“Pre-pack slurs continued unabated”

Despite the Insolvency Service recently giving pre-pack administrations a clean bill of health, it would appear that certain government departments are still not satisfied. However, MPs remain convinced that the process is being utilised as a quick-fix solution which disadvantages unsecured creditors.

Said Phil Wood, managing director of chartered accountants and licensed insolvency practitioners, Barringtons “It is all a bit ironic really as the government’s Enterprise Act 2002 actually gave a philip to pre-packs administrations. Before the Act came into force, pre-packs were normally initiated by banks through appointing receivers under their security. However, the administration procedure was simplified allowing inexpensive and quick out of court appointments by company directors, shareholders and certain secured creditors. This allowed additional parties to institute a procedure which could be used for pre-packs. Against this background The Insolvency Service has issued an announcement that will look to their own enforcement powers to clamp down on directors who mis-use the process.

The main concern, however, for creditors should be the value of realisations. Many within the insolvency profession are wholly convinced that pre-packs often maximise realisations. A touch more transparency should encourage Insolvency Practitioners to take additional care but communications will still take place after the sale.

“The extent of Insolvency Practitioners’ duties in structuring a sale are far from clear. Perhaps some thought should be given to codifying these similar to that of directors’ duties undertaken with the Companies Act 2006. The most important thing is encouraging best practice,” added Phil.