Insolvency Compliance Review

### About this help sheet

This help sheet for insolvency practitioners (IPs) gives guidance on meeting ICAEW’s requirement for an insolvency compliance review (ICR).

### Requirement for an ICR

The requirement for an ICR is in regulation 3.13 of ICAEW’s [*Insolvency Licensing Regulations and Guidance Notes*.](https://www.icaew.com/regulation/insolvency/sips-regulations-and-guidance/regulations-and-guidance-notes) The regulations say ‘A licence holder must review and record, at least once a year, the effectiveness of their own and / or their firm‘s quality control procedures and compliance with those regulations.

The regulations allow a lot of flexibility, and this help sheet can help you comply with the requirements.

### Frequency

As stated above, the regulations require a review at least once every year. ICAEW’s Quality Assurance Department (QAD) has accepted ICRs done once every calendar year. So an IP could do one in January, and the next year the IP could wait until December. But we wouldn’t recommend this approach. Lengthy gaps can present risks, including that new regulatory requirements have been over-looked, and that other errors have been replicated across the same case types over a material period.

The guidance notes within the regulations says firms with multiple offices and numerous IPs may have adopted a rolling cycle of compliance reviews. This approach is most suited to firms with centralised technical or compliance teams.

In such instances, QAD would expect:

* each IP to have an ICR at least once every 36 months; and
* for ICRs to be staggered, so that there is at least one completed within the firm each calendar year.

The guidance also says that results of rolling compliance reviews should be disseminated to all partners and staff involved in the specific discipline.

It is the responsibility of individual insolvency practitioners to consider the results and implement, if appropriate, the specific action points required to address any issues from such reviews.

We recommend IPs / firms who complete annual ICRs but want to adopt a rolling programme, seek consent to do so, by emailing insolvency@icaew.com and we will contact you.

### Timing of ICRs

QAD expects IPs who conduct annual reviews, to complete the first within 12 months of their first appointment under their ICAEW licence, regardless of whether this was as lead or joint appointee.

QAD would accept subsequent ICRs at any time during each subsequent calendar year. But as stated above, QAD cautions against long gaps.

Firms who have a rolling programme could complete an ICR for an IP new to ICAEW within 36 months of their first appointment under their ICAEW licence, whether as lead or joint appointee. But QAD would expect IPs and their firms to take a risk-based approach and would encourage IPs new to ICAEW to have their first ICR within 12 months of their first appointment, whether as lead or joint IP.

Subsequent ICRs for each IP within a rolling programme should be done within 36 months of the previous one.

We refer IPs to the FAQs below for some specific examples, including but not limited to where IPs move firm, have an extended period of leave, intend to retire, or otherwise have limited or restricted portfolios.

### Who can conduct an ICR?

There are different options including:

* an external review by a specialist provider;
* an external review by another IP or suitably experienced person; and
* an internal review by you or a suitably experienced person, including those in another department or team in your firm.

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. An ICAEW-licensed IP with a restricted licence is usually prohibited from completing ICRs.

The requirement to complete an ICR remains an IP’s personal responsibility, so QAD recommends you document the timing and scope of the review and reporting procedures.

It’s also essential that you respect the reviewer, including any internal reviewer, and are willing to accept and act on their findings.

#### Using a specialist external provider

QAD is aware of several specialist providers in the market but doesn’t guarantee or give any accreditation in respect of their work. The services provided, and costs, vary.

In addition to completing ICRs, some providers may also offer template documents and checklists, AML risk assessments, SIP 11 annual reviews, technical support, and training.

IPs should satisfy themselves that the ICR scope and timing is adequate for their needs.

We recommend booking any external provider well in advance to avoid any risk it cannot be accommodated. Please refer to our FAQs for further information on this.

We also recommend you consider reviewing your requirements, and provider, on a regular basis.

#### Using another external IP or suitably experienced external person

You should make sure the reviewer has sufficient current knowledge and experience of the type of work that you do to conduct the review in a robust manner and in sufficient detail.

Aside from the reviewer’s technical ability, you should consider if you would be prepared to give a potential competitor appropriate access to files and staff, and to have an open dialogue about the administration of the case and decisions you made.

Also bear in mind that if the ICR provider believes there has been misconduct, they may be obliged to report this pursuant to SIP 1 or ICAEW’s byelaws. You should also promptly self-report any misconduct, and disclose it on your firm’s next annual return. This could apply to internal ICRs too.

#### Completing an internal ICR

You should consider whether:

* the risks and opportunity cost justify completing ICRs internally;
* there is a risk other casework will take priority;
* the reviewer has had sufficient experience of best practices and is able to be entirely objective;
* the reviewer has knowledge of the applicable legislation, SIPs, and other regulations or guidance, notably where these have changed since the appointment on the case, and which apply; and
* the reviewer has up to date technical knowledge, CPD and the required skills to complete detailed reviews.

On your monitoring visit, QAD will ask for a copy of your last ICR including any supporting working papers or spreadsheets, including the name, case type and date of appointment of each of the cases subject to the review, and the review scope and name of reviewer.

In addition, for IPs whose ICRs are done on a rolling basis, QAD will ask for a summary of the key issues from the most recent ICR for an ICAEW-licensed IP in the firm (if not your own most recent one already provided). This should include details of any remedial actions taken since, or to be taken and by when.

If the QAD reviewer selects a case reviewed in the ICR, to test the ICR robustness, and there are material or numerous shortcomings, this could affect the outcome of your visit.

### What should an ICR cover?

The guidance says your review should cover the licence holder's obligations under the Insolvency Licensing Regulations and this should include the licence holder's continued eligibility for authorisation, the maintenance of appropriate standards of competence, and the conduct of insolvency work. The latter should also consider the licence holder's compliance with his own, or his firm's, internal compliance procedures. You also need to consider how many cold file reviews of insolvency cases, in whole or in part, you will complete.

Cold file reviews will 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 can include both open and closed cases. The basis of your selection, and the scope of the review, should be clear and documented.

QAD doesn’t prescribe any format for your ICR or cold case reviews but provides two documents you could use. The eligibility and cold file review strategy checklist can be accessed from [Your insolvency compliance review | Insolvency | Technical | ICAEW](https://www.icaew.com/regulation/insolvency/support-for-insolvency-practitioners/insolvency-compliance-review-helpsheets).

A detailed cold review checklist for all England & Wales case types, and for Scottish corporate case types, can be downloaded from the corporate and personal casework guidance pages, accessed from [icaew.com/insolvency](https://www.icaew.com/regulation/insolvency). It can also be accessed via the [ICR pages](https://www.icaew.com/regulation/insolvency/support-for-insolvency-practitioners/insolvency-compliance-review-helpsheets) from the ‘further support’ section.

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, the findings, and any remedial action taken.

### Review documentation

You should document:

* which cases you have selected for cold review and the rationale;
* the scope of the cold file review i.e. full review, or focused on particular tasks, for example, reporting, remuneration, dividend, or committee procedures;
* the appointees and whether they are lead or joint;
* the date of appointment, and date of closure if applicable;
* case type;
* name of the reviewer;
* date of review;
* findings;
* remedial action taken; and
* the broader eligibility considerations included on the checklist referred to above.

You should keep any checklists used to perform the review. You will need to provide the ICR documentation detailed above to QAD before your monitoring visit. QAD reserves the right to ask for previous ICRs, so you should retain copies of those too.

A six-monthly or other interim file review of every case will not meet the ICR requirements.

### 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 and it’s an IP’s own responsibility to make sure the scope of any ICR is adequate.

The reviewer may need to 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 beneficial use of time to review all aspects of cases that commenced some time ago, especially if systems and procedures, or legislative and other requirements, have changed significantly since your appointment.

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.

Your will need to consider whether you select your most common case type and / or any others. Your strategy document can outline your rationale and you should cover every case type and all main aspects of casework over a six-year cycle. For example, 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.

Also, some aspects of a case are impacted by others, which may not be identified from focused reviews alone. For example, agreement of creditor claims can be affected by retention of title or employee related matters, which may be separately filed. Therefore, we always recommend conducting some reviews in full across the cycle.

Whichever approach you adopt, your documents should show how you’re going to cover all case types and areas over a six-year period. Our webpage includes an eligibility and cold file review strategy help sheet, although you can use your own in conjunction with any detailed checklists used for your cold reviews.

You should also bear in mind that, if you focus your ICR work on newer cases (for example reviewing appointments started 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 progressed to closure, and that they are compliant with ongoing statutory requirements.

### 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.

QAD may test how you’ve addressed any proposed actions on your next monitoring visit. If your ICR identified issues, and your monitoring visit finds these haven’t been addressed in a timely manner, it could affect the outcome of your monitoring visit.

### FAQs

#### I moved firm mid-year. What do I need to do?

The timing of your first ICR at your new firm will depend on the date of your previous ICR and whether you brought a caseload to your new firm or not.

If you have an ongoing caseload:

* if you complete ICRs every calendar year, and had one before moving, you don’t need to complete a second within the same year. You would need to do one in the next calendar year;
* if your previous firm and new firm have a rolling programme, or if your previous firm completed annual ICRs and your new firm has a rolling programme, you need to make sure you have one within 36 months of your previous one. However, we recommend the first at your new firm is done within twelve months of your first appointment there; or
* if your previous firm had a rolling programme but your new firm completes annual ICRs, you need to make sure you have had an ICR in the year you move (which may have been done at your previous firm, but if not, would need to be done in your new firm).

If you don’t bring your caseload to your new firm, you should follow the requirements for an IP new to ICAEW, as detailed above within sections two to nine.

#### I had a period of extended leave. What do I need to do?

The answer is the same as if you moved firm mid-year, replacing references to moving firms with starting your leave.

#### If I am winding down my insolvency work, do I need to complete an ICR?

Yes – regulation 3.13 applies to all licence holders. You still need to carry out an ICR. 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.

#### I have a small portfolio and complete six-monthly reviews. Do I still need to do an ICR?

Yes. As stated above, six-monthly, and other interim file reviews aren’t a substitute. The purpose of those reviews is different to that of an ICR. An ICR is a retrospective review focusing on ensuring future compliance with regulatory and other case administration requirements across the entire portfolio. Interim case reviews focus solely on that appointment, whether tasks have been completed (but not necessarily whether they were compliant), and future actions required to progress it to closure.

#### I have a restricted / conditional licence so am not taking new appointments. Do I still need to do an ICR?

Yes – regulation 3.13 applies to all licence holders. You may consider that you don’t need to conduct full file reviews on more aged cases, and that some focused reviews of ongoing tasks and case progression are more appropriate.

You should still document your review.

#### I am a sole IP and don’t have any staff, so complete all the casework myself. Do I still need to do an ICR?

Yes – regulation 3.13 applies to all licence holders, irrespective of the structure of their practice. You should consider whether any internal ICR will be sufficiently objective. It may be appropriate to outsource this work.

You should still document your review.

#### My ICR provider has asked for a copy of my last monitoring visit closing record / report. Do I have to provide it?

It’s not obligatory but why wouldn’t you? The findings from your most recent QAD visit will give your ICR reviewer a good starting point for its work.

Sharing the key issues identified by QAD may also prevent duplication of work. For example, if a recent QAD visit highlighted case progression as an issue, the ICR provider would not need to spend time establishing if there’s a case progression problem but could help you to implement a solution.

Conversely, if sufficient time has elapsed since the QAD visit, your ICR can consider whether the steps you have taken to address the issues, including any case progression delays, have been effectively addressed.

#### I scheduled to do my annual ICR in December. The external reviewer can’t do it until the following year. What do I do?

You could either:

* complete this internally in the current year, or ask another provider if they could do so; or
* seek dispensation before the end of the period in which you need to do your ICR, by emailing insolvency@icaew.com, asking for a small extension to comply with this requirement.

If the dispensation is granted, the ICR completed will satisfy the requirements for an ICR in the previous period. You will need to do another ICR for the current period.

#### What happens if my QAD monitoring visit identifies a breach of the ICR requirements?

It is likely this will affect the outcome of your monitoring visit. Our Insolvency Licensing Committee takes the requirement very seriously. It may offer a regulatory penalty for any breach.

This could be publicised.

#### 95% of my case load is CVLs. Should I select one or more of these for review in my first ICR?

The regulations are flexible and don’t dictate the number or types of cases you should review.

You should document your case selection rationale and cover all case types over a six-year period.

You may decide to review your most common case type in your first ICR, as any issues may affect many cases, and stakeholders. Alternatively, you may decide that your other case types merit an early review, as less familiarity or frequency can present risks.

#### Does my ICR satisfy the requirements for a SIP 11 review?

Not necessarily. The two requirements are distinct but could be completed simultaneously.

Some external providers offer both, but don’t automatically include a SIP 11 review when completing your ICR.

You should document both and make sure each complies with the associated requirements.

You can access our help sheet on financial controls [here.](https://www.icaew.com/-/media/corporate/files/technical/insolvency/regulations-and-standards/annual-return-and-monitoring/financial-controls-for-an-insolvency-practice-helpsheet.ashx)

#### What should I do if my ICR reports one or more material shortcomings?

Where possible, you need to correct the position on the case reviewed. If the issue may have affected multiple cases, you should take steps to correct it on all of them. You should also take any necessary remedial steps to avoid future recurrences. Finally, you may need to promptly self-report the breach to ICAEW, and include it on your next annual return.

### Contact us

If you have any questions about your ICR, please call +44 (0)1908 248 250 or email insolvency@icaew.com

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