

Who is first in line to be paid when a firm fails?

BUSINESS MATTERS

If a business fails then a list of creditors is drawn up so that they can be paid from any funds available. **Lisa Thomas** explains which organisations are paid first and the different rights that various types of creditors have



When we get appointed to deal with an insolvent business we have to write to all of the people and businesses it owes money to. These people are called creditors. One of the first things creditors ask us is how much they can expect to get back and when?

It is not a very easy question to answer and I have learnt that if you over promise on how much people will get back they hold you to it so it is better to be cautious than optimistic. Some of the problems we have at the outset are we do not know exactly what the company owns, how much the assets will sell for, how much it owes to whom and how much it will all cost to deal with.

The other problem is different classes of creditors have different rights. The safest creditor in terms of getting paid is the one who has a fixed charge which is basically a mortgage on property. The next category of costs that then gets paid is the insolvency practitioner like us, for our fees and expenses.

If funds remain available after these have been paid, creditors with a 'preferential' status get paid next. This is money due in relation to wage arrears (capped at £800 per employee) and any holiday pay due to employees. There are a few misconceptions that VAT and PAYE arrears are preferential as well but they are not and have not been for ten years.

Next to get paid is any party with a floating charge also known as a debenture. This is effectively a mortgage over a company's non-fixed assets such as book debts, motor vehicles, plant, machinery and stock. More often than not the debenture holder tends to be the company's bankers and this gives the bank security for funds it has lent. If the dir-

ectors have lent money to the business and taken good advice they will often have obtained a debenture for any loans they have personally advanced to the company. A word of warning here for directors that the debenture is only valid if the money was lent at the same time the debenture was registered.

Next in line and all ranking equally are the unsecured creditors. These include trade suppliers, utilities, landlords, business rates, VAT, PAYE and directors loans. It can take up to a year for creditors to get back their money and sometimes even longer if we have problems collecting in the assets. For example if we have to sell a property to pay back creditors and it just will not sell even at auction or if we have to carry on a litigation claim the company itself had started then this can take years.

If there are still funds available after the unsecured creditors have been paid then these get paid back to the company's shareholders. This is rarely the case because if there were enough funds to pay off all the creditors then the company probably would not have entered an insolvency process in the first place but it does happen from time to time.

If you are owed money by a business and you are worried that it may be insolvent make sure you only supply goods as they pay for them. Do not let them run up any more credit and increase the amount they owe you.



If your business has pressing creditors and you would like a free initial meeting to discuss your option please get in touch with me on 01752 786800.

MST secures Massey Ferguson franchise

Farm machinery firm MST Group has secured the Massey Ferguson franchise for South Devon.

The dealership will be run from the company's depot at Lee Mill, near Plymouth, and along with its Mid and East Devon franchise makes MST one of the largest Massey dealerships in the county.

As part of the expansion, MST has taken on two staff members from the previous franchise holder, welcoming Stuart Day as agricultural sales manager for South Devon and Andy Frampton as agricultural technician.

Graham Joll, MST's head of sales, said: "This is an exciting development for MST."

He added: "We recently invested £115,000 in a new lorry, based at the Lee Mill depot, to aid efficient delivery and collection of machinery across the county."

In 2012, MST was acquired by private investment business Longhouse Group with a view to investing in the company and contributing to growth generally in the region.

Last year, MST was appointed as the main dealer for Pottinger in Devon.

Further expansion plans for the business include a purpose-built depot to support customers in South Devon with planning due to get under way this year.



John Bull has developed the Plinth, which offers hand-free support for tablet computers and smartphones

Funding bid kickstarts interest in pocket plinth

A Somerset man is fielding international interest in his invention, after launching a funding pitch aimed at getting it into production.

John Bull, who runs his eponymous design business from Halse near Taunton, has developed the Plinth, which offers hand-free support for tablet computers and smartphones.

Since launching a bid on crowdfunding site Kickstarter to raise the £35,000 he needs to begin manufacturing the product, Mr Bull has had expressions of interest from potential buyers around the

world. He said: "Within 24 hours of launch I received support and enthusiastic messages from New York, Milwaukee, Moscow, Malaysia, Sweden and Japan."

He aims to commission a UK-based plastics company to tool up and produce the pocket-sized plinth, that will enable users to prop up their tablets when reading, for example, or following recipes.

"I want it to be British designed and made," said Mr Bull, who added that he looked to crowdfunding to raise capital support in order to remain in control of his innovation.

"There's an increasing trend for people looking to bring manufacturing back to the UK from China.

"And if there's a technical problem, you can just jump in the car and go and see them.

Mr Bull is a product designer by trade, but usually works on developing items created by his clients and drawing on a network of other professionals when necessary to deliver large-scale projects.

He said: "After designing products for other people for over 20 years to their specifications and deadlines, to

be driving a project how I think it should be, and at my pace, is so refreshing.

"I invented the Plinth tablet stand because I couldn't find a decent tablet stand to hold my iPad whilst working, reading or watching a video, and which was really stable but would also go in my pocket.

"I have now been working on it for nearly a year, and after many prototypes and testing, think I have an exciting solution."

The Plinth is about the size of an iPhone and deploys instantly with one hand at the press of a button.

'Ad hoc' funding sees SMEs struggling to find finance

BY CATHERINE BARNES

Smaller firms are struggling to access finance despite government attempts to encourage lending, ministers have been told.

A report by a committee of MPs said the Treasury and the Business Department had not done enough to raise awareness among small and medium sized enterprises of the financing options available to them.

The departments cannot demonstrate the success of schemes, even though almost £3 billion of financial support will be given from 2011/12 to 2014/15, said the Public Accounts Committee.

Margaret Hodge, who chairs the committee, said: "Small and medium-sized enterprises have a vital role to play in driving the UK's economic recovery, but despite government attempts to encourage lending to

SMEs many still struggle to access the finance they need.

"At the time of our hearing overall lending to SMEs was down. Net lending by banks participating in the Funding for Lending scheme has declined by £2.3 billion since the scheme was launched, and the number and value of loans backed by the Enterprise Finance Guarantee fell each year between 2010 and 2013.

"Departments manage their various schemes not as a coherent programme but simply as a series of ad hoc initiatives.

"There is no common understanding about which parts of the SME sector are generating the most growth and where government support would do most good."

The MPs recommended that the establishment of the British Business Bank should be used to manage schemes as a coherent programme. This is

anticipated to unlock up to £10 billion of funding for firms over the next five years.

John Allan, chairman of the Federation of Small Businesses, said: "Recent FSB research shows hundreds of schemes available to support small and medium-sized businesses, but no clear mechanism for evaluation, co-ordination or communication either at the national or local level.

"At the central government level the FSB agrees the British Business Bank should be the mechanism to simplify existing government lending schemes and believes it should also provide information about alternative lending to small firms.

"The Business Department needs to clarify what the success measures are for existing schemes as well as for new schemes that are introduced."

Phil Brownsord, South West region director EEF, the man-

ufacturers' organisation, said: "Government interventions in relation to SME finance must focus on increasing competition in the banking sector as well as among more alternative sources of finance.

"As such, the recommendations highlighting the need for the Government to clearly set out the objectives of SME finance initiatives at the outset of the Business Bank will be key to achieving this.

"Recognition of the need to improve understanding of the effectiveness of government finance initiatives and set out clear and measurable objectives for government interventions are a further step in the right direction. And maintaining a flexible approach to interventions will be important in ensuring valuable resources are deployed in the most effective way possible to address SME financing needs."