

PRE-PACK RULES NOT A PROBLEM

Government plans to strengthen the law around so-called 'pre-pack' administrations are coming under fire from Black Country insolvency expert John Travers.

The term "pre-pack" or "pre-packaged sale" refers to an arrangement to sell all or part of a company's business or assets to a buyer, which is made before an administrator is appointed. The administrator then implements the sale immediately on, or shortly after, his appointment.

John Travers, of Stourbridge-based John D Travers & Co, says that, since their introduction in 2003, pre-packs have consistently proved a valuable tool in helping practitioners to save jobs and improve returns to creditors in companies whose future prospects are bleak.

He says that the proposed changes will only serve to increase costs and slow down the disposal process to the detriment of any potential realisable value in the business.

"The pre-pack is mostly used in cases where it is not economic to trade a failing business through a conventional administration and where the only alternative would be liquidation.

"In general, they work well by enabling a rapid disposal and ensuring continuity for employees, customers and suppliers

"However, they have gained some notoriety, especially when they are brought in to play for a so-called 'phoenix scenario', where a business is sold back to its former owners or managers.

Mr Travers' comments come in the wake of the recent launch of a consultation process in to pre-packs by the Department of Business, Innovation and Skills (BIS).

" It appears that the government is pandering to misinformed public opinion, some of which is fuelled by its own misreporting of statistics," says Mr Travers.

"BIS claim that over 30 per cent of pre-pack reports submitted fail to fully comply with current regulation, yet they have referred only seven per cent of all reports for disciplinary action.

"It seems the current process is being abused by some

and it is this rogue element that the regulators should be addressing, rather than making the overall process more cumbersome and costly for all," he said.

`While transparency through the process is key, it appears seems to me that the government are set on adding to the administrative burden.

"The priority must be to establish whether or not the proper consideration been paid for the business. If demonstrably it has, then it really does not matter who has bought it.

"It cannot be right that, by definition, all sales back to previous management are wrong. Provided a pre-pack deal maximises realisations and saves jobs, there should not be a problem with its use – either conceptually or realistically," he added.

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