



The Insolvency
Service

Insolvency Practitioner Services IPS Follow-up Monitoring Report 2015

February 2015

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Insolvency Practitioner Regulation Section (IPRS)	
Authorising Body	Insolvency Practitioner Services (IPS), The Insolvency Service
Title	IPS Monitoring Report 2015
Inspection Period	January 2015
Date issued	26 February 2015

PART 1 – EXECUTIVE SUMMARY

Background

1.1 The Insolvency Service is responsible for managing the direct authorisation of around 40 insolvency practitioners on behalf of the Secretary of State¹. This work is conducted by Insolvency Practitioner Services (IPS).

1.2 A monitoring visit was carried out in April 2014 by Insolvency Practitioner Regulation Section (IPRS), an independent department within the Insolvency Service. The findings of that visit, published in September, are available here: www.gov.uk/government/publications/monitoring-activity-reports-of-insolvency-practitioner-authorising-bodies

1.3 A follow-up monitoring visit was carried out by IPRS in January 2015. This report outlines the progress made by IPS against the recommendations made following the previous monitoring visit.

Summary Findings

1.4 IPS has implemented, or made progress against, all the recommendations issued following the monitoring visit in April 2014.

1.5 As previously recommended, IPS has moved towards a monitoring cycle of three years and has significantly strengthened its monitoring process. IPS has taken steps to minimise the risks associated with the proposed withdrawal from the direct authorisation of insolvency practitioners by carrying out a number of targeted monitoring visits. There are still a number of insolvency practitioners who have not been subject to a monitoring visit within the past three years and IPS has plans in place to address this.

1.6 IPS has introduced a layer of independence to its authorisation and monitoring process. Decisions on reauthorisation and action following monitoring visits are now made by the Section Head.

1.7 IPS has taken steps to strengthen its complaints process in line with best practice adopted by other Authorising Bodies.

¹ IPS acts as a competent authority under Section 392(2) of The Insolvency Act 1986.

PART 2 – MONITORING PROCESS

2.1 Prior to the visit, the Inspection Team requested updated information about the insolvency practitioners authorised by IPS, as well as details of how IPS had taken steps to implement the recommendations following the visit in April.

2.2 An insolvency practitioner monitoring visit was observed in January.

PART 3 – DETAILED FINDINGS

Authorisation of insolvency practitioners

Recommendations from full monitoring visit	Findings
<p>The process for dealing with applications for the renewal of authorisations should be strengthened to ensure a full qualitative assessment of the factors affecting authorisation.</p> <p>During the renewal process, relevant matters should be documented and considered at the appropriate level, and the reasons for authorisation decisions should also be recorded. The suggested process for making authorisation decisions is as follows:</p> <ul style="list-style-type: none">• A report on all the facts, without any recommendations, should be provided to the Section Head, The report should include full details of any regulatory concerns and possible conduct issues to be considered at the renewal stage.• The Section Head should consider the renewal of authorisation application based on those facts before issuing a decision.• Any discussions during the process should be documented.	<p>IPS had dealt with 22 applications for reauthorisation since September 2014. In all the cases sampled, the authorisation report had been provided to the Section Head without a recommendation.</p> <p>There was evidence of IPS taking a more robust and informed approach when considering applications for reauthorisation.</p> <p>Communications relating to the reauthorisation decision between the Section Head and regulatory staff were filed electronically in all the cases viewed.</p>

Monitoring of insolvency practitioners

Recommendations from full monitoring visit	Findings
<p>IPS should immediately move to a default monitoring cycle of 3 years and take urgent steps to arrange monitoring visits to those insolvency practitioners who have not been subject to a monitoring visit within the previous three years.</p>	<p>At September 2014, 28 insolvency practitioners had not been subject to a monitoring visit within the previous 3 years.</p> <p>In January, it was identified that, in relation to those 28 practitioners, IPS had:</p> <ul style="list-style-type: none"> • carried out monitoring visits to 10 insolvency practitioners. • scheduled monitoring visits to a further 12 practitioners to be completed before May 2015. • sent pre-visit questionnaires to the remaining 5 insolvency practitioners in preparation for scheduling a visit. IPS planned to assess the completed questionnaires on a risk basis and, if appropriate, schedule a prompt monitoring visit. • cancelled a scheduled monitoring visit to the remaining practitioner who had transferred to another authorising body.
<p>IPS should incorporate core areas, such as the Insolvency Code of Ethics and Statement of Insolvency Practice 16 (Pre-packaged sales in administrations), into the pre-visit process and ensure that all pre-visit information is fully considered during the monitoring visit.</p>	<p>IPS has updated its pre-visit questionnaire, which now includes references to both the Insolvency Code of Ethics and SIP16.</p> <p>There is an electronic record of the consideration given to the information contained within the pre-visit questionnaire and this is used to form the basis of the case sampling list and introductory meeting with the insolvency practitioner at the beginning of the visit.</p>
<p>IPS should strengthen its approach to monitoring to include the following:</p> <ul style="list-style-type: none"> • Publishing details of its monitoring process on the Insolvency 	<p>IPS had carried out 10 monitoring visits since September 2014 and there is evidence of a strengthened approach across all aspects of the monitoring process.</p>

<p>Service's website.</p> <ul style="list-style-type: none"> Updating the desktop instructions for monitoring visits to include ethical and money laundering checks, SIP16 monitoring, initial meeting notes and case reviews. Ensuring that desktop instructions are followed and recorded in all cases, including first monitoring visits. Considering core areas, such as the Code of Ethics and SIP16, as part of the pre-visit process and on the monitoring visit in every case. Ensuring that website checks are carried out in all cases with the results of those checks being documented in monitoring reports. Filing all completed checklists, query sheets and any other documentation on the relevant electronic monitoring file and ensuring each document is considered for the monitoring report. Including details of how the relevant Continuing Professional Development requirements have been tested and evidenced during monitoring visits. Ensuring that monitoring reports include all of the information obtained during the monitoring process, not just in relation to areas of concern; any areas where there are no concerns may be summarised. The reports should also include the bonding information on each case. Submitting the final monitoring report to the Section Head so that recommendations for any further action can be considered. 	<p>IPS had updated its own desktop instructions for monitoring visits and had prepared a publication for the Insolvency Service's website.</p> <p>IPS is carrying out its monitoring process in accordance with its own desktop instructions in the majority of cases sampled. However, in two cases there were delays in sending the draft monitoring report to the insolvency practitioner.</p> <p>Website checks are now carried out in all cases and the outcome is recorded in the monitoring report.</p> <p>All documents, including checklists and query sheets, are filed electronically in the insolvency practitioner's monitoring file. A case summary for each case reviewed on the visit is also saved on the monitoring file.</p> <p>There is a section in the monitoring report which details how Continuing Professional Development requirements were tested during the monitoring visit together with the results.</p> <p>IPS had significantly expanded its monitoring reports. These now contain sufficient detail to enable an informed decision to be made on the appropriate action following the issue of the report.</p> <p>All final reports are presented to the Section Head. A record of discussions on appropriate action is recorded electronically on the insolvency practitioner's monitoring file.</p> <p>There have been no new authorisations since the visit in April 2014.</p>
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<ul style="list-style-type: none"> Any monitoring visit relating to a new authorisation should be conducted robustly in line with the Principles for Monitoring. 	
<p><u>Observed monitoring visit</u></p> <p>Checklists should be expanded to include relevant ethical and money laundering matters.</p> <p>Checklists and query sheets should be filed electronically.</p>	<p>A monitoring visit to an insolvency practitioner by IPS was observed in January. The pre-visit process and the visit itself were conducted professionally, robustly and in accordance with the Principles for Monitoring and IPS's own desktop instructions.</p> <p>Checklists have been amended in line with recommendations. Both the checklists and queries sheets are now filed electronically in the insolvency practitioner's monitoring file.</p>

Handling of Complaints

Recommendations from full monitoring visit	Findings
<p>IPS should strengthen its approach to handling complaints to include the following:</p> <ul style="list-style-type: none"> Ensuring that desktop instructions are compliant with the Memorandum of Understanding and reviewed periodically to maintain their relevance. Publishing full details of the process for dealing with complaints on the Insolvency Service's website, including information about indicative timescales, possible outcomes and routes of appeal. Introducing a standard acknowledgement letter providing full information about the process for handling complaints or a web link to those details. Providing the full complaint to the relevant insolvency practitioner, 	<p>IPS had updated its desktop instructions for dealing with complaints to ensure compliance and consistency with the Memorandum of Understanding.</p> <p>A complaints leaflet has been produced, which is in the process of being published on the Insolvency Service's website.</p> <p>IPS has introduced a template acknowledgement letter to complainants which includes a copy of its complaints process.</p> <p>In all cases sampled, the full complaint was provided to the insolvency practitioner.</p> <p>Proposed heads of complaint are included within the acknowledgement letter sent to the complainant, who is given the opportunity to respond to</p>

<p>unless specifically requested otherwise by the complainant.</p> <ul style="list-style-type: none"> • Agreeing specific heads of complaint with the complainant prior to the commencement of an investigation • Setting a standard deadline of 21 working days for insolvency practitioners to respond to requests for information during an inquiry or investigation. • Requiring complaint outcomes to be approved by the Section Head. • Providing an explanation to complainants where delays occur, including an indicative timescale for reply. 	<p>those within 14 days.</p> <p>Insolvency practitioners are now given 21 days to respond to complaints.</p> <p>All complaint outcomes are now passed to the Section Head for approval before a complaint can be closed.</p> <p>IPS currently had no open complaints which were subject to delays. IPS holds a monthly meeting to discuss any aged complaints and the appropriate action. Minutes for these meetings are filed electronically.</p> <p>IPRS will continue to monitor the progress of complaints through returns made to the Complaints Gateway.</p>
<p>Investigations should focus on considering the fitness and propriety of the insolvency practitioner rather than conciliation. This consideration should also inform decisions about whether to require the insolvency practitioner to undertake an action plan.</p> <p>Consider complaint outcomes and the nature of conduct investigated in more detail at authorisation stage.</p>	<p>There is evidence that IPS is now investigating complaints by focusing on any issues of concern relating to the insolvency practitioner's conduct. It is accepted, however, that IPS does not have a range of sanctions available when upholding complaints.</p> <p>Any complaint outcomes are recorded in the report on reauthorisation which is passed to the Section Head for consideration.</p>

Enabling bonds and cover schedules

Recommendations from full monitoring visit	Findings
<p>The level of assets bonded for is tested and documented on monitoring visits.</p>	<p>There is evidence that IPS is testing the level of assets bonded on all cases sampled on monitoring visits, with the outcome included in the monitoring report.</p>