

STATEMENT OF INSOLVENCY PRACTICE 15

REPORTING AND PROVIDING INFORMATION ON THEIR FUNCTIONS TO COMMITTEES AND COMMISSIONERS

INTRODUCTION

1. The interests of creditors are of primary importance in an insolvency office holder fulfilling their duties. Legislation provides for creditors to assist the office holder in the performance of their duties through representatives elected by creditors.
2. Legislation refers to such representatives using different terms: creditors committee (administration, administrative receivership, receivership and bankruptcy), liquidation committee (company winding up), and commissioners (sequestration and trust deeds in Scotland). For the purposes of this statement the term “committee” is used to refer to the appropriate body within legislation in respect of each relevant insolvency procedures.

PRINCIPLES

3. Office holders should ensure that those considering nomination to committees and those who are elected to committees are provided with sufficient information for them to consider nomination and be able to carry out their duties and functions.
4. Information provided by an office holder should be presented in a manner which is transparent and useful to the committee, whilst being proportionate to the case. Requests for additional information should be treated by an office holder in a fair and reasonable way.
5. Office holders should exercise professional judgement according to the circumstances of the case but normally have regard to the views of the committee.

KEY COMPLIANCE STANDARDS

6. Creditors should be able to make an informed decision on whether they wish to be nominated to serve on a committee. Office holders should advise creditors in writing how they may access suitable information on the role of the committee prior to any election of committee members.
7. Committee members should be advised in writing how they may access suitable information on their rights, duties and the functions of the committee either at the meeting at which the committee or a member is elected or as soon as practical thereafter.

8. Office holders should discuss with committee members at their first meeting their requirements for reporting frequency and obtain their directions. These directions are likely to depend on the circumstances of the case. Office holders should also discuss with committee members at their first meeting the type of matters which they wish to have reported to them so that matters of particular concern to them are identified. The first meeting of the committee should be held as early as practical after the committee is elected.
9. Office holders should on each occasion they report, identify what matters (in addition to those already identified) should be included in the report, exercising professional judgement as to which aspects of the proceedings may be of concern to the committee.
10. Office holders should ensure that any arrangements which are made for reporting to a committee are properly documented and adhered to.
11. The frequency of reporting and directions obtained at the outset of the case may not be appropriate throughout the course of the proceedings. The office holder should therefore consider throughout the lifetime of the case whether circumstances have altered which may change the committee's requirements for reporting frequency or their directions. Where circumstances have altered, the office holder should when next reporting to the committee set out the change of circumstances and obtain new agreement on reporting frequency and any new directions necessary.
12. Where an office holder considers their professional judgement should override the views of a committee, the office holder should clearly document why the views of the committee are not appropriate to follow. The office holder should also consider whether it is appropriate, in matters of contention to refer the matter to a general meeting of creditors or to the court.

Effective date: This SIP applies to insolvency appointments starting on or after XXXX