

COMPREHENSIVE SERVICE

Leathes Prior provides a broad range of services which include, but are not limited to the following:-

- Conveyancing
- Divorce
- Family, Matrimonial, Child Care and Wardship
- Overseas Property
- Inheritance Tax, Trusts, and Estate Planning
- Restructuring, Insolvency and Bankruptcy
- Intellectual Property
- Planning and Environmental
- Probate
- Property Development
- Wills

LEATHES PRIOR
SOLICITORS

09/05



WHO ARE WE?

Leathes Prior is well known for its niche insolvency practice and is one of only a handful of law firms in the east of England that has lawyers dedicating all of their time to insolvency law and practice. The Insolvency team is headed by Frank Brumby who is one of only two solicitors in the East of England who is a Licensed Insolvency Practitioner. Frank is also a committee member of R3 (the Association of Business Recovery Professionals), a member of the Insolvency Lawyers Association, and co-author of "Managing Bankruptcy and Liquidation", published by The Stationery Office and "Personal Insolvency" and "Corporate Insolvency", published by Cavendish Publishing as a part of the Pocket Lawyer series.

WHAT OTHERS HAVE SAID ABOUT US

LEGAL 500

"Leathes Prior's Frank Brumby has a growing practice and an excellent reputation among insolvency practitioners, who describe him as a very wise brain on young shoulders".

CHAMBERS

Frank Brumby is a "very user-friendly lawyer" who brings an "entrepreneurial approach" to cases. He is a "prominent figure in East Anglia". Frank was ranked as the leading insolvency lawyer in East Anglia.

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LEATHES PRIOR
SOLICITORS

insolvency
insolvency



The complete legal service for insolvency

INTRODUCTION TO INSOLVENCY – AM I INSOLVENT?

There are two different tests to establish whether or not you (or your business) are technically insolvent.

The first test is whether or not you or your business can pay your debts as and when they fall due. If you cannot pay your debts as and when they fall due (examples would be chasing letters from suppliers, bounced cheques or threats of court proceedings) then you are insolvent. The second test is to compare the total value of your assets against the total amount of your liabilities. If your liabilities outweigh the value of your assets then you are also insolvent. If you are insolvent on either test you may need specialist insolvency advice.

PERSONAL INSOLVENCY AND BANKRUPTCY

ADVICE TO DEBTORS

Many individuals face personal financial difficulties resulting from failed or under-performing businesses (sole tradership, partnership or companies) or simply living beyond their means. There are various procedures available to protect the individual from creditor pressure which Leathes Prior can advise upon and assist an individual to implement including:

- Informal arrangements
- Individual Voluntary Arrangements (IVA)
- Bankruptcy

If your business is operated through a limited company there are additional insolvency procedures available and further implications. For more details see below.

ADVICE TO BANKRUPTS

If you are an individual already subject to a bankruptcy order or a debtor subject to an IVA then we can advise you on all aspects of these regimes:

- Annulment and discharge of bankruptcy
- The matrimonial home
- The payment of statutory interest and DTI fees
- Defending proceedings brought by Trustees in Bankruptcy and Supervisors
- Income Payment Orders
- Variation and compliance with the terms of your IVA
- Bankruptcy Offences
- Bankruptcy Restriction Orders

CORPORATE RECOVERY AND LIQUIDATION

ADVICE TO COMPANIES

Solvent Companies

Rarely is a company set up with the intention that it be placed into an insolvent situation and yet many companies face financial difficulties that can sometimes lead to liquidation or administration and, potentially, the claims that they entail. Advice at an early stage can equip a director with the knowledge they may need to ensure that either they, or the company, do not enter into transactions that could be challenged should the company go into a formal insolvency procedure.

Insolvent Companies

Whether a company is being pursued by one or more creditors for debts that it is unable to pay, there is general creditor pressure or the company has been served with a statutory demand or winding-up petition, Leathes Prior can advise the company and directors on various formal and informal procedures to alleviate creditor pressure including:

- Informal arrangements with creditors
- Receiverships
- Company Voluntary Arrangements
- Administrations
- Creditors' Voluntary Liquidation
- Compulsory liquidation

If a company is faced with a winding up petition (whether or not the debt is disputed) then the company's bank will usually freeze the bank account which may prevent the company from continuing to trade effectively. In this regard Leathes Prior can advise on applications for injunctions or validation orders that can unfreeze the bank account.

ADVICE TO DIRECTORS

Whilst virtually all companies have the benefit of limited liability, the protection for directors and/or shareholders is often compromised by the giving of personal guarantees and/or granting of security on personal assets (often the director's home) to banks, finance companies, and sometimes key suppliers. Leathes Prior can assist the director by advising on the potential liability of the director and, as appropriate, with defending the claim or negotiating with the creditor concerned, which may lead to a substantial reduction in the director's liability. Alternatively we can advise the director on the personal insolvency procedures available to him.

DIRECTORS' DISQUALIFICATION PROCEEDINGS

If a company is placed into liquidation, the Liquidator is obliged to investigate and review the conduct of the Director prior to the liquidation of that company. If it is found that the director's conduct falls below what is reasonably expected of him, the Liquidator will report the alleged unfit conduct to the DTI who may commence directors' disqualification

proceedings. If a disqualification order is made the individual concerned is prevented from being involved in any future companies for a period of time. This can be extremely restrictive on the individual's ability to earn an income in the future. Leathes Prior can advise any person facing such proceedings on the merits of any defence, or on mitigating the impact of the disqualification. We can also advise on applications to court for permission for the individual to remain a director of a particular company even though they are to be disqualified.

CLAIMS AGAINST DIRECTORS

Where a company is placed into liquidation or administration the Liquidator or Administrator may have various claims against the directors or former directors of the company including claims for:

- Misfeasance / breach of fiduciary duty
- Preference transactions
- Wrongful trading
- Transactions at undervalue claims
- Fraudulent trading

Leathes Prior can advise the director either before a company goes into liquidation or administration whether or not there will be a potential claim against the director, or if the company is already in liquidation or administration, on any potential defence to the claims brought by a Liquidator/ Administrator.

INSOLVENCY TEAM



FRANK BRUMBY

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