

IN THE MATTER OF THE UK COVID-19 INQUIRY

WITNESS STATEMENT OF

CAROLINE SUMNER

I, Caroline Sumner, of R3, 3rd Floor (East), Clerkenwell House, 67 Clerkenwell Road, London EC1R 5BL. Our company registration number is 2553435, state as follows:

1. I am a director of R3, the Association of Business Recovery Professionals, registered company number 2553435 ('**R3**') currently serving as Chief Executive Officer ("**R3 CEO**"). I am duly authorised to make this statement on behalf of R3.
2. I make this statement in response to the request of the UK Covid-19 Inquiry ("**Inquiry**") dated 11 February 2025 made by Baroness Heather Hallet, the Chair of the Inquiry, under Module 9 of the Inquiry, for Evidence pursuant to Rule 9 of the Inquiry Rules 2006, reference M9/R9R/R3 ("**Request**").
3. Save as otherwise appears, the facts and matters to which I refer in this statement are within my own knowledge and such facts and matters are true. Where the facts and matters set out are not within my own knowledge, I state the source of my information and such facts and matters are true to the best of my knowledge, information and belief. Overall, the matters set out in this statement are drawn from information collated by the officers and staff of R3 under my supervision and direction as R3 CEO, and which I have reviewed prior to the preparation of this statement and to that extent are such facts and matters as are true to the best of my knowledge, information and belief.
4. This statement has been prepared by me with the assistance of R3 personnel who have assisted me in the collation of information and documents necessary to enable me to respond to the Request on behalf of R3, and with the assistance of executive members of the R3 Council.

INTRODUCTION

5. R3 provides a key role in supporting our members to deliver services to businesses and individuals where they find themselves in financial distress or require some support to restructure and refinance. As such, the role of R3 during the pandemic was primarily to support our members delivering their services to businesses and individuals.
6. Our members provide advice and guidance to directors and shareholders of businesses in need of financial support, taking steps to rescue the business where opportunities allow and acting as liquidators where companies are insolvent and need to be wound up. Insolvency Practitioners (IPs) also advise individuals on options available for dealing with financial distress and act as trustee in bankruptcy and supervisors of Individual Voluntary Arrangements (IVAs) where appropriate.
7. During the pandemic R3's role came under three main headings:
 - A. Support for our members** *as employers and business owners and providing guidance to them when advising business owners, directors and individuals on issues arising as a result of COVID.* Under this heading, R3's role involving the following:
 - 7.1. Delivered regular technical updates to our members, collating all the advice and details regarding Covid support measures such as the furlough scheme, and delivering them in one place. We also ensured that our members were aware of the legislative changes introduced through the Corporate Insolvency and Governance Act 2020 (CIGA 2020). This was to ensure that our members were up to date with the latest Government announcements.
 - 7.2. Delivered a series of webinars for members on a range of topics relating to issues arising because of the pandemic.
 - 7.3. Produced a COVID Company Voluntary Arrangement (CVA) template with standard conditions to facilitate our members in using this process to deal effectively with the repayment of COVID debt incurred by companies. This was a measure which sought to reduce the number of companies placed into liquidation due to challenges faced during the pandemic.
Please see Exhibit CS/01 [INQ000655998].

- 7.4. Produced a list of solicitors willing to witness documents face to face in a safe manner despite the restrictions imposed during the pandemic.
Please see Exhibit CS/02 [INQ000548305].
- 7.5. Delivered a webinar to our members on 16 June 2020 '*Corporate Insolvency and Governance Bill – Roundtable Discussion*' enabling Paul Bannister, Head of Policy at the Insolvency Service, to update our members directly on Government thinking at that time, and for our members to raise concerns and questions directly to him.
- 7.6. On 30 June 2020, delivered a live webinar to approximately 700 R3 members enabling Nick Skates, Head of Corporate Transparency, Department for Business, Energy and Industrial Strategy (BEIS), and Peter Swaney, Chartered Governance Institute to speak directly to our members on the Corporate Governance aspects of the Corporate Insolvency and Governance Bill (CIGB).
- 7.7. On 8 July 2020, delivered a live webinar to approximately 660 R3 members enabling Paul Bannister to talk directly to our members on the insolvency aspects of the CIGB. This was jointly delivered with the Recognised Professional Bodies (RPBs), and a pre-agreed list of member concerns were put to Paul Bannister to be answered during the roundtable. Please see Exhibit CS/03 [INQ000650870].
- 7.8. Liaised directly with our members to identify challenges faced by our members because of the pandemic in fulfilling their roles and regulatory obligations and to seek to identify solutions.
- 7.9. Worked with a range of members to seek to produce a template restructuring plan that could be used for Small and Medium-sized (SME) companies. In the event this proved difficult to produce in practice whilst providing necessary safeguards for directors, shareholders and IPs, so was not ultimately released.
- 7.10. Held regular meetings with the RPBs and the Insolvency Service.
- 7.11. Invited Justin Dionne, former Head of Technical at the Insolvency Service to present directly to our smaller practice members at the Smaller Practices Group (SPG) Forum in November 2020, to address technical challenges arising from the pandemic.

- 7.12. The R3's Scottish Technical Committee discussed issues faced by the profession in Scotland because of COVID-19 restrictions. As a result, in April 2020, R3 emailed a letter to Kay McCorquodale, Chief Development and Innovation Officer at the Scottish Courts and Tribunals Service outlining the areas where courts were essential to ensure progression of insolvency cases.
Please see Exhibits CS/04 [INQ000650871] and CS/04a [INQ000650872].
- 7.13. Provided guidance to members on the repayment of bounce back loans post pandemic. Please see Exhibit CS/05 [INQ000655999].
8. **B. Promoted the services of our members** to shareholders, directors and individuals as a source of trusted advice for those experiencing financial distress as a result of the pandemic. Under this heading, R3's role involved the following:
- 8.1. We liaised with the Institute of Directors to deliver a webinar on 5 November 2020 for their members on the signs of financial distress, the options available to directors and shareholders of financially distressed businesses and where to find trusted, experienced advisors.
- 8.2. We ran a Back to Business UK (BBUK) campaign to promote our IP members as a source of trusted, regulated advice. This included developing a website aimed at directors with advice, and the production of a guide for business owners setting out options for dealing with companies in financial distress.
Please see Exhibit CS/06 [INQ000656000].
- 8.3. We produced and promoted an advice booklet aimed at individuals in financial distress setting out the options available for dealing with financial distress and where to go to seek help and support. Please see Exhibit CS/07 [INQ000656001].
9. **C. Supported the Government** in terms of drafting emergency legislation to support businesses during the pandemic including the introduction of the restructuring plan and moratorium (CIGA 2020) and providing relevant other information when requested. Under this heading, R3's role involved the following:
- 9.1. We sought confirmation from R3 members that there would be sufficient IPs available to act as monitors should the moratorium legislation come into force.

- 9.2. We brought together a small group of R3 members from our General Technical Committee (GTC) to provide commentary on draft legislation provided to us by the Insolvency Service Policy Team to provide R3's views intended to help ensure that it achieved what the Policy team wanted it to achieve and that it would be practical to apply. This included:
 - 9.3. Commenting on proposed changes to the legislation drafted on restructuring plans and moratorium. Please see Exhibits CS/08 [INQ000656002], CS/08a [INQ000656003], CS/08b [INQ000650875] and CS/08c [INQ000650876].
 - 9.4. Collated and shared member views on proposals for a 'protocol administration process'. Please see Exhibits CS/09 [INQ000650878] and CS/09a [INQ000650877].
 - 9.5. Provided commentary on draft guidance for monitors.
 - 9.6. Commenting on considerations regarding the temporary ban on presenting winding up petitions.
 - 9.7. Provided commentary on the Draft CIGB as requested by the Insolvency Service Policy team. Please see Exhibits CS/10 [INQ000650895], CS/10a [INQ000650896], CS/10b [INQ000650884], CS/10c [INQ000650885], CS/10d [INQ000650886], CS/10e [INQ000650887], CS/10f [INQ000650888], CS/10g [INQ000650879], and CS/10h [INQ000650889].
 - 9.8. Provided views of GTC members on the likely impact following the removal of the temporary restrictions on winding up petitions (Cliff Edge Think Tank). Please see Exhibits CS/27 [INQ000650909], CS/27a [INQ000650903], CS/27b [INQ000650904] and CS/27c [INQ000650906].
10. The R3 Technical Manager, now Head of Technical and Stakeholder Relations, produced a list of solicitors willing to witness documents face to face in a safe manner despite the restrictions imposed during the pandemic:

10.1. **Swearing a Statutory Declaration:** On 27 March 2020 R3 sent members an email titled ‘*Support required - Swearing a Statutory Declaration*’. The message to members was as follows –

“Some insolvency practitioners (IPs) have reported being unable to locate a solicitor for the swearing of a document, in particular a Statutory Declaration of Solvency for MVLs. The Technical Team understand that there is conflicting advice currently circulating about the ability to witness by virtual means. Whilst we do not have clarification as to whether a document can be sworn legally by virtual means, we would be like to create a list of solicitors that would be willing to undertake a swearing in person, whilst abiding by the UK Government guidance in respect of social distancing.

If you are a professional in the legal profession and wish for your details to be added to this list, please send your name, firm details, contact details and region to Ben Luxford [here](#).

*We would like to publish the listing on the R3 website on **Monday 30 March 2020**. The list will continuously be updated.”*

10.2. **Reason for communication:** The declaration of solvency is a crucial step in the process of a company being placed into a Members' Voluntary Liquidation (MVL), which is a way for solvent companies to be wound up. The directors of the company make the declaration, which states that the directors have made a thorough review of the company's financial situation and believe that the company can pay its debts in full, with interest, within 12 months of the commencement of the liquidation. The declaration of solvency is a legal requirement under section 89 of the Insolvency Act 1986.

10.3. The declaration must be sworn by the director(s) in the presence of a solicitor. However, this was not practical due to COVID-19 and the stay-at-home restrictions and therefore to support R3 members, we created a list of solicitors that would be willing to undertake a swearing in person, whilst abiding by the UK Government guidance in respect of social distancing. Over one hundred R3 members (solicitors) were willing to a undertake a swearing across the UK allowing directors the ability to continue with winding up their solvent company. The list was continuously updated up to February 2021.

COVID-19 – ISSUES FACED BY THE PROFESSION IN SCOTLAND

11. On 9 April 2020 a virtual Teams call was arranged between R3 and members of R3's Scottish Technical Committee to discuss issues faced by the profession in Scotland because of COVID-19 restrictions.

12. On 20 April 2020 R3 emailed a letter to Kay McCorquodale (Exhibit CS/04 [INQ000650871] Exhibit CS/04a [INQ000650872]), Chief Development and Innovation Officer at the Scottish Courts and Tribunals Service. The covering email advised the following –

“R3's Scottish Technical Committee has identified the insolvency processes and procedures that rely on the Scottish courts for progression. We think that that this is a comprehensive picture of the courts' involvement in insolvency, and the extent to which insolvency is rooted in court procedure, and our members rely on the courts to progress their cases. Please see attached our submission.

We see this as an opportunity to work together to make the current situation easier for all parties concerned and more akin to normal.”

12.1. A reply was received on 29 April 2020 setting out the up-to-date position, as of this that date, regarding the progression of insolvency matters in the Scottish courts. Please see Exhibit CS/12 [INQ000650901].

12.2. **Reason for communication:** The R3 Scottish Technical Committee identified the insolvency processes and procedures that relied on the Scottish courts for progression. We thought that that this was a comprehensive picture of the courts' involvement in insolvency, and the extent to which insolvency was rooted in court procedure, and our members relied on the courts to progress their cases.

12.3. The letter set out in some detail and distinguished where a matter may have been urgent or administrative and the implications of matters not being progressed timeously, or at all. This was an opportunity for real collaborative working in unprecedented times with a view to keeping the wheels turning and avoiding more disruption in future.

R3 STANDARD FORM COVID-19 CVA PROPOSAL

13. With the expectation that SME companies were likely to be most affected by the pandemic, R3 developed the '*R3 Standard Form COVID-19 CVA Proposal and Standard Conditions*' to provide members with another tool in their arsenal to assist their clients. The standard form and accompanying standard conditions were published on 12 October 2020 and sent to 2,602 members.

14. Given the flexibility of CVAs, it would have been impossible to create a template to tackle all the variations that may have been necessary. R3 expected that most of the CVAs proposed using these Standard Form documents would amend their terms to ensure they were suitable for the facts of the case. The base form was drafted to fit the following criteria:

- o *A directors' proposal* - The vast majority of CVAs are proposed by a company's directors and so the Standard Form was drafted for this situation, rather than for proposals made by an administrator or liquidator.

- o *A delayed payment in full* - The Standard Form provided for a breathing space period followed by a delayed payment of 100% of the company's debts. It was designed for use by companies whose businesses had been hit by the COVID-19 pandemic, and which needed some time to get their businesses fully operational. Creditors with pre-CVA debts were consequently prevented from enforcing their debts against the company whilst the CVA was in operation. Trading costs incurred during the CVA were to be paid out of new trading income. Continuation of the business would permit regular contributions to be made to the supervisor out of operational cash flow. As stated above, it was possible to amend the Standard Form so that it was instead a debt composition.

15. The Standard Conditions were based largely upon R3's Standard Conditions for Individual Voluntary Arrangements, with amendments *mutatis mutandis* appropriate for companies.

15.1. Reason for communication: The Standard Form documents were intended for use by SME companies whose businesses had been affected by COVID-19. They were intended to save time and costs that would otherwise be incurred in drafting

bespoke CVA terms and conditions and therefore make CVAs more accessible to the SME market.

16. Different versions of the Standard Form and the Standard Conditions were prepared for English & Welsh, Scottish, and Northern Irish CVAs to reflect the jurisdiction-specific rules and legislation.
17. The Standard Form was not a panacea. The introduction of the Standard Form was not intended to replace the professional advice and judgement of IPs and lawyers who may be advising companies but was to simply form part of their arsenal of available tools to assist their clients. At best, it was to be considered a foundation upon which the appropriate CVA could be based.
18. R3 does not have any data recording whether the Standard Form and Standard Conditions was utilised in practice or the extent to which it was utilised as it was freely available for members to download from the website at any time.

SUPPORTING THE DEVELOPMENT OF GOVERNMENT SUPPORT SCHEMES

19. R3 were not involved in the development of government support schemes such as furlough or the Coronavirus Bounce Back Loan scheme. At the start of the pandemic, R3 collated views from members regarding the impact of COVID-19 on their ability to handle insolvency cases which were shared with the Insolvency Service. The process of collating that member feedback is narrated in the following paragraphs, in response to this question.

IMPACT OF COVID-19 ON R3 MEMBERS

20. In March 2020, R3 surveyed members to understand the impact COVID-19 was having on their ability to carry out their duties. One of the primary concerns raised by our members was the impact of delays in processing insolvency-related filings at Companies House. While in most cases, delays in filing did not affect the effectiveness of documents, an exception was identified in the conversion of Administration to Creditors' Voluntary Liquidation (CVL). In these cases, the date of filing determines the conversion, leading to complications if filing occurs after the automatic expiry of an administration. To mitigate these risks, R3 members recommend that Companies House prioritise the processing of conversion notices over other insolvency-related documents.

21. The pandemic also highlighted significant communication challenges. Many IPs did not routinely use websites as a means of communication with creditors and stakeholders. The sudden shift to digital engagement required rapid adaptation. Some practitioners held general meetings remotely, using video conferencing tools such as FaceTime, and exchanged signed documents via digital messaging platforms. Furthermore, members suggested that HMRC should accept all initial notices regarding insolvency proceedings electronically rather than requiring hard copies. It was considered that this change would improve efficiency and reduce administrative burdens in times of crisis.
22. Remote working presented additional challenges for the profession. While many members transitioned successfully, the requirement to send physical documents by post necessitated continued office presence, creating health and safety concerns. Some members sought guidance on whether insolvency professionals should be considered essential workers. Additionally, members highlighted concerns regarding data security, GDPR compliance, and IT infrastructure, including VPN security, bandwidth limitations, and the risks associated with remote access. Members recommend that future guidance should include best practices for remote working in insolvency cases, ensuring both compliance and efficiency.
23. The pandemic's financial impact extended beyond clients to insolvency firms themselves. While an increase in insolvency work was anticipated, firms also faced cash flow challenges and staffing shortages. Proactive client engagement was crucial, particularly in cases of existing CVAs and IVAs, where early intervention helped debtors adjust contributions levels and avoid default. Greater flexibility in varying such arrangements was identified as an important tool for navigating financial difficulties.
24. Another pressing concern was the witnessing of sworn statements, as many solicitors were unavailable for in-person meetings. This created delays and uncertainty in the execution of key legal documents. We recommend that, going forward, alternative solutions, such as digital witnessing mechanisms, be explored to provide a more resilient framework for legal requirements in insolvency cases.
25. Finally, members expressed to R3 uncertainty about the government's financial support measures and the accessibility of schemes introduced to ease financial distress. Concerns were raised about the capacity of HMRC's Time to Pay (TTP) helpline, with

fears that it would become overwhelmed with the anticipated increase in firms seeking to request or vary a TTP agreement.

26. On 30 March 2020 R3 provided further feedback from our members to the Insolvency Service summarising the range of issues they were continuing to encounter in their work with financially distressed individuals and businesses since the start of the COVID-19 outbreak. This included initial responses to the commercial property forfeiture moratorium announced by the Government on 23 March 2020. Whilst it was largely welcomed, some members considered that it didn't provide complete protection from possible landlord action. Further comments focussed on existing CVAs and IVAs and whether creditors, particularly HMRC, would show forbearance in the case of monthly contributions not being made due to cash flow problems. As a result of this HMRC's statement that it would support three month breaks in contributions, and allow supervisor discretion, was welcomed.
27. Suggestions for further initiatives were made, particularly the approach adopted in Australia and other questions were raised, including whether companies in administration could access the Job Retention Scheme provisions. Gaps in support schemes for companies were identified, and provisions for self-employed people were considered to fall short of what was needed. For full details please see Exhibit CS/13 [INQ000650902].
28. Further feedback from members was sent to the Insolvency Service 3 April 2020. This feedback focussed on comments on the Moratorium and specifically:
 - o Rescue entry criteria, which was considered to be difficult to apply given the uncertain trading conditions caused by the pandemic.
 - o Agreement with the Governments' approach to petitions and overseas companies, prior insolvency eligibility, successive appointments and payment of existing debts.
 - o Suggestions for bringing the moratorium were provided.
 - o Concerns were raised about the risk that entry into a moratorium may trigger a bankruptcy default event.
29. Further member feedback was provided on 9 April 2020. This feedback focussed on statutory demands and winding-up petitions, supporting the Governments' approach to focus on possible damage to companies done by the issuing of winding up petitions and identifying unintended consequences that may result from barring the issuing of winding

up petitions. For full details please see Exhibits CS/11 [INQ000650898] and CS/11a [INQ000650899].

MONITOR GUIDANCE

30. On 2 June 2020, I (R3 Technical and Education Director at the time) received an email from **Maya Patel**, Policy, at The Insolvency Service. The email, which is referenced as Exhibits CS/14 [INQ000650916], CS/14a [INQ000650917] and CS/14b [INQ000650918] which advised the following –

“You will be aware that the Corporate Insolvency and Governance Bill was recently introduced in Parliament - a copy of the Bill print is attached. I understand that the majority of you have already had sight of an initial draft of the guidance for monitors which we are producing to help IPs in their new role following the development of legislation on the moratorium. I also appreciate that many of you have not yet had a chance to comment on it. The guidance is now nearing completion subject to any comments you may have - I have attached the latest copy for your perusal.

*I would be grateful for any helpful comments or feedback to be returned to me please by close of play on **Tuesday 9th June.**”*

31. On 3 June 2020 members of the R3 General Technical Committee were asked to provide comment on the draft guidance and on 9 June 2020 R3 responded to the request made by The Insolvency Service via email. The email advised the following –

“We thank you for sharing a draft of the guidance. The draft was shared privately and confidentially amongst members of R3’s General Technical Committee for comments. Whilst members were of the opinion that the document was a useful tool to have, elements of the guidance appeared to be a repeat of the wording in the legislation and contained some cross-referencing errors. The attached document provides a table of the comments and observations made by members. Some elements of the guidance require further expansion or clarification to assist those who decide to take up the appointment of a monitor.”

31.1. A response was submitted from R3 to Maya Patel, however, that colleague has since left R3 and accessing emails almost five years old has not been possible.

RESEARCH AND ANALYSIS

32. R3 did not undertake any specific economic research monitoring the evolving effects of the pandemic. However, throughout the pandemic, R3 analysed insolvency statistics produced by the Insolvency Service monthly to assess the financial health of businesses and individuals and to monitor the demands on the profession in terms of formal appointments made.
33. R3 provided commentary through press releases available on our website. These press releases are accessible to members, stakeholders, and the public, ensuring transparency and dissemination of information regarding insolvency trends and the profession's role during the pandemic.
34. R3 frequently publishes press releases reacting to Government announcements relevant to the profession. These press releases included commentary from a senior R3 representative, reacting to the announcement and further considerations where applicable.
35. R3 actively engaged with the media, offering expert commentary and insights from its members working across the insolvency profession. Through regular briefings with various media outlets, R3 provided valuable analysis on the evolving economic landscape, government support measures, and the challenges faced by businesses. This proactive engagement helped inform public discourse, offering clarity on insolvency trends and the role of professionals in supporting businesses through financial distress.
36. R3's findings were that The Insolvency Service statistics demonstrate that the temporary measures introduced by the CIG Act, which restricted the use of statutory demands and certain winding up petitions, as well as the enhanced government financial support for companies, appeared to have the effect desired by the Government at the time of reducing the number of companies entering into a formal insolvency solution.
37. In Q3 2020 there were 2,615 formal company insolvency appointments as compared to 3,863 in Q1 of 2020.
38. The reverse was seen when the temporary measures were removed. Insolvency numbers began to increase from Q2 2021 and further increased in Q3 as the furlough scheme was ended. In Q2 2022 the highest number of registered company insolvencies

was seen since Q3 2009, which coincided with the final phasing out of the temporary measures put in place to support businesses during the pandemic. A summary table of the statistics is provided below:

	Total	WUC	CVL	ADM	CVA	REC
Q1 2020	3,863	701	2,689	403	69	1
Q2 2020	3,029	203	2,390	388	47	1
Q3 2020	2,615	302	1,858	391	63	1
Q4 2020	3,053	146	2,483	344	80	0
Q1 2021	2,384	108	2,047	192	37	0
Q2 2021	3,105	102	2,813	164	25	1
Q3 2021	3,933	113	3,632	168	20	0
Q4 2021	4,625	158	4,161	273	33	0
Q1 2022	4,995	339	4,359	272	25	0
Q2 2022	5,629	368	4,908	320	32	1

WUC = Compulsory Winding-Up

CVL = Creditor's Voluntary Liquidation

ADM = Administration

CVA = Company Voluntary Arrangement

REC = Receivership

39. We understand from our review of the statistical data, that HMRC was particularly impacted as they present the majority of winding up petitions and the ability to do this was severely restricted during the pandemic. They are still not presenting winding up petitions at the same level as they were pre pandemic.

40. R3's commentary throughout the COVID-19 period focused on the monthly insolvency statistics from the Insolvency Service. We also talked directly to our members and committees, to get up to date views on what was happening, what members were seeing as part of their roles and what directors were saying when they sought advice. These responses to government measures, provided insights into the challenges businesses faced and the support they needed.

41. In addition to regular committee meetings (General Technical Committee, Scottish Technical Committee, Policy Committee, Smaller Practice Group Committee) in

November 2020 we held a roundtable discussion with invited members on the future of insolvency and restructuring in a post-COVID UK. This was followed in January 2021 with a Business Rescue webinar with our members, where the panel discussed their views and thoughts on the impact of the profession on companies and different sectors. Key themes arising from these discussions include:

- o **Government Support Measures:** The government interventions such as financial assistance for businesses and job retention schemes were generally welcomed. It was noted that while the "Whatever It Takes" strategy was the right approach, our members considered that businesses required immediate and varied forms of support beyond access to finance.
- o **Self-Employed and Sole Traders:** The financial vulnerability of self-employed individuals was highlighted, noting that their irregular income made it harder for them to save to cover emergencies. While government measures assisted self-employed individuals, these were viewed as a "limited step" in providing equal support across the workforce.
- o **Insolvency and Restructuring Framework:** The UK's framework was praised as world-leading, and R3 members welcomed new restructuring tools introduced during the pandemic. However, it was emphasised that government responsiveness to feedback was critical in ensuring businesses could effectively use these tools.

42. Guidance for Businesses: R3 provided practical steps for struggling businesses, including:

- o Assessing financial situations and cash flow.
- o Highlighting the advantages to be gained from seeking professional advice early.
- o Communicating with creditors and suppliers.
- o Checking eligibility for government support.
- o Reviewing employment contracts and insurance policies.

43. Concerns Over Policy Decisions: R3 warned that some policy moves risked undermining previous government efforts to protect businesses and jobs. For example, R3 highlighted in a blog that many within the profession had serious concerns about the Government's plans to suspend wrongful trading as a blanket suspension could risk abuse:

“The provisions are there for a reason and protect creditors. We do understand that directors may be worried about the consequences of continuing to trade amid the COVID-19 disruption if they are missing debt payments, but good advice from an insolvency practitioner or insolvency lawyer will remove their risk of facing a wrongful trading action.” The blog is referenced under Exhibit CS/15 [INQ000656010].

44. R3 expressed scepticism about short-term reductions in corporate insolvencies, suggesting these numbers were artificially low due to temporary protections and support schemes. Once the temporary restrictions in winding up petitions were lifted, we have seen a return to formal insolvency appointments at levels similar to pre-pandemic levels.
45. With regards to highlighting industries that were disproportionately affected during the pandemic, those businesses in retail and hospitality were immediately impacted by the lockdowns. They also suffered as social distancing rules impacted on their ability to return to full trading capacity once lockdowns were lifted. Businesses that relied on local part-time workers also struggled to return to full capacity once the lockdowns were lifted as many people had obtained full time work elsewhere, for example in COVID testing centres. Any business that relied on foreign workers also struggled as many of their staff returned home during the pandemic.
46. It should be noted that not all impacts of the pandemic were negative, a number of businesses thrived during the pandemic, for example, manufacturers and retailers of bicycles, DIY stores, garden furniture providers and suppliers of hand sanitisers and personal protective equipment products.
47. Hospitality and leisure were most identified as the sectors which suffered the most severe financial distress. Lockdowns and trading restrictions meant that many businesses in these sectors were forced to close for prolonged periods, severely impacting their ability to recover. Similarly, retail businesses, particularly those without a strong digital presence, faced significant challenges due to reduced footfall and shifting consumer habits. The construction industry, particularly firms involved in office fitouts and commercial property development, was also affected as demand for workspace developments declined sharply.
48. In terms of business size, SMEs were widely identified as the most vulnerable. Smaller businesses lacked the financial resilience of larger corporations and had fewer resources to survive the economic shock of the pandemic. Owner-managed businesses and sole

traders were particularly at risk, as they often did not have access to the same financial support mechanisms as larger firms.

49. It has also been interesting to note that many individuals were able to reduce the levels of non-mortgage debt due to savings being made from not travelling to work, not socialising or going on holiday during the lock-down periods and hybrid working being introduced so anticipated increases in personal insolvency levels did not materialise. Average levels of mortgage debt did rise as many people sought to move to rural areas or larger properties because of working from home.

GUIDANCE AND SUPPORT FOR INSOLVENCY AND RESTRUCTURING PROFESSIONALS

50. The COVID-19 pandemic presented significant challenges to insolvency and restructuring professionals in the United Kingdom. One of the primary areas of impact was the fundamental shift in working practices. The rapid transition to remote working necessitated the swift implementation of new technologies and processes, requiring firms to equip their staff for home-based operations and adapt to remote communication and collaboration tools. This transition posed difficulties in managing staff effectively, maintaining team morale, and providing adequate support and training, particularly for junior members of staff. Furthermore, the sector experienced challenges in case management and progression, with remote working creating complexities in maintaining quality, progressing investigations, and conducting court hearings efficiently.

51. Communication and interaction with clients and third parties were also significantly affected. Professionals reported a reduction in face-to-face meetings, which impeded their ability to fully understand the intricacies of businesses and build strong client relationships. Challenges in accessing client premises and assets, along with difficulties in obtaining necessary information and documentation, further complicated the execution of professional duties. The sector also faced administrative hurdles, including managing paper-based processes, arranging for document execution, and navigating new electronic filing requirements.

52. Beyond the transformation of working practices, the pandemic profoundly impacted business and market dynamics for insolvency and restructuring professionals. A significant number of our members reported a substantial reduction in new work, largely attributable to the government's financial support packages that provided a lifeline to

struggling businesses who may otherwise have entered an insolvency process. While these measures were intended to mitigate economic fallout, they inadvertently suppressed the demand for insolvency services. The sector also encountered delays and backlogs within the court system, HMRC, and the Insolvency Service, which further impeded the progression of cases and recovery actions. The prevailing economic uncertainty and the constantly evolving landscape posed additional challenges, making it difficult to provide effective advice and strategic restructuring guidance to clients.

53. In addition to these broad challenges, individual firms experienced specific difficulties. Some reported increased costs associated with adapting to new working practices, while others faced cash flow pressures due to delays in receiving VAT refunds and the decline in new appointments. The need to navigate new legislation and government support measures added another layer of complexity to their operations. Furthermore, concerns were raised about the long-term impact of government interventions, with some members suggesting that the support measures had unintentionally prolonged the existence of non-viable businesses and created future challenges for the sector.

54. In conclusion, the COVID-19 pandemic presented a multifaceted challenge to insolvency and restructuring professionals. The need to adapt to new working practices, coupled with the significant disruption to market dynamics and the broader economic uncertainty, created a complex and demanding environment.

BOUNCE BACK LOANS: FAQs FOR THE INSOLVENCY PROFESSION

55. On 22 June 2021 R3 organised a live webinar titled '*Bounce Back Loans – An Essential Guide for the Insolvency Profession*'. The aim of this webinar was to support members as they started to advise companies that had taken out a support loan and were now struggling to repay those loans. This has been referenced under Exhibit CS/05 [INQ000655999].

56. The panel comprised representatives from UK Finance, the Insolvency Service and the British Business Bank and was chaired by myself (then R3 Technical and Education Director). The aim was to provide essential information on the general principles of the scheme, the approach being adopted with regards to recoveries, and outline the Pay as You Grow (PAYG) options that were available to give Bounce Back Loan Scheme (BBLs) recipients more time and flexibility to pay back their loan.

57. On 23 August 2021 R3 published guidance titled 'Bounce Back Loans: FAQs for the Insolvency Profession'. During the live webinar several questions were submitted by attendees for consideration by the British Business Bank, UK Finance and The Insolvency Service. The published FAQs sought to answer those questions to aid the insolvency profession when advising clients, who took advantage of a Bounce Back Loan.
58. The FAQs was a non-exhaustive list of examples of factual scenarios that may have arisen and was provided for information purposes only. The FAQs did not constitute formal guidance from the British Business Bank, and it was without prejudice to any rights that the bank may have had under the Guarantee including any rights of the bank to reject a claim against the Guarantee or terminate a scheme Guarantee.
59. The content of the FAQs was not intended to constitute legal advice. The answers provided were not intended to be statements of law and were not a substitute for professional or legal advice. The contributing editors believed that the answers provided were accurate but accepted no liability for any fault, error, negligence, or omission howsoever caused, or for any loss or damage of any kind resulting from reliance on the contents. This has been referenced under Exhibit CS/16 [INQ000656011].
60. As mentioned above, in response to numerous queries arising from the live webinar titled '*Bounce Back Loans – An Essential Guide for the Insolvency Profession*', R3 published '*Bounce Back Loans: FAQs for the Insolvency Profession*' on its website on 23 August 2021.
61. The webinar attendees raised many questions, primarily concerning the interaction of BBLS with insolvency processes, especially regarding director's personal guarantees, mutual set-off, and business bank account balances. Recognising the need for clear guidance, R3 compiled these questions and provided the same to the speakers on 1 July 2021. The resulting FAQ webpage was then published to assist IPs in navigating the complexities of BBLS within the insolvency framework when advising directors.
62. Primarily this guidance aimed to support IPs in advising directors who sought clarification on the novel aspects of BBLS within insolvency.
63. During the pandemic, insolvency and restructuring professionals observed significant shifts in how businesses approached financial distress compared to pre-pandemic years.

64. A major trend observed by R3 was the delay in decision-making by directors. Without the usual pressures from creditors—largely due to government support schemes and temporary restrictions on enforcement—many directors postponed insolvency or restructuring decisions. This led to a prolonged period of inaction, with businesses opting to "wait and see" rather than proactively addressing financial difficulties. The lack of immediate commercial pressure meant that some businesses that would typically have sought and acted upon professional advice at an early stage either delayed engagement or avoided it altogether. The impact of this was that by the time that advice was acted upon, the only option remaining was to place the company into liquidation.
65. The availability of government financial support played a crucial role in this trend. Measures such as the BBLs, the Coronavirus Business Interruption Loan Scheme (CBILS), furlough schemes, and tax deferrals enabled businesses to survive longer than they otherwise would have, leading to a reduction in formal insolvency processes during the height of the pandemic. Some companies that were already in financial distress before the pandemic received a temporary lifeline, allowing them to continue trading without addressing underlying structural problems. In some cases, this resulted in businesses accumulating additional liabilities, including loans taken out as part of the COVID support scheme, that they had no realistic prospect of repaying, creating "zombie companies" that continued operating in a financially unsustainable manner.
66. In some cases, businesses that might have failed in a normal economic cycle survived purely due to the unprecedented levels of government intervention. While this support was necessary to stabilise the economy, it also meant that the true extent of financial distress was masked until after the withdrawal of these measures. Some professionals noted that, even years later, businesses were still adjusting to the reality of operating without government assistance, with insolvencies rising as support was removed.
67. Another key issue was creditor inaction and legal constraints on enforcement. With statutory demands and winding-up petitions largely suspended, creditors—particularly HMRC—were unable or unwilling to act against struggling businesses. Many creditors adopted a more lenient stance, offering extended forbearance and payment deferrals. This created a false sense of security for many companies, delaying necessary restructuring or insolvency proceedings. Even after restrictions eased, creditors, especially banks and government agencies, were slow to return to pre-pandemic levels of enforcement, further extending the timeline for insolvencies.

68. Additionally, the administrative challenges faced by key institutions such as HMRC and the courts exacerbated the situation. Professionals reported significant difficulties in obtaining timely responses from HMRC, with backlogs building up in processing insolvency-related matters such as tax clearances and creditor claims. Court delays further hampered insolvency proceedings, making it harder to progress restructuring cases efficiently.
69. There was also a shift in business attitudes towards insolvency and restructuring. Initially, insolvency carried less stigma, as businesses and creditors recognised that financial distress was often due to external circumstances rather than poor management. However, as government support was gradually withdrawn, attitudes began to revert, and businesses became more cautious about seeking professional advice, often only doing so as a last resort when all other options were exhausted. Some insolvency professionals observed that directors were more open to discussions but remained hesitant to take decisive action, leading to further delays in restructuring efforts.
70. The pandemic also forced businesses to adapt their working practices. With remote working becoming the norm, face-to-face meetings were significantly reduced, and virtual communication via platforms like Zoom and Teams became standard. This had a knock-on effect on insolvency processes, with electronic document signing and virtual client interactions replacing traditional in-person procedures. While this shift initially posed challenges, many professionals found that it led to increased efficiency post-pandemic.
71. Overall, the pandemic created a unique insolvency landscape where business failures were artificially suppressed, leading to a delayed wave of insolvencies once support schemes ended. The combination of government intervention, creditor forbearance, and director reluctance to take action significantly altered traditional insolvency trends, forcing professionals to adapt to new ways of working while navigating an unpredictable economic environment.
72. Most members who responded to this question indicated that business owners were generally aware of the financial support options available during the pandemic. Government relief schemes, including BBLs, the CBILS, and the furlough program, were widely publicised and frequently discussed by banks, advisors, and industry bodies. Many respondents noted that there was daily information from multiple sources, ensuring

that most businesses had at least a baseline understanding of the options available to them.

73. Despite this general awareness, respondents largely agreed that formal insolvencies were lower than expected during the pandemic due to government intervention. The availability of financial support helped businesses remain solvent, delaying the need for restructuring or liquidation. Some professionals suggested that insolvencies were artificially suppressed, as companies that may have otherwise failed were kept afloat by government funding and temporary protections such as the restrictions on winding-up petitions. This led to a post-pandemic rise in insolvencies, with many businesses ultimately facing closure once financial support was withdrawn and creditors resumed enforcement actions.

74. While business owners were aware of their options, many were hesitant to take decisive action due to uncertainty about the long-term impact of the pandemic and a belief that a further Government bailout would be given. Some business owners delayed seeking professional advice or making restructuring decisions, hoping that economic conditions would improve. This "wait and see" approach, coupled with unrealistic expectations about the speed of economic recovery, resulted in deeper financial distress and more severe insolvencies in the years following the pandemic.

75. A key issue highlighted by members was the lack of understanding regarding financial obligations, particularly in relation to BBLs, CBILs, and other pandemic-related borrowing. The focus was very much on getting money out to businesses quickly, rather than consideration being given as to how these loans would be repaid. Many business owners took on the maximum level of funding available rather than what was financially sustainable, leading to future repayment difficulties and potential insolvencies. It was also noted that some businesses took advantage of HMRC delayed payment terms even though they had the financial means available to make immediate payment. Several professionals also noted that some directors were unaware of their legal responsibilities, including those related to wrongful trading and the proper use of government-backed funds. These knowledge gaps contributed to poor financial decision-making and, in some cases, avoidable financial distress.

76. Additionally, some respondents identified certain business groups as being more vulnerable than others. Sole traders and consumer-facing businesses were seen as having greater difficulty accessing and understanding financial support measures. These

businesses were more likely to miss relief schemes or struggle with unclear eligibility criteria. Furthermore, some struggling businesses that were already in financial difficulty before the pandemic used government support to prolong their operations rather than seeking appropriate restructuring advice, leading to a larger number of liquidations in later years.

77. Many insolvency professionals concluded that the issue was not unnecessary insolvencies during the pandemic itself, but rather a surge in business failures afterward. The removal of government protections and financial support, combined with increased financial pressures and rising costs, led to a significant increase in insolvencies in 2023 and 2024. Some respondents suggested that earlier intervention, better financial planning, and more targeted support could have helped prevent some of these post-pandemic business failures.

CHANGES TO INSOLVENCY LAW

78. R3 engaged with the Insolvency Service regarding a number of areas during the pandemic as set out below.

79. On 16 March 2020, R3 pro-actively engaged with the Insolvency Service, providing high-level feedback on the impact of COVID-19 on IPs and restructuring professionals. This communication aimed to inform government representatives of the difficulties experienced by our members and the urgent need for support and guidance in light of the pandemic's economic consequences. Further feedback was provided on 30 March 2020, 3 April 2020 and 9 April 2020. This has been referenced under Exhibit CS/17 [INQ000650921].

80. R3 holds regular Policy meetings with the Insolvency Service as part of our 'business as usual' approach and these continued throughout the period of the pandemic. To ensure that these meetings were most effective at providing the Insolvency Service with key messages from the profession we also invited representatives from the RPBs to join in these calls.

81. Subsequently, on 24 March 2020, R3 received a request for guidance from the Insolvency Service regarding concerns about the role of insolvency professionals in managing business distress during the pandemic, particularly in relation to the introduction of moratorium provisions. R3 provided input on this, ensuring that

policymakers understood the critical function of IPs in maintaining economic stability. Please see Exhibit CS/18 [INQ000650922].

82. Further engagement took place on 30 March 2020, when the Insolvency Service sought feedback on the Individual Voluntary Arrangement (IVA) Protocol in the context of COVID-19. R3 submitted its observations, highlighting necessary adaptations to ensure that IVAs could remain viable for individuals facing financial difficulties. As part of this engagement, a supporting document titled "IVA Protocol - COVID-19" was provided to aid the government's assessment of the protocol's effectiveness during the crisis. Please see Exhibits CS/19 [INQ000650923] and CS/19a [INQ000650924].
83. On 2 April 2020, the Insolvency Service shared proposed amendments to moratorium provisions. In response, R3 reviewed and submitted recommendations aimed to enhance the restructuring framework to better accommodate businesses struggling due to the pandemic's economic impact. A supporting document, "R3 comment re Amends to the Corporate Insolvency and Governance Bill," was included in this correspondence.
84. These discussions underscored the necessity of legislative and procedural adjustments to enable the profession to effectively support businesses and individuals in financial distress.
85. As referenced under Exhibits CS/10 [INQ000650895], CS/10a [INQ000650896], CS/10b [INQ000650884], CS/10c [INQ000650885], CS/10d [INQ000650886], CS/10e [INQ000650887], CS/10f [INQ000650888], CS/10g [INQ000650879], and CS/10h [INQ000650889].
86. R3 submitted a letter to Paul Bannister dated 11 May 2020 reporting in detail on specific parts of the draft Corporate Insolvency and Governance Bill, in particular:
 - o Moratorium
 - o Restructuring tool
 - o Wrongful trading
 - o Winding-up petitions
 - o Ipso facto clauses
87. R3 held a meeting with Paul Bannister, Insolvency Service, and Max Young, (BEIS) on 13 July 2020 to discuss the role of the insolvency and restructuring profession in the recovery of COVID loans.

88. On 7 September 2020 R3 shared the COVID CVA proposals which had been prepared with Paul Bannister, Insolvency Service and Max Young (BEIS), to enlist the support of BEIS to the proposals and specifically to seek the support of HMRC to the approach outlined in the proposals. Please see Exhibit CS/20 [INQ000650926].
89. On 2 April 2020, Paul Bannister shared proposed changes to the moratorium framework and restructuring provisions under the anticipated legislative response to COVID-19. R3 reviewed these proposals and provided formal comments, particularly regarding amendments to the CIGB. This direct engagement demonstrates that R3 was actively consulted on the legislative design of temporary insolvency measures. Please see Exhibits CS/08 [INQ000656002], CS/08a [INQ000656003], CS/08b [INQ000650875] and CS/08c [INQ000650876].
90. Commenting on considerations regarding the temporary ban on presenting winding up petitions.
91. Collated and shared member views on proposals for a 'protocol administration process'. Exhibit CS/09 [INQ000650878] Exhibit CS/09a [INQ000650877]
92. Provided commentary on the Draft CIGB as requested by the Insolvency Service Policy. As part of this process, R3 submitted a document titled "R3 comment re Amends to the Corporate Insolvency and Governance Bill," detailing key recommendations on the moratorium and restructuring provisions. These comments helped shape the final version of the temporary measures under CIGA 2020.
93. The Insolvency Service continued its engagement by providing an update to myself regarding a short paper on restructuring and moratorium proposals. This communication reflects R3's ongoing advisory role, ensuring that the government had access to informed perspectives from insolvency and restructuring professionals. Please see Exhibit CS/21 [INQ000650927].
94. R3 was actively consulted and played an advisory role in shaping the temporary insolvency measures under CIGA 2020. From the early stages of identifying challenges faced by the profession to direct input on the legislative framework, R3 worked closely with government representatives to ensure that the emergency measures were effective in supporting businesses and IPs during the pandemic.

95. A significant number of members reported that the CIGA 2020 provisions, particularly the Moratorium and Part 26A Restructuring Plans, were rarely used in practice. Many noted that the moratorium was not well suited to smaller businesses, often only delaying inevitable insolvencies rather than providing a viable route to recovery. Similarly, the high costs associated with restructuring plans meant they were primarily used by large corporations, rendering them commercially prohibitive for most businesses. As a result, while insolvency professionals were aware of these measures and advised clients accordingly, uptake remains low.
96. Many professionals assisted businesses by providing advice and guidance on the implications of CIGA 2020. This was done through direct advice to directors, online guidance, articles, webinars, and social media updates. Some IPs focused on helping businesses understand the restrictions on winding-up petitions and statutory demands, which allowed some companies to continue trading without immediate creditor pressure. However, in most cases, professionals found that creditors were generally understanding during the pandemic, reducing the need for formal intervention under CIGA 2020.
97. Despite the availability of these measures, several challenges emerged in their implementation. Some professionals reported difficulties explaining the new restrictions to creditor clients, particularly in cases where traditional enforcement tools were unavailable. Others noted that directors often did not seek advice early enough, leading to missed opportunities for businesses that could have benefited from structured support. In many instances, businesses continued trading without taking full advantage of the measures, only seeking professional advice when financial difficulties became unmanageable.
98. As with any new process it takes time for insolvency professionals, key stakeholders such as HMRC, landlords and business owners and directors to get comfortable with the new provisions and put them into practice. Some insolvency professionals reported being uncomfortable with some of the moratorium provisions, including the need to publicise it, and have adopted a 'wait and see' approach before they decide to use it in their own practices.
99. While CIGA 2020 was not widely utilised, some insolvency professionals leveraged the temporary measures to facilitate discussions between businesses and creditors. Instead of using the moratorium as a "go away" option, it was sometimes used to enhance

stakeholder engagement and explore restructuring possibilities. However, these instances were relatively rare, as many businesses opted to rely on government-backed financial relief schemes instead.

100. A key theme from member feedback was that CIGA 2020 was largely irrelevant for SMEs. Many professionals noted that the complexity and professional fees associated with the new procedures made them inaccessible to small businesses, limiting their effectiveness. Additionally, the introduction of secondary preferential status for HMRC made certain restructuring processes, such as CVAs, less viable, further reducing the practical application of CIGA 2020 for SMEs.
101. Finally, several members observed that CIGA 2020 measures often delayed insolvencies rather than preventing them. Many businesses that continued operating under temporary protections failed to take proactive steps to restructure, leading to a surge in insolvencies once government support ended. While the measures provided short-term breathing space, they did not always lead to long-term business survival, particularly for companies that lacked the financial resilience to recover post-pandemic.
102. The overwhelming consensus among R3 members was that very few businesses made use of the temporary moratorium in the way outlined in the question, with many reporting that none of their clients opted to use it. Several respondents noted that the moratorium was not an effective tool for many businesses, particularly SMEs, due to its complexity, cost, and the burdens placed on IPs. In many cases, businesses and advisors determined that the moratorium would only serve to delay inevitable insolvencies, rather than providing a meaningful opportunity for restructuring. Between 26 June 2020 (when the moratorium was introduced) and 28 June 2022 (scope of the inquiry) 39 companies obtained a moratorium. Between 26 June 2020 and 28 February 2025, 50 companies obtained a moratorium.
103. A key issue raised was the uncertainty surrounding the economic environment at the time, which discouraged businesses from entering into a moratorium. Members observed that businesses were hesitant to commit to restructuring processes when the long-term impact of the pandemic was still unclear. In addition, some businesses misused the breathing space provided by the moratorium, taking on additional credit without making genuine efforts to restructure, which ultimately worsened their financial position.

104. Another challenge identified was the heavy responsibility placed on IPs overseeing the moratorium. Several respondents noted that the statutory requirements were too onerous, making it a commercially unattractive option compared to administration or informal arrangements with creditors. As a result, many businesses and their advisors chose to pursue alternative solutions outside of the statutory framework, such as negotiating informal creditor agreements, which were seen as more practical and flexible.
105. Among the small number of cases where businesses did use the moratorium, the outcomes were mixed. Some members indicated that a handful of businesses (fewer than ten in most cases) benefitted from the breathing space, allowing them to negotiate with creditors and explore restructuring options. However, success was largely dependent on the underlying financial strength of the business, its ability to pivot to new opportunities, and the competence of its management team. In other cases, businesses simply used the moratorium as a temporary reprieve rather than taking proactive steps toward financial recovery, leading to delayed insolvencies and increased debts.
106. The responses from members indicate that the temporary moratorium introduced under CIGA 2020 was not widely used by businesses. Its limited adoption was attributed to its complexity, cost, and the reluctance of IPs to take on the associated risks and responsibilities. Instead, businesses either relied on informal negotiations with creditors or delayed restructuring altogether, leading to a rise in insolvencies once government support ended.
107. Where the moratorium was used, its effectiveness varied, with success largely dependent on the financial health of the business and its ability to adapt to changing circumstances. Future insolvency reforms should consider simplifying the moratorium process and reducing the cost burden to ensure that it is a more accessible and practical tool for businesses of all sizes.
108. A key concern raised by members was that the restrictions on winding-up petitions delayed the inevitable failure of businesses, rather than facilitating meaningful restructuring. Many businesses continued to accrue significant debts, including tax liabilities, without implementing necessary financial adjustments. As a result, once the restrictions were lifted, creditors were left facing higher levels of bad debt, with many

businesses entering insolvency with greater liabilities than they would have had otherwise.

109. The restrictions also significantly limited creditors' ability to recover outstanding debts, particularly for small businesses and suppliers who rely on statutory demands and winding-up petitions as leverage. While some large creditors could absorb the losses or take alternative legal action, many smaller businesses lacked enforcement tools and were left in a position where they had to finance their losses themselves. Some insolvency professionals reported that the restrictions contributed to cash flow difficulties and even business failures among creditors who were unable to collect debts owed to them.
110. Additionally, respondents noted that some businesses took advantage of the restrictions by using the lack of enforcement action to delay payments unnecessarily or extract funds for personal benefit. In particular, commercial landlords were frequently affected, as some tenants were perceived to have withheld rent not due to financial distress, but as a strategic decision, knowing that they could not be pursued. HMRC also suffered considerable losses, as tax debts continued to accumulate while enforcement actions were paused. The recent surge in HMRC winding-up petitions demonstrates the backlog of businesses that had effectively been kept afloat artificially.
111. However, some respondents acknowledged that the restrictions did provide breathing space for businesses that were viable but needed time to adapt. Forbearance from creditors, combined with government-backed financial support schemes such as the BBL and the CBILS, allowed some businesses to survive. That said, some insolvency professionals observed that these loan schemes also enabled businesses to take on more debt than they could service, ultimately leading to financial distress when repayments became due.
112. The long-term consequences of the restrictions continue to affect creditors, particularly as court delays have extended the time required to recover debts. Some professionals noted that creditors are still experiencing difficulties with enforcement actions, as the backlog of cases from the pandemic continues to impact legal proceedings. The restrictions also contributed to a surge in insolvencies post-pandemic, as businesses that had been artificially sustained were ultimately unable to recover once creditor actions resumed.

113. The temporary restrictions on creditor enforcement, including the moratorium on winding-up petitions, the deferral of tax payments, and the suspension of wrongful trading rules, meant that creditors had very few tools to protect their financial position. R3 members reported that creditors, especially SMEs, struggled to maintain cash flow due to their inability to enforce payments, leading in some cases to their own financial distress or insolvency. The restrictions on enforcement, while aimed at protecting businesses affected by the pandemic, also created a ripple effect, where businesses that were owed money found themselves struggling to meet their own obligations, compounding financial difficulties throughout supply chains.
114. Government-backed loan schemes, such as BBLs and the CBILS, were made available to both debtors and creditors, but there was no requirement for businesses to use these funds to pay creditors. Many insolvency professionals observed that struggling businesses used these loans to fund their own survival rather than settling outstanding debts, placing further strain on suppliers and lenders. Although creditors theoretically had access to the same financial support schemes, this did little to mitigate the financial risks they faced from unpaid debts and prolonged enforcement restrictions.
115. Some respondents noted that forbearance and dialogue between creditors and debtors increased during the pandemic, with many creditors attempting to work constructively with businesses rather than pursuing aggressive recovery actions. However, in many cases, this was not a choice but a necessity, given the restrictions on formal enforcement mechanisms. While some businesses used this breathing space productively, others exploited the situation, delaying payments unnecessarily and worsening creditor losses.
116. The long-term consequences of these imbalances remain evident post-pandemic. Many members argued that the inability to take enforcement action allowed some businesses to accumulate unsustainable levels of debt, leading to larger insolvency losses when those businesses ultimately failed. Respondents also highlighted that court backlogs, created in part by the enforcement moratorium, continue to delay creditor recovery efforts, adding further strain on creditors that had already been significantly impacted.
117. Members recognised the government's rationale for prioritising the survival of businesses, particularly given the uncertainty surrounding the pandemic's economic

impact. They acknowledged that broad access to financial support helped stabilise businesses in the short term. However, many believed that a more tailored approach, rather than a blanket ban on creditor enforcement, would have been preferable.

118. R3 were not consulted, nor did it advise the government on the mechanisms that were put in place to monitor and prevent the potential misuse of the moratorium.
119. It is considered that the relatively small numbers of moratorium entered into during the pandemic meant that widespread misuse was not an issue.
120. R3 did not provide any advice in relation to determining the duration of these restrictions.
121. Following the enactment of CIGA 2020, the insolvency statistics for June 2020 indicated a decline in both personal and corporate insolvencies. This reduction was largely attributed to the Government's extensive support measures, which provided a crucial financial safety net for businesses and individuals facing economic distress.
122. More broadly, the Q2 2020 insolvency statistics for England and Wales recorded a decline in corporate insolvencies, primarily driven by a reduction in Compulsory Liquidations and CVLs. R3 assessed that this trend was influenced by several factors, including the availability of government financial support, restrictions on court proceedings at the onset of the pandemic, and the temporary prohibition on winding-up petitions.
123. By Q3 2020, corporate insolvencies had decreased to 2,672, marking a 9% decline from Q2 2020. R3 highlighted that these figures demonstrated the effectiveness of the Government's support initiatives, including emergency loan schemes, the suspension of winding-up petitions, and the moratorium on commercial evictions. These measures played a critical role in sustaining many businesses during a period of significant economic uncertainty.
124. The annual insolvency statistics for England and Wales in 2020 recorded 12,557 underlying corporate insolvencies, reflecting a 27.1% decline from the 2019 figure of 17,224. However, between Q3 and Q4 2020, corporate insolvency rates rose by 16.9%. At the time, R3 observed:

- o *“The annual reduction in corporate insolvency levels—to the lowest total figure in over a decade—has been driven by a decrease across all types of company insolvency. This decline is largely attributable to the Government’s extensive support measures and the suspension of creditors’ ability to initiate enforcement action against corporate debtors.”*
- o *“The 16.9% rise in corporate insolvencies between Q3 and Q4 2020 was primarily driven by an increase in Creditors’ Voluntary Liquidations. This suggests that, while government measures have provided temporary relief, the underlying financial pressures of the pandemic were beginning to push some businesses into insolvency. However, despite this quarterly increase, corporate insolvency rates remained significantly lower than in the previous year.”*

125. One member commented that:

“Government intervention has played a fundamental role in suppressing insolvency levels, yet these measures have deferred rather than eliminated the economic consequences of the pandemic. The key question is not whether corporate insolvencies will rise, but rather when and to what extent, which will largely depend on the timing and manner in which government support is withdrawn.”

126. This analysis underscores the pivotal role that government policies played in shaping insolvency trends throughout the COVID-19 crisis. While immediate relief measures provided essential financial support, they also postponed the full economic repercussions of the pandemic, which were expected to materialise as restrictions were lifted, and financial protections were phased out.

127. It is difficult to determine the extent of ‘unnecessary business closures’ as insolvency records do not report which insolvencies were due directly to the pandemic and which businesses were already in some form of financial distress. For an economy to operate effectively there must be a process by which companies at the end of their life can be closed down efficiently, thus allowing for a recycling of working capital and employee resources to be utilised in more effective and profit-making companies.

128. The moratorium on statutory demands and winding-up petitions was viewed as more effective than the suspension of wrongful trading provisions. Many insolvency professionals agreed that this measure prevented businesses from being wound up

prematurely, allowing them to navigate the uncertainty of the pandemic. However, some respondents believed that the moratorium simply delayed inevitable insolvencies, rather than helping businesses implement meaningful restructuring. In cases where businesses were fundamentally unviable, the moratorium increased overall debt burdens, worsening the financial position of both businesses and their creditors once restrictions were lifted.

129. In contrast, the suspension of wrongful trading provisions was seen as having minimal impact. Several members noted that wrongful trading claims are rarely pursued in practice, meaning the suspension did little to alter insolvency outcomes. Some also pointed out that directors acting in good faith would likely have had a defence due to the extraordinary circumstances of the pandemic, even without a blanket suspension. As a result, many members felt that this measure was unnecessary and had limited practical benefit.

130. A key concern raised by members was that some directors took greater financial risks or misused the provisions, assuming they would face no consequences for continuing to trade while insolvent. The suspension of wrongful trading may have encouraged reckless behaviour, with directors failing to seek timely advice or implement appropriate restructuring measures. In some cases, businesses used the protections to accumulate additional debt without a realistic plan for recovery, ultimately worsening financial distress.

131. Furthermore, several members highlighted that the suspension of wrongful trading created confusion rather than clarity. The changing timeframes of the suspension made it difficult for directors to understand their responsibilities, and many were unaware that they could still be held liable for breach of duty. As a result, some businesses wrongly assumed they were fully protected, only to be caught off guard when enforcement actions resumed.

132. While many members acknowledged that temporary relief measures were necessary to prevent mass insolvencies, there was broad agreement that the measures disproportionately favoured debtors over creditors. The lack of enforcement mechanisms left many creditors without options to recover debts, creating cash flow issues and contributing to financial instability throughout supply chains. Some professionals believed that a more tailored approach, rather than blanket protections, may have been more effective in balancing the needs of businesses and creditors.

133. Members also highlighted the post-pandemic challenges that arose due to these measures. While the protections helped prevent immediate economic collapse, they did not ultimately prevent insolvencies but instead postponed them, contributing to a surge in business failures once support measures were withdrawn. Some also suggested that UK business support schemes were costly and poorly implemented, failing to ensure that businesses used the breathing space productively to secure long-term viability.
134. Future crisis-response policies should strike a better balance between supporting businesses in distress and maintaining protections for creditors. Additionally, clearer guidance for company directors should be provided to ensure they fully understand their responsibilities during periods of financial uncertainty. A more nuanced approach to insolvency protections in future economic crises could help mitigate unintended consequences, ensuring both business resilience and financial stability.
135. The overwhelming consensus among members was that the restructuring plan was not a viable option for SMEs. Despite being presented as a solution for businesses of all sizes, in practice, the plan closely resembled the existing Scheme of Arrangement framework, which has historically been used only by large corporations and multinationals due to its legal and financial requirements. The costs associated with the restructuring plan—including the two-stage court process, evidential preparation, and potential creditor challenges—made it commercially prohibitive for most SMEs, leaving them without a practical alternative to formal insolvency procedures. Whilst the CVA had been used previously the introduction of HMRC preferential status meant that returns to unsecured creditors were reduced and therefore CVAs were no longer seen as a viable option for SMEs.
136. While the restructuring plan was rarely used by smaller businesses, some respondents acknowledged its effectiveness for larger companies. In particular, multi-site retailers found the plan beneficial, as it allowed them to cram down landlord creditors and restructure lease agreements. This process replaced the previous widespread use of CVAs for lease restructurings. Some professionals also noted that large businesses were able to use restructuring plans to address financial difficulties that predated the pandemic, leveraging the COVID-19 crisis to renegotiate existing debt burdens.
137. Despite offering benefits to some larger companies, the restructuring plan has been significantly underutilised, largely due to its high cost and complexity, which effectively

excludes the majority of UK businesses, namely SMEs. Consequently, since its introduction, less than 50 restructuring plans have been implemented, predominantly involving major corporations with the necessary financial resources. While acknowledging that Parliament delegated the development of the sanctioning approach to the Courts, resulting in a naturally slower, case-by-case evolution of principles, the limited uptake is primarily attributed to the prohibitive costs and intricate nature of the process for most businesses.

138. Members noted that the inaccessibility of restructuring plans has contributed to rising insolvency rates, particularly among SMEs. The record number of corporate insolvencies in 2023 and 2024, especially Creditors' Voluntary Liquidations (CVLs), without a corresponding significant increase in 'pre-pack' administrations in the same period, suggests that many businesses that might have been viable with an affordable restructuring option (and for which pre-pack administration was not a workable alternative solution) were instead forced into liquidation. Additionally, the return to HMRC petitioning with regards to tax debts may have further reduced the ability of businesses to pursue restructuring options. Some professionals questioned how many of these businesses could have been rescued had restructuring plans been more accessible. The introduction of HMRC secondary preferential status prior to the pandemic has, many members feel, contributed to a decline in the use of CVAs as a rescue tool for businesses as it is difficult to secure the support of unsecured creditors in many instances, a greater proportion of available funds now being paid to HMRC. Post pandemic we have seen an increase in the use of pre-pack liquidations to secure the survival of the underlying business. Overall, however, for a rescue procedure to be successful the underlying business must be viable, and advice needs to have been sought early enough for a rescue process to be implemented.

139. Many members believe that, while the restructuring plan concept has potential, it requires significant reform to become a viable alternative to insolvency for a wider range of businesses. Some suggested simplifying the process and reducing the associated costs, while others proposed developing a streamlined version specifically for SMEs. Without such reforms, restructuring plans will remain a tool reserved for large enterprises, leaving smaller businesses without effective alternatives to liquidation.

140. On 28 April 2020, Paul Bannister, Head of Policy at the Insolvency Service emailed me a first draft copy of the CIGB, noting that it has not completed the bill drafting process.

On 8 May 2020, Paul emailed an update on the draft Bill informing of the length of the draft and who it was being circulated to. Paul requested confidentiality to ensure it was not leaked and endanger government negotiations with the Opposition to expedite its passage through Parliament.

141. The following day (9 May 2020), I received a copy of the final draft of the Bill and related documents to look at and provide comments and suggestions. A select group of IPs and Solicitors from R3's General Technical Committee conducted a time-sensitive review of the CIGB (Draft) on 9–10 May 2020 (Exhibit CS/26 [INQ000650895]).

142. While the Bill was recognised as a well-balanced and carefully considered piece of legislation, particularly given the limited timeframe for its drafting, several substantive concerns were identified. Feedback provided at the time concerns primarily related to the moratorium process, the role and responsibilities of the monitor, the restructuring plan, and the winding-up provisions – more details are set out below.

143. One of the primary concerns relates to the moratorium process and its associated costs. The requirement for the monitor to certify that the moratorium is likely to result in the company's rescue as a going concern is overly onerous and financially burdensome. This standard may present an unnecessary barrier for companies seeking to utilise the moratorium, particularly during the economic challenges posed by the COVID-19 pandemic. A more appropriate threshold, such as a 'reasonable prospect' of rescue, may encourage greater use of the moratorium process. Additionally, the exclusion of pre-moratorium costs from moratorium fees is problematic, as it disregards the initial assessment work required to determine a company's eligibility. Given these constraints, the complexity and financial implications of the moratorium may render administration a more attractive alternative for many businesses.

144. The role and liabilities of the monitor also present significant challenges. The ability to challenge the monitor's fees and replace the monitor for failure in duties may deter professionals from undertaking the role. While the monitor's role was initially intended to be relatively limited, the requirement to oversee payments, disposals, and ongoing financial assessments significantly increases their level of responsibility. Furthermore, there is a risk that the monitor may be deemed a shadow director due to their extensive involvement in company decision-making, particularly in relation to granting approvals for various corporate actions. To mitigate this risk, it is recommended that legal

indemnities be provided, ensuring that monitors are explicitly excluded from being classified as shadow directors and are protected against liability arising from their termination of the moratorium.

145. Concerns have also been raised by members regarding the creditor decision-making process and the notification of Qualifying Floating Charge Holders (QFCHs). The prescribed timeframe for seeking an extension through a creditor decision-making process has been described as impractical, given the complexities involved. Additionally, the absence of a requirement to notify QFCHs may lead to resistance from secured creditors, who may feel that their rights are being undermined. Ensuring that QFCHs are adequately informed and that the decision-making process is feasible within the required timeframe will be essential for the effective implementation of the moratorium.

146. In relation to the restructuring plan, its complexity, cost, and susceptibility to legal challenges may limit its applicability primarily to larger corporations. The introduction of cross-class cram-down provisions is expected to give rise to disputes regarding creditor classification and valuation, which could lead (and so far, appears to have led) to prolonged litigation and increased costs. As a result, smaller enterprises may find the process prohibitively expensive and impractical. However, despite these concerns, the mere existence of the restructuring framework may facilitate more consensual restructuring arrangements, encouraging creditors to negotiate rather than resorting to litigation.

147. Finally, significant concerns were identified regarding the winding-up provisions, particularly in relation to the potential personal liability of petitioners should a court order the restoration of a company. This provision is likely to discourage legally represented creditors from initiating petitions, effectively rendering the extended look-back periods ineffective. If creditors are reluctant to petition due to the risk of personal liability, the ability to challenge wrongful trading and other misconduct during the restricted period will be severely undermined.

148. In conclusion, while the draft bill represented a well-structured and necessary legislative initiative, several practical and financial challenges may impede its accessibility and effectiveness. Addressing these concerns—particularly regarding the moratorium process, the responsibilities of the monitor, creditor decision-making, and the restructuring plan—could enhance the bill's practical application. Implementing

more flexible and cost-effective measures would ensure that the legislation effectively support businesses in financial distress while minimising unintended consequences.

149. Members acknowledged that the temporary measures played a crucial role in preventing immediate business failures during the height of the pandemic as is demonstrated by the insolvency statistics. The prohibition on petitions and financial support schemes, including the BBLs, CBILs, and furlough support, were identified as particularly effective in helping businesses survive the immediate economic impact of COVID-19. Statistical evidence from 2020-2021 and the first half of 2022 suggests that these measures contributed to a notable decline in insolvencies, demonstrating their short-term success.
150. However, these measures merely delayed, rather than prevented, insolvencies. Many members expressed concerns that businesses which were fundamentally unviable continued to operate due to government support, creating so-called "zombie companies" that ultimately failed once assistance was withdrawn. This resulted in a significant rise in liquidations from 2023 onwards, indicating that insolvencies had been postponed rather than resolved. While the measures provided immediate relief, they also prolonged financial distress and, in some cases, increased the overall burden on creditors.
151. Members also observed a decline of approximately 30-40% in demand for their services in 2020-2021, as government interventions temporarily stabilised struggling businesses. This suggests that businesses which would have otherwise sought restructuring or insolvency solutions were instead maintained artificially. Additionally, some members noted that the benefits of CIGA 2020 were more accessible to larger businesses, whereas SMEs often delayed seeking professional advice, potentially worsening their financial situations in the long run.
152. Several members raised concerns about the implementation of the measures, noting that they were introduced rapidly, creating practical difficulties in application. Some members felt that the lack of proper oversight, particularly in the administration of financial relief schemes, led to instances of fraud and financial mismanagement. Others highlighted that the measures disproportionately impacted creditors, who were unable to recover debts while struggling businesses remained operational. The broad and indiscriminate nature of the policies meant that some businesses received support

unnecessarily, while others who genuinely needed assistance faced obstacles in accessing it.

153. In conclusion, while the temporary measures under CIGA 2020 were effective in preventing widespread business failures at the peak of the pandemic, their long-term effectiveness remains questionable. Many businesses that survived due to these interventions ultimately failed once support ended, leading to increased financial losses for creditors and the wider economy. The experience of insolvency and restructuring professionals suggests that future crisis-response measures should strike a balance between providing immediate relief and ensuring that unsustainable businesses do not accumulate further financial liabilities. R3 remains committed to working with policymakers to develop more targeted and sustainable solutions for businesses facing financial distress.

154. A key observation from our members is that, following the removal of the temporary measures, there was a significant spike in insolvencies. Many businesses that had relied on government support throughout the pandemic ultimately failed, often with higher levels of debt than they would have had if they had entered insolvency earlier. This trend was particularly evident among small businesses with no assets, whose main creditors were HMRC and lenders of government-backed loans such as Bounce Back Loans. The temporary measures, while effective in keeping businesses afloat in the short term, delayed the inevitable for many companies rather than ensuring their long-term survival.

155. One of the most pressing concerns raised by our members is the substantial debt burden that businesses continue to face. Many companies took on large amounts of government-backed debt without fully appreciating that these loans would need to be repaid. The widespread accumulation of HMRC arrears has also contributed to financial distress, with HMRC now shifting from a position of leniency during the pandemic to more aggressive debt recovery. As a result, IPs are witnessing an increasing number of insolvencies directly linked to the inability of businesses to manage these post-pandemic financial obligations.

156. The temporary measures also had significant unintended consequences for creditors. The inability of creditors to take enforcement action during the pandemic meant that many businesses continued to trade despite being fundamentally unviable, leading to greater financial losses once insolvencies eventually occurred. In response, creditors

have now adopted a more aggressive stance towards debt recovery, making them less likely to offer flexibility to businesses facing short-term difficulties. Furthermore, many directors treated government loans as grants, leading to financial mismanagement, fraudulent claims, and an increase in director disqualifications.

157. Another major consequence of the temporary measures was the creation of so-called "zombie companies", businesses that were neither solvent nor capable of long-term survival but remained operational due to government support. These businesses distorted the market by continuing to trade when they should have restructured or wound down, thereby delaying necessary economic adjustments. Many of these zombie companies have now entered insolvency, contributing to the surge in liquidations and business failures observed over the past two years.

158. The financial and economic effects of the temporary measures are still unfolding. While some businesses and creditors have recovered more quickly than anticipated, many continue to struggle with the burden of debt, rising operational costs, and tighter lending conditions. Our members are advising firms in 2025 who still carry untenable levels of debt arising from some of the support measures than they would otherwise hold who are struggling to see a way of paying off these debts in the current economic climate. The insolvency profession has noted a higher proportion of distressed debt, longer payment periods, and increased reluctance among businesses to seek insolvency advice due to concerns over personal liability for government-backed loans. Additionally, government efforts to hold directors accountable for the misuse of COVID-related support have placed a significant strain on resources, with limited financial recovery to show for these efforts.

159. Overall, while the temporary measures under CIGA 2020 played an essential role in preventing immediate economic collapse during the pandemic, they also created long-term financial instability. The insolvency profession continues to manage the consequences, including increased liquidations, unresolved creditor losses, and the fallout from government-backed lending. Moving forward, policymakers should consider more targeted and better-regulated crisis-response measures to avoid the unintended consequences observed in the aftermath of the COVID-19 support schemes. R3 remains committed to supporting the government in developing policies that balance short-term economic stability with long-term financial sustainability for businesses and creditors alike.

160. Whilst speed is often important when dealing with a crisis, time should always be taken to understand the risks associated with any proposed course of action and to take steps to identify and seek to avoid unintended consequences. The introduction of some relatively easy checks (for example having an accountant or IP verify the financial position of a firm) would have identified at an early stage, fraudulent applications for financial support without delaying the receipt of financial support unduly.
161. When identifying what response to make to a crisis a careful balance must be struck to avoid propping up unviable businesses at the expense of long-term economic health. Support should be targeted at those businesses which have the potential to be viable post the economic crisis.
162. The experience and unique position of insolvency and restructuring professionals mean that they are ideally placed to provide good advice to those setting policy to deal with any crisis. Greater collaboration with insolvency professionals is needed to ensure that any policy proposals are workable, and that any changes to insolvency legislation result in rescue options that are simpler and accessible to all companies regardless of size. Insolvency professionals have a wealth of experience and knowledge, gained from dealing directly with businesses in, or facing, financial distress, that they could share with policy makers.
163. Clear and consistent government communication is essential to reduce uncertainty and facilitate effective implementation of policies.
164. More should be done to encourage those in financial difficulties to seek early independent advice from a licensed IP. Early intervention increases the range of rescue options available to businesses and enables more jobs to be saved. There should be greater access to director education so that they are aware in advance of steps to take when seeking financial distress, accompanied by greater accountability of directors involved in misconduct.

OTHER KEY ECONOMIC INTERVENTIONS IN MODULE 9'S INVESTIGATION

165. R3 was not invited to contribute to the design and implementation of financial support schemes such as the BBLs, CBILs and CLBILs.

166. Whilst R3 did not undertake any form of targeted independent research in this area, the article titled *'What next for the COVID-19 financial support schemes?'* does reference the National Audit Office warning from October 2020, which estimated that £15 billion to £26 billion of the £46.5 billion lent through BBLS alone might not be repaid. This figure represents a significant proportion of the BBL scheme, but not necessarily of the total £75 billion across all the mentioned schemes (BBLS, CBILS, CLBILS, and the Future Fund). Please see Exhibit CS/22 [INQ000656016].
167. Regarding widespread fraud, the article indicates that there were significant concerns and speculation about its potential scale across various government support schemes, including the loan schemes and the furlough scheme. However, the article does not provide a specific estimate of the extent of fraud.
168. It is crucial to note that the article based on the information available at the time of its publication, does not furnish a definitive quantitative assessment of the actual prevalence or financial impact of such fraudulent activities. Instead, it serves to underscore the prevailing anxieties and the ongoing discourse surrounding this critical aspect of the government's financial response to the pandemic.
169. Members highlight that the primary issues stemmed from weaknesses in loan eligibility criteria, business failures, and fraud, all of which played a significant role in the challenges faced in recovering these funds.
170. A lack of robust eligibility criteria was widely cited as a critical factor that enabled both fraudulent applications and lending to businesses that were already financially distressed. The urgency to distribute funds quickly meant that normal due diligence checks were relaxed or bypassed entirely, leaving the system vulnerable to abuse. Many members noted that banks failed to conduct even basic checks, often treating loan approvals as a tick-box exercise due to the government's indemnity covering the loans. This approach allowed businesses that were already struggling before the pandemic to take on additional debt that they would never have been able to repay. Members suggested that had financial advisors or accountants been involved in the application process, a significant portion of the misallocated funds could have been avoided.
171. Business failures were another major factor contributing to the difficulty in recovering funds. The loan schemes provided a temporary financial lifeline to businesses, but in

many cases, they merely delayed inevitable failures. Many businesses that took on government-backed loans continued trading beyond their natural life span, only to collapse when repayments became due. The insolvency profession has observed that most companies entering insolvency now have at least one government-backed loan, and these loans were often unsecured, meaning that recovery prospects for creditors—including the taxpayer—are minimal. Some respondents also highlighted that loan amounts were based on self-certified turnover, which in many cases was overstated, further increasing the risk of non-repayment.

172. Fraud also played a significant role in the difficulties associated with recovering these funds. While some members felt that fraud was not the dominant issue, others reported widespread fraudulent applications facilitated by the lack of checks during the loan approval process. The self-certification approach allowed businesses to exaggerate their financial position to secure larger loans. Additionally, some fraudulent companies took loans and quickly dissolved, making it nearly impossible to recover the funds. A concerning number of cases involved directors using the loans for personal rather than business purposes, further complicating recovery efforts. The automatic strike-off process at Companies House was also identified as a loophole that enabled directors to dissolve companies without settling their debts or being subject to any form of scrutiny regarding the actions of directors.

173. Beyond fraud and business failures, the government has struggled to enforce recovery mechanisms effectively. Many respondents noted that funds have already been dissipated, making recovery difficult and often not cost-effective to pursue, given the relatively small value of many of the loans. IPs now find themselves in the position of policing historic lending decisions, but there is little accountability for lenders that approved loans with inadequate checks. There is frustration within the industry over the lack of government action in pursuing fraudulent claims, particularly where funds have been moved overseas or where directors have deliberately used corporate structures to avoid liability.

174. In conclusion, R3 members have indicated that the challenges in recovering COVID-19 loan funds stem primarily from weaknesses in loan eligibility criteria, business failures, and fraud. The lack of safeguards at the point of lending significantly contributed to these difficulties, and many insolvency professionals believe that more stringent oversight and due diligence at the application stage could have prevented much of the financial loss. While many businesses used the loans appropriately, the lack of

oversight allowed for widespread misuse and financial mismanagement, which has ultimately placed a significant burden on taxpayers.

175. Furthermore, the costs of pursuing recovery of loan funds through an insolvency process is often difficult and negligible due to the potential costs involved. For example, the average time costs of a liquidator overseeing a Creditor's Voluntary Liquidation is between £10,001-£15,000, which does not include any costs of investigating the recovery of funds. If further investigations are required (i.e. COVID-19 loan funds) and legal proceedings are required for recovery purposes, the costs would be considerably more. Even in a Compulsory Liquidation where the Official Receiver (acting as a liquidator), a government official, the costs would include a General Fee of £7,200, an Administration Fee of £1,990 or £2,775 and a liquidator fee of 15% of chargeable receipts.
176. R3 did not carry out any financial analysis to assess the risk of non-repayment of the debts, however it was clear from information published by other bodies such as UK Finance, that a significant amount of funds was anticipated to be subject to fraud. Our members were also aware that a number of businesses which were financially unviable before the pandemic took out loans which they were not going to be in a position to repay.
177. We raised, in our regular meetings with the Insolvency Service, concerns about the lack of planning for recovery of these loans and have had many conversations since about the use of insolvency processes to support recovery of the loans.
178. The overwhelming consensus from our members is that the government did not implement adequate safeguards, leading to widespread abuse and significant financial losses.
179. A key concern raised by our members was the lack of even the most basic due diligence measures in the loan approval process. Many respondents noted that simple eligibility checks, such as verifying company turnover or confirming whether a business was actively trading, were not carried out. The self-certification process for BBLS made it particularly easy for businesses to exaggerate their financial position or, in some cases, apply fraudulently. Additionally, loans were granted to dormant companies and, in some cases, even to non-UK entities, highlighting the failure of any meaningful screening process.

180. It is widely recognised that the urgency of providing financial support meant that speed was prioritised over security. Many members acknowledged that the government needed to act quickly to prevent widespread business failures, and delaying funds could have had severe economic consequences. However, while speed was critical, many believe that basic fraud prevention measures could have been implemented without significantly slowing down the process. A simple requirement for accountants or financial professionals to verify applications could have reduced fraudulent claims while still ensuring that legitimate businesses received the support they needed.
181. Another key issue was the role of banks and lenders in facilitating fraudulent applications. Respondents noted that banks were under pressure to approve loans without conducting proper due diligence. As the government provided a guarantee on these loans, banks had no financial incentive to scrutinise applications carefully, leading to a culture of automatic approvals. Some members highlighted cases where banks even actively encouraged businesses to apply for loans, regardless of their financial position, as brokers and lenders benefited from commission-based incentives. Furthermore, the lack of clear guidance from the government to lenders meant that banks were unsure of what checks, if any, were required before approving loans.
182. While some members accepted that hindsight makes it easier to identify weaknesses, many believe that missed opportunities to introduce basic safeguards at the outset significantly contributed to fraud levels. Several members suggested that a two-stage loan approval process—where an initial emergency payment was made quickly, followed by further checks before additional funds were released—could have reduced the risk of fraud. Others recommended that government-backed loans should have required professional verification before approval, ensuring that applications were legitimate before funds were distributed.
183. Although efforts are now being made to address fraudulent claims, many respondents believe that the government's current enforcement strategy is flawed. While the Insolvency Service is now actively disqualifying directors for loan scheme abuse, recovering funds remains difficult and often uneconomical, particularly in cases where loans were for smaller amounts. Additionally, there is growing frustration that banks and lenders have faced no consequences for failing to conduct due diligence, while the government has focused its enforcement efforts on individual directors who misused funds.

184. In conclusion, R3 members overwhelmingly believe that the government did not implement sufficient safeguards to prevent fraud at the outset of the COVID-19 loan schemes. While the urgency of the pandemic justified rapid financial assistance, more robust due diligence could have been introduced without significantly delaying the process. The failure to implement proper oversight has resulted in significant financial losses for the taxpayer, with many fraudulent loans now deemed unrecoverable. Moving forward, future government-backed lending schemes must include stronger eligibility criteria, clearer accountability for banks, and more effective enforcement mechanisms to prevent similar failures.
185. The overwhelming view from members is that while rapid intervention was necessary to prevent business failures, financial risk management was severely compromised, leading to significant long-term consequences.
186. Financial risk was treated as a secondary concern, with the primary objective being to distribute funds as quickly as possible. The government's decision to sacrifice normal due diligence and oversight mechanisms in favour of speed resulted in an increased risk of fraud, misuse, and unsustainable lending. While members acknowledge that delays in distributing support could have led to further business failures, they also believe that basic safeguards could have been implemented without significantly slowing the process.
187. A major concern was the lack of fundamental eligibility checks during the application process. Many respondents pointed out that simple verification steps, such as confirming company turnover, trading status, or checking Companies House records, could have prevented a substantial portion of fraudulent or unsustainable lending. Instead, the self-certification process for BBLS allowed businesses to overstate their financial position, leading to loans being granted to companies that were either ineligible or unable to repay. Furthermore, there was no mechanism to track or verify how funds were used after they were distributed, making it easier for businesses to misuse support payments.
188. The role of banks and lenders in administering the schemes was also a key factor in the lack of financial oversight. Respondents noted that banks were instructed to prioritise lending over risk assessment, meaning that financial due diligence was significantly weakened. Additionally, as the government had guaranteed the loans,

banks had no financial incentive to apply rigorous checks before approving applications. Some members reported that banks actively encouraged businesses to apply for loans, even when financial need was uncertain, which further contributed to poor lending decisions and unsustainable debt accumulation.

189. Beyond fraud, members raised concerns about the unintended consequences of the government's approach. While the schemes prevented immediate business failures, they also contributed to long-term financial instability. Businesses were often granted more funding than they needed, particularly as other support measures, such as the furlough scheme, covered staff costs. This led to a situation where companies took on unsustainable levels of debt, and many have since entered insolvency due to an inability to repay government-backed loans on top of normal trading liabilities. The approach taken to financial risk was largely reactive rather than proactive, with the assumption that any issues could be addressed later. However, post-distribution enforcement and recovery efforts have proven to be extremely difficult, with a significant proportion of fraudulent or misused funds unlikely to be recovered.

190. While some respondents acknowledged that hindsight makes it easier to identify failings, there is a strong consensus that the government could have introduced at least minimal financial risk controls without unduly delaying support. Suggested improvements included a two-stage loan approval process, requiring professional verification from an accountant, or capping initial loan amounts until further checks could be completed. Many members also expressed concern that taxpayers will ultimately bear the cost of these financial risks for decades, as unrecoverable loans continue to weigh on public finances.

191. In conclusion, R3 members believe that the government's decision to prioritise speed over financial oversight was understandable given the urgency of the pandemic, but the failure to implement even basic risk management measures has led to significant long-term financial consequences. While rapid support was essential to prevent economic collapse, more effective safeguards could have been introduced without severely slowing the process. Moving forward, members strongly recommend that future emergency financial support schemes balance speed with financial oversight, ensuring that taxpayer funds are protected while still providing timely assistance to businesses in need.

192. A primary concern was the absence of even the most basic due diligence checks. Banks and lenders conducted little to no verification of loan applications, relying entirely on self-certification by applicants. Simple eligibility checks—such as verifying turnover, confirming whether businesses were actively trading, reviewing Companies House records, or cross-referencing with HMRC—were not carried out. These checks could have been implemented quickly and easily, significantly reducing the level of fraudulent claims. Instead, loans were granted to dormant companies, non-operational businesses, and, in some cases, entities that did not exist.
193. One of the key weaknesses identified was the self-certification process, which allowed businesses to overstate their turnover and apply for larger loans than they were entitled to, without any requirement for supporting evidence. Unlike normal lending practices, banks were not required to assess the financial viability of businesses before approving loans, leading to inflated loan approvals and an increased likelihood of default. This approach shifted all responsibility onto applicants, without any verification or accountability measures in place.
194. A significant failure in the design of the schemes was the lack of oversight and accountability for lenders. Banks were given full government guarantees on loans, removing any financial risk for lenders and eliminating their incentive to conduct proper due diligence. Some members reported that banks actively encouraged businesses to apply for loans, even in cases where they were not needed, as lenders and brokers benefited from commission-based incentives. Additionally, the absence of a central database or cross-referencing system allowed businesses to submit multiple loan applications to different providers, undetected. This resulted in fraudulent businesses accessing excessive funds with no means of repayment.
195. Many members believe that the system was designed in a way that made fraud inevitable. There were no controls in place to confirm whether businesses were actively trading at the time of application, which allowed non-operational companies to secure funding. In numerous cases, loan funds were deposited into directors' personal accounts rather than business accounts, demonstrating a lack of oversight in how funds were distributed. Some members argued that political pressure and a lack of understanding among civil servants contributed to the failure to implement adequate safeguards in the design phase of the schemes.

196. Further issues arose from unclear guidance and a lack of legal or financial oversight. Business owners were not required to seek financial or legal advice before applying, leading to both intentional and unintentional misrepresentations. Public messaging around the schemes contributed to a perception that the funds were grants rather than loans, which encouraged misuse. Additionally, there was little communication on the potential consequences of fraudulent applications, leading some directors to take advantage of the system without fully understanding the risks.
197. While it is acknowledged that the government had to act quickly to prevent business failures, a lack of preparedness and contingency planning resulted in poorly designed schemes. Even within the constraints of speed, simple safeguards could have been introduced without significantly delaying support. Measures such as requiring accountants to verify turnover, implementing a two-stage loan approval process, or limiting initial loan amounts until further checks were conducted could have substantially reduced fraud while still ensuring timely financial support.
198. In conclusion, weaknesses in the design of the financial support schemes, particularly BBL, facilitated widespread fraud due to the lack of due diligence, reliance on self-certification, and absence of oversight for lenders. While the urgency of the pandemic required rapid intervention, the complete removal of financial safeguards resulted in significant long-term financial consequences.
199. Moving forward, R3 recommend that any future government-backed financial support schemes include stronger verification measures, greater accountability for lenders, and clearer legal guidance for applicants. These steps are essential to ensuring that financial assistance is provided to those in genuine need while preventing large-scale fraud and misuse.
200. A key role of the insolvency profession has been investigating and reporting fraudulent claims made under government loan schemes, particularly the BBL. IPs have been actively involved in pursuing directors who misused loan funds, including cases where loans were withdrawn through director loan accounts (DLAs) or used for non-business purposes. Where insolvency proceedings have been initiated, practitioners have sought to recover misused funds through claims for transactions at undervalue or gratuitous alienations (TUVs) and preferential payments. However, members expressed frustration that despite reporting instances of fraud to the Insolvency Service through the director reporting regime, enforcement action by the Insolvency Service has been

inconsistent, with many cases deemed by the Insolvency Service to be *"not cost-effective to pursue."*

201. In addition to fraud investigations, IPs have played an important role in helping viable businesses address their financial difficulties and restructure their debt to support loan repayments. This has included conducting cash flow reviews, options analyses, and stakeholder management, enabling businesses to assess their financial position and take steps towards repayment. However, the insolvency profession could have been utilised more effectively at an earlier stage. Had IPs been engaged sooner, they could have provided better guidance to struggling businesses and helped mitigate the misuse of loan funds before insolvency became unavoidable.
202. Despite these efforts, recovering funds from fraudulent applications has been extremely difficult. Many directors who misused loans have no personal assets or ability to repay, significantly limiting recovery options. Several respondents expressed frustration that banks and the government have shifted the responsibility for investigating fraud onto the insolvency profession, despite the fact that banks failed to conduct basic due diligence when approving loans. Members noted that IPs are now expected to carry out post-insolvency investigations without adequate compensation, effectively being tasked with rectifying the failures of the original scheme design.
203. A fundamental part of the insolvency profession's role is reporting misconduct and financial irregularities. IPs are required to submit statutory reports on directors' conduct and, where appropriate, report fraudulent activity through Suspicious Activity Reports (SARs). However, while the profession has played a significant role in identifying fraud, the effectiveness of these efforts has been undermined by a lack of enforcement action. Member feedback indicates that cases reported to the Insolvency Service have not been pursued due to a lack of resources or being deemed "not in the public interest." This has led to concerns that directors who engaged in fraudulent activity are not being held accountable, weakening deterrence for future misconduct.
204. The insolvency profession has been unfairly burdened with addressing the consequences of a poorly designed loan scheme. Banks, which facilitated many of the fraudulent loans, have not been held accountable, while IPs face scrutiny over their handling of post-insolvency investigations. The insolvency profession has been left to "clean up" the aftermath of the schemes, despite having no role in their design or

implementation. Furthermore, the lack of funding for enforcement agencies has limited the impact of IP-led fraud investigations, as many cases are deprioritised.

205. In conclusion, the insolvency profession has played a vital role in identifying fraud, supporting the repayment of government-backed loans, and assisting viable businesses through restructuring. However, R3 members believe that the government and financial institutions must take greater responsibility for preventing fraud at the outset, rather than relying on the insolvency profession to address the consequences later. Future financial support schemes must incorporate stronger due diligence processes, greater accountability for lenders, and earlier engagement with insolvency professionals to prevent misuse and improve financial outcomes for businesses, creditors, and taxpayers.

206. A letter was sent to Rt Hon Rishi Sunak MP, Chancellor of the Exchequer, HM Treasury on Friday 12 February 2021 (see Exhibit CS/23 [INQ000650928]) setting out three recommendations that would help to mitigate widespread failures and support the rescue of viable businesses in the aftermath of COVID-19:

- o A medium-term plan for the withdrawal of the temporary COVID-19 business support measures, which enables no-longer viable businesses to wind-down in an orderly way, while crucially giving those firms with a future the opportunity to rescue or restructure their business – saving jobs, repaying Government loans, and securing future tax income in the process.
- o The Government adopting a cross-departmental policy to support all viable restructuring processes; and
- o HMRC adopting a more engaged and supportive role as a creditor in insolvency and restructuring processes.

207. According to our records, no response was received.

208. A joint letter (see Exhibit CS/24 [INQ000650929]), with the Institute of Directors, was later sent to the Secretary of State for Business, Energy and Industrial Strategy – Rt Hon Kwasi Kwarteng MP on 10 May 2021. The objective of the letter was to preserve jobs, rescue businesses from formal insolvency and ensure that as much of the debt due to HMRC and HM Treasury was repaid. A reply was received on 18 June 2021. Please see Exhibit CS/25 [INQ000650930].

209. The temporary insolvency measures that were due to expire at the end of June 2021, particularly the restrictions on company winding up, were given a further extension of three months to the end of September 2021. In addition, the moratorium on commercial evictions was extended until March 2022.
210. Furthermore, R3 were advised by the Secretary of State for Business, Energy and Industrial Strategy – Rt Hon Kwasi Kwarteng MP that HMRC would take a cautious approach to enforcement of debt owed to Government. This approach was evident as HMRC increased its enforcement action from 2023 onwards sometime after the loan schemes had ended.
211. In the letter from Rt Hon Kwasi Kwarteng, he wrote that all stakeholders (*including HMRC*) should support company rescue. We appreciate that HMRC faced constraints of its own coming out of the pandemic, including a lack of trained staff to support the called for specialist team within HMRC to consider all restructuring plan, CVA and administration proposals.
212. A move to a commercial approach to rescue proposals also marks a departure for HMRC from its historic culture of preventing further tax losses. For understandable reasons HMRC are reluctant to be seen to be supporting proposals which don't lead to guaranteed increased returns for HMRC.
213. HMRC was however seen to adopt a more relaxed approach to the agreement of Time To Pay arrangements and has also taken a measured approach to the issuing of winding-up petitions since the restrictions were lifted. Even in April 2025 HMRC are not issuing winding up petitions at the same rate as they were pre-COVID.
214. R3 has a long standing and very constructive working relationship with HMRC, and we regularly discuss a range of policy matters with them, including what further support could be provided to restructuring and IPs when proposals are put to them.
215. The Insolvency Service demonstrably support the encouragement of business rescue with the introduction of the moratorium and restructuring plan being evidence of this. We agree with their approach that director education is valuable, as the earlier that directors/business owners seek advice the more likely it is that a rescue process can be effected.

216. Most members do not believe there was a significant increase in unnecessary insolvencies during the pandemic. Government support measures, including the furlough scheme and loan initiatives, helped businesses survive in the short term, but many of those that eventually failed were already in financial distress before COVID-19. In fact, formal insolvencies fell significantly during the pandemic due to temporary restrictions on creditor actions and extensive government support. However, as these measures were lifted, insolvencies have increased, raising the question of whether many of these failures were simply delayed rather than prevented. Some members even suggested that too many businesses were kept afloat artificially, creating "zombie companies" that were no longer viable.
217. The government's financial support measures were generally viewed as effective in providing immediate relief. However, the schemes were not adapted after the initial lockdown to provide targeted support for businesses attempting to recover. Instead, businesses received blanket financial aid without sufficient consideration of their long-term viability. Some industries, such as hospitality, struggled to regain stability despite government assistance, leading to a concentration of failures in specific sectors. Lockdowns themselves, rather than a lack of restructuring support, were a key driver of insolvencies, as prolonged periods of closure caused irreversible financial damage to many businesses.
218. In terms of restructuring options, existing mechanisms were not widely utilised to prevent insolvencies. The return of HMRC's preferential creditor status was cited as a major obstacle to effective restructuring, particularly in relation to CVAs. Some respondents suggested that temporarily removing HMRC's preferential status could have encouraged more successful business rescues. Additionally, while the CIGA 2020 moratorium was intended to provide businesses with breathing space to restructure, its complexity and risk of liability made it underutilised. As a result, the restructuring options that were available to businesses were not always practical or effective.
219. The government could have funded professional advice through the insolvency profession to better support struggling businesses. Many businesses lacked the financial knowledge or resources to navigate restructuring options effectively, and by bypassing insolvency professionals, they missed out on expert guidance that could have improved restructuring outcomes. Government-funded advisory support could have helped more businesses assess their financial position, explore available options, and implement viable recovery plans.

220. The profession has called for changes to be made to the restructuring plan to reduce the number of court applications needed, and thus the associated costs, to make it more relevant to SMEs. This hasn't been done and restructuring plans remain out of reach for many medium and small sized businesses. Due to the reduced returns for unsecured creditors following the introduction of HMRC preferential creditor status, CVAs are no longer viable for many businesses, and this has meant that liquidation, or a pre-pack sale, has become the only option available for a business in financial distress.
221. Looking ahead, future financial support schemes should incorporate stronger restructuring mechanisms to ensure businesses receive targeted assistance rather than temporary relief. Government-backed lending should have involved a basic level of financial inquiry, such as business viability assessments or structured repayment plans tailored to business performance. Reducing the stigma around restructuring and insolvency procedures could have encouraged more businesses to seek early intervention, improving their chances of survival. Additionally, targeted tax reductions, such as temporary VAT cuts for struggling industries, could have provided longer-term relief without creating unsustainable debt burdens.
222. In conclusion, R3 does not believe that there was a widespread rise in unnecessary insolvencies during the pandemic. However, more effective restructuring support—such as improved CVA mechanisms, better access to advisory services, and more flexible repayment structures—could have helped some businesses recover rather than simply delaying insolvency. Moving forward, policymakers should ensure that future crisis-response measures integrate restructuring expertise, provide more targeted financial support, and address structural barriers to business rescue.
223. The prevailing view among R3 members is that less than 10% of the businesses they worked with could have been saved with better government support. Most of the companies that entered insolvency during the pandemic were already in financial distress before COVID-19. While government support schemes provided a temporary lifeline, they did not fundamentally alter the long-term viability of these businesses. In many cases, the pandemic accelerated inevitable failures, rather than causing insolvencies that could have otherwise been avoided. Prolonging the survival of unviable businesses would not have been beneficial, as it would have led to greater financial losses for creditors and the wider economy.

224. A smaller proportion of members—around 10-30%—believed that some businesses could have been saved if government support had been more effectively structured. Better access to restructuring mechanisms, targeted working capital assistance, and more flexible loan repayment terms might have enabled certain businesses to recover. Additionally, providing advisory support alongside financial aid could have helped struggling businesses make informed decisions about restructuring and survival. The absence of professional guidance meant that many businesses used support schemes without a clear strategy for long-term sustainability, which ultimately contributed to their failure.
225. Overall, the consensus among R3 members is that while better-targeted government support could have helped some businesses restructure and survive, most insolvencies during the period were unavoidable. Future crisis-response measures should focus on providing structured financial support, integrating professional advisory services, and ensuring that aid is directed toward businesses with a realistic chance of survival. These measures would help to reduce preventable insolvencies while ensuring that economic support is used efficiently and effectively.
226. A substantial proportion of members believe that HM Treasury did not face greater financial losses due to insolvencies, as many businesses that failed were already in financial distress before the pandemic. Government-backed financial support, such as furlough and loan schemes, had already delayed many insolvencies, and further restructuring efforts would likely not have prevented them. Some level of financial loss was unavoidable due to the scale of economic disruption caused by COVID-19. The Treasury's financial exposure would have remained high regardless of whether restructuring efforts were prioritised.
227. However, other members argue that better restructuring efforts could have mitigated some of Treasury's financial losses. More effective restructuring mechanisms—such as improved access to CVAs and restructuring plans—could have enabled more businesses to recover and repay their government-backed debts. The return of HMRC's preferential creditor status created additional challenges for restructuring efforts, leading to a higher proportion of liquidations rather than business rescues. Early engagement with financially distressed businesses, particularly through government-funded advisory support, could have improved financial outcomes for both businesses and creditors, including the Treasury.

228. Overall, there is no clear consensus amongst members on whether Treasury's financial losses were greater due to insolvencies rather than supporting restructuring efforts. Many members believe that a large proportion of business failures were unavoidable, and that additional restructuring support would not have significantly altered Treasury's financial position. However, others argue that more structured government-backed restructuring mechanisms, earlier intervention, and a more flexible insolvency framework could have led to better recovery rates and reduced financial losses.
229. The government's stance on loan repayments had little to no impact on businesses' ability to restructure. For viable businesses, the flexibility of repayment terms provided essential breathing space, enabling them to manage their financial commitments while continuing operations. External economic factors, such as rising costs and post-pandemic market conditions, were far greater obstacles to restructuring than the government's repayment policies.
230. However, rigid repayment structures, particularly for smaller businesses, created difficulties for those trying to restructure. Businesses that were unable to refinance their COVID-related debt found their options for recovery limited, forcing many into insolvency. Directors, faced with mounting debt and little room for negotiation, chose to liquidate their businesses rather than attempt to work through a lengthy financial recovery.
231. The role of lenders in supporting or hindering restructuring efforts was also a key concern. HMRC's return to preferential creditor status was a more significant barrier to restructuring than the government's loan repayment stance itself, particularly in relation to CVAs. This shift in creditor priorities reduced the viability of restructuring plans, making formal insolvency proceedings a more likely outcome for distressed businesses.
232. Members were also concerned about unintended consequences of the loan support schemes. Government-backed loans allowed non-viable businesses to continue operating for longer than they should have, ultimately leading to more costly failures. Businesses may have delayed taking necessary restructuring action due to the initial leniency in loan repayment terms, only to face greater financial distress once repayments became due. The Future Fund had onerous repayment conditions that ultimately led some businesses to enter formal insolvency processes.

233. Overall, the government's stance on loan repayments had a varied impact on businesses' ability to restructure. While the repayment flexibility helped many businesses survive, a lack of refinancing options, lender engagement, and the impact of HMRC's preferential status posed significant challenges for restructuring efforts.
234. Hospitality and leisure (including entertainment and performing arts) were identified as industries that suffered the most severe financial distress. Lockdowns and trading restrictions meant that many businesses in these sectors were forced to close for prolonged periods, severely impacting their ability to recover. Similarly, retail businesses, particularly those without a strong digital presence, faced significant challenges due to reduced footfall and shifting consumer habits. The construction industry, particularly firms involved in office fitouts and commercial property development, was also affected as demand for workspace developments declined sharply. Members also pointed to the arts, entertainment, and performing arts sectors, which struggled due to their reliance on in-person events and the extended restrictions placed on live performances.
235. In terms of business size, SMEs were widely identified as the most vulnerable. Smaller businesses lacked the financial resilience of larger corporations and had fewer resources to survive the economic shock of the pandemic. Owner-managed businesses and sole traders were particularly at risk, as they often did not have access to the same financial support mechanisms as larger firms. Some respondents also highlighted that larger businesses with high wage bills also required significant support, particularly through the furlough scheme, which played a crucial role in preventing job losses. However, financial distress was widespread across all industries and business sizes, as economic instability in one sector had knock-on effects across the wider economy.
236. Government-backed restructuring support could have been more effectively tailored to the specific challenges faced by different industries. For example, businesses in sectors that were forced to remain closed for extended periods, such as hospitality and entertainment, could have benefitted from longer-term, industry-specific support.
237. Members widely acknowledged that R3 was instrumental in disseminating timely updates and ensuring that insolvency professionals were kept informed of regulatory and legal changes. R3's guidance on restructuring options, particularly in relation to

HMRC forbearance, funding opportunities, and legislative developments such as the CIGA 2020, was seen as a valuable resource. Specific tools, such as the draft COVID CVA proposal and CVA protocol, were also highlighted as beneficial to practitioners navigating the evolving financial landscape.

238. Beyond providing information, R3 played a key role in engaging with policy discussions and interpreting government initiatives for its members. R3 acted as a voice for the profession, advocating on key issues and ensuring that insolvency professionals were aware of the restructuring options available. However, the government could have made greater use of the profession's expertise, which might have led to better financial outcomes and more effective support for struggling businesses.

239. R3 also contributed significantly to the education and professional development of its members by offering training, technical updates, and guidance on best practices. Many insolvency professionals appreciated the increased availability of conferences, webinars, and other learning resources during the pandemic. However, some respondents noted that, while the information provided was useful, delays in updates were an issue across all parties, not just R3.

240. In summary, R3 played a significant role in ensuring insolvency professionals had access to the information and guidance necessary to navigate the challenges posed by the pandemic. Its efforts in policy engagement, training, and the provision of technical resources were widely recognised and appreciated. However, there are lessons to be learned regarding the timeliness of information delivery and the potential for greater collaboration between the profession and government in times of economic crisis.

241. Feedback from members highlights several areas where government intervention and policymaking can be improved to provide more effective, targeted, and sustainable support to businesses during periods of economic distress.

242. A central theme was the need to make restructuring processes simpler, more affordable, and more accessible, particularly for SMEs. New measures such as the Part 26A Restructuring Plan, appeared targeted on benefit a small number of the largest businesses. Viable businesses of all sizes should have greater access to cost-effective restructuring tools, such as CVAs. Additionally, there were calls for HMRC to adopt a more flexible and collaborative approach to restructuring processes,

ensuring that businesses with a genuine chance of recovery are supported rather than pushed into liquidation.

243. Another key concern was the design and administration of financial support schemes. While financial assistance was necessary during the pandemic, the structure of government-backed loan schemes such as BLS and the CBILS resulted in businesses taking on unsustainable debt. In future crises, grants should be prioritised over loans where possible, and that loans should be subject to greater due diligence and affordability assessments to prevent businesses from borrowing beyond their capacity to repay.
244. Fraud prevention was also a significant issue raised by members. Many observed that the lack of checks and oversight in financial support schemes led to widespread misuse and abuse. In future, members recommended stronger monitoring and fraud prevention measures, as well as greater involvement of insolvency professionals in assessing businesses for financial relief. By leveraging the expertise of the profession, the government could ensure that financial assistance is directed towards viable businesses in need, rather than those that are already insolvent or seeking to exploit the system.
245. Beyond financial support, members emphasised the need for greater flexibility in economic policy responses. Many suggested that HMRC forbearance, extended payment plans, and structured creditor agreements should be built into future crisis strategies to provide businesses with breathing space during periods of economic difficulty. Additionally, there were strong calls for pre-planned, structured economic crisis responses to avoid the need for last-minute reactive policymaking.
246. While government intervention was widely seen as necessary in times of crisis, many members also stressed the importance of allowing market forces to function effectively. There was broad agreement that while viable businesses should be supported, those that are fundamentally unsustainable should be allowed to fail, rather than being artificially propped up through excessive government intervention. Failing to distinguish between viable and non-viable businesses could lead to long-term inefficiencies and economic stagnation.
247. Clear and consistent government communication was another key area for improvement. During the COVID-19 pandemic, inconsistent messaging and policy

changes created uncertainty, making it difficult for businesses to plan effectively. In future crises, clearer and more coordinated communication between government, businesses, and insolvency professionals will be essential to ensuring that policies are properly understood and implemented.

248. A further important consideration was director education and accountability. Company directors should receive better training on financial distress, restructuring options, and insolvency responsibilities. Recommendations included mandatory training at company incorporation and ongoing education to ensure directors understand their duties and obligations. Additionally, there should be greater accountability for directors who have been involved in multiple business failures, to prevent misconduct and repeat insolvencies.

249. Looking beyond immediate crisis response, there is a need for long-term economic resilience and structural reforms, including higher share capital requirements for businesses, a mandatory business savings fund for economic crises, and targeted industry support schemes.

250. While members acknowledged that government support measures were crucial in preventing immediate mass insolvencies, concerns were raised about the long-term consequences of debt accumulation and the limited uptake of formal restructuring mechanisms due to high costs. Tools such as the moratorium and restructuring plans introduced during the pandemic were underutilised, partly because they were seen as cost-prohibitive for many businesses. This may have contributed to the significant levels of liquidations observed in 2023 and 2024, highlighting the need for more accessible restructuring options in future crises.

251. In conclusion, future economic crisis policies must be structured, proactive, and balanced. Financial support should be accessible but responsible, restructuring options should be affordable and effective, and government coordination with the insolvency profession should be strengthened. While targeted intervention is necessary, a careful balance must be struck to avoid propping up unviable businesses at the expense of long-term economic health. The key lesson from the COVID-19 crisis is that a well-prepared, carefully designed approach to business support and restructuring is critical to minimising long-term economic damage and ensuring a sustainable recovery.

LESSONS LEARNED AND REFLECTIONS

252. R3 staff are now fully equipped to work from home should the need arise in future and the use of technology to facilitate remote meetings is embedded within our processes, including those of our committees. This will enable us to be able to react quickly to any situation that may arise, and to continue our normal working practices and processes.
253. We have good stakeholder relationships with the Insolvency Service, HMRC and other bodies which will enable us to promptly join forces to deliver consistent messages across the profession and to identify joint projects where appropriate.
254. A major concern was the lack of effective scrutiny and fraud prevention measures in government-backed financial support schemes. Many respondents emphasised the need for stronger due diligence and verification processes to prevent fraudulent claims and ensure funds are allocated to viable businesses. Recommendations included basic Know Your Customer (KYC) checks, centralised filing of applications with supporting documentation, and requiring directors to provide personal guarantees (PGs) for loans to discourage misuse of funds. The absence of these safeguards in the COVID-19 support schemes led to widespread abuse, which could have been mitigated with better initial checks and oversight.
255. There was also a need for better-designed financial support schemes that balance accessibility with fiscal responsibility. While financial assistance was essential during the pandemic, many businesses took on unsustainable levels of debt due to the structure of schemes such as the BBLs and the CBILs. Future schemes should incorporate tiered lending criteria based on business size and financial stability, with lenders taking more responsibility for underwriting decisions rather than relying entirely on government backing. Some members also suggested linking financial support to a company's ability to repay, similar to student loan-style repayment structures that adjust based on business performance.
256. There were concerns about the proportionality of the government's economic response and the long-term impact of lockdowns. The economic consequences of lockdowns were severe, and future decisions should be based on a more comprehensive risk assessment that weighs public health concerns against economic sustainability.
257. A recurring theme from R3 members was the need for pre-planning and contingency strategies to ensure that future crises are managed more effectively. What is required is

a structured pandemic plan that includes clear financial crisis management measures developed in consultation with insolvency professionals, financial institutions, and government bodies. Consideration should be given to the establishment of an independent advisory committee, composed of representatives from government, industry, and the insolvency profession, to assess and guide economic policies during crises. This would help ensure that decisions are made based on practical, real-world insights rather than reactive measures taken in an emergency.

258. The impact of financial distress on small business owners and sole traders was another significant issue raised. Self-employed individuals and SME directors were unable to access adequate financial support during the pandemic, leaving them personally vulnerable despite their businesses receiving assistance. Future financial support schemes should include direct assistance for business owners' personal finances, as well as more accessible restructuring options such as debt-for-equity swaps, government-backed financial relief, and extended repayment terms for pandemic-related debt.

259. Another key recommendation was the need for greater accountability among lenders and directors involved in emergency loan schemes. Banks and financial institutions should be held responsible for reckless lending decisions, ensuring that they carry some risk rather than relying entirely on government underwriting. A proposed solution was to retain a small percentage of each emergency support loan in a fraud prevention fund, which could be used to investigate and prosecute fraudulent claims. Additionally, members called for mandatory personal tax checks and Companies House searches for directors applying for financial support to ensure that funds are directed toward legitimate businesses with a history of responsible financial management.

260. Members emphasised the importance of a post-crisis transition plan to ensure businesses can recover effectively. HMRC's rigid enforcement policies and preferential creditor status hindered restructuring efforts, leading to higher levels of business failures in 2023 and 2024. There were strong recommendations for more flexible HMRC arrangements, such as deferred tax payments, structured repayment plans, and a temporary suspension of preferential creditor status, to help viable businesses restructure rather than being forced into liquidation.

261. The consensus of members was that better-designed loan and grant schemes should be implemented with long-term considerations in mind. While emergency financial

support is necessary, schemes should be structured to avoid burdening businesses with unsustainable debt. Government-backed loans should be designed with repayment structures linked to business performance, ensuring that businesses can recover without being overwhelmed by debt obligations. Others suggested that COVID-era loans could be partially converted to equity or written off for smaller SMEs struggling with post-pandemic recovery.

262. Finally, the insolvency profession was an underutilised resource during the pandemic and that future crisis responses should involve greater consultation with insolvency professionals. As experts in assessing business viability, IPs can help prevent wasteful financial support allocation and improve targeted relief efforts.

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Statement of truth

I believe that the facts stated in this witness statement are true to the best of my knowledge,
information and belief.

Signed

Personal Data

Print name CAROLINE SUMNER

Dated22/04/2025.....