

How to make a complaint against an IP



CUSTOMER SERVICE EXCELLENCE



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Introduction

A person who acts as a liquidator, trustee in bankruptcy, administrative receiver, administrator or supervisor under a voluntary arrangement must be authorised to act as an insolvency practitioner. The authorisation process was introduced in 1986 to ensure the suitability of those who are authorised to act as insolvency practitioners.

Authorisation may be made by the Secretary of State for Business Enterprise and Regulatory Reform directly, or by one of seven professional bodies (listed on pages 7 and 8) recognised by the Secretary of State as being competent to do so. Each authorising body is required to have proper procedures in place to ensure that complaints against those insolvency practitioners it authorises are investigated.

In carrying out their duties, insolvency practitioners must comply with several statutory requirements. They must also follow Statements of Insolvency Practice and ethical guidance.

If you consider that an insolvency practitioner is acting unprofessionally, improperly or unethically, you can make a complaint to the appropriate authorising body. However, it must be stressed that the Secretary of State or the authorising body cannot intervene directly in individual insolvencies; nor can they give directions in relation to the conduct of individual cases, or reverse or modify a decision of an insolvency practitioner. Insolvency, by its very nature, deals with a number of competing interests, most notably between the insolvent person and his or her creditors. Ultimately, commercial and other disputes may only be resolved by the courts, and the authorising body's disciplinary procedures should not be regarded as an alternative to the powers available to individuals under the Insolvency Act 1986 or otherwise.

Remember, the insolvency practitioner is the person who is in charge of the insolvency case. So complaints against a case administrator or a case manager, for instance, should be taken up with the relevant insolvency practitioner.

First step

If you are unhappy about the conduct of an insolvency practitioner, you may first be able to resolve your complaint by taking it up with the insolvency practitioner concerned.

Second step

If you remain dissatisfied, please remember that complaints about the professional conduct of an insolvency practitioner should be considered by the relevant authorising body. Therefore, the next step in making a complaint is to identify the appropriate body.

Any insolvency practitioner should give details of their authorising body on request. Alternatively, you can find this information:

- on our searchable database of insolvency practitioners, on the Insolvency Service's website at: www.insolvency.gov.uk
- by contacting our Insolvency Enquiry Line on 0845 602 9848, or by e-mailing: Insolvency.Enquiryline@insolvency.gsi.gov.uk
- by writing to the Insolvency Practitioner Policy Section of The Insolvency Service (see page 6), who will also forward complaints to the appropriate authorising body.

If you are not sure who is acting as the insolvency practitioner for a particular case, you will need to supply the full name of the insolvency case when making your enquiry.

How do I make a complaint about an insolvency practitioner authorised by one of the seven professional bodies?

You should contact the relevant body. Each body will have its own complaints procedure and will explain how to make a complaint.

The seven professional bodies are listed at the end of this booklet.

We take steps to ensure that each of the professional bodies has a proper complaints procedure in force and that it complies with it. However, we have no power to review a professional body's decision and we cannot substitute our judgement for that of the professional body in relation to individual complaints.

How do I make a complaint about an insolvency practitioner authorised by the Secretary of State?

If your complaint concerns an insolvency practitioner authorised by the Secretary of State, you should write to:

Insolvency Practitioner Unit
The Insolvency Service
4th Floor
Cannon House
18 Priory Queensway
Birmingham, B4 6BS

E-mail: IPU.Email@insolvency.gsi.gov.uk

What should I include in my letter of complaint?

To help us deal with your complaint, you should include as much of the following as possible:

- your name and address;
- the full name of the insolvency case, together with the court name and number if applicable;
- copies of any relevant correspondence about the complaint;
- the name and address of the insolvency practitioner concerned, including the name of his or her firm;
- full details of what has gone wrong or has not been handled properly; and
- an explanation of how you would like us to resolve your complaint.

What can I expect?

We will reply to your complaint within 15 working days of receipt, setting out how we propose to deal with the matter. Our reply will also state the name and telephone number of the person dealing with your complaint. If we cannot reply within this time, we will send an interim reply within five working days. It will tell you when you can expect a full reply.

Generally, after receiving and acknowledging your complaint, we will contact the insolvency practitioner concerned, to seek information and an explanation. Often, we will then need to explore further issues with the insolvency practitioner, which can take time. However, as soon as possible after acknowledging your complaint, we will write to you setting out the insolvency practitioner's explanation and our comments on your complaint. We will also ask for your views.

The Secretary of State has no power to impose any disciplinary sanction or penalty against an insolvency practitioner, nor can he or she order the practitioner to pay compensation if a complaint is upheld. However, we will encourage the insolvency practitioner to resolve the complaint where possible. We will also work with

insolvency practitioners to alter their procedures and practices where we consider it appropriate.

Also, if your complaint is found to be justified, the Secretary of State will take it into account when an insolvency practitioner seeks re-authorisation, together with other relevant issues.

What if my complaint is not about the insolvency practitioner?

As indicated on page 2, you should complain to the insolvency practitioner about a case administrator or a case manager.

If you are concerned about the conduct of a bankrupt or director, you should contact the relevant official receiver (or the insolvency practitioner, if one has been appointed). He or she will consider whether further investigation or action is appropriate.

Alternatively, you can register concerns about the actions of disqualified directors, undischarged bankrupts or individuals subject to a bankruptcy restrictions order or undertaking which you feel could directly contravene any restrictions imposed on them by calling the Enforcement Hotline on 0845 601 3546 (calls charged at a local rate). The Hotline is open 24 hours a day to take your call, and you can find out more about it on our website at:
www.insolvency.gov.uk/doitonline/enforcementhotline.htm

Again, we will consider whether a full investigation is appropriate. If you are unhappy about any omission or decision by an insolvency practitioner, you will probably need to approach the court that is dealing with the case. Only the court has the power to reverse or modify the insolvency practitioner's decision, or to give directions in a particular case. However, you are

advised to first seek your own independent legal advice about the remedies available to you. If you want to complain about insolvency legislation, or about any particular government policy, you can write to the relevant Minister or your local MP. To identify the relevant Minister or MP, you can contact your local library or Citizens Advice Bureau. You can also find their details on the House of Commons website at: www.parliament.uk/directories/hciolists/alms.cfm If you want to complain about a court order - for example, you do not think the court should have made you bankrupt - you should approach the court direct. You are again advised to seek your own independent legal advice about the remedies available to you.

Users' views

One of the best ways of continuing to improve our service is by listening and responding to your views. As well as learning from your complaints, we welcome comments or suggestions on how we can improve. Equally, we would like you to tell us when we get it right, so that we can maintain our good practices. Please send any comments to:

Insolvency Practitioner Policy Section
The Insolvency Service
PO Box 203
21 Bloomsbury Street
London
WC1B 3QW

E-mail: IPPolicy.Section@insolvency.gsi.gov.uk

Further information

"The Insolvency Service Charter" details the standards of service you can expect from us. "A Guide to the Insolvency Service" provides background information on our work, including that of the official receivers.

Both publications are available from your local official receiver's office, or by contacting the BERR Publications Order Line. To do this you will need the reference number (URN) of the forms required. This can be found on the back cover of the leaflets or on the website.

By telephone: 0845 015 0010 (calls to this number are charged at national rate).

By email: publications@berr.gsi.gov.uk

By fax: 0845 015 0020

Minicom users should telephone: 0845 015 0030

You can contact The Insolvency Service Insolvency Enquiry Line for general enquiries on insolvency matters on 0845 602 9848; or email: Insolvency.Enquiryline@insolvency.gsi.gov.uk

A range of our publications also appears on our website at: <http://www.insolvency.gov.uk>

Recognised Professional Bodies

The seven professional bodies recognised by the Secretary of State to authorise practitioners are as follows:

Institute of Chartered Accountants in England & Wales

Professional Standards Office
Metropolitan House
321 Avebury Boulevard
Milton Keynes
MK9 2FZ

www.icaew.co.uk

Insolvency Practitioners Association

Valiant House
4 - 10 Heneage Lane
London
EC3A 5DQ

Association of Chartered Certified Accountants

Professional Conduct Department
10 & 11 Lincoln's Inn Fields
London
WC2A 3BP
Tel: 020 7059 5917
Fax: 020 7059 6858
www.acca.global.com

Institute of Chartered Accountants of Scotland

CA House
21 Haymarket Yards
Edinburgh
EH12 5BH
Tel: 0131 347 0100
Fax: 0131 347 0105
www.icas.org.uk

Institute of Chartered Accountants in Ireland

The Linen Hall
32-38 Linen Hall Street
Belfast
BT2 8BG
www.icaire.com

Law Society

Law Society
Legal Complaints Service
Senior Assessment Officer (Insolvency)
Victoria Court
8 Dormer Place
Leamington Spa
Warwickshire
CV32 5AE
Tel: 01926 820082
Fax: 01926 431435
www.legalcomplaints.org.uk

Law Society of Scotland

The Law Society's Hall
26 Drumsheugh Gardens
Edinburgh
EH3 7YR
Tel: 0131 226 7411
Fax: 0131 225 2934
www.lawscot.org.uk

Other Bodies with an interest in insolvency standards

The Insolvency Practices Council

The Council was formed in 2000 and its remit is to keep under review the appropriateness of the ethical and professional standards of insolvency practitioners, having regard to the public interest in insolvency regulation.

The Council welcomes information and concerns on insolvency matters from the public, those affected by insolvency and, particularly from debtors and creditors.

Areas of concern will be considered and, if appropriate, recommendations will be made to the Recognised Professional Bodies for change. The Council is not an Ombudsman, and is not in a position to investigate individual cases. Contact can be made to:

The Secretary,
Insolvency Practices Council,
PO Box 698,
Godalming GU7 9AR
Tel: 01483 424311

E-mail: secretary@insolvencypractices.org.uk

This leaflet provides general information only.

Every effort has been made to ensure that the information is accurate, but it is not a full and authoritative statement of the law and you should not rely on it as such. The Insolvency Service cannot accept responsibility for any errors or omissions as a result of negligence or otherwise.

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0845 015 0010. You may also fax orders to the
Orderline on 0845 015 0020. Minicom users should
telephone 0845 015 0030.

Publications are also available on our website
www.insolvency.gov.uk