

Insolvency Service



How do I make a complaint against an Insolvency Practitioner

**Information about how to make a complaint against an
insolvency practitioner**

This leaflet covers the questions you are most likely to want answered about how to make a complaint against an insolvency practitioner and sets out the steps involved in the complaints investigation process:

- How do I make a complaint about an insolvency practitioner authorised by one of the seven Recognised Professional Bodies?
- How do I make a complaint about an insolvency practitioner authorised by the Department of Enterprise, Trade and Investment?
- What should I include in my letter of complaint?
- What can I expect?
- What if my complaint is not about the insolvency practitioner but about a member of his or her staff?
- How do I contact the Recognised Professional Bodies?
- How can I get an insolvency practitioner's actions or decisions reviewed or changed?
- Who are the seven Recognised Professional Bodies?

Complaints procedure:

Introduction

A person who acts as a liquidator, trustee in bankruptcy, administrative receiver, administrator or supervisor under individual or company voluntary arrangements must be authorised to act as an insolvency practitioner. The authorisation process was introduced in Northern Ireland in 1991 with the enactment of the Insolvency (Northern Ireland) Order 1989. The process aims to ensure that anyone wishing to act as an insolvency practitioner must meet certain professional requirements in terms of educational standard and experience in dealing with insolvency issues.

Authorisation may be made by the Department of Enterprise, Trade and Investment ("the Department") directly, or by one of seven professional bodies (listed on pages 5 and 6 of this leaflet) recognised by the Department 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 best practice guidance 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 Department 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 (Northern Ireland) Order 1989 or otherwise.

Remember, the insolvency practitioner is the person who is in charge of the insolvency case. Therefore 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 any complaint 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:

- A list of Insolvency practitioners of insolvency practitioners is available on the Insolvency Service's website at: www.insolvencyservice.detini.gov.uk
- by contacting our General Enquiry Line on 028 9025 1441; or
- by writing to or telephoning the Insolvency Practitioner Unit of The Insolvency Service (see page 3), 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 Recognised 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 pages 5 and 6 of this booklet. Alternatively details can be obtained from the Information section of our web page.

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 Department of Enterprise, Trade and Investment?

If your complaint concerns an insolvency practitioner authorised by the Department of Enterprise, Trade and Investment, you should write to:

Insolvency Practitioner Unit
The Insolvency Service
Fermanagh House
Ormeau Avenue
BELFAST
BT2 8NJ

Alternatively you may e-mail details of your complaint to the Unit's manager, Mr Tom Roulston, at : insolvency@detini.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?

Where your complaint is in respect of a practitioner authorised by the Department 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 Department has no power to impose any disciplinary sanction or penalty against an insolvency practitioner, nor can it 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 seek appropriate undertakings (written commitments) from insolvency practitioners to alter their procedures and practices where we consider it appropriate.

Also, if we find your complaint to be justified, the Department 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 but about a member of his or her staff?

Ultimately responsibility for case administration rests with the insolvency practitioner. Where your complaint deals with issues relevant to the conduct of a case administrator or a case manager employed by the insolvency practitioner, you should make your complaint, in the first instance, to the insolvency practitioner.

How can I get an insolvency practitioner's actions or decisions reviewed or changed?

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 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.

Who are the seven Recognised Professional Bodies?

The seven professional bodies recognised by the Department to authorise practitioners are as follows:

Association of Chartered Certified Accountants

Legal Department
29 Lincoln's Inn Fields
LONDON
WC2A 3EE
Tel: 020 7242 6855
Fax: 020 7396 7070

Insolvency Practitioners Association

3rd Floor
Valiant House
4-10 Heneage Lane
Off Creechurch Lane
London
EC3A 5DQ
Tel: 020 7623 5108
Fax: 020 7623 5127

Institute of Chartered Accountants in England & Wales

Professional Conduct Department
Metropolitan House
312 Avebury Boulevard
CENTRAL MILTON KEYNES
MK9 2FZ
Tel: 01908 546389
Fax: 01908 546371

Institute of Chartered Accountants in Ireland

Professional Standards Department
The Linenhall
32 – 38 Linenhall Street
BELFAST
BT2 8BG
Tel: 028 9023 1541
Fax: 028 9031 9320

Institute of Chartered Accountants of Scotland

CA House
21 Haymarket Yards
EDINBURGH EH12 5BH
Tel: 0131 347 0100
Fax: 0131 347 0105

The Law Society

The Panel Administrator (Insolvency Practitioners)
Ipsley Court
Berrington Close
REDDITCH
B98 0TD
Tel: 01527 504414
Fax: 01527 500018

The Law Society of Northern Ireland

40 Linenhall Street
BELFAST
BT2 8BA
Tel: 028 9023 1614
Fax: 028 9023 2606

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:

The Customer Relations Officer
Insolvency Service
Fermanagh House
Ormeau Avenue
BELFAST
BT2 8NJ

Further information

To get further copies of this leaflet, please contact the Insolvency Service at:
Fermanagh House
Ormeau Avenue
BELFAST
BT2 8NJ
Tel: 028 9025 1441
Fax: 028 9054 8555

Copies of this leaflet and details of our other publications may also be obtained from our website at: www.insolvencyservice.detini.gov.uk

This leaflet provides general information only. 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 our negligence or otherwise.