Government proposals for insolvency practitioner fees raise ‘serious concerns’, says R3

The Government’s just-published consultation document on insolvency practitioner fees includes proposals for changing the way insolvency practitioners’ fees are calculated in the absence of an engaged secured creditor from the fees-setting process.

The Government’s proposals are [here](#).

In response, William Ballmann, chair of insolvency trade body R3 in Yorkshire and partner at national law firm Gateley LLP, says:

**Fees**

“While we welcome the Government’s proposals for improving regulatory oversight of fees and for boosting information for creditors, we have serious concerns about the suggestions for amending the way insolvency practitioner fees are set in the absence of secured creditors.

“These proposals will have unintended and unwanted consequences, and it would be the UK’s creditor community that would lose out were they to be implemented.

“The Government’s own report says that the market for insolvency practitioner fees works well when creditors engage with the process, as usually happens with secured creditors. That being the case, the
Government’s focus should be on boosting unsecured creditor engagement, and it should avoid experimenting with the basic fee-setting mechanisms.

“In practice, insolvency practitioners and creditors would find enforced fixed-fee caps or setting fees as a proportion of realisations unfair – indeed, the latter was abandoned as a standard practice decades ago. Arbitrary measures such as these are not always compatible with the unpredictable nature of insolvency work, and would routinely leave both creditors and insolvency practitioners out of pocket.

“For these proposals to work, additional, cumbersome safeguards would need to be built into the fees market to provide flexibility for creditors and insolvency practitioners. This would defeat the point of changing things in the first place.

“The Government is justifiably proud of the fact that the World Bank ranks the UK’s insolvency regime as the world’s 7th best – better than France, Germany, or the US – with UK insolvency practitioners bringing back more money for creditors, and faster, than many of their counterparts overseas. Unfortunately, by jeopardising returns to creditors, we fear that some of the Government’s proposals would harm this ranking.

“While more can – and should – be done to improve the way insolvency practitioners report the value of their work to creditors, we cannot welcome proposals that would hinder insolvency practitioners from delivering value to creditors in the first place.

“As both insolvency practitioners and the Government appreciate, the nature of insolvencies presents unique challenges when it comes to fees. We agree these challenges should be looked at and we look forward to working with the Government to come up with solutions that work for both insolvency practitioners and creditors.”

Regulation

“The Government’s proposals for changes to the regulation of the profession will boost the oversight regime.

“The proposals will see a much better defined role for the Insolvency Service as an overseer of the overseers, which is something we have called for before.

“We are pleased the Government is paying attention to the number of regulators within the profession. The regulation of the insolvency profession – with multiple regulators – can be initially confusing to those coming across it for the first time.

“Although last summer’s ‘Single Complaints Gateway’ was an important step towards unifying the regulatory process, it’s worth noting that the Insolvency Service has now given itself scope to act further in this regard.”

Ends
Photo shows: William Ballmann, chair of insolvency trade body R3 in Yorkshire and partner at national law firm Gateley LLP

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Notes to editors (R3):
- R3 is the trade body for Insolvency Professionals, and represents 97% of the UK’s Insolvency Practitioners.
- R3 comments on a wide variety of personal and corporate insolvency issues. Contact the press office, or see www.r3.org.uk for further information.
- R3 promotes best practice for professionals working with financially troubled individuals and businesses; all R3 members are regulated by one of nine recognised professional bodies.
- R3 stands for ‘Rescue, Recovery, and Renewal’ and is also known as the Association of Business Recovery Professionals.