

# HMRC's welcome new approach to Voting on CVAs



Colin Haig looks at how HMRC's new approach to voting on CVAs will help to support viable businesses restructure and trade out of financial difficulties

**R3** has long campaigned for HMRC to take a more constructive and engaged approach to supporting Company Voluntary Arrangements (CVAs) and restructuring proposals. We saw an important development in this area in July when HMRC issued guidance acknowledging that it has not always voted on such proposals in the past and announcing that it would be doing so from now on.

R3 has said for some time that such a change in approach from the Government department may mean that CVAs can become an option for a larger number of viable businesses and help to 'unlock' successful restructuring efforts. Previously, HMRC had tended to abstain in such cases. After lobbying the Secretary of State for Business, Energy and Industrial Strategy, Kwasi Kwarteng MP, on the importance of HMRC taking a supportive stance on company rescue, the Business Secretary supported our calls for the Government department to change its approach.

We are therefore really pleased to see HMRC adopt its new approach, which will help to provide more options to financially struggling businesses in the current economic climate. HMRC's guidance acknowledged that this change was needed "where it is beneficial to try and support business restructuring to help them recover from the effects of the past two years", as well as in light of "HMRC's increased

creditor status" in insolvencies from December 2020.

The guidance also referenced our lobbying of the Business Secretary, noting that "this approach also aligns with the BEIS Minister's commitment to the R3 chairman that HMRC will take a more commercial approach to restructuring proposals".

## Campaigning for change

In 2020, amidst the financial challenges faced by businesses due to the pandemic, R3 launched our 'Back to Business' campaign. Alongside improving director knowledge of the insolvency framework and the role it can play in facilitating business rescue, the campaign aimed to ensure that the insolvency and restructuring profession could effectively carry out its work in an environment that promotes business rescue.

As part of this campaign, we wrote a joint letter with the Institute of Directors to the Secretary of State for Business, Energy and Industrial Strategy, Kwasi Kwarteng MP, to highlight the importance of HMRC taking a more constructive approach to viable restructuring proposals so that businesses that would have been viable were it not for the pandemic could be rescued. In the past, R3 members had reported that HMRC could often be a 'passive' creditor, not always supporting efforts to make an insolvency procedure as effective as possible.

Responding to our letter, the Business Secretary said that he was "very much in agreement ... that all stakeholders should support

company rescue" and added that HMRC would "[build] its resources to be able to respond to an increased number of rescue proposals in the near future".

## A new direction

A year later, at R3's Annual Conference in May 2022, representatives from HMRC announced that it would be taking a more active role when asked to vote on proposals put to HMRC in future. This was confirmed in guidance issued at the beginning of July. Accepting that a change in approach was needed, HMRC said that it "will be more proactive in the use of our voting rights and will vote on proposals" going forward.

The Government department acknowledged that its previous approach "has frustrated IPs who are trying to restructure businesses, sometimes causing businesses to fail when there was an opportunity to rescue them". The guidance also pointed out that members of the insolvency and restructuring profession should not automatically assume that HMRC will always vote positively and urged those submitting proposals to "ensure the best offer is proposed at the first approach".

We really welcome this new approach and will continue to work with HMRC, and other Government departments, to ensure that the insolvency and restructuring profession can carry out its important work in an environment that is as conducive as possible to business rescue. ■



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