

CLEAR THINKING

Professional bodies want to see greater transparency around Pre-Packs.

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IN common with many commentators, including several IP's, Simon Plant in his article in the December issue appears to still feel the legislation is aimed at his profession. Since day one (way back in 2014 as I recall) myself and others (including IP's) have been regularly pointing out that this is not the case.

The recommendations (not regulations then as now) were aimed at the acquirers of the business that was about to be pre-packed. The directors/owners are asked to give some tangible evidence that this transaction is the best option for everyone involved (not least the creditors who inevitably have most to lose).

I would take issue, therefore, with Simon's view that 'no one in the industry especially sees Pre-Packs or sale to a connected party as an issue'. Why then do bodies like the ICAEW, IPA, and R3 publicly endorse referral (albeit to the only body available at present: The Pre-Pack Pool)?

I believe it is because these professionals want more **transparency** around Pre-Packs, those involving connected parties especially. A cursory glance at the business pages of most broadsheets during the recent debates about the Corporate Insolvency and Governance Act would also serve to illustrate the unease with which 'non industry' pundits regard such deals.

SELF-IMPORTANCE

One area where I will agree with Simon is that of the proposed 'evaluators'. The so-called requirements as to qualification

or a self-declaration of competence is as he says laughable. I have noticed many representations to The Insolvency Service on this point and hope they take action to improve this clause.

We at the Pool have a roster of Chartered Accountants, Chartered Directors and retired IPs who do have the requisite knowledge. And yes, they certainly do understand the process and are unlikely to deny a Pre-Pack for 'the wrong reasons'. In fact, when we have said a Pre-Pack was 'unreasonable' we have inevitably been proved correct. Nine out of the ten deals that we were negative about ultimately failed within 12 months of the newco being formed.

In terms of 'coping,' as long as the independent evaluators has a robust system in place, I see no reason why a competent body can't handle the tsunami of insolvencies expected in 2021 and beyond. The Pool has such a system tried and tested over the past five years. Our original remit was to handle upwards of 200 / 250 cases but of course referrals fell way below that target.

The only concern under the new proposals is the level of detail required of the new report. Something that is not fully addressed in the draft.

Simon and others who think similarly should not feel 'mistrusted' but rather help the Insolvency Service get the system working by engaging with the draft proposals.

Stuart Hopewell is a director of The Pre-Pack Pool the only independent 'opinion provider' currently available for referral.

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