



Insolvency Service Annual Review Insolvency Practitioner Regulation 2022 and thematic review of monitoring by ICAEW, ICAS and IPA of redundancy payment work by IPs

STATUS

1. The report is open but certain sensitive paragraphs are redacted in blue.
2. For information

EXECUTIVE SUMMARY

3. This paper provides an update to IRB members on the publication of the Insolvency Service's Annual Review of Insolvency Practitioner Regulation 2022 (Annual Review) which was published on 28 April 2023. A copy of the report is attached as **Appendix 1**.
4. On monitoring the Insolvency Service say that 'The RPBs continue to undertake a strong programme of monitoring in relation to the IPs they authorise, the results of which demonstrate the importance of that activity in support of the regulatory objectives.' In many respects the rest of the Annual Review is unremarkable. It is very fact focused. What IRB members will glean from the report is an overview of the regulatory and disciplinary activity and outcomes of the four RPBs for the last calendar year.
5. Also, on 28 April the Insolvency Service published a short report on their thematic review of monitoring by ICAEW, ICAS and the IPA of redundancy payment work by Insolvency Practitioners (IPs) (Thematic Review). A copy of the report is attached as **Appendix 2**.
6. The Thematic Review report conclusion states 'When RPB's conduct monitoring of, or consider, complaints that have allegations relating to IPs adherence to their statutory and or regulatory standards when carrying out redundancy payments claims, their work is, overall, conducted consistently, and achieves outcomes in line with the regulatory objectives'.

RECOMMENDATION

7. The IRB is asked to note the contents of both published reports.

BACKGROUND

8. In December 2020 the Insolvency Service issued Dear Insolvency Practitioner 117 (Dear IP). Dear IP is the Insolvency Service's main means of communicating key messages to IPs and their staff. Dear IP 117 was concerned with suspicious or fraudulent redundancy payment claims. Dear IP 117 was a reminder to IPs of their responsibilities. A copy of Dear IP 117 is attached as **Appendix 3**.
9. Both during and after the global pandemic a number of government agencies highlighted concerns with regard to fraudulent claims in relation to a number of government support schemes.
10. The Redundancy Payments Service (RPS), funded by the National Insurance Fund, received a number of claims in 2020 which were subsequently discovered to be fraudulent. Claims are received from employees and are vetted against the data provided by the IP appointed. HMRC is the body with overall responsibility for control and management of the National Insurance Fund and is taking the lead with regard to the investigation into the fraud.
11. ICAEW has been alive to the possibility of fraudulent claims since the first referrals were made to RPBs in early 2017, sometime before Dear IP 117 was issued in December 2020. Because of this early awareness, we had factored in the identification of such frauds into our monitoring case review process. QAD's reviewers are fully aware of the indicators of this type of fraud.
12. When Dear IP 117 was issued in December 2020 this was not something new for ICAEW. Indeed as part of the fraud investigation the Insolvency Service only referred one potential complaint to ICAEW. PCD investigated the matter and concluded that the specific IP had complied with all their regulatory obligations.
13. By way of further background for IRB members when employees are made redundant what they can apply for depends on their circumstances. The RPS can pay
 - Redundancy pay if they have been employed for at least two years, including for loss of notice
 - Holiday pay including leave not used up to the date of the insolvency
 - Money owed by the employer for unpaid wages, overtime and commission.
14. There are limits on what the RPS will pay. If employers are owed more than the RPS can pay, employees can register as a creditor in the insolvency. Redundancy payments are capped at £571 per week with claimants receiving one week's pay for each full year they were employed between the ages of 22 and 40 and one and a half week's pay for each full year employees were employed aged 41 or older. Employees can get a payment for a maximum of 20 years that they were employed at the business.
15. Employees may also be able to claim a Protective Award if their employer did not consult with them before they were made redundant. A protective award is awarded by an Employment Tribunal and is capped at 8 weeks' pay.

16. Dear IP 117 reminded IPs to be vigilant with regard to potential fraudulent claims. IPs should be aware of:

- The potential creation of fictitious employee details (possibly using identities stolen from genuine individuals)
- Cases where the company has been trading for less than two years and claims are for employees that, according to the company's records, are owed the maximum amounts in respect of arrears of pay or holiday pay
- Inflated rates of pay which are not supported by the wages records
- Claims from foreign workers who are working illegally.

17. [REDACTED]

18. Over recent months we have continued to engage with the Insolvency Service over the content of their thematic review report. [REDACTED] We continue to make sure that the IPs we licence are aware of their responsibilities.

19. In January 2022 we ran a webinar on employment issues and redundancy claims with one of our large firms. On 16 June another of our large firms will present at another webinar focussing on how to verify and submit employee claims. On 28 March 2023 we met with a representative of the RPS who has agreed to present at a webinar later this year focussing on the issues that RPS encounter and how IPs can support them.

20. We have also met jointly with the Insolvency Service and the RPS to identify ways that we can work collaboratively to address the issue of fraudulent claims. The sharing of data from the RPS is key – this is proving difficult but the Insolvency Service and RPS are working together to see what can be released to the RPBs.

21. This thematic review has continued to shine a light on an area of risk for IPs and the profession. There now exists a good dialogue between the RPBs, the Insolvency Service and the RPS. We will continue to raise awareness of the issues and where necessary refer matters for regulatory or disciplinary action.

Appendices

1. Annual Review of Insolvency Practitioner Regulation 2022
2. Thematic review of monitoring by ICAEW, ICAS and IPA of redundancy payment work
3. Dear IP 117

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