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DEAR INSOLVENCY PRACTITIONER
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Message from Angela Crossley, Head of Insolvency Practitioner Regulation

Dear Reader

Please find enclosed the latest main issue of Dear IP. The Insolvency Service is also issuing weekly publications to our readership regarding the COVID-19 pandemic.

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10) Placing Gazette notices: a reminder

As an authorised notice placer, insolvency practitioners can place insolvency notices in [The Gazette](#) via email, post, fax, web form or XML.

When practitioners place a notice via web form or XML, they will be able to submit directly to the system and control the upload, timing, payment and withdrawal of notices before they are published.

What is a web form?

A web form has designated fields which guides a notice placer through the information required for a particular notice type. It is designed for users who are placing one notice at a time.

How do I place an insolvency notice via web form?

Once you are ready to place a notice online, [register](#) as an authorised notice placer or [sign in](#), and go to 'Place a notice' from the 'My Gazette' dropdown. You will then be able to complete the appropriate web form.

Which notices can I place via web form?

The following insolvency web forms are available for notice submission:

(London, Edinburgh and Belfast)

Winding up by the court:

- Petitions to wind up (companies) ([notice 2450](#))
- Petitions to wind up (partnerships) ([notice 2451](#))

Creditors' voluntary winding up:

- Resolutions for winding up ([notice 2441](#))
- Meetings of creditors ([notice 2442](#))
- Appointment of liquidators ([notice 2443](#))
- Notices to creditors ([notice 2446](#))

(London and Belfast only)

Personal insolvency:

- Notice of intended and final dividends ([notice 2509](#) and [2510](#))

(London only)

Creditors' voluntary winding up:

- Deemed consent ([notice 2447](#))
- Find out the [cost of placing a notice](#), and read the [guide on how to submit and publish notices](#).

What is XML submission?

This is a code-based submission route, where you will need a valid xml file to upload to The Gazette website. This requires xml developer skills to construct an xml file, usually straight out of an in-house case management system, with items in the notices tagged in a specific manner. This route is designed for users who submit a high volume of notices – anything from 10 to 500+ notices – though it is worth bearing in mind that the bigger the xml bundle, the longer it will take to process and upload during submission.

This submission route will require adherence to The Gazette schema, details of which are contained within [The Gazette developer documentation](#).

Other ways of placing a notice

You can place notices by email, post, fax, web form or XML, and The Gazette [customer services team](#) will still be available to assist you with placing notices and any queries.

Where can I find out more?

Go to [place an insolvency notice](#) for more information, and you can contact customer.services@thegazette.co.uk, or call +44 (0)333 200 2434, 8am to 6pm, Monday to Friday.

www.thegazette.co.uk

102) Joint statement from the Financial Conduct Authority (FCA), the Information Commissioner’s Office (ICO) and the Financial Services Compensation Scheme (FSCS), warning insolvency practitioners and FCA-authorized firms to be responsible when dealing with personal data.

We are aware that some insolvency practitioners and FCA-authorized firms have attempted to sell clients’ personal data to claims management companies (CMCs) unlawfully.

This can happen either before or after a firm has gone into administration and where it is likely that claims for compensation will be made to FSCS.

The terms, conditions and clauses within a standard contract are highly unlikely to constitute sufficient legal consent for personal data to be shared with CMCs to market their services and may not be lawful.

By passing on personal data, companies may be failing to meet their obligations under [the Data Protection Act 2018](#) and [the General Data Protection Regulation \(GDPR\)](#).

Any subsequent direct marketing calls, text or emails carried out by CMCs may breach [the Privacy and Electronic Communications Regulations 2003 \(PECR\)](#).

CMCs are required to act honestly, fairly and professionally in line with the best interests of their customers, as required by [FCA’s Handbook](#). CMCs using such personal data may not be acting in the customers’ interests. CMCs seeking to rely on legitimate interest grounds for processing such data are highly unlikely to meet the requirements of the GDPR.

CMCs that intend to buy and use such personal data must be able to demonstrate how they have considered the fair treatment of customers and how their actions comply with privacy laws.

Where the FCA or the ICO identify breaches of the relevant data protection legislation, or [CMCOB Claims Management: Conduct of Business sourcebook](#), or any other relevant parts of the FCA’s Handbook, we will take appropriate action.

Consumers’ rights to compensation from FSCS

When an FCA-authorized firm enters administration, eligible consumers can bring claims to the FSCS. The FSCS will then work jointly with the insolvency practitioner to identify potential claimants.

In those circumstances, consumers should contact FSCS directly and the insolvency practitioner should contact the consumers to explain what the administration means for them.

Making a claim to the FSCS is free, and in cases where the insolvency practitioner has contacted the customer directly, we do not consider that CMCs are likely to provide significant benefit.

Any compensation to which a consumer is entitled from the FSCS may unnecessarily be reduced by the involvement of CMCs in such cases.

We continue to work together and with firms and stakeholders across the sector to ensure consumers' interests are not compromised.

Enquiries regarding this article may be sent to:
IPRegulation.Section@insolvency.gov.uk

103) Insolvency Code of Ethics

A new [Insolvency Code of Ethics](#) was issued on 2 March 2020, with an effective date of 1 May 2020.

The code has been updated following a consultation on possible revisions and to adopt the drafting format used by the International Ethics Standards Board for Accountants (IESBA). The accountancy Recognised Professional Bodies (RPBs) use the IESBA approach in their main ethical codes.

What is different?

- The new format differentiates between requirements (identified by an R) and application material (identified by an A).
- There is an entirely new section on the insolvency practitioner as an employee, which emphasises that an insolvency practitioner is required to comply with the Insolvency Code of Ethics irrespective of their status within a firm.
- The sections on obtaining specialist advice and services, agencies and referrals, referral fees and commission and inducements have all been expanded.
- There is a new section on responding to non-compliance with laws and regulations based on IESBA material.

Although the new Insolvency Code of Ethics does look different, the fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour remain as the key concepts in the code.

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67) An increase in the cap on the prescribed part with effect from 6 April 2020 – The Insolvency Act 1986 (Prescribed Part) (Amendment) Order 2020

The Insolvency Act 1986 (Prescribed Part) (Amendment) Order 2020 was laid in both houses on 5 March 2020, and can be found here: <http://www.legislation.gov.uk/id/uksi/2020/211>. It is a negative resolution statutory instrument (SI) and will commence on 6 April 2020.

Its effect is to amend article 3(2) of The Insolvency Act 1986 (Prescribed Part) Order 2003, to raise the cap on the prescribed part from £600,000 to £800,000. This is the first time the cap has been raised since the introduction of the prescribed part in 2003 and is in line with inflation. Other elements of the prescribed part calculation remain unchanged.

The SI includes a transitional provision. The new cap will not affect floating charges created before the commencement date, unless priority has been given to one created after commencement.

A change to the cap on the prescribed part was subject to consultation as part of the Government's Insolvency and Corporate Governance review in March 2018. The response to that consultation was published in August 2018, and is available here: www.gov.uk/government/consultations/insolvency-and-corporate-governance.

Enquiries regarding this article may be sent to: Policy.Unit@insolvency.gov.uk