INSOLVENCY GUIDANCE PAPER – NO. 1

CONTROL OF CASES

INTRODUCTION TO INSOLVENCY GUIDANCE PAPERS

Insolvency Guidance Papers (IGPs) are issued to Insolvency Practitioner to provide guidance on matters that may require consideration in the conduct of insolvency work or in an Insolvency Practitioner's practice.

Unlike Statements of Insolvency Practice, which set out required practice, IGPs are purely guidance and practitioners may develop different approaches to the areas covered by the IGPs.

IGPs are developed and approved by the Joint Insolvency Committee, and adopted by each of the insolvency authorising bodies.

Authorising bodies

Recognised Professional Bodies	Competent Authorities
The Association of Chartered Certified Accountants Insolvency Practitioners Association	The Insolvency Service (for the Secretary of State for Trade and Industry) Department of Enterprise, Trade and Investment (for Northern Ireland)
The Institute of Chartered Accountants in England and Wales The Institute of Chartered Accountants in Ireland The Institute of Chartered Accountants of Scotland The Law Society The Law Society of Northern Ireland The Law Society of Scotland	

Introduction to Control of Cases

Insolvency appointments are personal to an individual Insolvency Practitioner, who has an obligation to ensure that cases are properly controlled and administered at all times. However, issues can arise when an Insolvency Practitioner delegates work to others, or takes appointments jointly with other practitioners. In such circumstances, a practitioner's planning and administrative arrangements will need to consider how best to ensure that cases are properly controlled at all times, and that proper regard is paid to the interests of creditors and other affected parties

Delegation

Given the wide variation in the size of firms dealing with insolvency work, each practitioner will have different case loads and resources and thus a different requirement to delegate work. Delegation can take on a number of forms, including:

- delegation of work to staff in the practitioner's own office, or to sub-contractors;
- delegation of work to staff within a firm but in another location;
- taking a reduced role on an appointment taken jointly with an insolvency practitioner in the practitioner's office;
- taking a reduced role on an appointment taken jointly with an insolvency practitioner within the same firm but in another location;
- allowing a specialist insolvency practitioner within a firm to take responsibility for all work of a specific type;
- allowing a specialist within a firm to handle work of a specific type (e.g.tax);
- sharing work on an agreed basis on an appointment taken jointly with a practitioner from another firm;
- employing another firm to give specialist advice (e.g. tax), or to undertake specific work (e.g. an investigation); and
- allowing a practitioner in a former firm (following either the practitioner's move to another firm or retirement) to take responsibility for appointments for a short time pending the transfer of cases.

For each of the above examples (and in other circumstances where delegation takes place), the practitioner must be satisfied at all times that work is being carried out in a proper and efficient manner, appropriate to the case.

Control

In determining the procedures to be put in place to ensure that an appropriate level of control can be established in relation to delegated work, it is recommended that a practitioner have regard to the following matters:

- the structure within a firm, and the qualifications and experience of staff;
- the need for the practitioner to be involved in setting case strategy at the outset, depending on the nature, size and complexity of the case;
- the procedures within a firm to ensure consultation by joint appointees, other practitioners, and staff;
- the extent to which levels of responsibility are defined, and the circumstances in which a reference to, or approval by, the practitioner is required;
- whether there are clear guidelines within a firm to deal with the administration of cases at locations remote from the practitioner;
- the ways in which compliance and case progress are monitored, and then reported to the practitioner;
- the frequency of case reviews, and who carries them out;
- the systems for dealing with correspondence received and, in particular, complaints;

- the process by which work is allocated on a joint appointment with a practitioner from another firm, the rationale for that split, and the controls to be put in place, subject always to statutory requirements; and
- the way in which specialist advisers (including agents and solicitors) and sub-contractors are chosen and engaged, and how their work is monitored.

Insolvency Practitioners are aware that they may be required to justify their decisions and demonstrate that appropriate levels of control have been established. It is recommended that for firm wide procedures, guidance is set out in writing, and that on a case by case basis, contemporaneous working papers or file notes are prepared.

Firms

In this Paper, reference to 'firm' includes, as appropriate, a company, a partnership, a sole practitioner, and a practitioner working in association with other 'firms' or practitioners in other 'firms'.

Effective Date: 1 April 2005