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## INFORMATION ABOUT OPTIONS WITHIN AN INSOLVENCY CASE

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This leaflet provides information about opting out of correspondence, decision making processes, email correspondence, electronic payments and claiming for relatively low amounts in an Administration; Liquidation; Bankruptcy or Voluntary Arrangement.

You can choose your options by completing and returning the paper form if it has been sent to you (or downloading it from the 'Case Specific Documents' area of [carmichaelsinsolvency.co.uk](http://carmichaelsinsolvency.co.uk) with the username and password provided, which are case specific) or online at [www.carmichaelsinsolvency.co.uk/creditor-responses-\[case reference\]](http://www.carmichaelsinsolvency.co.uk/creditor-responses-[case reference]), replacing case reference with the Carmichael & Co case reference (which will look like A123456), though this is not available for bank details. The contact code you will need is also on our letters (and will look like CA00; EA00; RA00 or HA00) - if you do not enter it we may need to call you to confirm your choices.

Lowry House 17, Marble Street Manchester M2 3AW		127 High Street Hythe Kent CT21 5JJ
0330 223 0915	Tel	0330 223 0925
0161 883 0480	or	01303 647 480
0330 223 0965	Out of Hours	0330 223 0965
0330 223 0985	Fax	0330 223 0985
DX 14346 MANCHESTER		
<a href="http://www.carmichaelsinsolvency.co.uk">www.carmichaelsinsolvency.co.uk</a>		<a href="mailto:info@carmichaelsinsolvency.co.uk">info@carmichaelsinsolvency.co.uk</a>



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New rules governing insolvency came into effect on 6 April 2017. These included a number of provisions which should ultimately reduce the costs of insolvency processes and make communication between the Administrator; Liquidator; Supervisor or Trustee in Bankruptcy ('the office holder') and creditors more efficient. This leaflet sets out the main ones, and some others which you may wish to benefit from. It also explains why some office holders will accept small claims without a proof of debt, but Carmichael & Co does not offer that automatic option.

If any of these options are relevant to you, I need your request in writing. To help you, a sheet with boxes to tick is included with this leaflet if you have been sent this by post, and it is available as a pdf from the 'Case Specific Documents' area of our website at [www.carmichaelsinsolvency.co.uk](http://www.carmichaelsinsolvency.co.uk). An electronic form with these options (apart from the bank details) is also available at the same website.

### **OPTING OUT OF CORRESPONDENCE**

All creditors now have the right to elect to opt out of receiving further documents about the proceedings unless the Insolvency Act requires a document to be delivered to them without expressly excluding those who have opted-out, it is a notice relating to a change in the office-holder or the office-holder's contact details, or it is a notice of a dividend or proposed dividend or a notice which the court orders to be sent to all creditors or all creditors of a particular category to which the creditor belongs.

Opting-out will not affect your entitlement to receive dividends if any can be paid to creditors, nor does it remove your ability to download documents from our website.

Unless the Insolvency Rules provide to the contrary, opting-out will not affect any right the creditor may have to vote in a decision procedure or a participate in a deemed consent procedure in the proceedings although the creditor will not receive notice of it (but it will be published on the website stated above);

A creditor who opts out will be treated as having opted out of receiving correspondence for this insolvency and in respect of any consecutive insolvency proceedings of a different kind for the same company or individual.

If you wish to cease to be an opted-out creditor, please contact me in writing.

Changes will happen when I receive your opt-out/in, but it will take a short while to update the list. We may also contact you a last time to make sure that you have made the decision.

Please note that if post is returned to us undelivered we will usually stop sending it unless we have received a forwarding address.

### **DECISION MAKING PROCESSES**

The usual way of reaching decisions with creditors was at formal meetings (albeit very few creditors actually attended in person, most sending proxies), the Insolvency (England and Wales) Rules 2016 seek to avoid physical attendance at meetings.

The decision making processes now initially available are:

### **Deemed Consent**

This is not strictly a decision making process but I may tell creditors that unless 10% of the creditors by value who can vote object to a specific decision it will be taken as made. The deadline to receive any objections is a minute to midnight on the stated decision date.

### **Decision by Correspondence**

You will be asked to vote 'yes'/'no', or 'for'/'against' or similar, sending your decision by post, DX or email. Again, the deadline to receive any objections is a minute to midnight on the stated decision date. If I do not receive any responses, I will need to use a different decision making process.

### **Decision by Electronic Voting**

This is the same as by correspondence, but voting is through a web site.

### **Decision by Virtual Meeting**

The meeting is usually by webcam, though you can also call in by phone (using the phone's camera or just in voice). You can take part at the time in person, or by sending a proxy for someone (including the chairman of the meeting) to attend on your behalf. Because this meeting is reliant upon technology (which can always go wrong), there is a provision for anyone who was stopped from attending the meeting because of this to raise an objection by 4pm the next working day.

Exact details of the specific procedure will be provided with the notice of the decision being made.

Where you are being asked to make decisions, if 10% of the creditors by value, 10% by number or 10 creditors state within 5 business days of the date of delivery of the notice state that they want a physical meeting instead of the other decision making process to take place this will be convened.

It takes time and money to deal with any decision making procedure (including notifying the creditors), so if I am aware that sufficient creditors will always ask for a physical meeting it appears more sensible to move straight to such a meeting.

If you will always want a meeting on this case at which you attend in person or send someone to represent you (rather than calling me with any questions before sending your vote by post or electronically, or attending a virtual meeting) then it would be helpful if you would tell me. There is also an option if you want this to apply to every case on which you are a creditor where you are allowed to make this decision before a meeting is convened.

If you have not told me in advance that you always want physical meetings you will still be able to decide on a decision-by-decision basis, (though if you have opted out from

correspondence, you will not receive the notice but your voting rights will be the same as if you had). If you have told me that you will always want a physical meeting, but I convene a different decision making process since the threshold has not been met in advance, you will need to specifically request a physical meeting. This option is only to potentially save money and avoid the delay caused by convening one type of decision making process then calling a physical meeting.

### **SENDING EMAILS**

If the insolvent company or individual has previously corresponded with you by email I will continue to do so unless you tell me otherwise. If this is not the case but you are happy for me to do so please tick the appropriate box.

Not only will this potentially save money, but where there is a deadline (such as for final claims) you will generally receive at least an extra day's notice. If we are sending a letter to tell you that a particular document is available on our website, we will usually include the document in the email.

We would prefer it if you are able to use a generic email address (ie accounts@afalseaddress.co.uk) rather than fred@afalseaddress.co.uk since if we are not told that Fred has left you may not receive important correspondence.

### **PAYING DIVIDENDS**

Where dividends can be paid, I am often (not always) able to make payments electronically. By completing this section I will be able to send you any payments more quickly and safely. Please remember, however, to notify me if you change bank. Your bank details cannot be provided online.

Some creditors do not want low dividend amounts paid, so we also provide an option for you to set a lower limit for payments (unless it the last dividend we pay), or for you to decide to donate it to charity instead.

### **SMALL CLAIMS**

The new rules allow the office holder to waive the need for creditors with debts of less than £1,000 to submit a proof of debt. They still need to submit one to vote, and if a small dividend is paid there could potentially be a lot more small payments where the costs of processing them are more than the value, some of which will never clear since I was given the wrong address in the first place.

Unless I specifically therefore state in writing that your small claim is being accepted without a proof of debt please submit your claim whilst the documents are still to hand – this can be a letter or your invoice/statement with the words ‘treat this as my claim’ or similar and your signature, it does not have to be on our claim form.