

Newman & Partners

Licensed Insolvency Practitioners

FOCUS ON INSOLVENCY BULLETIN

Welcome to the latest issue of our Focus on Insolvency 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

UK Government to review information sharing procedures for businesses facing insolvency

Business minister Jo Swinson has announced that the Government is looking at new ways of ensuring that businesses facing insolvency share information on redundancies and the future of the company with employees and their customers.

Ms Swinson is leading a 12-week call for evidence from businesses and individuals about the challenges faced by employers under the current system and the effectiveness of the rules. It comes after a meeting was held following the closure of City Link in December, which highlighted a number of ways in which the company could have better handled the insolvency process.

“Constructive engagement with employees is important for business at all times, but especially when facing situations such as insolvency,” said Swinson. “The purpose of this call for evidence is to look at consultation with employees where a business is facing insolvency or has moved into an insolvency process.”

“Whilst our current system generally works well and is effectively complied with and its benefits agreed upon, we want to explore in more detail how consultation operates in these situations and what are the challenges and best approaches,” she said.

Current rules governing collective redundancy require employers that are proposing to make more than 20 employees redundant within a 90-day period to consult them for at least 30 days, or 45 days if more than 100



redundancies are proposed. Under the rules they must also inform the UK government about their proposals.

Where employers fail to adequately consult affected staff, employment tribunals can make protective awards against an employer, which can mean that the company will face significant costs, which can disrupt payments to other creditors if insolvency procedures take

place. If the employer is insolvent, some of or the entire award can also be claimed from the Government. This means that inadequate consultation in certain cases can lead to significant costs, which must be met by the taxpayer.

For more information about insolvency procedures and the responsibilities of a business to its staff and creditors, please contact us.

UK homes to have debts of £10,000 by 2016

A new report has predicted that by the end of 2016 the average household in the UK will have unsecured debts of £10,000. If the figures are correct then this will be the highest amount, in cash terms, of unsecured debt that consumers have ever had.

These new figures from a leading accountancy firm, include spending on credit cards, student loans and bank borrowing, but do not include outstanding mortgages held by the British public. They show that unsecured borrowing increased by £19.7bn last year, or 9 per cent and that the average household increased its debt burden by up to £1,000 in the year.

A similar report from the Bank of England placed the figure at £8,000 for this year, but both reports have indicated that most individuals are willing to take on more debt in the current climate. This is unsurprising considering the historically low interest rates currently available to most people. These low rates have allowed people to borrow cheaply and have restored many people's confidence in their ability to pay off loans.

Almost half of the 9 per cent of debt increase recorded in the report was accounted for by student loans (46 per cent), while borrowing on credit was responsible for 22 per cent of the rise, with the rest coming from other debts, such as bank loans and overdrafts. This increase in debt has helped the economy by increasing consumer spending and by helping the banking system rebuild itself. However, a sudden increase in interest rates could mean that the size of debts in relation to household income could exceed its peak – as happened for many individuals in 2008, just before the financial crisis.

The Bank of England has previously predicted that a sudden rise in interest rates would leave more than 600,000 families vulnerable to a rise in mortgage

rates, but that overall household debt levels were below the long-term average, suggesting that many individuals may have learned lessons from the last financial crisis.

Having extensive unsecured debt could place a debtor in a very vulnerable position and should a sudden interest rate rise occur you may find yourself struggling to pay off these debts. For many people finding themselves in this position, bankruptcy may be their first thought, but this doesn't have to be the case. Our team of experienced insolvency practitioners at Newman and Partners can help your clients find the right solution to meet their needs.

For more information, please contact us.

People declaring bankruptcy or applying for DROs will be prevented from doing so if they have access to pensions

Following the introduction of new Government guidelines, many people hoping to apply for bankruptcy or debt relief orders (DRO) could be prevented from doing so if they have access to a pension that could clear their debts.

The Insolvency Service has said that following a number of high-profile insolvency cases they have taken the decision to prevent people applying for bankruptcy or DROs if they have significant pension savings.

This decision has been taken in light of Horton v Henry, an insolvency case that took place late last year, but that is subject to an appeal in the Court of Appeal. Based upon this case the Service has confirmed that trustees will no longer be able to apply to access an undrawn pension using an income payments order.

An earlier ruling suggested trustees could seek income from any pension an individual applying for bankruptcy is eligible to claim. This would have once meant up to 25 per cent of a person's pension pot, but under the new pension freedoms that came into force this month, it now means that 100 per cent

of the fund will be taken into consideration. The appeal, due to take place in the coming months, will establish a definitive legal precedent after this original case was settled out of court.

Under the new guidelines, a person will be considered ineligible to apply for a DRO or bankruptcy if they are aged over 55 and have access to their full pension pot, even when it has not been drawn down by the individual. This will apply to individuals in cases, where after taxes and charges, the pension fund could clear their debts.

A spokesperson for the Insolvency Service told FTAdviser: "This is a preventative measure to avoid the necessity of the official receiver having to take action to revoke [an order] it later transpires should not have been made in circumstances where the debtor did not meet the insolvency criteria."

He added: "Where a bankruptcy order had been made... the official receiver should consider whether it would be appropriate to seek an annulment... as the debtor was not insolvent."

"Given that the judgment in Horton v Henry conflicted with the earlier case of Raithatha v Williamson and that both judgments were in the High Court, we think that guidance as to how official receivers will deal with pensions is helpful."

The Insolvency Service responded by saying that it will review the guidance when the court has issued their judgment on the appeal.

If you are concerned that these changes could affect any of your clients and their eligibility for bankruptcy or a DRO, please contact us.

Newman & Partners Insolvency
Lynwood House
373/375 Station Road
Harrow
Middlesex HA1 2AW

T: 020 8357 2727
F: 020 8357 2027

E: insolvency@newmanandpartners.co.uk
W: www.newmanandpartners.co.uk

Newman & Partners
Licensed Insolvency Practitioners