

moorfields



A guide to the LPA Receivership Process

Moorfields
Corporate Restructuring & Insolvency

What is an LPA Receivership?

LPA Receivership ("LPA") is a process used by a fixed charge holder/mortgagee to enforce their security and recover funds owed by taking control of the property subject to their security. Despite its basis in insolvency, the LPA process is governed by the Law of Property Act 1925.

The LPA process is used when a company or an individual is in default of the terms of its loan agreement typically by failing to make the required mortgage repayments. The mortgagee is normally a financial institution, either a Bank or Building Society.

The process effectively gives control of a property to the LPA Receiver who will take steps to market and sell the property to repay the Bank.

Who can act as an LPA Receiver?

Any person can be appointed as an LPA Receiver but primarily licensed Insolvency Practitioners and surveyors are appointed to act as Receivers. It is considered more practical to appoint joint receivers and all of Moorfields' LPA Receivership appointments are joint appointments.



Procedure for appointment

The power to appoint a Receiver is contained within the loan documentation and arises when the borrower is in default of those terms. To minimise the chances of an invalid appointment, it is normal to serve demand as failure to repay the loan is irrefutable evidence of default.

Following appointment

Notification

Once appointed, the LPA Receivers will notify the debtor and provide a copy of their appointment documents.

If the debtor is a limited company the LPA Receivers will file notice of their appointment at Companies House. There is no obligation to advertise the appointment of LPA Receivers over a property owned by an individual.

Goodwill Properties

In some cases where the value of the properties is linked to a trade, such as licensed premises, hotels, care homes and petrol stations (known as goodwill properties), we normally continue to trade in order to reserve the value of the property. We have relationships with a number of management companies who are able to trade these on our behalf.

Completion of building development

Moorfields also have experience in working with contractors to complete part built developments to ensure that

realisations are maximised. This requires the lender to finance completion of the building work which is carried out under the control of the Receivers.

Investment Properties

Where the property is rented, whether residential or commercial, the LPA Receivers will take over the collection of rent on behalf of the Lender and agents will be instructed to market and sell the property.

Loan Redemption

Should there be sufficient equity in the property to enable the mortgagee to be repaid in full (including receivership costs) the LPA Receiver will return the equity in redemption to the borrower.

Tax and Completion

The LPA Receivers act as agents of the mortgagor/debtor. This means that any transactions that give rise to a VAT liability or capital gain must be included in the individual or company returns. The LPA Receivers will write to advise the borrower of any such as transactions, either as they occur or at completion of the receivership.

Practical Steps on Appointment

Securing and Insuring the Property

The LPA Receivers day one activities include site attendance to secure the property and assess its condition, ordinarily this will include changing the locks to prevent any further access to the borrower. The LPA Receivers will also immediately place the property on an open cover insurance policy.

Marketing and Sale

Agents will be instructed to prepare a valuation report, advise on asking price levels and produce a sale strategy. If an existing offer is to be considered the LPA Receivers would require the agents' recommendation for acceptance.

Reporting

Moorfields will agree a reporting format and frequency to suit the lender's requirements.

About Moorfields

At Moorfields, we understand that any business – no matter what its size – can experience a reversal in fortune. We also know that when things are taking a turn for the worse, innovative thinking is as important to your survival as capital. And that's exactly what we offer.

We're business owners ourselves, so we know all about the pressures of trying to keep your stakeholders happy. We've also got years of experience in the world of finance, so we know a thing or two about keeping companies afloat.

But our innovative thinking isn't just about expert business advice. It's about breaking the mould of insolvency and rescue practitioners: helping you through your problems, treating you like a human being, and actually understanding exactly what you're facing.

We'll never surprise you with last-minute charges, because our fees

are totally transparent (and actually quite affordable). We'll also never try to force you into a one-size-fits-all solution. Because we get it: your business is unique.

Finally, we'll never back out when the going gets really tough. We do what we say we'll do. And whatever happens with your business, we'll be here to help you every step of the way.

If you would like to discuss how Moorfields can assist you with an LPA or any other issues please contact

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