The

Weaponisation of Insolvency:

A Tool to Silence the Victims of Banking Malpractice & Fraud?

An independent report raising concerns over the suppression of compensation and legal claims from victims of bank malpractice and fraud.

Our Conviction: *"The only thing necessary for the triumph of evil is for good men to do nothing" - Attributed to Edmund Burke*

ENDORSEMENTS

"SMEs are the backbone of our economy. They employ millions, anchor local communities, and take the risks that drive growth - but they can only do that if they can trust the systems meant to protect them when things go wrong. An insolvency sector that is credible, respected and worthy of that trust is not a nice-to-have; it is essential economic infrastructure.

BankConfidential has done excellent work gathering evidence that shows there is a real problem in the insolvency service, just as Lord Sikka's work from 25 years ago did. When systemic and structural issues of this kind come to light, it becomes Parliament's responsibility to act in the public interest - not to look away.

I believe there ought now to be a debate in Parliament about the need to properly regulate the insolvency sector."

Rt Hon John McDonnell MP

"Twenty-five years ago, the Association for Accountancy and Business Affairs' Insolvent Abuse report that I helped write warned that the UK's insolvency system was vulnerable to regulatory capture, conflicts of interest and systemic abuse. Insolvency practitioners were operating as 'corporate undertakers,' answerable to those who appointed them rather than to the people whose lives their decisions upended, within a self-regulatory system with no real independent oversight and a grotesque lack of accountability.

A quarter of a century on, no meaningful action has been taken to address any of the severe systemic and structural flaws we identified. BankConfidential's new report on the weaponisation of insolvency shows, case after case, that the same warning signs remain - and in many respects the position has actually worsened.

That is precisely why I am hosting tomorrow's event, Insolvent Abuse: Regulating the Insolvency Industry, at the Houses of Parliament. It is time this issue was properly debated in Parliament - or better still, examined by a judge-led public inquiry. I congratulate BankConfidential on producing evidence of real public value, and I hope this new report will help finally force the action that has been so long overdue, in the public interest."

Lord Prem Sikka, Emeritus Professor of Accounting at the University of Essex and the University of Sheffield.

"This report, authored primarily by Stephen Middleton, argues that insolvency processes in the UK are being "weaponised" against victims of banking misconduct rather than functioning as neutral mechanisms for handling financial distress. Building on Lord Sikka's 2000 warnings about regulatory capture in the insolvency profession, the report presents seven detailed case studies - including Clive May, the Glanville family, Andi Gibbs, Mike Lloyd and Rodney Hall, the Callin family, the Morgan family, and the Irish Connaughton case - each describing how undisclosed hidden credit lines, mis-sold interest rate hedging products, and administrator conduct allegedly pushed viable businesses into insolvency, after which practitioners appointed by the implicated banks failed to investigate claims against those same institutions.

The Morgan case in particular alleges fabricated court documents and a 13-year suppression of fraud-related claims. The report concludes with reform proposals including a single independent insolvency

regulator, a safeguarded UK version of the US Chapter 11/12 "Debtor in Possession model" with six built-in protections against abuse, statutory rights for individuals in insolvency, a compensation scheme, and a "fraud carve-out" preventing institutions from profiting from their own wrongdoing via insolvency processes.

This is a genuinely important piece of work in the public interest.

What makes it so compelling is not just the volume of testimony but the "consistency of the pattern across entirely unconnected cases and banks - a pattern that echoes concerns Lord Sikka raised a quarter of a century ago and that, on this evidence, have only deepened. The documentary detail - the Sage-derived "bank statements," the excluded hedge liabilities in covenant calculations, the disputed Zoopla valuation - moves this well beyond anecdote into something that demands formal scrutiny, investigation and action.

Stephen Middleton, Mark Wright and Paul Callin deserve real credit for the courage and rigour this represents. Producing work of this sensitivity, naming institutions and individuals, and standing behind vulnerable witnesses is not easy, and it is exactly the kind of 'citizen investigator' work that helps to keep power in check. It is a sterling piece of work in the public interest.

Given the seriousness and specificity of what is alleged here - including claims of fabricated evidence submitted to a court that are supported by evidence - this cannot simply be left to fade. There ought now to be a debate in Parliament about the case for statutory regulation of the insolvency sector, or better still, a judge-led public inquiry into what has been going on within it with appropriate enforcement action as Parliament and the authorities may deem necessary.

Furthermore, the general narrative of this report and the troubling narrative it articulates is corroborated by the testimony I hear on a weekly basis at Zoom meetings we hold for victims of insolvency abuse; I must urge any such victims to get in touch and share their story, in the public interest."

Andy Agathangelou FRSA - Founder, Transparency Task Force.

"The insolvency industry has long been in need of in-depth investigation and fundamental reform - this report is a powerful example of why that is still the case."

Steve Brodie and Emily Buchanan former BBC correspondents and authors of 'A Very British Banking Scandal' (publ. Autumn 2026)

"This report provides a powerful and well-evidenced account of how insolvency processes have been used against victims of bank misconduct. My own experience reviewing cases leads me to similar conclusions: third parties such as business consultants and Chief Restructuring Officers, whose duty should be to the company, have frequently worked in the interests of the lending bank instead. This has often happened well before any insolvency practitioner is appointed.

Equally concerning is the use of internally generated bank statements that inflate the level of debt. These have been used to gain control of creditors' committees and further weaken the position of business owners.

The practices described in this report, combined with the pre-insolvency tactics I have witnessed, demonstrate why a full independent investigation into the treatment of SME victims is now essential."

IAN TYLER - Cambridge Mathematician & Global Derivative and Treasury Expert

"I have reviewed this report with the same professional scrutiny I applied to BankConfidential's earlier work on Hidden Credit Lines.

Its central findings are credible and directly corroborated by my own research in Ireland. The creation of undisclosed credit-line liabilities — pushing viable businesses into distress — was merely the first stage of a calculated process. What followed was not legitimate insolvency administration, but the continuation of asset-stripping under the cover of legal process.

Closely analogous practices occurred in Ireland, where customers faced engineered distress through hidden credit exposures and excessive charges, followed by aggressive enforcement tactics that mirrored those documented in the UK. As someone who has witnessed the devastating impact on individuals and communities in Ireland, this report provides a damning account of how the insolvency process was subverted into an instrument of extraction and concealment.

The evidence demands a rigorous, judge-led public inquiry on both sides of the Irish Sea, with full transparency on cross-border asset realisations. I endorse the conclusions of this report without reservation."

Lorraine Morris - Capital Markets & Derivatives Lawyer (Ireland, England & New York State). Irish Banking Inquiry Whistleblower

"There are moments in life when time seems to stop. For our family, that moment came in 2013. Until then, we had spent decades building businesses and planning for the future. Then everything changed.

Bankruptcy does not arrive with a single knock at the door. It arrives quietly — a letter, a court order, another meeting, another sleepless night, until your life is no longer your own. People often assume bankruptcy is about money. It is not. It is about waking every morning wondering whether your home will still be yours. It is about explaining to your children why everything has changed. It is about watching years of work reduced to figures on a balance sheet. What we thought would be a temporary chapter became a thirteen-year ordeal.

We lived with constant uncertainty. Our businesses and homes felt permanently vulnerable. At one point, a threat was made to take my wife's wedding ring - a symbol of our marriage and a lifetime of memories. As the years passed, we suffered losses no one could have imagined. We lost two of my brothers, one with cancer whilst a victim of the fraud, one of whom took his own life, and my sister-in-law. These tragedies occurred during a period of extraordinary stress and uncertainty.

Meanwhile, the legal process continued. Professional fees mounted while every attempt to rebuild our lives was met with another obstacle. The end always felt just out of reach. People sometimes ask what bankruptcy cost, I can tell them how much money was lost and how many businesses disappeared. But the greatest loss was time. Thirteen years of birthdays overshadowed by worry, thirteen years of Christmases clouded by uncertainty, thirteen years of wondering what would be taken next. No financial settlement can ever restore those years.

Our family's story is not about seeking sympathy it is a book about resilience - about what happens when ordinary people face extraordinary adversity and decide, despite everything, to keep going. If our family's story helps others understand the human cost of prolonged insolvency proceedings, then telling it will have been worthwhile and we thank the APPG and everyone involved in exposing these issues.

Nigel J Morgan – Director of S Morgan & Sons Farming Group

"For over fifteen years I have lived with the consequences of losing the business I built. I never expected the biggest battle would be proving that the evidence used against me was not what it appeared to be. This report has helped expose how a business being pushed into insolvency can shift attention away from investigating serious allegations about the bank's behaviour and onto the victim instead.

No one should have to spend years fighting simply to have the facts properly examined."

Clive May – Owner CMBL

"Steve has captured in the script the enormity of the fall. This I am forever thankful for. His research, his kindness and our friendship.

He understands through his own experience how the inhumane actions of RBS left me with a medical ticking time bomb. Scars that cannot be healed. Touch stones ever present.

From visionary to recluse. GRG trampled over me, my family and a world recognised regeneration success story. Dreams realised and delivered. Dreams turned into nightmares for thousands. He has captured the devastation experienced by me, my family, a whole community and my three complimentary companies. A life changed forever.

Thank you again Steve, Bank Confidential and your whistle blowers, your work on disclosing the Hidden Credit Lines and now the abuse of the insolvency process, has exposed the devious nature of a very uneven playing field within the world of banking."

Andi Gibbs – Award Winning Architect

"This report exposes how the insolvency practitioners involved and the lawyers they employed in our case, acting on behalf of Barclays, ensured that the real causes of our company's collapse were never thoroughly investigated or exposed. After more than twenty years of successful trading, they made no serious attempt to examine the impact of the interest rate swaps and the hidden credit risk that had been placed on our business.

The report raises fundamental questions about who these practitioners and who the so called 'professionals' were ultimately acting for. It was clearly not the creditors, the directors or shareholders of the company."

Mike Lloyd – Director of Sarumdale Limited

"This report presents a compelling and carefully evidenced account of our family's experience, raising important questions about transparency, accountability and whether the true causes of our business's collapse were ever fully investigated."

James Glanville – Director Lyndale Healthcare Limited

"My company has legitimate claims against its bank for theft, forgery and fraud. These arise from the illegal sale of a 2008 Interest Rate Swap and mortgage, and the bank's use of a Hidden Credit Line to conceal the swap's initial profit (hidden commission) and financially catastrophic margin obligations.

During direct engagement with the bank's CEO following a regulatory review, the bank continued to withhold critical information and then appointed an LPA Receiver. This misuse of insolvency legislation was clearly intended to place the company under extreme duress, destroy it financially, and eliminate its claims against the bank and some of its senior representatives.

The overwhelming evidence of the weaponisation of insolvency, on an industrial scale, as set out in the harrowing case studies in this report, must be thoroughly investigated by Parliament. This is particularly urgent considering recent calls by the APPG on Investment Fraud & Fairer Financial Services, during a Back Bench Business Debate, for an independent inquiry into the Hidden Credit Line Fraud scandal and the role of the Financial Conduct Authority. SMEs cannot have any faith in the UK's financial sector while misconduct on this scale is allowed to continue."

Andrew Candy – Director Tentacle Limited

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A WHISTLEBLOWERS' REPORT

FOREWORD – S Middleton

My introduction to what I call the weaponisation of insolvency came in 2008/09 when I became a victim of lending fraud at Barclays Bank through two small property development companies that I co-owned. Ironically, I had previously worked for Barclays as a financial adviser and had many friends there, including I believed the fraudster in my case.

The relationship manager, whom I will call Mr K, repeatedly assured me in early 2007 that funding applications for the purchase and development of two properties had been submitted, approved and were "good to go". In reality, no applications had been made to Barclays' credit team. While funding was provided for the property purchases, the promised development finance never materialised, leaving me servicing 'repayment' loans on two empty buildings and under growing financial pressure as we headed towards the financial crisis in 2008.

When I challenged Barclays, the issue quickly ceased to be about the bank's conduct and became a question of survival. Senior staff attended my office and made it clear they were prepared to place my companies into administration, as they had already done with other affected customers. When the local Barclays Director who attended, asked me what I intended to do, I replied that I was not an idiot and no court would believe I had knowingly purchased more than 10,000 square feet of property and applied for and achieved planning permission, to then simply leave them undeveloped and I informed him that I intended to sue the bank.

The Director then put his head in his hands and said: "*Steve, you would win. We have companies going bust all over Hull — it's such a mess we've had to put a whole team on it*."

I later learned that Mr K had been using his pre-approved lending remit to agree transactions without disclosing their purpose to the credit team, to exceed his sales targets. The manager who later inherited his portfolio, confirmed that Barclays' response was not to censure him and compensate affected customers but to make Mr K stay and reconstruct the credit files retrospectively, presenting lending as though it had been properly approved before quietly moving him on. He moved to Handelsbanken in a promotion to area Director, whilst his former customers either fought for financial survival or had lost their business and were dealing with the administrators.

That experience taught me a lesson I would encounter repeatedly over the years. Once serious allegations are raised against a large financial institution, the dispute can quickly shift from the conduct of the bank to the survival of the customer. It is more cost effective to 'bust the customer' and take some losses on a fire sale of assets, than pay compensation and face the reputational risk. It was my first real glimpse of how insolvency and the threat of such can be used to contain complaints, manage reputational risk and place victims under immense pressure to drop their claims or settle.

The deception caused me substantial financial loss, delays, and pressure I would not otherwise have faced. Barclays eventually agreed to support the two developments in 2009 - when no other lender would - by then most of Mr K's other victims had already lost their businesses.

For me, the consequences were still severe. My losses ran well into six figures. Larger projects had to be abandoned or restructured, and the prolonged stress eventually caused me to collapse

and undergo extensive medical investigations. By this point I had Barclays Business Support 'managing' me on one site and NatWest Global Restructuring Group ("**GRG**") on another, both demanding asset and liability statements (which I refused to provide). I was checking the post daily to see which loan or overdraft might be called in next, they all were one by one. Within a brief period, I went from being a long-standing Barclays Premier and NatWest Coutts customer with substantial credit facilities to being "de-banked".

It took six years of working seven days a week, with almost no breaks, before I would risk taking even a week off. I barely saw my family during that time. Many of the people I had socialised with for over a decade had it seemed overnight, become adversaries looking to close my businesses and take my home. While I eventually recovered, albeit with lasting health effects, the experience showed how financial misconduct can inflict damage far beyond the balance sheet.

Not all the victims were so fortunate. One, whom I shall refer to as David M, was a well-known local businessman. After his companies were pushed into administration following the same unauthorised lending and false promises of funding by Mr K, Barclays appointed administrators who then pursued his personal assets under a personal guarantee, he had been forced to sign (sign or we'll shut you down) after Mr K left.

As the pressure on David increased, I assisted him informally, despite the obvious risks of doing so, while I still banked and held mortgages with Barclays. Because he was a prominent figure in the local business community, his continuing complaints (I drafted), were causing the bank reputational difficulties.

In June 2010, my solicitor telephoned to warn me about a conversation that had taken place at a solicitors' lunch. A well-known local solicitor had stated that the administrators, in his own words, acting on Barclays' instructions, had placed *"£60,000 on his desk"* and told him to "take out" David M. He joked he "*didn't know whether to take his penthouse in Marbella first or his Bentley."*

Still having contacts within Barclays, and indignant about such behaviour, I emailed a former colleague who was by then a member of the Board and made it clear that public exposure of what had happened would reflect badly on the bank. Within weeks, David and I were in a meeting in Leeds with senior Barclays executives, including the Regional Director, who had just returned from meeting with the Board and informed us he had been instructed to "get a deal done."

Barclays were also represented by their lead General Counsel for the UK and Europe, Mr C, together with their solicitors. David and I attended alone. Three hours later, a substantial settlement had been agreed and a Non-Disclosure Agreement signed. What began as a dispute involving one dishonest bank manager gradually revealed a much wider pattern. When victims of bank misconduct fight back - particularly when they have evidence and are prepared to litigate or go public - the response often escalates but results can come from this.

I had experienced the threat of administration myself and had also seen how insolvency processes could be used against other victims. More strikingly, I saw how determined institutions could be to prevent those practices from being exposed.

Around the same time, I was also supporting my business partner, another victim of Mr K's misconduct. The evidence and allegations we assembled resulted in further negotiations with Barclays within weeks. Once again, a Regional Director attended the meeting. His opening words

were simple: "*I have come to do a deal*." A settlement was reached and another Non-Disclosure Agreement (NDA) was signed.

My own claim for financial losses however was not being resolved and eventually reached the Financial Ombudsman Service ("**FOS**"). Despite Barclays having previously settled the claims arising from the same conduct in those cases and being unable to produce the relevant credit applications or meeting records, my complaint was rejected. Barclays stated that it had no knowledge of either my allegations or Mr K's behaviour. When I challenged that position directly with the local director, by referring to the earlier settlements and naming those involved, I was told: "*We can't discuss that Steve — we signed an NDA*."

Apart from substantial financial losses and the stress I had been put through, what troubled me most was the dishonesty and double standards. Had I, as a regulated financial adviser, failed to retain records central to a client complaint, I would certainly have faced regulatory sanction. Yet when the bank could not produce documents critical to my case, that absence of evidence appeared to work in its favour. The message was clear: accept the loss or take on one of Britain's largest banks in the Court at my own expense.

Those experiences taught me two important lessons. First, large institutions will often fight aggressively to contain complaints that expose misconduct, even where victims have compelling evidence. Second, they remain vulnerable to well-prepared complaints, persistence and scrutiny. That lesson has shaped much of the work I have undertaken since.

Through my work as a financial adviser and property developer, I was increasingly approached by business owners seeking help with disputes involving banks. Many of these cases arose from interest rate swaps, fixed-rate loans, NatWest's Global Restructuring Group (GRG) and Lloyds' Business Support Unit (BSU).

Over the following 15 years, alongside my business activities, I spent much of my time supporting people facing the loss of their businesses, homes and, in some tragic cases, their lives through the extreme stress, ill health and despair these situations can cause. Repeatedly, I saw the threat of administration deployed as a banks' "clean-up act" for victims of malpractice and fraud.

In doing so, I came to recognise that insolvency is one of the most powerful tools available to banks and other large institutions seeking to protect commercial interests and reputations. Once control passes to administrators, liquidators or trustees, victims can lose control of their businesses, assets, legal claims and, ultimately, their ability to pursue meaningful redress. The financial and emotional pressure that follows is often overwhelming. The larger the alleged wrongdoing, the more aggressively these processes can be deployed. Many victims of the HBOS Reading scandal, and of the Hidden Credit Lines fraud we exposed, would recognise that pattern.

This report examines how we allege that insolvency has become weaponised - whether through deliberate conduct, conflicted incentives or systemic failures - against individuals and businesses already harmed by banking misconduct. The cases that follow are drawn from direct experience, documented evidence and the testimony of many others who found themselves trapped in the same system.

Stephen D Middleton
BankConfidential C.I.C.

Mark J Wright
BankConfidential C.I.C.

BANK CONFIDENTIAL

EXECUTIVE SUMMARY

Twenty-Five Years of Warnings Ignored

In 2000, the Association for Accountancy & Business Affairs (AABA), led by Professor Prem Sikka, (now Lord Sikka), published a report on 'Insolvent Abuse', a landmark study warning that the UK's insolvency system was vulnerable to regulatory capture, conflicts of interest and systemic abuse. The report described insolvency practitioners as "corporate undertakers" exercising extraordinary powers over businesses, employees, creditors and families, while operating within a self-regulatory framework lacking effective independent oversight.

The report warned that insolvency practitioners often owed duties primarily to those appointing them, typically banks, rather than to all stakeholders affected by their actions. It concluded that the absence of independent regulation, transparency and accountability had allowed insolvency abuse to become institutionalised. Twenty-five years later, the evidence examined in this report suggests that those warnings were not merely ignored but that the position may have deteriorated further.

Victims of major banking scandals including HBOS Reading, NatWest GRG, Lloyds BSU, Interest Rate Hedging Products and Hidden Credit Line cases increasingly face insolvency not as a remedy for financial distress but as a mechanism used to suppress claims, seize assets, control litigation rights and prevent meaningful accountability. In numerous cases, compensation intended for victims has instead been diverted into insolvency estates controlled by practitioners appointed by the same institutions whose conduct gave rise to the claims. In some cases, the compensation paid for the "mis-selling" and frauds have been paid back to the very banks that carried out the malpractices or perpetrated the crime.

At the November 2025 APPG on Investment Fraud and Fairer Financial Services, we described this phenomenon as the "weaponisation of insolvency", observing that when victims of bank frauds seek to expose wrongdoing, insolvency is frequently perceived as the weapon deployed to silence them. Lord Sikka's report, characterised insolvency practitioners as "corporate undertakers". Twenty-five years later, behaviours we have seen by some lawyers and insolvency practitioners led us to liken them to a professional hitman's "clean-up squad", removing evidence, corporate DNA and ensuring that institutions responsible for misconduct avoid accountability.

Whether that perception is justified is a matter we say that requires urgent independent investigation. What cannot be disputed is that the concerns raised by AABA in 2000 remain strikingly relevant in 2025. This report therefore asks a simple question:

If the insolvency system was already being criticised for conflicts of interest, lack of accountability and regulatory capture in 2000, how is it that over twenty-five years later victims of banking misconduct are alleging that the same system is the main tool being actively weaponised against them?

When are the Rules not the Rules?

The insolvency profession is governed by extensive legislation, professional standards and ethical codes. Insolvency practitioners are entrusted with extraordinary powers over businesses, assets, legal claims and, often, the livelihoods of those affected by financial failure. With those

powers come corresponding duties. At the heart of the profession are four fundamental principles:

1. **Integrity** – practitioners must be straightforward, honest and truthful.
2. **Objectivity** – decisions must be taken impartially, free from conflicts of interest or undue pressure from those who appoint or pay them.
3. **Professional Competence and Due Care** – reports and conclusions must be based on appropriate evidence and reasonable enquiry.
4. **Professional Behaviour** – practitioners must comply with the law and avoid conduct that brings the profession into disrepute.

These principles are reflected in the Insolvency Code of Ethics, the Insolvency Act 1986, and the Statements of Insolvency Practice (SIPs). Several SIPs are particularly relevant to the cases in this report:

- **SIP 1** - requires practitioners to maintain sufficient records to justify decisions taken.
- **SIP 2** - emphasises the duty to investigate matters objectively and report potential misconduct.
- **SIP 3** and **SIP 16** - stress the need for transparency and the avoidance of actual or perceived conflicts of interest.

Running through all these standards is a clear expectation: insolvency practitioners should act independently, preserve public confidence in the system, and exercise their powers fairly and transparently.

The case studies that follow are not presented as proof that these standards have been breached. Rather, they examine situations in which victims, whistleblowers and independent experts have questioned whether those standards were ever met or considered in practice. The central concerns running through this report are straightforward:

a) If insolvency practitioners allegedly function as independent officers of the court and guardians of the public interest, why do so many victims of banking misconduct believe the system operates primarily to protect powerful institutions rather than to uncover the truth?

b) If the profession is governed by ethical codes, statutory duties and Statements of Insolvency Practice, why do so many complainants struggle to obtain meaningful scrutiny when concerns are raised about the conduct of practitioners themselves?

These concerns are not new. In 2000, the AABA report questioned whether professional bodies could effectively regulate their own members, particularly where powerful commercial interests were involved. Twenty-five years later, the same criticisms continue to be raised by victims, whistleblowers and parliamentarians. It is for this reason that we support Lord Sikka's long-standing call for the insolvency profession to be overseen by a genuinely independent regulator.

Although each case we have include in this report involves different banks, different practitioners and different facts, a consistent pattern emerges. Allegations of banking misconduct are followed by increasing financial pressure, insolvency or the threat of insolvency, and the transfer of control over businesses, assets and legal claims. As this process unfolds, the focus frequently shifts

away from the conduct originally under scrutiny and towards the financial position of the victim. In many cases, claims are delayed, compromised or extinguished before the underlying allegations have been properly examined.

This report does not suggest that every insolvency practitioner acts improperly, nor does it seek to determine liability in any individual case. Its purpose is to examine whether the statutory duties, ethical principles, Statements of Insolvency Practice and regulatory framework governing the profession are being applied consistently - and whether the current system of oversight provides effective accountability when concerns are raised about practitioner conduct.

That question lies at the heart of this report. Rules are only meaningful if they can be enforced. If professional standards exist but complaints are routinely dismissed, investigated by bodies drawn from within the profession itself, or fail to command public confidence, then the issue is no longer simply one of professional conduct, it becomes one of public accountability and regulation.

This report originated from extensive work with the Morgan family, victims of the HBOS Reading fraud, and a detailed investigation into their case. After a largely failed mediation in 2019, the family entered the Foskett Panel in 2020 based on Sir David Foskett's public commitment that victims would be restored to the "*position they would have been in had the fraud not occurred*". There was no suggestion at that stage that anyone other than the Foskett Panel and the victims themselves would control the outcome. It was believed that if fraud had led to administrations and bankruptcies, Lloyds would be required to resolve those consequences and compensate the victims accordingly and any creditors also damaged by the fraud.

In 2022, without reference to the victims, the SME Alliance and the Fair Business Banking APPG, as unelected stakeholders, negotiated changes to the scheme. Instead of full compensation based on proven losses, anyone classed as a "victim" were offered the option of a £3 million Fixed Sum Award in return for not entering the full review process.

The revised scheme, introduced in July 2022, rewarded those unable to prove business losses and introduced new rules under which former bankrupts whose bankruptcies had not been annulled could lose control of some or all their compensation. This represented a significant departure from Sir David Foskett's public commitments. It also meant that victims who remained subject to insolvency proceedings could lose the very compensation intended to restore them, creating the potential for insolvency to determine who ultimately benefited from the scheme.

The Morgan family's treatment under these arrangements prompted a closer examination of how insolvency processes can be used against victims of bank fraud. This led to a weekly discussion group with the Transparency Task Force and, ultimately, to this report. As a result, the Morgans section contains significantly more detail and evidence than the other case studies. Despite this difference in depth, a consistent pattern emerges across all the cases examined.

The case studies that follow ask a clear but urgent question:

Are the safeguards and standards Parliament intended for insolvency practitioners working — or do the striking similarities across so many cases point to a wider systemic problem that requires urgent independent investigation and reform?

THE APPG ON INVESTMENT FRAUD AND FAIRER FINANCIAL SERVICES

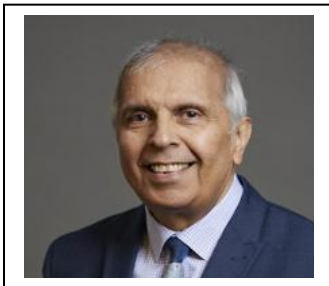
The All-Party Parliamentary Group on Investment Fraud and Fairer Financial Services is a cross-party group with over 70 parliamentary members. Under the chairmanship of Rt Hon John McDonnell MP and with strong support from Lord Sikka and others, it has become a vital platform for victims and campaigners seeking accountability in the financial system.

Chair - Rt Hon John McDonnell MP

John chairs the All-Party Parliamentary Group (APPG) on Investment Fraud and Fairer Financial Services.

A long-standing and highly respected Member of Parliament, John has built a formidable reputation over many years for rigorously holding financial institutions, banks, and regulators to account.

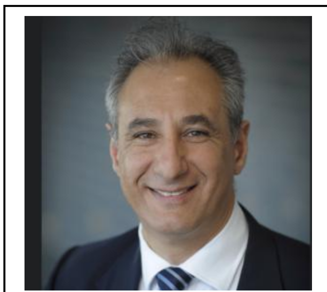
He has consistently championed greater transparency, consumer protection, and fairness in the financial system, particularly in support of victims of financial misconduct. Under his chairmanship — and that of his predecessor Bob Blackman MP — the APPG has become a vital and influential platform, giving victims, whistleblowers, and campaigners a powerful parliamentary voice to expose serious issues of bank misconduct and its often-devastating consequences.



The Lord Sikka - Emeritus Professor of Accounting, University of Essex and University of Sheffield

Lord Sikka is a prominent member of the House of Lords and a leading voice on financial regulation, corporate accountability, and insolvency abuse. Lord Sikka has long campaigned on issues of regulatory capture, bank misconduct, and the misuse of insolvency processes against victims of financial wrongdoing.

His groundbreaking 2000 work on the regulation of the insolvency industry highlighted systemic problems that remain highly relevant today. As a Labour peer, Lord Sikka regularly raises these concerns in Parliament through questions, debates, and public interventions. His expertise and consistent advocacy provide valuable parliamentary support to the work of the APPG on Investment Fraud and Fairer Financial Services, particularly on matters involving hidden credit lines (such as the Ulster Bank Fraud), the treatment of distressed businesses, and the need for stronger independent oversight of banks and insolvency practitioners.



Chair of the Secretariat Committee - Andy Agathangelou

Andy runs the secretariat for the APPG through the Transparency Task Force, a Certified Social Enterprise he founded.

The Transparency Task Force works to increase transparency and accountability across the financial services industry and supports victims of financial misconduct.

Andy has been a prominent campaigner on issues including the treatment of small businesses by banks and the need for stronger regulatory oversight. His work with the APPG helps ensure that the voices of those affected by financial wrongdoing are heard at the highest levels.

The APPG on Investment Fraud and Fairer Financial Services scrutinises misconduct in the financial services sector and provides a forum for parliamentarians, victims and campaigners to push for reform.

In recent years it has highlighted major scandals such as interest rate hedging products, Blackmore Bonds, the Woodford Scandal, the HBOS Reading fraud, the Phillips Trust scandal and hidden credit lines etc.

The APPG is busy supporting Parliamentarians who are scrutinising the proposed Financial Services Bill, which is attempting to de-regulate the City at the expense of consumer protections. It has also been working with BankConfidential examining to examine how victims of some of these scandals have been further harmed through the insolvency process.

Following the launch of BankConfidential's Hidden Credit Lines report at an APPG meeting in November 2025, the issues gained further attention. This led to a Backbench Business Debate in April 2026, led by John McDonnell MP and strongly supported by MPs across the House. The debate resulted in a meeting with HM Treasury.

BankConfidential works with whistleblowers and the APPG to hold banks and financial service providers accountable, regardless of how historic the misconduct may be. Without dedicated parliamentary scrutiny, such problems can remain hidden or inadequately addressed by regulators. At times it is the regulators themselves who need to be brought to account.

Clive May

Clive May Brickworks Ltd

The Intractable Brickie

Subject: CLIVE MAY AND 599 "BANK STATEMENTS" THAT CLOSED A FRAUD INVESTIGATION

Background

Clive May built Clive May Brickworks Ltd ("**CMBL**") into a successful, long-established business in North Wales. In 2011 the company entered administration following a series of lending decisions and facility reductions by NatWest.

Clive later alleged that the business had been damaged by a form of hidden credit liability operated through RBS Invoice Finance's "Debt Protection" scheme. After those allegations were raised, North Wales Police opened a criminal fraud investigation.

As part of that investigation, Begbies Traynor (Central) LLP ("**Begbies**") was instructed to provide an independent opinion on whether his allegations had any substance. This case study examines the allegations that led to the investigation, the evidence considered during it, and the questions that later emerged about the material relied upon in reaching its conclusions.

Background: The Alleged Hidden Credit Line Fraud

The police investigation arose from allegations that NatWest Group, through RBS Invoice Finance ("**RBSIF**"), operated a hidden credit-line scheme that materially damaged CMBL.

Although CMBL was not a customer of RBSIF, one of its long-standing suppliers operated a confidential invoice-finance facility with RBSIF that included a "Debt Protection" element. Whistleblower evidence later confirmed that RBSIF's underwriters practice was to access to NatWest's internal credit systems and place undisclosed "Debt Protection" credit lines against 'in house' customers on the bank's credit records, treating them as liabilities when assessing lending exposure.

In effect, we were informed that CMBL had been underwriting its own risk without its knowledge, while the supplier paid for a 'non-existent' insurance that offered no real protection. Evidence obtained during subsequent investigations confirmed the limit associated with one supplier facility increasing from £50,000 to £150,000, within a few months.

Around the same time, NatWest reduced CMBL's overdraft facilities by the same amount, citing risk concerns.

Clive maintains that these undisclosed liabilities reduced the company's borrowing capacity, removed vital cashflow support and contributed directly to the financial pressures that ultimately led to its administration. CMBL had no contractual relationship with RBSIF and Clive was never informed that such liabilities existed. What he later asked the bank was, if I was such a risk as a customer, why were you increasing invoice finance debt cover against me at the same time.

The Police Investigation and the Appointment of Begbies Traynor

Following the administration of CMBL, Clive raised allegations of fraud against NatWest Group relating to the hidden credit-line arrangements described above, initially through his MP, Lord Hanson. Both the bank and the then Financial Conduct Authority ("**FCA**") Chairman, John Griffith-Jones, denied that the liabilities existed, stating they were only nominal limits (the same misrepresentation the FCA would later use to perpetuate their cover up of damage from the Hidden Credit Lines linked in the banks sale of interest rate hedging products ("**IRHP**")).

However, a subsequent whistleblower report from a former RBSIF employee contradicted those denials and they confirmed that the £150,000 credit line would be clearly evidenced on the banks Relationship Management Platform credit system (RMP/RMPS). This led to allegations that prompted North Wales Police to open a criminal investigation.

North Wales Police informed Clive that they had commissioned an independent forensic accounting review to examine the allegations but he was not told which firm had been appointed, what evidence was supplied, or what material would ultimately be relied upon.

He later learned the review was undertaken by Begbies Traynor LLP ("**Begbies**"), which was provided with CMBL's annual accounts, management accounts and a complete electronic backup of its Sage accounting record's. The firm's task he believed was to assess whether the alleged banking conduct, including the hidden RBSIF credit line, had materially contributed to the company's collapse.

The report and supporting documents only came to light years later through Subject Access Requests and persistent challenges to both North Wales Police and then Begbies.

Begbies Report and the 599 "Bank Statement" Documents

In its report dated 13 March 2019, Begbies acknowledged that the critical overdraft analysis contained within their Schedule 3 was derived from CMBL's Sage accounting records rather than from NatWest bank statements noting that the information "may not reflect reality".

The report explained that the underlying data had been extracted from the company's accounting system rather than directly from bank records and made no mention of the crucial RMP evidence, whether they had requested or examined it or why they had not requested and investigated the actual business bank statements alongside those credit records.

Despite this, North Wales Police were subsequently provided with 599 documents headed "Bank Statement" (the "**Begbies Bank Statements**"), which formed the key evidence the Police considered when assessing whether CMBL would have failed in any event.

Years later, an independent review established that the Begbies Bank Statements, had been generated from Sage accounting records rather than being copies of genuine NatWest bank

statements. According to expert analysis, they included accounting entries and unreconciled items that did not reflect the company's cleared banking position at the relevant dates.

The difference was stark. The documents supplied to the Police showed CMBL operating far beyond its agreed borrowing limits. The Begbies Bank Statement provided to the Police for 17 July 2007 for instance confirms the following indebtedness:

Date: 12/03/2019 **Page:** 170
Time: 13:39:25

Bank Statement

1225
Nat West- 10047638
Currency: Pound Sterling

Book Balance: £ -5,245.27

CMay Brickwork Limited yr. end 2014
Unit 7. Cambrian Business Park
Queens Lane
Mold
Flintshire
CH7 1NJ

Date From: 01/01/1980
Date To: 12/03/2019

No	Date	Ref	Details	Payments £	Receipts £	Balance £
49659	07/07/2008	DD/STO	DD GE Capital Woodcheck	862.40		-819,974.62
49660	17/07/2008	DD/STO	Premium Credit Insurance	1,632.27		-821,606.89
49661	25/07/2008	DD/STO	Scottish Equitable	128.71		-821,735.60
49662	27/07/2008	DD/STO	Finance Charges for Audi	200.36		-821,935.96

CMBL Overdraft Limit was £245,000 this shows a 'bank balance' of £821,000 overdrawn

CMBL's genuine bank statement below however, shows it was £45,000 in credit on that date

NatWest Business Current Account

Date	Details		Withdrawn	Paid in	Balance
16 Jul 2008	BROUGHT FORWARD				47,370.74
	Cheque	005621	243.69		
	Cheque	005623	596.60		
	Cheque	005625	571.60		
	Cheque	005628	515.55		
	Cheque	005630	351.30		45,092.00
17 Jul	OnLine Transaction	CALL REF.NO. 1536 M A BAILEY	704.00		
	OnLine Transaction	CALL REF.NO. 1536 M RUTTER	705.03		
	OnLine Transaction	CALL REF.NO. 1536 T RUTTER	728.23		
	OnLine Transaction	CALL REF.NO. 1536 D CLARKE FP 17/07/08 40 29023016140300000N	591.94		
	OnLine Transaction	CALL REF.NO. 1536 A BURNS FP 17/07/08 40 12023015536953000N	704.00		
	OnLine Transaction	CALL REF.NO. 1536 S JOHNSON FP 17/07/08 40 31023016314666000N	898.32		

These were not minor discrepancies.

The figures presented to police differed dramatically from the company's actual banking records and portrayed a materially different picture of CMBL's financial position as £821,000 overdrawn when it was £45,000 in credit, an **£866,000 discrepancy**. The significance of those differences later became central to challenges made to the report.

Independent Expert Review

In November 2025, independent forensic accountant IH, a member of the Academy of Experts, reviewed some of the material supplied to North Wales Police. Having examined the documents headed "Bank Statement", IH concluded:

"*'Bank statement' as detailed at the top of the SAGE printout is misleading. It is not an accurate replica of the NatWest Current account bank statement.*"

IH concluded that the documents represented Sage cash-book records rather than bank statements, commenting that proper bank reconciliations would have been required before meaningful conclusions could be drawn regarding the company's actual banking position.

The same material was subsequently reviewed by Steve Middleton of BankConfidential, who reached a similar conclusion, describing the documents as: "*Misleading to the lay person at best – clear misrepresentation at worst*."

The significance of these observations was they directly challenged the reliability of material relied upon during a criminal investigation into whether CMBL would have failed in any event.

Impact on the Criminal Investigation

North Wales Police commissioned the Begbies report to determine whether CMBL's failure was caused by the RBSIF hidden credit line liabilities. Its conclusions should have been focussed on the central issue under investigation. Following receipt of the report however, it was clear it had focussed instead on whether CMBL would have failed, irrespective of the alleged banking misconduct, there was no mention of any investigation into the RBSIF credit line, the RMP files or the alleged fraud that had originally been reported.

The findings led North Wales Police to close the criminal investigation. As a result, the actual criminal allegations concerning the hidden credit-line arrangements were never investigated or evaluated through criminal proceedings.

The subsequent expert criticism of material relied upon in reaching the "would have failed anyway" conclusion, raises important questions about the evidence that informed the decision to close the investigation. This case illustrates the major influence that forensic accounting reports can have when allegations of banking misconduct and fraud are under investigation.

Begbies Response to the Concerns Raised

In October 2025, Clive formally raised concerns with Begbies regarding the material supplied during the North Wales Police investigation and the subsequent expert criticism of that evidence.

The firm's Group Company Secretary declined to issue an addendum to the 2019 report, notify North Wales Police or the Department for Business and Trade. Instead, Clive was informed;

"*Your queries are better directed to North Wales Police.*"

As of the date of this report, no addendum, correction or clarification has been issued.

The significance of that response extends beyond a dispute over accounting records. The police investigation was established to examine allegations concerning hidden RBSIF credit lines, fraud in relation to Enterprise Finance Guarantee (EFG) lending and the treatment of CMBL by its bank. The Begbies report however, addressed a different question: whether the company would have failed in any event.

That distinction matters. If material relied upon in reaching the "would have failed anyway" conclusion were inaccurate or misleading, which we would suggest an £866,000 discrepancy clearly was, it raises wider questions about whether the underlying allegations were fully examined or indeed ever investigated or intended to be investigated at all.

Conclusion – an Investigation Yet to be Undertaken

This case raises important questions about the role of insolvency practitioners when providing independent opinions in investigations involving alleged bank misconduct.

The central issue is not simply whether documents were accurately described, but whether the conclusion that CMBL would have failed in any event diverted attention away from Clive's actual allegations concerning EFG lending, a hidden credit line fraud related to RBSIF and the treatment of his company.

More broadly, the case illustrates how, once insolvency intervenes, the focus of an investigation can shift from the bank conduct under scrutiny to the financial condition of the victim. That question lies at the heart of this report.

For several years, this case appeared closed however, today, following Clive May's persistence, independent expert review and the assistance of banking and invoice-finance whistleblowers, the issues raised are once again under scrutiny.

Formal complaints are being considered by Begbies and the ICAEW, and the matter has been referred back to North Wales Police.

Whether those reviews ultimately uphold or reject the allegations raised remains to be seen but what is beyond dispute is that:

Questions the bank believed had been settled are now being asked again.

The Glanville Family

The Generational Business lost to:

Hidden Credit Risk and the NatWest GRG Abattoir

Subject: THE GLANVILLE FAMILY – A SYSTEM TURNED AGAINST THEM

Background

For John and Margaret Glanville, Lyndale Healthcare was never simply a business. It was the family's future. Years of hard work had been invested in building quality care homes that would provide their security in retirement and an opportunity for the next generation to continue what they had started.

Together with their son James and his wife Frances, they built Lyndale Healthcare Limited from the ground up, purchasing Windsor Court in Bournemouth in 2002 with their own savings and a mortgage from NatWest. Over the following years the business flourished. As confidence grew, the family established Dorchester Care LLP to acquire and develop further nursing homes, reinvesting profits and taking on additional borrowing to expand the business.

Like so many ambitious SMEs during that period, the Glanville's greatest strength was also their greatest vulnerability. Every new development was costly and required further finance and therefore every advance in the business depended upon maintaining the support of their bank. That dependence would ultimately prove catastrophic.

The Deal They Could Not Refuse

By 2006 the Glanville family needed additional borrowing to continue expanding their care home business. NatWest's response was familiar to thousands of business customers across the country at the time: further lending would only be available if the businesses entered into; interest rate hedging products.

The products were presented as sensible protection against rising interest rates. The family attended presentations, received product literature, and were repeatedly assured that the "no premium" swaps would provide certainty over future borrowing costs. The only significant risk mentioned was that early termination might result in break costs, depending on market conditions. In May and June 2007, the family entered into two substantial interest rate swaps:

a) Dorchester Care LLP entered a five-year swap with a notional amount of £3.75 million.
b) Lyndale Healthcare Limited entered a fifteen-year swap with a notional amount of £2.5 million.

Neither transaction was presented as creating any substantial secured borrowing obligation beyond the loans themselves, that omission was critical.

NatWest never disclosed that each swap carried a substantial undisclosed contingent margin credit facility. These hidden liabilities were secured under the existing debentures, all-monies charges, and personal guarantees. They were treated internally by the bank as hard credit exposures and counted against the businesses' Loan-to-Value covenants.

The family believed they had simply borrowed money to grow the business. They did not realise that the bank had simultaneously created another substantial secured liability — one that would increase dramatically if interest rates moved in the wrong direction.

The Hidden Liability

When the swaps were entered into, the hidden credit facilities were already significant, due to an undisclosed upfront added value (AV or commission), despite the products been promoted as having no upfront premium. According to the family's later analysis, the Dorchester swap carried an undisclosed contingent liability of circa £150,000, while Lyndale's longer fifteen-year swap carried an initial exposure of circa £250,000. As interest rates collapsed throughout 2008 and into 2009, those liabilities would increase dramatically.

By March 2009, the family estimates that Dorchester's hidden liability had risen to approximately £700,000, while Lyndale's had grown to around £1.5 million — together representing more than £2 million of undisclosed secured obligations. These liabilities had never been explained, never appeared in the companies' accounts, and had never been disclosed when the products were sold. The consequences were immediate. The hidden credit lines substantially increased the businesses' effective indebtedness and pushed the facilities beyond NatWest's Loan-to-Value (LTV) covenants.

Nothing about the underlying care home businesses had changed. The homes remained occupied, the care continued, the businesses still had value and all the loan payments were made on time. What changed was the bank's internal assessment of the family's indebtedness. The businesses had not suddenly become poorly managed, and the security had not disappeared. The hidden liabilities had simply overtaken them.

From Customer to Problem

As financial pressure increased, the relationship with the bank changed. The businesses were transferred into NatWest's GRG. Properties were down-valued, security positions reassessed, and increasing pressure was placed on the family to restructure their affairs. In 2011 they were required to enter into a Property Participation Fee Agreement ("**PPFA**") with West Register, RBS's own property subsidiary.

The agreement entitled the bank to 40% of any future increase in value above the debt, plus a further £100,000 if the properties recovered in value. According to the family, this was presented as the only realistic alternative to immediate enforcement.

Having first insisted upon the swaps, the bank then relied upon the financial consequences of those same products to justify transferring the businesses into GRG and seeking to profit from them. From that moment, the bank was no longer acting as a commercial lender trying to support

a long-standing customer. It had become an institution focused on protecting its own position, reducing risk and creating profit, all made possible by the swap's hidden credit line liabilities.

The Insolvency Narrative

By 2013 the family had commenced legal proceedings against the bank. Those proceedings were stayed while the businesses participated in the FCA's Interest Rate Hedging Product Review. It was during this period that Dorchester Care LLP entered administration and Begbies were appointed as administrators.

For the Glanville's, this should have been the point at which the true cause of the collapse was finally examined. Instead, the administration became another stage in a process that looked only at the consequences while ignoring the cause.

The Statement of Proposals issued to creditors in May 2014 however, attributed the collapse primarily to Care Quality Commission compliance issues. There was no examination of the interest rate swaps, the hidden contingent credit liabilities, their effect on covenant compliance, the transfer into GRG, or the ongoing FCA review. Begbies made no attempt to investigate whether these undisclosed liabilities could lead to viable claims against NatWest arising from the non-disclosure of the margin credit facilities. Instead, they proceeded on the basis below:

For the reasons set out in this report, we presently consider that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph 3(1)(a) and 3(1)(b), and consequently the most appropriate objective to pursue in this case is that specified in sub-paragraph 3(1)(c), namely realising property in order to make a distribution to one or more secured or preferential creditors Furthermore, we

The focus was on protecting the interests of the bank whose conduct had caused the business failure. The banking issues that had dominated the family's concerns were replaced by a conventional insolvency narrative centred on operational difficulties. The narrative changed to protect NatWest.

When the System Closed Ranks

The Glanville family entered the FCA Interest Rate Hedging Product Review in 2013 believing it would finally investigate what they regarded as the true cause of their financial collapse.

Instead, the outcome reflected what many victims experienced. Inexplicably one swap was found to have been sold appropriately, while the other was to be replaced. The review calculated redress of approximately £430,000, but after deducting swap break costs of around £645,000, the family received no compensation instead it was said to owe the bank money.

For the Glanville's, however, the Review failed for a more fundamental reason. The FCA had agreed with the banks "Skille Person" reviewers, that the hidden contingent credit obligations would fall outside the scope of the review. Internal KPMG Records from the NatWest Review confirm:

'The setting of any contingent liability is a credit risk function... The process is ***not related to the sales standards agreed with the FCA*** *in respect of the past Review of IRHP's'* (emphasis added)

As a result, the mechanism that caused the covenant breaches, the transfer into GRG, and the eventual collapse of the businesses was deliberately excluded from consideration. The administration repeated the same pattern. Begbies focused on the consequences of the collapse while making no attempt to investigate or pursue claims arising from the conduct that caused it; the hidden credit line liabilities that destroyed their businesses.

The Human Cost

For the Glanville family, the consequences extended far beyond the loss of a business. John and Margaret Glanville lost the retirement they had worked towards for decades. James and his wife Frances lost the businesses they had spent years building together. During this period, Frances passed away. As the financial pressure intensified, the family committed every available resource in a desperate attempt to save what they had created. According to James, even the proceeds of his late wife's life insurance were used in a final effort to meet the bank's demands.

The human cost did not end there. Five years after Frances's death, NatWest continued to issue demands under the personal guarantees — one of which was addressed to her. In an email sent after receiving the correspondence, James wrote with understandable disbelief:

"Particularly encouraging that they send one to my wife who died 5 years ago… know your customer."

To James, the businesses represented years of work, sacrifice and family life. To the bank and the insolvency process, they had become files to be enforced. The businesses were lost, the properties were lost, and everything the family had built disappeared. They gave the bank everything they had. It still was not enough.

Conclusion - A Family Business Lost

The Glanville story is about far more than interest rate swaps. It is about what happens when a successful family business becomes trapped within a chain of events from which there appears to be no escape:

- The bank required the profits from the swap sales.
- The hidden credit line liabilities covering the banks undisclosed "Added Value" (hidden commission) and future risks grew.
- The covenant position deteriorated.
- The businesses entered GRG.
- The family surrendered a share of future value to the bank.
- The businesses entered insolvency.

The insolvency process focused on operational failure rather than the banking conduct that had preceded it, while the regulatory review failed to resolve the dispute. At every stage, the process moved further away from the original question. But for James and the Glanville family, that question has never changed.

More than thirteen years after the swaps were sold, James together with his wife Becky, has never stopped seeking justice for what happened to his family and their business. The question that remains unanswered:

If the hidden derivative liabilities triggered the financial distress, why did every subsequent process examine the collapse of the business rather than the conduct that caused it?

Andi Gibbs:

From Design Genius

To - Destroyed by GRG

Subject: ANDI GIBBS FROM AWARD-WINNING REGENERATION PROJECT TO RECEIVERSHIP

Background

When architect Andi Gibbs began regenerating a neglected part of Norwich's historic King Street district, he was not building a speculative property empire. He was helping to restore and build a community based on his love of design, art and creativity.

Through his company Wallwork Projects Ltd, Andi acquired and redeveloped a collection of historic buildings into offices, residential accommodation, meeting rooms, a gallery and restaurant facilities. The project, known as Netherconesford, won several awards and Andi a Fellowship to the Royal Society of Arts for his services to architecture, innovation and regeneration.

The scheme's initial development generated reliable rental income of approximately £138,000 per annum with no voids and a waiting list of prospective tenants.

Alongside the property business, Andi ran two further viable companies from the site: his architectural practice, Art Architecture Ltd, and his construction business, Consider Ltd. By early 2008 all three businesses were established, trading successfully and generating income.

"Protection" ... as a Condition of the Loan

Seeking to expand the development, Andi approached the then Royal Bank of Scotland (RBS now the NatWest Bank) for additional funding of around £400,000. In March 2008, the bank agreed the additional lending, which would take total borrowings to approximately £1.3 million.

At the last-minute, the bank made the facilities conditional on Wallwork Projects entering into an Interest Rate Hedging Product. On 22 July 2008 Andi entered into a five-year Vanilla Collar. He was told the product was protection against rising interest rates, what the bank did not tell him was that their internal forecasts (on their Sterling Strategy Papers) said just the opposite.

What Andi was also not told was that the transaction created a substantial undisclosed hidden credit line, secured against the company's assets and his personal guarantees, covering their day one profit (AV/commission) and potential/ expected future losses he would incur. As interest rates fell sharply after the financial crisis, this hidden liability increased dramatically.

After the failure of Northern Rock, the banks internal economic forecasts had said only one thing, interest rates medium to long term, were going only one way, down.

RBS
The Royal Bank of Scotland
Currency Derivative House of the Year
Risk Awards 2007

Sterling Strategy
17 September 2007
Global Banking & Markets

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- **We have changed our FX forecasts.** The recent financial market turmoil has been sufficiently deep and damaging that the prospects of interest rate hikes in most major economies has all but disappeared. The big four central banks (BoE, Fed, ECB and BoJ) have all adopted wait-and-see strategies.

As the above Sterling Strategy report confirms, following the market turmoil in Quarter 4 in 2007 “**the prospects of interest rate hikes** in most major economies **has all but disappeared**” (emphasis added).

Whilst the expected reductions in interest and swap rates were relatively small and no one could have predicted base rates of just 1% or less, the trend was only one way, as the banks forecasts predicted, they believed 5-year swap rates would be down at least 0.5% in 2008.

UK interest rate forecasts – end quarter rates

		Base	Libor				Swap			
		rate	1m	3m	6m	12m	2yr	3yr	5yr	10yr
2007	Q1	5.25	5.5	5.6	5.8	5.9	5.8	5.7	5.6	5.4
	Q2	5.50	5.9	6.0	6.1	6.3	6.3	6.3	6.2	5.9
	Q3	5.75	6.7	6.9	6.7	6.6	6.0	6.0	5.9	5.6
	Q4	5.75	6.2	6.5	6.4	6.4	6.0	5.9	5.8	5.4
2008	Q1	5.75	5.8	6.0	6.0	6.1	5.9	5.8	5.6	5.4
	Q2	5.75	5.8	5.9	5.8	5.8	5.7	5.6	5.5	5.4
	Q3	5.50	5.5	5.7	5.7	5.7	5.5	5.4	5.4	5.3
	Q4	5.25	5.3	5.4	5.4	5.5	5.4	5.4	5.4	5.3

The Royal Bank of Scotland

The omission of the hidden credit line risk was highly significant. The liability was secured against the company’s assets through the bank’s ‘All Monies Charge’ and against Andi personally via his guarantees.

As interest rates fell, the bank's exposure under the derivative increased — and so too did the hidden liability sitting on his company's credit file.

Banks have long claimed that no one knew in 2007 and 2008 where interest rates were heading. However, the RBS Global Banking & Markets team selling these products were receiving regular internal forecasts from the bank's own economists. By 17 December 2007, those forecasts were clear, interest rates were "set to fall", as the Sterling Strategy paper of that date confirms:

> **The credit crunch has not dramatically altered RBS's forecasts.** UK interest rates are set to fall to 5% in '08 (February & May are forecast to be the most likely months that the MPC cut the Bank rate), whilst the US Fed funds rate is unlikely to be change for the whole of '08. The ECB will be the last to join the rate cutting party, but slower growth should prompt the ECB to reduce the refinancing rate by 50 basis points to 3.5% by the end of Q3 '08.

By the end of Q1 2008, when Andi hoped to be drawing down his loans, the economic climate had deteriorated sharply. Yet in March 2008 — while still promoting the swap to Andi as protection against rising rates – the RBS Group informed the FSA that it was "out of money", due to £1 billion in trading losses that month alone in its Markets division, led by Johnny Cameron.

Despite this, the bank's advisers went on to sell Andi a five-year product with a 5.65% cap and a 5% floor. In practice, this meant he would gain no benefit if rates fell below 5% — which they would soon do, dramatically. Excerpts from the trade document confirm the rates:

Counterparty Payments

Floor Rate	5.00 pct
Counterparty Payment Dates	The 22nd day of each month, commencing 22 August 2008 to and including the Termination
	Business Day Convention

Bank Payments

Cap Rate	5.65 pct

In simple terms, the banks sold him a chocolate fireguard. RBS's own forecasts showed they expected interest rates to fall below 5% from mid-2008 onwards, and no credible economist was predicting rates would rise above that level over the next five years.

Rates began falling within months, and by March 2009 the UK base rate had dropped to just 0.5%.

By then, the hidden credit line liability had grown to an estimated £250,000.

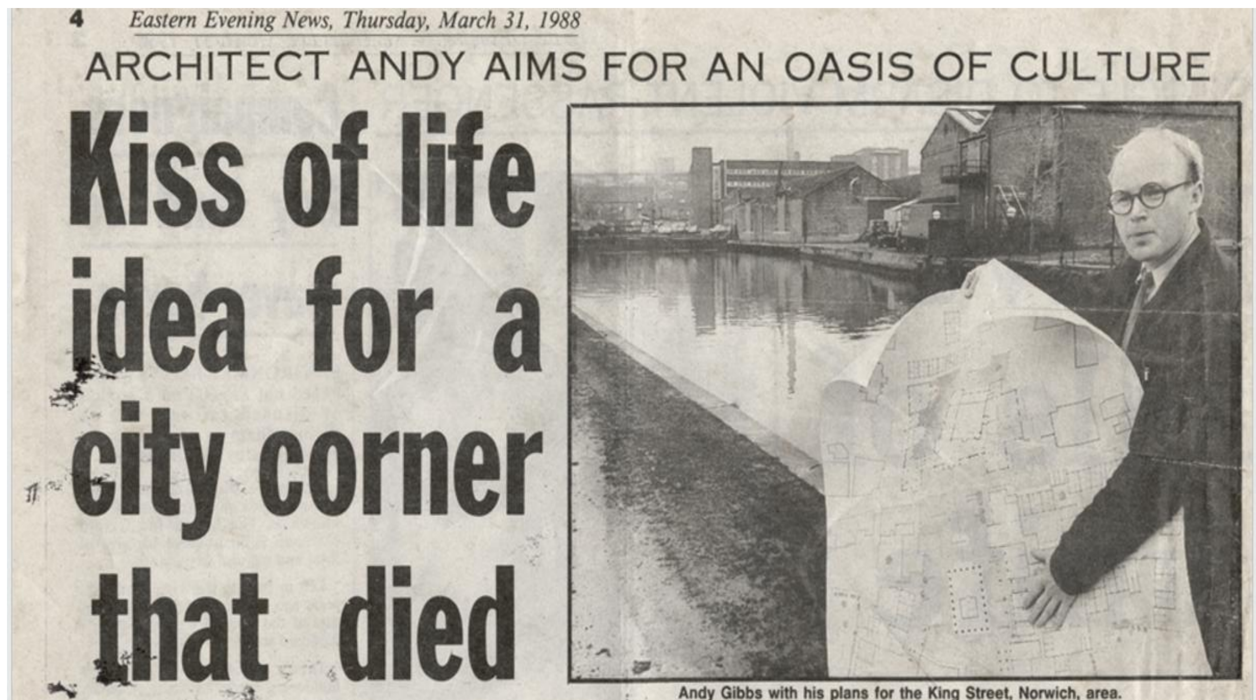
The underlying business had not deteriorated, yet the company's true level of indebtedness had increased substantially. It was this undisclosed liability that pushed the facilities beyond their Loan-to-Value covenants and triggered Andi's transfer into GRG.

From Regeneration to Ruin

What happened next is at the heart of Andi's claims. By 2008 Netherconesford was not a failing development. It was a success story. The buildings were occupied, rental income was being generated, demand remained strong and the project had received recognition for its contribution to urban regeneration.

Andi had invested years of work transforming a neglected part of Norwich into a thriving mixed-use development.

His vision had been to create a collaborative creative hub where architects, graphic designers, product designers and other creative businesses could work together, cross-fertilise ideas and support one another — a model that proved phenomenally successful, generated a waiting list of tenants, and earned him international recognition.


4 *Eastern Evening News, Thursday, March 31, 1988*

ARCHITECT ANDY AIMS FOR AN OASIS OF CULTURE

Kiss of life idea for a city corner that died

Andy Gibbs with his plans for the King Street, Norwich, area.

Yet according to Andi, the threat to the business did not come from the property market, the tenants, or the performance of the companies. It came from a bank liability that had never been disclosed to him.

He had no idea that the transaction had created a substantial contingent credit obligation in favour of the bank, secured against both the company's assets and his personal guarantees. As interest rates fell, this hidden liability increased dramatically - month after month - even though the underlying business remained viable.

By March 2009, with base rate at just 0.5%, Andi's companies were transferred into NatWest's Global Restructuring Group (GRG).

Whistleblowers have since confirmed that the transfer was triggered because the hidden credit line had pushed the facilities beyond their Loan-to-Value covenants and taken the true level of indebtedness beyond what the bank was prepared to tolerate.

The irony was stark. The property was performing well, tenants remained in place, and rental income was steady. The development was still valuable. Yet because of an undisclosed liability, Andi had become another target for GRG, de-banking, and administration.

GRG a Turnaround Unit or an SME Abattoir

GRG was publicly presented as a division established to help businesses in difficulty. For customers, the reality was vastly different. Businesses frequently reported extortionate monitoring fees, aggressive restructuring demands, and pressure to surrender assets or equity.

Andi's experience followed the same pattern. Additional costs were imposed and demands escalated. Discussions took place about arrangements that would have given the bank a share of future value through its property vehicle, West Register. When Andi refused, events moved quickly.

Receivers from BNP Paribas were appointed. The collar was terminated, crystallising a break cost of approximately £150,000. The bank then turned its attention to Andi's personal guarantee and the second charge over the family home.

At no point did anyone explain that the covenant breaches, the transfer into GRG, and the subsequent enforcement action had been caused by the undisclosed derivative exposure rather than any deterioration in the business itself.

Instead, responsibility was placed entirely on the borrower. Like many SMEs, Andi was accused of "overborrowing" and taking "too many risks" — ironic allegations from a bank whose own aggressive trading had left it insolvent and reliant on emergency support from the Bank of England, months before Andi had even entered into the swap.

Gibbs Backs his Commitment but the Bank Misled Him

Determined to save the development he had spent years building, Andi continued negotiating with the bank. In January 2011, after discussing it with his wife, he sold the family home and paid approximately £537,000 to NatWest in the belief that this would allow him to buy Netherconesford back and continue running the business.

He understood that a further £400,000 would complete a full and final settlement of around £1 million in total. Having handed over the proceeds of his home, he believed he had finally secured a way forward. Instead, the goalposts moved.

The agreement he thought had been reached disappeared. Rather than the remaining balance, the bank demanded a further £1 million at short notice. The demand was impossible to meet. The opportunity vanished.

The property was subsequently sold by the receivers to a third party for less than £700,000 — less than half of its previous independent valuation of around £1.7 million. The proceeds went entirely to the bank. Andi received nothing.

The IRHP Review & Further Concealment

Andi received the outcome of the FCA's Interest Rate Hedging Product Review on 26 June 2014. The bank accepted that the sale had not fully complied with the agreed standards, particularly regarding the explanation of early exit costs. However, it concluded that he would have purchased the collar anyway and therefore awarded no redress.

Had the hidden credit line and day-one commission been properly disclosed — as required under the FCA's Conduct of Business Sourcebook (COBS 6.1.9R and COBS 14.3.2R(d)) - it is inconceivable that Andi would have entered into the product at all, let alone made the same mistake twice.

The review did not examine the undisclosed hidden credit line, its effect on covenant compliance, or its role in triggering the transfer into GRG and the appointment of receivers. This was not an oversight. The FCA had agreed with the banks that hidden credit line liabilities would fall outside the scope of the review. As a result, the central mechanism that destroyed Andi's businesses was deliberately excluded from consideration, and he received no redress.

Conclusion - The Final Act

For Andi, the real injustice was not simply that he lost everything he had built. It was that he believes the bank created the conditions for failure and then used those consequences to strip him of the very assets it had placed at risk.

An award-winning regeneration project was destroyed. Three businesses were lost. The family home was sold. His health collapsed and his marriage broke down. Yet once LPA Receivers were appointed, none of that mattered.

LPA Receivers are not investigators. They are not there to establish how the distress arose or whether the borrower has been wronged. They often exist as soulless executioners - appointed to take swift control of assets, dispose of them, and return the proceeds to the bank, regardless of the underlying cause of the failure.

In Andi's case, that is exactly what happened. The property was sold for less than half its previous value, the businesses were dismantled, and every penny went to NatWest. The hidden credit line that had triggered the covenant breach was never examined. The bank's role in creating the distress was never questioned.

The bank recovered its position. The evidence was buried beneath the insolvency process. And the man who built Netherconesford was left to carry the cost. The most troubling question in this case remains unanswered, on any objective examination of the facts, however, the answer is self-evident:

Was the business genuinely failing, or was it engineered to fail based on a liability the bank never intended him to kow about or understand?

Sarumdale:

Mike & Rodney -

The Likely Lads who Built a Pub Empire

Subject: MIKE LLOYD, RODNEY HALL, SARUMDALE – THE HIDDEN CREDIT LINE

Background

When Mike Lloyd and his late business partner Rodney Hall opened their first managed public house in 1990, they began building what would eventually become one of the South East's most successful independent pub groups.

Over the following sixteen years Sarumdale Ltd expanded to operate twenty-three pubs, employ around 230 staff and accumulate a substantial portfolio of freehold properties. By 2006 the company had established a long-standing banking relationship with Barclays and had borrowings of approximately £7.5 million secured against its growing estate, with a value approaching £14 million.

As existing facilities approached renewal, Barclays informed the directors that continued funding would require the business to enter long-term interest rate hedging arrangements covering most of its borrowings. Sarumdale subsequently entered a series of structured interest rate products arranged through Barclays Capital.

According to Mike, the products were presented as prudent protection against rising interest rates and as a condition of maintaining borrowing facilities. The directors were again not informed that the products would create substantial contingent obligations secured against the company's assets, liabilities which Barclays would subsequently treat as part of the company's overall credit exposure.

When interest rates collapsed following the financial crisis, the cost of the hedging arrangements increased dramatically. By 2009 as UK base rate dropped to just 0.5% the swaps were costing Sarumdale approximately an additional £26,000 per month and the company was transferred into Barclays' Business Support Unit.

Barclays then appointed Begbies, trading as BTG Restructuring (BTG), to conduct a series of Independent Business Reviews. It was during those reviews that a significant issue first emerged.

The Liability Nobody Would Explain

In late 2009 BTG's draft Phase II Independent Business Review reproduced information taken from Barclays' own Connections Report. Within the summary of facilities appeared an entry described as linked to an "Interest Rate Hedge" with a maximum facility of £1.5 million.

Despite the existence of this liability, BTG inserted a dash in the current balance column and provided no explanation of what the facility represented.

1.1 Barclays Bank Plc ("the Bank") has instructed us to carry out a second phase review to incorporate a review of short-term forecasts and of the structure of the Group's debt, following our Phase I report in October 2009. Our letter of instruction together with the scope of our work is attached at Appendix 1.

1.2 As at the 15 January 2010 the Company's facilities with the Bank were as follows:

Summary of Bank Facilities					
Entity	Description	Current Balance (£'000)	Maximum Facility (£'000)	Margin (%)	Notes
SLTD	Overdraft	206	250	3.0	Expiry 30 Nov 2009 - continuing as on demand.
SLTD	Commercial mortgage (CM1)	5,419	5,605	1.3	Expiry 21 Nov 2025. Covenants tested quarterly: 1) LTV max 70%; 2) EBITDA to exceed 175% of Gross Financing Costs (Gross Interest Cover)
SLTD	Commercial mortgage (CM2)	1,189	1,216	1.3	Expiry 25 Aug 2026. Covenants as above.
SLTD	Commercial mortgage (CM3)	672	692	3.0	Equal monthly instalments of capital and interest from 28 Feb 2009 to 30 Nov 2025. Covenants as above.
SLTD	Interest rate hedge	-	1,500		Per Barclays Capital on 22 January 2010 breakage costs total c.£640k.
SLP	Commercial mortgage (CM4)	346	350	3.3	Equal monthly instalments of capital and interest starting one month after drawndown to 30 June 2019. Relates to Springfield.
TOTAL		£7,832	£9,613		

Source: Barclays Connections Report dated 15 January 2010

DRAFT

Mike explains:

"*The first indication of which we are now aware is we received a draft IBR, from BTG in October / November 2009, which included in the area relating to Barclays Bank a mysterious figure of £1.5m. When we queried this with BGT as it was separate from the loan information and asked BTG what this was, JS who had prepared the report for BTG informed us that it was a figure that Barclays had provided to be included in the report, but he did not know to what it related. We asked him to find out more about this, but we never received any further information*."

When the review was updated in October 2010 the same liability reappeared. This time BTG recorded an Interest Rate Hedge current balance of approximately £1.07 million and a maximum facility of £1.8 million, noting that Barclays Capital had calculated the breakage costs at approximately £1.07 million.

INDEPENDENT BUSINESS REVIEW

In accordance with your instructions, as confirmed in the Engagement Letter dated 9 September 2010 (Appendix A), we have undertaken an Independent Business Review of Sarumdale Limited and herein report our findings. We draw your attention to the scope of the review as detailed in the Engagement Letter.

Summary of Bank Facilities					
Entity	Description	Current Balance (£'000)	Maximum Facility (£'000)	Margin (%)	Notes
SLTD	Overdraft	220	250	3.0	Expiry 30 Nov 2009 - continuing as on demand.
SLTD	Commercial mortgage (CM1)	5,251	5,605	1.3	Expiry 21 Nov 2025. Covenants tested quarterly: 1) LTV max 70%; 2) EBITDA to exceed 175% of Gross Financing Costs (Gross Interest Cover)
SLTD	Commercial mortgage (CM2)	1,148	1,216	1.3	Expiry 25 Aug 2026. Covenants as above.
SLTD	Commercial mortgage (CM3)	650	692	3.0	Equal monthly instalments of capital and interest from 28 Feb 2009 to 30 Nov 2025. Covenants as above.
SLTD	Interest rate hedge	1,070	1,800		Per Barclays Capital on 1 October 2010 breakage costs total c.£1,070k.
SLP	Commercial mortgage (CM4)	327	350	3.3	Equal monthly instalments of capital and interest starting one month after drawndown to 30 June 2019. Relates to Springfield.
TOTAL		£8,666	£9,913		

Source: Barclays Connections Report dated 14 September 2010

Barclays' Connections system recorded the full hedge credit line as a single hard facility however, it did not separate out fluctuating break costs, which were only tracked on the traders' systems and changed continually, this was not a true reflection of the Connections printout.

BTG presented the £1.5 million and later £1.8 million figures, in their Independent Business Reviews first as a zero current liability and then later as only the £1.07m break cost. BTG however, were not passive recipients of information, as specialist restructuring advisers, they had a responsibility to understand and explain a material contingent obligation that appeared in the bank's own records and was being treated as part of the company's secured exposure.

Instead, the figure appeared unexplained in their reports. When the directors asked what it was, Begbies said they had queried it with Barclays but did not know what the liability related to. The obvious question was never properly answered: how could a seven-figure liability appear in Barclays' internal systems and in Begbies' own reviews without the directors ever understanding or being made aware of its existence or significance?

The Loan-to-Value Contradiction

The treatment of the liability became even more significant when BTG analysed Sarumdale's covenant position. Barclays' principal covenant required Loan-to-Value not to exceed 70%.

BTG's debt serviceability and sensitivity analysis calculated LTV using bank debt of approximately £7.6 million while expressly excluding the £1.8m swap-related liabilities that had created a security breach from the debt figure.

Sensitivity Summary Tables

	Base 2011 F	Base *CT 12 Months	Option 1 2011F	Option 1 *CT 12 Months	Option 2 2011F	Option 2 *CT 12 Months	Option 3 2011F	Option 3 *CT 12 Months	Option 4 *CT 12 Months
EBITDA	917,829	785,883	916,730	803,697	916,569	848,577	917,668	866,391	882,775
Bank Debt (excluding break costs)	7,611,123	7,611,123	7,336,623	7,336,623	7,611,123	7,611,123	7,336,623	7,336,623	7,336,623
Debt Service									
Interest	471,449	471,449	466,508	466,508	471,449	471,449	466,508	466,508	466,508
Capital	409,877	409,877	394,822	394,822	409,877	409,877	394,822	394,822	394,822
Total interest and capital	881,326	881,326	861,330	861,330	881,326	881,326	861,330	861,330	861,330
Interest cover	1.95	1.67	1.97	1.72	1.94	1.80	1.97	1.86	1.89
Debt service cover	1.04	0.89	1.06	0.93	1.04	0.96	1.07	1.01	1.02
Total Valuation	10,845,000	10,845,000	10,540,000	10,540,000	10,845,000	10,845,000	10,540,000	10,540,000	10,540,000
Total Bank Debt	7,611,123	7,611,123	7,336,623	7,336,623	7,611,123	7,611,123	7,336,623	7,336,623	7,336,623
LTV	70.2%	70.2%	69.6%	69.6%	70.2%	70.2%	69.6%	69.6%	69.6%

*Current run rate over a full 12 months, with necessary adjustments for each option.

IBR Sarumdale Ltd: Section 6 – Sensitivities & Debt Serviceability 18

With Barclays' requirement for LTV not to exceed 70%, Begbies' analysis inexplicably calculated LTV using only the reported bank debt, while deliberately excluding the swap-related credit line from the debt figure. The result was a reported LTV of around 70%, when in fact with the credit line it was 87%.

This analysis was fundamentally misleading. If Barclays was internally recording the £1.5 million to £1.8 million hedge credit line as part of the company's secured exposure, then that liability should have been included in the disclosed covenant calculations. Instead, Begbies presented a covenant position that excluded the very obligation that was driving the breach.

The hidden credit line was causing the problem, yet it was omitted from the analysis of whether the problem existed.

The PN16 Question

The existence of the hedge credit line raises a more fundamental question.

Each year Sarumdale's auditors would have sought confirmation of the company's banking facilities, liabilities and contingent obligations through the Practice Note 16 (PN16) process. Yet the directors maintain that neither they nor the auditors were ever informed that Barclays placed a £1.5 million and later £1.8 million, hedge credit line against the business.

This was not a theoretical exposure. Barclays treated it as a monitored hard-core facility and current liability that directly affected the company's credit grading and LTV position and it was this very liability that breached the bank's covenants and triggered Sarumdale's transfer into Business Support.

How, then, did a seven-figure liability feature in BTG's Independent Business Reviews and drive the company into distress, while remaining unknown to the directors and auditors responsible for understanding its true financial position?

Those questions have never been answered.

A Business Forced to De-Gear

BTG's reviews focused overwhelmingly on reducing Barclays' exposure. The proposed solutions centred on selling pubs, disposing of assets, and improving debt serviceability — measures designed to de-gear the business and protect the bank's position, rather than breaking the swap to immediately improve cashflow.

What the reviews also did not do was investigate whether the hidden credit line had itself contributed to the company's difficulties. No meaningful examination was undertaken into whether the liability had been disclosed to the directors, reflected in audit confirmations, or considered in Barclays' internal credit assessments and covenant calculations.

The emphasis remained on managing the consequences for the bank rather than establishing the cause of the distress.

The RPC Instructions and Counsel Opinions

Following the company's entry into administration in June 2012, Begbies Traynor instructed solicitors Reynolds Porter Chamberlain LLP (RPC) to advise on the potential claims against Barclays. By this stage, the administrators and their legal advisers had access to the Independent Business Reviews, Barclays' Connections Reports, and unambiguous evidence of the existence and treatment of the hedge credit lines.

Despite this, the investigation was framed almost entirely as a conventional interest rate hedging product mis-selling complaint. The focus fell on whether Sarumdale qualified as a "sophisticated" customer, when the director's acquired knowledge of losses, and whether any

claim was statute-barred. There was no mention or investigation of the fundamental issue: whether Barclays had created and relied upon substantial undisclosed credit liabilities that had never been properly disclosed to the directors, the company's auditors, or its professional advisers.

As a result, arguments that the non-disclosure of the credit lines could constitute deliberate concealment under section 32 of the Limitation Act 1980 were not advanced. Claims the company may have had against Barclays were allowed to be treated as time-barred without consideration of the concealment that had taken place.

The Human Cost

Sarumdale Ltd, a business built over more than two decades through hard work and careful management, was destroyed. Pubs were sold, staff were made redundant, and the directors lost the company they had spent their working lives building. Rodney Hall died devastated by the loss of the business he had helped create.

The stress and sense of injustice that followed the collapse of Sarumdale contributed directly to the deterioration of his health in his final years.

Conclusion – The Disclosure Failure

This is not simply a story of complex financial products or difficult trading conditions. It is a case in which hidden credit lines, created without the knowledge or consent of the directors, were allowed to breach covenants and drive a successful business into insolvency.

When those liabilities appeared in BTG's Independent Business Reviews, they were presented in a way that obscured their true nature and impact. Once the company entered administration, the opportunity to thoroughly investigate how those liabilities had been created and concealed was not taken. Instead, the focus remained on asset sales and risk reduction for the bank.

Fundamental questions about non-disclosure and whether saddling the business with hidden credit line liabilities was a fraud that was central to Sarumdale's collapse were never examined. Rodney Hall died without seeing any accountability for the conduct that destroyed the business he had spent decades building.

This case illustrates how insolvency processes can be used to manage the consequences of bank misconduct while shielding the misconduct itself from proper scrutiny.

Couple celebrate Yorkshire tourism award dinner at home

27TH APRIL 2020 NORTHALLERTON

Amy Callin:

From Award Winning B&B

To -

Losing the Family Home

Subject: AMY CALLIN – WHEN TRUST BECOMES BETRAYAL

Background

"The greatest abuse of power is not always committed by those we fear. Sometimes it is committed by those we trusted enough to ask for help."

When Edward Holroyd died of cancer on 8 May 2009, his daughter Amy Callin faced the task of administering her late father's affairs as Executor. She had no reason to imagine that, almost 16 years later, she herself would be made bankrupt and lose both her family home in the process. This 'risk' was not something upon which she was ever advised by her solicitors.

What made the case particularly damaging was that JS, the insolvency practitioner invited to the initial meeting by the family's solicitors, presented himself as someone who could help — just as the solicitors had done. Yet months later, the same law firm and the same solicitor were actively assisting JS to pursue Amy through the High Court as Trustee in Bankruptcy — something that would never have been possible had she not followed their original professional advice.

Unlike many of the cases examined in this report, Amy Callin's difficulties did not begin with a bank. They began with the death of her father. Acting on legal advice, Amy and her husband Paul placed her late father's estate into bankruptcy almost seven years after his death through an Insolvency Administration Order. On the advice of her friend they appointed JS, who they were told was an experienced insolvency practitioner, as Trustee in Bankruptcy.

They were led to believe his expertise, would ensure he acted independently and fairly. According to the Callins, that trust was ultimately betrayed. Rather than bringing clarity and professional guidance, the family's relationship with the IP marked the beginning of years of litigation. This included High Court proceedings brought against Amy by her former solicitor, who by then was acting for JS.

The events that followed raise fundamental questions about the conduct of insolvency practitioners, the jurisdiction of the courts of England and Scotland, and the safeguards intended to protect families who seek professional help during periods of exceptional personal vulnerability.

Amy's solicitor withdrew from the case several weeks before trial, leaving her to represent herself as a litigant in person, supported by her husband Paul. She raised matters of Scots law in her defence, but ultimately lost the case, resulting in a judgment of approximately £1.1 million against her, along with the loss of her limited partner interest and shareholdings.

A Case That Should Never have Reached this Point

At the centre of the dispute were partnership interests in Scottish Limited Partnerships connected to Rosetta Capital. The litigation in England proceeded on the basis that these interests, said to have belonged to Amy's late father, had been transferred through an Asset Purchase Agreement and could therefore be recovered for the benefit of the bankruptcy estate. However, the factual foundation of those claims was fundamentally flawed. Mr Holroyd had died in May 2009. One of the Scottish Limited Partnerships relied upon in the English proceedings, Roseway Participation Partners LP, was not even registered until March 2010 — almost a year after his death. On any ordinary reading of the chronology, he could never have been a partner in an entity that did not exist during his lifetime.

The claims also proceeded on the assumption that it was possible to transfer a deceased person's interests in Scottish Limited Partnerships, and that Scots law and the position of the General Partner were irrelevant to the dispute.

The IP advanced his SLP claims in the High Court in early 2021, with judgment handed down in May that year. Amy never accepted the factual basis of those claims. With the assistance of her husband Paul, she instructed Scottish solicitors Levy & McRae in Glasgow to review the position.

In a letter dated 23 October 2023 to the IP's Scottish solicitors, Levy & McRae stated:

"If there were to be further claims advanced ... then they must inevitably be defeated by prescription. Certain claims were advanced ... in February 2021, nearly 12 years after the death of Mr Holroyd. Claims would appear to have been prescribed by 8 May 2014, five years after the death of Mr Holroyd."

Prescription is Scots law's statute-barring mechanism, which extinguishes claims after a set period — in this case, five years.

The Admission that Should have Changed Everything

The legal foundation of the case began to unravel when Amy Callin, acting on Scots law advice, commenced proceedings against the IP in the Court of Session. She challenged the proposition that the Asset Purchase Agreement ("APA") had transferred her late father's interests in Scottish Limited Partnerships - in particular, her limited partnership interest in BML Participation Holdings LP, over which she had been ordered to pay over £574,000 plus make restitution of the interest itself.

Having pursued the English proceedings on the basis that the APA transferred those partnership interests, the IP instructed Scottish solicitors and counsel to defend the Scottish action. Their Defence adopted a fundamentally different position, stating unequivocally:

"***The APA did not transfer*** *or purport to transfer* ***anything.***" (Answer 3(2), emphasis added).

For Amy and Paul Callin, that admission was pivotal. If the APA did not transfer anything, they contend that the legal foundation upon which years of English litigation and enforcement had proceeded was fundamentally undermined.

Yet, according to the Callins, nothing changed:

- The English judgment remained in place.
- Enforcement continued.
- The admission made before the Scottish Court was never reflected in the English proceedings in any meaningful way.

The consequences were profound.

The admission in the Court of Session reinforced the Callins' view that the IP should have been aware of serious concerns about his conduct. In February 2023, a US-based law firm had already placed him on formal notice of misrepresentation and fraud in relation to the case.

Despite this, almost a year later he publicly presented Amy's case at a fraud conference in London as a successful action against an executor for misappropriated funds. What had begun as a dispute over a deceased estate was now becoming the mechanism through which Amy herself was being pursued.

The Trustee

If the appointment of the 'experienced' IP marked the beginning of the family's difficulties, the appointment of a Trustee in Bankruptcy marked the next chapter. Upon Amy's bankruptcy, control of her assets and legal claims vested in the Trustee. The office carries extensive statutory powers, including taking control of property, investigating transactions, commencing litigation, and determining whether valuable legal claims should be pursued or abandoned.

Those powers depend entirely upon public confidence in the integrity, independence and judgment of the office holder. The Callins contend that confidence was fundamentally undermined.

According to the Trustee's published professional profile, he had previously served on the ICAEW's Insolvency Licensing Committee, the Disciplinary Committee and the Appeal Panel. However, while continuing to act as Trustee in Amy Callin's bankruptcy, he was himself involved in High Court contempt proceedings arising from findings that he had made false or misleading statements in witness evidence in unrelated litigation. The proceedings, together with the Court's findings, are matters of public record.

For the Callins, this gave rise to a fundamental question: how could a practitioner entrusted with exercising extensive statutory powers over a bankrupt's estate, and who had previously occupied senior roles within the profession's own regulatory framework, continue to act while simultaneously defending such proceedings?

Their concerns were reinforced by what followed. Rather than investigating what they regarded as the estate's most valuable assets — professional negligence claims against Amy's former solicitor (the Petitioning Creditor) and the IP (the Supporting Creditor), along with related causes of action capable of challenging the judgments upon which the bankruptcy depended - those

claims were not independently investigated or pursued, while limitation periods continued to expire.

If the Callins' account is correct, the implications are profound. The very claims capable of undermining the legal foundation of the bankruptcy remained un-investigated while the bankruptcy itself continued and the family's remaining assets were realised.

The Bankruptcy of a Daughter

The events that followed transformed the case from a disputed inheritance into a personal tragedy. Amy was made bankrupt on the basis of judgments that she and her advisers maintain should never have been obtained in the form they were. The bankruptcy arose almost sixteen years after her father's death.

Woodlands Farm was not simply the family home. It was also Paul's established hospitality business, operating from a Grade II listed property with guest accommodation, commercial facilities and planning permission for further expansion. Years of work had transformed it into an award-winning business that benefited the local rural community.

Despite this, the Trustee obtained an order from the High Court permitting the property to be sold as residential rather than as a going concern. From the Callins' perspective, this meant the business value and goodwill were lost, and the property was effectively sold at an undervalue to another commercial operator.

Woodlands Farm is found near the moors of North Yorkshire

It was ultimately sold for £980,000 against an independent RICS Red Book valuation of £1.395 million — a difference of more than £400,000.

For Amy and her husband Paul, the loss represented far more than bricks and mortar. It represented the destruction of Paul's business, their home, and the future they had spent years creating. What made the situation worse was that the Trustee had refused Paul's offer - at full

value - to purchase Amy's share of their former home in Harrogate. This left the family facing a capital gains tax liability on the sale and with nowhere to live once Woodlands Farm was sold.

The irony was inescapable: Amy had sought professional advice to help administer her late father's affairs, but that decision ultimately resulted in her own bankruptcy.

When Insolvency Becomes a Weapon

Amy's story illustrates a different aspect of the weaponisation of insolvency. Unlike the banking cases examined earlier in this report, the issue here is not an undisclosed financial product or hidden contingent liability.

It is what happens when insolvency powers are exercised following litigation that is itself the subject of fundamental legal challenge. The consequences are immediate. Control of the litigation passes from the individual to the Trustee. Professional negligence claims vest in the bankruptcy estate, and the person seeking to challenge the process loses control of the very claims capable of overturning it.

At the same time, the Trustee's own appointment depends upon the continuation of the bankruptcy. Whether or not those structural tensions affected decisions in this case is ultimately a matter for others to judge. What cannot be disputed is that the structure creates an obvious conflict: the stronger the claims capable of annulling the bankruptcy, the greater the threat to the Trustee's own appointment.

Conclusion - The Cost of Trust

For Amy and Paul Callin, this case has never been about technical arguments over Scottish partnership law. It is about trust.

They sought professional advice from someone they believed would help them navigate the administration of a deceased estate. Instead, according to the Callins, that relationship evolved into years of litigation, bankruptcy, and the loss of everything they had worked to build.

- Their home was sold.
- Paul's business was lost.
- Their legal claims passed into the hands of others.
- What began with the death of a father ended with the bankruptcy of a daughter and the family being made homeless.

Without trust, insolvency ceases to be a system for fairly administering financial failure. It becomes, in the eyes of those who have lived through it, another instrument through which power is exercised without meaningful accountability. Which leads us to ask:

How, then, can public confidence in the insolvency profession be maintained if families who seek professional assistance come to believe that the very people they trusted to help them became the architects of their financial destruction?

The Morgan's:

Victims of the HBOS Reading Fraud

Speaking Up -

Painted a Target on their Back

Subject: 13 YEARS OF SUPPRESSION: HOW INSOLVENCY WAS WEAPONISED AGAINST THE MORGAN FAMILY

Background

Few cases examined in this report illustrate the weaponisation of insolvency more starkly than that of the Morgan family.

Their story did not begin with insolvency. It began with corruption and blackmail.

By 2005, David Morgan and his brothers had built one of Oxfordshire's most successful farming businesses. S. Morgan & Sons farmed around 4,000 acres, operated one of the United Kingdom's largest Charolais herds, and had become highly respected in both the agricultural and aggregates industries. The family had spent decades building substantial landholdings, profitable businesses, and valuable development opportunities.

That success came to an abrupt and deliberate end when David refused a corrupt demand from Lynden Scourfield, the HBOS Reading banker later convicted for his leading role in one of Britain's largest banking frauds.

Scourfield demanded that the family supply meat at cost price to Smollensky's, a London restaurant connected to his associate David Mills. When David refused, HBOS - within weeks - threatened to withdraw its support and demanded immediate repayment of the family's facilities. This forced the Morgans into an emergency refinance on punitive commercial terms.

The consequences were devastating. Millions of pounds were consumed in refinancing costs, excessive interest, and charges. Valuable development opportunities were lost. Properties had to be sold. Businesses that had once been thriving became trapped under an unsustainable financial burden.

Many years later, Sir David Foskett's Panel formally accepted that David (now deceased) and the Morgan family were victims of the HBOS Reading fraud and that Scourfield's fraudulent conduct

had materially contributed to the family's forced refinancing. By then, however, the damage had been done.

What followed, shows how insolvency can be used not merely to manage the consequences of wrongdoing, but as the final stage of financial destruction.

The Morgan Family's Business Acumen and Strategic Land Acquisitions

Before the HBOS Reading fraud destroyed their business, the Morgan family demonstrated considerable commercial foresight in land and mineral asset acquisition. Recognising the long-term value of high-quality sand and gravel deposits in Oxfordshire, David and Nigel Morgan researched and identified prime sites using specialist geological data.

After successfully selling a sand-bearing site in Longworth to Hanson, Hanson's representative advised them that the company was particularly interested in gravel-bearing land. Using a specialist geological book, the brothers identified prime gravel deposits across Oxfordshire. They subsequently purchased Dairy Farm in Clanfield and the neighbouring Chestlion Farm, consolidating approximately 900 acres of high-quality gravel-bearing land.

The family then approached local landowners whose poorer, gravelly land held little agricultural value but was ideal for mineral extraction. These strategic purchases were consolidated into a single transaction with Hanson, agreed at £15 million plus a sophisticated overage agreement. Once Hanson had extracted 30 million tonnes, the Morgans were entitled to a full market value, index-linked payment on all further extraction - an arrangement confirmed by expert's calculations that it could ultimately be worth well in excess of £50 million for the next generation.

These were not speculative or reckless deals. They were carefully researched, well-structured commercial transactions that demonstrated the family's ability to identify and extract significant long-term value from land assets — well ahead of many of their contemporaries.

How These Assets Were Targeted and Lost

The very assets the Morgan family had built through skill and foresight became targets once they refused Lynden Scourfield's demands.

Following the fraud and the family's forced exit from HBOS, control over these strategic land holdings and the valuable Hanson overage was progressively lost.

Barclays Bank, together with DLA Piper and the family's then solicitor Peter Williams of Burgess Salmon, took control of the completion of the Hanson transaction, they charged millions in fees for what we are told were incompetent consultancy and the carefully negotiated overage agreement was effectively given up.

At the time these critical decisions were being made, David was seriously ill, having recently undergone major nine-hour surgery. He was forced to deal with banks, lawyers, and insolvency practitioners largely on his own while the family's valuable mineral assets and future overage rights were compromised.

What had been a shrewd, forward-thinking investment - capable of generating substantial long-term wealth for the family - was effectively dismantled. The overage that could have secured the next generation's future was lost during the period when the family were under intense financial and personal pressure caused by the HBOS Reading fraud and its aftermath.

Out of the Frying Pan...

The Morgans had been forced out of HBOS in early 2006, immediately after David refused Lynden Scourfield's blackmail demand. Rather than finding stability, they were moved into expensive emergency finance arranged through Des Phillips.

A significant portion of this lending was placed on high-interest bridging facilities charging 1.5% per month plus 3% quarterly renewal fees — equivalent to around 30% per annum.

The family had been encouraged to move their banking relationship to Barclays by Phillips and Burgess Salmon. Barclays had financed Phillips' loan book but unknown to the Morgan's they were also connected to finance with the HBOS Reading criminal David Mills. Rather than receiving stable support, the Morgans were transferred into Barclays Business Support within months.

Williams, the solicitor that advised them to work with Phillips, later came under scrutiny for advising cash-strapped clients to take expensive, unregulated commercial loans from Des Phillips' companies (including UK Farm Finance) at interest rates of up to 22% or more, while also acting for Phillips' firms - a clear conflict of interest that was later investigated by the Solicitors Regulation Authority.

In 2009 and 2010, several companies linked to the Mills network subsequently entered insolvency. One such company, Clode Retail Finance Limited, had reported net debts of £41.45 million as at March 2009 (the bulk understood to be owed to HBOS/Lloyds), according to its auditors PwC. The company later went into Creditors' Voluntary Liquidation in February 2011, with liquidators from Begbies Traynor LLP.

Barclays had also provided finance to companies within the Clode group. Burgess Salmon — the firm that advised the Morgans to move their banking to Phillips and Barclays – unbeknownst to the Morgan's had extensive dealings with David Mills. These connections were later examined as part of Thames Valley Police's Operation Hornet investigation into the HBOS Reading fraud.

Rather than escaping the influence of the HBOS Reading fraud after leaving the bank, the Morgans had been moved deeper into arrangements connected to the same network — from one set of high-risk, high-cost lending into another. At a time in 2008/09 when most companies were struggling to service conventional lending at fixed rates of 7–8% plus margin and base rate had crashed to 0.5% the Morgans were still paying around 30% per annum on a sizeable portion of their debt.

Speaking Up Paints a Target on the Morgan's Back

In August 2009, David Morgan reported the blackmail and forced re-banking, directly to Lloyds Corporate Director Mark Medd, just 6 months after Lloyds had merged with HBOS.

That email put the bank on formal notice of the link between Scourfield, the Reading fraud, and the destruction of the Morgan businesses - at the time Lloyds was publicly claiming to have no knowledge of the criminal activities of Scourfield and the HBOS Reading gang. No proper response or investigation followed.

After his discussion with Medd, David emailed Peter Sobey (ex-Lloyds Head of Agriculture) a consultant allegedly supporting the family and Williams confirming the events.

From: jmorgan [jane.morgan@fieldfarmfresh.com]
Sent: 08 July 2009 16:49
To: 'peter.sobey@blueyonder.co.uk'
Cc: 'Peter.williams@burges-salmon.co.uk'; 'mgreetham@theandersonscentre.co.uk'
Subject: FW: Message for David Morgan

Dear Peter,

Because I was so p----d off this afternoon watching my business go down the plughole I was reading the local business magazine where low and behold Mark Medd director and head of large corporate at Lloyds TSB Reading Office, was doing an article saying how Lloyds are lending and wanted to support local businesses. So I rang him and explained that the beginning of my troubles started in Reading when Lyndon Scourfield, the then head of HBOS Reading Office pushed me out of the bank into the hands of Barclays because I wouldn't comply with his blackmail demands. Mark Medd was appalled at this and said considering they had just bought HBOS and they are having to clear up the mess which Lyndon Scourfield had left behind he felt they had a duty to help where they could. I said that's good because I have employed the services of the ex head of agriculture from Lloyds TSB, Mr. Peter Sobey to help raise working capital for the business. He knew of you and said he would like to speak with you and he sent to me the attached e-mail.

I hope this is helpful for our cause.

Regards,

David

-----Original Message-----
From: Medd, Mark [mailto:Mark.Medd@LloydsTSB.co.uk]
Sent: 08 July 2009 15:58
To: jane.morgan@fieldfarmfresh.com
Cc: Squire, David
Subject: FW: Message for David Morgan

Medd acknowledged David's report of the criminal blackmail attempt by Scourfield and he confirmed that Lloyd's not only knew about him but were having to "clear up the mess" he had left behind (somewhat reminiscent of the Barclays Director's admission to me around the same time in 2009). He confirmed he would investigate and report to Sobey, copying in David Squire, shortly after however, when no response had been made, Sobey left to work with Phillips firm and it transpired he had been working for Phillips as a consultant all along.

Instead of investigating the allegations however, and then compensating the Morgans, as Lloyds was required to do under the FCA's rules once it had knowledge of the fraud, the bank did nothing. It continued to falsely claim, both publicly and to Parliament, that it had no knowledge of the Reading fraud from 2009 onwards, and maintained that position for another eight years.

Williams had not advised David to report the blackmail in 2005 and did not do so again, when later asked why, he stated he had not known about it until after it was reported to the Police in 2010 and yet not only did David later confirm in his witness statement to the Police, he had reported it to Williams in 2005 and he advised just to 'move banks', but the above email was also sent on 8 July 2009.

So why weren't Burgess Salmon reporting criminal events at HBOS Reading?

Begbies enter the Scene

Just over six months after David Morgan reported the fraud to Lloyds, in April 2010, administrators from Begbies Traynor ("**Begbies**") became involved with the family. The debt they were pursuing was one claimed by a firm called Excel Securities.

The family confirmed that this debt had already been settled in March 2010, when Excel's managing director Laurie Hoffman personally attended Field Farm, accepted £15,000 in full and final settlement, and signed a receipt. That settlement however, was ignored.

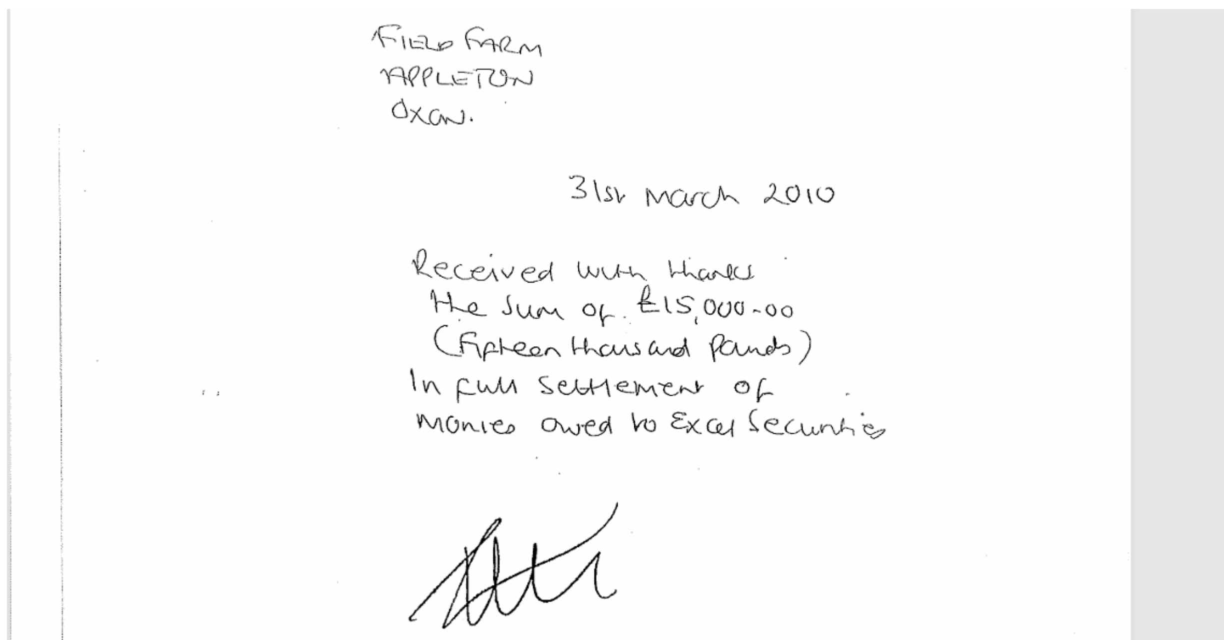
Later when a solicitors' firm the family had a fees dispute with began winding-up proceedings, the family paid them. However, Begbies, as Excel's administrators, joined the winding-up petition against the Morgan companies, forcing them into administration.

Once the companies were in administration, the same insolvency practitioners immediately pursued David and his brothers for personal bankruptcy, again on the Excel debt, claiming there were no funds or equity available to creditors - in the businesses, despite having spent creditors' money to force them into administration, apparently for no valid reason.

When administrators were appointed due to Begbies actions, the first thing they did was turn up at the farm with bailiffs to remove all the computers and files, containing all of the key evidence relating to the HBOS fraud and Barclays misdemeanours.

One computer was saved however after the family locked the office door and handed it to a family member out of the window. This was hidden in a barn, quaintly called the "Rat Shed" for obvious reasons, along with as many boxes of old paperwork hey could hide before the bailiff's demanded entry, threatening to break in. The family have been sifting through all the documents in the Rat Shed, laboriously on my request in the last few months, as we investigated this case in detail.

Begbies refused to believe the family met with Hoffman or made any payment the day before the company went into administration on 1 April 2010 however, here is the receipt for the payment that was found just six weeks ago:



Field Farm
Appleton
Oxon.

31st March 2010

Received with thanks
the sum of £15,000-00
(Fifteen thousand pounds)
In full settlement of
monies owed to Excel Securities

Begbies had been insistent that Hoffman had never visited the farm on Wednesday 31 March 2010, nor been paid any money.

The facts are Lynn Morgan picked him up from the train station because he was extremely ill (terminally) and on oxygen. He met with David and Nigel and asked for and was paid £15,000 cash to settle the financial dispute.

Whilst being ill he was about to go on holiday, his last, Jane got him to sign a receipt, and Gareth Morgan brought him a prime piece of beef before Lynn dropped him back at the train station. Here is the email to David, after he had the rib for his Sunday lunch a few days later:

jmorgan

From: Laurie Hoffman [laurie@wintonlodge.co.uk]
Sent: 04 April 2010 23:22
To: 'jmorgan'
Subject: sunday lunch

Hi David

The rib of beef was superb.

Not so good for my heart but bugger that!!!

Best wishes

Laurie

Laurie Hoffman died just a few weeks later and would never be able to support the events the family could clearly prove happened when they entered into a full and final settlement of that debt in 2010.

Five family members were able to give evidence that they had met with Hoffman that day. However, when Begbies refused to believe the family's statements and brought legal proceedings, Burgess Salmon advised the family that only David should appear as a witness. At the time, David was seriously ill and undergoing gruelling chemotherapy.

The claims did not stop with David and his brothers. They extended to the wives as well - despite the family's position that the wives had played no part in running the business, received no benefit from the borrowing, and had been pressured by Excel to sign Personal Guarantees without any Independent Legal Advice just three weeks before Excel called in the debt.

When the hearing arrived, following chemotherapy David was too ill to attend, his solicitors asked for an adjournment, but the Begbies administrators objected, stating they didn't know when, or if he'd ever be well enough to attend, "why should their creditors wait for their money" they said.

The Judge agreed and rubber stamped a judgement, an application to appeal was brought because of David's being too ill to attend and being the only witness but the appeal was inexplicably refused.

The administrators claimed £214,000. Belatedly, they also tried to claim a further £400,000 in default interest - until the Judge pointed out that they had already submitted a witness statement, supported by a signed Statement of Truth, confirming they were not entitled to it.

The family, however, had told the truth: the debt had been paid. It was a full and final settlement. Those three words — "full and final" — combined with "Begbies" would come back to haunt the family for more than a decade.

Misrepresentation of Security

When a petition for bankruptcy is presented at the court, it should be a last resort, when no funds are or can be made available, on the 22 March 2013 Begbies presented a petition. The firm has been asked repeatedly to provide the whole file but the only petition it has provided as recently as last year was the one below:

Creditor's Bankruptcy Petition on Failure to Comply with a Statutory Demand for a Liquidated Sum Payable Immediately (Rule 6.6)

Form 6.7

No. 0266 of 2012 .

IN THE † Oxford County Court

In Bankruptcy

Re ‡ Mr David Morgan

† Enter "High Court of Justice" or "________ County Court" as the case may be.

‡ Insert full name of Debtor (if known).

(1) Insert full name(s) and address(es) of Petitioner(s).

I/We (1) Excel Securities Plc (in administration) (company no. 03800111) c/o Paul Stanley and Andrew Dick joint administrators of Excel Securities Plc c/o Begbies Traynor 340 Deansgate, Manchester M3 4LY

(2) Insert full name, place of residence and occupation (if any) of Debtor.

petition the Court that a Bankruptcy Order may be made against (2) Mr David Morgan of Field Farm, Netherton Road, Appleton, Oxfordshire, OX13 5QW

In the petition the security position was misrepresented to the Court as unsecured.

5. On (9) 20 June 2012 a Statutory Demand was served upon the Debtor by (10) personal service in accordance with the attached witness statement of Kiera Alexandra Bentley, a process server in respect of the above-mentioned debt. To the best of my knowledge and belief the Demand has neither been complied with nor set aside in accordance with the Rules and no application to set it aside is outstanding

(11)

6. (7) [I] [We] do not, nor does any person on our behalf, hold any security on the Debtor's estate, or any part thereof, for the payment of the above-mentioned sum

Providing false information in a statutory demand or bankruptcy petition can constitute a criminal offence. The petition was challenged by David's solicitors on the basis that Excel held security over two properties, including a second charge over a family home called Bramley House, which had substantial equity, enough to secure the debt amount two to three times over.

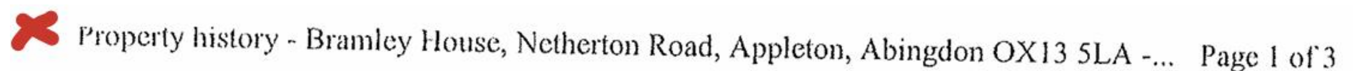
Following that challenge, Begbies indicated they would remove or waive the security, to achieve the bankruptcy. This was an unusual step. Where security is available, it is standard practice to rely on it to recover funds for creditors, rather than pursue bankruptcy. In this case, Excel already held the charges. Rather than enforcing against the available security however, Begbies chose instead to press ahead with personal bankruptcy proceedings against all eight family members.

More seriously, they then relied on what the family confirm was a fabricated Zoopla "Property History" document to argue there was "no or negligible equity" in the property.

That document provided to the court, claimed Bramley House had been listed for sale at £950,000 in June 2010 (it was mortgaged for £880,000). It contained multiple clear falsehoods:

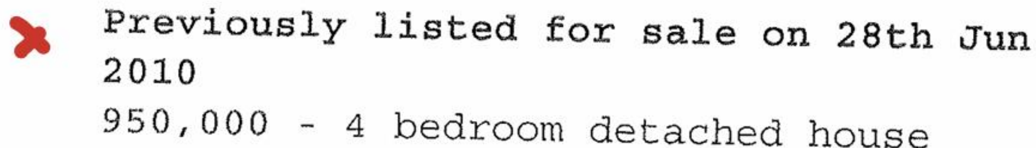
- it described a "newly built" house (Bramley House was built in 1988);
- gave incorrect internal measurements;
- detailed a detached studio/garden room that did not exist on Bramley House, and;
- used details and a description copied from another nearby property.

The document despite allegedly being a historical version, from 3 years earlier, also carried the prominent banner "AWAITING PHOTOS" despite containing a full room-by-room description.


Property history - Bramley House, Netherton Road, Appleton, Abingdon OX13 5LA -... Page 1 of 3

Zoopla

Property history of Bramley House, Netherton Road, Appleton, Abingdon OX13 5LA, 28th Jun 2010


Previously listed for sale on 28th Jun 2010
950,000 - 4 bedroom detached house

This could not be a genuine document.

Bramley House was never put up for sale in 2010, the information and description relate not to Bramley but to a property called Homeleigh that was up for sale (and sold) in the village in 2010, circa 0.5 miles from Bramley. The name in the heading it would seem, had been 'cut and pasted in'.

An expert in the field of 'composite documents (forgeries) and member of the Academy of Experts who is currently investigating the document said quite simply in their first email:

"Just a quick glance reveals those 3 pages don't appear to be the original but have been copied at an angle so all content misaligned on each page... some of the typescript as in Page 1 doesn't all flow and the 950,000 jumps to next line and in lighter shade of black ink."

Despite Begbies lawyers having drafted the original Legal Charge over the correct title for Excel several years earlier and having access to proper valuations showing Bramley House and its associated land were worth in excess of £1.4 million, they submitted to the court and relied upon the false Zoopla document stating a value of just £95,000 to justify refusing reasonable settlement offers.

It would seem this was part of the modus operandi used to support the decision to incur substantial costs bankrupting all eight family members, on the basis they "had no equity" in their charges and no funds to recover. Begbies inexplicably were prepared to go to any lengths to bankrupt the Morgans, including spending £60,000 of creditors money.

This was the moment insolvency became a weapon. But why would Begbies go to such lengths as administrators without funding (Excel was insolvent financially), for no return?

A family that had already been blackmailed by a corrupt HBOS banker was now being pursued through the insolvency process on what the evidence strongly suggests was a false and misleading basis.

They were first forced into administration and then into personal bankruptcy, using documents that appear to have been fabricated in order to strip them of their assets and block their claims against Lloyds.

INSOLVENCY OR ASSET CONTROL?

The proper purpose of insolvency is to maximise returns for creditors while acting fairly towards debtors, here the opposite occurred.

Offers capable of producing immediate and substantial recoveries for creditors were rejected. In October 2013, shortly before the bankruptcy hearing, Karen Phillips of UK Farm Finance offered to advance funds to pay Excel in full and final settlement — initially around £200,000 (to settle an alleged debt of £214,000), with a willingness to go higher, as the email below proves:

From: Karen Phillips [mailto:karen.phillips@ukacornfinance.co.uk]
sent: 04 October 2013 17:13 To: Seb Wharton
Subject: RE: S Morgan & Sons Limited

Hi Seb

Further to our telephone conversation, we discussed that currently I am able to raise around the E200,000 figure, however, I am going to do everything I can to get as close to the E250,000 you have requested as possible.

These offers were made while David Morgan was seriously ill and undergoing chemotherapy, despite his health David and Nigel were in advanced talks to buy back their assets, including the family homes out of administration. A bankruptcy order against the family members would then make such a deal highly improbable, if not impossible.

David emailed Begbies on the 15 November 2013, despite being a proud man, begging for some leniency:

From: jane.morgan@fieldfarmfresh.com [mailto:jane.morgan@fieldfarmfresh.com]
Sent: 15 November 2013 13:34
To: Seb Wharton
Cc: danielfitzgerald@kuits.com
Subject: The Morgan Family

Dear Mr. Wharton,

I know you have had many dealings with different people relating to our affairs with Excel Securities in administration and I am also aware that we are only a few days away from you from potentially making us bankrupt as individuals. This as you know will be a devastating blow for me and my family who have suffered greatly at the hands of Barclays and their associates, hence why we are in the difficult situation we find ourselves in with you. You are of course aware that if we are made bankrupt it will take away any opportunity we have for paying you for what has happened.

What I would like to respectfully suggest to you is would you consider giving us an extension of time to enable us to complete our deal with the administrators of the company which we are working on, which in turn will allow us to agree a substantial payment to you.

I know this is not ideal and I also know that it has been going on for a considerable amount of time but as a gesture of goodwill towards the situation, if you were to agree to an extension, is that we could collectively make a payment to you of £500.00 per week until we conclude the main deal.

I would like to say one other thing to you and that is for the last 7 years I have been battling bowel cancer and as I am sure you can imagine this fight along with all the other misery which Barclays have inflicted on us has been extremely taxing. The cancer at the moment is under control and the prognosis for the future is looking positive and that is why I would like you to try and help me through this difficulty by just giving us the time we need. If I am made bankrupt my life will turn into a nightmare.

Would you please try and help me and accept my offer. I look forward to hearing from you.

Kind Regards,
David Morgan.

David's pleas were rejected, instead, Begbies pressed ahead with the bankruptcy petitions against all eight family members and bankrupted them just 10 days later on 25 November 2013, despite between Phillips and David, having been offered sufficient funds to discharge the debt in full within weeks or just a few months.

Once the bankruptcies were secured, the administrator reported the outcome to creditors in strikingly candid terms.

In the April 2014 administration report, they described successfully obtaining judgment and then having the family declared bankrupt as a "win" in legal terms - despite having received no payment whatsoever and even though the bankruptcies produced no return to creditors.

David Morgan died on 4 April 2014, just over a week before the "win" was advertised, still bankrupt, a victim of a Lloyds Bank (HBOS) fraud, without seeing justice or vindication, a copy of the "win" statement from Begbies is exhibited below:

no monies are due into the administration We have not commenced any new litigations in the period, however upon advice from solicitors one was ceased One litigation has ceased naturally It was classed as a 'win' in legal terms as we had successfully obtained judgement for a sum, however having received no payment and following the deployment of continuous delaying tactics by the debtors, we were successful in having them declared bankrupt All together, 3 sets of litigation remain ongoing

All remaining matters are progressing with solicitors through various stages

The administrator had spent over £60,000 of creditors' money to achieve this outcome. The only way bankrupting a dying man and his family for zero financial return can be described as a "win" for an administrator, allegedly representing creditors interest, would be if they had intended to achieve something else, or for someone else and certainly, nothing that was ever part of their legitimate remit.

Offers that could have produced real recoveries for creditors were turned down in favour of pursuing personal bankruptcy against a family of bank fraud victims, so who were the real beneficiaries of those actions?

Suppression of Claims

An Oxfordshire-based family were bankrupted in the Oxford County Court. Inexplicably all eight family members and estates then came under the control of a Trustee from the same Begbies Traynor Manchester office that administered Excel Securities.

That Trustee, a senior partner at Begbies, as was the Excel administrator who had pursued the bankruptcies, refused to investigate the family's concerns. These included the conduct of the Begbies partner responsible for Excel, the unnecessary administration, the three-week period during which the wives were pursued under personal guarantees before Excel's alleged default, the lack of independent legal advice, the clear equity in Bramley House, and the misleading information presented to the court.

The Trustee and their solicitor from HM3 also failed to investigate Excel not removing its charges over the family's assets. One of those charges remains in place today, with Excel still listed as a beneficiary under an overage agreement on an asset that was sold at undervalue during the administration.

When the family sought to pursue claims against Excel (and therefore Begbies), Lloyds in relation to the HBOS Reading fraud, and Barclays over the Chestlion transaction, the Trustee refused. They stated they could not "go behind the bankruptcy." In doing so, they effectively shielded the very parties whose conduct had caused the family's financial destruction.

An Inequality of Creditors Rights and Investigation

The Trustee's assertion that they could not "go behind the bankruptcy" to investigate the family's claims against Excel, Lloyds and Barclays was fundamentally at odds with their obligations.

While refusing to investigate the Morgan family's substantial claims arising from frauds linked to Lloyds and Barclays, the Trustee and their solicitors at HM3, at the same time threatened to evict Lynn's elderly parents, despite her father suffering from vascular dementia, from their own home unless she agreed to pay £150,000, representing her half of a future inheritance, the Trustee had no right to claim on.

The property was held in an interest in possession trust, meaning Lynn and her sister had no right to the capital until after their mother's death. Their mother remains alive today.

They also threatened to remove the wedding rings from Lynn's finger on the basis that "creditors had to be paid."

This approach stands in stark contrast to Begbie's handling of the administration of Clode Retail Finance Limited, the company connected to David Mills around the same time period.

As early as 2010, journalist Ian Fraser had raised serious public concerns about David Mills' involvement with Clode and potential money laundering. While Mills was in control, the company's overdraft reportedly rose to £40 million. Yet when Begbies Traynor were appointed as liquidators, their reports made no mention of these issues and showed no evidence of any investigation into Mills' conduct.

They simply noted, without comment, that Lloyds — despite holding a £2 million commercial mortgage — had chosen not to submit a claim. At the time, HM Treasury was Lloyds' largest shareholder. Significant sums that could have been recovered for the taxpayer were quietly written off.

This was one of several Mills-linked companies where Begbies acted as administrators. Despite widespread public allegations at the time, they made no apparent attempt to investigate. Had they done so, they could have helped expose the HBOS Reading fraud years earlier. Instead, they chose not to.

This stands in stark contrast to their aggressive pursuit of the Morgan family.

Ongoing Suppression

Rather than bringing the bankruptcies to an orderly conclusion, they were kept open for over five and a half years. This continued long after Thames Valley Police ("**TVP**") had investigated the blackmail of David Morgan and charged Lynden Scourfield in connection with the HBOS Reading fraud, including the blackmail attempt on David himself. By this stage, the Morgan family should have been recognised by any responsible Trustee as victims of bank fraud.

The bankruptcies were not concluded until years later however, and only after the family had first entered into a full and final settlement with Lloyds during the Griggs Review. That settlement was for a relatively modest sum, despite the family's actual losses (with interest) having been forensically calculated at well over £100 million.

Only after that deal with Lloyds was concluded, thereby protecting the bank from further claims, did the Trustee agree to a full and final settlement of the bankruptcies in May 2019 (the "**Begbies Full and Final**" agreement). The agreement stated that it was:

'a full and final settlement of all the Trustees claims against the Morgan Family arising from or connected to the bankruptcies.

As part of reaching that settlement, the Trustee had to obtain the agreement of their colleague at Begbies who was by then acting as liquidator of Excel Securities Plc (In Liquidation), the largest creditor in the bankruptcies. The liquidator only consented on the condition that the Morgan family agreed not to bring any claims against Excel or Begbies. The settlement states:

7. That in order to reach this settlement I have had to secure the agreement of the largest creditor, Excel Securities Plc - In Liquidation. The Liquidator is prepared to sanction this agreement on the understanding that the Morgan family, who are all signatories to this agreement agree that they will not instigate or prosecute any claim against Excel Securities Plc - In Liquidation.

In return, the Trustee agreed to provide all reasonable cooperation to secure the annulment of each of the Morgan family's bankruptcies. The agreement also expressly stated that the Trustee was "at liberty to pay the monies received against any of the bankruptcy estates of the Morgan family":

5. That I will provide all reasonable cooperation in order to secure an annulment of each of the Morgan family's bankruptcies.

6. That I am at liberty to pay the monies received against any of the bankruptcy estates of the Morgan family.

The Trustee subsequently allocated the majority of the £375,000 received under the Begbies Full and Final Agreement to their/ Begbies' own fees, for the benefit of the Manchester office and to their legal fees, for settling a debt that in fact had not legally existed. The Trustee stepped down, Excel was dissolved the Morgan's nightmare experience as alleged 'bankrupts' it seems, had finally ended.

For the Morgan family, this had not been insolvency used to maximise returns for creditors or to bring matters to a fair conclusion. It was insolvency being used as a mechanism of control — to keep the family trapped, it prevented them from acting against the bank and forced them into a settlement with Lloyds before they could be released from bankruptcy.

THE PROMISE OF JUSTICE

When the HBOS Reading convictions were secured in 2017 (with Lynden Scourfield pleading guilty the previous year), the Morgan family believed the truth had finally emerged and that justice would follow.

All eight family members and estates - the six living members together with the estates of David Morgan and Angela Morgan - placed their claims into the Foskett Review.

They did so on the basis of Sir David Foskett's public assurances that victims would receive a "*fair*", "*generous*" and "*non-legalistic*" assessment, capable of restoring them to "*the position they would have been in had the fraud not occurred*". In doing so, they once again gave up their right to pursue separate litigation against Lloyds.

Having already signed the Begbies Full and Final agreement in 2019, the family reasonably believed that any compensation would now be under their own control.

As explained in Chitty on Contracts, for a settlement to be truly "full and final", it must reflect the clear intention of the parties to settle all matters comprehensively, with proper consideration provided, such as payment or forbearance.

While courts interpret such agreements objectively based on the wording and surrounding circumstances, in this case the family paid £375,000 — taken from compensation funds to which the Trustee had no legal entitlement — simply to bring an end to nearly six years of proceedings.

During this period, the Trustee, supported by their solicitor from HM3, engaged in a number of concerning actions, including:

- Selling valuable property assets at undervalue.
- Threatening to sell and evict Lynn's parents from their home unless she paid £150,000, despite the property being held in trust.
- Threatening to seize the wedding rings from Lynn's finger.
- Allowing their colleague, acting as liquidator of Excel, to retain charges over family assets despite having given an undertaking in court to remove them.
- Permitting another creditor, Frontier Agriculture, to maintain a charge over Bramley House and recover £500,000, even though Excel had formally stated that it held no security.

The list goes on.

When is a Full and Final Agreement NOT "Full and Final"

Despite having signed the Begbies Full and Final agreement in 2019, once significant compensation became available through the Foskett Review, another partner at the Begbies Manchester office - along with the same solicitor from HM3 who had drafted the original agreement - took the position that it had not been a true "full and final" settlement. They proceeded to re-open all eight of the Morgan family bankruptcies.

Even though Excel had previously agreed to a compromise as part of that settlement, the Begbies liquidator acting for Excel immediately applied to reinstate the dissolved company before the bankruptcies had even been advertised or any funds distributed.

Rather than allowing a proper and independent assessment of the estates' losses through the Foskett Panel, the family came under pressure - due to Begbies' ongoing control and delays - to release funds to support their farming and abattoir businesses following the difficult post-COVID period. Shocked by the prospect of further manipulation, the family accepted legal advice for one of the ladies to take a single Fixed Sum Award each in settlement of all the estates, rather than proceed with a full review of the much larger losses.

Begbies indicated that processing the award could take considerable time. However, they suggested that if all four Morgan ladies and their estates handed over their compensation payments to Begbies, they could expedite interim payments equal to two thirds or more of the funds each and release funds almost immediately to support the businesses. On this basis, the family agreed to transfer all four compensation amounts to Begbies.

Once Begbies had received the money, they denied having made any commitment to release funds promptly. No meaningful payments were made to the businesses. The delays continued for months, the financial pressure on the farming and abattoir operations persisted, and professional fees once again ran into hundreds of thousands of pounds.

After small interim payments, less than half they had committed to, the remaining funds were not released to the ladies until almost nine months after Lloyds had offered the compensation — and only after hundreds of thousands of pounds had been paid to settle an Excel claim that had not existed in 2012 and had already been compromised in the 2019 settlement.

The final condition imposed was that the money would only be released if the ladies signed a "letter of comfort" stating that Begbies had acted in their best interests and that they would not bring any further complaint or claim. Nigel wrote to his solicitors in disbelief, pointing out that after David had been blackmailed in 2005, the family were now effectively being blackmailed again just to receive their own compensation.

For the Morgan family, the pattern was now unmistakable. The original fraud had led to administration and bankruptcy. Years later, after the fraud was exposed and the family were formally recognised as victims, the insolvency process was used again — this time to take control of the compensation intended to remedy that fraud.

More than a decade after the fraud was first exposed, the family had still not been permitted to bring any claim against Lloyds. Every time compensation became available, Begbies reasserted control. The fraud had led to insolvency. Insolvency had then become the mechanism through which the compensation for that fraud was placed beyond the family's reach.

Thirteen years on, many matters still remain unresolved.

The Weaponisation of Insolvency

The Morgan case raises fundamental questions that extend far beyond one family.

This report does not suggest that insolvency practitioners should not administer estates arising from banking failures. The real question is this:

At what point does a legal process designed to protect creditors become a weapon used to shield those same creditors from accountability and to control victims' access to justice?

In the Morgan case, that line was crossed.

A corrupt HBOS banker blackmailed David Morgan. The resulting financial distress led to the administration of the family companies by Begbies, followed by personal bankruptcy. Years later — after the fraud was exposed, Scourfield was convicted, and the family were formally recognised as victims — the same insolvency framework was used once again.

This time it was deployed to revive previously compromised claims and take control of the compensation intended to remedy that fraud.

Conclusion – Over Two Decades of Injustice

Jane Morgan is now in her seventies. David Morgan has been dead for more than a decade; he was blackmailed in 2005.

It took three and a half years after he was formally recognised as a victim of the HBOS Reading fraud before his widow finally received any settlement - and even then, it was only a fraction of the estate's true losses. She had to fight for it and risk her own funds to secure it.

Even that limited settlement only came after Begbies had gone to court in an attempt to claim the entire compensation for their own fees and for creditors whose claims had been created by the very fraud that destroyed the family's business. Sir David Foskett's public commitments to restore victims to the position they would have been in had the fraud never occurred, proved empty.

No case in this report illustrates the problem more starkly. A legal process designed to deal with financial failure was instead used to protect those responsible for the fraud and to deny victims justice.

This principle was clearly set out by the House of Lords in Mulkerrins v PricewaterhouseCoopers [2003] UKHL 41, where Lord Nicholls stated:

"The principle is well established. ***The courts will not assist a litigant to profit from his own wrongdoing****... The principle is not confined to cases where the claimant's conduct amounts to a criminal offence. It extends to cases where his conduct is dishonest or otherwise contrary to public policy."* (emphasis added)

The Morgan family's case shows exactly why this matters. Victims of serious fraud were subjected to an insolvency process that stripped them of control over their assets, revived compromised claims, and seized the compensation intended to remedy the original wrongdoing — while blocking them from pursuing claims against those responsible.

If the courts will not assist those who seek to profit from their own wrongdoing, why should insolvency practitioners — when acting as officers of the court in cases involving victims of bank fraud — be permitted to do the opposite?

A PROBLEM NOT LIMITED TO THE UK

The Irish Dimension and the Case for Reform

The cases examined so far have all arisen within the jurisdiction of England and Wales.

However, the problems identified — the use of insolvency processes to suppress claims, the failure of practitioners to properly apply statutory protections, and the structural conflicts that can arise when practitioners are appointed by the very institutions whose conduct is in question — are not confined to the United Kingdom.

Closely affiliated jurisdictions, including Ireland, operate insolvency and repossession frameworks that share many of the same structural features and face many of the same criticisms. In both jurisdictions, questions have been raised about whether insolvency processes are being used, in some cases, to protect powerful financial institutions rather than to deliver fair outcomes for those affected by financial distress or alleged misconduct.

The following case study has been prepared with the assistance of Lorraine Morris, an Irish, England & Wales and New York-qualified capital markets and derivatives lawyer with decades of front-line experience acting for investment banks and commercial enterprises.

Ms Morris became a whistleblower after being headhunted to serve as an expert to the Irish Parliamentary Banking Inquiry.

There, she and other expert colleagues witnessed what she describes as an Inquiry subject to vested interests, with efforts to suppress evidence of bank insolvency, exclude key witnesses and core documentation and avoid scrutiny of the underlying fraudulent banking practices that had been - and were being - used to repair severely impaired balance sheets.

Morris contends that, as a consequence, the Inquiry failed to examine the full extent of hidden credit line structures, derivatives exposures and systemic mortgage-related misconduct that only came to light through subsequent research.

Drawing on her extensive transactional background, she has since conducted detailed research into how loan-linked swaps, interest rate derivatives, concealed credit liabilities, and systematic mortgage account manipulation have been used in Ireland. Her work has highlighted how these practices have led to the denial of redress, unlawful enforcement action, and repossessions against SMEs and households.

Ms Morris has officially supported and amplified BankConfidential's research on hidden credit lines, using its findings as a reference point for her broader analysis of how undisclosed liabilities and balance-sheet engineering continue to underpin many of these issues.

The case study below, drawn from material provided by Ms Morris, concerns events in Ireland. It illustrates how even a regime that contains explicit statutory protections for the family home can fail to deliver those protections in practice when the practitioner responsible does not fully exercise the powers available to them.

While this case arises under Irish law, the underlying issues it raises — the importance of evidential standards, the effective use of statutory protections, practitioner independence, and the risks created by conflicted systems and incentives — are directly relevant to the broader questions examined in this report.

Considerations for Reform – The Callin Report

The cases set out in this report raise serious and recurring questions about the current operation of the insolvency system in the United Kingdom. They suggest that, in some circumstances, insolvency processes can be used — whether deliberately or through systemic weakness — to suppress legitimate claims, control compensation, and shield institutions from accountability.

Addressing these issues will require careful consideration of regulatory structures, professional standards, and, potentially, legislative reform. One contribution to that discussion has been prepared by Paul Callin.

Mr Callin holds a qualifying law degree and an MBA in Finance from Manchester Business School. He previously worked in business development and relationship management roles at Bank of Scotland Corporate and Lloyds Banking Group, before founding and running an award-winning hospitality business.

Drawing on this combination of legal training, corporate banking experience, and direct experience of running a business under financial pressure, he has examined the current insolvency framework in detail.

He has set out a series of proposals for reform, including the introduction of a single independent regulator for insolvency practitioners and the potential adoption of a safeguarded Debtor in Possession model, modelled in part on elements of the United States Chapter 11 and Chapter 12 frameworks, but incorporating specific protections designed to address concerns previously raised by Lord Sikka and others.

While BankConfidential cannot endorse every element of those proposals as we are not insolvency experts, we believe they represent a serious and constructive contribution to the debate. They provide a solid basis for further discussion and negotiation about how the insolvency system might be strengthened to better protect victims of financial misconduct while maintaining necessary safeguards against abuse.

The following sections first present the case study from Ireland before turning to Mr Callin's analysis and recommendations for consideration.

The Connaughtons:

A Tale of Rules and Human Rights Ignored

Leading to Tragedy

Subject: The Connaughton's – When Insolvency Practitioners Do Not Apply the Rules

Background

Denis and Brid Connaughton built their home at Slugaire on the Dooradoyle Road in Limerick with their own hands. More than thirty years ago they purchased the site and, working within very tight means, gradually constructed the house themselves over many years.

It was never simply a property. It was the home in which they raised their children, where every room held memories of family life, and where they expected to live out their later years. For Denis and Brid, Slugaire was the centre of their world — not a financial asset to be negotiated away.

In addition to the family home, Denis had acquired two modest investment properties in the same area. These were not speculative investments but were intended to provide some modest security in retirement. Like many Irish families, the Connaughtons became caught up in the tracker mortgage scandal.

They believed they were entitled to proper redress for the way their mortgages had been mishandled, but instead found themselves facing disputed arrears, compounding interest, and eventual enforcement proceedings against the house they had built.

The Personal Insolvency Arrangement

Faced with the real and immediate threat of losing their home, and with no solicitor to represent them, Denis turned to Ireland's Personal Insolvency Arrangement (PIA) process.

Under Irish law, the PIA regime was designed to give debtors in financial difficulty a structured way to reach an agreement with their creditors.

Importantly, the legislation includes specific protections for a debtor's principal private residence, recognising the particular significance of the family home. Once a protective certificate is granted, it provides a period of protection during which enforcement action is stayed while a proposal is prepared.

Denis submitted a full Prescribed Financial Statement detailing the household's income, outgoings, assets and liabilities. He did so in good faith, expecting that the Personal Insolvency Practitioner (PIP) would function as an independent professional, standing between the family and their creditors. Under the Irish rules, the PIP is required to ensure that debts are properly proved, that valuations are obtained, and that the process operates fairly.

Where a secured creditor fails to provide adequate proof of its debt or fails to comply with statutory requirements, the PIP has the power to treat that debt as unsecured for the purposes of any arrangement. This power exists precisely to prevent creditors from frustrating the process through non-cooperation.

On the Connaughtons' account, these safeguards were not applied. The main secured creditor provided only a brief, two-page proof of debt. It asserted that substantial sums were owed but did not exhibit the original mortgage documentation, letters of offer, or a clear and verifiable breakdown of how the claimed balances had been calculated.

No up-to-date valuations were supplied within the required timeframe, and there was no proper chain of title showing how the loans had moved between institutions.

Denis also raised concerns that a significant portion of the interest capitalised into the claimed balances appeared to be statute-barred, having accrued more than six years before the proof of debt was submitted. He requested a full reconciliation showing how principal, lawful interest and arrears had been calculated. None was provided.

Despite these clear deficiencies, the PIP did not require the creditor to produce proper proof of the debts.

He did not insist on production of the original title documents or demand adjusted figures removing sums that could not lawfully be claimed. Nor did he exercise the power available to him to treat the unproven secured debts as unsecured when the creditor failed to meet the statutory requirements.

The Receiver's Control

A further and serious difficulty arose in relation to valuations. While valuations were eventually obtained for the family home and one of the investment properties, a third valuation could not be completed.

A receiver appointed by the creditor had installed a tenant in one of the investment properties. That tenant later obtained a District Court safety order that effectively prevented Denis from attending the property at all. As a result, an independent valuation could not be conducted during the life of the protective certificate.

With time running out, the PIP informed Denis that there was now insufficient time remaining to prepare and issue a proposal for creditors to consider. No Personal Insolvency Arrangement was ever put forward.

In March 2026, the protective certificate expired without any arrangement having been made. Within months, enforcement action was taken directly against the family home at Slugaire.

Denis and Brid returned to find that the house they had built with their own hands had been entered in their absence. The locks had been changed, the electricity and water disconnected, and the gates chained.

An appeal in related proceedings was still pending, yet their home was no longer under their control.

Conclusion – A Failed Process

For Denis and Brid, this was not simply the loss of a house. It was the destruction of the home they had spent decades building and the shattering of their lives.

The family turned to the insolvency system in good faith, believing it existed to give families in genuine difficulty a fair opportunity to protect their principal private residence.

Instead, the family were subjected to a process in which significant questions about the creditor's claims were left unresolved, statutory protections designed to safeguard the family home were not properly applied, and the practitioner responsible for managing the process simply walked away when his intervention was most needed.

What remained was not only the loss of their home, but the clear and devastating realisation that the very laws and professionals put in place to protect ordinary people had been allowed to fail them. The system did not just let them down — it enabled their home to be taken from them while critical questions about proof, fairness and legal entitlement went unanswered.

This is not solely a problem within the United Kingdom. Closely affiliated EU states, which are bound by the European Convention on Human Rights and the right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1, are also seeing family homes destroyed through the abuse of outdated and poorly supervised insolvency laws.

When insolvency practitioners and legal systems fail to properly apply the protections that exist on paper, the result is the same on both sides of the Irish Sea:

Ordinary families lose their homes while those responsible for upholding the law look the other way.

A CALL FOR REFORM

PAUL CALLIN: CONSIDERATIONS FOR INSOLVENCY PRACTITIONER REGULATION

A single independent regulator for Insolvency Practitioners (IPs) should replace the current RPB regulation system. Many of the structural conflicts within the current framework are irresolvable and so legislative changes are required purely to address such concerns.

We need an Insolvency Regulator who will adopt a *believe nobody* and evidence-based approach to investigation, instead of simply accepting a professional's word leading to a widespread perception of bias.

Having insolvency professionals make decisions over other insolvency professionals has the potential to result in *GroupThink* and related issues, with critical analysis suppressed, cognitive bias setting in and inevitably irrational outcomes which leads to accountability and public trust being undermined.

If an IP is put on notice of fraud, misrepresentation, dishonesty offences or financial crime by a law firm or stands trial for such offences by a court (including outside the UK), then the insolvency regulator (or RPBs currently) should immediately suspend their insolvency licence in the interests of public protection and confidence in the profession.

An IP should be required to disclose to all courts in which they are acting any pending or concluded contempt proceedings against them. They should also disclose any formal notices or allegations of fraud or misrepresentation. In cases involving FCA-regulated matters, such information should be disclosed to the FCA. Non-disclosure should itself constitute contempt under strict liability principles.

IPs holding office over FCA or FSCS-regulated businesses hold positions of significant responsibility. They should provide full disclosure and swear an affidavit confirming that they meet the FCA's *"Fit & Proper"* test.

Where an IP exercises a power of sale over commercial property — including any property subject to a premises licence, planning permission for commercial use, or business rates — a RICS-qualified commercial agent must conduct the sale. The use of non-specialist or residential estate agents to value or sell such properties should be prohibited. Likewise, if a specific order is sought to sell a property as residential or otherwise then it should be obeyed.

The completion statement in any bankruptcy related sale should identify the office holder in their correct personal capacity as 'Trustee.' Proceeds of sale(s) in bankruptcy should be held in a designated account and not paid to the 'Trustee' of those acting for them, such as law firms on CFAs, 'if' there are any concerns about the bankruptcy itself or the sale. An Insolvency Ombudsman or similar should be established to provide accessible redress for victims of IP misconduct without requiring civil litigation.

Parliament should impose a statutory duty on certain professionals and corporates appointing insolvency practitioners to conduct due diligence on the 'fitness' of any IP they propose to appoint. An IP who appoints another practitioner knowing they face investigation or proceedings for misconduct should be jointly liable for the consequences of that appointment and should face contempt charges for any misleading omission in their application to the court.

THE CASE FOR A MODERN DEBTOR IN POSSESSION MODEL(S): MOVING BEYOND THE INSOLVENCY ACT 1986

Why the Current Model Fails — The Structural Case for Reform

The insolvency framework in England and Wales, governed principally by the Insolvency Act 1986, was designed following the Cork Report in 1982. At that time, the UK had a much larger manufacturing base than exists now. Today, our economy is predominantly knowledge and service-driven, where value often lies in human capital, intellectual property, customer relationships, contracts, brand equity and goodwill.

At its core, the 1986 Act operates on a displacement model. When a debtor becomes insolvent, control of their assets and affairs is transferred to a third-party officeholder — an IP — who administers or liquidates the estate. The debtor or those in control is/are removed and the IP(s) is installed. Viable businesses are frequently liquidated, jobs are lost, and the socio-economic consequences — particularly in rural areas — can be severe.

This model may have been more appropriate in 1986; however, it makes far less sense 40 years later in 2026 after notable change. When an IP takes control of an accommodation business, a technology firm, or a professional services practice, the value that existed the day before appointment — much of which is tied to the debtor themselves — frequently evaporates. The person who created the value is often the last to be consulted on how to preserve it. As a result, salvageable businesses and jobs, often in deprived areas, are routinely and unnecessarily being destroyed. Although some IPs may like to claim they are not *undertakers,* this is a structural consequence of the displacement model.

A fundamental question is too often overlooked: what is the proper purpose of 'bankruptcy law'? It is widely acknowledged that special rules are required to deal with financial distress affecting individuals and corporate entities; however, the more fundamental question — why these rules exist and whose interests they are intended to serve — is all too often overlooked. It needs to be revisited.

In his 2020 article in the Columbia Law Review, Professor Tony Casey examined the *"hold-up problem"* in corporate restructuring — the tendency of minority creditors to strategically withhold consent to a restructuring plan in the hope of securing a better outcome for themselves. He argues that:

"An efficient bankruptcy law should create more value than it destroys, accounting for consequences in and out of bankruptcy."

A minority of creditors should not be able to destroy value through strategic delay or otherwise. Courts should be empowered to act in the wider socio-economic interest, prioritising the preservation of viable businesses and jobs, even over the interests of certain creditors.

The United States it seems recognised the destructive effects of forced liquidation decades ago. Chapter 11 (and 12) of the US Bankruptcy Code operates on the opposite principle to the English model: the debtor remains in possession, continues to manage the business, and proposes a reorganisation plan under the supervision of the Court. Value is preserved, jobs are protected, and creditors generally receive more. At a time where economically 'growth' is notoriously difficult

for the Government to cultivate we need to preserve what value we have and reassess current priorities under the 1986 Act.

In many of the cases examined in this report, an intelligently designed 'Debtor in Possession' model, could have produced materially different outcomes and the arguments for its implementation are now arguably stronger than ever.

UK Government's consideration of US style Chapter 11 /12 – Debtor in Possession

Parliamentarians have it seems considered introducing elements of the US Chapter 11 (and 12) Debtor in Possession ["DIP"] model on several occasions as a way of reforming the Insolvency Act 1986. An intelligently designed DIP framework offers clear benefits: it gives distressed individuals and businesses breathing space to restructure their affairs, honour contracts where possible, pursue legitimate claims, protect jobs and preserve viable businesses.

However, concerns have also been raised that DIP procedures could be used strategically to avoid contractual obligations, employee rights, tax liabilities and other responsibilities. David Cameron reportedly considered adopting Chapter 11-style reforms but did not proceed with changes to the insolvency regime. These concerns are not new. As Lord Sikka observed in 2008:

"Insolvency is a licence to print money. Practitioners are paid before any creditor and can charge more than £600 for an hour's work. They do not owe a 'duty of care' to all stakeholders affected by their practices, and that provides plenty of incentives to prolong insolvencies."

In practice, some IPs are now charging c£900 per hour, primarily for liquidating businesses and selling assets. Whether such fees can be justified, particularly where the underlying objective is the destruction rather than the rescue of viable businesses, remains a serious question. Many professionals and indeed the business community as well as the public at large would consider such fees to be unreasonable and ultimately the more IPs get paid, the less creditors or others benefit.

Lord Sikka's Concerns over Chapter 11 style Bankruptcy — Acknowledged, Engaged, and Answered

This report is submitted for the consideration of the Committee convened by Lord Prem Sikka, one of the United Kingdom's most sustained and authoritative critics of the insolvency profession. Lord Sikka's concerns about the current English insolvency regime are well-founded. His concerns about Debtor in Possession models and Chapter 11 procedures are equally legitimate and are addressed directly below.

In 2021, Lord Sikka described the UK insolvency industry as the "wild west", operating as "a state-guaranteed licence to print money". He noted that in the preceding decade some 8,000 complaints about IP conduct had been made to RPBs, yet only five practitioners had lost their licences. He highlighted the KPMG-Silentnight case, in which an IP found to be "untruthful" had pushed a company into insolvency to benefit a preferred private equity client, resulting in 1,200 workers losing pension rights and concluded: corruption is institutionalised in the industry, and a public inquiry is long overdue.

Writing on the collapse of Wilko, Lord Sikka argued that UK insolvency law disproportionately favours banks, private equity and hedge funds at the expense of workers and small businesses. He proposed that 30–40% of amounts available for distribution after clearing pension deficits

should be reserved for unsecured creditors. This report endorses Lord Sikka's critique of the current regime.

Lord Sikka has also expressed scepticism about Chapter 11-style DIP models. His concerns, illustrated by the WorldCom fraud in which Chapter 11 was used to shed lease obligations and avoid tax liabilities, are understandable. Chapter 11 can, in the wrong hands, enable fraudulent or reckless management to use bankruptcy protection strategically to evade accountability.

Lord Sikka has also documented how professional expertise in insolvency has been commodified, with practitioners prioritising their own commercial interests over the public interest. These concerns are taken seriously. The answer is not to reject DIP reform, but to design a UK model that incorporates specific protections to prevent abuse.

Six Protections — A UK DIP Model That Cannot Be Abused

To address Lord Sikka's concerns about potential abuse of Debtor in Possession procedures, we propose that any UK DIP model should incorporate the following six protections. Taken together, these safeguards are designed to prevent WorldCom-style abuse while retaining the benefits of a DIP approach.

Protection 1: Fraud and dishonesty bars DIP eligibility

A debtor found guilty of fraud, dishonesty, or deliberate misrepresentation should be ineligible for DIP status. The DIP model is intended for businesses in genuine financial distress — not for those seeking to evade accountability for their own misconduct. Legislation should bar DIP applications where the court is satisfied that the financial distress was caused or materially contributed to by the debtor's own fraud or dishonesty.

Protection 2: Pension scheme deficits are super-priority claims

Lord Sikka has consistently argued that pension scheme deficits must be made good before payment to secured creditors. This report agrees. In any UK DIP plan, the full pension deficit should rank as a super-priority claim, senior to secured creditors and DIP financing, and must be funded within the plan unless liquidation would produce a worse outcome.

Protection 3: A 30% floor for unsecured creditors in any confirmed plan

Lord Sikka proposed that 30–40% of amounts available for distribution after clearing pension deficits should be reserved for unsecured creditors. This report endorses that proposal as a recommended minimum in any confirmed DIP plan. This would prevent the current English pattern — where unsecured creditors typically receive around 3.7 pence in the pound — from being replicated.

Protection 4: Tax obligations cannot be compromised in the plan

A UK DIP model should provide that HMRC's claims for outstanding tax (including PAYE, National Insurance, VAT, and corporation tax) cannot be reduced below the amounts that would be payable in liquidation. Tax obligations should not, as a rule, be negotiable.

Protection 5: Independent court-appointed monitor replaces the private IP

Lord Sikka has identified the commodification of insolvency expertise as a core problem. This is structurally addressed in a DIP model. There are no private IP extracting fees from the estate.

Instead, an independent court-appointed officer monitors the debtor, reviews the plan, and distributes payments. This officer is accountable to the court and the independent regulator, removing the incentive to prolong proceedings for fee generation.

Protection 6: Employee and trade union representation in the reorganisation plan process

Any UK DIP model should require that employees, through their representatives or trade unions, are recognised as stakeholders with voting rights in the plan confirmation process. They should have access to the same financial information as secured creditors and the right to propose alternative plans if the debtor's proposal does not meet the pension super-priority and unsecured creditor floor requirements.

With these protections in place, the proposed DIP model retains the core benefits of a Debtor in Possession approach while directly addressing Lord Sikka's key concerns: fraud bars, pension priority, a floor for unsecured creditors, tax protection, independent oversight, and worker representation. Lord Sikka's own reform proposals are incorporated as Protections 2 and 3, and his critique of the commodification of IP expertise is addressed by Protection 5. This is not a rejection of his analysis but an attempt at a constructive evolution of it.

The IP Fee Problem — A Conflict Built into the System

The current displacement model contains a structural conflict that a DIP model avoids. The IP's remuneration is paid from the assets of the estate, usually on a time-cost basis. This gives the IP a financial interest in the estate generating realisations and, in many cases, in the insolvency continuing for as long as possible.

This incentive is not theoretical. There are cases in which individuals have remained bankrupt for well over a decade, with trusteeships continuing for many years with no apparent end in sight. How can bankruptcies of such duration possibly be justified?

The creation under the Insolvency Act 1986 of a systematic incentive for IPs to sell assets rather than preserve going-concern value, and to prolong rather than resolve insolvencies, is a major concern. In the current economic environment, viable businesses will continue to be destroyed through liquidation while IPs and related professionals benefit financially. This is not an acceptable outcome for a regime that claims to maximise returns to creditors.

As many in both academia and professional practice have observed, the IP's dual role as administrator of the estate and recipient of fees from that estate creates a conflict that no amount of disclosure or transparency can fully resolve. It is a structural problem that requires a legislative solution. We believe the best way to achieve wider socio-economic objectives is through a properly safeguarded Debtor in Possession model.

What Chapter 11 Does — and Why It May Work

Chapter 11 of the United States Bankruptcy Code allows a debtor — whether an individual or a corporate entity — to reorganise their financial affairs under the protection of an automatic stay while remaining in control of their business. It differs from the English model in several fundamental respects.

The automatic stay - On filing, all creditor enforcement action is automatically stayed. This prevents the destructive "race to enforce" that characterises English insolvency proceedings and often destroys value.

Debtor in possession - The debtor remains in control and continues to trade. Human capital, relationships, goodwill and operational knowledge are preserved rather than immediately lost to a third-party IP.

The reorganisation plan - The debtor proposes a plan that sets out how pre-bankruptcy debts will be treated and how the business will emerge as a viable entity. The plan must satisfy the "best interests of creditors" test, meaning creditors should receive at least as much as they would in liquidation.

Court supervision without court control - The court supervises major decisions and confirms the plan but does not manage day-to-day operations. This keeps costs lower and aligns outcomes more closely with wider socio-economic objectives.

The US Trustee Programme - An independent Department of Justice official oversees the process, monitors fees, and investigates abuse. This independent "watchdog" function helps maintain integrity and could serve as a model for stronger oversight in the UK.

Chapter 12 — The Simpler, Faster Model for Small and Rural Businesses

A common objection to Chapter 11 is that it remains complex, costly and lawyer-intensive — criticisms that are particularly acute for smaller operators. The United States recognised this and introduced Chapter 12 in 1986 (later extended to family fishing businesses) to provide a simpler, faster and less expensive reorganisation procedure for family farmers. Chapter 12 retains the core Debtor in Possession principle but simplifies the process in four key ways:

- A streamlined 90-day timetable for filing a reorganisation plan, without the extended creditor voting process.
- A standing trustee who reviews the plan and distributes payments but does not take possession of or manage the business.
- The debtor remains in full operational control.
- A cram-down mechanism on secured debt, allowing debt to be reduced to the current market value of the collateral.

Chapter 12 has been found to result in substantially lower costs than Chapter 11. As David J. Aitken observed in 1987:

"Chapter 12 has revolutionized farm bankruptcies... Prior to chapter 12, chapter 11 reorganization was not a realistic option for farmers. This gave lenders little legal incentive to negotiate farm debt workouts. Chapter 12 has changed this by giving farmers a realistic bankruptcy reorganization option. Most insolvent farmers will be able to have a chapter 12 plan confirmed by writing debt down to asset values... This may make lenders more willing to negotiate workouts, including accepting debt write-downs."

A similar simplified procedure could be of real value in the UK for smaller owner-managed businesses — particularly in rural, hospitality and professional services sectors — where going-concern value is heavily dependent on the debtor's personal expertise and relationships.

A Chapter 12-style model should not be limited to the narrow US eligibility criteria of farmers and fishermen. The businesses that would benefit most are owner-managed enterprises where value is concentrated in the owner's expertise and relationships, and which are often geographically isolated, seasonal, and acutely vulnerable to the value destruction caused by the current displacement model.

'Cramdown' and its benefits

In Chapter 11 and Chapter 12, cramdown allows secured debt to be reduced to the current market value of the collateral, with repayment potentially extended over a longer period at a lower interest rate. This is intentional. It enables viable businesses to survive with restructured debt that can be serviced from cash flow, rather than being forced into liquidation. This mechanism reflects a rescue-oriented approach that prioritises wider socio-economic outcomes.

England and Wales have no equivalent cramdown mechanism for bankrupt individuals. The closest tool is a restructuring plan under Part 26A of the Companies Act 2006, but this is only available to companies. Sole traders, partnerships, and LLPs are excluded, creating an uneven playing field.

As noted in the legislation, a restructuring plan is a formal agreement between a company and its creditors (and/or shareholders) to restructure debts. Importantly, a company does not need to be insolvent to propose one — it is enough that it is likely to encounter financial difficulties.

Preventing Banking Scandals & Insolvency Abuses

The adoption of an intelligently designed Debtor in Possession model would make scandals such as RBS GRG and HBOS Reading far more difficult, and in many cases impossible. Under the current system, banks can effectively control the insolvency process by appointing IPs who then realise assets on terms favourable to the lender, often destroying viable businesses in the process.

A DIP framework would prevent banks from using insolvency as a tool to seize control of a business and dictate outcomes. It would instead promote restructuring over liquidation and protect against self-interested creditor dominance, while supporting wider socio-economic objectives such as job preservation.

Recommendations — A Path to Reform?

Recommendation 1 - The Government should commission an independent review into the feasibility of introducing a safeguarded Debtor in Possession model for individual and corporate insolvencies in England and Wales, modelled on a revised version of the US Chapter 11 framework. The review should pay particular attention to cases where:

(a) the debtor disputes the petition debt.
(b) the estate includes legal claims in which the debtor has unique knowledge; and
(c) the appointed insolvency practitioner has a conflict of interest in relation to the estate's principal assets.

It should also examine how a DIP model could interact with the current trustee appointment and remuneration framework to eliminate structural conflicts of interest and consider how such a model could help prevent the weaponisation of insolvency while deterring strategic or abusive bankruptcies.

Recommendation 2 - Pending a broader review, the Government should amend the Insolvency Act 1986 to introduce a mandatory 90-day stay on all enforcement action where a debtor formally disputes the petition debt. This would provide immediate breathing space at no cost while helping to preserve value and reduce harm.

Recommendation 3 - The Government should introduce a simplified, cost-effective reorganisation procedure for individual debtors and SMEs whose estate includes a going-concern business in which the debtor plays a principal personal role and where value is largely derived from goodwill, contracts and operational expertise. The procedure should incorporate:

(a) a 90-day plan filing timetable;
(b) an independent standing supervisor who advises on and distributes payments but does not displace the debtor;
(c) a cramdown mechanism on secured debt; and
(d) an automatic stay on enforcement from filing. Eligibility should be based on the characteristics of the business rather than its sector.

Recommendation 4 - The Government should reform the Individual Voluntary Arrangement framework to include an automatic stay on enforcement and stronger independent supervision, making it more accessible as a Debtor in Possession-style procedure without requiring prior creditor consent.

Recommendation 5 - The Government should commit to a comprehensive review of the Insolvency Act 1986 with a view to modernising the insolvency regime. The review should be guided by three core principles: the preservation of economic value as a primary objective; the elimination of structural conflicts of interest in IP appointment and remuneration; and the introduction of a Debtor in Possession model as the default for viable businesses and individuals with disputed debts.

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CONCLUSION

The cases examined in this report reveal a consistent and deeply disturbing pattern. Victims of banking malpractice and fraud - whether through hidden credit lines, mis-sold derivatives, EFG's, RBSIF facilities or outright corruption such as the HBOS Reading Scandal - have repeatedly found themselves subjected to insolvency processes that stripped them of control over their businesses, assets, and legal claims.

In case after case, insolvency has not functioned as a neutral process for dealing with financial difficulty or potential failure. It has instead operated as a mechanism to suppress legitimate claims, revive compromised creditor positions, divert compensation intended for victims, and shift scrutiny away from the conduct of powerful institutions like the banks onto those who have already been harmed.

The threat of administration or bankruptcy has been used as leverage. Once insolvency practitioners are appointed — frequently by the very institutions whose conduct is in question — victims lose control not only of their businesses but often of the claims that could expose the original wrongdoing.

This is not solely a British or UK problem. The Connaughton case shows that similar failures occur wherever statutory protections exist on paper but are not properly applied in practice.

More than twenty-five years after Lord Sikka and the AABA first warned that the insolvency profession was vulnerable to regulatory capture and inadequate oversight, those warnings remain strikingly relevant. In many respects, the position appears to have deteriorated. The profession continues to operate under a model of self-regulation that lacks the degree of independence many would expect if it were to command lasting public confidence.

The wider problem is not unique to insolvency. Similar concerns have been raised about self-regulation in other sectors, including financial services. As we argued in our *Hidden Credit Lines* report, the FCA's supervisory model failed to prevent widespread banking misconduct and, in some cases, failed to detect it for many years. More recently, Channel 4's *Dirty Business* highlighted the human consequences that can arise when essential industries are perceived to be regulating themselves, with commercial interests taking precedence over public accountability. The common lesson is that effective regulation must be, and be seen to be, genuinely independent.

The Callin case provides a clear example of this regulatory failure. Despite detailed complaints concerning the conduct of an insolvency practitioner, the regulatory process left the complainants with the clear impression that the profession was defending one of its own rather than independently examining the issues raised.

This precisely reflects the concern first identified by the AABA in 2000 — that bodies regulating members of their own profession must inevitably face investigations regarding independence, transparency, and public confidence. This approach, the self-regulation system is failing repeatedly.

In Insolvency the legislative framework itself is also outdated. Much of the law governing receivership still derives from the Law of Property Act 1925. The Insolvency Act 1986 was drafted for a different era — long before complex financial products, specialist restructuring divisions, and the major banking scandals that have since emerged.

The Morgan case provides a stark illustration of what can occur under the current system. Four years after a full and final settlement had been reached and the bankruptcies allegedly concluded, the estates were re-opened. Approximately £187,000 was subsequently extracted in fees and costs from the estates of Nigel and Colin Morgan alone, based on creditor claims that were either unsupported, previously settled, or later rejected or withdrawn.

The two principal alleged claims for Nigel and Colin, which were supposedly investigated over a period of 15 months, were from 2013 and totalled less than £6,000. According to Begbies both relied on alleged personal guarantees, yet no evidence was ever produced to support their existence. Examination of the original loan documents in fact, confirmed that no personal guarantees had in fact been given.

No insolvency regime should permit professional fees of this scale to accumulate while the legal validity of the underlying debts is not only unproven, but there is also no legal basis for the claim. The Morgan family were not protected by the system — it processed them.

The consequences set out in this report are not theoretical. They are measured in destroyed businesses, lost family homes, diverted compensation, and in some cases, the complete destruction of people's mental health. The extreme stress, anxiety, depression and despair caused by these processes have, in several of the cases examined, led to serious mental health breakdown - and in some instances, suicide attempts and suicide.

Families who built successful enterprises over decades have seen those achievements dismantled while serious questions about the conduct of banks and insolvency practitioners remained unanswered.

This report does not claim that every insolvency practitioner acts improperly. Its purpose has been to examine whether the repeated patterns across multiple unrelated cases justify independent investigation and structural reform. In our view, that is unequivocal.

Recommendations

If public confidence in both the banking and insolvency systems is to be restored, reform must go beyond individual cases. It requires structural change. We therefore recommend:

1. **A Single Independent Regulator**

   The current model of self-regulation by the insolvency profession should be replaced by a single statutory regulator that is wholly independent of the profession and directly accountable to Parliament. The Regulator must ensure that all insolvency-related investigations are conducted by suitably experienced/ qualified individuals, who are 'Fit

and Proper' and independently verify evidence rather than taking statements at face value from instructing parties and creditors.

For more than twenty-five years, concerns have been raised that bodies drawn from within the profession cannot provide the level of independent scrutiny and public accountability that victims, Parliament, and the public are entitled to expect. The evidence examined in this report suggests those concerns not only remain valid, but the evidence of the regulatory failure is also now inescapable.

2. A Root-and-Branch Review of Insolvency Legislation

Government should undertake a comprehensive and independent review of the Insolvency Act 1986 and the receivership provisions contained in the Law of Property Act 1925, to determine whether they remain fit for purpose in a modern financial and commercial environment.

That review must not be limited to the profession and its representative bodies. It should include meaningful input from victims of banking misconduct, business owners, whistleblowers, academics, and others who have experienced the system from outside the insolvency industry. Without broad external participation, any review risks simply reinforcing the existing framework rather than addressing its fundamental weaknesses.

3. Statutory Rights and Protections for Individuals

Individuals subject to insolvency proceedings should have clear statutory rights on regulatory breaches comparable to those available to consumers under the FCA's Conduct of Business Sourcebook (COBS) and Mortgages and Home Finance: Conduct of Business Sourcebook (MCOB). These should include enforceable rights to timely information, transparency, proper disclosure of decisions, and access to genuinely independent redress.

In addition, a statutory compensation scheme should be established, funded by a levy on licensed insolvency practitioners and their firms. This fund should provide accessible redress to victims of proven insolvency practitioner malpractice, without requiring victims to pursue expensive civil litigation.

4. Ministerial and Parliamentary Accountability

Insolvency law has profound implications for entrepreneurship, investment, employment, economic growth, and public confidence in the rule of law. It should therefore be subject to clearer ministerial responsibility and regular, structured Parliamentary scrutiny.

At present, too much of the framework is left to the profession and its representative bodies to shape and oversee. This creates an obvious risk that the system will be operated primarily in the interests of those who administer it, rather than in the wider public interest. Given the serious concerns raised in this report about regulatory capture,

conflicts of interest, and the impact of insolvency processes on victims of banking misconduct, continued reliance on self-regulation without meaningful external accountability is no longer sustainable.

5. A Statutory Fraud Carve-Out

No person or institution should be permitted to obtain or retain a financial advantage arising from its own fraud or serious misconduct through the operation of insolvency procedures and no party should profit from acting in such cases.

Where credible allegations of fraud or serious banking misconduct exist, insolvency processes should not be used to delay, compromise, or extinguish claims before those allegations have been independently investigated. There should be a clear, defined opt-out mechanism so that where fraud is proven, the harm to the fraud victims is not continued and aggravated by the insolvency process.

The rule of law depends not only on the existence of rules, but on public confidence that those rules are applied fairly and enforced without fear or favour. Two long-established principles of English law are directly engaged here.

As Lord Denning observed:

“Fraud unravels everything.”

No court should permit a person to retain an advantage obtained by fraud. This principle should apply equally in insolvency. Where credible allegations of fraud or serious misconduct exist, the insolvency process should not be used to extinguish or place beyond reach the claims and evidence that could expose it.

And as Lord Nicholls stated in Mulkerrins v PricewaterhouseCoopers:

“The courts will not assist a litigant to profit from his own wrongdoing.”

Insolvency law should not become the mechanism through which those responsible for serious misconduct can retain financial advantages at the expense of their victims.

Yet in too many cases, insolvency processes have protected institutions from accountability while allowing questionable claims to generate substantial fees - leaving victims of banking misconduct without effective redress, therefore:

Reform is no longer simply desirable. It is now essential.