

# Principles for Monitoring Insolvency Practitioners

## 1 Introduction

The Memorandum of Understanding sets out the Principles agreed between the Secretary of State and Recognised Professional Bodies able to authorise individuals as insolvency practitioners (IPs). Principle 2 of the Memorandum incorporates a requirement for each Body to monitor the practitioners it authorises. This document sets out the principles in accordance with which monitoring will take place.

## 2 Monitoring Objective

The purpose of monitoring is to facilitate the gathering of sufficient relevant information by a Body on the conduct and performance of the practitioners it authorises to enable an informed and unbiased decision to be made as to whether a practitioner is, and continues to be, a fit and proper person to act as an insolvency practitioner.

## 3 Responsibility For The Monitoring Function

- (A) Each Body is responsible for ensuring that the insolvency practitioners it authorises are monitored in accordance with the Principles for Monitoring. It retains that responsibility where the monitoring function or any part of it is delegated to a third party.
- (B) Where a Body delegates the monitoring function or any part of it to a third party, it will ensure that mechanisms exist to secure its timely notification by the third party of any serious concerns relating to the activities of a practitioner.

## 4 Monitoring Procedures

### Desktop Monitoring

- (A) In respect of each practitioner it authorises, the Body will have in place an ongoing process of desktop monitoring by which means it will gather from both the practitioner and from sources independent of the practitioner, information relevant to the monitoring objective.

### Monitoring Visits

- (B) For each practitioner it authorises who holds at least one appointment as an insolvency officeholder, the Body will have in place, in pursuance of the monitoring objective, a scheme to undertake monitoring visits to the practitioner, to include reviews of case files. The frequency of such visits will be determined using a risk-based approach and will have regard to the following: -
  - (i) Where the appointment is the first as an office holder authorised by the Body, the Body will decide whether or not a monitoring visit within the first 12 months of the appointment date is necessary. Where an early

monitoring visit is not thought necessary the first visit will take place within 3 years of the appointment date.

- (ii) Where the appointment is not the first as an office holder, the period elapsed since the previous monitoring visit. This period is not expected to significantly exceed three years but may, where satisfactory risk assessment measures are employed, extend to a period not exceeding six years.
  - (iii) Where a Body becomes aware of concerns about a practitioner's activities, howsoever they arise, it will take steps to satisfy itself that the practitioner remains fit and proper and should consider conducting a monitoring visit irrespective of the time elapsed since the last visit.
- (C) Where a practitioner holds no appointments as an insolvency officeholder and has not done so in a specified period, a monitoring visit will be at the discretion of the Body. The specified period will begin either on the date of the issue of authorisation, or the date of the previous monitoring visit, whichever is later, and it will end either on the day immediately before the day of the practitioner's appointment as an insolvency office-holder or, in the absence of that event, on such date as the Body considers appropriate.

## **5 Key Monitoring Issues**

### Compliance

- (A) The Body will take reasonable steps in seeking to confirm satisfactory levels of compliance on the part of the practitioner with all relevant aspects of insolvency law and practice, and other legislation that may impact upon an individual whilst acting as an insolvency practitioner. Reference to insolvency law and practice includes but is not limited to Statements of Insolvency Practice; the Ethical Guide; prevailing statutory and common law; the Body's byelaws, rules and regulations, and continuing professional education requirements.

### Professional Competence

- (B) The following constitute matters that may be examined in seeking to establish a practitioner's professional competence. Other matters may be examined as the Body sees fit.
- (i) The systems and controls employed by the practitioner to ensure the proper conduct of work undertaken.
  - (ii) The ability to undertake work associated with appointments. This includes but is not limited to an examination of the facilities available to the practitioner, and the competence and suitability of partners, fellow principals, staff and sub contractors, and the suitability of professional advisers, agents, and contractors.
  - (iii) The level of control exercised over cases where the practitioner is office-holder, including joint appointments.

- (iv) The financial systems employed by the practitioner; including a check on the way in which remuneration and disbursements are authorised and drawn, and, receipts and payments are handled and accounted for.
- (v) Whether or not there are regular occurrences of undue or unwarranted delays in dealing with the officeholder's duties or with correspondence.
- (vi) The procedures for and manner of dealing with complaints.
- (vii) Influences that might affect the honesty, integrity, objectivity, or impartiality of the practitioner whether or not arising as a consequence of holding an insolvency office. Such influences include but are not limited to financial, personal, professional, or those exerted by employers, employees, contracting parties or significant work providers.

## **6 Practices With Authorisations From More Than One Body**

Where a practice has authorisations from more than one Body, the following will apply: -

- (A) Wherever practical the Bodies or their monitoring agents should liaise, with a view to undertaking a combined monitoring visit.
- (B) If a combined monitoring visit does not take place and a visit to one practitioner highlights serious shortcomings in the work of any other practitioner or practitioners authorised by a different Body or Bodies, those shortcomings should be referred in writing and in a timely manner to the relevant Body or Bodies. This principle is to be followed irrespective of the capacity of those not the subject of the monitoring visit.

## **7 The Monitoring Visit Report**

- (A) On completion of a monitoring visit to a practitioner the Body is responsible for ensuring the timely production of a detailed written report (the Monitoring Visit Report). The Report will set out the scope of the monitoring visit, the extent to which the practitioner's compliance with relevant insolvency law and practice, and other legislation has been tested and achieved; the extent to which a practitioner's professional competence has been tested and achieved; and any other information the Body deems appropriate.
- (B) On completion of the monitoring visit a copy of the Monitoring Visit Report will be provided to the insolvency practitioner within a reasonable time-scale.