

IVA STANDING COMMITTEE
Minutes of 27th Meeting: 19 March 2015

1. Welcome

Apologies from: Lloyds Banking and DEMSA.

2. Review of Outstanding Matters from Previous Minutes

(a) The “In debt dealing with customers” booklet:

Following the update from MAT, InsS will speak to the Money Advice Service and FCA to assess whether further changes are needed. It is important that messages to individuals in debt are consistent.

(b) FCA representation:

InsS have liaised with FCA on the scope of their review. It is a thematic review of the quality of debt advice and is due to be published May/June 2015. They have concentrated on the debt management market and have spoken to a number of not-for-profit as well as commercial providers. They are not able to share information at this stage. SC to discuss at next meeting assuming it has been published.

AP1 – SC is keen for FCA to have a representative at future meetings. InsS to extend invite to FCA. Complete: FCA have declined to attend SC as a regular participant, but it may be appropriate for them to feed back to the group once their report is published.

(c) Variation fees/ discretion as to whether variation is appropriate :

StepChange has removed paragraph 19.2 from the standard terms and conditions, which will give the supervisor discretion as to whether a variation meeting is appropriate. When one is called it is genuine and in these instances the supervisor will be entitled to get paid. SC has agreed to changes and it will be included in next release.

(d) Recent Pension changes:

InsS fed back broadly on how it is planned to treat these in bankruptcy and DROs. It was confirmed that the official receiver will follow the most recent Court decision [*Horton v Henry 2014*] which reflects the policy intention of the Welfare Reform and Pensions Act 1999. They will not be seeking to get money from pensions which are not in payment. For DROs InsS will issue guidance to approved intermediaries that following the Budget changes on access to personal pensions they should continue to ignore pensions not in payment (unless the pension is accessible and of a value likely to be considerably higher than the amount owed). The position will be reviewed once the Court of Appeal has made its decision on the above case.

AP2 – Advice to official receivers and intermediaries will be issued shortly. InsS to ensure copied to SC at that time. It was suggested that it may be beneficial for SC to put some guidance together in the future on pensions in protocol IVAs. To be discussed by SC at the next meeting.

(e) Delays in completion of IVAs subject to PPI claims resulting in complaints:

AP3 – c/f This has yet to be discussed by regulators. IPA, ICAEW and InsS confirmed that they will discuss this and review whether guidance needs to be amended and will feedback at next meeting.

(f) Income and expenditure assessments:

Money Advice Service issued response to consultation and there is agreement that a single income and expenditure statement would be practical for everyone. There is a CFS working party looking at implementation of this. This will need to be incorporated into the IVA Protocol once this has been resolved.

(g) Responsibility for chasing follow ups:

Many thanks to MoneyPlus Group for chasing the action points from the last meeting so efficiently. **AP4** – They have kindly agreed to do the same from this meeting.

3. Outcome of working group meeting on low contribution and low debt value IVAs

The minutes of the working group were supplied to the SC. The group looked at 2 areas detailed below.

(a) Whether the IVA protocol is fit for purpose in relation to low contribution and low value debt IVAs:

Generally the group felt that the IVA protocol is fit for purpose although recognised there are issues with the above. The following suggested actions were put forward by the group and agreed by the SC:

- IPs need to provide more information about why IVA is most appropriate solution. To include being more prescriptive about a solution the debtor may have already tried and if creditors had rejected these.
- Creditor agents will provide an update to IVA providers for the further information they require before they will agree to an IVA where the DMP term is less than 84 months (or other term they consider appropriate) or low value debts less than £10,000 (or other value they consider appropriate)
- **AP5** – InsS to arrange government policy discussion with HMRC and other interested government bodies e.g. FCA to discuss voting policy around IVAs and in particular low debt level and low asset value cases.
- If HMRC are able to collect information on IPs who are routinely putting forward low debt value IVAs and pass to the relevant regulator then it can be looked into by them.

(b) Whether there is a requirement for the introduction of SIVAs:

The SC agreed with the group that although there was some support for some of the principles of SIVAs it was best to wait for FCA review and government review looking at breathing space to see if there is a more holistic approach as opposed to trying to plug a small hole.

In response to DRF enquiry as to government's progress on two other proposals following withdrawal of proposals for Legislative Reform Order InsS updated the SC as follows:

- proposal 1: removing unnecessary burdens to report to court: achieved through LRO in 2010 (SI 2010/18 The Legislative Reform (Insolvency) (Miscellaneous Provisions) Order). Articles 8 and 9 of that Order amended s256A and 263C (FTVAs) removing the need to report to court
- proposal 3: authorised to act in CVAs and IVAs: this has now been achieved (through the Deregulation Act) but the policy was changed slightly. Going forward a person will be able to be authorised to act in either corporate or individual insolvencies, or both

4. Review of Operation of the Protocol

(a) Creditor voting in IVAs and other concerns from IVA providers:

The SC discussed the report kindly put together by MoneyPlus Group on creditor voting in IVAs further to issues previously identified around rejection of IVAs, rejection of variation fees and issues with information not being passed onto debt purchasers resulting in default. The SC also discussed another paper detailing other concerns from IVA providers in the following areas: fee capping, fee modifications, refusal to allow variation fees, creditor reps failures.

AP6 – It was agreed that the working group recently formed to look at low contribution and low debt value IVAs would re-form to look at identifying the various issues contained in both of the above, with a view to coming up with a range of options for possible solutions for the SC to consider at the next meeting. It was also suggested perhaps a ranking of importance of the ones that could be tackled would be helpful so the most pressing could be dealt with first. MoneyPlus Group agreed to take this forward.

(b) Concerns with clarity of paragraph 17.6 of the standard terms:

AP7 – Chronology and amendment to be drafted by DRF and circulated to SC for review and comment.

(c) Late claims:

AP8 – DRF to work with creditor members on wording on conditions regarding late dividends and then circulate to SC for review and comment.

5. Standard reporting templates

Improvements have been made to these by ICAEW and IPA but they haven't been circulated to the entire SC.

AP9 – TDX to add vulnerable debtor piece to these and then templates to be circulated to SC for agreement so can be distributed wider by 1 May 2015.

6. AOB

There was no other business.

7. Next meeting- venue and date

To be hosted by JP Morgan on Thursday 16 July 2015 at 11:30.

8. Dates for future meetings

- Thursday 19 November 2015 at 11:30