

Newman & Partners

Licensed Insolvency Practitioners

RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at insolvency@newmanandpartners.co.uk

Guarantees and warranties in insolvency – Do directors remain liable?

When your clients' businesses are doing well, it isn't uncommon for them to include guarantees and warranties within their contractual agreements or against their services or products. This gives assurance to partners and customers that there is a degree of protection should something go wrong, but when a business fails, this can quickly become a grey area for a business's directors and creditors alike.

Customers want to know whether their product guarantee still holds and directors want to know whether they face personal liability. The answer in both cases depends on what type of guarantee was given and who gave it.

Product warranties: The customer's perspective

When a company enters liquidation, its obligation to honour product guarantees and warranties does not transfer to anyone automatically. The company ceases to function and customers with outstanding warranty claims find themselves in the position of unsecured creditors. They are left to join the queue behind secured creditors or preferential creditors such as employees or HMRC. In most cases, particularly in a Creditors' Voluntary Liquidation, there is little or nothing left by the time unsecured claims are considered.

Directors of limited companies are generally protected from personal liability here. The limited company structure creates a separate legal entity and unless a director has personally guaranteed the company's obligations, the warranty claim ends with the company.

However, customers are not always left entirely without recourse. If the warranty was underwritten by a third-party insurer, as some extended warranties are, the insurer's obligations remain intact regardless of what happens to the seller. Customers who paid by credit card may also have a route via Section 75 of the Consumer Credit Act 1974, which makes the card provider jointly liable for purchases over £100. If the failed company was a retailer rather than a manufacturer, the manufacturer's own guarantee may still be valid. It is worth helping clients in this position understand each avenue before writing off their claim entirely.

Personal guarantees: The director's exposure

The picture for personal guarantees is very different and considerably more serious for directors as part of a contract or agreement with lenders, landlords or suppliers. A personal guarantee is a legally

binding commitment that, on the company's insolvency, bypasses the protection of limited liability entirely. The moment a company enters formal insolvency, any personal guarantee becomes active and the creditor can pursue the director directly.

Where a guarantee is secured against a personal asset, such as the director's home or other high value assets, the creditor may seek a High Court judgment and could enforce the sale of assets. If the director cannot pay, and the debt exceeds £5,000, the creditor can petition for personal bankruptcy, but this has serious implications for their personal finances.

There is also a significant trap that catches directors who do not take advice early enough. Paying a creditor who holds a personal guarantee in the weeks before the company enters formal insolvency, in an attempt to neutralise that guarantee, may be treated by the liquidator as a preference payment. The court can reverse it, reviving the debt, while the personal guarantee liability remains.

How you can support your clients prior to insolvency

Directors of financially distressed businesses frequently don't know what personal guarantees they have signed or the full implications when the company fails. A structured review of director-level exposure, covering all PGs alongside any assets used as security, should be part of any early-stage insolvency conversation.

Acting early also opens the door to negotiated settlements, which creditors often prefer to the time and cost of personal insolvency proceedings. If you or your clients need advice on guarantees and warranties during the insolvency process, please speak to our team today.

The redundancy surge – A warning sign for your clients or something else?

The UK's jobs market has been showing warning signs for some time now and the latest figures confirm that the pressure is far from easing. Data obtained under Freedom of Information legislation from the Insolvency Service shows that 315,605 jobs were flagged for potential redundancy in 2025. This the highest annual total since the pandemic, with combined redundancy payouts reaching nearly £478 million for the year.

Early 2026 looks no more encouraging. In just the first two months of the year, 736 employers filed HR1 advance redundancy notices, putting a further 56,396 jobs at risk, which is a nine per cent increase on the same period in 2025. The February 2026 figure of 430 HR1 filings is almost identical to February 2009, the month prior to this redundancies peaked during the global financial crisis. So, are these signs of a precursor to a fresh wave of corporate insolvencies?

Are redundancies directly related to insolvency?

The answer is partly, but the direct correlation between insolvencies and redundancies isn't necessarily that straightforward. Redundancies and insolvencies do tend to travel together, but they don't always move in lockstep. When businesses come under pressure, cutting payroll is typically the first lever directors reach for, long before a formal insolvency becomes inevitable. In that sense, today's redundancy figures may well be tomorrow's insolvency statistics.

However, the current picture is more complex than a simple signal of an impending recession. Unlike the pandemic shock of 2020, which was a single event causing uniform and unanticipated damage, the redundancy surge of 2025 and 2026 has multiple overlapping causes. Rising employer National Insurance, which rose from 13.8 per cent to 15 per cent in April 2025, has led directly to employment costs rising by 24 per cent from £116 billion to £143.9 billion in the year to 31 March, according to HMRC's latest data. Similarly, National Minimum Wage increases, have pushed the cost of employment higher for many employers, whilst the wider impact of inflation has forced wages generally to rise across the board in order for businesses to retain top talent.

Employment cost isn't the only issue though. Three in ten companies reportedly plan to replace roles with AI or automation by 2026, while global trade disruption, including the economic fallout from the Iran

conflict that broke out in late February, is adding fresh uncertainty for businesses dependent on supply chains or export markets.

Are insolvency figures on the rise?

Official insolvency statistics tell a slightly different story from the redundancy figures. Company insolvencies in England and Wales in 2025 totalled just under 24,000, which was broadly in line with 2024 and actually five per cent lower than the 2023 30-year high. The latest figures show very little year-on-year change. For example, the number of registered company insolvencies in England and Wales was 2,022 in March 2026. This was only seven per cent higher than in February 2026 and at similar levels to March 2025, when 1,995 businesses became insolvent, according to the Insolvency Service.

So, not all redundancy activity is translating into formal failure and some firms are restructuring and surviving. That said, the direction of travel bears watching. Compulsory liquidations – typically a harder, creditor-driven outcome – reached their highest annual level since 2012 in 2025. HMRC enforcement, which had been subdued during the pandemic, is also now firmly back on the table.

What does this mean for you and your clients?

Clients who are making redundancies or signalling workforce cuts are not automatically heading for insolvency, but they are entering a period of elevated risk. This is precisely the moment for proactive conversations about cash flow, restructuring options and the availability of formal rescue mechanisms.

Early advice significantly widens the range of options available for directors, for creditors and for employees, so if you or your client needs advice, please speak to our team today.



Construction in the spotlight – Why the sector currently leads the insolvency tables

Construction has occupied the unwanted position at the top of the UK's sector insolvency rankings for long enough that it no longer surprises anyone in the profession. In the twelve months to February 2026, 3,851 construction firms became insolvent and accounted for 17 per cent of all recorded company failures in England and Wales. Looking back to last year, in 2025 as a whole, 4,484 construction firms failed, which is more than any other sector.

Construction businesses only represent approximately 14 per cent of all registered businesses, which means that the sector is over-represented in the failure statistics. The reasons are not difficult to understand, but they are worth examining clearly, because they continue to trap businesses that enter the sector without fully appreciating its potential risks.

The fixed-price contract conundrum

Construction contracts are typically agreed months or years before the work is delivered. During the inflation surge of 2022 and 2023, building materials had risen by around 39 per cent on average since 2020 – with steel up 66 per cent, diesel up 141 per cent and some materials tripling at peak. Labour costs followed a similar trajectory, with specialist trades securing double-digit pay increases.

Firms locked into contracts agreed before these cost rises were effectively delivering projects at a loss from the moment inflation took hold. Many were simply unable to absorb the damage before it became fatal. If you look at the current situation now, and last year, we are in another period of high inflation, so fixed price contracts that were agreed months or years ago are likely to see a similar hit again.

The late payment culture

Construction has long had a payment culture that causes particular damage to smaller firms. Main contractors extend payment timelines to subcontractors and clients do the same to main contractors. Cash is routinely tied up in completed work for months and retention payments, where a percentage of the contract value is withheld, sometimes for years, compounding the problem.

For a business operating on margins of only three per cent, a handful of delayed invoices can create a cash flow crisis that tips the entire company into insolvency. The Government's landmark late payment consultation, which closed in October 2025, proposes banning construction retentions altogether. This is a measure that, if enacted, could deliver the most transformative payment reform that the construction sector has seen in decades.


The legacy liability problem

The Building Safety Act 2022 extended builders' liability for historical defects from 12 years to 30 years, with dramatic consequences for contractors involved in cladding and fire safety remediation. For some firms, the sudden prospect of decades of potential claims made formal insolvency the only manageable outcome.

FTSE Construction profit warnings in 2025 were more than triple those of 2024, with over half citing delays, reduced confidence or slipping project timelines. These are all classic precursors to financial distress within businesses.

Supporting your construction clients

Construction companies, contractors, sub-contractors and developers all warrant close monitoring, particularly those working on fixed-price contracts or those with significant retentions held against them already. Early warning signs, such as delayed sub-contractor payments, requests for unusual payment extensions and late filing of accounts, deserve attention.

 Where distress is identified, acting before a creditor forces the issue gives directors, creditors and employees far better outcomes. If you or your clients in the construction sector are concerned about the prospect of insolvency, [please speak to our team today](#).



CAREFUL CONSIDERATION IS NEEDED BEFORE TAKING OUT ANY FORM OF FINANCE AND SPECIALIST ADVICE SHOULD BE SOUGHT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT US.

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