



FINANCIAL CONTROLS FOR INSOLVENCY CASES AND WHAT TO DO IF YOU DISCOVER FINANCIAL IRREGULARITIES

1 About this helpsheet

This helpsheet is for insolvency practitioners (IPs).

It is essential that an insolvency practice has robust controls over estate accounts and cashiering procedures, both to ensure that estate monies are safe, and also to enable you to prepare accurate statutory returns, and receipts and payments accounts.

The first part of this helpsheet focuses on the financial controls that will typically be appropriate for insolvency estate accounts. It is not an exhaustive list and the level of controls needed will vary depending on the size of the practice.

The second part of the helpsheet focuses on the [steps you need to take if you discover any financial irregularities](#), and the responsibility of any joint officeholder.

The controls and procedures detailed in this helpsheet are not prescriptive but if they are not adopted, we would expect firms to have at least equivalent procedures and policies in place.

2 Controls

2.1 Receipts

The following basic steps should ensure that receipts are completely and accurately recorded.

- All receipts should be recorded on receipt, kept secure before banking and banked promptly.
- Where possible, someone independent of the cashiering function should open the post and log any cheques. It's important that there's a regular, independent, review of the cheque log to make sure all cheques have been banked.
- Cheques should be banked on the day of receipt if possible. If this isn't possible they should be kept securely, ideally in a locked safe, until they are banked.
- We recommend using sequentially numbered receipt vouchers and attaching a copy of the cheque and any supporting remittance or other document to the voucher.

2.2 Payments

The following basic steps should ensure that payments are only made in relation to properly incurred, valid liabilities.

- Cheque books should be kept secure, in a locked cupboard.
- We recommend using payment vouchers summarising the details of the payment, the posting code and showing who requested and authorised the payment.
- The cashier, the case administrator, case manager and the cheque signatory should check that the liability relates to the estate in question.
- Third party documentation justifying the payment should be attached to the payment request so that the signatory can be satisfied that the payment relates to an appropriate and valid expense. If the payment relates to a trading case, it may also be appropriate to attach a copy of the purchase order and the delivery note.
- There should be adequate supporting documentation for any payments made by online banking, and the identity of the person who made the online payment should be clear.

2.3 Bank statements and reconciliations

The following basic steps should ensure that bank reconciliations are an additional, effective check on the financial records.

- Bank statements should be reviewed alongside other incoming post and should not be removed from the post before it has been reviewed.
- All bank statements should be reconciled within a reasonable period of receipt. Although there is no guidance on how frequently an estate account should be reconciled, ICAEW's clients' money regulations require members to reconcile their client accounts at least once every five weeks. This timescale could also be applied to estate accounts, although it may not be appropriate for all cases; eg, it is unlikely to be cost-effective to reconcile ISA accounts this frequently if they relate to court-work cases with low balances and few transactions.
- Bank reconciliations should be subject to independent review. When reviewing them, the reviewer should check the relevant bank statement and the reconciliation.
- All reconciling items should be investigated promptly.
- If funds have been transferred from one estate account to another (eg, placed on deposit), the reviewer should confirm that the transfer has been made by checking both the statement for the account from which the funds were transferred, and the receiving account.
- The closure of bank accounts should be confirmed in writing and closing statements obtained and retained.

2.4 IT systems and security

The following basic steps should ensure that IT systems do not allow inappropriate behaviour.

- Journals should be documented and authorised by someone other than a cashier, wherever possible.
- Documentation should be retained to provide an audit trail supporting the reason for the journal.
- Review authority levels for the cashiering and diary management system periodically to make sure they remain appropriate.
- Make sure cashiers do not have unfettered access to the entire system, or the highest security or authority level.
- Make sure passwords for online banking are kept secure and are not widely known.

2.5 Staff

When you recruit new staff, you should always seek references from the individual's previous employer. Although references may not always be helpful, it can be very telling if the referee declines to provide a reference.

You should also ask all staff to complete an annual declaration of competency and integrity.

Segregation of duties is an integral part of any financial control system. Except in the smallest practices, as a minimum, one person alone should not have sole responsibility for a specific area; for example income (receiving, recording, processing, depositing and reconciling).

2.6 Reviewing the operation of the cashiering system

IPs should regularly review cashiering work to ensure that staff comply with the firm's procedures.

These reviews can be incorporated into your ICR process. For example, we would expect any cold case reviews of an insolvency case to include a review of the cashiering files, and to look at whether the firm's procedures have been complied with. These reviews can easily look at whether:

- there is adequate supporting documentation for payments;
- receipts on the case have been banked promptly;
- journals have been documented and authorised;
- bank reconciliations have been carried out regularly, and reviewed at an appropriate level.

- any reconciling items have been investigated promptly.

Alternatively, in a particular year you may consider it appropriate to focus your ICR on cashiering procedures. This review could look at the operation of the cashiering systems across a range of cases, and could also look at those areas that can't be tested on individual insolvency cases, such as system security and access levels.

2.7 Additional simple steps that can help avoid problems

In our experience the following steps could reduce the chance of financial irregularities or make it more difficult for any perpetrator to continue undetected.

- Do not allow staff to use signature stamps to authenticate documents.
- Make sure the requirement for payments to be supported by third party documentation is enforced.
- As a signatory, refuse to sign cheques if there is not adequate supporting documentation.
- If you are the joint appointee, consider whether you have adequate knowledge of a case to be satisfied that the payment is appropriate and justified.
- Don't allow an apparent urgent need for a payment to over-ride the firm's systems and procedures.
- If urgent payments are likely to be required, ensure your procedures cover such circumstances and that there is adequate provision for the validity of the payment to be checked.
- Ensure that the cashiering team is not isolated and has adequate access to, and contact with, senior members of the team.
- Ensure that exception reports are produced regularly to show when estate accounts were last reconciled. These should be reviewed by someone independent of the cashiering team.
- Ensure that the firm has a whistle-blowing policy in place, that staff are aware of it, and know who to contact with any concerns.
- Investigate subsequent downward revisions to individual case outcomes and question the validity of the adjustments.
- Ensure that dominant personalities are not able to by-pass systems or operate in isolation.

3 Responsibility of joint officeholders

It is common for corporate insolvency appointments to be taken by two or more IPs as joint officeholders, with one IP usually assuming a lead role and the second (or third IP) a lesser role.

The Insolvency Guidance Paper on the Control of Cases confirms that if there is delegation (which includes taking a reduced role on a joint appointment), the IP must be satisfied at all times that work is being carried out in a proper and efficient manner, appropriate to the case.

Although the involvement of any joint, non-lead IP will vary from case to case and firm to firm, the joint officeholder cannot deny responsibility for a case. If any issues about financial irregularities arise, our Insolvency Licensing Committee will automatically consider referring the joint officeholder for investigation, to determine whether they have acted appropriately and whether any irregularities should have come to their attention.

As joint, non-lead officeholder you should therefore be satisfied that there are adequate controls in place to enable you to be satisfied that such cases are being handled properly. The extent of appropriate controls is likely to vary from firm to firm.

4 What to do if you discover any financial irregularities

Even when there is a good system of financial controls in place, it is only a safeguard against deliberate misstatement of accounts and deliberate misappropriation or misuse of funds.

If you discover any financial irregularities we expect you to:

- consider whether you need to submit a Suspicious Activity Report to your MLRO or SOCA;

- contact the secretary to ICAEW's Insolvency Licensing Committee immediately;
- report the matter to the police immediately;
- contact your insurers (either in relation to fidelity guarantee insurance or the bond provider, depending whether the perpetrator was a member of staff or an IP); and
- arrange for an independent review to be carried out, to examine the extent of the issue and how it arose.

You need to consider the tipping off provisions in the Money Laundering Regulations when reporting.

Under paragraph 2.14 of ICAEW's Insolvency Licensing Regulations, all IPs are required to notify the committee in writing, as soon as possible, and no later than 10 business days after becoming aware of any matter that may affect their status as a fit and proper person. Regulation 3.11 also requires a licence holder to establish and maintain procedures designed to ensure that anyone, at any time, employed by or associated with them in connection with their insolvency work is a fit and proper person and regulation 3.12 requires a licence holder to make sure that there are adequate procedures and supervision in place to comply with these regulations.

These regulations as a whole mean we expect you to tell us as a matter of urgency if you discover any financial irregularities in your practice, whether that is by a fellow IP or a member of staff.

In addition, if the person responsible for the financial irregularities is a chartered accountant, the duty to report misconduct also applies.

Under UK criminal law there is no general requirement to report criminal acts to the police. Nevertheless, if a person is aware that a criminal act is being carried out and actively tries to cover it up, they could be prosecuted for conspiracy to pervert the course of justice. The Insolvency Licensing Committee expects IPs to report any financial irregularities to the police promptly; failure to do so could be seen as a breach of the Code of Ethics.

4.1 What happens next?

If we receive information suggesting there has been some financial irregularity affecting insolvency estates, we will report this to the Insolvency Licensing Committee, who will consider the information and the circumstances. Depending on the circumstances, the committee may remove the IP's licence and refer them to the Investigation Committee for disciplinary action.

The committee will be particularly concerned about the creditors on the cases affected, and who is representing their interests. The committee will be concerned to see that there is an independent assessment of the loss. If the firm does not volunteer to arrange for an independent review to be carried out, the committee may require the IPs in the firm to do so, as a condition of their retaining their licences. In most cases the Insolvency Licensing Committee will want to be kept up to date about the steps being taken to reimburse estates and creditors for any loss.

As well as considering licensing issues, we will also consider the need for disciplinary action against any members. The committee will also automatically consider whether any joint officeholder should also be referred for investigation, to satisfy itself that the conduct of the joint officeholder was appropriate.

5 Summary

Although a good system of financial controls will provide some protection, it cannot guarantee full protection from deliberate misappropriation. You can reduce the risks by taking some simple steps and carrying out regular reviews of your systems to make sure they are operating as expected. It's important you take appropriate steps promptly if you discover any irregularities.

6 Contact us

If you have any queries about this helpsheet please contact us.

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