

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

CCJ increase an early sign of insolvency for creditors

New analysis has shown that the number of county court judgments (CCJs) recorded in the final quarter of 2021 increased by 83 per cent. Debtors will typically receive a county court judgment (CCJ) or high court judgment where a creditor takes court action against them to recover funds. They are often seen by insolvency practitioners and credit rating agencies as a potential sign of future insolvencies.

The number of CCJs served between October and December 2021 increased to 16,282, up from 8,888 in the same period in 2020, and 13,704 pre-pandemic in the final quarter of 2019. The rising number of CCJs towards the end of 2021 seems to chime with the increased corporate insolvencies reported by the Insolvency Service in the last few months.

Last month, there were 1,329 Creditors' Voluntary Liquidations (CVLs), which is more than double the number of CVLs in February 2021 and 40 per cent higher than in February 2020. Meanwhile, the number of other company insolvencies, such as compulsory liquidations, remained lower than before the pandemic, although there were more than twice as many compulsory

liquidations as in January-February 2021 and almost double the number of administrations in February 2022 compared to February 2021.

In the month before that, figures on corporate insolvencies revealed that they increased by 105.8 per cent in January 2022 compared to the same period in 2021 and 3.4 per cent compared to pre-pandemic levels. There were also 1,358 Creditors' Voluntary Liquidations (CVLs), more than double the number in January 2021 and 34 per cent higher than in January 2020.

All of this data put together suggests that there are a growing number of distressed and indebted businesses in the UK.

Although figures for 2020 show a drop in insolvencies, these appear to be the result of the protections put in place at the time, the financial support on offer to businesses and the inability of courts to process claims during lockdown restrictions.

As almost all of the financial support has been withdrawn and restrictions and moratoriums on corporate debts have ended, the courts are now seeing a spike in CCJs and are better able to deal with the backlog of cases. According to the analysis, conducted by Begbies Traynor, 589,168 businesses in the UK are now showing signs of distress. This spike in CCJs and insolvencies are predominantly affecting support services, construction and property.

Data requested by Times Enterprise Network from Companies House has also shown that the number of companies filing their accounts late in 2021 rose by more than 100,000 compared with 2019. Failure to complete Companies House accounts on time is another common indicator that a business is in financial distress and so many experts are saying that this may signify the scale of distressed businesses in the UK.

IF YOU OR A CLIENT OF YOURS IS STRUGGLING WITH DEBT OR THEY ARE A CREDITOR WITH CONCERNS ABOUT DEBTORS, WE CAN HELP. TO FIND OUT MORE ABOUT OUR WIDE RANGE OF BUSINESS RECOVERY AND INSOLVENCY SERVICES, PLEASE CONTACT US.



Coronavirus rent debt relief – What next for businesses?

Since 26 March 2020, all landlords have been prohibited from forfeiting their leases due to tenant rent arrears, as part of the measures laid out in the Coronavirus Act 2020. This moratorium on rent debt ends on 25 March 2022. Alongside this, the prohibition on landlords from issuing commercial recovery or winding-up petitions against tenants who had run up arrears will expire on 31 March 2022.

Put into place during at the start of the pandemic to provide business tenants with respite from rent payments, the measures have prevented many landlords from recovering debts and/or their commercial. In many cases, this situation has led landlords and their tenants to seek a fair and reasonable compromise. However, for some landlords, there has been little redress for them to recover money owed and an inability to recover their property to obtain rent from a new tenant.

Incredibly, it is estimated that there will be at least £8 billion in outstanding tenant arrears by the end of the next quarter due to these measures ending. Landlords will be keen to recover this money, but the Government wants to ensure businesses are afforded some means for redress and so they have implemented a new arbitration scheme to deal with pandemic related rent arrears under the Commercial Rent (Coronavirus) Bill 2021.

The new scheme will help to resolve

disputes between commercial landlords and tenants for pandemic related rent arrears and will be introduced alongside an updated Code of Practice that guides parties on how to resolve COVID-19 commercial rent disputes.

The new scheme works by ringfencing pandemic rent arrears and then establishing a binding arbitration system that will determine what happens to that debt. To qualify for this scheme the debt must have been accrued due to the closure of all or part of the tenant's business during the 'Protected Period' – 21 March 2020 to 18 July 2021.

The scheme will consider service charges, interest on any unpaid amounts, VAT and insurance rent costs, as well as the main rent arrears. As the scheme is only limited to the Protected Period, not all tenant rent arrears will qualify, and landlords will need to use traditional methods for rent recovery outside of this time.

Landlords and tenants, both of whom can use arbitration, will only have six months from the enactment of the Bill to apply. Although the new legislation is not intended to interfere with any settlements that have already been agreed upon, an arbitrator will have the power to intervene against money judgments already obtained by landlords.

This arbitration scheme is, therefore, primarily intended so that both parties adopt a reasonable approach so that tenants who are still recovering from the impact of the pandemic can do so without being forced further into debt.

IF YOU OR A CLIENT ARE CONCERNED ABOUT RENT ARREARS, EITHER AS A TENANT OR LANDLORD, THEN THEY SHOULD SEEK ADVICE IMMEDIATELY. TO FIND OUT HOW OUR TEAM OF EXPERIENCED INSOLVENCY PRACTITIONERS CAN HELP, PLEASE CONTACT US.

The challenges of cryptocurrency in insolvency

In the last few years, the growing popularity of cryptoassets, such as cryptocurrencies and non-fungible tokens (NFTs), has been significant. Now millions of people and businesses hold these digital currencies and assets, either as a form of investment or because they have taken payment using these methods.

With so many businesses and individuals holding these cryptoassets, the insolvency profession has started to increasingly deal with estates and companies that have considerable funds held up digitally. Cryptocurrency falls within the broad definition of "property" under the Insolvency Act 1986 and, as such, insolvency practitioners have a duty to realise their value, where possible.

Unlike traditional assets, such as high-value items or regular (fiat) currency, determining whether a company holds any cryptocurrency can be challenging, but some signs that may indicate that a debtor possesses cryptoassets, include:

- Reference to cryptocurrency or NFTs in emails and/or board minutes.
- Details of a private key or a USB containing a digital key.

- References to cryptocurrency in a company's bank statements.

Where money is suspected to be held within cryptocurrencies or other digital assets, an insolvency practitioner can also use the powers set out in Section 236 of the Insolvency Act 1986 to ask the courts to summon an office-holder to account of his dealings with the company or produce any books, papers or other records in his possession or control, which could extend to disclosing their knowledge of cryptocurrency owned by the company and/or the associated private key.

Once cryptocurrencies are identified within an insolvent business or estate, insolvency practitioners must take steps to secure, preserve and dispose of them. As these funds are heavily encrypted and decentralised it can be challenging to secure these funds

without the assistance of the insolvent person or business. The first step is to identify and locate the digital key. This will allow an insolvency practitioner to access the wallet and recover and realise the funds.

Once the digital currency is secure it can be sold, either via a regular exchange or at an auction, to help repay a company or individual's debts. Insolvency practitioners will try to achieve the best price for these assets, but the volatility of the cryptomarkets mean values can fluctuate significantly in a brief period making this process more challenging.

IF YOU SUSPECT THAT A DEBTOR MAY HAVE CRYPTOASSETS THAT COULD BE REALISED TO REPAY DEBTS, YOU SHOULD SEEK EXPERT ADVICE. TO FIND OUT HOW WE CAN HELP WITH THESE ISSUES, PLEASE CONTACT US.

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