

ENGLAND AND WALES / JUDGMENT

# Poundland Limited, Re

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NEUTRAL CITATION NUMBER: [2025] EWHC 1822 (Ch) Ref. CR-2025-004514 IN THE HIGH COURT OF JUSTICE BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES INSOLVENCY AND COMPANIES LIST 7 Rolls Buildings Fetter Lane London Before THE HONOURABLE MR JUSTICE THOMPSELL IN THE MATTER OF POUNDLAND LIMITED MR T SMITH KC, MISS G PETERS and MISS M JONES appeared on behalf of Poundland Limited Approved JUDGMENT 8 JULY 2025

Approved Judgment based on a transcription from the official recording by eScribers Ltd Ludgate House, 107-111 Fleet Street, London EC4A 2AB JUDGE THOMPSELL:

1. Introduction and background Poundland is a familiar name on the High Street. Even High Court Judges shop there sometimes! The first Poundland store was opened in Burton-upon-Trent in 1990, but since then the brand has grown to become a large-scale discount retailer in the UK and the Republic of Ireland, currently with 800 stores serving approximately over 20 million customers in a 52-week period ending on 18 February 2024. Together with its subsidiaries, the group (the “Plan Company”) offers a value-orientated retail business under the brand name “Poundland”. Sadly, the last two years have not been kind to Poundland. Poundland Ltd, (the “Plan Company”), is now facing the prospect of insolvency, in the sense of being unable to pay its debts as they fall due. As a result, the Plan Company seeks permission to convene meeting with 14 different classes of its creditors (the “Plan Creditors”) to consider if supports approved a restricting plan (the “Plan”) under Part 25A of the Companies Act 2006 (the “2006 Act”). A second hearing will relate to the Court’s sanction of the Plan, assuming that the Plan Creditors do so approve. This judgment relates to the application for the Court to approve the convening hearing. The group’s financial position has significantly deteriorated in the last two years. The group has experienced poor performance in a difficult retail and economic environment and its profitability has sharply declined. The group is facing an imminent cash shortfall in the week ending 7 September 2025, when it will become unable to pay its debts as they fall due, unless it receives further financial assistance or unless the restructuring, of which the Plan forms part, takes place. The Plan completed so far avoided insolvency, first through the financial assistance of its former parent, PEU (TRE) Limited (“PEU (Tre)”) and, more recently, through a working capital facility from its new shareholder following a sale of the Plan Company, which took place on 12 June 2025. Its new shareholder is 1903 Peach Bidco Limited (“Peach Bidco”). Peach Bidco is a subsidiary of Gordon Brothers Holdings LLC. If the Plan fails, then the Plan

Company argues it is inevitable that the Plan Company and other group companies will enter into formal insolvency proceedings, triggering a liquidation of the group's property portfolio and stock at a highly inopportune time. The Plan, it says, is designed to prevent the destruction of value and potential loss of jobs that would occur in that alternative and to restore the group to sustainable financial health.

2. The Plan The Plan involves identifying and treating slightly differently some 14 classes of Plan Creditors, including some nine classes of Landlord Plan Creditors. Certain of the Plan Company's liabilities are excluded from the Plan. These liabilities relate to premises, services or persons which the Plan Company considers are critical to the future operation of its business and, broadly, includes certain leases, critical trade creditors, employees, HMRC and liabilities arising under a supply chain financing agreement, originally between PepCo and Citibank PLC, to which the Plan Company acceded on 13 October 2021. Notably, there is no compromise of the rights of shareholders. It is intended that the Plan, and the restructuring it is part of, will achieve its objective as follows: Approved Judgment based on a transcription from the official recording by eScribers
  - a. First, the Plan will increase the funds available under the working capital facility from the Plan Company's new shareholders, from the currently available limit of £60,000,000 to £95,000,000, plus an additional £35,000,000 which will extend the maturity date by three years to 1 September 2028.
  - b. Secondly, the Plan will release almost 250,000,000 of unsecured loans owing to PEU (TRE) in exchange for a 30 per cent equity stake in Peach Bidco
  - c. Thirdly, PEU (TRE) will provide the Plan Company with a £30,000,000 overdraft facility and extend the maturity of a secured term load from 1 September 2025 until 1 September 2030. Fourthly, the Plan will compromise liabilities and the 476 current leases with landlords (the "Landlord Plan Creditors") premises at which the Poundland retail business operates. The Landlord Creditors are divided into various classes according to the profitability and strategic importance of the store that operates from the lease. The treatment of lease liability is as set out in the Practice Statement Letter (referred to below) and yet more fully in the draft explanatory statement. It is complex and I will not seek to set out the full treatment here, but to summarize, depending on the class of landlord, there are provisions relating to the amounts of rent, payment of arrears and break clauses for all but Class A, whose rights to rent are not being reduced, and for all but Class A potential to share in the success of the company if targets relating to EBITDA are met. Also, in exchange for the compromises on future rent, the Landlord Creditors, other than those in Class A, are being given a break right.
  - d. Fifthly, the Plan will compromise certain business rate liabilities for the current rating year and previous rating years, in the total sum of around just under £6.7 million. These we refer to as the "Business Rate Creditors". e. It will also compromise various other unsecured creditors, including certain liabilities under leases which are expired or which do not all fall

into the class of liabilities to Landlord Creditors and some sphere of the total, around £27.5 million. These are referred to as the “General Creditors”. The Plan Company considers, and has been so advised, that the relevant alternative to the Plan (the “Relevant Alternative”) is an administration of the Plan Company, in which the most likely scenario is that the administrators will continue to trade the business for around six weeks, for the purpose of liquidating stock. This, it has been advised, would be a materially worse outcome for all classes of Plan Creditors than what is proposed for them under the Plan.

3. Purpose of and satisfaction of the requirements for the convening hearing Section 901C(1) of the 2006 Act provides, “The court may, on an application under this subsection, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the court directs.”

Approved Judgment based on a transcription from the official recording by eScribers The procedure for a convening hearing is governed by the Practice Statement Companies Schemes of Arrangement and Part 26 and Part 26A of the Companies Act 2006, for which the Neutral Citation reference is [2021] WLR 4493 (the “Practice Statement”). Requirements of the Practice Statement applicable to date include that the applicant should draw the attention of the Court at the convening hearing to:

- a. any issues which may arise out of the constitution of meetings of creditors or which otherwise affect the conduct of these meetings,
- b. any issues as to the existence of the Court’s jurisdiction to sanction the scheme, and,
- c. any other issue not going to the merits or fairness of the scheme which might lead the Court to refuse to sanction the scheme, often referred to as “jurisdictional hurdles”. These matters, insofar as any such matter exist, have been thoroughly aired with the Court and I am obliged to the very helpful skeleton argument produced by Mr Tom Smith KC, Georgina Peter and Madeleine Jones in support of the Plan Company and for the oral submissions of Mr Smith this morning. Whilst there is something more to say in relation to the constitution of the proposed classes of Plan Creditors, as regards the existence of the Court’s jurisdiction to sanction the scheme or any jurisdictional hurdles, I am satisfied that neither of these considerations provide any reasons not to convene class meetings. Secondly, as Plan Creditors are entitled to appear at the convening hearing and raise objections to the proposed class composition, the applicant should take all steps reasonably open to it to notify any person affected by the scheme and that, inter alia, needs to be promoted, the purpose that the scheme is designed to achieve and its effects, the meetings of creditor which the applicant considers will be required and their composition and the other matters to be addressed at the convening hearing. I consider that this obligation has been satisfied. The Practice Statement Letter (“PSL”) designed to comply with this requirement was sent to proposed Plan Creditors. It is true that in a significant minority of cases there is not yet evidence that this was received and it in some cases it had been returned. Of the 862 Plan Creditors, as at 6 July 2025, in the case of 86 of them, there had been no confirmation from Royal Mail of delivery. In relation to 22 Plan Creditors, the documents were returned to

sender. For 3 Plan Creditors, delivery was attempted but failed and the recipient has not yet re-booked it. And 26 creditors have an address overseas the document is presumed still to be in transit. Nevertheless, I am satisfied that the Plan Company has made all reasonable efforts to comply with the requirement and, furthermore that, given the high profile nature of Poundland, it is very unlikely that there was any creditor that is not aware, in general terms, of the proposals. No Plan Creditor has indicated an intention to oppose the convening order or to attend the hearing and no Plan Creditor has raised any issues in response to the PSL. Under the Practice Statement, the PSL needs to be notified, "in sufficient time to enable them to consider what is proposed, to take appropriate advice and, if so advised, attend the convening hearing." Approved Judgment based on a transcription from the official recording by eScribers What is adequate notice would depend on all the circumstances. The evidence of the convening hearing should explain the steps which have been taken to give the notification and what, if any, response the application has had to the notification. The PSL was distributed on 12 and 13 June, giving some 26 or 25 days' notice of this convening hearing. In addition, following the distribution of the PSL, the Plan Company has taken steps to engage with certain material Landlord Creditors and has engaged with a number of business rates creditors. In addition, the Plan Company held a meeting with the British Property Foundation (BPF), a major industry body for landlords. The appropriate period of notice is a fact-sensitive matter. It depends on the complexity of the plan, the urgency of the company's financial position, sophistication of creditors and other such factors. See *Re Selecta Finance UK* [2021] BCC 168 at paragraphs 37 to 41 per Adam Johnson J. This scheme, in my view, is a complex one, but I accept that there was urgency and I accept that in the circumstances of this urgency, adequate notice has been given. Nevertheless, I consider I should observe that, because of the way the Plan has developed, there has only been a relatively small opportunity for the Plan Company to discuss the Plan with creditors. The Plan has been developed essentially as part of negotiations between its previous shareholder, PEU (Tre), and the new shareholder Peach Bidco. In effect, the Plan has formed part of negotiations between these parties after the terms on which Peach Bidco would agree to purchase the shares in the Plan Company. As a result, and in view of the listing of the shares of PEU (Tre)'s ultimate parent, these consultations could not take place before the sale to Peach Bidco was concluded in the middle of June this year. As I have mentioned, the Plan Company has made efforts to consult with some Plan Creditors. This has included talking to some 16 largest leasehold Plan Creditors and to trade body, BPF, but these represent only a small fraction of the landlords with which the Plan Company deals. Given the relatively short time for consultation and the possibility that a significant number of Plan Creditors may not have received the PSL, I will, in the terms of the order I am proposing to make, expressly preserve the ability of any Plan Creditor to make representations at the sanction meeting which the Court might normally expect to have been made at this convening meeting.

4. Jurisdictional issues Section 901A CA 2006 introduces Part 26A as follows: "(1) The provisions of this Part apply where conditions A and B are met in relation to a company.

- (2) Condition A is that the company has encountered, or is likely to encounter, financial difficulties that are affecting, or will or may affect, its ability to carry on business as a going concern.
- (3) Condition B is that— Approved Judgment based on a transcription from the official recording by eScribers
- (a) a compromise or arrangement is proposed between the company and— (i) its creditors, or any class of them, or (ii) its members, or any class of them, and (b) the purpose of the compromise or arrangement is to eliminate, reduce or prevent, or mitigate the effect of, any of the financial difficulties mentioned in subsection (2).” The first requirement is that we should be dealing with a company. This is defined in section 901(4) to include: “any company liable to be wound up under the Insolvency Act 1986”. As the Plan Company is a company registered under the United Kingdom Companies Act, it is clearly a company for these purposes. I also accept that the Plan would be regarded as an arrangement under section 901 CA, subject to one possible technical issue. This issue was that it seemed me that in constituting PEU (Tre) as holder of unsecured loans as a class, as drafted the Plan Company was not technically providing any consideration to compromise those loans. That consideration was to be provided by Peach Bidco through the issue of shares. This technical objection went away however when I learned that PEU (Tre) would be the original allottee of the shares and would transfer them to the unsecured creditor and in that way would provide consideration. Moving to the first formal condition, Condition A, I am satisfied that the Plan Company has encountered, or is likely to encounter, financial difficulties. This is apparent from the witness statement of Mr Jackson, who describes the deterioration in trading over the last few years; the fact that it had only been able to meet its liabilities by securing loans from its parents due for repayment in September; and the fact that that, having already attempted business sale, it is unlikely to be able to arrange any further sale. Moving to Condition (B), it is apparent that the condition is met from the description of circumstances I have already given. As well as considering the jurisdictional conditions under section 901A Companies Act 2006, before convening the proposed meetings, the Court needs to consider two further matters in accordance with paragraph 6 of the Practice Statement:
1. Whether it is appropriate for the Plan Creditors to vote as is proposed by the Plan Company in the separate class meetings, and
  2. Whether there are any other reasons that stand in the way of convening the Plan meeting. Approved Judgment based on a transcription from the official recording by eScribers
  5. Class composition In considering whether to make an order, the Court will consider whether more than one meeting of creditors is required and, if so, the appropriate composition of these meetings. The principles for determining whether creditors should be separated into more than one class was set out by Trower J in *Re Virgin Atlantic Airways Limited* [2020] BCC 997 at paragraphs 41 to 48, (“Virgin Atlantic”), and Snowden J, as he then was, in *Re Virgin Active Holdings* [2021] EWHC 814 Ch (“Virgin Active”), at paragraph 61 to

69, and each were endorsed by the Court of Appeal in *Re AGPS Bondco plc* [2024] BCC 302, by Snowden LJ at paragraph 112. The basic principle is that a class must be confined to those persons whose rights against the company are not so dissimilar as to make it impossible for them to consult together with a view to their common interest. The court adopts a broad approach to that question on the facts of each case. Differences in rights may be material and certainly even more than *de minimis* without leading to separate classes. The dissimilarity must be such as to make it impossible for them to consult together, not merely difficult. Is there more to unite than to divide them? Whilst it is necessary in a Part 26 scheme to take care about placing creditors into the same class when they have materially different rights, it may equally be necessary in relation to the Part 26A plan to take care not to place creditors into an artificially large number of classes in order to provide a basis for invoking the cram down power under section 901G Companies Act 2006. By doing so, a company may improve the prospect that at least one class votes to approve it. See *Re Virgin Active* per Snowden J at 62 and *Re Virgin Atlantic* at paragraph 47. In judging what are materially different rights, there are two aspects that need to be considered. First, the Court needs to consider the similarities of what different categories of creditor would be giving up if a structuring plan went ahead, in terms of their rights against the company proposing the plan. This is sometimes referred to as “rights in”. Secondly, the Court needs to consider what it is proposed that different categories of creditor would receive under the restructuring plan. This is termed as “rights out”. See, for example, the decision in *Re Hawk Insurance Company Ltd* [2002] BCC 300 and, in particular, the dicta of Chadwick LJ at paragraphs 23 to 30. The Plan Company proposed categorizing the Plan Creditors into 14 classes, reflecting, amongst other things, the different rights that the Plan Company proposes to offer for those different classes of creditor, if the Plan succeeds. This, in turn, has been influenced by the Plan Company’s assessment of what each of these classes of creditor would be likely to receive in the event of the company entering into formal administration proceedings, which the Plan Company considers is the relevant alternative against which the Plan should be judged. It also, in relation to leasehold creditors, involves assessment by the Plan Company of what reductions in rent it might need in order to be able to trade profitably from the various leaseholds. Approved Judgment based on a transcription from the official recording by eScribers The Plan Company has taken advice from FTI Consulting as to what would be the Relevant Alternative, and I have already described what FTI Consulting considers would be the Relevant Alternative. I have no reason to doubt the correctness of this advice. The Plan Company has also taken advice from Mr Gavin Maher, as to how each category of Plan Creditors would fare within the relevant alternative. Whilst I have no reason to doubt the correctness of any of the advice of Mr Maher, I should note a concern as regards his independence in this matter. His company, Teneo Financial Advisory Limited, was involved in advising the Plan Company and its ultimate parent in relation to the sales of Peach Bidco and in developing the restructuring plan in conjunction with that sale. In my view, this involvement does not detract from his independence in advising from this matter sufficiently for me to be concerned at this point to require another independent report before ordering a convening meeting. I do consider, however, that this point should be

drawn to the attention of Plan Creditors within the explanatory statement, in case any of them wish to raise concern about this point. The proposed classes: the main principles in mind, I turn to consideration of whether there are any sustainable objections to the classes proposed by the Plan Company. First, it may be asked why the shareholder of the Plan Company, who is affected by these arrangements, is not a party. I am informed that the Plan Company does not consider this to be necessary and the Plan Company has put forward reasons within the explanatory statement as to why it is appropriate that there should be no compromise of the rights of the shareholders of the Plan Company. The merits or fairness of a proposal that affects creditors but does not affect a shareholder (who would qua shareholder be completely out of the money in the relevant alternative) is not a point for the Court to take at this stage, but it is one to be considered by the Plan Creditors when voting and may be a point that the Court might need to consider at the sanction hearing. With that in mind, I consider it is important that the explanatory statement should explain in more detail the effect that the Plan is likely to have on Peach Bidco as a shareholder, and also on PEU (Tre), which, under the proposals, is due to receive 30 per cent of the shares in Peach Bidco but subject to dilution for a management incentive scheme. This should outline the sort of returns that Peach Bidco would make if the business plan is achieved and in other illustrative scenarios where it is not achieved or if it is more than achieved. The explanatory statement already gives some illustrations for the effect of achieving different levels of EBITDA on the returns that would be given to the leasehold Plan Creditors and they should be afforded the ability to compare these with alternatives the shareholder would make. Secondly, I note that there are certain liabilities for the Plan Company which would not be compromised by the restructuring plan. These are set out in the draft explanatory statement. The Plan Company has explained the rationale for these exclusions in the draft explanatory statement and I see no difficulty in the Plan Company wishing to exclude these classes of creditor from the plan. Finally, given the large number of landlord classes, a possible concern arises whether the Plan Company may be deliberately fracturing the boat of holders of different classes of debt, with a view to obtaining the ability, if necessary, to overcome a failure to obtain the Approved Judgment based on a transcription from the official recording by eScribers votes of any class by enabling the Court to exercise its cram down power under section 901G CA 2006. Certainly, an argument can be made that the interests of members of the Landlord Plan Creditor classes are essentially similar. As regards rights in, they were all unsecured, except insofar as their right to terminate leases may be seen as some sort of security, and unsubordinated creditors, and they would rank pari passu if the Plan Company were to go into administration or be wound up. In other words, their rights in as against the company are materially the same. However, as regards rights out, whilst they are generally to receive very similar terms there is a principal difference in that they would receive differing proportions of accrued or future rents, according to the ability of the Plan Company to trade profitably from the leasehold premises. There are also certain differences between the category A landlord Plan Creditors and the other categories. Categorizing leasehold creditors in this way, I can see does make commercial sense, and it is an approach that the Courts have approved in various cases,

including in *Re Cine- UK Limited* [2024] Bus. L. R. 1944 where Miles LJ was presiding. I see, therefore, no problems to follow the same approach in this case and, more generally, in summary, I see no reason to question the categorization proposed.

6. Roadblocks I have considered whether there are any other reasons that might prevent the Court from sanctioning the scheme. I have not become aware of any such reasons.
7. Adequacy of the draft explanatory statement Under paragraph 15 of Practice Statement, it is not for the Court to approve the proposed explanatory statement. However, the Court is obliged, also, to consider the adequacy of the explanatory statement that has been circulated pursuant to section 901D of the 2006 Act, and may refuse to make a convening order if it consider that the explanatory statement is not in an appropriate form. Apart from the few matters that I have raised in proceedings. I have satisfied myself that the proposed explanatory statement is in an appropriate form. As I have mentioned, I do consider, however, that as presently drafted, the explanatory statement does not give sufficient prominence to the effect of the plan on the shareholders. Also, I note that it is proposed that the directors of the Plan Company may benefit from the proposed management share plan to be introduced, and this matter should be properly explained alongside the existing explanation of shareholders' interests. Finally, I have also already mentioned that I consider some disclosure of the potential challenge to Mr Maher's independence arising from Teneo's involvement in constructing the Plan should be included.
8. Directions The Plan Company has helpfully provided a draft order including draft directions. This has been reviewed in detail during the hearing and I have, shortly before handing down this judgment, been given a new draft of it, which I will go on to consider. Approved Judgment based on a transcription from the official recording by eScribers Notwithstanding the urgency of this matter for the Plan Company, I have considered starting to slow down the originally proposed timetable, leading to a class meeting by two days to allow the changes I am proposing to the explanatory statement to be drafted and verified. I note that it is proposed that the meeting should be held virtually. As the Courts have previously allowed, in cases such as in *Re Castle Trust Direct Plc* [2020] EWHC 969 (Ch). I am satisfied that this, too, is a case where it is appropriate for the meeting to be held virtually, given the large number and geographically dispersion of the Plan Creditors. I have been through the proposals which the Plan Company has put forward in relation to the conduct of the meeting, and I am satisfied that if these are complied with, creditors will have an adequate opportunity to consult together so as to constitute these virtual meetings for the purposes of Part 26A.
9. Conclusion That, I think, deals with everything I need to deal with in a judgment and I will turn to consideration of the new draft order that has been put in front of me.

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