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SMEs must protect themselves against late payment

SMEs are being urged to take some simple steps to reduce the risk of potentially crippling cash flow problems.

The Law Society says many businesses are so overburdened with red tape that seeking protection against late payment often gets pushed to the bottom of the list of things to be done.

Yet cash flow remains a serious threat to the survival of many companies. SMEs are currently having to wait an average of 41 days beyond due date for payments and, collectively throughout the UK, they are owed £24bn at any one time.

With VAT set to rise to 20% in the New Year, the situation is likely to get worse and so the Law Society is urging businesses to ensure they are protected as much as possible against late payment.

Law Society spokesman Robert Heslett said: "It could be the difference between the business surviving or not, especially



in the uncertain economic climate." The EU is currently looking at ways to tackle late payments which are causing problems across Europe. Meanwhile, the Law Society is urging more businesses to include late payment clauses in contracts.

Mr Heslett said: "Many smaller businesses perhaps felt the recent budget did not do enough to tackle cash flow problems head on, and although the EU is looking at it, the safest bet is to protect against cash flow blockage between the customer and the business with a solid, solicitor-drafted contract.

"A carefully worded contract drawn up by a solicitor between a business and their commercial customers can include clear terms on late payments, including penalty clauses and strict time frames for payment. Such terms can act as an effective deterrent for late payment and encourage timely payment for services, thus avoiding these terms coming into play."

Government to review consumer credit

The Government is carrying out a review of consumer credit and personal insolvency to find ways of improving the system and removing unnecessary regulations.

The review will look at how consumers enter into credit agreements, how credit is sold and the extent to which consumers understand their commitments. It will also examine issues

that arise during the lifetime of the loan from the perspectives of both the lender and the consumer.

It will also look at what happens when things go wrong and whether the current insolvency solutions are fit for purpose.

There will be a full consultation on the issues later this year or early next year.



Stakeholders will have the opportunity to provide evidence on what is working well and how the system should be improved.

Consumer Affairs Minister Edward Davey said: "This is an opportunity not only to improve the safeguards on consumer credit products, where this is necessary. It's also a chance to cut unnecessary regulatory burdens, which increase costs and stifle competition.

"As Consumer Affairs Minister, I want to be sure that people can get fair deals on credit cards, loans and other products on the market - improving access for the financially excluded; having an insolvency regime where those who can, pay, but those who can't are helped to make a fresh start; and ensuring a regulatory framework that's fair to consumers and creditors alike."

We shall keep clients informed of developments.

10% increase in Individual Voluntary Arrangements

More than 140 people a day applied for an Individual Voluntary Arrangement (IVA) in the second quarter of this year. The total number of 13,466 applicants represents an increase of 10.2% on the same period last year.

The statistics were produced by the Insolvency Service and show that IVAs now account for nearly 4 out of 10 personal insolvencies. There were also 14,982 individual bankruptcies and 6,295 Debt Relief Orders.

The total number of individual insolvencies was 34,743 – an increase of 5% on the second quarter

of last year. The figures for company insolvencies were slightly more encouraging.

There were 4,080 compulsory and creditors' voluntary liquidations in England and Wales in the second quarter of this year.

That was an increase of 0.5% on the previous quarter but a fall of 19.1% on the same period last year. A breakdown of the figures shows that there were 1,169 compulsory liquidations and 2,911 creditors' voluntary liquidations.

1 in 3 businesses are refused credit by their banks

A survey has revealed that 1 in 3 businesses had an application for credit refused during the first half of this year.

There is also evidence that banks are demanding more security - even on loans which are largely underwritten by the Government's Enterprise Finance Guarantee scheme. Those were two of the main findings of research carried out by the Institute of Directors (IoD).



It is also concerned that 37% of its members said they had noticed an increase in the amount of security being requested by lenders. Miles Templeman, Director-General of the IoD, said: "This raises a question about the functioning of the Government's Enterprise Finance Guarantee scheme (EFG).

"The IoD would like the Government to clarify the relationship between the state-backed guarantee scheme and bank requirements for personal security.

It surveyed 899 of its members and found that 39% had applied to a bank for finance between January and June this year. That compares with 25% for the whole of last year.

Of those applying in the first half of this year, 33% had an application declined. The decline rate last year was 57%. The IoD welcomed the improvement in the decline rate but said it is still concerned that access to finance remains difficult.

"We continue to hear from IoD members who've had 75% of a loan underwritten through the EFG but who are still required by their bank to put up personal securities equivalent to over half of the loan value.

"Of course businesses should have some 'skin in the game', but this seems excessive."

Commercial landlords urged to instruct bailiffs early

Commercial landlords faced with tenants in rent arrears are being urged to instruct bailiffs as early as possible.

New provisions contained in the Tribunals Courts and Enforcement Act 2007 will restrict a landlord's room for manoeuvre in Commercial Rent Arrears Recovery (CRAR) by removing the remedy of distress. This allows a landlord or a bailiff acting on his behalf to enter premises and seize goods which can be sold to settle the debt.

New provisions mean landlords will have to give notice if they intend to proceed with CRAR

and they will not be allowed to seize goods themselves. They will have to instruct a certified bailiff. However, landlords can instruct a bailiff even if a commercial rent is just a day overdue.

Colin Naylor, who is Chairman of the Association of Civil Enforcement Agencies and MD of Dukes Bailiffs, believes early action is vital. He stressed that the new legislation does not remove the landlord's right to recover debt by seizing property. He told Credit Today: "It is simply that the process takes longer and that a certificated bailiff must be appointed to act. All the more reason to act decisively and early."

Mr Naylor warned that delay could allow the debtor to remove all valuable stock from the premises.

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Cuts will 'create more insolvencies'

Research by the credit reference agency Graydon shows that 4 out of 5 credit managers believe that the latest round of public sector spending cuts will lead to more businesses becoming insolvent.

Nearly two thirds of them fear that the number of business failures will rise by as much as 10% in the coming months.

However, half of them also believe that it is a price worth paying to enable the country to achieve financial stability - even if those company failures have an

impact on their own bad debt problems. Despite the reservations expressed by credit managers, only a third of the companies they represent are monitoring their business customers' reliance on public sector contracts.

The spending cuts are not the only area of concern highlighted by the survey. Nearly 4 out of 5 credit managers also fear there could be more insolvencies because a rising number of companies are having their applications to the Time to Pay tax referral scheme rejected by HMRC.

Where next

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