

INSOLVENCY INSIGHTS

MENZIES
BRIGHTER THINKING

creditorservices@menzies.co.uk
menzies.co.uk/creditor-services

EDITION 6



WELCOME TO THE SIXTH EDITION OF OUR INSOLVENCY INSIGHTS MAGAZINE

2026 is likely to be a significant year of evolution. There is the continuous growth of AI and how we use this in our businesses to maximise opportunities and efficiencies. With more and more online, there is the ever increasing risk of cyber security, with high profile breaches hitting the headlines, such as Jaguar Land Rover.

Towards the end of 2025, we saw the Companies House reform where compulsory identification is required. Could we see company numbers drop as a result of the extra verification requirements? On the flip side, will this help lenders or credit providers with better information to make a more informed decision of what terms they can provide?

The delayed Budget has now given the economy some certainty even if it's not what we all hoped for, and people and businesses can begin to plan. Insolvencies are on the decline and one would expect that this trend is set to continue.

More recently, we have been seeing Directors that are actively seeking advice at an earlier stage, which is creating more options for them and their business when it is in a state of distress. A culture that may well have been driven by an increased level of understanding on directors' fiduciary duties and the perils if they do not adhere to them. It will be good not to fall back into the bad habits of simply "burying your head in the sand" and hoping for the problem to go away.

In this edition, we take a look at restructuring plans under Part 26A, what affect the late payment of commercial debt has on our businesses and why valuations are vital to Insolvency Practitioners.

We hope you find this resource valuable. If you have questions, wish to discuss your specific circumstances or have any insolvency-related questions, please let us know. And if you'd like to collaborate or feature in a future edition, we'd love to hear from you.

Giuseppe Parla

Director at Menzies LLP
gparla@menzies.co.uk
+44 (0)33 0912 9828

MENZIES
BRIGHTER THINKING

INSIDE THIS EDITION:



Late Payment of Commercial
Debt Regulations



What Lies Beneath a
Business Transfer?



Our Sector Predictions
for 2026



Restructuring Plans Under
Part 26A

CHECK OUT OUR INSIGHTS INTO THE H&L SECTOR FROM OUR RECENT ROUNDTABLE

The Hospitality and Leisure sector continues to face a complex and fast-shifting landscape. Menzies and the Chartered Institute of Credit Management (CICM) hosted a joint roundtable to discuss how the sector is evolving.

Scan here to read
our thoughts on
what's to come:



menzies.co.uk/insights

WHY DO WE NOT USE THE LATE PAYMENT OF COMMERCIAL DEBT REGULATIONS 2013?

The Late Payment regulations allow for interest and compensation to be added to overdue debts. The idea was first introduced by the Government under The Late Payment of Commercial Debts (Interest) Act 1998, however statistics demonstrated that it was, and still remains, an underused part of our law.

The facts

In March 2025, Creditsafe reported that 86% of businesses faced up to 30% of their monthly invoices falling overdue.

The Government suggested in September 2024 that UK SMEs lose £22,000 annually to overdue invoices and 56 million hours of lost productivity chasing those invoices.

Given the state of the economy, it is likely that these figures are improving.

What is a Late Payment?

In the absence of a written contract a "Late Payment" is defined by statute as one that is paid 30 days from the later of:

- The date the invoice was received; or
- The date goods / services were delivered.

Reason why it is not requested

It is a question of commerciality. Just like the statutory demand tool available to us if we are owed money, claiming for late payment interest or compensation is potentially damaging to any business when you are trying to build an ongoing relationship.

However, with the common rule of thumb used by many financial advisors that to improve cashflow, "you can do this by collecting your book debts quickly and by paying your liabilities later", when will the forbearance elastic band snap?

“ Surely building a culture of a better payment practice is more beneficial for our economy as a whole. ”

What could it be worth?

Interest and compensation can be recovered on the following bases per statute:

- Statutory Interest:
If a payment is late, the supplier is entitled to statutory interest, which is 8% plus the Bank of England base rate, for the period the debt remains unpaid.
- Fixed Compensation Fees:
In addition to statutory interest, a supplier can claim a fixed sum for debt recovery costs.

The amount of this fee varies by the debt's value:

- £40: for debts under £1,000
- £70: for debts between £1,000 and £9,999.99
- £100: for debts of £10,000 or more

The interest and compensation applies to each invoice, so whilst the sums appear nominal, they can quickly escalate if the volume of invoices produced by a company is high.



What should I do?

If you are being faced with significant delays in being paid, consider the following:

1. Does this relationship need to continue for the benefit of the business?
2. Should interest and compensation be considered?
3. Instruct solicitors and consider a letter before action.
4. Is it time for a statutory demand?

Is this legislation used in an insolvency scenario?

During an insolvency process, naturally any relationships with the debtors are severed, so for an Insolvency Practitioner to pursue late payments, there is no requirement to consider the relationship other than is it still a live company. Recoveries can turn into quite a significant asset realisation for the estate, depending on the ledger.

However, usually the primary focus of an Insolvency Practitioner is to recover the debts that have not been paid, rather than seek the late payments of the ones that have been paid.

In conclusion

This is not just a call to action for credit controllers to consider and be aware of this legislation, but it is also a reminder to your accounts payable teams to ensure they are not pushing the limits too far.



Giuseppe Parla
Director

gparla@menzies.co.uk
+44 (0)33 0912 9828

THE VALUE OF THE UNSEEN: WHAT LIES BENEATH A BUSINESS TRANSFER?

One of the issues that comes up frequently in contentious insolvency is the transfer of a business or assets from an insolvent entity to a new entity for no consideration. Directors and shareholders do not always understand this to be a problem, as they do not always see the value in the assets being transferred. However, a loyal customer base, a trained and present workforce and an established set of processes are all things which take time to build.



They would not be available to an enterprise starting from scratch, but they are key elements of many businesses. Therefore, they must have a value to the new entity.

On the other hand, creditors may be outraged when they see directors/shareholders taking advantage of an insolvent company's assets, whilst the debts of the creditors are left unpaid. It is not always obvious to an external party, such as a creditor, what transactions have taken place to facilitate transfer of the business and any consideration paid.

Business owners and directors can help to protect themselves by obtaining an independent company valuation from someone qualified to provide it. If the entity is unable to pay its debts, then engaging with an insolvency professional at an early stage is an essential step. Marketing of a business prior to sale may be appropriate, which can be done on a confidential basis.

Entities which do not have publicly traded shares can be difficult to value. After all, if there is no market for that entity's shares, how can a concept such as market value be determined? Ensuring that suitable consideration is paid, on the advice of a qualified professional, will stand owners and directors in good stead.

Experts who offer a business valuation service have a variety of techniques available to them to allow an estimated value, or a range of values, to be produced.

Appointed Insolvency Practitioners will generally review such transactions that have taken place in the period prior to a formal insolvency procedure.

They may obtain their own business valuation and pursue the new owners or directors if it transpires that there has been a transfer at an undervalue.

Administrators, liquidators and trustees in bankruptcy have specific powers to make an application to court if assets, including intangible assets, have been transferred for no value or for significantly less than the consideration given by the insolvent entity.

“ The remedy may be a reversal of the transaction, or payment by the receiving party of the full value. Settlement prior to a court process can be achieved in some cases to resolve the matter before engaging in lengthy legal arguments. ”

In summary, intangible assets intrinsic to a business are sometimes overlooked when it comes to considering the value that rests within an entity. Expert advice is likely to be needed to identify the worth of those assets. When one entity stops trading and another effectively picks up the same trade, the reality is that there has likely been a transfer of all or part of a business. Concerned stakeholders should flag such matters, to provide the best opportunity for a fair outcome for all those affected.



Rachel Lai
Partner

r lai@menzies.co.uk
+44 (0)33 0912 9584

OUR 2026 SECTOR PREDICTIONS



In 2026, individuals and businesses across all sectors are preparing for a year shaped by regulatory change, tax reforms, shifting economic pressures and new reporting expectations. From M&A activity and insolvency trends to sector-specific challenges, businesses will need to balance rising costs with opportunities created by greater stability and emerging innovation.

Our experts share their key predictions for the year ahead, helping you plan with confidence and adapt to an increasingly complex landscape.

General market sentiment for deals **Ross Wiggins, Partner**

We anticipate a rise in deal activity during 2026 as businesses adapt to greater stability in business taxes and signs that inflation and interest rates will fall, at least in the short term. Shareholders considering an exit within the next 1-3 years may accelerate their plans to leverage the current known economic environment. Buyers, including corporates and private equity firms, are expected to remain active, supported by significant funds ready for deployment. However, the full unknown impact of wage inflation will continue to influence deal values or structures, as acquirers seek to mitigate potential risks to future profitability, which underpins their investments. These dynamics will vary across sectors, with cost-sensitive industries feeling the impact more acutely.

It should still be noted that the upcoming changes in CGT Business Asset Disposal Relief will have an impact on transactions for those shareholders who still have their £1m lifetime allowance.

With the reduction in the Capital Gains Tax ('CGT') relief from 100% to 50% for Employee Ownership Trust ('EOT') transactions means that commercial drivers will be in sharper focus when considering succession planning with an increase likely in traditional Management Buyout's (MBOs).

From 6 April 2026, the CGT rate will rise from 14% to 18% for those assets that qualify for Business Asset Disposal Relief. Business owners looking to pass down their companies to the next generation should also revisit their plans in light of the imminent changes to Inheritance Tax rules from April 2026. While some deals are being expedited in anticipation of these various changes, it is crucial to ensure that the wider commercial aspects of the deal remain in focus.

General market sentiment for insolvencies **Steve Butt, Partner**

There has been a clear general uptick in the amount of UK restructuring and insolvency work as we approached the end of 2025.

Post-budget consumer squeeze and tighter business conditions are all contributing to additional pressures on companies across the board. Following high-profile incidents, such as the breach at Jaguar Land Rover, we anticipate a rise in cybersecurity-related distress among mid-market entities, either as part supply-chain related issues or directly, and firms in the financial services sector.

At the same time, following the introduction of the revised 2025 Practice Statement for schemes of arrangement and restructuring plans ("RPs"), we anticipate that RPs will finally become genuinely accessible to smaller mid-market and SME businesses, particularly those with non-complex proposals and relatively straightforward creditor and shareholder structures.

This shift could be the start of a growing number of businesses of these sizes availing themselves of restructuring tools outside of formal insolvency processes, although the impact on the insolvency "contagion effect" may take longer to be visible.

Altogether, these factors suggest that 2026 could be a more active year for restructuring and insolvency across London, and key business hubs across the UK, such as Manchester, Birmingham and Cardiff.

Legal Services **Peter Noyce, Partner**

The Solicitors Regulation Authority (SRA) has paused its major consultation on restructuring client accounts and capping or restricting interest until at least late 2026, so little is expected in the first half of the year, with consultation likely in Q3/Q4; nevertheless, firms may see early-2026 guidance reminding them that retaining significant interest requires explicit written client agreements, and "fair interest" policies, along with residual balances, will be key audit focuses. Firms should track management information excluding interest received to ensure profitability is driven by core legal work rather than interest income. The profession is also undergoing significant management change, with cash-is-king giving way to data-driven decision-making, rolling forecasts replacing static budgets, and increasing use of AI to predict WIP lockup and cash-flow gaps before they arise. Private equity interest in regional firms is set to grow further in 2026 due to strong margins and stable client bases, likely resulting in more unsolicited approaches. Finally, while premiums should remain flat or slightly reduced for well-run firms, insurers are now probing AI governance, making clear and well-documented AI-use policies essential.

Financial Services Mike Ayres, Partner

The financial services landscape in 2026 will be shaped by regulatory consolidation, compliance deadlines, and evolving investment trends, requiring firms across payments, insurance, asset management, and private client sectors to navigate these changes carefully to maintain operational resilience.

In payments and e-money, the 7 May 2026 marks the hard deadline for CASS 15, with mandatory safeguarding audits and CASS-style resolution packs now required, making immediate gap analyses and documentation critical for audit readiness.



In private client and wealth management, the reduction of Venture Capital Trust (VCT) income tax relief from 30% to 20% on 6 April 2026 is expected to drive front-loaded investment activity in Q1, while asset managers and VCT providers must adapt to both regulatory obligations and shifting investor preferences for sustainable, transparent products.

Across the wider market, heightened FCA oversight continues, with insurance brokers facing full Consumer Duty enforcement and asset managers required to meet Sustainability Disclosure Requirements (SDR) by 2 December 2026, extending to medium firms (AUM > £5bn) and necessitating detailed entity-level sustainability disclosures. Although less immediate, the evolving crypto framework requires firms to monitor the FCA's roadmap, with final rules anticipated in late 2026 potentially introducing a bespoke CASS-like regime for digital assets.

“ 2026 will be a year of intensified compliance and strategic adaptation, with firms that proactively address safeguarding, disclosure, and tax-driven market shifts best positioned to maintain regulatory resilience, build client trust, and capitalise on emerging opportunities across sustainable and digital assets. ”

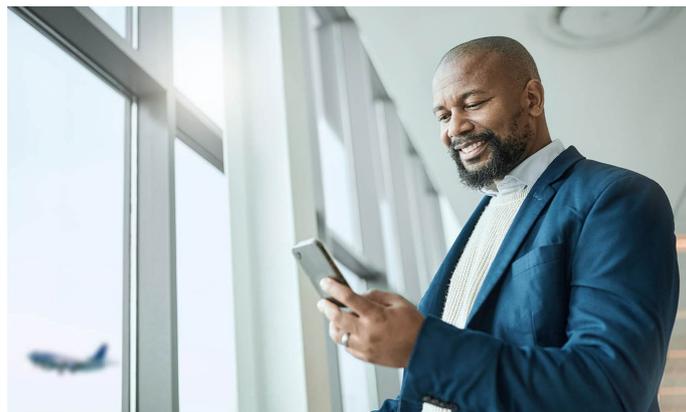
Forensic and Valuation Services Matthew Haddow, Partner and Georgina Davis, Director

In the Forensic Accounting and Dispute world, there is likely to be a continuation of the shareholder disputes that have kept the market busy in the past year. Claims of unfair prejudice appear to be increasing, at least where Expert Valuation is being sought, and there is no sign that breach of warranty claims and earn-out disputes, arising from M&A activity, is slowing.

The increased focus on litigation funding and group claims will remain, and there is likely to be more developments in the newsworthy matters in the Courts at the moment. A number of collective claims are due to proceed to trial or judgment in 2026. Of particular interest will be the design and operation of redress schemes.

Fraud remains a big topic, with AI tools assisting practitioners but also fraudsters, making it more sophisticated and challenging to detect. The fresh “failure to prevent fraud” offence may also feature in breach of warranty claims.

Valuation activity linked to tax and share schemes is expected to increase in early 2026. Inheritance Tax planning, which includes share valuations will be a focus ahead of the anticipated changes coming into force in April 2026. The increase to EMI thresholds set out in the recent Budget will allow larger businesses to use EMI schemes, potentially driving a rise in demand for EMI valuations that are recommended on adoption. We anticipate a downturn in EOT transactions following the tax relief changes announced in the Budget.



Manufacturing Charlotte Langdon, Partner

The outlook for UK manufacturers for 2026 will be cautiously optimistic but remain under pressure. After a difficult 2025 marked by rising costs, recruitment freezes, delayed investment and supply chain challenges, there is some evidence of rebound in order volumes and export demand in late 2025. However, high energy, raw material and labour costs amplified by inflation and regulatory burdens continue to squeeze margins and limit investment capacity. On the upside, adoption of digital technologies and advanced manufacturing practices is rising, offering opportunities to improve efficiency, reduce waste, and compete globally especially in sectors like aerospace, defence and high-value manufacturing where growth remains strongest.

For many businesses, 2026 is likely to be a year of consolidation, cautious growth and selective investment: success will favour those who can innovate, manage costs, and adapt to shifting energy and trade landscapes.

Hospitality & Leisure

Laura Madeley, Partner

The Hospitality & Leisure industry heads into 2026 with a cautious mindset, reflecting the mixed sentiment following the recent budget ranging from guarded optimism to notable concern. Inflationary pressures, particularly rising labour costs driven by increases in the National Minimum Wage and National Insurance, will continue to challenge margins. However, opportunities remain strong, demand for experiential and premium offerings is expected to grow, with consumers prioritising selective but memorable spending, including competitive socialising trends.



“ International travel is also set to strengthen, offering further upside for operators. Sustainability and digital transformation will be critical differentiators, as customers increasingly expect seamless, personalised, and responsible experiences. ”

Property & Construction

Ralph Mitchison, Partner

In 2025 we saw a number of headwinds inhibiting growth in the Property and Construction sector.

Those headwinds came in the form of continued high interest rates, construction materials inflation, labour shortages, planning delays, delays caused by the Building Safety Act and general economic uncertainty delaying investment. We anticipate that 2026 should see growth accelerate as these headwinds start to subside with interest rates falling, construction material inflation easing together with the impact of Government policy to reform the planning system, increase housing supply and public investment in energy infrastructure, schools and hospitals taking hold.

In summary, we can look for to 2026 with some optimism across both the residential and commercial markets.

Retail & Wholesale

Martin Hamilton, Partner

The outlook for retail in 2026 is one of caution, but there are clear opportunities for agile retailers. Online shopping will keep expanding, yet the real winners will be the brands that push beyond basic omnichannel and deliver truly seamless experiences where customers can jump effortlessly from social to store to app. As shoppers shift toward value-for-money rather than low cost alone, retailers can capitalise on occasions, affordable treats, and categories like health and beauty that offer accessible indulgence. AI will continue reshaping the industry by sharpening pricing, predicting demand, and streamlining supply chains, though it also introduces new risks if used without proper oversight.



Social and live commerce will surge, giving brands new ways to reach customers through creators, video, and real-time engagement. Meanwhile, rising operating costs and unpredictable supply chains will require smarter forecasting, more flexible sourcing, and tighter inventory control. Cybersecurity will become a front-line priority as more customer data, integrations, and digital touchpoints heighten exposure to fraud, breaches, and ransomware, making strong security, authentication, and data governance essential for trust and continuity. Sustainability will also gain momentum, with shoppers and regulators demanding greater transparency and circular practices.

“ Overall, 2026 will reward retailers who stay agile blending tech-driven efficiency, strong cyber resilience, and authentic customer experiences with responsible, future-ready practices. ”

Transport & Logistics

Sophie Said, Partner

2025 was a turbulent year for the transport and logistics sector, driven by softening global demand, fragile supply chains, rising costs, technological changes, and sustainability pressures that forced companies to rethink long-established operating models.

“ As the sector enters 2026, UK companies face heightened complexities from economic uncertainty, regulatory change, and technological disruption while needing to maintain high service levels. ”

Global growth is subdued, limiting freight demand and potential growth, while geopolitical risks such as tariffs, shifting trade agreements, and export restrictions create uncertainty for international supply chains, often requiring rerouting, re-sourcing, or holding buffer inventory. These pressures increase unpredictability and costs, making agility essential, and presenting opportunities to expand regional hubs and offer cross-border solutions, positioning logistics providers as end-to-end partners in nearshoring transitions. Talent shortages, particularly among drivers, warehouse staff, and operators, further strain capacity, reliability, and costs, making staff retention, structured career pathways, training, and flexible scheduling critical.



Meanwhile, regulatory and governmental demands for reduced emissions, cleaner fuels, carbon tracking, and greener supply chains require significant investment in vehicles, technologies, or retrofitting, increasing operating costs. Rising e-commerce and delivery expectations add further complexity to last-mile logistics, which must contend with environmental restrictions, traffic, and operational challenges. Customers and companies alike are increasingly focused on environmental impact, with solutions such as electric fleets or incremental ESG measures potentially generating revenue rather than being purely administrative costs. Collaborative approaches - including shared last-mile fleets, co-warehousing, pooled distribution hubs, and collaborative freight networks - offer opportunities to reduce costs, emissions, and capital intensity while opening new markets.

Technology

Sam Goodsell, Partner

In 2026, the tech sector is poised to remain a major driver of innovation and economic resilience, fuelled by rapid digital transformation and sustained global demand. Companies will face tighter R&D tax relief requirements, demanding stronger documentation and evidence of qualifying activity, alongside increased scrutiny of revenue recognition, particularly for subscription and AI-based models, prompting finance teams to bolster controls. Data and cybersecurity reporting obligations are expected to grow, affecting audits, valuations, and due diligence, while sustainability reporting, including Scope 3 emissions, will gain prominence, add complexity but create green-tech investment opportunities.

Key challenges include ongoing talent shortages in AI, cybersecurity, and quantum, potential funding difficulties for early-stage firms due to market volatility, rising cybersecurity risks, and ethical and governance considerations around AI adoption. Nonetheless, significant opportunities exist.

AI will continue as the largest growth area, quantum technologies may approach commercial applications, government incentives like EMI, EIS, and R&D support will drive innovation, and demand for cloud, cybersecurity, and data-analytics solutions will persist amid digital transformation, with strong potential for global expansion.

Recruitment

Tim Dunn, Partner

The recruitment sector is expected to see steady growth in 2026 following a challenging 2025, though performance will continue to vary significantly by specialism. Stronger activity is anticipated in technology, healthcare, life sciences, finance, and ESG-driven roles, where demand remains resilient and investment is set to increase. Alongside market forces, regulatory changes will play a major role in shaping the landscape. Ongoing reforms to umbrella company regulation, aimed at improving transparency and compliance, are likely to place additional scrutiny on supply chains and increase administrative demands on agencies. Meanwhile, evolving employment law, particularly around worker status, holiday pay, and flexible working, will require firms to adapt their processes and advisory capabilities. At the same time, AI-driven recruitment tools will continue to mature, improving efficiency in sourcing and screening while also challenging firms to maintain a high-quality, relationship-led service. AI and technology will undoubtedly impact demand in many sectors as businesses assess ongoing recruitment requirements against the impact of AI on the nature of future roles and job specs.

“ Firms that navigate regulatory shifts effectively and specialise in sectors with robust demand will be well positioned to outperform in 2026, whilst also remaining agile and aware of the evolving nature of future roles working alongside AI, ensuring recruitment solutions remain relevant for client demand. ”

Not-for-Profit: Social Housing
Maria Hallows, Partner

Social landlords are heading into 2026 with a sharpened regulatory lens and very little margin for error.

The Regulator's latest Sector Risk Profile highlights the increasing need to spend on existing homes (including damp and mould, decarbonisation and building safety), skilled labour shortages and other cost pressures. On top of this, landlords face refinancing challenges with higher debt costs against a backdrop of falling sector financial performance and tighter headroom.

Good governance, strong internal controls and decision-making grounded in robust data are more crucial than ever. The security and quality of data is key! Alongside these operational pressures, the upcoming FRS 102 changes (including changes to accounting for leases and revenue recognition, effective for periods beginning on or after 1 January 2026) mean finance teams should plan early for balance sheet impacts, covenant considerations and disclosure readiness.



Not-for-Profit: Education
Sue Hutchinson, Partner

For education organisations, 2026 is likely to be defined by the need to do more with less; tight budgets, rising staffing and estate costs, and increasing scrutiny over how resources link to outcomes. At the same time, the FRS 102 amendments coming in from 1 January 2026 will bring additional judgment and visibility to areas that can materially affect the numbers and the narrative, particularly lease accounting and revenue recognition.

Institutions that start early, mapping lease commitments, reviewing income streams and preparing an impact assessment will be best placed to avoid last-minute pressure and to keep reporting clear for governors, funders and regulators. A strong "readiness" project now can make adoption smoother later, and free up leadership time to focus on delivering education rather than firefighting compliance.



Not-for-Profit: Charities
Janice Matthews, Partner

The charity sector is moving into a more demanding reporting environment, with the Charities SORP changes designed to reflect the wider FRS 102 amendments and improve transparency while still aiming for proportionality.

Menzies has highlighted proposals including a new income-based tiering approach, bringing most operating leases onto the balance sheet, and introducing a five-step revenue recognition model for exchange contracts, alongside enhanced expectations around narrative reporting (including ESG and impact). For trustees and finance teams, the opportunity in 2026 is to use this shift to strengthen the story told in the Trustees' Annual report, moving away from 'meeting requirements' to 'demonstrating value'.

This will be through linking strategy, risk, reserves, and impact more clearly to the financial statements while putting practical foundations in place now (policy choices, data capture and timetable planning) to reduce year-end stress.



RESTRUCTURING PLANS UNDER PART 26A: A LIFELINE OR A LEGAL MINEFIELD

Introduced by the Corporate Insolvency and Governance Act 2020, Part 26A of the Companies Act 2006 provides companies experiencing financial difficulty with a powerful restructuring tool. The Part 26A restructuring plan is designed to help companies avoid insolvency while ensuring fair treatment of creditors and stakeholders. However, while these plans offer considerable advantages, they also come with challenges and risks. This article explores how restructuring plans are approved, their impact on creditors' rights, and the advantages they offer, before addressing some of the possible drawbacks.

For a company to implement a restructuring plan under Part 26A, it must satisfy two eligibility criteria:

1. **Financial Difficulty** – The company must be encountering, or be likely to encounter, financial troubles that affect its ability to operate as a going concern.
2. **Compromise or Arrangement** – The plan must involve a compromise or arrangement between the company and its creditors and/or shareholders to restructure its obligations.

Once a restructuring plan is presented, it must go through a structured approval process:

Court Convening Hearing – The court initially decides whether the plan is suitable for consideration, including the appropriate classes of creditors and shareholders.

Creditor and Shareholder Meetings – Affected creditors and shareholders are divided into classes and asked to vote on the plan. For approval, at least 75% in value of creditors in each class must vote in favour.

Court Sanction Hearing – If the plan secures the necessary votes, the court evaluates its fairness before granting final approval.

One of the most compelling features of a Part 26A restructuring plan is the cross-class cram-down, allowing the court to sanction a plan even if one or more creditor classes vote against it, provided that:

1. At least one class of creditors or shareholders who would receive a payment under the plan approves it.
2. The dissenting class is no worse off under the plan compared to the likely alternative (e.g. administration or liquidation).

How a restructuring plan affects creditors' rights

The Part 26A restructuring plan can have a significant impact on creditors:

Loss of Control – Creditors who oppose the plan may still be bound by it through the cross-class cram-down, minimising their control over the restructuring process.

Compromised Debt Recovery – Creditors may have to accept reduced payments, extended repayment terms, or even full debt write-offs.

Priority Considerations – Some creditors, particularly secured lenders, may be prioritised, while unsecured creditors could receive little or no return.

“**While certain creditors may view this process as unfair, the key principle is that they should not be worse off than they would be in an alternative insolvency process.**”

Despite the potential downsides, restructuring plans offer several advantages:

Flexible and Tailored Approach – Unlike traditional insolvency procedures, restructuring plans enable companies to propose bespoke solutions that suit their financial circumstances.

Business Continuity – The plan can help a company stay operational, preserving jobs and maintaining relationships with customers and suppliers.

Cross-Class Cram-Down – This feature enables a plan to succeed even if certain creditor groups oppose it, increasing the likelihood of a successful restructuring.

Avoiding Formal Insolvency – Companies can utilise a restructuring plan to address financial distress without entering administration or liquidation, therefore preserving value for stakeholders.

The challenges and risks

While Part 26A restructuring plans are a valuable tool, they also have limitations:

High Costs – The court process and required professional advisory fees can be costly, making restructuring plans less feasible for smaller companies.

Court Scrutiny – The requirement for court approval can lead to delays and additional complexities.

Creditor Resistance – Some creditors may contest the plan in court, claiming that they are unfairly disadvantaged.

The Part 26A restructuring plan is a powerful tool that allows financially distressed companies to restructure their debts whilst sustaining business operations. While it provides flexibility and the ability to bind dissenting creditors, it also comes with challenges, especially in relation to cost and creditor opposition. Like any restructuring solution, it must be carefully considered to ensure it aligns with the best interests of all stakeholders involved.



Alexandra Davies
Senior Manager
adavies@menzies.co.uk
+44 (0)33 0912 9577

NEED ADVICE?

The Menzies Creditor Services team can advise on the best way for you to protect your position when one of your debtors enters, or is approaching, insolvency proceedings. Utilising our extensive experience and expert insights, we work in collaboration with you, drawing upon our industry and insolvency sector knowledge, to improve your financial outcome.

For further information on our creditor services offering, please get in touch.



BETHAN EVANS
PARTNER

bevans@menzies.co.uk
+44 (0)33 0912 9578



LAURENCE PAGDEN
PARTNER

lpagden@menzies.co.uk
+44 (0)33 0912 9830



FREDDY KHALASTCHI
PARTNER

fkhalastchi@menzies.co.uk
+44 (0)33 0912 9852



GIUSEPPE PARLA
DIRECTOR

gparla@menzies.co.uk
+44 (0)33 0912 9828



ALEXANDRA DAVIES
SENIOR MANAGER

adavies@menzies.co.uk
+44 (0)33 0912 9577



JAMES LINTON
MANAGER

jlinton@menzies.co.uk
+44 (0)33 0058 4582



LIAM JONES
SENIOR ADMINISTRATOR

ljones@menzies.co.uk
+44 (0)33 0912 9186

CONTACT US

T: 020 7387 5868

E: creditorservices@menzies.co.uk

W: www.menzies.co.uk/creditor-services



This document has been prepared as a guide and is for information purposes only. It is not intended as advice. No responsibility can be accepted by Menzies LLP for any loss from acting or refraining from acting as a result of any material in this publication.

www.menzies.co.uk/gdpr-data-protection-legal

ACCOUNTANCY | FINANCE | BUSINESS

MENZIES.CO.UK

MENZIES
BRIGHTER THINKING