its aim was to simplify the process for third parties to pursue a claim against insurers when a company became insolvent. The Act enables the claimant to claim directly against the insurer. Schedule 1 of the Act specifies the information a potential claimant can request from any person thought to hold information regarding a policy that the potential claimant believes may provide an indemnity to the claimant.

The information that can be requested is specified within Schedule 1. This includes who the insurer is, what the terms of the contract are, if the insurer has previously declined a claim in relation to the potential claimant's loss, the limit of indemnity available, if there is an aggregate limit under the policy, the value of any other claims paid by the insurer and information regarding any legal proceedings issued in relation to the potential claimant's loss.

The information requested must be provided, or a rationale for why it cannot be provided must be given, within 28 days of the request.

> **As the Act does not specify exactly what constitutes 'terms of the contract', the level of detail in each request will vary**

Implications for IPs

One consequence of the rights provided by the Act is that when pursuing a claim, any claimant's legal advisers can request a copy of the insolvent company's professional indemnity policy wording. This wording would not usually be available to the potential claimant prior to insolvency.

It is not unusual for large construction companies to have numerous disputed claims dating back over a number of years. The IP will have access to the insurance details, so they must respond to the request. As the Act does not specify exactly what constitutes 'terms of the contract', the level of detail in each request will vary. The full policy wording and schedule issued by the insurer may be considered confidential. Where a company has a policy with an aggregate limit, the amount already paid by the insurer will change as other claims are paid. Some claims may already have been the subject of litigation.

Our experience is not as a legal adviser, and we cannot offer legal advice. Nor should the above be read as legal advice or a detailed explanation of the Third Parties (Rights against Insurers) Act 2010. Nevertheless, based on our experience, we can advise that while we only received a limited number of information requests between 2016 and 2022, from 2022 the number of requests has risen markedly.

Risk management strategy

The Third Parties (Rights against Insurers) Act 2010 fundamentally changes construction sector insolvency by enabling claimants to engage directly with insurers in respect of potential liabilities. It also introduces obligations for people with the appropriate knowledge to provide detailed policy information within defined time frames. Proactively identifying and collating insurance programmes and claims data before, or early in, insolvency is therefore critical to managing risk and avoiding unbudgeted expense.

Dan Williams is divisional director at Howden

Up in the air

A development failure on a high-risk building can turn into a positive outcome when you blend experience with diligent planning, explains **Rory Dillon**

Montpellier House in Cheltenham

The scenic spa town of Cheltenham is renowned for having the most complete Regency architecture in the UK, with more than 2,000 listed buildings. This explains the attraction of a £4.5m airspace development scheme of four luxury penthouse apartments on top of a five-storey office building, offering the highest residential living space in town with far-reaching views. (Airspace development is where unused space on the rooftops of existing buildings is converted into new homes.)

Planning consent for the Montpellier House airspace development was sought and obtained by the developer and construction had started. On the face of it, a competent and well-respected professional team was supporting the scheme, including the architect, structural engineers, estate agents and main contractor.

Unfortunately, however, the project had overrun and second charge finance had become involved. Confidence and trust in the developer's capabilities were ebbing away. When Fletcher Bond was appointed as the Law of Property Act receiver by the first charge lender, work on-site had ground to a halt and the lender was estimating a £1m loss.

Go or no-go?

Our first visit to the site revealed some of the issues the lender had advised us of. While the developer remained enthusiastic about the potential for the apartments, and their Rightmove listings positioned them as highly desirable, cash flow had clearly become a problem. The scaffold hoist was being removed by the scaffolding company – an expensive last resort that obviously couldn't be prevented. It was evident that operatives hadn't been on-site for quite some time because the external decking on the scaffolding had perished and there were no materials loaded onto it.

We followed up with desk-based analysis, working with professional advisors and contractors to review the drawings and site conditions. The bill of quantities proved to be especially helpful in allowing us to conclude that initial cost estimates had been understated and calculate more realistic costs for completing the development.

This led to a go/no-go milestone. Based on the revised estimates and prospects for successful sales, we proposed taking the project through to completion by borrowing an additional £2m.

Balancing act

Next, we faced the decision about whether or not to replace the whole construction team. This was a delicate balancing act of assessing professional competence, goodwill and the benefits of existing site knowledge versus some fresh pairs of eyes. We built the strongest team by appointing a new main contractor but retaining some existing subcontractors and advisors.

We also resisted the pressure to act too quickly, instead deliberately going slow to then move forward in a planned and efficient manner. In practice, this meant sorting out issues that experience told us would come back to haunt us – things like site welfare, procurement procedures, utilities, fire safety and compliance. Where possible, we ran processes in parallel, such as getting the agents moving on pre-sales, which helped build confidence levels.

> **Earlier intervention would have avoided the sacrificial costs incurred by the passage of time with no work on-site**

The snagging and defects stage of development had to be exacting, with such high-specification apartments. An attitude of "that'll do" is not good enough when you are aiming to maximise returns.

At the end of the 12-month project, we turned a prospective £1m loss into full recovery for our client.

Lessons learned

At the end of the project, we drew several conclusions that we now include in our standard operating procedures:

1. Lenders should not ignore early-warning indicators

Better monitoring and a timelier intervention by the lender could have

minimised losses in this case. The developer signalled it was under pressure by seeking additional mezzanine finance, which introduced extra complexity and required careful stakeholder management when the cash ran out. Earlier intervention would have avoided the sacrificial costs incurred by the passage of time with no work on-site.

2. Accept that things always go wrong in building development

But stay closely engaged via regular site visits, attend design meetings and establish clear communications. This will result in fewer nasty surprises and better control of credit and drawdowns.

3. Projects like these are not for the faint-hearted

Making sure you have full confidence in every link in your professional supply chain is imperative, including your own skills and judgement. You will need time and resources to achieve proper oversight. Excellent legal advice is key to thoroughly understand the title structure and carefully draw up contracts, with clear warranties to guarantee a saleable and insurable final product. And nothing ever replaces the benefit of being physically on-site regularly.

4. In property, you'll never be better than its limiting factor

If your surveyor's perspective allows you to conclude that the basic fundamentals of the scheme are strong (it's a good idea, the location works, you get the vision, etc.), it's useful to remember that the biggest limiting factor with many schemes, including Montpellier House, is deliverability through the construction phase. Seek as much cost certainty as possible before pressing ahead, and resist pressure to start work without engaging stakeholders and doing the planning first.

Don't accept the status quo

In future, restructuring projects like Montpellier House will only become more challenging due to emerging legislation. The Building Safety Act 2022 and Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 are just the latest examples. It's hard for even competent professionals to keep abreast of what it takes to remain compliant, so insolvency practitioners should seek assurance around the depth of knowledge, experience and capabilities of the partners they work with. What is perhaps even more important, though, is to seek out a mindset that doesn't accept the status quo and instead sees opportunity where others would accept a loss as inevitable.

Rory Dillon MBA MRICS FNARA is founder and managing director of Fletcher Bond

Security or systemic risk?

Some well-known construction insolvency cases have highlighted the flaws of retention funds, argues **Monica Kapur**

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The construction industry, one of the most economically significant sectors in the UK, still relies on a payment mechanism that routinely strips working capital from the businesses doing the actual work, places it in the hands of those further up the chain and offers almost no protection when those parties fail. Retention funds were designed as a safeguard. In practice, they have become one of the sector's most persistent sources of financial vulnerability.

For insolvency practitioners (IPs), that vulnerability is not abstract. Government statistics suggest that billions of pounds are held in retentions across the UK supply chain at any given time[1], and high-profile contractor insolvencies continue to expose the same structural weaknesses. It is therefore essential to understand how retention funds operate and how to navigate them.

Designed for accountability, repurposed for leverage

The contractual logic underpinning retentions is defensible in principle. Under most standard forms, including Joint Contracts Tribunal contracts, employers withhold between 3% and 5% of the contract value from interim payments to contractors. Contractors apply equivalent deductions to subcontractors below them. Release is staged: half upon practical completion, the remainder after the defects liability period expires. ▶

The intention is to create a financial incentive for performance and defect rectification. The reality is rather different. Because there is no legal requirement to segregate or ring-fence retention monies, they are routinely absorbed into the general cash flow of whoever is holding them. What was conceived as security has become, for many in the supply chain, an instrument of working capital extraction – in effect, an interest-free loan provided involuntarily by contractors and subcontractors to employers and main contractors. Release of retained funds remains contingent on a series of conditions outside the control of the party entitled to receive them.

For SMEs operating on margins of 2% or 3%, the effect can be severe. Retentions do not merely delay payment; they can determine whether a business survives a difficult period at all.

> **Government statistics suggest that billions of pounds are held in retentions across the UK supply chain at any given time**

When insolvency strikes

The systemic risk crystallises when a party higher up the chain enters insolvency before retained funds are released. At that point, the contractor or subcontractor who expected to recover their retention discovers that the money that was never segregated or protected has long since been absorbed by other parties. They are an unsecured creditor. In most insolvency processes, that means recovering pennies in the pound at best, and nothing at all in many cases.

In 2018, the collapse of construction and facilities management company Carillion made this issue visible at scale. Businesses across the supply chain lost retention sums they were contractually owed, and the secondary wave of financial distress that followed demonstrated how quickly the problem propagates downward. The more recent insolvency of ISG, one of the UK's largest contractors, reinforced the point. The structural vulnerability exposed by Carillion had not been remedied. The same mechanism produced the same outcome.

This is not a series of unfortunate coincidences. It is the predictable

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consequence of a system that places substantial sums in the hands of parties without requiring them to account for those sums separately.

What should IPs do?

When appointed over a distressed construction business, there can be a temptation to treat retention funds as background noise amid more pressing issues. That would be a mistake.

Mapping the asset position should be an early priority. Retention receivables can represent a significant portion of a company's outstanding book, but entitlement is conditional. IPs need to establish, on a contract-by-contract basis, whether practical completion has been certified, whether the defects liability period has run and whether any outstanding defects could legitimately justify continued withholding. These are not formalities; they are the difference between a recoverable asset and an unenforceable claim.

The location of the funds matters enormously. Where retention has been held in escrow or in a protected account, recovery prospects improve considerably. Where it has not, which remains the more common scenario, the counterparty's solvency becomes the determinative factor. Early identification of how funds are held can shape the entire recovery strategy.

Do not overlook adjudication. The construction industry's statutory adjudication regime exists precisely because payment disputes, including retention disputes, are endemic and need to be resolved quickly. Where entitlement is clear and the counterparty is solvent, a referral to adjudication can secure recovery far more efficiently than litigation. It is a tool that is underused in insolvency contexts and deserves more attention.

On the liability side, where the insolvent company sits higher in the chain and has itself been withholding retention from subcontractors, IPs face a harder question: do those funds form part of the insolvent estate, or do arguments arise that they should be treated as held on trust? The answer is fact-specific and often contested, but it has material consequences for how the estate is administered and for subcontractor creditors who may otherwise face significant losses.

Regulation is catching up, slowly

The policy response to these problems has been cautious but is now accelerating. The Reporting on Payment Practices and Performance (Amendment) (No. 2) Regulations 2024 require large companies, for financial years beginning on or after 1 April 2025, to disclose their use of retention clauses, the rates applied, the total value of funds held and how those figures compare with retentions imposed on them upstream. The first reports under the new regime are due in 2026 – by 30 July 2026 for those on a January year end.

For practitioners, the transparency created by this reporting has direct utility. Reported retention data may help them to identify where significant sums sit within a distressed supply chain before or during an insolvency process.

Significantly, in March 2026, the government announced plans to ban retention payments in construction contracts. If implemented, a ban would fundamentally alter payment practices across the construction sector, removing a long-established mechanism for performance security and forcing parties to adopt alternative forms of risk management. For IPs, this would also reshape how exposure to upstream insolvency is assessed and managed across the supply chain.

The fundamental question of whether the retention system should be reformed may therefore be resolved sooner than previously anticipated. The Department for Business and Trade has been consulting on two options: outright abolition of cash retentions, or mandatory protection through ring-fenced trust accounts or deposit schemes. Either would represent a significant departure from current practice. The latter, in particular, would directly address the unsecured creditor problem that makes upstream insolvency so damaging for those below.

Broader considerations

Retention funds were meant to protect employers from underperformance. What the evidence of repeated insolvency cycles shows is that the retention system, as currently structured, transfers risk systematically downward, away from those with the most contractual power and onto those with the least financial resilience. That is not a design feature. It is a design flaw.

Reform, when it comes, will reshape a practice embedded in construction contracts for generations. Until it does, IPs working in the sector need to engage with retention funds not as a peripheral issue but as one of the central dynamics of construction financial distress.

1. *Retention Payments in the Construction Industry*, Department for Business, Energy & Industrial Strategy, 2017

Monica Kapur is a director at Isadore Goldman and founder of IG Construct

Pushing the limits

In the wake of the THG v Zedra judgment, **Catherine Addy KC** and **Rebecca Page KC** consider whether new life can be breathed into old office holder claims

On 25 February 2026, the Supreme Court handed down its decision in *THG Plc v Zedra Trust Company (Jersey) Ltd [2026] UKSC 6*. The majority held (by 4 to 1) that no period of limitation applies to shareholders' claims for unfair prejudice under s.994 of the Companies Act 2006.

While, strictly speaking, the Supreme Court's majority decision is only binding in relation to s.994 of the Companies Act 2006, it is of much wider significance to insolvency practitioners (IPs) for two principal reasons. The first is that the reasoning in the decision appears equally applicable to claims under s.423 of the Insolvency Act 1986 for transactions defrauding creditors (s.423 claims) and, potentially, to transaction avoidance claims under s.238 and s.339 for transactions at an undervalue (TUV) and s.239 and s.340 for preferences.

The second reason why the decision is significant is that it considers that the insolvency cases of *Priory Garage (Walthamstow) Ltd [2001] BPIR 144*, which concerned s.238–241 of the Insolvency Act 1986, and *Hill v Spread Trustee Co Ltd [2006] EWCA Civ 542*, concerning s.423 of the Insolvency Act 1986, were wrongly decided in finding:

(1) A six-year period of limitation applies under s.9 of the Limitation Act 1980 where monetary relief is sought; and

(2) A 12-year period of limitation applies under s.8 of the Limitation Act 1980 where non-monetary relief is sought, insofar as the decisions relied on the view that an "action upon a specialty" under s.8 is wide enough to include any claim that can only be brought under a statutory provision.

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Background to the case

The issue arose in *THG v Zedra* on an application to amend a s.994 petition to plead and seek monetary relief in respect of allegations of factual matters that had occurred more than six years earlier. THG opposed the amendment, contending that a six-year period of limitation applied under s.9 of the Limitation Act 1980 on the grounds that it was an "action to recover any sum recoverable by virtue of any enactment".

At first instance, Mr Justice Fancourt rejected THG's argument that the amendment was time-barred. He held that there was no period of limitation that applied to s.994 under the Limitation Act 1980.

The Court of Appeal allowed THG's appeal, holding that:

(1) Where the right to go to court is purely statutory, it is an "action upon a specialty" within s.8(1) of the Limitation Act 1980 such that a 12-year limitation period applied. In reaching this conclusion, the Court of Appeal referred to *Collin v Duke of Westminster [1985] QB 581* in which Lord Justice Oliver had arguably referred to an "action upon a specialty" in two ways. Essentially these were: (i) as contracts under seal (i.e. deeds) and "obligations imposed by statute" (the "narrow view"); and (ii) as encompassing any cause of action which derived from statute alone (the "wider view"). The Court of Appeal adopted the wider view.

(2) Because the 12-year period of limitation is disapplied under s.8(2) of the Limitation Act 1980 where a shorter limitation period is prescribed, a six-year limitation period applied under s.9 of the 1980 Act where the only relief sought on a s.994 petition was the payment of money. This was because the court concluded that where a monetary remedy was sought under s.994 (as opposed to non-monetary relief), it was an "action to recover any sum recoverable by virtue of any enactment".

Key issues decided by the Supreme Court

The key issues decided by the Supreme Court were therefore:

(1) Whether a claim under s.994 of the Companies Act 2006 was an "action upon a specialty" within s.8(1) of the Limitation Act 1980 to which a 12-year limitation period applied (unless under s.8(2) of the 1980 Act a shorter period applies).

(2) Whether a claim under s.994 of the Companies Act 2006 in which the only relief sought is the payment of money is an "action to recover any sum recoverable by virtue of any enactment" falling within s.9(1) of the 1980 Act to which a six-year limitation period is appliable.

> **The majority of the Supreme Court Justices held that the Court of Appeal was wrong to adopt the wider view of *Collin***

The majority of the Supreme Court Justices held that the Court of Appeal was wrong to adopt the wider view of *Collin* and found that the essence of an action upon a specialty is that it is to enforce an obligation "created by deed or statute" (albeit the majority was itself split evenly as to whether only a *monetary* obligation under a statute would suffice). Nevertheless, they went on to find that s.994 of the Companies Act 2006 did not, in any event, "create" or enforce any obligations but was rather a "state of affairs" in respect of which the court was conferred with a wide discretion to grant relief.

Furthermore, the majority concluded that such wide discretion as to the nature of the relief meant that these were not claims to which s.9 of the Limitation Act 1980 could apply. In doing so, they expressly disapproved the previous judicially endorsed approach whereby the court would 'look and see' what type of relief was being claimed, in order to decide whether any claim pursuant to a statutory provision fell within s.8 or s.9 of the Limitation Act 1980.

Notably, on both issues, the majority concluded that *Priory Garage and Hill v Spread Trustee* were wrongly decided (as set out above), although they were not expressly overruled.

Significance for Insolvency Act claims

It is important to keep in mind that *THG v Zedra* is not a decision in respect of the Insolvency Act 1986. Nevertheless, it would appear to follow that:

(1) Contrary to previous authority, a six-year limitation period under s.9 of the Limitation Act 1980 is now very ▶

unlikely to be held to apply to TUV and preference claims or claims under s.423 of the Insolvency Act 1986, even in cases where the only remedy claimed is monetary relief.

(2) Whether a 12-year limitation period under s.8(1) of the Limitation Act 1980 nevertheless applies to TUV, preference and/or s.423 claims under the Insolvency Act 1986 is more nuanced. Applying the reasoning in respect of which the majority was agreed, it seems that it will depend on whether the relevant statutory provision creates an obligation (such that it is a specialty) or is simply a "state of affairs" in respect of which the court may grant relief. While it is difficult to see why s.423 of the Insolvency Act 1986 could be considered materially different to s.994 of the Companies Act 2006, the language of s.238 and s.339 of the Insolvency Act 1986 differs slightly and may provide some scope for further argument on this point.

(3) The position appears to be different in relation to fraudulent and wrongful trading claims under s.213 and s.214 of the Insolvency Act 1986, as only a monetary remedy is available.

"The position appears to be different in relation to fraudulent and wrongful trading claims under s.213 and s.214 of the Insolvency Act 1986

Accordingly, it seems that s.9 of the Limitation Act 1980 and a six-year period of limitation will apply (the majority referred to *Re Farmizer (Products) Ltd [1997] 1 BCLC 589* without suggesting it was wrong in this respect). Similarly, it seems that claims under s.217 of the Insolvency Act 1986 (personal liability for debts of a company following contravention of s.216) will be subject to a six-year limitation period under s.9. Alternatively and in any event, s.217 creates a monetary obligation that would fall within s.8(1) of the Limitation Act 1980 and be subject to a 12-year limitation period (unless any shorter period applies).

While the above points of law will need to be decided in an appropriate case or cases, *THG v Zedra* opens up the possibility for IPs to reconsider pursing older claims that might previously have been thought to be statute-barred following the *Priory Garages* and *Hill v Spread Trustee* line of authority.

To read more on this topic, see *Limitation and Insolvency Act Claims: The New Landscape Post THG v Zedra [2026] UKSC* by Catherine Addy KC and Rebecca Page KC, published on 11 March 2026 and available at maitlandchambers.com/resources/news. This article is based on the law as at 11 March 2026.

Disclaimer: *This article has been produced for educational purposes only. It is not intended to, and does not give or contain legal advice on any particular issue or in any particular circumstance.*

Catherine Addy KC and **Rebecca Page KC** are barristers at Maitland Chambers in London

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The fundamentals of funding

From overdrawn loan accounts to complex international fraud and asset recovery, what do litigation funding and ATE insurance cover?


Litigation funding can be used in many different scenarios

For a change of pace, I thought on this occasion we'd look at some of the different things we're working on, as practical real-world examples might bring funding and insurance 'to life' for those less familiar with the market. You may be surprised at some of the creative solutions we come up with.

Case study 1: £62,000 overdrawn director's loan account

Annecto Legal was approached to broker a claim of £54,000 in relation to an overdrawn director's loan account. The case was pre-issue and the defendant was not particularly forthcoming. The insolvency practitioner (IP) had already approached one funder that is very well known in the insolvency sector, but was concerned that accepting an offer without exploring the wider market would not serve the creditors' best interests. We get lots of enquiries like this and we always try to secure comparative quotes so that the IP can make an informed choice that can be justified to creditors. The IP now has three quotes to choose from, with a mix of upfront and deferred options.

Case study 2: Complex fraud and/or professional negligence claim for over £11m

An IP approached Annecto Legal in relation to a possible fraud or professional negligence action. There were extremely limited funds in the administration and so it was important to secure funding as soon as possible. However, it was still early days and it was not yet clear which cases would be pursued, or whether the defendants had assets to either settle the claims or satisfy any judgment against them. We were able to ensure that spend was kept to a minimum and targeted on exactly what funders would need to make an investment. We were also able to suggest investigators that could work on a contingent basis, which allowed the asset position to be clarified for no further cost. The case is now funded and insured, with the total costs of both coming to between 10% and 20% of any settlement, which was considerably lower than the IP anticipated.

Case study 3: Intransigent defendant

A relatively straightforward claim for around £300,000 in damages, where the defendant was refusing to engage in any meaningful fashion until we issued the claim. The IP was reluctant to secure funding and ATE (after the event) insurance, as they were worried about giving away large sums to the funders/insurers if the case settled soon after issue. As a solution, Annecto Legal secured ATE insurance and funding for disbursements (including issue fee), with a very low fixed fee if the case settled in the first six months after issue. Once informed of the funding and ATE, the defendants settled without the need to issue at all. The cost of the funding and ATE that secured this settlement? Under £20,000.

Case study 4: Security for costs (SfC)

The arguments in *Premier Motorauctions v PWC LLP* (Court of Appeal) are often thrown around as though ATE insurance is no longer useful in dealing with SfC. The reality is more nuanced and ATE can still be a useful and cost-effective tool for satisfying the courts. When it is not the solution on its own, then deeds of indemnity, letters of undertaking or bonds in conjunction with ATE are still alternatives to lodging cash with court (which is unlikely to ever be a preferred solution for claimants).

Annecto Legal was recently involved in a case where it was helpful to show the client the costs of fighting the SfC application versus the costs of the different ATE and associated solutions. The client was then able to make an informed decision that would be fully justifiable to creditors.

Annecto Legal's role is not about getting your case 'out to market' in isolation, but about understanding the problem; suggesting innovative and cost-effective solutions; assisting in preparing the case for underwriting; securing offers from funders/insurers; explaining the offers and also giving insight into the funder/insurer; negotiating terms; and ensuring that the whole process is managed in a coordinated and effective fashion.

Annecto Legal can secure terms that are far more attractive than would be secured by approaching any one funder directly. In addition, we can do it all while documenting a clear process for securing the best terms for creditors.

Mark Beaumont is co-founder of Annecto Legal Ltd, a national broker of ATE legal expenses insurance and a range of funding for litigation and arbitration. Contact Annecto Legal on 0800 612 6587 or Mark Beaumont at mark.beaumont@annectolegal.co.uk or on 07730 217 643

Legal Q&A

Piers Digby answers your questions on debtors' pensions

Q To what extent can creditors access an insolvent debtor's pension?

A Enforcement against debtor pensions is complex due to competing policy objectives. While there is sympathy for a creditor holding an unsatisfied judgment and looking enviously at a debtor's well-endowed pensions, there is a need to ensure that people retain money for their old age, with some degree of protection against poor decisions they've made.

These competing policy objectives have led to a patchwork state in the law, with creditors having varying ability to access a debtor's pensions depending on the scenario. Where a debtor is subject to a bankruptcy order, s.11 of the Welfare Reform and Pensions Act 1999 expressly excludes the debtor's rights under an approved pension arrangement from the bankruptcy estate. Under s.12, the same can be extended even to unapproved pension arrangements, although the protections are more limited.

Nevertheless, this does not prevent a) the making of income payment orders under s.310 of the Insolvency Act 1986; b) the recovery of excessive contributions under s.342A of the Insolvency Act 1986; and c) the recovery of assets wrongly included in the pension arrangement.

Each of these routes faces difficulties. Income payment orders allow for income received by the bankrupt during the bankruptcy to be paid out to creditors, but this is only of use if the debtor is actually receiving pension payments and there is remaining income over and above what is necessary for meeting the debtor's reasonable domestic needs. Where a debtor is some way from retirement, or has retired but is able to avoid drawing on any pension arrangements, creditors are left in the cold. The court specifically disapproved any attempt to force the debtors to draw down in *Re Henry [2016] EWCA Civ 989; [2017] 1 W.L.R. 391.*

In *Stanley v Wilson [2017] B.P.I.R. 227*, the court considered that the recovery of excessive contributions required the court to be satisfied on a two-stage approach that a) the dominant purpose was putting assets beyond the reach of individual creditors; and b) that the contributions were objectively excessive. It may be rather difficult to satisfy both steps where, for example, a debtor has a consistent history of making large contributions to his pension, both before and after any concerns of insolvency.

Finally, where an asset has been wrongfully transferred into a pension arrangement, there may be a route to recovery. In *Ceredigion Recycling and Furniture Team v Pope & Ors [2022] EWHC 1969 (Ch)*, the directors of a company entered into a staged transfer and leaseback of the company's freehold property to an annuities provider, with the rent paid directly into their self-invested personal pensions. The court gave relief by restoring the property to the company. This route is very limited by the specific factual circumstances and type of claim, and does not offer a general tool for the use of creditors.

Q Does the situation change if the debtor has not yet entered an insolvency process?

A Surprisingly, the situation may be rather different where the debtor is not yet formally insolvent. In *Blight v Brewster [2012] EWHC 165 (Ch); [2012] 1 W.L.R. 2841*, the court applied recent Privy Council authority to grant an injunction forcing a fraudulent debtor to exercise his right to call for his pension so that a third-party debt order could be made in respect of it. The court noted that while Parliament had chosen to create special statutory protections for pensions in the bankruptcy scenario, it had not done so otherwise.

The law following *Blight v Brewster* remained quiet for several years, before endorsement by the Court of Appeal in *Bacci v Green [2022] EWHC 486 (Ch); [2023] Ch 201*. Then, a flurry of cases led to rapid development in this area.

In *Brake v Guy [2022] EWHC 1746 (Ch)*, the pension trustees argued that a third-party debt order could not be used in this manner, since the terms of the pension give a general discretion to the trustees on the timing and manner of payment. Therefore, even after exercising the right to call for his pension, there would be no debt owing to the debtor, a requirement for the third-party debt order regime. The court rejected this as 'commercial nonsense'; although there might be quibbles over the exact form and timing of payment, there certainly would be payment, as there was no way a commercial pensions provider could seriously suggest they would simply fail to pay out at all following a request.

Further, the court confirmed that the jurisdiction was not merely restricted to fraudsters (although clearly the discretionary aspect of making an injunction is more strongly engaged where the debtor is a fraudster). The general point that the protections of bankruptcy were specific to bankruptcy, rather than being applied by analogy to solvent, non-fraudulent creditors, was upheld.

However, in *Manolete Partners v White [2024] EWCA Civ 1418; [2025] 1 W.L.R. 1065*, the Court of Appeal began

> There is a need to ensure that people retain money for their old age, with some degree of protection against poor decisions they've made

to restore some of the boundaries of the jurisdiction. In particular, s.91 of the Pensions Act 1995 prevents occupational (but not personal) pensions being subject to an order of the court, the effect of which would be to restrain receipt of the pension. *Bacci* had dealt with an occupational case and the first instance court had accepted that "forcing the debtor to exercise his pensions entitlement" and "the third-party debtor order binding" were two distinct steps, neither of which were caught by s.91. Nevertheless, the court in *Manolete* considered this argument an artificial sidestep.

Finally, in *Zubarev & anor v Singh & anor [2025] EWHC 2242 (Ch)*, although the court accepted the jurisdiction remained available in personal pension cases, the procedure that the court would expect to be followed in future applications was clarified and made more stringent. In *Blight*, the third-party debt order and the injunction were sought simultaneously; this has now been disapproved in favour of sequential (and therefore more expensive) steps. It remains to be seen when this may be viable in future, particularly for smaller pension pots.

Piers Digby is a barrister with Radcliffe Chambers, practising across insolvency and restructuring, pensions, company law and commercial disputes, with additional experience in contentious probate and trust matters

Handle with care

How can IPs manage the challenges associated with law firm insolvency?

Law firm insolvencies present a uniquely complex challenge for insolvency practitioners (IPs), combining financial distress and strict regulatory oversight and professional obligations. Unlike other sectors, legal practices are custodians of client interests, confidential information and regulated funds, all of which must be handled with precision during any restructuring or closure process.

In recent years, a combination of economic pressure and regulatory change has increased financial strain on law firms. Cash flow issues remain a primary contributor to law firm distress. When coupled with rising operational costs and professional indemnity insurance premiums, even well-established firms can quickly find themselves in difficulty.

Regulatory complexity and client protection

For IPs, stepping into this environment requires more than traditional financial expertise. One of the most immediate challenges is navigating regulatory compliance. Law firms in England and Wales are overseen by the Solicitors Regulation Authority (SRA), which imposes strict rules around client money and professional conduct. Any insolvency process must align with these requirements, and failure to do so can result in SRA investigation or even intervention.


Law firm insolvencies present complex challenges

Client money is a particularly sensitive issue. Funds held in client accounts are not assets of the firm and must be safeguarded and distributed appropriately. IPs must ensure accurate reconciliation and distribution.

Another key consideration is the management of live client matters. Unlike other businesses, law firms cannot simply cease trading without considering the impact on ongoing cases. Files must be transferred securely in a manner that protects client interests.

Professional indemnity insurance presents a unique challenge. Law firms are required to maintain run-off cover for six years following closure. While the insurer is compelled to maintain cover when a firm enters into an insolvency process, regardless of whether the run-off premium is paid (typically three times the last annual premium), it will be an unsecured claim in the insolvency and potentially has far-reaching personal implications for the owners.

Work-in-progress (WIP) is another area where law firm insolvencies differ significantly. WIP can represent substantial value, but is often difficult to realise. IPs must assess whether files can be sold, transferred or completed to unlock value. This requires close collaboration with legal professionals who understand the merits and risks of individual matters.

The importance of engaging early with professional advisors

Given these complexities, seeking early advice is critical. Engaging with specialist advisors who understand the legal sector can significantly improve outcomes. Structured wind-downs or managed file transfers can help preserve value and protect client interests while ensuring regulatory compliance.

Recovery First works closely with IPs and law firms facing financial distress to deliver tailored solutions. By combining financial expertise with a deep understanding of the legal regulatory landscape, Recovery First supports orderly transitions that minimise disruption and maximise recoveries. This includes specialist support in the management, valuation and realisation of work-in-progress files.

Law firm insolvencies are not purely financial matters; they are heavily regulated processes that require precise coordination and a strong focus on client protection. With the right expertise and timely intervention, IPs can manage these situations effectively and safeguard both client interests and creditor value.

> **Recovery First works closely with IPs and law firms facing financial distress to deliver tailored solutions**

David Johnstone is managing director of Recovery First. Contact him on 07887 796989 or email him at david.johnstone@recoveryfirst.co.uk

Place in the sun

By seeking advice, and following the appropriate legal channels, UK-based IPs can often successfully recover Spanish assets. **Sandra Wrightson** explains

Spanish property can be recovered and sold in insolvency proceedings

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An important aspect of my work is advising and recovering Spanish property for English trustees. I am involved in cases* where a bankrupt has either failed to disclose Spanish property, or the foreign asset has been traced by the trustee in the bankruptcy proceedings. In many cases, where bankrupts do agree to cooperate, my colleagues and I are able to realise the asset and sell the property.

Every insolvency practitioner (IP) reading this article will have experience of obstructive and difficult bankrupts. Accordingly, in a limited number of cases, the only solution under English law is to allege criminal concealment of assets. In Spanish law, there is an analogous offence and a private prosecution can be brought by the trustee. This would only be a last resort, however.

Prior to Brexit, the European regulation on insolvency proceedings, 1346/2000, could be relied on without further formalities. While the framework has changed post-Brexit, there are still a number of ways in which a trustee can deal with, recover and sell property in Spain.

Notarial procedures for sale

I am aware of cases where English IPs have been reluctant to deal with foreign property. They may have heard stories of escalating costs and slow and cumbersome court proceedings taking place in other European countries. Spain has a particular advantage in this respect. Our first step is always to see if we can sell the Spanish property by using the notarial procedures for sale.

To have effect against third parties and to register a sale of property, the parties sign an *escritura* (deed of sale) before a notary in Spain. In our experience, most notaries will accept evidence of the bankruptcy and appointment of the trustee. The orders are affixed to a Spanish power of attorney form and attested to by a notary in the UK. We have successfully recovered considerable funds from these sales without the need for a court proceeding. The role of the Spanish notary is not always understood by lawyers from outside Spain, however. This can result in frustrating delays that can be avoided by good preparation and working with the officials prior to the day of completion.

I recall one case where four lawyers flew from England and arrived at the door of the notary in the Canary ▶

Islands, expecting their previous agreement would be simply witnessed on the day. I won't go on to say anything further about wasted costs!

In cases where the bankrupt is a joint owner, it is important to note that joint ownership in Spain is a tenancy in common. A negotiation can take place with the joint owner to allow a sale or, in some cases, a purchase of the trustee's interest from the joint owner.

Prompt investigations and taking advice are essential to recovering Spanish assets

Hague Judgments Convention

In July 2025, the UK ratified the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, concluded on 2 July 2019 – a harmonised legal framework for enforcing legal judgments across borders. Article 2 (e) states that the following judgments are excluded: insolvency, composition, resolution of financial institutions and analogous matters.

As yet, there has been no Spanish case law on this point. It could be argued that the Hague Judgments Convention applies to a decision as to whether a bankruptcy or insolvency has been proved. Hence, in my view, an order of bankruptcy against an individual who owns property in Spain is not excluded from the convention, since the recognition is a personal (*in personam*) order against the bankrupt.

Exequatur proceedings

The two procedures, notarial sale and recognition in accordance with the terms of the Hague Convention, should allow for the recovery of the asset. But if that is still not possible, there is a specific court procedure called *exequatur* proceedings.

The application is made to the Spanish court, in the locality of the property, for recognition and execution of the bankruptcy order. Where a land registry will not allow for a charge to be placed, or a bankrupt is obstructive, this may be necessary.

To obtain recognition, it is necessary to prove that the order is full and final and no longer subject to appeal. It is also necessary to prove that notice was given to the debtor.

There is an important difference between Spanish and English procedure on discharge. In English law, an automatic discharge takes place and judges are reluctant to stay or suspend discharge. In Spanish procedure, a bankrupt is only discharged once the entire procedure comes to an end or by a specific order of the court.

A Spanish asset often forms part of the bankrupt's estate after automatic discharge has taken place. In a number of cases, I have been asked to provide a certificate of law that states that the bankruptcy is not concluded until the trustee gives notice to creditors – as per s.331 (2) of the Insolvency Act 1986. Depending on the circumstances of the case, an order specifically relating to the Spanish property can be obtained in the English court. This can refer to the fact of discharge but state that the specific property still forms part of the bankrupt's estate.

> **A Spanish asset often forms part of the bankrupt's estate after automatic discharge has taken place**

Identity issues

Proof of identity is important. Trustees tracing assets outside of the UK often lack identity information for the bankrupt such as passport numbers. A trustee does have the ability to request a copy of a bankrupt's passport, however, and can justify this request if it is believed the bankrupt has not disclosed ownership of a foreign property.

This application can be made under s.363 (2) of the Insolvency Act 1986. It was relied on in a specific case involving assets in Spain. In the case of *Buchler v Al Midani (No.3) (2006) EWHC 170*, the bankrupt sought to interfere in legal proceedings in Spain to frustrate the realisation of a Spanish asset.

Secrets to success

Based on my experience of working with trustees and IPs for more than 15 years, I've found that the key to a successful outcome when recovering assets in Spain is to take advice and undertake searches promptly to obtain evidence of title. This can be done without incurring substantial costs.

Appoint lawyers who understand both legal systems, since this is a considerable advantage. The best outcome is a notarial sale. Where you have an obstructive bankrupt, there are legal procedures to follow. Also, it might make sense to follow the Spanish property rather than 'follow the money', since it is always better to be chasing the asset than discovering the bankrupt has already sold their interest.

**While I refer to cases in England and Wales in this article, the broad principles I cite apply to all UK bankruptcies, with some procedural differences.*

Sandra Wrightson is a barrister and *abogada* at De Cotta Law in Spain

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From friction to flow

Modernise your personal insolvency delivery with clearer visibility, greater control and compliance by design

Throughout my career, I've seen where delivery of individual voluntary arrangements and debt management plans slows down. It's rarely the complex judgement calls – it's the repeatable work around them: client details entered in multiple places, documents chased twice and "where are we up to?" answered from memory. In a high-volume environment, those frictions quickly become risk, delay and a poorer client experience.

That's why we created Turnkey PI. We kept hearing the same thing: "We can handle the cases; we just can't keep fighting the process."

Expectations have risen, but many firms still rely on tools built for a different era. Our aim wasn't to digitise yesterday's workflow; it was to redesign it, so the platform does the heavy lifting.

When information sits across spreadsheets, inboxes and legacy systems, you lose a single source of truth. That shows up as duplicated data, inconsistent oversight and late surprises – missing documents, tasks not picked up or steps completed but not evidenced. Clients feel it, too: slower updates, mixed messages and more time spent chasing when they need clarity.

Turnkey PI brings the end-to-end case journey into one connected platform, built in the cloud with modern APIs to integrate with the wider insolvency ecosystem. The practical benefit is visibility: teams can see what's been done, what's outstanding and what's blocking progress, without piecing together a story from multiple systems. That improves control and supports better conversations with clients.

> **What sets Turnkey PI apart isn't a single feature, it's a design philosophy: visibility, automation and compliance**


Turnkey PI brings the entire case journey into one connected platform

Compliance, particularly under frameworks such as SIP 3.1, should be built in, not reconstructed at the end. Turnkey PI makes good governance the default with guided workflows, consistent checkpoints and an evidential trail of what happened and when. The goal is to reduce reliance on manual checking while helping firms demonstrate consistency without slowing delivery.

A lot of time in personal insolvency disappears into administration: rekeying income and expenditure, reconciling statements and moving data between tools. Turnkey PI uses automation and integrations to cut repetition and improve data quality. Thanks to connections to systems such as Open Banking and creditor platforms, information can be captured once and reused, reducing handoffs and the risk of error.

We're equally focused on communication, because operational reality becomes the client's lived experience. A secure client portal helps people upload documents, see progress and understand what happens next, without repeated calls and email chains. For teams, centralised communications provide continuity and an audit trail when cases move between colleagues or need review.

What sets Turnkey PI apart isn't a single feature, it's a design philosophy: visibility, automation and compliance working together to reduce friction and variation. When each case step is connected, risk is easier to spot, performance is easier to manage and outcomes are easier to improve.

Looking ahead, I think the sector's advantage will come from operational confidence: knowing where every case sits, what risks are emerging and what action will move things forward. That's what we set out to build with Turnkey PI, a platform that helps firms scale without losing control, and helps clients move from uncertainty to a plan they can follow.

Ciaran Dagen is a personal insolvency specialist at Turnkey. Contact Turnkey on 0141 644 5444 or info@turnkey-ips.com

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The hidden cost of survival

A cyberattack can be the catalyst for a business to suffer a financial crisis. **Janet Burt**, **Tiernan Connolly** and **Sarah Rayment** explain how IPs can help

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The modern business environment is increasingly being shaped by cyberthreat actors. Cyber risk is now a significant capital event. As attacks grow faster and more sophisticated, the hidden cost of survival encompasses not just technical remediation, but profound liquidity shocks, valuation erosion and corporate governance tested to its breaking point.

A cyberattack is often the catalyst for a financial crisis. For many businesses, the immediate aftermath of a breach creates a rupture in established systems, draining liquidity at the exact moment capital is needed most.

The cyber resilience gap

In our recent report, *Bridging the Cyber Resilience Gap*, we surveyed 1,000 senior cybersecurity decision-makers around the world, working in organisations with more than $50m (£37m) in global annual revenue. The findings were staggering: the average financial impact of a cyber incident is greater than $20.9m (£15.44m). It is not unusual for businesses to fail after an attack.

Perhaps unsurprisingly, smaller businesses are disproportionately vulnerable because their IT budgets can't cover advanced cyber protection tools. They also lack liquidity buffers and access to capital, which are vital for mitigating the financial impact of an attack.

> **“A cyber recovery requires decisive action to restore faith with lenders, shareholders and consumers**

The speed of cyber events defines their impact. Breakout times – the window in which an attacker moves laterally across a system – have dropped to under 30 minutes. Attacks powered by artificial intelligence (AI) are compressing this window even further, enabling adversaries to scale and adapt faster than traditional detection and response models. For firms lacking robust liquidity buffers, this speed converts a security breach into a solvency threat almost instantly.

High-profile incidents last year underscored the operational and financial impact of cyber events. Retailer Marks & Spencer, for example, suffered four months of downtime that wiped out nearly all profits for the period, while car maker Jaguar Land Rover had to stop production for five weeks, which contributed to a 17.1% drop in retail sales and cost the UK economy an estimated £1.9bn. ▶

Despite rising budgets – 80% of decision-makers surveyed for our research say their organisation has increased cyber spending this year – a persistent challenge remains. More than 70% report a gap between their organisation's cybersecurity strategy and its broader business priorities.

Companies are investing in their defence, but not always in the right areas. More than two-thirds (67%) of attacks are identity centric – involving, for example, phishing, social engineering and credential misuse. Yet 23% of organisations are reducing investment in foundational capabilities such as identity and access management and zero trust. This exposes a growing disconnect between resilience requirements and security investment decisions.

The increasing adoption of AI has introduced a new layer of complexity. While 76% of respondents have experienced an AI-related security incident, nearly half of businesses (48%) report having little to no organisational governance regarding AI tool adoption.

AI-ready resilience depends on a high level of cyber maturity. High-maturity organisations – where cybersecurity is fully integrated into enterprise risk management – are six times more likely to spend heavily on testing security controls, which results in significantly fewer AI-related incidents.

While security teams remain focused on defence, boards concentrate on compliance and liquidity. To bridge this gap, cyber risk must be quantified in the language of the chief financial officer, focusing on revenue at risk, liquidity buffers and reputational damage.

Marks & Spencer was the victim of a cyberattack last year

Role of the IP

When a business faces capital pressure due to cyber intervention, insolvency practitioners (IPs) provide the necessary stabilisation to preserve enterprise value when technical recovery alone is insufficient.

Restructuring expertise is deployed throughout the attack life cycle in several critical ways. IPs implement cash flow modelling and contingency funding strategies to bridge the gap while the business tries to stabilise.

During ransomware incidents, IPs can lead structured crisis calls covering forensics, legal obligations and stakeholder communications to ensure payroll and supplier payments continue uninterrupted. Ultimately, much like a traditional turnaround, a cyber recovery requires decisive action to restore faith with lenders, shareholders and consumers. Similarly, effective communication with regulators can help demonstrate that control deficiencies have been addressed, restoring confidence with watchdogs, lenders and consumers.

The art of resilience

Resilience is built through foresight and structure. Cyber incidents need to be recognised as capital events that test liquidity, governance and resilience.

Preparing breach response plans, stress-testing financial impacts, diversifying supply chains and ensuring dynamic governance are all essential steps. But when incidents occur, IPs are uniquely positioned to stabilise operations, manage stakeholders, and preserve cash and enterprise value.

The hidden costs of survival include the capital shortfall, reputational damage and strategic misalignment that follow. Boards that integrate restructuring into their cyber resilience planning will be better equipped to navigate the life cycle of an attack.

Note: *All currency conversions are based on FX rates at time of writing.*

Concerning picture in private equity

Our recent research, *Cyber Risk at Scale: Safeguarding Portfolio Value in Private Equity*, determined that cyber risks are particularly acute within private equity (PE) portfolios. Cybersecurity has evolved into a material transaction risk that has hit both deal flow and valuation. As many as 80% of PE firms have reported disruption during the 'hold period' – from the moment they acquire a company to when they exit – over the past year.

In terms of financial impact, nine out of 10 PE firms experienced financial impact due to cyberattacks on their portfolios, and 26% saw a reduced valuation or exit price.

The research also shows a widening gap between large and small funds. More than half (55%) of PE firms with over \$25bn (£18.5bn) in assets under management (AUM) use formal mandates and dedicated platforms to track portfolio risk compared with just 12% for firms with less than \$25bn in AUM. Smaller firms also often lack defined baselines (minimum performance standards), leaving them more exposed to inherited cyber issues that erode returns during an exit.

Janet Burt, **Tiernan Connolly** and **Sarah Rayment** are managing directors at Kroll

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People power

Multigenerational teams are transforming the profession, enabled by new technological tools, explains **Paul Redmond**

The world of work is undergoing a profound shift. Driven by demographic change, rapid advances in artificial intelligence (AI) and growing economic uncertainty, the transformation we're living through is anything but incremental. For those working in restructuring, turnaround and insolvency, the challenge isn't simply to keep up, it's to lead. This begins with understanding a powerful, often overlooked, force that is reshaping the modern workplace: generational change.

Five generations, one workforce

For the first time in industrial history, four – soon to be five – generations are sharing the workplace. Sociologists have given each of these its own title:

- Baby Boomers (1946–1964);
- Generation X (1965–1980);
- Millennials (1981–1996);
- Generation Z (1997–2012); and
- Generation Alpha (2013 onwards).

Each of these generations brings its own distinct values, expectations and ways of working. Boomers, for example, tend to value loyalty and organisational structure, while Gen X prioritises independence and pragmatism. Millennials – often seen as the most values-driven generation – have been found to seek purpose, inclusivity and meaning. The 'digital natives' of Gen Z demand flexibility, immediacy and feedback, and Generation Alpha – the first generation to grow up in the era of AI – will have different traits again.

> **Firms must rethink the employee experience, offering not just career progression, but purpose and flexibility**

For the restructuring, turnaround and insolvency profession – where trust, collaboration and clarity are essential – understanding generational dynamics isn't a 'soft skill', but a business-critical advantage.

Why does generational change matter to insolvency professionals?

Generational change affects more than office culture. It reshapes how firms recruit, communicate and deliver value in an unpredictable business landscape. The impact of generational change can be seen in the following ways: ▶

Client expectations

Today's clients, including business owners, directors and stakeholders, have high expectations. They expect transparency, responsiveness and speed. The traditional 20th-century work model, as developed by the Baby Boomers, is rapidly becoming obsolete. Firms that embrace digital engagement and project a modern, authentic culture will thrive.

Talent recruitment and retention

Despite the recent softening of the labour market, recruitment and retention remain challenging for most businesses. Younger professionals are less likely to stay in roles that feel rigid or outdated. To attract and retain top talent, firms must rethink the employee experience, offering not just career progression, but purpose and flexibility.

A need to reframe the profession

At its core, restructuring, turnaround and insolvency work protects jobs, sustains businesses and restores stability. Yet this message can often be lost. A clearer, more inspiring narrative is needed to reflect the profession's social impact and relevance to all generations.

AI: threat or tool?

AI is increasingly embedded in day-to-day work. It can support document review, undertake financial analysis, provide early-warning signals of fraud and other risks, and even assist with client interaction.

The key is balance. AI should complement, not replace, human insight. Used appropriately, it can free professionals to focus on navigating stakeholder relationships, crafting solutions and offering strategic judgement in complex, high-pressure situations.

Imagine a platform that analyses company data and flags early risks – used by an experienced insolvency practitioner who knows the psychology of leadership teams operating under high levels of pressure. That's the next evolution of the profession.

Value of multigenerational teams

The most effective restructuring, turnaround and insolvency teams aren't necessarily the most experienced or the most tech-savvy, but they're likely to be the most generationally diverse. Why?

- Boomers bring institutional knowledge and strategic thinking.
- Gen X offers calm leadership and reliability.
- Millennials contribute collaboration, empathy and digital fluency.
- Gen Z adds innovation, curiosity and a different lens on culture.

Cross-generational teams can be highly effective, but only when leaders actively build cultures that value mentorship, encourage two-way learning and place collaboration above hierarchy.

Looking ahead: Generation Alpha

Generation Alpha will have different expectations from previous generations. Digital from birth, their priorities will be informed by AI, climate change and social awareness. To engage them, firms will need to lead with values, clarity and genuine purpose.

Here are five actions to take now:

1. **Audit your generational mix:** are you building talent across age groups?
2. **Modernise recruitment strategies:** are your messages resonating with next-gen professionals?
3. **Invest in digital fluency** for every team member, not just the newest.
4. **Encourage reverse mentoring:** everyone has something to teach.
5. **Clarify and take every opportunity to re-establish purpose.** Make sure everyone in your team knows why their work matters.

The attention economy, mental health and culture

Unfortunately, advances in AI are taking place at a time when research suggests we are losing our capacity to focus.[1] Attention loss has huge implications for the restructuring, turnaround and insolvency profession, which relies on close attention to detail and high levels of concentration.

To combat attention loss, firms must look to deliver sharper, more focused training, shorter, punchier communications and a renewed emphasis on wellbeing.

Insolvency work is intense. Long hours, high stakes and emotional pressure are all features of the work. But younger professionals expect firms to take mental health seriously.

For many, that will mean opportunities for flexible working, access to support and work cultures that focus on establishing a healthy work-life balance. If the sector wants to retain its brightest minds, it must take care of them, not just professionally, but personally.

The case for evolution

Restructuring, turnaround and insolvency work is about helping people through difficult moments. Like all professions, it will need to evolve if it is to stay ahead. That means understanding generational shifts, integrating smart technology and creating workplaces where every generation can thrive.

The profession has always been about rebuilding. Now, it must turn that same lens inward and reimagine itself for the world to come.

1. 'Are attention spans really collapsing? Data shows UK public are worried – but also see benefits from technology' – King's College London News Centre, 2022

Dr Paul Redmond is a speaker, author and researcher on generational change, leadership and human attention in the age of AI

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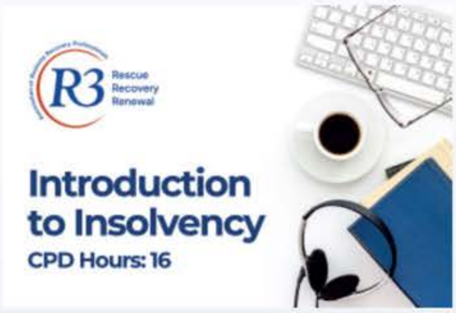

This 21-chapter eLearning series is aimed at junior members of staff within the insolvency and legal professions. This series will provide an introduction to all aspects of insolvency and related legislation.

'The course provided me with an excellent understanding of the basic principles and has made me more confident.'

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"Great overview of key restructuring elements which served as a really helpful refresher for someone who has been out of restructuring for a couple of years."

For more details on current courses and training opportunities go to www.r3training.co.uk

The gold standard

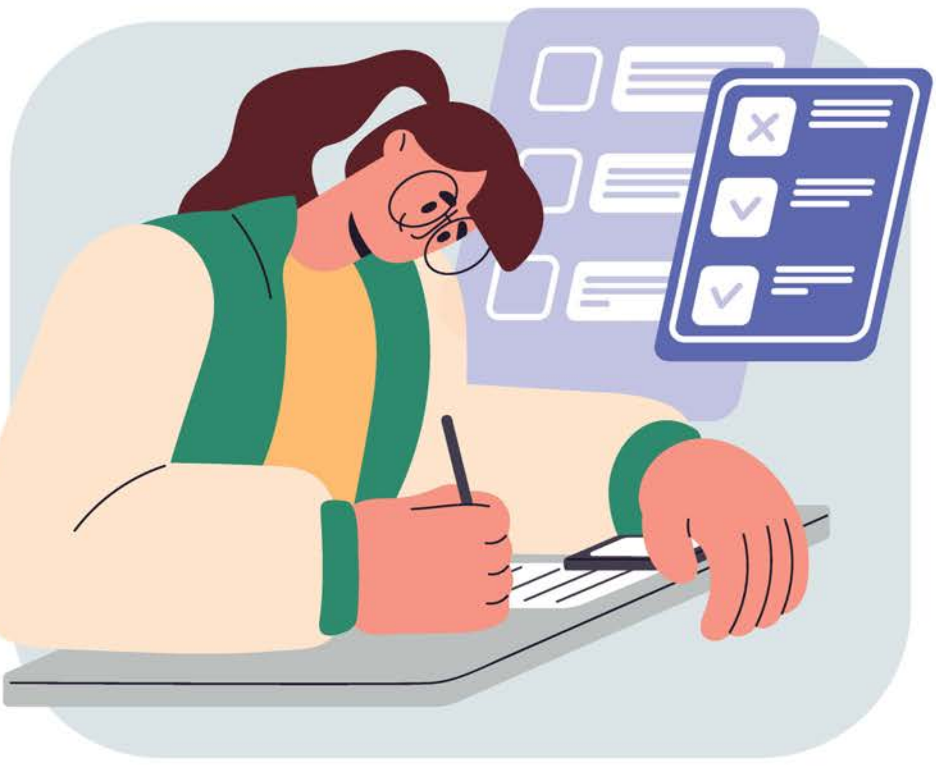
Studying for the Insolvency Practitioners Association's exams is the foundation for a successful career, says chief examiner **Antoinette Thorpe**

Stepping into the role of chief examiner for the Insolvency Practitioners Association (IPA) is a profound honour. My journey in this industry began more than 25 years ago, a career that has seen me appointed to thousands of cases – ranging from complex personal insolvency estates to my current focus supporting small businesses and corporate entities. Throughout these years, my path has been a dual passion: helping individuals and businesses to navigate their way out of financial distress and coaching the next generation of professionals to do the same with excellence. As I take the IPA's examination suite forward, these two missions perfectly converge.

The foundation: a heritage of excellence

The IPA holds a unique position as the UK's only regulator dedicated exclusively to insolvency. Our flagship qualification, the Certificate of Proficiency in Insolvency (CPI), was launched in 1995 to fill a critical gap, providing a robust, intermediate-level benchmark for the insolvency profession. In 2013, we expanded the suite with the Certificate of Proficiency in Personal Insolvency (CPPI), as a specific focus on personal insolvency was needed due to the increase in case volumes in the sector. These exams ensure that whether a professional is a generalist or a specialist, there is a formal pathway to demonstrate mastery of the law and regulation. Today, with variants available for England and Wales, and Scottish law, the IPA maintains a truly national standard of excellence. Northern Ireland candidates can apply to either jurisdiction.

> **Don't just state a fact, explain its consequence for a creditor or the estate to pick up those extra half marks**



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The framework: behind the scenes of examination delivery

The rigour of the exams is supported by a dedicated group of professionals. The application process is coordinated by the student officer in the IPA secretariat via the student membership team. There is an examination committee, chaired by Lloyd Hinton, which is comprised of respected individuals in current practice who assist with question setting to ensure the challenges remain contemporary and appropriate to the candidates.

The role of the chief examiner is to set the papers, which are thoroughly reviewed by two independent senior insolvency professionals who also moderate the papers. To provide absolute assurance to our candidates, all marked papers undergo a robust process, which is supported by the moderators working alongside the chief examiner. We also continuously review feedback from students and analyse the results to improve the delivery experience. Currently, exams are exclusively available online via a technology platform and supported by multiple course providers that offer dedicated training and preparation.

The modern syllabus: embracing CIGA 2020

A vital part of being 'exam-ready' is being 'future-ready'. The Corporate Insolvency and Governance Act 2020 (CIGA) represented the most significant shift in our profession ▶

since the 1986 Insolvency Act. Our current syllabus and examination papers have been updated to reflect these 'rescue-centric' tools. Candidates are now expected to demonstrate a working knowledge of the standalone 'moratorium' and understand the monitor's role or the 'breathing space' afforded to companies. Some knowledge of restructuring plans and the benefits that can be afforded to companies in difficulty are also essential learning for the times we live in.

The architecture of the exam paper

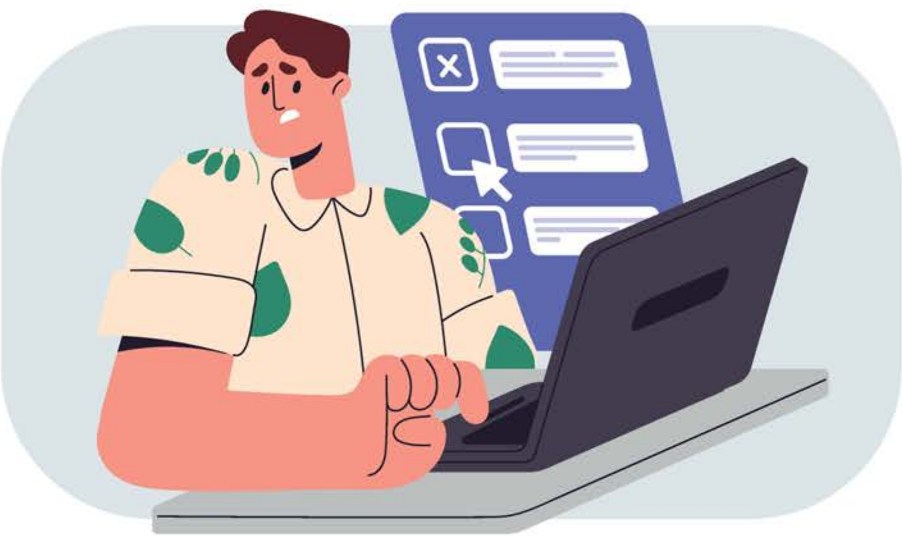
The CPI and CPPI are three-hour 'closed-book' examinations designed to test more than mere memorisation. They follow a four-part structure:

- **Part A: the foundation.** Multiple-choice questions testing the breadth of the syllabus.
- **Part B: short form.** Rapid-fire questions on definitions, Statements of Insolvency Practice and statutory deadlines.
- **Part C: the core.** Mandatory 15-mark questions, often combining narrative scenarios with complex calculations such as estimated outcome statements.
- **Part D: the choice.** Candidates choose two out of three 15-mark questions to demonstrate narrative depth and advisory skills.

Examiner's tips for success

Based on my years on the front line and my experience of helping candidates succeed in many different professional exams, I have seen what separates a pass from a distinction. For the CPI/CPPI, these are my three key tips for students:

1. **The half-mark strategy.** Don't just state a fact, explain its consequence for a creditor or the estate to pick up those extra half marks.
2. **Scenario application.** Avoid the 'textbook dump'. If the question asks about a specific product manufacturer, use its name and facts about the business in your answer. This shows commercial awareness.
3. **Audit your work.** In insolvency, the audit trail is everything. Always show your workings in calculations, even if the final figure is off. Your logic can still earn significant marks.



Final reflections

Insolvency is a profession that offers stability, intellectual challenge and the ability to make a difference. Whether you are aiming for an insolvency practitioner licence or looking to master your craft as a senior administrator, the IPA exam suite is the foundation for a successful career. I look forward to ensuring that the IPA remains the gold standard for insolvency education, producing practitioners who are technically brilliant, ethically grounded and ready for the challenges of tomorrow.

Perspective from Lloyd Hinton, chair of the Insolvency Practitioners Association examinations committee

Our approach with exams is to start with a clear syllabus, so each paper reliably tests the knowledge and judgement candidates need in day-to-day insolvency work. Questions are written and peer reviewed by experienced practitioners, with a strong focus on realistic scenarios and decisions, rather than niche technical tricks. We apply consistent moderation and mark schemes to ensure fairness between sittings, and we review performance data and candidate feedback after each sitting to refine future papers while maintaining the standard.

Delivering the CPI online has significantly improved accessibility and inclusivity. It removes the need to travel and helps level the playing field for candidates who may face barriers with in-person sittings, whether due to location, disability or health needs, or the practical constraints of demanding casework. The online format also supports a more consistent candidate experience, providing better management information to help us strengthen post-exam review and continuous improvement.

The CPI and CPPI are respected because they assess more than recall. They test whether candidates can apply insolvency principles to practical situations and make sound, professional decisions at a foundation level. The qualifications are set and maintained with strong practitioner input and governance, so a pass has real credibility with employers and the wider profession. That combination of relevance, rigour and consistency is why the exams continue to be seen as a benchmark in the insolvency profession.

Antoinette Thorpe is chief examiner for the IPA, principal at Artemis Insolvency Services, and a fellow of the IPA and R3

Member spotlight: Jessica Barker

Recovery meets **Jessica Barker**, associate director and insolvency practitioner with Xeinadin Corporate Recovery

What gets you up in the morning?
I'm very grateful to have a job I genuinely enjoy, as well as a family I look forward to going home to each day. I'm motivated by being the best version of myself and I desire to keep growing, both personally and professionally. Being a positive role model for my daughter is a huge driver for me.

What's been your biggest career achievement to date and why?
Successfully passing the JIEB corporate insolvency exam, obtaining my corporate insolvency appointment-taking licence and securing my first appointment-taking role with Xeinadin Corporate Recovery. These represent years of hard work, and I'm extremely grateful to the insolvency practitioners (IPs) and colleagues who have supported me along the way.

Which professional challenges are keeping you awake and why?
The misconception of what IPs actually do. We are often portrayed as the 'Grim Reaper' of business when, in reality, the majority of our work is focused on rescue, recovery and preserving value wherever possible. I think the inaccurate narrative can undermine the positive contribution made by the profession.

What is the most important career lesson you've learned?
Finding the balance between being ambitious and being kind to yourself. I've also learned that skills such as communication, teamwork and the ability to be empathetic and personable are just as important as technical expertise.

How do you keep developing your knowledge and skills?
I place significant value on learning from experienced IPs, whether through mentoring, peer discussions or working closely with them on appointments as experience-led development.

Also, I keep up to date with technical and regulatory changes, including case law and best practice guidance. I regularly attend industry events, forums and training sessions.

"I have particularly benefitted from the opportunities R3 offers to connect with others and broaden my professional network

How do you maintain a good work-life balance?
By staying organised and managing my time carefully, often starting my day at 5am. Insolvency and motherhood can both be demanding, so having structure helps me to stay on top of everything.

Having a supportive and positive workplace culture, along with the flexibility to work from home, makes a big difference. I'm also realistic about what needs prioritising.

Why are you passionate about being involved with the insolvency profession?
The profession offers a unique opportunity to make a meaningful difference at times when businesses need clarity and honest guidance. I get job satisfaction from navigating complex and often stressful situations, helping directors understand their options, and achieving the best possible outcome in difficult circumstances.

What do you value about being an R3 member?
I value being an R3 member for the professional community and ongoing development provided. R3 plays a key role in bringing the profession together, promoting best practice and supporting professionals at every stage of their career.

I have particularly benefitted from the opportunities R3 offers to connect with others and broaden my professional network. Technical updates are also invaluable. I am chair of the North West New Professionals Committee as well as chair of the New Professionals Steering Group. These roles enable me to actively represent new professionals and to support development and networking opportunities.

The R3 New Professionals Forum takes place on 10 September 2026. Find out more at r3.org.uk/events-training

Would you like to feature in our member spotlight?
Email editor@r3.org.uk