

## **Indicative sanctions for various breaches of the Insolvency Act 1986, other relevant legislation and Statements of Insolvency Practice**

The table below gives an indication of the level of sanction which may be imposed but should not be regarded as a tariff. Each disciplinary committee or tribunal will use its own judgement to set a sanction appropriate to the circumstance of the individual case, depending on the seriousness of the breach and the aggravating and mitigating factors.

Each sanction is split into three categories depending on the seriousness of the misconduct:

Very serious (a): This will generally mean that the insolvency practitioner's conduct was deliberate and/or dishonest.

Serious (b): This will generally mean that the insolvency practitioner's conduct was reckless.

Less Serious (c): This will generally mean the conduct by the insolvency practitioner amounts to an inadvertent breach. Where breaches are adjudged to be inadvertent, a financial or published sanction may not always be appropriate depending on the facts of the case and the aggravating and mitigating factors considered.

Where the conduct has resulted in a likely profit to the insolvency practitioner or their firm or any other connected party, the disciplinary/investigation committee or tribunal may issue a fine equivalent to the likely profit gained. The starting point for determining the likely profit will be 30% of the total fees charged by the insolvency practitioner or their firm or any other connected party for the engagement in question. A fine of this nature will only be adjusted (downwards) if the firm can produce cogent and reliable evidence that the financial benefit (profit) gained is less than the fine proposed.

Where a disciplinary/investigation committee or tribunal proposes to issue a fine for a breach that has led to a profit for the insolvency practitioner or their firm or any other connected party, the disciplinary/investigation committee or tribunal will issue a single financial sanction which will include both the fine for the estimated profit gained explained above as well as a variable fine listed in Part 3 below which will depend on seriousness of the misconduct, the facts of the case and be tiered alongside the appropriate non-financial sanction.

When considering allegations relating to unauthorised or excess remuneration, disciplinary committees or tribunals will in the first instance have regard to whether the unauthorised or excess remuneration has been repaid to the estate before deciding on an appropriate financial sanction.

	Allegation	Non-financial sanction	Starting point for financial sanction
1	Acts of dishonesty resulting in criminal convictions and/or adverse findings by regulatory and other bodies.	Exclusion and licence withdrawal	A financial sanction may not be appropriate in every case. Where a fine is considered appropriate, the starting point should be £15,000
2	Misappropriation of funds into own account, other estates or third parties	a) Exclusion and licence withdrawal	a) Fine of £20,000
3	Acting as an insolvency practitioner without a licence	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £10,000 b) Fine of £5,000 d) Fine of £1,500
4	Drawing unauthorised remuneration	a) Severe reprimand b) Severe reprimand c) Reprimand	a) Fine equivalent to the level of the unauthorised fee drawn, or £10,000, whichever is greater b) Fine of £5,000 c) Fine of £2,000
5	Drawing of excess remuneration that has been deemed unfair or unreasonable	a) Severe reprimand b) Severe reprimand c) Reprimand	a) Fine of £7,500 b) Fine of £5,000 c) Fine of £1,500

6	Failure to submit returns (eg, CDDA returns) or a delay in submitting returns where the delay is likely to impact on the conduct of the insolvency appointment	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £5,000</li> <li>b) Fine of £2,000</li> <li>d) Fine of ,£1000</li> </ul>
7	Failure to convene a creditor's meeting or a delay in convening a creditor's meeting where the delay is likely to impact on the conduct of the insolvency appointment	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £5,000</li> <li>b) Fine of £2,000</li> <li>c) Fine of £1,000</li> </ul>
8	Accepted an appointment as administrator when no statutory purpose achievable	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £7,500</li> <li>b) Fine of £2,000</li> </ul>
9	Failure to comply with the principles of a SIP, the Insolvency Act and rules and regulations thereunder	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Severe reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £7,500</li> <li>b) Fine of £5,000</li> <li>c) Fine of £1,500</li> </ul>
10	Failure to take adequate steps to realise assets	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £7,500</li> <li>b) Fine of £2,000</li> <li>c) Fine of £1,500</li> </ul>
11	Delay in progressing administration of an insolvency estate	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £5,000</li> <li>b) Fine of £2,000</li> <li>d) Fine of £1,500</li> </ul>

12	Failure to respond at all, or a delay in responding to letters, telephone calls or emails	<ul style="list-style-type: none"> <li>a) Severe reprimand</li> <li>b) Reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £2,500</li> <li>b) Fine of £1,500</li> <li>c) Fine of £500</li> </ul>
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### Part 3 - Indicative sanctions for various breaches of the Insolvency Code of Ethics

	Allegation	Non-financial sanction	Starting point for financial sanction
1	Failure to comply with the fundamental principle of integrity	<ul style="list-style-type: none"> <li>a) Exclusion and consideration of licence withdrawal</li> <li>b) Severe reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £10,000</li> <li>b) Fine of £5,000</li> </ul>
2	Failure to comply with the fundamental principle of objectivity	<ul style="list-style-type: none"> <li>a) Exclusion</li> <li>b) Severe reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £10,000</li> <li>b) Fine of £5,000</li> <li>c) Fine of £2,000</li> </ul>
3	Failure to comply with the fundamental principle of professional competence and due care	<ul style="list-style-type: none"> <li>a) Exclusion</li> <li>b) Severe reprimand</li> <li>c) Reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £7,500</li> <li>b) Fine of £5,000</li> <li>c) Fine of £2,000</li> </ul>
4	Failure to comply with the fundamental principle of confidentiality	<ul style="list-style-type: none"> <li>a) Exclusion</li> <li>b) Severe reprimand</li> </ul>	<ul style="list-style-type: none"> <li>a) Fine of £5,000</li> <li>b) Fine of £3,000</li> </ul>

		c) Reprimand	c) Fine of £1,500
5	Failure to comply with the fundamental principle of professional behaviour	a) Exclusion b) Severe reprimand c) Reprimand	a) Fine of £5,000 b) Fine of £3,000 c) Fine of £1,500

### Aggravating factors

- 1 Concealment of wrongdoing
- 2 Lack of cooperation with regulator
- 3 Repeated course of conduct
- 4 Re-occurrence of conduct previously subject of reminder, warning or other sanction
- 5 The conduct has caused or is likely to cause the loss of significant sums of money to the insolvency estate and/or any third party
- 6 Poor disciplinary or regulatory history
- 7 Lack of understanding or acceptance of charge

### Mitigating factors

- 1 Self-reporting, acceptance of conduct issues and prompt voluntary and immediate rectification
- 2 Self-reporting and prompt voluntary and immediate repayment of (unauthorised) fees
- 3 Personal mitigation: financial circumstances (when considering the financial part of the sanction only) Where the insolvency practitioner has difficulties in repaying a financial sanction, consideration should be given to offering payment in instalments
- 4 Personal mitigation; ill health
- 5 Age of issues under consideration in respect of less serious matters where there are no aggravating behaviours
- 6 Generally, minimal risk of re-occurrence or repetition where new procedures have been implemented and verified by the RPB
- 7 Absence of any loss of monies to the insolvency estate and/or any third parties

**Flowchart of disciplinary process**

