

8 June 2009

Dear Insolvency Practitioner

Statements of Insolvency Practice – SIP 16.

We are writing on behalf of the Insolvency Service in advance of the Insolvency Service Report due to be published in July 2009. I wish to bring to your attention a number of issues that have been highlighted where compliance by Insolvency Practitioners (IPs) with SIP16 could be improved. This letter is simply to raise awareness of concerns that the Insolvency Service have highlighted.

The areas of concern identified are as follows:

- The Service only requires copies of information disclosed on pre-pack administrations in line with SIP 16, as outlined in the Dear IP article in March 2009 and letter sent to IPs on 28 January 2009. The Insolvency service are receiving numerous notifications of administration appointments and proposal documents for cases which are not pre-pack administrations. This has the effect of clogging up their system and will only serve to increase the cost of SIP 16 monitoring.
- At this stage, the Insolvency Service does not know whether they are receiving SIP statements in all pre-pack cases. A recent R3 survey on pre-packs indicated that a higher number of pre-packs were being undertaken by practitioners than is apparent from the number of SIP 16 statements being received by the Service. This is of concern.
- It appears that the majority of IPs are sending out SIP 16 information with the first notification to creditors, though some are only providing the disclosures within the proposals. It is believed that the early provision of the information prescribed by SIP16 is vital in ensuring that the process is as transparent as possible. The Insolvency Service are writing to IPs in respect of inadequate disclosures made and will refer matters to RPBs where appropriate.
- The information being disclosed generally appears to be in line with what was intended. Clear areas for improvement would be to provide details of valuations i.e. the date, the assets valued, and the valuations given; and also fully detailing the consideration paid including a breakdown of apportionment to assets where material. In relation to deferred consideration, the Insolvency Service generally see little detail as to whether the practitioner has obtained any security or guarantees for any deferred amount. While such security is not a requirement, it would clearly provide some comfort to creditors that the deferred payments will be honoured.
- The Insolvency Service are concerned that insufficient information is being provided about the timing and extent of practitioners' prior involvement with companies, and that on occasion instructions appear to be being taken from directors without proper consideration being given as to how a proposed transaction might achieve one of the purposes of administration.

- Very little effort appears to be being made to consult with or disclose what consultations may have taken place with major creditors who do not hold security.
- The Insolvency Service is concerned that on occasions the identity of any directors connected with the purchaser is not always fully disclosed.
- Where new floating charges have been taken shortly prior to a pre-pack, the Insolvency Service would expect full details of the circumstances surrounding the granting of the security and the identity of the charge-holder to be disclosed.

We hope that the above information will be of assistance to you when considering the information required to be supplied to the Insolvency Service in respect of SIP 16 pre packaged administrations.

This information will be published to the SRA website under the "Accreditation" heading. If you have any queries please contact the Insolvency Service.

Yours Sincerely,

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Policy team
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