



## ANNUAL INSOLVENCY COMPLIANCE REVIEW

### 1 About this helpsheet

This helpsheet for insolvency practitioners (IPs) gives guidance on meeting ICAEW's requirement for an annual insolvency compliance review (ICR).

### 2 Requirement for an ICR

The requirement for an ICR is in regulation 3.13 of ICAEW's *Insolvency Licensing Regulations and Guidance Notes*. This states that a licence holder must review and record, at least once a year, the effectiveness of his own and/or his firm's quality control procedures and compliance with these regulations.

### 3 Who can conduct a compliance review?

A suitably qualified or experienced individual should carry out the ICR; preferably a person who has not been involved in performing any of the work. The review can either be outsourced, carried out in-house or under a mutual arrangement with another IP.

If you decide to use an external reviewer, you should ask them to confirm their competence and independence, preferably in writing, and you should check that they are able to undertake the work (for example, if they hold an insolvency licence, check it is not restricted in any way). You should agree the scope of the review and reporting procedures, usually in an engagement letter. If you're thinking of using an external consultant, you may also find our helpsheet, *Using a compliance consultant*, helpful.

If you use an internal reviewer or a fellow IP under a mutual arrangement, make sure the reviewer has sufficient knowledge and experience of the type of work that you do to conduct the review in a robust manner and in sufficient detail. It's also essential that you respect the reviewer and are willing to accept their findings.

### 4 What should an ICR cover?

There are two stages to an ICR.

- A review of internal controls and systems

This looks at your compliance with the overall obligations under the regulations, including continuing eligibility for authorisation and the maintenance of appropriate standards of competence.

- Cold file reviews of insolvency work

These are reviews of a sample of your case files, to check that the work has been carried out in accordance with statute and best practice and in accordance with your firm's procedures. Cold file reviews should include both open and closed cases.

You can download checklists for both stages from [icaew.com/insolvency](http://icaew.com/insolvency). Although you don't have to use our checklists, you should keep an adequate record of the work carried out, the areas and cases reviewed and the findings.

## **5 How many cases should be reviewed?**

When deciding how many cases to review, you should consider with the reviewer factors such as:

- the types of appointment you have;
- the allocation of cases across your staff;
- the age profile of your cases; and
- high-risk or high-profile cases.

We can't give you definitive guidance on the number of cases or case types you should review. The reviewer should look at more than one case and make further checks if concerns arise, so that they can assess whether the issues highlighted are isolated or systemic.

When you select cases for review, consider the age of the cases. It may not be appropriate to review very new cases as the scope of the review work can be limited. Equally, it may not be a good use of time to review all aspects of cases that commenced some time ago, as some systems and procedures may have changed significantly.

It's also important that you don't overlook closure issues. If the review focuses on open cases, the reviewer should also consider looking at closure aspects of a recently closed case (or sample of cases). Alternatively, you may decide to focus on closure procedures in a particular year.

We do not stipulate:

- how many cases should be reviewed;
- when they should be looked at;
- which case types should be covered; or
- who should perform the review.

You should cover every case type and all main aspects of casework over a six-year cycle.

You may decide:

- to review administration cases one year, liquidation cases the next, and so on; or
- to review a sample of all case types each year.

Alternatively, you may decide to review a selection of cases each year looking at different areas, such as fee authorisation or appointment issues. The risk with this approach, however, is that one area may be overlooked and some case types may not be reviewed in their entirety during the six-year cycle.

Whichever approach you adopt, your planning document needs to show how you're going to cover all cases types over a six-year period.

You should also bear in mind that, if you focus your ICR work on newer cases (for example reviewing appointments within the last 12-18 months), although this enables you to test the effectiveness of your current systems and procedures, it doesn't cover your older cases. If you adopt this approach, you should also consider the age profile of your cases and review your controls to make sure older cases are adequately progressed to closure.

## **6 Review documentation**

We find that level of formality of the ICR and cold file review documentation varies according to the size of the firm. You must be able to provide evidence of the review and, where appropriate, any action taken. It's not sufficient simply to initial a file to indicate a review has taken place. Furthermore, a six-monthly file review of every case will not meet the ICR requirements.

You should keep copies of the checklists you use and work done, together with details of decisions you or the reviewer take on the approach (for example, on case sampling).

A well-documented review includes details of the rationale for the scope of the review, details of the review work done, the findings, the IP's comments on the findings and details of any proposed actions.

## **7 Review and act on the findings**

It's important you consider the results of your compliance review and implement any specific action points arising as soon as possible. If you don't act on the findings, or don't act on them promptly, the value of the exercise is diminished. We'll be looking to see how you've addressed any proposed actions on our next monitoring visit.

## **8 Multi-office firms**

If you are in a multi-office firm with a risk-based quality assurance programme, you may decide you don't need to review the work of every IP every year.

If review work is carried out every year within the firm on a rolling basis, it may not be necessary to review files for every IP every year. If you adopt this approach, you should disseminate the results of the reviews to all IPs in the firm so that every IP benefits every year from the review work that has been carried out.

Any rolling programme should cover each IP at least once within a three-year period.

## **9 IPs that are winding down their insolvency work**

If you're winding down your insolvency work, you still need to carry out an ICR annually. It may be appropriate to focus the work on relevant areas such as case progression, ongoing statutory requirements and fees. You should still record the scope and findings from your review.

## **10 Further documentation**

The following documents are available to help you carry out your ICR:

- a planning and strategy memorandum - so you can record the rationale for the review strategy; we suggest that the case analysis document forms part of this; copies are available from [icaew.com/insolvency](http://icaew.com/insolvency);
- a checklist for the review of internal controls and systems; and
- cold case file review checklists for the various types of formal appointment.

## **11 Contact us**

If you have any questions about conducting an annual ICR, please call +44 (0)1908 546 330 or email [insolvency@icaew.com](mailto:insolvency@icaew.com)

## **12 Disclaimer**

No responsibility for any person acting or refraining to act as a result of any material in this publication can be accepted by ICAEW.