

Date: 18 June 2026

THE CITY OF LONDON LAW SOCIETY

COMPANY LAW COMMITTEE

Response to the consultation on Corporate Civil Enforcement Reforms published on 25 March 2026

Introduction

We welcome the opportunity to provide feedback on the consultation on Corporate Civil Enforcement Reforms published on 25 March 2026 (the "**Consultation**").

The views set out in this response have been prepared by a Working Party of the Company Law Committee of the City of London Law Society ("**CLLS**"). The CLLS represents approximately 21,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients, from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 22 specialist committees.

The Working Party is made up of senior and specialist corporate lawyers who have a particular focus on issues relating to company law, contract law and corporate governance. We have also included at the end of this response the members of the Working Party who were involved in drafting it. Any member of the Working Party would be happy to discuss or expand on any of the comments made in this response. Alternatively, please feel free to contact the Chair, David Pudge, whose details are set out below.

CLLS Insolvency Law Committee and Law Society Company Law Committee responses to the Consultation

Members of the Working Party have collaborated with the CLLS Insolvency Law Committee on its response and had sight of, and input into, the Law Society Company Law Committee response to the Consultation (both also dated today, the "**Related Responses**"). The Working Party fully endorses both of those Related Responses and therefore does not seek to repeat all the carefully thought through comments, observations and suggestions made in them.

Key points in the Response

Given our collaboration on and endorsement of the Related Responses, we wish to focus our comments on the issues which, in our view, raise particularly significant policy concerns. The specific questions posed in the Consultation are addressed in detail in the Related Responses, and we do not

repeat those answers here. We would ask that the Related Responses are carefully considered in their entirety, but we would like to highlight in particular the points made in relation to the following:

- the proposal to substitute the Secretary of State for the courts as the decision-maker in director disqualification proceedings;
- the proposed introduction of restrictions short of disqualification in cases of negligent director conduct;
- the proposed changes relating to connected persons, particularly in respect of preferences and transactions at an undervalue; and
- the proposal for the automatic disqualification of directors where companies are wound up in the public interest.

General observations

As a general matter, we support the objective of ensuring that directors who are responsible for genuine misconduct, misfeasance or other improper conduct are held to account. Effective enforcement against wrongdoing is an important part of maintaining confidence in the corporate framework and the UK as a place in which to do business. Equally, however, reforms in this area must be carefully calibrated. They should target culpable conduct effectively without undermining access to justice, due process, or the broader conditions that support responsible risk-taking, business rescue and economic growth. If that balance is not achieved then the effect may well be to stifle growth and make the UK a less attractive place in which to establish companies and carry on businesses, without achieving the goal of greater accountability.

We would welcome a clearer articulation of the specific problems the proposed measures are intended to address, and the evidence base for concluding that the existing framework is insufficient. We fully support robust action to tackle criminal, abusive or otherwise harmful uses of the corporate form. Our concern is not with the objective, but with whether the current package of proposed measures is the right and proportionate way to achieve it.

Resource constraints and recent reforms

Although resource constraints are no doubt real and important limiting factors, considerations of administrative efficiency cannot justify reforms that materially reduce procedural safeguards for individuals (given the impact of an adverse finding can be career-ending), many of whom will have far fewer resources than the state with which to fund an appeal. Proper management of director misconduct requires not only effective legal powers, but also adequate resourcing for those responsible for bringing disqualification proceedings and for enforcing disqualification orders once made.

It is also relevant that a number of relatively recent reforms, including those concerning compensation orders and the Economic Crime and Corporate Transparency Act 2023, may not yet have had sufficient time to take full effect or to be properly assessed in practice.

Growth, investment and competitiveness

The consultation should also be considered against the Government's wider objectives in relation to growth, investment and competitiveness. It is not possible to legislate against corporate failure. However, if the cumulative effect of the proposed reforms is to make board service materially more risky, more burdensome, or the potential for being held culpable in the context of a corporate failure less predictable, there is a real danger that the UK may become a less attractive place in which to start, run and rescue businesses. The UK has long benefited from a reputation for taking a commercially workable and proportionate approach to director decision-making, particularly in distressed

situations. That reputation is an important part of its success both as a place to do business and as a restructuring jurisdiction.

Our concern is that the proposals are not properly limited to those directors who engage in misconduct. The wider effect of these proposals may be to make conscientious and responsible directors unduly cautious, particularly in periods of financial difficulty. That may lead to poorer outcomes for shareholders, creditors and the economy more generally. It may also discourage capable individuals from taking on directorships, particularly non-executive roles, and increase the practical and financial burden of doing business in the UK by encouraging more defensive decision-making and a greater expenditure on professional advice (to guard against the risk of decisions being judged with the benefit of hindsight).

In particular, it is important that the reforms do not create additional incentives for directors of properly run businesses in difficult circumstances to move prematurely towards formal insolvency processes out of concern about personal liability. The UK's comparatively pragmatic approach to directors' conduct in situations of financial distress has been one of the factors underpinning its effectiveness as a restructuring jurisdiction. A regime designed to deal with a minority of genuinely culpable cases should not have the unintended consequence of affecting the conduct of the far larger body of responsible directors who are attempting, in good faith, to navigate commercial difficulty for the benefit of all stakeholders and the economy more broadly.

Regulatory precedent and proportionality

Against that background, we note the substantial policy debate over recent years – particularly with the Department for Business and Trade – regarding proposals to extend the powers of the FRC and its proposed successors (including ARGA and the proposed Corporate Reporting and Audit regulator) in relation to directors. As you will be aware, those proposals were ultimately withdrawn following significant concern from business about proportionality, accountability and the likely deterrent effect on legitimate commercial activity. In our view, the present proposals are in a number of respects potentially even more far-reaching. They have the potential to significantly alter the existing balance in this area, and increase materially the risk of sanction being imposed in circumstances where it may not be justified.

We are also concerned that certain aspects of the proposed regime would place the UK in a significantly more interventionist position than comparable jurisdictions, particularly if the Secretary of State is given the power to impose sanctions or restrictions without court involvement. That would risk making the UK an outlier in Europe and could sit uneasily with the Government's stated ambition for the UK to remain an attractive and predictable place in which to do business, including in the context of policies intended to encourage companies to locate or re-domicile here.

Turnaround and rescue directors

Particular care should be taken in relation to the proposed restrictions regime to ensure that turnaround and rescue directors are not unintentionally brought within scope. Individuals appointed at a late stage, when insolvency may already be unavoidable and their role is to stabilise the position or manage an orderly wind-down, should not be exposed to sanction for outcomes they did not cause.

More broadly, misconduct indicators based on repeated corporate failures within a set period, without clear evidence of deliberate abuse or culpable conduct, risk catching those engaged in legitimate turnaround and rescue work. That would be a highly undesirable outcome and could inhibit efforts to preserve value, employment and creditor returns in distressed situations.

We are also concerned that the consultation places considerable emphasis on the impact of the proposals on errant directors but gives less attention to the wider effect the reforms may have on the operation of business more generally, and on turnaround activity in particular. Even where particular proposals may have some policy attraction in isolation, they must be assessed against the need to

preserve access to justice, fairness of process, and the overall balance between effective enforcement and a commercially workable legal framework.

Alternative and proportionate interventions

Finally, we consider that there may be merit in exploring more constructive and proportionate interventions in certain areas, particularly in relation to less serious infringements. Director education, for example, may have a useful role to play. There may be scope for guidance at the point of company formation or appointment, whether on a mandatory or voluntary basis, delivered in a practical and accessible way – for example through Companies House notifications linking to concise official guidance or training materials on directors’ duties and insolvency-related issues. Such measures may improve standards of understanding and compliance without creating undue barriers to entrepreneurship or legitimate board service.

We would be pleased to engage further with officials on these issues, including to explore whether alternative approaches might better meet the policy objectives in a more proportionate and targeted way.

Point of contact

Should you need any further information, please do not hesitate to contact me at david.pudge@cliffordchance.com or Kevin Hart at the CLLS (kevin.hart@cls.org), or any of the members of the Working Party set out below.

Yours sincerely

David Pudge

Chair, Company Law Committee
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Other Working Party members: Paul Arathoon, Charles Russell Speechlys LLP; Richard Burrows, Macfarlanes LLP; and Sarah Hawes, Herbert Smith Freehills Kramer LLP.

Other members of the Company Law Committee are listed here:

<https://cls.org/committees/company.html>