

JOINT INSOLVENCY COMMITTEE

Newsletter – winter 2011

This is the fourth issue of the Joint Insolvency Committee's newsletter and provides an update on the committee's activities so far this year.

About the Joint Insolvency Committee

The Joint Insolvency Committee (JIC) was formed in 1999 and provides a forum for discussion and promotes consistency of approach across bodies which authorise insolvency practitioners in Great Britain. Its mission statement is to:

- *Consider, maintain, improve, develop and promote insolvency standards and guidance of a regulatory, ethical, or best practice nature by means of debate and agreement within the Committee.*
- *Discuss any such matters with any other appropriate bodies.*
- *Facilitate discussion between authorising bodies in order to ensure that, as far as possible, insolvency practitioners are dealt with uniformly by such authorising bodies.*

The JIC has 3 primary regulatory tools by which it can fulfil its mission statement – the insolvency code of ethics, statements of insolvency practice, and insolvency guidance papers.

The JIC meets four times a year but works through the year and with sub-groups between meetings. Each authorising body is represented on the JIC, usually by an insolvency practitioner supported, where appropriate, by staff from the authorising body they represent. The JIC also welcomes a number of observers who play a valuable role in updating JIC on issues from within their remit. Details of the authorising bodies, JIC members and observers are shown later in this newsletter.

The chair of JIC is John Milsom, representative of ICAEW, and during 2011 the secretariat support for the committee was provided by ICAEW. For 2012, the secretary of the JIC will be provided by the Insolvency Practitioners Association.

At its meeting in November 2011, the JIC welcomed 3 new lay members to join the committee for the first time. Further information about the lay members is included on page 2, and their names listed in the list of committee members on page 6.

The JIC takes a close interest in issues which have the potential to affect the regulatory framework for insolvency. During 2011, the issues discussed have included the Government's consultation on reforms to the regulation of insolvency practitioners, the concept of a single insolvency regulator and pre packs. Comments from the insolvency profession and others with an interest in insolvency are encouraged.

If you have any comments or questions about this newsletter please contact the current secretary of the JIC c/o ICAEW, Metropolitan House, 321 Avebury Boulevard, Milton Keynes, MK9 2FZ telephone number: +44 (0) 1908 546 220, email: tracy.stanhope@icaew.com . For 2012 onwards if you wish to contact the JIC, please contact the secretary of JIC c/o Insolvency Practitioners Association, Valiant House, 4-10 Heneage Lane, London, EC3A 5DQ telephone number: 020 7397 6407, email michelleb@ipa.uk.com

JIC strategy day – next steps

Lay members

One of the actions agreed at the strategy day in April this year, was to invite lay members to join the committee. Although, there is a full public consultation involved in the development of all new standards, the committee believes that inviting lay members to join the committee would further increase transparency and involve other interested parties in the committee's discussions from the outset. The committee contacted a number of organisations identified by the Insolvency Service as having a particular interest in insolvency and as a result of that process we were delighted that the Association of British Insurers, HMRC and the Institute of Credit Management accepted our invitation to join the committee. These new lay members joined the committee for the first time at its meeting in November.

Consistency project

The JIC is actively looking at common sanctions guidance and principles for publication of disciplinary findings for its member bodies' committees and tribunals involved in making decisions on complaints. These are important ingredients in the drive towards greater consistency in complaints handling and in transparency of outcomes. At its last meeting, JIC considered a paper and many of the fundamental points of principle have now been agreed. Further detailed work is now underway with a view to finalising draft common sanctions guidance for the bodies to adopt in the New Year. It is intended that the guidance will be published.

Statements of insolvency practice (SIPs)

Statements of Insolvency Practice (SIPs) are a series of guidance notes issued to licensed insolvency practitioners with a view to maintaining standards by setting out required practice and harmonising practitioners' approach to particular aspects of insolvency. All insolvency practitioners are therefore working to common standards.

SIPs are issued under procedures agreed between the insolvency regulatory authorities acting through the JIC. Where appropriate, when changes are made to SIPs affecting England and Wales, equivalent changes are made to those affecting Scotland and Northern Ireland.

The purpose of SIPs is to set out basic principles and essential procedures with which insolvency practitioners are required to comply. Departure from the standards set out in the SIPs is a matter that may be considered by a practitioner's regulatory authority for the purposes of possible disciplinary or regulatory action.

Review of the SIPs

The JIC's approach to revising SIPs is that a SIP should contain a mix of principles and key compliance standards. Working groups are established to look at each SIP, with the members of the groups being drawn from the JIC attendees and others within the profession and going forward creditor and debtor stakeholder representatives who have particular expertise in the subject matter of the SIP being reviewed. The JIC is grateful to those who have volunteered to participate in these groups. If you are interested in volunteering to be part of a working group, either generally or in relation to a particular SIP, please contact the secretary of JIC (see page 1).

New **SIP 9** - payments to insolvency office holders and their associates came into force on 1 November 2011. The new SIP incorporates the new requirements on reporting to creditors introduced by the revised insolvency rules in 2010 but also emphasises the need for transparency and clarity in that reporting.

A revised **SIP 9** (Scotland) is being drafted following, as far as possible, the above SIP but taking into account the different legislative and practical requirements that apply in Scotland. After discussion by the authorising bodies final amendments are being made to this SIP which is expected to come into force in the New Year.

The next SIP that is being reviewed is **SIP 3** – voluntary arrangements, and the committee has decided that this SIP should be separated so that there is a SIP for individual voluntary arrangements and one for company voluntary arrangements.

One of the outcomes of the JIC strategy day in April this year was that the committee should review **SIP 15** - reporting and providing information on their functions to committees in formal insolvencies. At the time of publication of this newsletter the committee is still waiting to see the published responses to the Government's consultation on reforms to the regulation of insolvency practitioners insofar as they relate to creditor engagement before starting work on this review.

A working group was established in 2010 to look at the responses received to the JIC's consultation on the effectiveness of **SIP 16** - pre-packaged sales in administrations. The review of this SIP was not progressed during 2011 as the Government plans to introduce legislation in this area. There also remains outstanding the review of **SIP 13** - acquisition of assets of insolvent companies by directors, which was to be considered in the light of the revision of **SIP 16** and this may still be relevant given the focus on connected party transactions.

If you have any comments you wish to make on the review of the SIPs in general or on the content of any particular SIP, or if you wish to participate in any future consultations on the SIPs please contact the secretary of JIC (see page 1).

Insolvency guidance papers

Insolvency Guidance Papers (IGPs) are issued to insolvency practitioners 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.

No new guidance papers are currently being developed. If you believe that there is a need for an IGP on a particular subject please contact the secretary of JIC.

Code of ethics for insolvency practitioners

The current code of ethics for insolvency practitioners was introduced on 1 January 2009. No changes to the code are currently planned.

Working with the Insolvency Practices Council

The Insolvency Practices Council (IPC) is a public interest body established to influence the professional and ethical standards of insolvency practitioners. The JIC meets with the IPC and the minutes of JIC meetings are shared with the IPC. The chairs of JIC and IPC have met this year, and discussed current issues and concerns and the chair of the IPC addressed the November JIC meeting.

THE BODIES WHICH REGULATE INSOLVENCY LICENCE HOLDERS IN GREAT BRITAIN AND/OR IN NORTHERN IRELAND

Recognised professional bodies

<u>Name and address</u>	<u>Website</u>
The Association of Chartered Certified Accountants (ACCA) 29 Lincoln's Inn Fields, London WC2A 3EE	www.accaglobal.com
Insolvency Practitioners Association (IPA) Valiant House 4-10 Heneage Lane London EC3A 5DQ	www.insolvency-practitioners.org.uk
The Institute of Chartered Accountants in England & Wales (ICAEW) Metropolitan House 321 Avebury Boulevard Milton Keynes MK9 2FZ	www.icaew.com/insolvency
Chartered Accountants, Ireland (CAI) ¹ 47-49 Pearse Street Dublin 2	www.charteredaccountants.ie
The Institute of Chartered Accountants of Scotland (ICAS) CA House 21 Haymarket Yards Edinburgh EH12 5BH	www.icas.org.uk
The Law Society of Scotland 26 Drumsheugh Gardens Edinburgh EH3 7YR	www.lawscot.org.uk
Solicitors Regulation Authority For the Law Society (SRA) Ipsley Court Berrington Close Redditch Worcestershire B98 0TD	www.lawsociety.org.uk www.sra.org.uk

Other regulators

The Insolvency Service www.insolvency.gov.uk
PO Box 203
21 Bloomsbury Street
London WC1B 3QW

The Insolvency Service Northern Ireland² www.insolvency.detini.gov.uk
Fermanagh House
Ormeau Avenue
Belfast
BT2 8NS

The Law Society of Northern Ireland² www.lawsoc-ni.org
96 Victoria Street
Belfast
BT1 3GN

¹The Chartered Accountants Ireland, under the provisions of its Bye-Laws, established the Chartered Accountants Regulatory Board (www.carb.ie) in April 2007 and has delegated regulatory functions to this Board.

²These bodies have observer status on JIC

MEMBERS OF THE JIC

Andrew Tate	The Association of Chartered Certified Accountants
Roger Smith	Insolvency Practitioners Association
John Milsom Chairman	The Institute of Chartered Accountants in England & Wales
Joan Houston	Chartered Accountants Regulatory Board (Chartered Accountants, Ireland)
Brian Milne	The Institute of Chartered Accountants of Scotland
Roy Roxburgh	The Law Society of Scotland
Paul Caldicott	Solicitors Regulation Authority
Mike Chapman Naomi Barton	The Insolvency Service
Marc Henstridge (lay member)	Association of British Insurers
Philip King (lay member) Representative of (lay member)	Institute of Credit Management HMRC

OBSERVERS OF JIC

Representatives of	The monitors of the authorising bodies, R3, the Accountant in Bankruptcy, The IS Northern Ireland, Law Society Northern Ireland
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OTHER BODIES

Association of Business Recovery Professionals (R3) 8th Floor, 120 Aldersgate Street London EC1A 4QJ	www.r3.org.uk
Insolvency Practices Council PO Box 698 Godalming GU7 9AR	www.insolvencypractices.co.uk
The Accountant in Bankruptcy 1 Pennyburn Road Kilwinning Ayrshire KA13 6SA	www.aib.gov.uk