



The Insolvency
Service

Association of Chartered Certified Accountants

Follow-up Monitoring Report 2015

October 2015

Insolvency Practitioner Regulation Section (IPRS)	
Authorising Body	Association of Chartered Certified Accountants (ACCA)
Title	ACCA Follow-up Monitoring Report 2015
Inspection Period	May 2015
Date issued	October 2015



PART 1 – EXECUTIVE SUMMARY

Background

1.1 The Association of Chartered Certified Accountants (ACCA) is a Recognised Professional Body which authorises and regulates insolvency practitioners¹. As at 1 January 2015, the ACCA licensed 151 practitioners of which 137 were taking insolvency appointments.

1.2 A monitoring visit was carried out in June 2014 by the Insolvency Service and the Department of Enterprise, Trade and Investment Northern Ireland. The findings of that visit are detailed here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407418/ACCA_Monitoring_Report_-_ACCA_comments_-_Feb_15.pdf

1.3 A follow-up visit was carried out in May and this report outlines the progress made by the ACCA against previous recommendations.

Summary Findings

1.4 Overall, ACCA has made significant progress in improving its complaint handling process but concerns remain about the processes and documentation for dealing with unsatisfactory monitoring visits.

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

1.5 IT changes and an increase in resource means that ACCA now better ensures the timely progression of complaints and has in place a robust monitoring and review system

1.6 ACCA is moving toward a new Regulatory Penalty Regime involving consent orders which, once introduced, will enable it to consider potential misconduct which is not sufficiently serious to warrant referral to its Disciplinary Committee.

1.7 As noted in our previous visit, there remains a concern that there is not a sufficiently independent process for considering the outcome of unsatisfactory monitoring visits to insolvency practitioners. We regard this as a serious concern, and one which we recommend ACCA address as a matter of priority. We note ACCA's proposed changes to its process for considering the outcome of unsatisfactory monitoring visits, and we will assess the effectiveness of these changes on our next follow-up visit.

1.8 We also remain concerned about the lack of transparency for complainants who are not given the name of the independent assessor who reviews their case.

1.9 We plan to undertake a further monitoring visit to ACCA in early 2016.

PART 2 – MONITORING PROCESS

2.1 Prior to the visit, the Inspection Team requested updated information about the insolvency practitioners authorised by ACCA, as well as details of any steps taken to implement previous recommendations.

PART 3 – DETAILED FINDINGS

Authorisation of insolvency practitioners



Previous recommendations	Findings	Response
<p>That the date a licence is approved is recorded on the licence renewal.</p> <p>That ACCA introduces a system for centrally recording authorisation decisions for all insolvency practitioners.</p>	<p>The date of approval is being recorded. ACCA maintains a spreadsheet which provides an audit trail for applications received and issued</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers these recommendations closed.</p>

Monitoring of insolvency practitioners

Recommendations from full Monitoring Visit	Findings	Response
<p>As a matter of best practice, newly authorised insolvency practitioners should have a full monitoring visit within the first 12 months of authorisation, unless a risk assessment suggests this is unnecessary. Where a visit is carried out within the first 12 months, it should comply with the Principles for Monitoring (PfM).</p>	<p>ACCA is now carrying out a full first monitoring visit to new insolvency practitioners, which involve reviewing a selection of all case types. These visits take place around 12 months from the date of authorisation, with subsequent visits taking place in accordance with a 3-year cycle.</p>	<p>ACCA amended its approach with effect from 1 April 2015.</p> <p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p>
<p>The pre-visit questionnaire should specifically address pre-pack cases and compliance with Statement of Insolvency Practice 16 (SIP 16).</p>	<p>ACCA has updated its pre-visit questionnaire to include a request for information on pre-packs.</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p>
<p>That appropriate website checks are carried out in all cases with the results recorded in monitoring reports</p> <p>That ACCA consider expanding its monitoring reports to include all information obtained during the monitoring process, including areas of no concern, to provide a clear audit trail.</p>	<p>ACCA has amended its Insolvency Monitoring Programme (IMP) document to include a section for recording information about website checks.</p> <p>ACCA has updated its monitoring report to include details of the scope of the review carried out on any particular case. The monitoring reports are now more informative and there is a clear audit trail in the IMP.</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers these recommendations closed.</p>
<p>That any monitoring report with unsatisfactory findings be considered independently, for example by the Admissions and Licensing</p>	<p>ACCA rejected this recommendation and has not made any changes to its procedures.</p>	<p>The Insolvency Service has not provided any evidence to suggest that it disagrees with the ACCA's decisions in the cases it has reviewed.</p>

<p>Committee, to assess what regulatory action may be necessary and assess changes in the monitoring cycle.</p>	<p>We do not regard the existing process for peer reviews between compliance officers as being sufficiently independent when considering the outcome of monitoring visits and the resulting monitoring cycle, particularly in respect of unsatisfactory monitoring visits.</p> <p>Whilst ACCA bases its decisions on its 'Guidance for Regulatory Orders', there is insufficient information within individual monitoring files to explicitly demonstrate how the guidance has been applied in considering the breaches identified, with the result that it is not always clear how ACCA has determined whether a referral should be made to either the 'Admissions and Licensing Committee' (ALC) or to 'Investigations'.</p> <p>In a number of cases sampled there were examples of potentially serious misconduct which had been identified on the monitoring visit. Whilst we have not reviewed the appropriateness of ACCA's final decision in each case, we remain concerned about the recording of how these decisions have been reached and the independence of individuals making those decisions.</p> <p>We recommend that ACCA, as a matter of priority, implements a more independent process to consider the outcome of all unsatisfactory monitoring visits, any follow up visits and the frequency of the monitoring cycle.</p>	<p>Similarly, the Insolvency Service has not explained the risks associated with ACCA's approach or how oversight by a committee would enhance the quality of monitoring, other than to say it is 'best practice' adopted by other RPBs.</p> <p>All ACCA monitoring visits, not just those with unsatisfactory visit outcomes, are subject to a peer review by a second compliance officer who was not involved in carrying out the visit, and ACCA considers that such reviews, informed by Guidance for Regulatory Orders (GRO), by a small pool of highly-experienced individuals is an important quality control that promotes consistency of approach and outcome. ACCA therefore remains of the view that it is inappropriate, disproportionate or not cost-effective for all unsatisfactory visit outcomes to be referred to the Admissions and Licensing Committee.</p> <p>Following discussions with the Insolvency Service, ACCA has agreed that any monitoring report with unsatisfactory visit outcomes will be considered by another member of the Monitoring department who is not directly involved in conducting insolvency monitoring visits.</p> <p>As noted above, the Insolvency Service has not concluded that an inappropriate decision was made in respect of any of the cases sampled. ACCA believes that appropriate consideration is</p>
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	<p>In all cases, it should be explicitly explained why a referral has or has not been made to the ALC and / or Investigations. Consideration should also be given, and an explanation recorded, to all of the matters of concern identified on the monitoring visit when determining the frequency of the monitoring cycle.</p>	<p>given to the breaches with regard to the GRO, both by the compliance officer who conducted the monitoring visit and by the peer reviewer(s). However, ACCA acknowledges that in some instances the documentation of the decision-making process could have been more explicit and better summarised, in order to assist the Insolvency Service in understanding the decision reached in each case. ACCA is therefore amending its visit documentation to ensure that the determination of the visit outcome, timing of the next visit and any resultant referral to Admissions and Licensing Committee and / or Investigations department is supported by explicit references to any serious concerns and to the range of regulatory outcomes contained within the GRO.</p>
<p>That any complaint referred by the 'Practice Monitoring Department' is recorded on the 'iCasework' system to ensure the timely progression of complaints.</p>	<p>All complaints referred from the monitoring department are now included on the electronic casework system</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p>

Handling of Complaints

Recommendations from full Monitoring Visit	Findings	
<p>Introduce interim targets, for example on a quarterly basis, to promote case progression. Any reviews should be recorded on the 'iCasework' system as an audit trail.</p>	<p>In most cases sampled, complaints were being progressed promptly, and there is a clear structure for monitoring and reviewing complaints.</p> <p>A centralised database was implemented in June 2014, which includes interim targets, and this operates on a Red/Amber/Green (RAG) rating system so managers can easily identify any delays in complaint progression.</p> <p>In the majority of cases sampled, ACCA had not issued an acknowledgement to complainants within 10 working days as required by the Memorandum of Understanding (MoU) with the Secretary of State. It is recommended that the ACCA should take steps to ensure compliance with this aspect of the MoU.</p> <p>In all cases, ACCA, upon receipt of a complaint, requests additional information from complainants which may be relevant to any potential disciplinary action. In our view, the nature and the wording of these requests may create an additional barrier for complainants.</p> <p>In one case sampled this action resulted in</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p> <p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p> <p>ACCA will amend the process for opening complaints received from the Complaints Gateway by removing the request for additional information from complainants upon receipt of a complaint. This is to ensure compliance with the MoU's 10 working day target for acknowledging complaints.</p> <p>The additional information will now be obtained during the course of the investigation.</p> <p>The case was not formally acknowledged for a</p>



	<p>ACCA taking over two months to formally acknowledge the complaint.</p> <p>As complaints are already filtered by the Complaints Gateway, these additional requests for information risk undermining confidence in the complaints process. We recommend that ACCA should review the scope and the content of these requests; including a consideration of whether these are required in all cases and at what stage they should be issued.</p>	<p>period of over two months due to the complainant requesting additional time to respond to ACCA's initial enquiries. As stated above, ACCA is amending the process for opening complaints received from the Complaints Gateway by removing the request for additional information from complainants upon receipt of a complaint in order to comply with MoU's 10 working day target for acknowledging complaints.</p>
<p>Introduce a standard deadline for reply from insolvency practitioners, such as 21 days, which would encourage case progression.</p>	<p>A 21-day deadline was used in all cases sampled.</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p>
<p>To introduce a set timescale in finalising and concluding a case, so that complainants can be informed in advance.</p> <p>Where delays occur, the complainant should be informed of the reason and the likely timescale before a substantive reply can be given.</p>	<p>ACCA has made progress in closing a number of historical complaints which had been subject to significant delays following the completion of the investigation.</p> <p>Whilst there were delays in closing three complaint files ACCA now has clear targets, monitored through 'iCasework', for drafting and approving the closure note before it is sent to the insolvency practitioner and the complainant.</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken.</p> <p>The first complaint took just under 5 months to conclude the investigation from first allocation. Unfortunately due to an administrative oversight the complaint was not closed on iCasework until April 2015. The complainant did not submit grounds for review in the time specified by the regulations and therefore the complaint should have been closed on iCasework on 20 January 2014. The complaint was however concluded within the 6 month KPI target. There was</p>

		<p>therefore no actual delay in concluding the investigation, merely a delay in recording the closure date on iCasework.</p> <p>The second complaint took just under 10 months to conclude the investigation from first allocation. The delay on this complaint was due to resourcing issues in the department at that time.</p> <p>The third complaint took 5 months to conclude the investigation from first allocation. Unfortunately due to an administrative oversight the complaint was not closed on iCasework until January 2015. The complaint should have been closed on iCasework on 17 November 2014 as no grounds for review were received. The complaint was however concluded within the 6 month KPI target. Again, there was no actual delay in concluding the investigation, merely a delay in recording the closure date on iCasework.</p>
<p>That ACCA ensures the Insolvency Service is kept informed of significant changes in staffing and resources</p>	<p>ACCA has been notifying the Insolvency Service of such changes.</p>	<p>ACCA is pleased to note the Insolvency Service's satisfaction with the actions taken and considers this recommendation closed.</p>
<p>That the independent assessor of complaints be identified to both the complainant and to the insolvency practitioner; to ensure transparency and openness throughout the process.</p>	<p>We are disappointed to note that the ACCA has not changed its position with regard to the identity of its independent assessor of complaints.</p> <p>We are of the view that providing the name of the independent assessor to both parties will add both transparency and confidence to the</p>	<p>ACCA regrets it must continue to reject this recommendation as ACCA does not believe naming assessors will add any real value to the process.</p> <p>The role of the independent assessors is to carry out an assessment, on paper, of the evidence to determine whether the matter</p>

	<p>complaints process.</p> <p>We understand that ACCA is concerned that naming the assessor will result in opening up a chain of communication with the complainant. However in our experience this has not proved an issue for the other RPBs who currently name their independent reviewer of complaints.</p> <p>We believe ACCA can address its concerns by defining clearly to complainants the role of the independent assessor, making it clear that the assessor is unable to consider any additional information or engage in any dialogue once the case has been referred.</p>	<p>should be referred for a hearing. If assessors are named, there is a danger that they may be passed extraneous material, which risks delays in progressing complaints. There is also the risk of assessors being harassed by complainants where their decision is not favourable to them.</p> <p>The independent assessor's responsibilities, scope and powers are set out in ACCA's Rulebook and notified to both the member and complainant in the Guide to ACCA's Complaints and Disciplinary Procedures.</p> <p>The independent assessors are appointed, and their performance appraised, by the Appointments Board, which is at arm's length from Council and from ACCA's other professional body activities.</p> <p>ACCA does not see any value in simply naming the assessor. ACCA's arm's length appointment of the independent assessor ensures confidence in their appointment and the scope of the independent assessor's responsibilities and powers is set out in ACCA's Rulebook which provides transparency for members and complainants.</p>
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Disciplinary Outcomes

Recommendations from full Monitoring Visit	Findings	Response
<p>That ACCA introduces a mechanism to ensure the Common Sanctions Guidance is applied to those cases involving potential misconduct that they decide is not in the public interest to take forward to its Disciplinary Committee. This could for example be achieved through the creation of an additional committee to consider misconduct of a less serious nature, that might not meet the public interest test required by the Disciplinary Committee, and which could issue intermediate sanctions in line with the Common Sanctions Guidance.</p>	<p>ACCA is developing a 'Regulatory Penalty Regime', involving Consent Orders, which is expected to be introduced in January 2016.</p> <p>ACCA plans to share detail of final policies and regulations before the regime commences.</p> <p>We will review progress and implementation during a further follow-up visit in early 2016.</p>	<p>ACCA notes the Insolvency Service's comments in relation to the implementation of a Regulatory Penalty Scheme.</p> <p>ACCA will keep the Insolvency Service updated on the progress of this scheme.</p>