Twin policy priorities

Nicky Fisher, Vice President of R3, the UK's insolvency and restructuring trade body, looks at the Government's plans to review the personal insolvency and regulatory frameworks.

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Political progress on two key policy areas – the next stages of the review of our regulatory framework and the review of the personal insolvency framework – is currently on pause.

While it is quite right Government is taking time to properly review the many consultation responses received and consider its next steps, due diligence must be balanced with minimising the impact prolonged uncertainty has on the profession and the people it supports.

We hope that, when the next steps for both of these policy areas are announced, they will address a number of queries and potential revisions that have arisen during our work on these areas – some of which will have consequences for the success of these policies, if and when they enter legislation.

Aligning aims and actions

One key question for the regulatory review is who takes on the role of the single regulator. The Government is proposing to do this, but we need to understand how it will address the conflicts of interest this appears to present and how such a move will benefit the profession, the public and the UK's strong reputation as a leader in insolvency practice.

Another key question is whether this review will lead to a regulatory framework which leads to better outcomes for creditors. Feedback from our members is that the jury is still out on this, as well as on whether the new framework will be as effective as the current one.

A key concern that has arisen from this review of regulation is the effect potential increases in costs and bureaucracy the introduction of a new framework would have on payments to creditors, with the current feeling from the profession being that the additional time required would need to be reflected in the fees for cases.

Addressing the question of firm regulation

Concerns have also been raised about the practicalities of introducing firm regulation. This would be a significant change to the insolvency framework and would potentially be both disruptive and expensive – a move which could have consequences for both the smaller practices in the profession and their client base.

There could be, however, some benefits – especially in areas of the profession where the owners of the practices are not subject to the same rigorous monitoring and regulation as others, as it would level the playing field. Nonetheless, the jury is still out on whether the merits of firm regulation outweigh the drawbacks – hopefully this is something the Government will address in due course.

Reviewing the Personal Insolvency Framework

The other key policy issue this year is the Government's plans to review the personal insolvency framework. Given the fact that this is the first review of the framework in more than 40 years, we hope the Insolvency Service will expand its scope to look at all formal and informal personal insolvency solutions and give us a definitive answer about whether our current framework strikes the right balance between allowing people to recover from their financial issues and recovering what they owe to their creditors.

We would also like to see is more freedom for indebted individuals to move between the different personal insolvency processes, so more people can access the help they need when their circumstances change.

A third and final ask is that the Financial Conduct Authority's (FCA) debt advice exemption is reviewed to permit licensed insolvency practitioners to provide debt advice in situations where they do not contemplate an appointment.

This last point is particularly important. The debt advice sector is likely to face issues of managing demand in the current economic climate, and this amendment would allow the profession to support them and the people they are trying to help, while allowing our system of regulation and monitoring for IPs to continue to provide reassurance there are processes in place to protect the public if needed.

A Watching Brief

While we have not seen any movement on either of these policies at present, we expect responses from the Government before the summer recess. When they come, we stand ready to put the profession's case to those in power. ■

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