

A study of creditors petitioning for bankruptcy

**A report produced by The Insolvency Service.
This information is also available on The Insolvency Service website at
www.insolvency.gov.uk**

Contents

Section 1: Executive Summary	3
1.1 Introduction	3
1.2 Key findings	4
1.3 Methodology	5
Section 2: Results	7
2.1 Level of bankruptcy petitions presented by creditors	7
2.2 Level of bankruptcy orders made on petitions presented by creditors	9
2.3 Type of creditors on whose petition a bankruptcy order is made	12
Appendices: Tables	
1. Bankruptcy petition and order statistics, including sample sizes, for England and Wales	

Section 1: Executive Summary

1.1 Introduction

This report looks at the creditors who have petitioned for bankruptcy, collectively in England & Wales, since the early 1990s. It focuses on three key areas:

- The level of bankruptcy petitions presented by creditors
- The level of orders made on bankruptcy petitions presented by creditors
- The type of creditors on whose petition a bankruptcy order is made

The aim of this research was to ascertain whether there have been changes over the study period in respect of these areas. This research will add to the evidence base for future policy decisions. Additionally, the information will assist in determining the scope for further research into bankruptcy.

1.2 Key Findings

- The level of bankruptcy petitions presented by creditors has fallen over the period from 1992/3 to 2001/2, but has risen since then.
- The level of bankruptcy orders made based on creditor petitions shows a similar pattern, where the level has fallen over the period from 1992/3 to around 2002/3, but thereafter shows a rising trend.
- The percentage of cases where a bankruptcy order is subsequently made on bankruptcy petitions presented by creditors has fallen slightly over the study period.
- The most common petitioner throughout the study period is the Crown.
- Local authorities and, to a lesser extent, accountants (including insolvency practitioners), have become an increasingly more common petitioner throughout the study period.
- Trade creditors and, to a lesser extent, insurance companies, have become a less frequent petitioner throughout the study period.
- The decline in trade-associated petitioners is broadly consistent with the decline in the level of self-employed bankrupts.
- After an initial peak, the level of bankruptcy orders made where banks and financial institution are petitioners has remained broadly consistent over the study period.

1.3 Methodology

Information on creditors' bankruptcy petitions has been collected over the period from 1992/3¹ to 2005/6 for England and Wales.

Data on the level of bankruptcy petitions presented by creditors in England and Wales are maintained and published by the Department of Constitutional Affairs, and are available for the whole study period.

Data on the level of bankruptcy orders made on creditor petitions in England and Wales form part of internal statistics maintained by The Insolvency Service. However, these data were not collected throughout the study period and are only available from 1995/6 onwards. Therefore, for the period 1992/3 to 1994/5, an estimate has been made based on the level of debtor bankruptcy petitions presented and the total number of bankruptcy orders made².

Details of the type of petitioning creditors in bankruptcy cases have been extracted, where available, from The Insolvency Service's internal database for the periods 1992/3, 1994/5, 1999/00, 2004/5 and 2005/6. The internal database was not fully used at the beginning of the study period. Further, in some cases the type of petitioning creditor was not known. Therefore, information regarding the type of petitioning creditor is only available in a sample of cases.

Petitioner creditors have been classified into the following broad categories:

- Accountants (including insolvency practitioners) – these debts mainly relate to unpaid fees in respect of accountancy and insolvency work and advice, as well as supervisors petitioning for bankruptcy following the failure of an individual voluntary arrangement³.
- Banks – in the early 1990s, these debts mainly related to outstanding overdrafts or loans, but now relate to a wider range of personal financial products, e.g. credit cards.
- Crown departments – these debts mainly relate to unpaid VAT, income tax and national insurance contributions.
- Financial institutions - in the early 1990s, these debts mainly related to outstanding credit card balances or loans, but now relate to a wider range of personal financial products, e.g. overdrafts.
- Insurance companies – these debts mainly relate to commission due on lapsed insurance policies.
- Solicitors – these debts mainly relate to unpaid fees in respect of legal services and advice.

¹ The period 1992/3 refers to the year ended 31 March 1993

² The statistics maintained by the Department of Constitutional Affairs regarding the number of debtor creditor petitions presented for the period 1995/6 to 2005/6 is broadly similar to the number of bankruptcy orders made based on debtor petitions. Therefore, the number of debtor petition bankruptcy orders for 1992/3 to 1994/5 has been estimated as being equal to the number of debtor bankruptcy orders presented for the period 1992/3 to 1994/5, and the resultant creditor petition bankruptcy orders have been calculated.

³ Under sections 264(1) c) and 276 of the Insolvency Act 1986, an insolvency practitioner acting as supervisor of a voluntary arrangement (IVA) may petition for the bankruptcy of the IVA debtor on the grounds that IVA debtor has failed to fulfil his/her obligations under the IVA.

1.3 Methodology (continued)

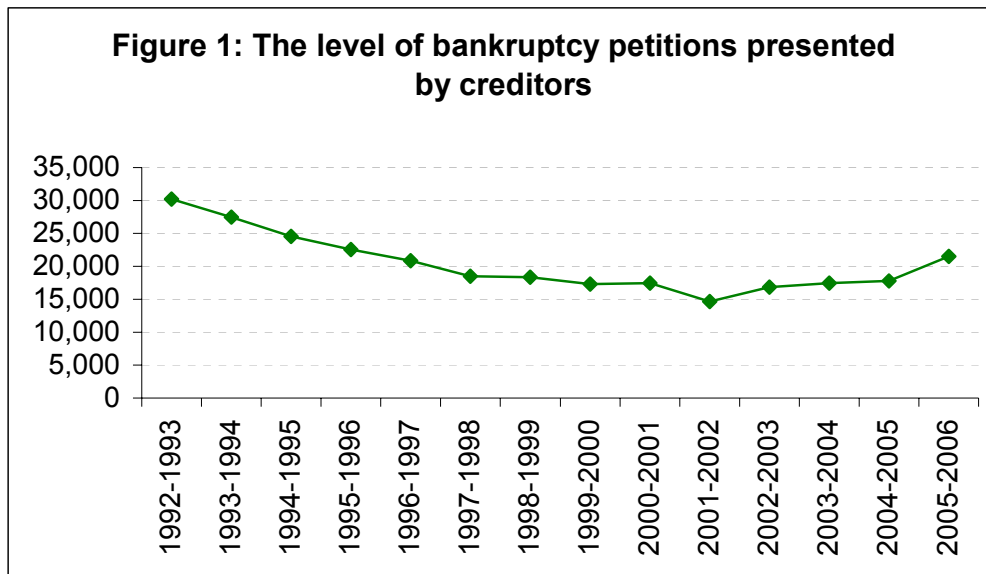
- Local authorities – these debts mainly relate to unpaid council tax.
- Trade creditors – these debts mainly relate to unpaid trade goods and services supplied.
- Other

Detailed statistics for England and Wales, including sample sizes, are shown in Appendix 1.

Section 2: Results

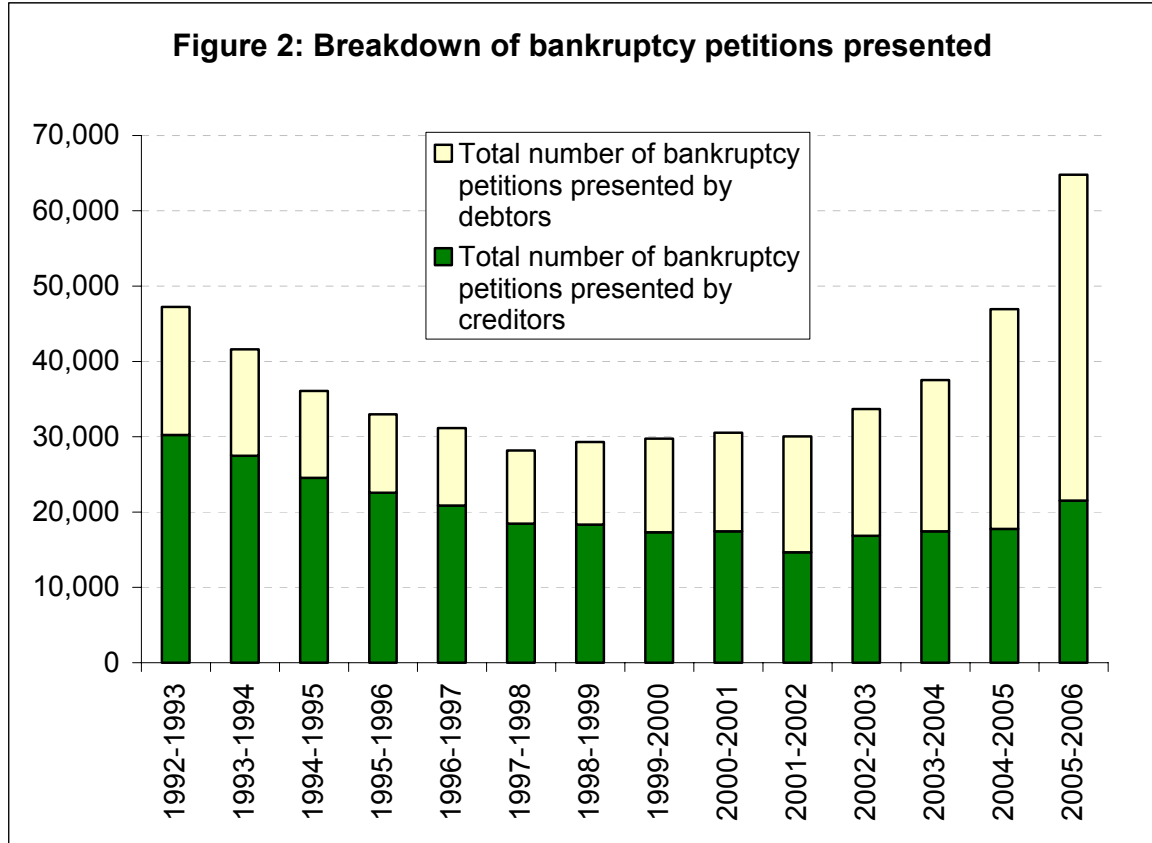
2.1 Level of bankruptcy petitions presented by creditors

- The level of bankruptcy petitions presented by creditors has fallen over the period from 1992/3 to 2001/2, but has risen again thereafter. However, the level of bankruptcy petitions presented by creditors in 2005/6 is still substantially lower than in the period 1992/3 to 1995/6 (see Figure 1).



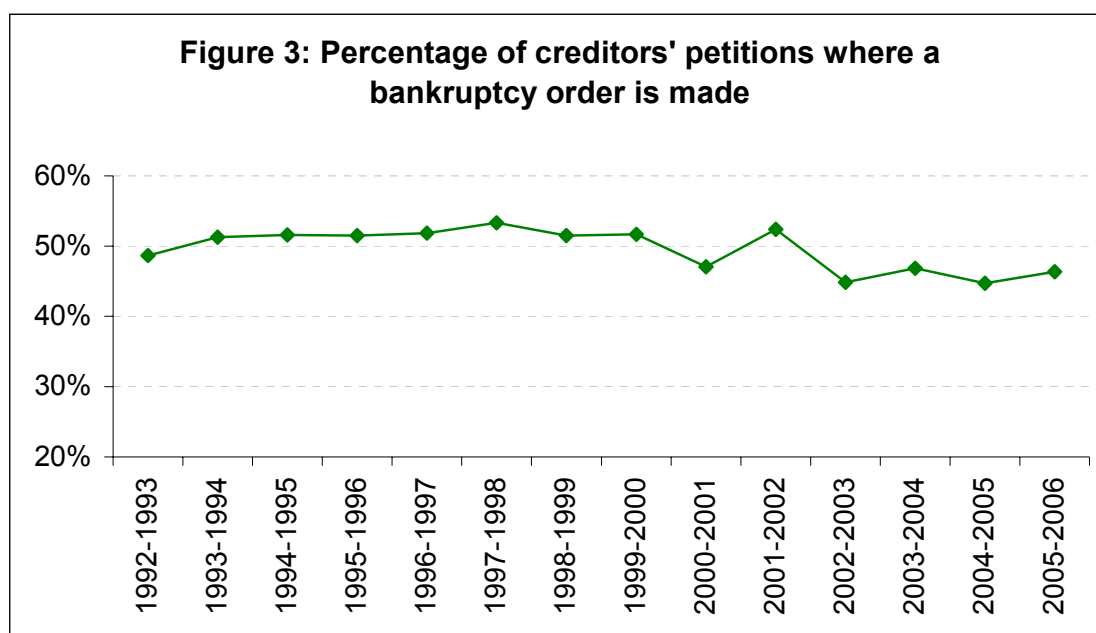
- The total level of all bankruptcy petitions presented shows a similar trend of having fallen and then risen again over the study period. However, the total level of bankruptcy petitions presented fell over the period 1992/3 to 1997/8, but began to rise earlier in 1998/9 (see Figure 2).
- Further, the total level of petitions presented in 2005/6 is around 35% greater than the total level of petitions presented in 1992/3.
- The increase in the total level of bankruptcy petitions is due to a rise in the level of bankruptcy petitions presented by debtors (see Figure 2). At the beginning of the study period in 1992/3, there were 30,235 creditor petitions compared to 17,002 debtor petitions. In 2001/2, the level of debtor petitions first exceeded the level of creditor petitions and by the end of the study period in 2005/6, there were 21,531 creditor petitions compared to 43,266 debtor petitions.

2.1 Level of bankruptcy petitions presented by creditors (continued)



2.2 The level of orders made on bankruptcy petitions presented by creditors

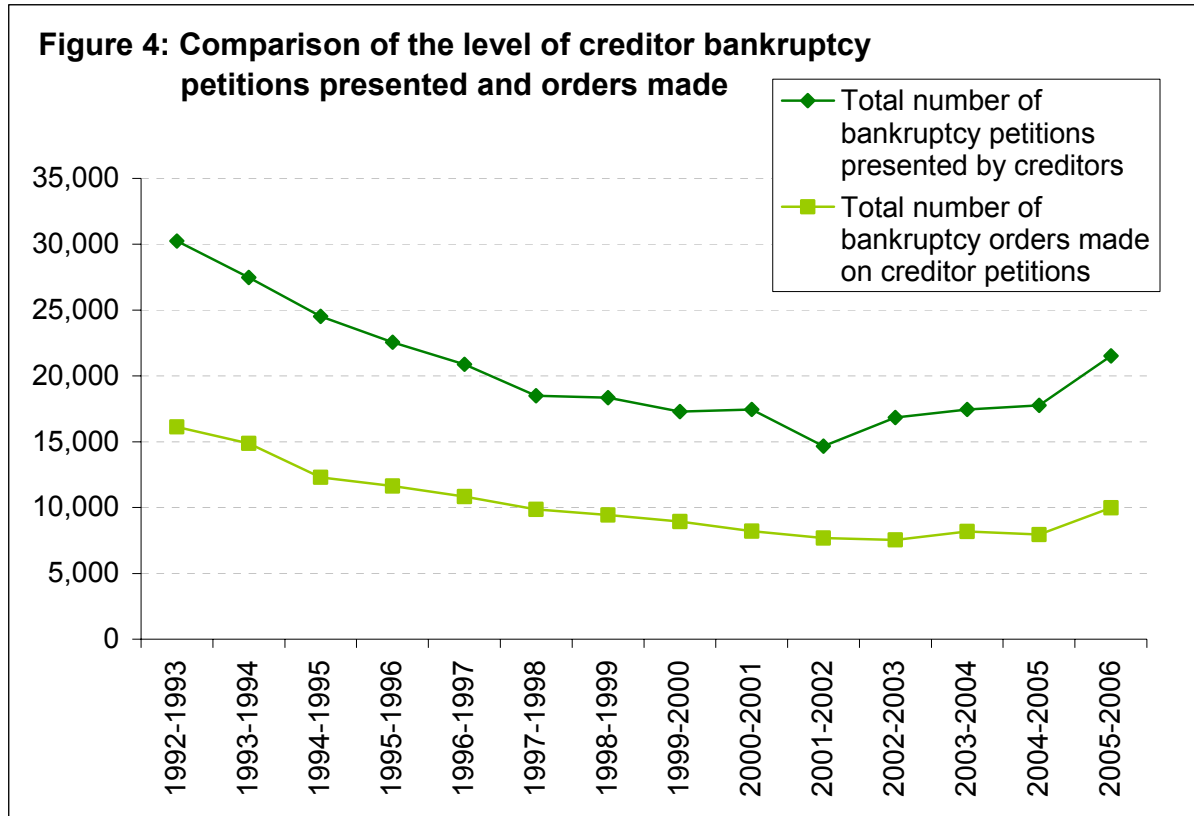
- The percentage of bankruptcy orders subsequently made on bankruptcy petitions presented by creditors has fallen slightly over the study period (see Figure 3). In 1992/3, 49% of petitions presented by creditors resulted in a bankruptcy order being made. In 2005/6, 46% of petitions presented by creditors resulted in a bankruptcy order being made⁴. This may be due to more people paying the petition debt prior to the hearing of the bankruptcy petition.



- The level of bankruptcy orders subsequently made on creditor bankruptcy petitions shows a similar overall pattern to the level of bankruptcy petitions being presented by creditors (see Figure 4). However, the level of bankruptcy orders made on creditor bankruptcy petitions did not experience the small downward fluctuation in 2001/2 in the same way as the level of bankruptcy petitions presented by creditors. This fluctuation fed through to the percentage of creditors' petitions where a bankruptcy order was subsequently made and caused a corresponding fluctuation (see Figure 3).

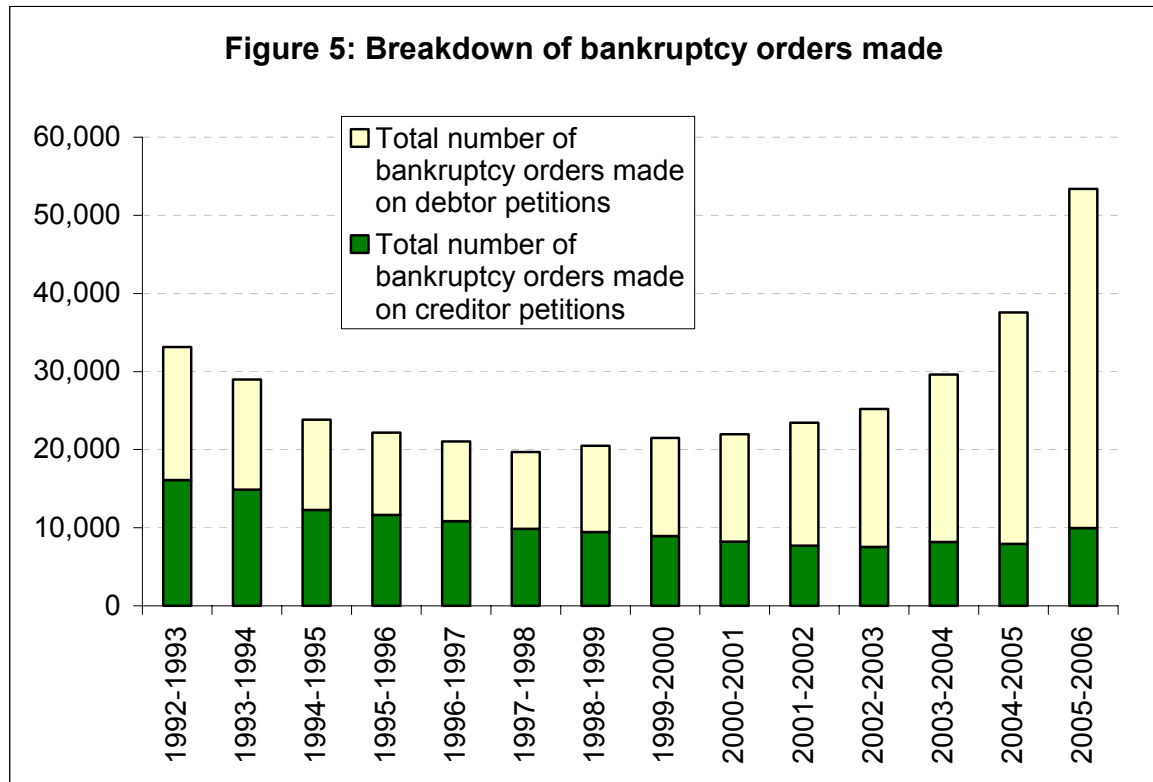
⁴ The figures have not been lagged and therefore directly compare petitions presented by creditors and orders made on creditor petitions in the same period. In reality, there is a delay between the presentation of a bankruptcy petition by a creditor and the making of any subsequent bankruptcy order. Based on bankruptcy orders made on creditor petitions in 1994/5, the average time between the presentation of the petition by a creditor and the making of a subsequent bankruptcy order is 86 days. This average has been calculated with reference to the Inter Quartile Range (IQR), with the data range being trimmed to take into account outliers, which are identified as data points where $Q1 - 1.5IQR > X > Q3 + 1.5IQR$. The outliers identified are valid readings, but are not typical. Therefore, the orders made on creditor petitions should be lagged but insufficient statistics are available to lag the figures appropriately.

2.2 The level of orders made on bankruptcy petitions presented by creditors (continued)



- In contrast, the total level of bankruptcy orders made has risen over the study period (see Figure 5). This is due to an increase in the level of bankruptcy orders made on petitions presented by debtors.

2.2 The level of orders made on bankruptcy petitions presented by creditors (continued)

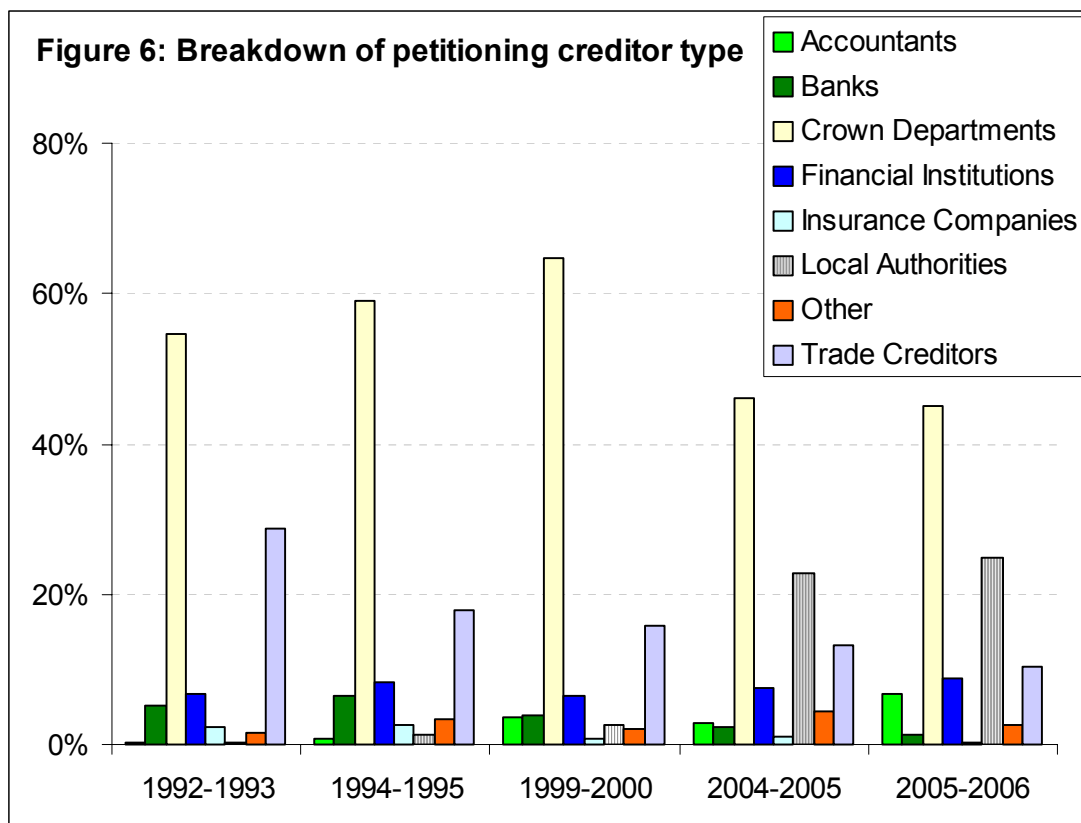


- It should be noted that in some cases, the level of bankruptcy orders made on debtor petitions does not equal and, in some cases, exceeds the level of debtor bankruptcy petitions presented in a period. This is due to:
 - Some debtor petitions being dismissed, resulting in less orders being made compared to petitions presented; and
 - Partnership petitions, where a single petition may result in two bankruptcy orders⁵, resulting in more orders being made compared to petitions presented.

⁵ Partners can petition for bankruptcy orders to be made against all the partners under article 11 of the Insolvent Partnerships Order 1994 (known as a Form 16 petition). The petition must be presented jointly by all the partners, and can only be presented where all the partners are individuals. A formal winding-up order is not made against the partnership, but any order made as a result of a Form 16 petition will include authority for the partnership to be wound up by the trustee appointed to deal with the bankrupt partners' affairs.

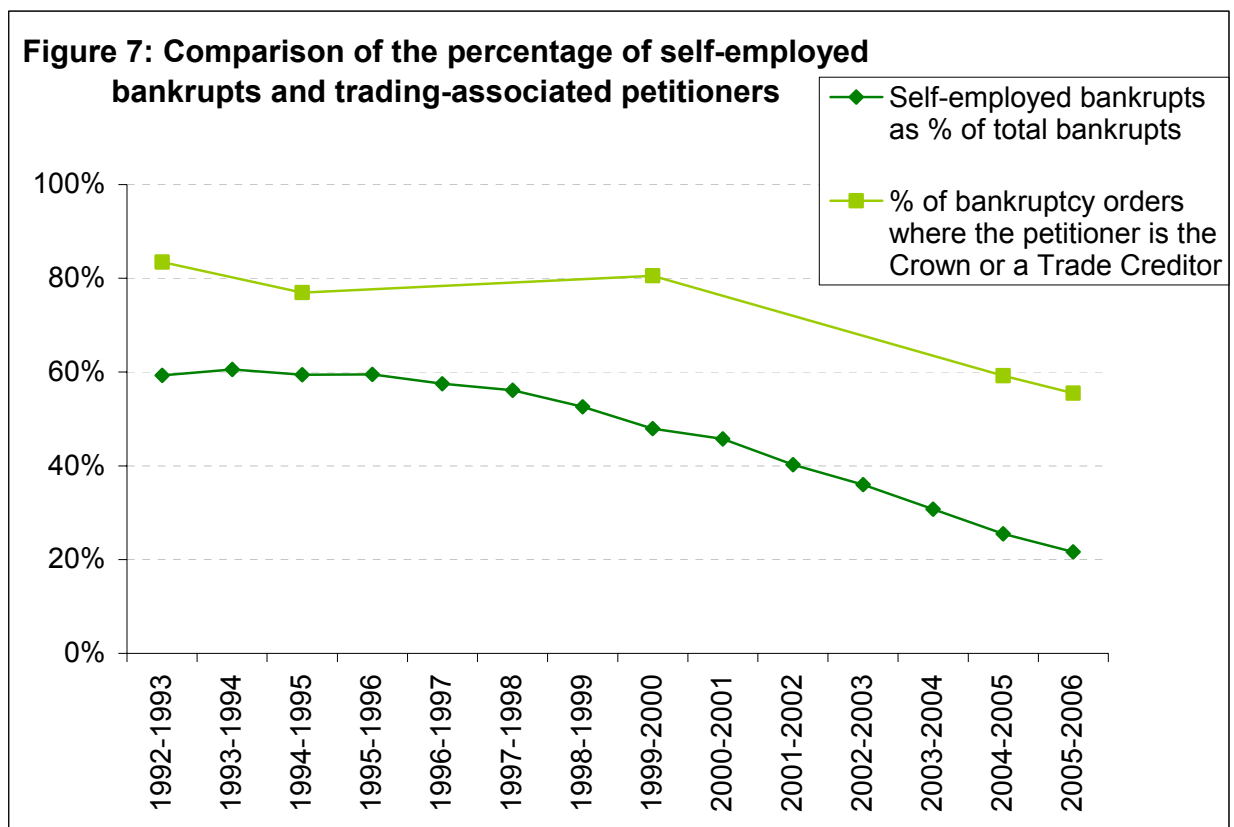
2.3 Type of creditors on whose petition a bankruptcy order is made

- The most common petitioner throughout the study period is the Crown (see Figure 6). The percentage of cases where the Crown was petitioner increased in the years sampled in the 1990s, from 55% in 1992/3 peaking at 65% in 1999/00. Thereafter, the percentage of cases where the Crown was petitioner then fell in the years sampled to 45% in 2005/6.
- Local authorities have become increasingly active petitioners throughout the study period (see Figure 6). In 1992/3, local authorities were the petitioner in less than 1% of cases, but by 2005/6, they were the petitioner in 25% of cases.
- Since April 2000, local authorities have undertaken best value reviews and one of the key best value performance indicators is the percentage of council tax collected. Case study material suggests that local authorities will now take bankruptcy action to recover outstanding council tax in appropriate cases and this is likely to be the reason for the increase in bankruptcy orders made on the petition of local authorities.



2.3 Type of creditors on whose petition a bankruptcy order is made (continued)

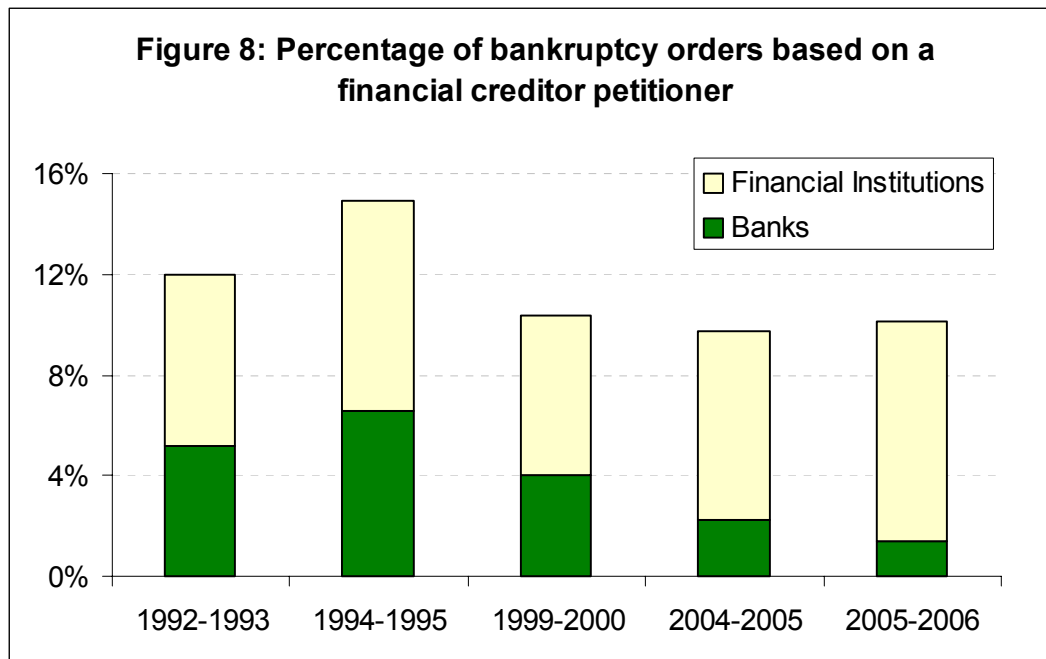
- To a lesser extent, accountants (including insolvency practitioners) have also become a more common petitioner throughout the study period (see Figure 6). In 1992/3, accountants (including insolvency practitioners) were the petitioner in less than 1% of cases, but by 2005/6, they were petitioner in around 7% of cases.
- Trade creditors have become a less frequent petitioner throughout the study period (see Figure 6). In 1992/3, trade creditors were the petitioner in 29% of cases, but by 2005/6, they were the petitioner in 10% of cases.
- Over the study period, the level of self-employed bankrupts has declined, and the level of bankruptcy orders where the Crown and trade creditors are petitioners is broadly consistent with this trend (see Figure 7).



- To a lesser extent, insurance companies have also become a less common petitioner throughout the study period (see Figure 6). In 1992/3, insurance companies were the petitioner in around 3% of cases, but by 2005/6, they were the petitioner in less than 1% of cases.

2.3 Type of creditors on whose petition a bankruptcy order is made (continued)

- Banks became a more frequent petitioner in 1994/5 compared to 1992/3, and then less frequent over the latter study periods.
- Financial institutions also became an increasingly more frequent petitioner in 1994/5 compared to 1992/3 and then less common in 1999/00. However, since then, they have become more common (see Figure 6).
- Over the study period, the percentage of bankruptcy orders made where the banks and financial institutions are petitioners has risen from 12% in 1992/3 to 15% in 1994/5. Thereafter, the percentage of bankruptcy orders made where the banks and financial institutions are petitioners has remained broadly consistent at around 10% (see Figure 8).
- All sections of the credit industry are now covered by various codes of practice, issued by trade associations⁶. This may have impacted on the level of cases where bankruptcy action is taken by banks and financial institutions to recover outstanding debts.



⁶ 'Can't pay or won't pay – a review of creditor and debtor approaches to the non-payment of bills' – Nicola Dominy and Elaine Kempson
http://www.pfrc.bris.ac.uk/Reports/cant_pay_wont_pay.pdf