

THE HANDLING OF FUNDS IN FORMAL INSOLVENCY APPOINTMENTS

1. INTRODUCTION

This statement of insolvency practice is one of a series issued by the Council of the Society with a view to harmonising the approach of members to questions of insolvency practice. It should be read in conjunction with the Explanatory Foreword to the Statements of Insolvency Practice and Insolvency Technical Reminders issued in June 1996. Members are reminded that SPI Statements of Insolvency Practice are for the purpose of guidance only and may not be relied upon as definitive statements. No liability attaches to the Council or anyone involved in the preparation or publication of Statements of Insolvency Practice.

2. STATEMENT OF INSOLVENCY PRACTICE

- 2.1** This statement of insolvency practice concerns the handling of funds by insolvency office holders in the administration of insolvency cases. It applies to England and Wales only.
- 2.2** Members should ensure that the funds (including any interest earned thereon) and other assets of each case for which they have responsibility as insolvency office holder are maintained separately and cannot be intermingled with those of any other case or those of the office holder or his firm. Subject to the rules relating to the payment of monies into the Insolvency Services Account, which are set out in Insolvency Technical Reminder 1, separate bank accounts should be operated for each case to ensure that these principles are adhered to.
- 2.3** Where funds relating to a case are received by cheque payable to the office holder or his firm which cannot be endorsed to the insolvent estate, such cheques may be cleared through an account maintained in the name of the office holder or his firm. Such accounts should be operated on a trust basis and should be maintained separately from the practitioner's office accounts. Funds paid into such accounts should be paid out to the case to which they relate as soon as possible.
- 2.4** Monies coming into the hands of practitioners which are the property of individuals or companies for which they are acting otherwise than in the capacity of insolvency office holder must be held in an account operated on trust principles and subject to any applicable client money rules.
- 2.5** Members are reminded that monies received under the provisions of the Employment Protection (Consolidation) Act 1978 are held for account to the Secretary of State, subject to disbursement to the employees concerned in accordance with the regulations, and should be held separately from funds arising on individual cases.

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