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NEWSLETTER

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Warning of a sharp rise in insolvencies amid tariff turmoil

There have been huge global shocks caused by Donald Trump's tariff changes. There doesn't appear to be any economic winners at all on either side. The US economy forecast is for a recession. China and SE Asia appear to be heavily hit, and technology firms and manufacturers generally are suffering. The UK was not affected as badly as the EU and Asia and it has now negotiated a trade deal with both the US and India, both major trading partners. The UK is still subject to some tariffs, and it is likely that home-based industries will be impacted, particularly in the food and agribusiness sector and this could lead to insolvencies. There is a strong likelihood that many UK sectors will suffer from product dumping as China looks to offload excess stocks that it cannot export cost effectively to the US. The UK may still be highly exposed to global headwinds because any trade war and recession will impact UK at a time of existing uncertainty.

A review of some of the largest Administration cases over the past three months shows the broad spectrum of businesses heading into Administration and the plethora of challenges they've faced – from petroleum wholesale Eninco Trading Services, which had suffered as a result of the war in Ukraine, as supply chains came under pressure, to furniture manufacturing Belfield Group's struggles amidst soft consumer spending and the Administration of visual effects company Technicolour which had succumbed to rising labour costs and the impact of the Hollywood writer and actor strikes. The timing of Trumps tariff changes couldn't be tougher as so many businesses should be ramping up investment right now during a period of fundamental structural change in the economy which has been upended by the rapid emergence of AI.

The Insolvency Service disqualified more than 1,000 directors in the past year

Latest figures from the Insolvency Service show the agency banned more than 1,000 directors in 2024, of which 736 were for Covid loan abuse. The report shows that of the 1,036 directors who were disqualified, 736 were for Covid loan abuse and the average length of a ban was eight years. The report also shows that there have been 131 Bankruptcy Restriction Orders put in place, 87 of which were related to the abuse of Covid loans. Directors can be banned from being the director of a company for actions including failing to maintain adequate accounting records, not paying tax or VAT that is owed to HMRC, as well as securing a Covid Bounce Back loan they were not entitled to.

A director can be disqualified for up to 15 years. During this time, they cannot be a director of a company in the UK or an overseas company which has connections with the UK and they cannot be involved in forming, promoting or running a company. Breaking the terms of a disqualification can result in a fine or a prison sentence of up to two years. Bounce Back loans were introduced in 2020 to help support businesses affected by Covid-19, on the condition that they were used for the economic benefit of the business and not for personal purposes.

A bankruptcy already places restrictions on what a person can do for a set period. If a person is dishonest or is to blame for their debts, the court can make a Bankruptcy Restriction Order (BRO), which extends this period of restrictions for between 2 and 15 years and is subject to further restrictions. In addition, the Official Receiver may suspend the discharge of a debtor from Bankruptcy indefinitely if the Bankrupt fails to cooperate.

Companies House launches business verification

Companies House has announced the launch of a new service that allows individuals to verify their identity through an Authorised Corporate Service Provider (ACSP). The introduction of identity verification is one of the key changes to UK company law under the Economic Crime and Corporate Transparency Act 2023. This landmark legislation gave Companies House new and enhanced powers to help disrupt economic crime and support economic growth.

Identity verification will provide more assurance about who is setting up, running, owning and controlling companies in the UK. There will be the same level of assurance whether individuals are verifying their identity directly with Companies House or through an ACSP. Companies House is encouraging encourage directors, people with significant control of companies (PSCs) and those filing information with Companies House to verify their identity during the voluntary window. They expect identity verification to become mandatory from Autumn 2025. the identity verification requirement for existing directors will be integrated into the annual confirmation statement update process.

Insolvency Statistics

	2024	2025	2025	EST	EST	EST
Case nos.(E&W)	Q1-Q4	JAN	FEB	2025	2025	2025
Corporate				MAR	Q2-Q4	TOTAL
Compulsory Liqs.	3,261	279	393	336	3,024	4,032
CVL's	18,937	1,545	1,520	1,533	13,793	18,390
Administrations	1,614	140	115	128	1,148	1,530
CVAs	202	17	14	16	140	186
Moratoriums	10	1	-	1	9	11
Restructuring Plans	9	-	-	1	9	10
	24,033	1,982	2,042	2,014	18,122	24,159
Personal						
Bankruptcies	7,447	605	600	603	5,423	7,230
Debt Relief Orders	43,234	3,863	3,865	3,864	34,776	46,368
IVAs	67,067	5,284	5,682	5,483	49,347	65,796
	117,748	9,752	10,147	9,950	89,546	119,394

Source: Insolvency Service Statistics

Corporate Insolvency Statistics – Outcome of 2024 and prospects for 2025

In 2024, there were circa 24,000 registered company insolvencies. It is likely there may be similar numbers by the end of 2025 as above. Between 26 June 2020 and 28 February 2025, only 50 companies obtained a Moratorium, and 26 companies had a Restructuring Plan registered at Companies House. The two procedures were created by the Corporate Insolvency and Governance Act 2020, but the numbers remain low because of the high professional costs of the procedures requiring much legal input.

Personal Insolvency Statistics – Outcome of 2024 and prospects for 2025

The number of individual insolvencies registered in 2024 was 117,748. There may be c.120,000 by 31 December 2025, representing a c.2% increase. The number of **Debt Relief Orders (DROs)** are likely to exceed 46,000 this year. DROs have become increasingly used because the entry requirements have been relaxed recently so persons with debts of up to £50,000 may enter, limited assets may be retained and there is now no fee. **IVAs** accounted for 57% of all individual insolvencies in 2024, down from 67% in 2023 and are likely to decline again to circa 55% in 2025 due to the rise of DROs given the changed requirements.

The Official Statistics do not record the number of **Debt Management Plans (DMPs)** which are not formal insolvencies, but it is thought that there are circa 0.75m-1.0m people in the UK in DMPs being managed by specialist providers who work closely with the banks and loan and credit card lenders.

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SUMMER 2025 - IN DEPTH MATTERS

Avoiding the dangers of Misfeasance, Wrongful and Fraudulent Trading – The lessons from the “Stacks and Staffs cases”

Re Stacks Living Limited & Re Staffs Furnishing Limited (Both in Liquidation) [2025] EWHC 9 (Ch)

In Stacks, ICC Judge Greenwood considered various elements of fraudulent and wrongful trading claims, misfeasance, and a defence under s1157 Companies Act 2006, and ordered relief including the costs and expenses of the liquidations.

Mr Shergill was the shareholder and de facto director of the companies, who solely controlled their operation despite his wife, Ms Smith, being the du jure director (Companies House registered director.)

Mr Shergill had a history of operating furniture companies that took on large tax liabilities before entering insolvency and immediately commenced trading under new limited companies in a classic phoenix scheme.

It was alleged that Staffs was a phoenix of Stacks, with Stacks owing approximately £42,000 in rates to the local council, and Staffs owing approximately £15,000. The liquidators claimed fraudulent trading under s213 (and wrongful trading under s214) of the Insolvency Act 1986, as well as misfeasance, on the grounds that Mr Shergill ran the companies with an intent to defraud the council and HMRC.

Ultimately, ICCJ Greenwood held that Mr Shergill was liable for fraudulent and wrongful trading and misfeasance, and Ms Smith for wrongful trading and misfeasance.

He rejected the s1157 defence (acted honestly & reasonably) of Ms Smith on the grounds that complete ignorance or inactivity by a director was unreasonable. He further ordered relief to include that Mr Shergill pay the costs and expenses of the liquidation as his intentions under the phoenix scheme to never pay involuntary creditors would have always resulted in the company becoming insolvent.

Claims by liquidators for Fraudulent Trading are not that common. There were important points for Insolvency Practitioners and advising lawyers in this case when considering claims for fraudulent and wrongful trading:

- The test for dishonesty under s213 IA is objective and an intention to defraud involuntary creditors does not require deceitful conduct, and such intent exists where there is no honest belief those liabilities will be paid. The judge rejected an argument that a respondent must know they are stepping outside what ordinary decent people would regard as honest.
- Compensation for fraudulent trading can include an Order requiring a respondent to pay the costs and expenses of the liquidation.
- Paper directors can be liable for wrongful trading as their minimum duties include appraising themselves of a company's finances following appointment and taking necessary consequential actions
- Relief under s1157 will not be available to a director who does nothing.

HOW CAN WE HELP YOUR CLIENTS?

- Initial free consultations.
- Solvency reviews.

Companies & LLPs

- Members Voluntary Liquidations
- Company Voluntary Arrangements
- Administrations
- Creditors Voluntary Liquidations

Individuals, sole traders and unincorporated partnerships

- Individual Voluntary Arrangements
- Bankruptcy advice

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