

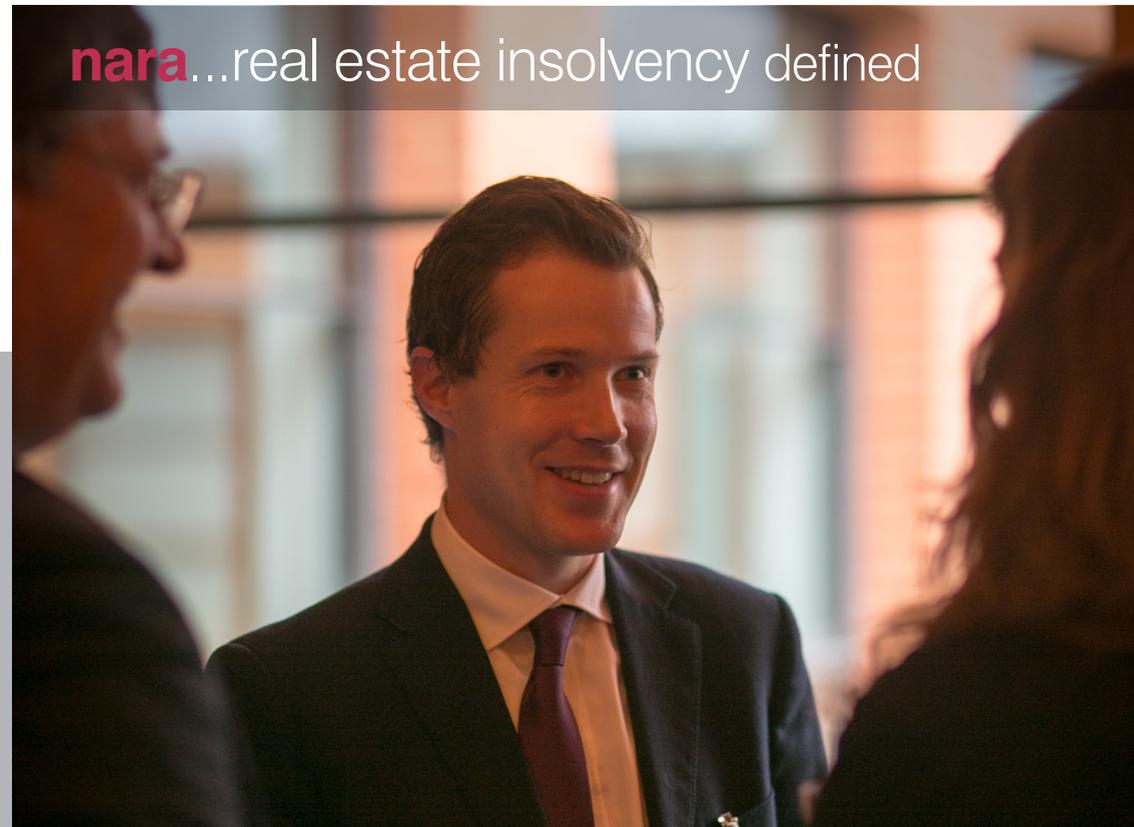
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The Association of Property
and Fixed Charge Receivers

www.nara.org.uk

The appointment of a **receiver**

nara...real estate insolvency defined



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why is a receiver appointed?

Where a borrower has breached the terms of mortgage, a lender may appoint a fixed charge receiver as an alternative, or in addition, to taking action against the borrower itself.

This strategy may be appropriate in a wide range of circumstances.

Once appointed the receiver will take responsibility for managing the property, receiving the income (if any) and providing specialist property advice.

Why a fixed charge receiver, not an Administrator or Liquidator?

A fixed charge receiver is appointed by a lender who has a charge on the property. That specialist receiver is appointed under the terms of that fixed charge or mortgage deed, and is appointed over the property which is the subject of that charge. By contrast, Administrators and Liquidators are appointed over all the assets of a trading business and may run the business with a view to a sale, or wind the company down. Fixed charge receivers will generally not carry on a business, although may do so in certain limited circumstances.

What are the powers of a receiver?

These can vary widely depending on the terms in the wording of the charge. The receiver is generally the agent of the borrower and typically their powers can include the following:

- collecting any rental income due
- looking after the property – securing / repairing / insuring it
- obtaining possession if it is occupied illegally or the occupier has defaulted on his obligations (eg: to pay rent)
- seeking planning consent
- arranging the letting or sale of the property if the receiver considers that is the best way of repaying all or part of the debt
- paying monies collected to repay the loan
- returning any surplus, after repayment of debts and costs, to the borrower

what will the receiver do?

Normally, the receiver will take over the management of the property, ensuring that tenant's obligations are complied with, will collect rent and pass it to the lender (mortgagee).

The receiver may decide to sell the property. Their primary duty is to achieve the best realisation, which is a function not only of price, but time taken, related risks and costs.

What powers does the borrower have?

All the borrower's powers in respect of the property are suspended by the appointment of a receiver. The receiver is entitled under the terms of their appointment to collect all rent owed, which will be held in an appropriate and safeguarded receivership account, as will all other monies, such as service charges etc.

What if the borrower wants to repay the loan?

The borrower has the option of repaying the loan in full, plus all of the costs incurred to date. However it would be advisable for the receiver to be kept informed of any imminent re-financing, as they may agree to delay any sale if there is a real prospect of this being achieved.