



The Insolvency
Service

Institute of Chartered Accountants in England and Wales

Follow-up ICAEW Monitoring Report

April 2016

Insolvency Practitioner Regulation Section (IPRS)

Authorising Body	The Institute of Chartered Accountants in England and Wales (ICAEW)
Title	ICAEW Follow-up Monitoring Report (February 2016)
Dates of Inspection	23 and 24 February 2016
Publication Date	29 April 2016

PART 1 – EXECUTIVE SUMMARY

Background

- 1.1. The ICAEW is a Recognised Professional Body (RPB) which authorises and regulates insolvency practitioners.¹ At 1 January 2016, the ICAEW licensed 770 practitioners of which 580 were authorised to take insolvency appointments.²
- 1.2. A full monitoring visit to ICAEW was carried out in February 2015. The [findings of that visit](#) were published in June 2015. As noted in that report, we planned to carry out a follow up visit to assess changes in the Professional Conduct Department and to review the implementation of the recommendations made. This report outlines the steps that ICAEW have taken since the last monitoring visit.
- 1.3. This monitoring visit was carried out jointly by Insolvency Practitioner Regulation Section (IPRS) and the Department of Enterprise Trade and Investment (DETI).
- 1.4. The standards expected of the RPBs are set out in a [Memorandum of Understanding](#) (MoU) which covers matters such as the granting and maintenance of practitioner authorisations, handling of complaints, ethics and professional standards, security and caution, and the exchange and disclosure of information.³ A separate document, the [Principles for monitoring insolvency practitioners](#) (Pfm), sets out the matters to be considered by the Bodies when monitoring their insolvency practitioners. The ICAEW has undertaken to abide by the standards and principles in both of those documents when exercising its authorisation and regulatory functions.
- 1.5. This report outlines the findings of the follow up visit and makes two recommendations aimed at improving the effectiveness of regulatory procedures.

¹ As defined under Section 391(1) of the Insolvency Act 1986 and Article 350(1) of the Insolvency (Northern Ireland) Order 1989.

² Figures per 'Annual review of insolvency practitioner regulation 2015' – [link to be provided on publication]

³ A similarly worded agreement applies in relation to Northern Ireland

Summary Findings

- 1.6. The ICAEW has now implemented all of the recommendations from the 2015 monitoring visit. We have made two further recommendations as a result of this follow up visit. The changes in the Professional Conduct Department (PCD) have had an opportunity to bed in, with complaints being progressed more efficiently and fewer delays in case progression. The recruitment of a senior manager for insolvency complaints has improved consideration of complaints; this brings additional technical knowledge and experience to case reviews, and a further layer of consideration of the merits of a case at each stage of a complaint.
- 1.7. Complaints are generally being addressed much more quickly under the revised system. There was some evidence of minor delays in case progression in the final months of 2015 due to a lack of resources. ICAEW is recruiting a new full time case manager to address this.
- 1.8. A hearing of the Disciplinary Tribunal has been observed since the last visit. The case presented by the Investigation Committee demonstrated the detailed investigation that had been undertaken, and was heard by a Tribunal with majority lay membership.
- 1.9. A routine monitoring visit was observed in January 2016. The reviewer conducted the visit professionally and courteously, and was in accordance with both the MoU and PfM. No recommendations follow from the observed visit.
- 1.10. There are two new recommendations in respect of authorisations, but on the whole the processes have been improved and the introduction of Visual Files has been shown to implement the recommendations from the last visit. As such we are not proposing any further follow-up visit.

PART 2 – MONITORING PROCESS

- 1.11. Prior to the visit, the inspection team requested updated information about the insolvency practitioners authorised by the ICAEW, changes in authorisations, and complaints opened and closed since the last visit.
- 1.12. The following areas were examined during the monitoring visit to ensure compliance with the MoU and PfM, and to ensure that recommendation from the last full visit had been implemented:
 - Authorisation of insolvency practitioners
 - Handling of complaints

- Enabling bonds and cover schedules.

PART 3 – DETAILED FINDINGS AND RECOMMENDATIONS

Authorisation of insolvency practitioners

Recommendation from last full monitoring visit	Findings on this visit	Response
That the ICAEW introduce procedures to verify relevant insolvency experience for new licence applications.	The ICAEW has modified its insolvency application form which explicitly seeks evidence of insolvency experience.	Noted. We assume this recommendation is now closed.
DETI should be included in regulator-to-regulator checks	<p>ICAEW advised that DETI would be contacted as part of regulator- to-regulator check where it has previously authorised an insolvency practitioner, but not as a matter of course.</p> <p>The ICAEW should amend their process to make regulator- to-regulator checks of all other authorising bodies to avoid an individual being dual authorised.</p>	This is a new recommendation. We believe round robin regulator to regulator checks are an unnecessary extra burden in both making them and receiving them from other bodies. We are not clear on what the problem is that is perceived as needing to be addressed but we have implemented steps to comply.
ICAEW closely monitor and ensure the effective transfer of insolvency appointments where an insolvency practitioner ceases to be authorised	<p>Where an insolvency licence is to be withdrawn, the process is managed as a workflow process in the 'Visual Files' IT system. Checks are made to ensure that any live cases have been transferred prior to the licence withdrawal.</p> <p>Where an insolvency practitioner wishes to surrender their licence to move to another RPB, the ICAEW does not confirm that with the new RPB <i>[Bellingham]</i>. This would be confirmed by regulator-to-regulator checks but only when the application proceeds.</p> <p>The ICAEW should confirm, where an IP is seeking to be authorised by another body, that either an application is made or that</p>	This is also a new recommendation. We are not clear where the duty arises for ICAEW to monitor an IP once they are no longer licensed by us. Again we are not clear on what the problem is that is perceived as needing to be addressed but have implemented steps to comply.

	arrangements are made to transfer any insolvency appointments, if the application is unsuccessful.	
That the ICAEW ensure that both the Secretary of State and DETI are notified of changes in authorisations, and otherwise contact and inform them as required in accordance with the reporting duties throughout the year per the MoU.	DETI are now notified at the same time as the Secretary of State.	Noted. We assume this recommendation is now closed.

Monitoring of insolvency practitioners

Recommendation from last full monitoring visit	Findings on this visit	Response
That the ICAEW requests details of complaints received since the previous monitoring visit, or all complaints where this is a first visit, by the insolvency practitioner in advance of a monitoring visit.	ICAEW has introduced a process in advance of monitoring visits to consider requesting details of direct complaints an insolvency practitioner has received. This is assessed according to the number and type of cases, for instance a high number of IVA cases, or a high number of complaints received by ICAEW.	This did not feature in this follow up visit and was resolved at the time of the 2015 visit.
That the closing meeting notes explain the scope of the visit in accordance with the PFM.	The closing meeting notes, which serve as a monitoring report, explain the scope of the visit.	This did not feature in this follow up visit and was resolved at the time of the 2015 visit.

Handling of complaints

Recommendation from last full monitoring visit	Findings on this visit	Response
That both the complainant and the subject of the complaint are kept regularly updated throughout the investigation process.	Complainants and subjects are kept informed of progress throughout the process.	Noted. We assume this recommendation is now closed.
The ICAEW should ensure that deadlines for responses are provided to insolvency practitioners and complainants.	Deadlines for responses are given where appropriate.	Noted. We assume this recommendation is now closed.
Where a complaint has been replied to in full (including necessary explanations) and the complaints process has been exhausted, the complaint should be closed promptly. The complainant should be advised that if they are dissatisfied with the ICAEW's processes for handling the complaint, they should contact the Insolvency Service or DETI (as appropriate) as the oversight regulator.	ICAEW has notified the Insolvency Service of complaints where the complainant is dissatisfied once the ICAEW process has been completed.	Noted. We assume this recommendation is now closed.
The ICAEW should ensure that complaint managers are impartial in their dealings with complainants and insolvency practitioners to ensure that outcomes are fair.	In dealing with a (separate) complaint, the complaint manager did not appear to be impartial as he knew the subject. The complaint was thoroughly reinvestigated and has progressed to potential disciplinary proceedings.	Noted. We assume this recommendation is now closed.

Disciplinary outcomes

Recommendation from last full monitoring visit	Findings on this visit	Response
The ICAEW should ensure that sanctions relating to insolvency matters are applied in line with the Common Sanctions Guidelines.	Disciplinary sanctions are applied according to the ICAEW's Guidance on Sentencing, which incorporates the agreed Common Sanctions Guidance tariffs.	Noted. We assume this recommendation is now closed.
Consideration of aggravating and mitigating factors should be recorded for all aspects of a sanction.	Aggravating and mitigating factors are now recorded in the reasons for decisions.	Noted. We assume this recommendation is now closed.

Enabling bonds and cover schedules

Recommendation from last full monitoring visit	Findings on this visit	Response
That the ICAEW runs its reconciliation report on the 21 st day of each month and chases late submissions immediately.	Cover schedule returns are reconciled on the 25 th day of each month and chased if not received. Schedules are chased a second time if not received with 7 days.	Noted. We assume this recommendation is now closed.
The ICAEW should consider regulatory penalties where a practitioner repeatedly submits cover schedules late.	Habitual late returns may result in regulatory action, with one insolvency practitioner asked to give an undertaking to the Insolvency Licensing Committee to submit cover schedules on time.	Noted. We assume this recommendation is now closed.