



The Insolvency
Service

Institute of Chartered Accountants of Scotland

ICAS Monitoring Report

June 2015

Insolvency Practitioner Regulation Section (IPRS)	
Authorising Body	The Institute of Chartered Accountants of Scotland (ICAS)
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PART 1 – EXECUTIVE SUMMARY

Background

1.1. ICAS is a Recognised Professional Body (RPB) which authorises and regulates insolvency practitioners.¹ At 1 January 2015, ICAS licensed 89 practitioners of which 82 were authorised to take insolvency appointments.²

1.2. The monitoring visit was carried out jointly by the Insolvency Service and the Department of Enterprise, Trade and Investment (DETI). The last monitoring visit to ICAS was in 2012.

1.3. 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 to both the Secretary of State and DETI.³ A separate document, the [Principles for Monitoring insolvency practitioners](#) (PfM), sets out the matters to be considered by the RPBs when monitoring their insolvency practitioners. ICAS has undertaken to abide by the standards and principles in both of those documents when exercising its authorisation and regulatory functions.

1.4. This report outlines the findings of the monitoring visit and makes some recommendations aimed at improving the effectiveness of regulatory procedures. An overall risk rating is provided for each key area reflecting the findings and significance of the recommendations made. An explanation of the risk ratings is provided in Annex 1.

Summary Findings

1.5. We found that ICAS has strong controls in place across all of its processes. As a result, very few recommendations are made in this report and none are sufficiently serious for anything other than a strong control rating.

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 2014' - www.gov.uk/government/publications/insolvency-practitioner-regulation-process-review-2014

³ A similarly worded agreement applies in relation to Northern Ireland

PART 2 – MONITORING PROCESS

1.6. Prior to the visit, the Inspection Team requested detailed information about the insolvency practitioners authorised by ICAS, monitoring activities, complaint handling processes, regulatory outcomes and the resourcing of functions.

1.7. The following areas were examined during the monitoring visit to ensure compliance with the MoU and PfM:

- Granting of authorisations.
- Maintenance of authorisations (monitoring).
- Ethics and professional standards.
- Handling of complaints.
- Enabling bonds and cover schedules.
- Disclosures and exchanges of information.
- Retention of records.
- Reporting to the Secretary of State and DETI.

1.8. This report summarises the findings under 5 key headings – authorisations, monitoring, complaints' handling, disciplinary outcomes and bonding arrangements.

PART 3 – DETAILED FINDINGS AND RECOMMENDATIONS

Authorisation of insolvency practitioners

Rating:

 **Strong control environment**

Findings	Recommendations	Response
Each authorisation file includes a checklist clearly recording all the information requested and provided. For insolvency appointment-holders, the outcome of the last monitoring visit is checked and appropriately considered.	N/A	
ICAS relies on a self-declaration by applicants for new authorisations confirming they have the requisite insolvency experience of at least 450 hours in the previous three years. Evidence of the experience declared is not routinely checked.	ICAS introduce procedures to verify relevant insolvency experience for new licence applications.	ICAS has always relied upon the integrity of the applicant. ICAS will amend procedures to verify experience declared. ICAS would like to reserve the right to waive this requirement in appropriate cases, particularly where ICAS is already in possession of knowledge or information which would support the experience declared by the applicant.
Where new licence applications are received, ICAS carries out appropriate checks with other insolvency regulators.	N/A	
While ICAS informs the Secretary of State of new authorisations and withdrawals in Great Britain, it has not been providing the required notifications to DETI in accordance with the relevant MoU.	ICAS should provide the required information to DETI as well as the Secretary of State.	ICAS has amended its procedures to ensure the required notifications are made to DETI in all instances.

Monitoring of insolvency practitioners

Rating:

 **Strong control environment**

Findings	Recommendations	Response
<p>Monitoring cycle</p> <p>ICAS operates a 3-year cycle of rolling monitoring visits to its insolvency practitioners. The nature and timing of visits is determined annually on a risk-assessment basis.</p> <p>The case activity of new insolvency practitioners is monitored through the submission of monthly cover schedules. A full monitoring visit is arranged within 12 months of the practitioner's first appointment.</p> <p>All monitoring visits are subject to a grading system.</p> <p>The timing and scope of follow-up visits is determined by the Insolvency Permit Committee (IPC).</p> <p>In 2014, there were 23 routine monitoring visits and one targeted visit.</p>	<p>N/A</p>	
<p>Pre-visit process</p> <p>ICAS requests detailed information from insolvency practitioners in the form of a Pre-visit Questionnaire (PVQ), which includes information about caseloads, sources of work, and procedures for complying with money laundering requirements and the code of ethics.</p>		

<p>Firm websites are checked to ensure any advertising by the insolvency practitioner is compliant with the Code of Ethics.</p> <p>Complaints made about insolvency practitioners are considered to inform the visit.</p> <p>A risk-based planning document determines the appropriate monitoring strategy.</p> <p>Where applicable, at least one pre-pack administration is sampled and compliance with Statement of Insolvency Practice 16 (SIP 16) tested.</p> <p>Insolvency practitioners are not routinely asked for the details of complaints received under their own formal complaints procedures.</p>	<p>That ICAS requests, in the PVQ, details of complaints received by insolvency practitioners under their own formal complaints process in the 12 months prior to the monitoring visit.</p>	<p>Noted. Whilst ICAS-related complaints are routinely included in pre-visit considerations, a query regarding client/firm complaints has now been added to the PVQ.</p>
<p>Monitoring process</p> <p>Desktop instructions provide a structured and detailed approach to monitoring visits. Risk assessments determine the relevant areas to test.</p> <p>A detailed checklist is used to monitor SIP 16 compliance.</p> <p>ICAS seeks a response from the insolvency practitioner on each issue of concern identified on the visit and, if applicable any measures being introduced to remedy the concern. If a suitable response or remedy is not provided by the practitioner, this forms part of the report to the IPC.</p> <p>The insolvency practitioner is also invited to respond to findings contained in the final monitoring report.</p>		

<p>In some of the cases sampled, no deadline for responses was set.</p>	<p>Deadlines for responses should be set out in all cases.</p>	<p>Whilst no deadlines for responses were included in the cases sampled, all replies were received within 14 days. Notwithstanding, ICAS has amended the standard letter to incorporate the Insolvency Service's recommendation.</p>
<p>Monitoring outcomes</p> <p>ICAS takes a robust approach on monitoring visits. Areas of concern are identified and drawn to the attention of the insolvency practitioner.</p> <p>In all cases, the visit outcome and the full monitoring process and report is subject to a peer review to ensure consistency of approach. The monitoring report, including the insolvency practitioner's response, is then considered by the IPC.</p>	<p>N/A</p>	
<p>Observed monitoring visit</p> <p>The visit was carried out robustly and professionally and in accordance with the PfM.</p> <p>Thorough checks were carried out on the practitioner's procedures for complying with the Code of Ethics, and anti money laundering requirements.</p> <p>All insolvency case types were sampled for review, with specific cases targeted to review issues identified on the previous monitoring visit.</p> <p>Where queries were identified, these were sent to the practitioner and a response was requested before the end of the visit.</p>		

Handling of complaints

Rating:

 **Strong control environment**

Findings	Recommendations	Response
<p>In all cases reviewed, complaints were progressed promptly with timely and relevant information being sent to complainants.</p>	<p>N/A</p>	
<p>There is a robust process for investigating complaints. Following an initial assessment, preliminary enquiries are made of both the complainant and the insolvency practitioner. Those enquiries determine whether or not a complaint is referred to the Investigation Committee.</p> <p>Complaints not referred to the Investigation Committee are first subject to a peer review and then assessment by a review panel which has a majority of lay members</p> <p>The panel has the power to uphold the decision, pass the matter back for further preliminary enquiries or refer the matter to the Investigation Committee.</p>	<p>N/A</p>	
<p>ICAS states in its complaints leaflet that it cannot consider complaints where an insolvency practitioner has been professionally negligent. Whilst the leaflet indicates that this relates to potential claims for professional negligence, it gives the impression that ICAS would not consider any matters of misconduct arising from a complaint about professional negligence.</p>	<p>That ICAS amends its complaints leaflet to provide clarity over the treatment of complaints about professional negligence</p>	<p>Noted. ICAS has deleted the wording on professional negligence from the helpsheets, with the point regarding financial loss covered elsewhere.</p>

Disciplinary outcomes

Rating:

 **Strong control environment**

Findings	Recommendations	Response
<p>ICAS has a robust disciplinary process in place and in each of the cases reviewed there was no deviation from those processes.</p> <p>It is noted that disciplinary sanctions are infrequent, however the monitoring team did not find any evidence that the processes or sanctions were inappropriate.</p>	N/A	

Enabling bonds and cover schedules

Rating:

 **Strong control environment**

Findings	Recommendations	Response
<p><u>Enabling Bonds</u> As ICAS do not currently differentiate between an appointment taking and non-appointment taking insolvency permit, they do not routinely require insolvency practitioners to provide enabling bonds where they do not intend to take appointments, instead insolvency practitioners are required to provide the enabling bond before they take appointments.</p> <p>While there have not been any instances of insolvency practitioners taking appointments without an enabling bond in place, there is potential for this to occur.</p> <p>We note that ICAS intend to introduce a non-appointment taking insolvency permit which will require an insolvency practitioner to obtain an appointment taking permit at which point an enabling bond will be required.</p>	<p>That ICAS require all insolvency practitioners with an appointment taking licence to submit an enabling bond with their application.</p>	<p>Noted. Currently ICAS only issues appointment taking permits, albeit a number of insolvency practitioners do not take appointments and therefore do not require an enabling bond. All applicants are required to complete a declaration that they will not take appointments without first obtaining an enabling bond.</p> <p>ICAS will amend its procedures accordingly when it starts to issue non-appointment taking permits. ICAS will ensure that appointment taking permit applications are only granted on presentation of an enabling bond. Non-appointment taking permits will not require an enabling bond.</p>
<p><u>Cover schedules</u> ICAS has very strong procedures in place to ensure that cover schedules are provided with the statutory timescales, and those schedules are reviewed in detail to ensure that adequate bond cover is in place.</p> <p>In the first three months of 2015, only one cover schedule was provided late, and this was followed up and received within four days.</p>		

ANNEX 1: RISK RATINGS

Serious weaknesses in control environment

There are serious weaknesses in the risk and control environment that pose a high residual risk to effective and efficient delivery unless urgent corrective action is taken.

Some weaknesses in control environment

There are some weaknesses in the risk and control environment that pose a residual risk to effective and efficient delivery unless corrective action is taken.

Strong control environment

A strong risk and control environment is in place with low residual risk to effective and efficient delivery.