



The Insolvency
Service

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DEAR INSOLVENCY PRACTITIONER
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Message from the Insolvency Service

Dear Reader

Please find enclosed the latest updates from the Insolvency Service.

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70) Suspicious or fraudulent redundancy payment claims – A reminder of an Insolvency Practitioner’s responsibilities

Given recent media reports highlighting suspected fraudulent activity across a range of government support schemes and services, Insolvency Practitioners are reminded to be vigilant of potential abuses including in relation to redundancy payments claims.

The Redundancy Payments Service (RPS) regularly reviews areas that could be vulnerable to fraudulent claims and Insolvency Practitioners have a role alongside the RPS in helping to prevent fraud occurring. Previous guidance for Insolvency Practitioners on submitting RPS claims can be found at the following link (see parts 21, 27 and 64):

<https://www.insolvencydirect.bis.gov.uk/insolvencyprofessionandlegislation/dearip/dearipmill/chapter11.htm>

Through accepting appointments and completing the RP14/14A forms, Insolvency Practitioners provide the RPS with details of the employees’ claims which they should have verified against the supporting evidence from the employers’ records which is relied on to make payments.

Insolvency Practitioners are reminded of the need to assess the risks associated with anti-money laundering requirements (AML) and to avoid entering into arrangements which facilitate fraudulent claims. Customer Due Diligence checks, including identification and verification procedures, should be carried out when considering taking an insolvency appointment. To further comply with anti-money laundering (AML) requirements, where an Insolvency Practitioner is aware, or has suspicions, of any criminal activity resulting in an entity being in possession of proceeds of crime, they should submit a Suspicious Activity Report (SAR). Insolvency Practitioners should refer to guidance on SAR reporting procedures issued by their Recognised Professional Body, in addition to guidance provided by the National Crime Agency.

Where an Insolvency Practitioner intends to deal with the assets of, or make any payments from, an entity which they suspect includes proceeds of crime, they should also consider whether they should submit a Defence Against Money Laundering SAR to the National Crime Agency to obtain consent to proceed with the transaction. Insolvency Practitioners should refer to guidance on AML procedures, also issued by their Recognised Professional Body.

When approached to act in a case and it appears sums are due to employees, Insolvency Practitioners should be mindful of any indicators which suggest that the company’s formal insolvency may be being used to

perpetrate fraudulent redundancy payment claims. Indicators may include, but are not limited to:

- insolvency proceedings being commenced within 2 years of incorporation, where the company has seemingly not been active for a significant period and/or there is little evidence of recent trading activity or having no or minimal assets;
- Relevant records, bank account activity and RTI information not accurately matching the actual number of employees or periods employed as stated in the RP14A; or
- company creditors being listed as solely or predominantly the directors and/or other employees.

When completing the RP14A, Insolvency Practitioners should be mindful 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 or directors, 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;
- employees whose RP14A entry cannot be completed due to incomplete or missing records. Where there is insufficient evidence in the records, IPs should not use the RP1 data to complete the RP14A entry without contacting RPS first to discuss. In the absence of that discussion RPS will assume that there is evidence in the records to substantiate the RP14A; and
- claims from foreign workers who are working illegally.

In submitting information to the RPS, particularly forms RP14/14A, Insolvency Practitioners are providing details required by law, under sections 169 or 190 of the Employment Rights Act 1996.

The wording of the declaration on the RP14/14A requires an Insolvency Practitioner to provide the information correct to the best of their knowledge. In support of this, the Insolvency Practitioner Upload Service is being revised to remind practitioners of their obligations. Any false statement made knowingly or recklessly in providing details of employee claims, or the falsification of any document, may amount to a criminal offence.

Insolvency Practitioners are reminded that they should make an assessment on a case-by-case basis to decide what reasonable checks are necessary to verify information or identities before submitting the RP14/14A to the RPS. Any changes in circumstances or information already provided to the RPS should be included in a new RP14/14A. Any general concerns, or relevant

information not included in the RP14/14A, should be reported to the RPS immediately by email to RPS.Stakeholder@insolvency.gov.uk.

Where a case or claim is suspected to be fraudulent, it will be rejected and the RPS will carry out an investigation, including an inspection of the wage records held by the Insolvency Practitioner. The Insolvency Service will take action against any person involved in any fraudulent claims, including any Insolvency Practitioner identified as being complicit in any fraud. In cases where an Insolvency Practitioner is found to have acted negligently or unprofessionally, the matter will be referred to the Practitioner's authorising body.

General enquiries may be directed to IPregulation.section@insolvency.gov.uk