

Insolvency guidance paper

Systems for control of accounting and other business records

Introduction

1. The existence and accuracy of an insolvent's accounting and other business records will affect the efficient realisation and distribution of an insolvent's assets, and may also be relevant in other circumstances, for example in disqualification proceedings or prosecution of criminal offences. An insolvency practitioner will also need to take account of the various statutory requirements for businesses to retain certain categories of records.
2. It is important that insolvency practitioners have satisfactory systems in place to record the receipt, and control of access to, movement, and eventual disposal of records. This guidance note looks at the parameters of these systems, although each case will be considered on its own merit. Some cases may need significantly more detail than is suggested here.
3. Formal recording systems can also assist an insolvency practitioner in the effective management of storage costs.

Control of records

4. It is likely that any system implemented by an insolvency practitioner would record:
 - the practitioner's initial enquiries to establish the nature and location of records;
 - the steps taken to safeguard records;
 - requests made of directors and others to deliver up records;
 - what records have been taken under the practitioner's control, and when and how this was done;
 - the location of the records;
 - whether third parties have had access to the records (and for what purpose); and
 - the eventual disposal of the records, and when and how this was done.
5. It will be particularly important in cases where the insolvent's records are referred to in legal proceedings (whether for the purpose of civil asset recovery or in other circumstances) that a formal recording process has been followed. Accordingly, an insolvency practitioner should be able to show that any system is applied consistently and that staff are trained in its use.

Please note

The guidance contained in this publication has been developed by the Joint Insolvency Committee, which represents the recognised professional bodies (RPBs) that regulate insolvency practitioners. The Law Society of England and Wales, which is an RPB, adopts the guidance with immediate effect.

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Records in electronic form

6. An insolvency practitioner will need to consider how to deal with information held in electronic form. Retrieval and storage of such information may include as appropriate securing servers and personal computers (or hard drives), copying information from those sources, or obtaining hard copies. The system of control is likely to follow the principles set out above.

Joint appointments

7. Where an insolvency practitioner is appointed jointly with a practitioner from a different firm, responsibility for records should be included within the agreed division of duties. Where both practitioners receive records, each should implement a system of control.