

A chance to evolve

Tim Cooper, Deputy Vice President of R3, the insolvency and restructuring trade body, looks at the Government's consultation on the review of the personal insolvency framework, and at which elements of it could be reviewed



In July, the Government began the first review of the personal insolvency framework in nearly 40 years – at a time, when, due to a series of economic issues, personal finances in the UK are under the greatest pressure they have been for decades.

This review presents the Government with a crucial opportunity to determine whether our current framework strikes the right balance between allowing people to get back on their own two feet and returning what is owed to creditors. One outcome we would like to see from it is a clearly defined purpose for the personal insolvency framework.

The reason we are calling for this is that our members repeatedly tell us that this is currently unclear and, while this may be the case, I believe it is by default rather than design.

This situation has partly arisen because of the length of time that has passed since the framework was introduced, but also because previous reviews of personal insolvency have focused on the processes, rather than the framework itself.

Now the Government has an opportunity to clearly define the purpose of the framework and, in doing so, address the imbalance between the more rehabilitative and more punitive measures within the framework and the lack of consideration for the individual circumstances of those in debt, as well as setting a benchmark for future reviews of personal insolvency.

Amendments to fees

Another outcome we would like to see from this review is the removal of the fee for entering bankruptcy or a DRO (debt relief order) for those individuals that meet the criteria for these solutions and are on income-related benefits.

Doing so would mitigate cost being a barrier to entry for these procedures, and ensure that those on low incomes are able to access an insolvency solution.

An alternative change which would also potentially address the barrier to entry issue would be to have a single, equal-value, cost of entry for each of the three formal solutions which would be paid to the Insolvency Service by the debtor.

One central point for advice

Another point that needs addressing is the fact that individuals tend to lack sufficient knowledge and understanding about the various personal insolvency solutions when they enter one – either because they have not been able to access debt advice or, in certain scenarios, because they have received limited or unhelpful advice.

One option of mitigating this is to introduce a single online gateway managed by the Insolvency Service. We would support this, but only if it was introduced as a sign-posting guidance hub – not a replacement for regulated, specialist debt advice and not a directive system, as we believe the debtor must retain the right to choose the solution to enter.

Stronger together

We believe this review also provides a clear opportunity to review the Financial Conduct Authority's (FCA) debt advice exemption and enable licensed insolvency practitioners to provide debt advice even where they do not contemplate an appointment.

This would improve the accessibility of debt advice in the UK, provide support for the debt advice sector at a time when the cost of living challenges will likely put additional pressure on its resources and allow the current system of regulation and monitoring for IPs to continue to provide reassurance that consumers are protected.

The start of a process

This call-for-evidence forms the first stage of the Government's review of the framework – and a review of this nature will need a significant amount of time before it is completed.

But if the final results of this process have the same benefits for financially distressed individuals as the corporate insolvency reforms did for those businesses who were severely affected by the pandemic, the future personal insolvency framework will be strongly placed to work for everyone who engages with it – whether they are a member of the public or of the profession.



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