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Department
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INSOLVENCY SERVICE

CHARTERED ACCOUNTANTS IRELAND – MONITORING REPORT

AUGUST 2021

Executive Summary

The Insolvency Service Northern Ireland has overall responsibility on behalf of the Department for the Economy for ensuring that the activities of the Recognised Professional Bodies (RPBs) that authorise and licence insolvency practitioners are in line with the regulatory objectives set out in [Section 15 of The Insolvency \(Amendment\) Act \(Northern Ireland\) 2016](#). Those objectives include having a system of regulating insolvency practitioners that secures fair treatment and ensures consistent outcomes, maximises returns to creditors, and protects and promotes the public interest.

This report presents the findings of a monitoring visit to Chartered Accountants Ireland (CAI), which took place in March 2020, to examine the processes adopted by CAI when regulating its insolvency practitioners. This report includes information provided by CAI prior to and following the visit and findings in relation to specific cases and recommendations.

1. Chartered Accountants Ireland - Overview of Regulation

1.1 Chartered Accountants Ireland (CAI) is an RPB, which authorises and regulates insolvency practitioners as defined under Article 350 of the Insolvency (NI) Order 1989. At 1 January 2020, Chartered Accountants Ireland licensed 42 practitioners, a decrease of 3 practitioners from the previous year.

1.2 With effect from March 2019, CAI has sub contracted the monitoring of insolvency practitioners to an independent UK insolvency licence holder with significant experience in conducting such reviews, who conducts the reviews on behalf of Wilson Consulting Services Limited. As per the contract the Reviewer shall prepare a report for the Insolvency Licensing Committee, where he will recommend the grade awarded to each firm monitored and any appropriate follow up action. These findings are based on CAI's grading template. The Insolvency Licensing Committee then decides if any follow-up or regulatory action is to be taken.

1.3 Between 11 and 13 March 2020, The Insolvency Service carried out an onsite monitoring visit to the CAI. The Insolvency Service last carried out a full monitoring visit to CAI in 2015, with the findings published in a report. A complaints review was carried out in 2017.

1.4 In advance of this most recent visit, the Insolvency Service requested the following information from CAI:

- Details of how each of the recommendations arising from the last Monitoring visit conducted in 2015 and the Complaints Review in 2017 have been implemented or addressed and the current position. Where a recommendation has not been implemented or is only partially implemented, CAI were asked to provide reasons for this and the steps being taken to address the recommendation going forward.

- A list of all authorised insolvency practitioners including:
 - Whether the insolvency practitioner is an appointment taker.
 - The date the licence was issued and the date it is due for renewal.
 - Details of any restrictions on the licence.
 - The date the last monitoring visit was carried out.
 - The date the next monitoring visit is due.
 - Practitioners who have ceased to be authorised since our last monitoring visit and the reasons why.
 - Applications for authorisation that were rejected since our last monitoring visit.
- A copy of any monitoring schedule used.
- Details of all monitoring visits carried out in the last 4 years, including outcomes.
- A list of all upcoming monitoring visits for the next 12 months.
- A signed copy of the current contract between CAI and the Reviewer.
- Details of their procedures for carrying out monitoring visits, including any risk assessment process for prioritising visits and guidance notes or checklists used by their monitoring staff.
- A copy of the Pre Visit Questionnaire used in monitoring visits.
- In respect of complaints, a list of
 - all insolvency complaints received in the last 3 years
 - all open insolvency complaints
 - all insolvency complaints closed in the past 3 years.

- For each list:
 - the name of the insolvency practitioner
 - the name of the complainant
 - the nature of the complaint
 - the stage which the complaint has reached
 - the date on which any complaint was resolved, closed or rejected
 - where any complaint has been upheld, the outcome and any sanction or publicity.

- An organisation chart showing staff members involved in Insolvency.

- Details of the composition of the various regulatory, investigatory and disciplinary committees, the frequency of their meetings and the dates of the next meetings for each committee.

- Minutes of meetings from the various regulatory, investigatory and disciplinary committees for the past 3 years.

- A complete copy of the existing Bye-Laws and Rules relating to insolvency practitioners, together with details of any Rules or Bye-Laws that are in the process of being amended.

- CAIs publicised and desk top procedures for dealing with the following:
 - New applications for authorisation.
 - Applications for renewal of authorisation.
 - Complaints handling.
 - Bonding and cover schedules.
 - Reporting to DfE and the Secretary of State as required under the Memorandum of Understanding.

- Details of the method of communicating with authorised insolvency practitioners for dissemination of information such as SIPs, ethical guidance, technical notices etc.
- Confirmation of what information is available in hard copy and what can only be accessed electronically.

1.5 From the above information, the Insolvency Service selected 15 monitoring and 20 complaint files. The fifteen monitoring files were randomly selected using a random number generator. The twenty complaints files were all complaints received and closed from 2017-2019. The files were requested from CAI prior to the monitoring visit and from these the Insolvency Service reviewed 10 monitoring files and 14 complaint files.

2. Overall findings from the visit

2.1 Overall, the Insolvency Service found that CAI has appropriate processes in place when carrying out its regulatory functions. No significant issues were identified, however a number of recommendations for improvement are made in this report.

Monitoring and authorisations

2.2 CAI has appropriate processes in place for the monitoring of insolvency practitioners under their agreement with the Reviewer. There were also appropriate processes in place under the previous arrangement with ICAS.

2.3 CAI operate a risk-based approach to monitoring to determine the frequency of monitoring visits to insolvency practitioners. It was found that in two cases out of the 10 cases reviewed that monitoring visits were not carried out to insolvency practitioners within 12 months of obtaining their new licence or 12 months of appointment in their first case in accordance with a risk based approach..

Complaints

2.4 From the complaint files reviewed CAI progressed the complaint cases in a timely manner. In one case the insolvency practitioner requested an update after four months.

Detailed Findings

3. Monitoring of insolvency practitioners

3.1 The monitoring of insolvency practitioners has been sub contracted to an independent reviewer on behalf of Wilson Consulting Services Limited. New monitoring work packs have been set up for the monitoring of insolvency practitioners and during 2019, 9 routine visits were carried out under this new arrangement.

3.2 The monitoring of insolvency practitioners was previously undertaken by ICAS on behalf of CAI and during 2017 20 routine visits and 2 follow up visits were carried out. In 2018 8 routine visits and 1 follow up visit were carried out.

3.3 Monitoring is undertaken on a risk profiling basis through a combination of inspections, focussed reviews on specific issues, desktop monitoring and general engagement. The aim is to improve standards, where required, and ensure more consistency in the monitoring process.

3.4 The files sampled represented a mix of monitoring inspections to mid-size firms and to sole practitioners. In each case, CAI provided copies of all documents relating to the visit strategy, risk profiling, queries raised by the inspector to the practitioner and full inspection reports.

3.5 CAI has developed a risk profile which is used for all insolvency practitioners, it is a system by which every practitioner is assessed against criteria and given either a low, medium or high status. This determines how regularly they are monitored onsite by CAI's inspectors. Those which are high risk should be seen annually, medium risk once every 3 years, and low risk between 4 to 6 years dependant on the firm and whether other practitioners in the same firm are being visited.

3.6 Some practitioners are included in the high risk category due to either being new to CAI or to the profession, or because they currently have one or more high risk ratings in a particular category.

3.7 The Monitor agrees the visit date with the insolvency practitioner and CAI then issues the Pre Visit Questionnaire. The insolvency practitioner will be asked to provide the number of cases they have, the type of cases and the age of cases. They will also be asked to provide details of cases closed in the past 12 months and if there have been any pre pack sales in the past 3 years.

3.8 The Monitor completes two checklists for each case sampled – one general and one case specific. The general checklist covers issues such as ethics, anti-money laundering, bonding, insurance, the IP form of record, Directors Conduct Report, case progression etc. The case specific checklist covers areas such as pre-appointment, appointment, bonding, meetings, report dates and fees. The Monitor can check fees to the firm's time records.

3.9 The Monitoring report is drafted and issued to the IP for comments within 14 days. The final Monitoring report is then issued to the Insolvency Licensing Committee (ILC) with a suggested grade for consideration and approval.

3.10 The ILC minutes do not appear to mention or confirm grading of report.

3.11 In one monitoring visit carried out in April 2017 a potential concern of unauthorised remuneration that was not immediately paid back was found. This was an IVA / SIP9 breach and potential reprimand / fine in accordance with Common Sanctions Guidance. The IP's explanations were accepted and no further action was taken.

3.12 In one monitoring visit carried out in October 2018 the Monitor did not look at any receiverships (2 cases), admin receiverships (3 cases), CVLs (2 cases) or IVA (1 case). The IP had 10 case types, five of which were selected on a risk basis and received a full review. In the visit there were a number of issues highlighted and acknowledged by the IP including concerns that staff required training, some of which was quite basic to the IP role, and that not all matters from the previous visit had been addressed. There was no evidence of consideration given to sanction or licence restriction pending completion of training.

3.13 Recommendations

3.13.1 It is recommended that CAI include the grade of the monitoring report in the ILC minutes.

3.13.2 CAI should consider sanctions or licence restrictions where appropriate and detail same in the minutes.

4. Authorisation of insolvency practitioners

4.1 All applications for insolvency licences are dealt with by the Insolvency Licensing Committee (ILC). The ILC has authority to deal with all matters relating to insolvency regulation as provided within the Insolvency Licensing Regulations and Guidance (IRLG) 2009.

4.2 The application for the renewal of a licence takes place as part of the Individual Annual Return (IAR) process which is completed online. When the IAR is completed a risk report is generated. Risk reports are reviewed to assess what action is to be taken in relation to the timing of the monitoring cycle.

4.3 The Insolvency Licensing Committee considers all insolvency licence renewals and may:

- grant the application; or
- refuse the application; or
- grant the application with restrictions or conditions.

Monitoring of insolvency practitioner bonds

4.4 Upon an application for a new licence or the renewal of an existing licence, CAI confirm that the insolvency practitioner has an enabling bond in place.

4.5 CAI receives bordereaux returns for all its insolvency practitioners on a monthly basis, which lists all open cases for each practitioner and their bonding level. CAI run a report two business days after the 20th of each month, and then issue reminders to any remaining IPs with outstanding cover schedules.

4.6 It was noted that in one instance out of nine files reviewed an insolvency practitioner submitted their cover schedule late but it was not recorded on the insolvency practitioner's risk assessment in the renewal application in 2020. CAI confirmed that this was an IT system error in reporting at year end with the necessary bordereaux arrangement in place as required. The risk assessment at renewal is not a regulatory requirement - it has been developed as an internal administrative tool. This was a one -off administrative error where the IP was due to submit two cover schedules and one had been received on time and duly recorded. The second document was submitted by the IP the day after the reminder was issued. The IT system had not identified that a second cover schedule was due so the risk assessment report at year end had not included this 'late' schedule but the

document had been provided. The IT system has been updated to allow for the recording of numerous dates where more than one cover schedule is due.

4.7 Recommendations

4.7.1 CAI should record all instances of late bordereaux on renewals for the Insolvency Licensing Committee.

5. Complaints handling

5.1 CAI received 10 complaints against insolvency practitioners between 2017 and 2019. These complaints are summarised in the table below:

Complaint Outcome	Closed by Head of Professional Conduct (HoPC)	Closed by Conduct Committee – No case to answer	Closed by Conduct Committee – Case to answer – no further action	Open at 31 December 2019
No of complaints	4	2	1	3

There were 10 complaints closed between 2017 and 2019 that were received in 2013, 2015 and 2016. These complaint outcomes are summarised in the table below:

Closed by Head of Professional Conduct (HoPC)	Closed by Conduct Committee – No case to answer	Closed by Conduct Committee – Case to answer for part of formal allegation, Consent Order accepted by member	Disciplinary Tribunal
4	4	1	1

5.2 It was noted that from the ten complaints received between 2017 and 2019 and the ten complaints closed between 2017 and 2019 two Insolvency Practitioners were responsible for eight of them, however 7 were closed with no case to answer.

5.3 CAI provided a further six complaints files on the monitoring visit. These were complaints received in 2020.

Investigation of complaints

5.4 All complaints are dealt with by the Professional Conduct Department of Professional Standards. When a complaint is received it is assessed to determine if it concerns a disciplinary matter. Matters deemed to be outside of the disciplinary process will be closed and a record will be retained. If it is determined that the matter does concern a disciplinary matter an investigation will be conducted. An investigation report is completed following each investigation.

5.5 Investigation reports are first considered by the Head of Professional Conduct initially who may at his or her discretion:

- decide that there is a case to answer and propose a course of action (for example, offer a consent order which might include a financial sanction and/or

non-financial sanction such as a reprimand, severe reprimand, an order for suspension or an order for exclusion;

- decide there is no case to answer; or
- refer cases to the Conduct Committee for it to determine whether or not there is a case to answer.

5.6 When the Head of Professional Conduct decides there is no case to answer they must consult with one member of the Conduct Committee who is not an accountant. If they are both in agreement the decision will take effect. The complainant can request that this decision is reviewed by an Independent Reviewer. If they are not in agreement the matter will be referred to the Conduct Committee for its consideration.

5.7 In one case out of fourteen reviewed the complainant requested an independent review after the Head of Professional Conduct found that there was no case to answer.

5.8 In two linked cases that were ongoing at the time of the monitoring visit in which the complainant was the same in both cases, no response to two letters sent by CAI had been received from the complainant.

5.9 The Conduct Committee considers each case referred to it by the Head of Professional Conduct and may:

- direct that the matter may be investigated further;
- decide that there is a case to answer; or
- decide that there is no case to answer.

5.10 If the Conduct Committee determines there is a case to answer it may decide to:

- take no further action,
- issue a sanction (in line with the Common Sanctions Guidance (CSG)); or
- refer the case for hearing before a Disciplinary Tribunal.

5.11 If the Conduct Committee determines there is no case to answer, the complainant may request that the decision is referred to an independent reviewer.

Progression of complaints

5.12 From the complaint files reviewed the complaints have been progressed in a timely manner. In one case the insolvency practitioner requested an update after four months.

5.13 Recommendations

5.13.1 CAI should review complaints quarterly and provide the complainant and IP with at least a quarterly update

Annex 1: Recommendations

The following recommendations are made for consideration by CAI:

Monitoring of insolvency practitioners

3.13.1 It is recommended that CAI include the grade of the monitoring report in the ILC minutes.

3.13.2 CAI should consider sanctions or licence restrictions where appropriate and detail same in the minutes.

Authorisation of insolvency practitioners

4.7.1 CAI should record all instances of late bordereaux on renewals for the Insolvency Licensing Committee.

Complaints handling

5.13.1 CAI should review complaints quarterly and provide the complainant and IP with at least a quarterly update

Annex 2: CAI Response to Recommendations

Recommendation	CAI Response
3.13.1 It is recommended that CAI include the grade of the monitoring report in the ILC minutes.	Noted and commenced March 2021
3.13.2 CAI should consider sanctions or licence restrictions where appropriate and detail same in the minutes.	Noted. ILC does impose sanctions and licence restrictions where appropriate and detail same in Minutes. Going forward, Minutes will record ILC's consideration of imposing regulatory penalties or restrictions even where the decision is taken not to impose same.
4.7.1 CAI should record all instances of late bordereaux on renewals for the Insolvency Licensing Committee.	Noted. The IT system generating the risk assessment at renewals has been updated to incorporate the situation where the IP has more than one monthly cover schedule.
5.13.1 CAI should review complaints quarterly and provide the complainant and IP with at least a quarterly update	Our current approach is to provide updates at particular trigger points, we are agreeable to providing periodic updates in addition.