

What is the Enforcement Hotline?

The Enforcement Hotline was set up in January 1998, as a result of a ministerial initiative, to catch disqualified directors and undischarged bankrupts who deliberately disregard disqualification orders made against them. A new category of individual - those subject to a bankruptcy restrictions order or undertaking – has recently been added.

The Hotline is accessible 24 hours a day. It enables anyone who has information about the business conduct of disqualified directors, undischarged bankrupts and those subject to bankruptcy restrictions orders and undertakings to pass on that information to the Insolvency Service. This helps us to enforce court orders and undertakings.

What is meant by ‘disqualified directors’, ‘undischarged bankrupts’ and ‘bankruptcy restrictions orders and undertakings’?

Disqualified directors

Under the Company Directors Disqualification Act 1986 the court may make a disqualification order for a specified period against an individual. As a result that person:

(a) must not be a director of a company, be a member of a limited liability partnership, act as receiver of a company’s property, or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company unless he/she has permission of the court

(b) must not act as an insolvency practitioner.

Also, under the Insolvency Act 2000, an individual may give an undertaking to the Secretary of State for Business, Innovation and Skills not to do anything mentioned in (a) and (b) above; and, once accepted, that undertaking has the same effect as a disqualification order.

Undischarged bankrupts

Similarly, when a bankruptcy order has been made against an individual, he or she must get the court's permission before becoming a member of a limited liability partnership or acting as a director of, or directly or indirectly taking part in or being concerned in the promotion, formation or management of a company. While the bankruptcy order remains in force, the individual is undischarged from the bankruptcy.

Bankruptcy restrictions orders and undertakings

Legislation introduced in April 2004 gave the official receiver power to apply to the court for a bankruptcy restrictions order against any bankrupt who he believed to have been dishonest or in some other way to blame for his position. These orders can last for between 2 and 15 years and have the effect of continuing to apply the restrictions of bankruptcy after discharge. Alternatively, the bankrupt may give an undertaking to the Secretary of State to be subject to the restrictions for an agreed period.

What are disqualified directors, bankrupts and individuals subject to bankruptcy restrictions allowed to do?

Disqualified directors, bankrupts and individuals subject to bankruptcy restrictions may carry on business as sole traders or partners in an unlimited liability partnership. However, if a bankrupt or someone subject to bankruptcy restrictions chooses to conduct such business in a different name from that in which they were made bankrupt, they must disclose the former name in all business transactions.

What happens if a director, bankrupt or former bankrupt contravenes the order or undertaking?

It is a criminal offence to contravene a disqualification order or undertaking, a bankruptcy order or a bankruptcy restrictions order or undertaking. It is also a criminal offence for another person to assist a disqualified person to act in this way. A person who contravenes the order or undertaking could also become personally liable for any debts of the company which it incurs while the order or undertaking is contravened. Anybody who carries out that person's instructions may also be personally liable.

If a disqualification order has been made against, or an undertaking given by, a corporate director, and the corporation contravenes the order or undertaking, then its officers or managers can be punished as if the order or undertaking applied to them personally.

How can I check if someone has been disqualified?

Companies House maintains the Disqualified Directors Register and you can access it without charge by writing to:

The Registrar of Companies
Companies House
Subpoena Section
Crown Way
Maindy
Cardiff CF4 3UX

Telephone: 0870 3333636
Fax: 02920 380 517

or via its website at
www.companieshouse.gov.uk

How can I check if someone is an undischarged bankrupt or subject to a bankruptcy restrictions order or undertaking?

You can without charge get details of bankruptcy orders which remain in force, and bankruptcy restrictions orders and undertakings by visiting The Insolvency Service website at www.insolvency.gov.uk

You can also get details by going to any of the official receiver's offices on working days between 9am and 5pm. You can get the addresses from your local phone book or via The Insolvency Service website at www.insolvency.gov.uk.

What do I need to give you?

If you suspect that an individual is acting in breach of a disqualification order, a disqualification undertaking or a bankruptcy order, please complete the Hotline questionnaire and forward it to The Insolvency Service.

The information in the completed questionnaire will help us make enquiries into your allegations.

How do I obtain a copy of the Hotline questionnaire?

You can get a copy of the Hotline questionnaire by leaving a message on the telephone answering machine on 0845 601 3546 - we will send you a copy of the questionnaire. Or you can get it from The Insolvency Service website at www.insolvency.gov.uk. You can either download the questionnaire from the website or fill out and submit an online form.

The Companies House website at www.companieshouse.gov.uk has a link to The Insolvency Service website.

What action will be taken?

Initial enquiries into all complaints will be undertaken by:

Enforcement Hotline
The Corporate Conduct Team
Level 3
Cannon House
18 Priory Queensway
Birmingham
B4 6FD

Telephone: 0845 601 3546

Fax: 0121 698 4095

email:

Enforcement.Hotline@insolvency.gsi.gov.uk

If these enquiries indicate that an offence may have been committed, a report will be submitted to the prosecuting authority, Legal Services Directorate of the Department of Business, Innovation and Skills. A lawyer will then decide whether a criminal investigation should be carried out, and criminal proceedings may begin.

If you wish to submit an anonymous complaint, we may be able to submit the matter to the relevant prosecuting authority. However, you should note that they may not be able to proceed in the absence of suitable evidence and/or an appropriate witness.

You may be asked to give a formal statement before proceedings start.

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Enforcement Hotline

What the Hotline is
and how to use it

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