

IVA Standing committee minutes 16th March 2017

1. Welcome – apologies from Antoinette Eaton, David Mond, Caroline Sumner.

Welcome to David Rankin (Creditfix) and Paul Madden (Aperture) who have joined the committee.

Ellie McKinnon will send round an updated action point log for all.

2. Group discussions – breakout groups

Innovation and change

The group discussed Early Exit Loans, Cat One Disbursements, adding value to the IVA, greater transparency re associations between IP firm and others offering additional services

Concerns that practices across the industry were becoming more divergent, with some providers offering a range of products to debtors in IVAs. Poor practice could be seen as a way of getting a competitive advantage.

Early exit loans – some real unease over their use, what % of market would be eligible, is eligibility criteria strict enough, recognition that it's not for everyone.

Where there is a benefit to the IP or any connected party, this must be clearly signalled to all concerned

Equity release is not always possible, are early exit loans an alternative?

It was suggested there was a range of other products being offered to debtors on IVAs, many of which might be of dubious benefit. These included bank accounts, pursuit of PPI claims, insurance for an inability to maintain payments. It would be useful to build up a definitive list.

Could usefully look at how the protocol interacts with these new products

Client funds and cash handling

The discussion covered the issue of IPs being in control rather than the firm, RPB monitoring, IP reporting, use and control of distribution accounts, unreconciled dividend accounts

Recognition that a determined fraudster will do what they want irrespective of any rules

Deterrent effect of fines – FCA can levy massive fines

Are there lessons to be learned from other regulators – like the audit required by

Solicitors' Accounts Rules or the FCA's rule that says funds have to be distributed within 5 days

Can an IP as an employee exercise sufficient control - there's a perception at least that an employed IP may have less control

Do some IPs just have too many cases to know what's going on?

Bond v PII and gaps in insurance coverage

Would a compensation fund help?

Recognise there is a need to restore creditor confidence

Lead generators

The discussion encompassed FCA regulation of 'appointed representatives', IP firms generating their own leads, code of Ethics and how far the Protocol stretches to the leads and advertising.

What is a lead generator? – Definition, some agreement that there is going to be a commercial element to the relationship

A number of volume providers only use lead generators which are FCA authorised

Creditors should complain if they are concerned to the gateway, even though RPB reach does not stretch to the lead generators it will encourage IP's to use those which are more ethical.

Do IPs need to be directly regulated by FCA?

Firm vs IP – can the IP control what is going on in the firm and the decisions being taken.

Can the protocol and code of ethics help? Protocol could be tightened and made more explicit re commercial arrangements.

Possible place for further guidance raising awareness on good practice.

The Committee agreed these were areas potentially impacting on The Protocol, and that working groups should be set up to agree what changes might be required

3. AOB

HMRC VA function will be moving to Newcastle in the coming months.

Standard financial statement – Payplan starting to use it for all new agreements,
MAS are developing guidance to be released late April or Early May.

Next meeting is in mid July