



Insolvency fees and the cost of regulation

The detail behind the headlines

**R3, the insolvency and
restructuring trade body**

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Insolvency fees face frequent scrutiny and criticism. Media headlines have often focused on the amount charged by insolvency practitioners (IPs) in high-profile cases, with IPs depicted as profiting from the plight of the insolvent company and its employees. Unfortunately, a great deal of the detail behind the headlines often gets missed – leading to an unfair representation, and understanding of, the insolvency profession and the fees they charge for the work they carry out.

Contrary to common misconceptions, insolvency fees are highly regulated and must be approved by the insolvent company or individual's creditors. They vary hugely from case to case. And, as we explain in this paper, IPs will frequently not be paid in full for the work they have carried out, due to the very nature of insolvency. Indeed, the headline-grabbing amount charged more often than not bears little resemblance to the amount IPs will actually be paid at the end of the day.

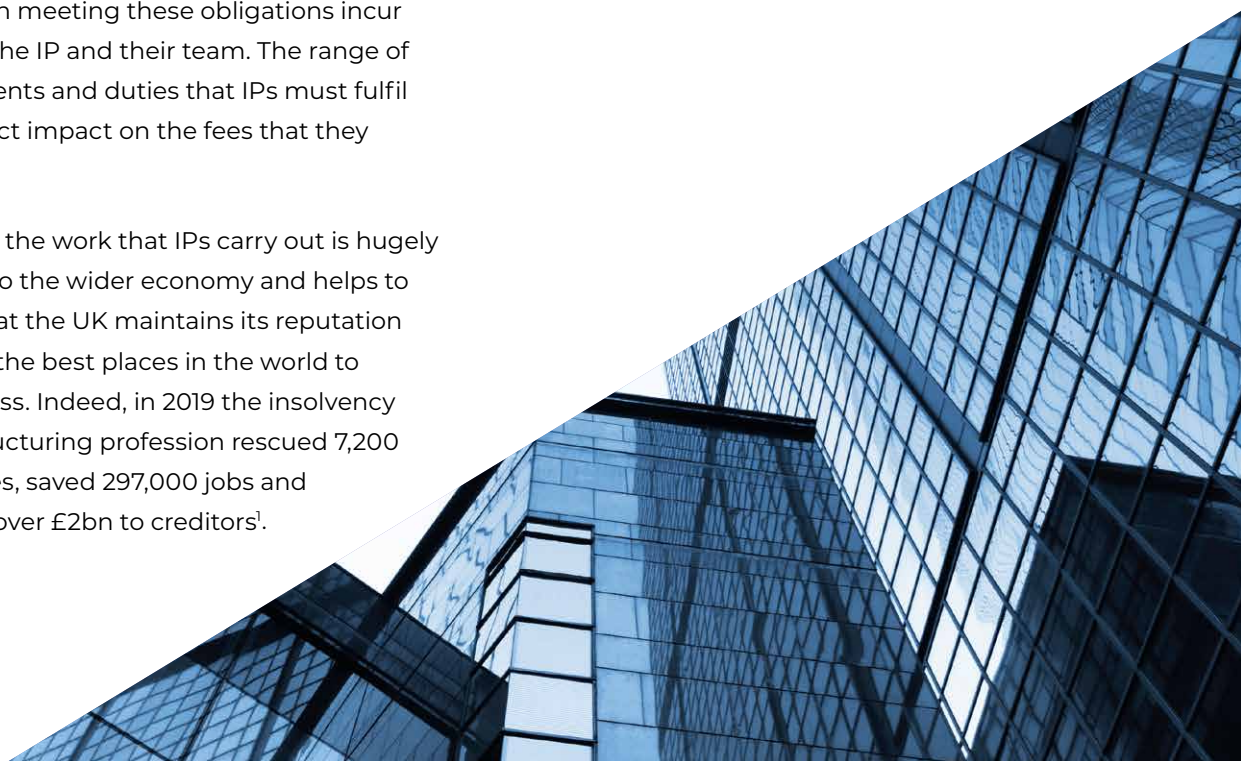
In fact, the levels of insolvency fees are largely a direct result of the regulatory requirements that IPs must follow and carry out. These requirements, and the work that IPs undertake, are set by statute and regulations which are, in turn, set by Government and approved by Parliament. IPs must meet a series of strict legal obligations when appointed to a case, due to the great trust placed on them to uphold the law, act ethically, and protect and restore economic value. All the activities involved in meeting these obligations incur a cost to the IP and their team. The range of requirements and duties that IPs must fulfil has a direct impact on the fees that they charge.

Moreover, the work that IPs carry out is hugely valuable to the wider economy and helps to ensure that the UK maintains its reputation as one of the best places in the world to do business. Indeed, in 2019 the insolvency and restructuring profession rescued 7,200 businesses, saved 297,000 jobs and returned over £2bn to creditors¹.

Various factors can complicate a case, requiring an IP to spend more time fulfilling their legal duties and charge for this additional time spent working on a case. However, very large cases – the ones often cited in media headlines – make up a very small proportion of the total number of cases each year and the fees involved for these do not reflect what most IPs earn.

This paper looks at how insolvency fees are charged, regulated and paid. It also explains why these fees can vary greatly, and how they are linked to the requirements IPs must meet when fulfilling their duties – as they work to maximise creditor returns, rescue distressed businesses and jobs, and contribute to creating the confidence and public trust which underpin trading, lending and investment.

¹R3, 'The value of the profession: how insolvency and restructuring supports the UK economy' (May 2021)



The role of insolvency practitioners

Every year, tens of thousands of businesses will face financial distress, putting jobs in jeopardy. The UK's insolvency and restructuring framework and profession are vital parts of the economy: promoting economic regeneration, resolving financial distress for businesses and individuals, saving jobs, helping to disrupt and tackle fraud, and creating the confidence and public trust which underpin trading, lending and investment. The framework and profession help to ensure the UK remains an attractive place to do business. They make a significant contribution to the UK's status as an international centre for financial and professional services.

IPs work with financially struggling businesses and individuals, both inside and outside of statutory insolvency procedures. These processes help financially distressed and insolvent companies and individuals to repay what they owe – and to turn their fortunes around where possible.

For example, R3's [Value of the Profession 2021 report](#) illustrated that in 2019, the insolvency and restructuring profession:



When a company becomes insolvent, an IP is usually appointed as an office holder (for example, as a liquidator or administrator). When acting as an office holder, IPs are personally responsible for protecting the interests of the company's creditors, and can be held personally responsible for the company's actions.

IPs will always seek to maximise returns to the company's creditors – which often include the taxpayer and other businesses. IPs are also required to investigate the actions of the company's directors, which can involve them investigating cases of fraud. And, where rescuing the company as a going concern is not possible, they will wind-up the company in an orderly fashion.

The insolvency practitioner's team

While an IP will be solely responsible for a case when appointed as an office holder in a formal insolvency procedure, they will usually not be the only person working on the case. IPs are required by law to undertake many activities when

acting as an office holder, and they will usually have a team of staff working alongside them to complete this work.

Their teams may support them in compiling and analysing the companies' records, agreeing to creditors' claims, responding to queries from creditors and other stakeholders, compiling reports for creditors, securing assets, reviewing regulations, and general administrative tasks.

Support from the IP's team is particularly important on large cases, which can involve thousands of creditors, employees, records and assets.

Moreover, insolvency practices are legitimate businesses in their own right, with overheads and staff to pay too. The latter are paid in respect of market rates that reflect the years of experience and the high level of qualification they have gained, as well as the amount of responsibility placed upon them to carry out their work resolving financial distress sensitively and effectively.

What work do insolvency practitioners carry out?

Before setting out the mechanics and regulation behind IPs' fees, it is perhaps best to consider the sheer range of work they are required to carry out when appointed as office holders in formal insolvency procedures.

Licensed IPs are bound by strict legal obligations and duties, due to the great trust placed on them to uphold the law, act ethically, and protect and restore economic value. To obtain a licence, IPs must first pass a set of demanding exams called the [Joint Insolvency Examination Board exams](#).

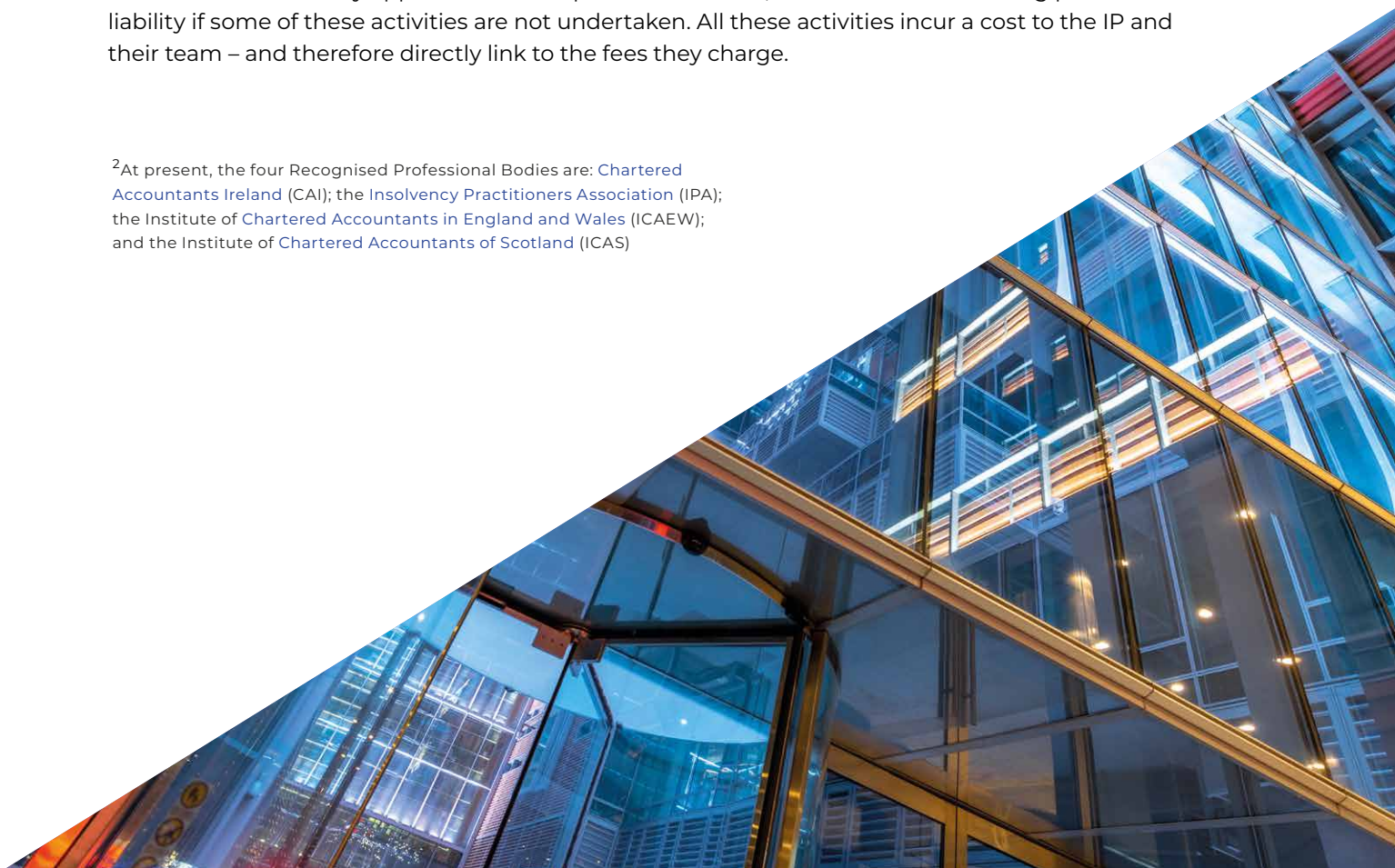
At all times – whether appointed as an insolvency office holder or not – IPs are subject to scrutiny from their regulator (one of the four insolvency Recognised Professional Bodies, or RPBs) which is in turn answerable to the Government.²

As well as adhering to the relevant rules of their regulator, IPs must adhere to insolvency legislation, with the [Insolvency Act \(1986\)](#) and the [Insolvency \(England and Wales\) Rules 2016](#) being the primary and secondary sources of legislation from which most regulatory requirements derive. IPs and their teams must also ensure they comply with numerous other types of legislation and regulations, such as the Environmental Protection Act 1990, the Companies Act 2006, the Pensions Act 2014, the National Security and Investment Act 2021, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, and many others.

IPs also have to adhere to the [Insolvency Code of Ethics](#) and the [Statements of Insolvency Practice \(SIPs\)](#), which are a series of guidance notes issued to licensed IPs which set out required principles and best practice. They can receive reprimands and sanctions for breaching these various regulations, and can also lose their license, and consequently their ability to trade as an IP, for doing so.

When appointed to a case as an office holder, IPs are legally required to perform a number of activities. All insolvency appointments are personal to the IP, and the IP risks incurring personal liability if some of these activities are not undertaken. All these activities incur a cost to the IP and their team – and therefore directly link to the fees they charge.

²At present, the four Recognised Professional Bodies are: [Chartered Accountants Ireland \(CAI\)](#); the [Insolvency Practitioners Association \(IPA\)](#); the [Institute of Chartered Accountants in England and Wales \(ICAEW\)](#); and the [Institute of Chartered Accountants of Scotland \(ICAS\)](#)



Minimum requirements

As a minimum, the activities an IP will be required to undertake, and charge for, will usually include:

• Administrative and planning activities

IPs and their teams will need to plan and devise a strategy for the insolvency procedure. They are then required to continuously review, and potentially adapt, this strategy. They are also required to regularly review areas such as insurance and health and safety procedures.

- At the beginning of the process IPs and their teams may need to:
 - Obtain and analyse all the necessary information – including the company's accounts and records – to properly consider the most suitable insolvency procedure;
 - Review or assist in producing financial forecasts for the company, before identifying the most suitable insolvency procedure for the company's circumstances;
 - Identify the company's creditors;
 - Identify key members of the company's senior staff, in order to liaise with them on investigations into the conduct of directors, the process of securing assets, and pension schemes and employee tribunals;
 - Make decisions about staffing, based on their analysis of the company's accounts, and liaise with employees on these decisions;
 - Consider the ethical implications of the case, and carry out conflict of interest checks;
 - Complete risk assessments on, or review issues such as, money laundering, health and safety and General Data Protection Regulation (GDPR);
 - Obtain legal advice on the appointment;
 - Set up bank accounts for the purpose of the procedure.
- Throughout the insolvency process, they may need to:
 - Regularly review the case and ongoing strategy. This is required by the IP's authorising regulatory body;
 - Liaise with creditors throughout the process;
 - Liaise with all the company's advisors. These may include accountants, auditors, bankers, insurers, supervisors, and agents;
 - Regularly review regulations, such as on money laundering;
 - Regularly review adherence to environmental and health and safety standards and GDPR;
 - Regularly review insurance;
 - Liaise with HMRC on ongoing tax issues and administration.

• Statutory reporting

Office holders are required by law to notify all creditors and other relevant parties of the insolvency procedure, and to produce regular reports for stakeholders throughout the process.

- These may include:
 - A detailed report on the activities they plan to undertake – and the cost for each one – in order to obtain approval from creditors for their fees;
 - A detailed summary of the company's assets and liabilities (called a Statement of Affairs);
 - Regular reports to creditors and other stakeholders on the progress of the insolvency procedure;
 - Publicly available, detailed reports published on Companies House;
 - Investigations into the conduct of the company's directors;
 - Court filings.
- Office holders may also have to establish the existence of pensions schemes and appoint an independent pensions trustee if, for example, the insolvent company is the sole trustee.

• Realisation of assets

In order to help repay the insolvent company's creditors, office holders may need to arrange for the sale of the company's assets. They may need to:

- Trace assets. Assets are sometimes intentionally or unintentionally hidden, and difficulties in finding them can lengthen the amount of time IPs have to spend on a case. IPs may need to search registers, such as land registries or Companies House, to find these assets;
- Secure, and arrange for the removal and sale of assets. This can sometimes involve thousands of different assets, from hundreds of different sites;
- Liaise with potentially numerous agents on the sale of assets;
- Engage with the company's landlords;
- Liaise with local authorities regarding the payment of business rates;
- Liaise with the Government's Valuation Office Agency, which provides valuations and property advice to support taxation and benefits to central and local government.

• Investigations

Office holders are required to investigate the company directors for evidence of misconduct. In order to fulfil this requirement, they need to:

- Locate, secure and analyse the company's books and records for evidence of misconduct;
- Interview or send written questionnaires to the directors and senior employees of the company;
- Invite creditors to provide information on any concerns they may have about the conduct of the directors;
- Determine the extent of the investigations needed, taking account of the public interest, potential recoveries, the funds likely to be available to fund an investigation, and the costs involved;
- Decide whether further investigation or legal action should be taken;
- Report to creditors on the progress of the investigations;
- Report the conduct of directors, and any offences, to the relevant authorities.

• Creditors

Office holders are required by law to obtain creditor approval for their fees. They may also be required to provide fee estimates to creditors at the beginning of a case, as well as regularly report on the work they have done to provide evidence of the activities charged for:

- They must provide creditors with reports on the progress of the insolvency procedure, and regularly respond to creditors' queries;
- The Insolvency Act (1986) requires office holders to process creditor claims. Office holders may need to request that creditors provide certain information, such as proof of debt forms, so that the creditors can be paid back what they are owed. Depending on the size of the case, this can sometimes involve corresponding with thousands of creditors;
- Office holders will then need to process claims for the various creditors, distributing what they are owed to them.

• Employees

Office holders will often need to consult and correspond with employees, such as speaking to senior members of staff as part of their investigation into the conduct of the directors. They will also sometimes need to deal with pension schemes and employee tribunals. In certain cases, they may need to make staff redundant and assist employees in making redundancy claims, or claims for unpaid wages.

How are insolvency fees charged?

As set out by legislation, IP fees may be charged in the following three ways, or in a combination of all three:

- As a percentage of the value of the assets realised during an insolvency procedure, or as a percentage of the assets with which an IP has had to deal in an insolvency procedure;
- As a fixed amount;
- By reference to the amount of time spent on a case by the IP and their staff – known as a “time cost” basis;

Insolvency fees are most commonly calculated on a time cost basis. This means that IPs are required to provide an analysis of the time spent on a case by themselves and their staff, alongside their fees and expenses.

When fees are calculated and charged in this way, IPs are required to report all their time costs to creditors, but this amount is often not the same as what IPs are actually paid for in a case, as will be explained later.

The obligations placed upon IPs to give fee estimates, provide time cost analyses to support fees, and to obtain creditors' prior approval of fees contrast sharply with those of the Government's Official Receiver agency, which bears none of these obligations when it undertakes insolvency appointment work. More information on the Official Receiver's role can be found on p.20.

More complex cases

Fees for the vast majority of insolvency cases will differ significantly from those for high-profile, widely reported cases. These larger cases often involve even more complex and highly-specialised work.

The number of hours an IP will take to carry out a task varies greatly, depending on the company size and the complexity of the case. More complex cases will also often involve additional activities, which may increase the total fees charged.

Factors which may increase the number of hours spent by an IP on a case include:

• Multiple sites

If the company has multiple sites, IPs and their teams will often have to travel to these various locations in order to access records, speak to staff and secure assets. Sometimes the company will have sites overseas, requiring IPs to liaise with officials in other jurisdictions. Travelling to, and dealing with multiple sites, language barriers and differences in legal systems, will all add to the amount of time an IP spends on a case.

• Numbers of employees, shareholders, suppliers, and creditors

As mentioned above, IPs are required by law to correspond with, and continuously update, the company's various stakeholders on the progress of the insolvency procedure. This sometimes involves writing to tens of thousands of employees, suppliers and creditors, to keep them updated on the case. On top of this, IPs will have to respond to queries these stakeholders may have. Higher numbers of stakeholders will greatly increase the amount of time IPs spend on a case – and the associated costs for the case.

- **Difficulties in securing assets**

Assets are sometimes purposefully concealed or withheld, requiring office holders to take additional time and resource to secure them.

- **Fraudulent behaviour**

IPs will need to use additional time and powers to investigate and prosecute directors who are suspected of fraudulent behaviour. They may have to obtain freezing orders to prevent directors from disposing of assets; passport orders to prevent directors from leaving the country; hold private and public examinations before the court; and even pursue fraudsters and their assets internationally. All these activities will increase the amount of time and resources an IP will spend on a case, but are invaluable in detecting, investigating and disrupting fraudulent activity and in making recoveries for victims.

- **Trading**

Office holders will sometimes continue to run the business in place of, or working alongside, the company's directors, where it is in the best interest of creditors to do so and is a viable option for the company. This is sometimes the best way of preserving value in the business and increasing the likelihood of a sale as a going concern to another company – helping to minimise disruption and job losses in the process. However, it is often a costly process and usually only occurs with insolvencies of large companies which have adequate funds to cover trading. Creditors must give their approval for the company to continue trading. As part of the trading process, the office holder will need to review and decide how many staff members the company is able to retain. They will also need to assess which assets should be sold in order to provide greater returns to creditors, and will need to ensure that property is adequately insured. Office holders will need to provide trading receipts and payments to creditors and other interested parties to explain what was done, why it was done and how much it cost.



How are insolvency fees regulated?

As has been explained above, insolvency fees are linked to the activities IPs have to undertake on a case to meet their strict regulatory requirements. Fees themselves are also heavily regulated via the Insolvency Act (1986) and the Insolvency (England and Wales) Rules 2016.

For example, for each type of insolvency procedure, the Insolvency Rules prescribe in detail:

- The ways in which IPs can charge fees (such as a percentage of value of assets, as time costs or as a fixed amount, as described above);
- The information that IPs must report to creditors on fees and expenses, including estimates;
- Conditions that must be taken into account when calculating fees, such as the complexity of the case, or the value and nature of the property within the case;
- The consent required by creditors to approve fees;
- How a creditor can apply to court if they believe the fees charged are excessive;
- The circumstances where an IP may need to apply to court for approval of their fees;
- Other various complicating factors which may impact on the fees charged.

In addition, [SIP 9](#) includes a set of principles on insolvency payments to help ensure that payments are fair, reasonable and proportionate to the insolvency appointment.

The principles state that insolvency office holders must disclose to creditors “what was done, why it was done, and how much it cost”, in a way that is transparent and of assistance to creditors.

Office holders must supply the information in sufficient time for creditors to be able to make an informed judgement about the reasonableness of the office holder’s requests. This information should usually include:

- The work the office holder anticipates will be done and why that work is necessary;
- The anticipated payment for that work;
- Whether it is anticipated that the work will provide a financial benefit to creditors, and if so what anticipated benefit;
- Whether the work provides no direct financial benefit, but is required by statute. For example, an IP is required by law to notify creditors and other third parties of their appointment and to review and notify statutory bodies where required regarding the conduct of the company’s directors. These activities may not have a direct financial benefit to creditors but help to ensure that they are kept informed and that their interests are protected.

IPs can be fined, sanctioned and can lose their license, and thereby their ability to trade, for failing to comply with these regulatory requirements.

Complaints

If a creditor or stakeholder believes that an IP has acted improperly, they can and should submit a complaint via the Insolvency Service’s [Complaints Gateway](#). The Gateway was set up in 2013 to act as a single-entry point for complaints about IPs and it covers complaints across the full range of insolvency procedures.

Complaints about IP fees, and IP conduct more generally, occur in only a very small minority of cases.



In 2020, there were

111,424

personal³ and



12,557

corporate⁴ insolvencies (some of which were handled by the Government's Official Receiver instead of or as well as IPs – more information on the Official Receiver's role can be found on p.20). In that year, there were a total of



782

complaints about IPs to the Complaints Gateway, of which



371⁵

were deemed appropriate to be referred to the RPBs, which equates to a complaint referral rate per insolvency procedure of



0.3%

or to 1 in every 334 cases. Three of these complaints – less than



1%

were about fees or remuneration in 2020

³Insolvency Service, 'Individual Insolvency Statistics, Q4 October to December 2020', (January 2021)

⁴Insolvency Service, 'Company Insolvency Statistics, October to December 2020', (January 2021)

⁵Insolvency Service, 'Annual Review of Insolvency Practitioner Regulation 2020', (May 2021)

Who pays insolvency fees?

While it is sometimes assumed that insolvency fees are paid by the director of the insolvent company, they usually come from the insolvent company's available remaining assets.

Creditor order of priority

An insolvency procedure ultimately aims to return as much money as possible to an insolvent company or individual's creditors. Unfortunately, because of the very nature of insolvency there is usually not enough money available to repay everyone what they are owed. To help manage competing creditors' claims, creditors are repaid in a strict hierarchy set out by legislation.

Insolvency fees are paid second, after "fixed charge" (or "secured") creditors within this hierarchy:

1. "Fixed charge" creditors: Creditors whose lending to a company or individual is secured against a definable object (e.g. a mortgage on a building/warehouse).

2. Insolvency process costs: Including wages due to the staff or rent for premises of the insolvent company that have been kept on to maintain operations during the process, professional and legal fees incurred, and the fees and expenses of the office holder, who is a [licensed IP](#) or the [Official Receiver](#).

3. Preferential creditors: This covers some payments due to employees, and money owed as part of the Financial Services Compensation Scheme. As of 1 December 2020, certain HMRC tax debts⁶ fall within the category of preferential debts and are classed as "secondary preferential" debts. This means all other preferential debts must be paid in full before HMRC can receive a distribution.

4. "Floating charge" creditors: Creditors whose lending is secured against a class of asset (e.g. "stock" in a warehouse, but not specific items of stock).

a. The Prescribed Part: Introduced by the Enterprise Act 2002, the "Prescribed Part" is a pot of money reserved for unsecured creditors to increase the likelihood that they will receive some payment out of an insolvency, given that there are often not enough assets left to pay them anything at all. The amount is set aside from what would have been paid to floating charge creditors⁷.

5. Unsecured creditors: This category covers almost all other creditors, including pension schemes, customers and trade creditors. Tax debts owed by an insolvent company or individual themselves (such as Corporation Tax or Self-Assessed Income Tax) fall into this category.

6. Shareholders.

In all cases where an IP is the office holder, their fees must be approved by creditors, or, in a [Members' Voluntary Liquidation](#), by shareholders. As set out in the previous section, insolvency fees are highly regulated, with strict requirements existing around the information IPs must provide to creditors or shareholders.

⁶VAT or PAYE debts owed by a company, or VAT owed by an individual in relation to business activities.

⁷The Prescribed Part is calculated as 50% of the first £10,000 due to be repaid to floating charge creditors, and then 20% of floating charge creditor returns up to a total balance of £800,000.

What are insolvency practitioners actually paid?

Media headlines have often focused on the hourly rate charged by IPs. However, a focus on this rate is misrepresentative, as IPs often do not actually receive this amount in full.

It is particularly common in smaller cases for the insolvent company to have insufficient assets to pay an IP in full. In fact, IPs working on smaller cases are frequently paid none of their time costs.

Meanwhile, sometimes, creditors may negotiate a lower fee after the insolvency procedure has taken place. Again, this means the IP will not receive full payment for the time they have spent on a case. Or an IP may sometimes agree to waive part of their fee in order to return more money to creditors.

Case studies

The following examples illustrate three different cases: a small liquidation, a larger liquidation and a bankruptcy involving fraud.

These cases illustrate some of the unexpected difficulties IPs can encounter when trying to fulfil their statutory requirements, and how these can change the amount of time they have to spend on a case.

All three cases also show a difference between the time costs incurred by the IPs on the case and the amount they were actually paid, for different reasons – a common feature in insolvency cases.



Case Study A – small liquidation

Facts of the case	
Fees incurred	£15,000
Fees received	£4,000
Fees written-off	£11,000

The following liquidation case was overseen by a small insolvency firm of under ten employees. It is a representative example of cases undertaken by this firm.

In this case, there were not enough assets remaining to pay the IP for the time they had spent on the activities they are required to undertake by law, as part of the insolvency procedure. This was partly due to the directors using the company's remaining cash to buy a car, which was kept abroad and was eventually returned to the UK but at a much lower value.

The amount of "write-off" in this case – around £11,000 of costs not paid to the IP – is typical for this firm.

An IP from a small firm was appointed to a case where they agreed with creditors that they would charge a £4,000 fee for compiling a Statement of Affairs, in addition to their time costs (their fee per hour for completing their activities required by regulation). The £4,000 fee for the Statement was paid topped up through a personal guarantee from the directors.

The directors signed the Statement claiming that they had £11,000 in cash and a tax refund due of just over £14,000. This should have amounted to just over £25,000 of assets in total.

However, once appointed, the IP discovered that the tax refund could not be reclaimed and that the director had bought a car with the £11,000 cash. The director eventually returned the car a year and a half later, but in a very poor condition and now worth only £1500.

The delays involved in trying to recover the car meant that a liquidation that could have been completed in less than a year took two years. The additional time and work required to attempt to contact the director and to recover the car raised the IP's time costs. The delays in finalising the case also resulted in the IP having to complete various pieces of additional administrative work, including an annual report, again increasing their time costs.

The IP's time costs for acting as a liquidator ultimately ended up being £11,000. However, there were not enough assets remaining to pay for any of these IP's time costs.

Case Study B – larger liquidation

Facts of the case	
Fees incurred	£44,629.40
Fees received	£20,000
Fees written-off	£24,629.40

The case below was overseen by IPs from a large accounting firm. It illustrates how in bigger cases there are a larger number of activities to fulfil, and how these can raise the fees charged for a case.

The case took a long time to complete due to difficulties in selling the main assets in the case. The additional time needed to deal with these complications increased the time the IPs had to spend on the case, and the associated fee for their time.

However, the IPs decided to waive their fee of around £24,000 for the additional time incurred. Instead, they used this money to pay a dividend to the preferential and unsecured creditors.

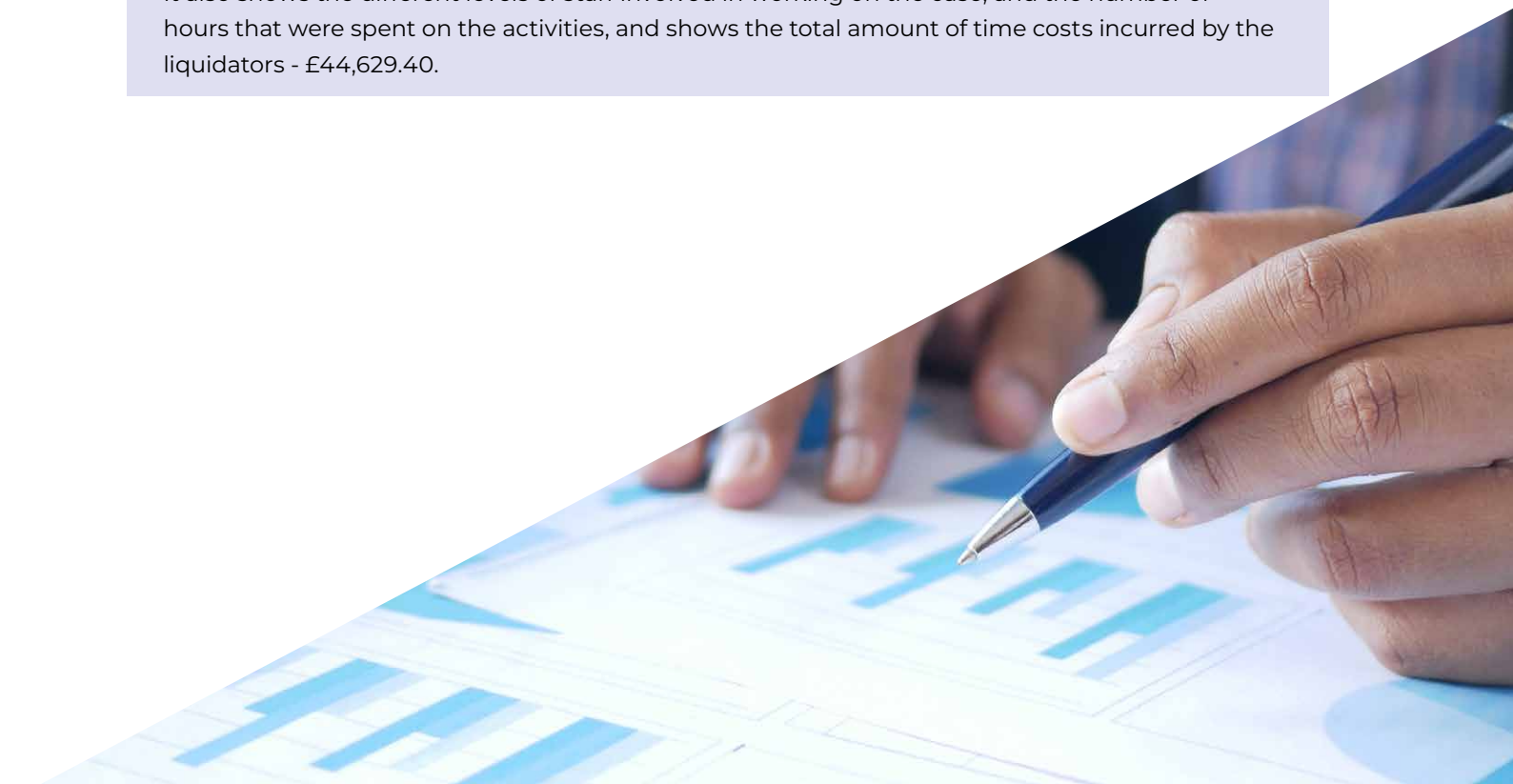
In this case, shortly after the liquidators were appointed, the directors of the insolvent company entered personal insolvency procedures in the form of [Individual Voluntary Arrangements \(IVAs\)](#) in order to repay their director loans due to the company. Significant time was incurred liaising with the IP overseeing the IVAs and the assets involved. The IVA proposals were then modified by the creditors of the directors.

The main asset within the IVAs – the directors' home – took a long time to sell, meaning that the liquidation process lasted for more than a year. It took so long that there was mounting pressure to sell from the mortgagee (the creditor who had loaned the money for the mortgage), which resulted in the need for additional input from the liquidators and other creditors. Several modifications to the case had to be made as a result of these complications.

In addition to the IVAs, various other factors complicated the case, including dealing with outstanding debtors, stock issues and the liquidators needing to sell property.

The table on page 16, from the liquidator's report on the case, demonstrates the various activities the IPs had to carry out to meet their regulatory requirements for the case.

It also shows the different levels of staff involved in working on the case, and the number of hours that were spent on the activities, and shows the total amount of time costs incurred by the liquidators - £44,629.40.



CLASSIFICATION OF WORK FUNCTION
ADMINISTRATION AND PLANNING
Statutory returns, reports and meetings
Initial post-appointment notification letters, including creditors
Cashiering general, including bonding
Job planning, reviews and progression (inc 6 mont reviews and planning meetings, checklist and diary)
Post-appointment taxation (VAT, PAYE/NIC, Corp Tax that are not trading related)
Protection of company records (incl electronic)
Filing, file and information management
Agents and advisers, general
Filing - Administration and planning
Director/manager review, approval and signing
Other
INVESTIGATIONS
Directors' correspondence and conduct questionnaires
Statutory books and account records review
Investigation of legal claims
SIP 2 and SIP 4 obligations (incl CDDA86 forms)
Enquiries of advisers
Director/manager review, approval and signing
REALISATION OF ASSETS
Fixed charge property (land and buildings)
Debtors not financed (includes reassigned debtors)
Other chattel assets
Financed assets (only if equity otherwise creditors, incl HP and leasing)
IPO/IPA and voluntary contributions
Director/manager review, approval and signing
Other
CREDITORS
Fixed charge creditors
Floating charge creditors
HP and lease creditors
RPO and ERA claims and tribunals
Employees and pension (other) (incl Jobcentre/CSA etc)
Crown (not Redundancy Payments Office etc)
Unsecured creditors
Distributions for preferential and unsecured creditors
ANTI-MONEY LAUNDERING (AML)/COMPLIANCE
AML - if done post appointment
TOTAL

HOURS							
PARTNER/ DIRECTOR	ASSOCIATE DIRECTOR	MANAGER/ ASSISTANT MANAGER	OTHER PROFESSIONAL STAFF	ASSISTANTS & SUPPORT STAFF	TOTAL HOURS	TIME COST	AVERAGE HOURLY RATE
ADMINISTRATION AND PLANNING							
0.20	0.00	1.65	11.35	0.00	13.20	£3,003.50	£227.54
0.40	0.00	1.90	12.15	0.00	14.45	£2,892.25	£200.16
0.10	0.00	0.82	3.45	0.00	4.37	£1,328.08	£303.91
1.00	0.00	8.65	14.70	0.00	24.35	£6,454.50	£265.07
0.55	0.00	0.83	3.05	0.00	4.43	£1,165.82	£263.16
0.00	0.00	0.40	0.00	0.00	0.40	£117.50	£293.75
0.00	0.00	0.15	6.60	0.00	6.75	£1,270.00	£188.15
0.00	0.00	0.00	0.75	0.00	0.75	£131.25	£175.00
0.00	0.00	0.10	0.00	0.00	0.10	£29.00	£290.00
0.40	0.00	0.00	1.80	0.00	2.20	£544.25	£247.39
0.00	0.00	0.50	0.00	0.00	0.50	£150.00	£300.00
INVESTIGATIONS							
0.00	0.00	0.25	1.55	0.00	1.80	£343.75	£190.97
0.95	0.00	0.25	16.00	0.00	17.20	£3,719.50	£216.25
0.00	0.00	4.20	0.25	0.00	4.45	£1,288.25	£289.49
0.15	0.00	0.95	0.75	0.00	1.85	£484.75	£262.03
0.00	0.00	1.05	0.00	0.00	1.05	£315.00	£300.00
0.20	0.00	0.00	0.50	0.00	0.70	£207.75	£296.79
REALISATION OF ASSETS							
0.00	0.00	0.70	0.15	0.00	0.85	£266.50	£313.53
0.85	0.00	2.62	2.50	0.00	5.97	£1,827.18	£306.06
0.10	0.00	0.00	2.40	0.00	2.50	£566.00	£222.40
0.00	0.00	0.00	1.75	0.00	1.75	£306.25	£175.00
0.00	0.00	0.00	1.75	0.00	1.75	£332.50	£190.00
0.00	0.00	0.00	0.75	0.00	0.75	£131.25	£175.00
0.00	0.00	4.25	13.75	0.00	18.00	£3,854.75	£214.15
CREDITORS							
0.20	0.00	0.25	0.50	0.00	0.95	£288.00	£303.16
0.00	0.00	0.00	1.65	0.00	1.65	£346.50	£210.00
0.00	0.00	0.80	0.25	0.00	1.05	£275.75	£262.62
0.00	0.00	0.00	7.00	0.00	7.00	£1,233.75	£176.25
0.20	0.00	0.85	2.00	0.00	3.05	£718.00	£235.41
0.30	0.00	0.00	0.00	0.00	0.30	£159.00	£530.00
1.20	0.00	2.70	5.70	0.00	9.60	£2,471.75	£257.47
0.15	0.00	6.40	26.17	0.00	32.72	£8,337.07	£254.80
ANTI-MONEY LAUNDERING (AML)/COMPLIANCE							
0.00	0.00	0.00	0.25	0.00	0.25	£80.00	£320.00
6.95	0.00	40.27	139.47	0.00	186.69	£44,629.40	£239.06

Although the liquidators incurred time costs of £44,629, the fee they were actually paid was £20,000. In order for additional returns to creditors to be made, the liquidators decided not to seek to recover the difference of £24,629. After the liquidators' expenses were drawn, the remaining difference was instead used to pay a dividend to the preferential and unsecured creditors: £623.81 of this dividend to the preferential creditors and £21,945.72 to the unsecured creditors.



Case Study C – contentious bankruptcy involving fraud

Facts of the case	
Fees incurred	£202,959.75
Fees received	£60,000
Fees written-off	£142,959.75

In the following case, an IP working for a medium-sized firm oversaw a bankruptcy which was “contentious”, meaning there was a dispute between two or more of the parties involved.

In this case, it was strongly suspected that the debtor was involved in a significant fraud. This meant that the IP had to engage with Government criminal investigation units and various other anti-fraud bodies. Further complications also required the IP to pursue the sale of assets through the High Court.

These complicating factors required the IP to spend a lot of time on the case, and they ended up with time costs of over £200,000. After paying various costs and expenses of the bankruptcy from the legal settlement, they were required to write off 70% of their time costs.

An IP was appointed as the trustee (office holder) in the bankruptcy of an individual who had promoted highly speculative property investment opportunities. These schemes had failed, and the debtor owed approximately £20m to around 20 creditors.

Before the IP was appointed, a previous bankruptcy order had already been suspended and an IVA had failed.

The case soon became contentious as the debtor, his spouse and his associates resisted cooperating with the bankruptcy process.

Further complications ensued when the IP thoroughly investigated the information provided to them by creditors and found that much of it was incorrect.

Given the potentially significant fraud involved in the case, to fulfil their statutory requirements the IP spent time engaging with the Insolvency Service’s criminal investigation unit, the police, Action Fraud, the National Crime Agency and various banks in the UK and overseas. The IP undertook a detailed forensic investigation of the debtor’s bank statements and engaged with various parties who had received funds from the debtor. The IP also pursued the recovery of an overseas property and spent time navigating a hostile overseas jurisdictional environment.

The IP had initially agreed to invest £50,000 of their firm’s time – an estimation based on the IP having to forensically investigate, and recover the proceeds of, a potentially significant fraud conducted by the debtor.

The fee estimate was also based on the IP being required to arrange the sale of property, including the family home, believed by creditors to be owned jointly by the debtor and his spouse. However, upon investigation, the IP discovered that the situation was more complex: the debtor’s family home was actually owned by the debtor’s spouse. As a result, the IP had to apply through the High Court to ascertain whether the debtor had an interest in the property and to sell the home.

The IP won the case but in the process they had accumulated time costs of over £200,000. After paying various costs and expenses of the bankruptcy from the legal settlement, they were required to cap their total bill at £60,000 – writing off 70% of their time costs.

Speaking about the case, the IP said:

“It was a terrible result for my firm but a good example of an office holder doing the job properly and discharging statutory duties for the potential benefit of creditors.”

The role of the Government's Official Receiver

The Official Receiver is a body of civil servants within Government that are automatically first appointed by the court in bankruptcy (personal) and compulsory winding up (corporate) appointments. There are a network of regional Official Receivers across England and Wales, and their office is part of the Insolvency Service.

The Official Receiver is automatically appointed in two types of insolvency: [compulsory liquidations](#) and [bankruptcies](#). They can, however, sometimes be replaced by an IP if creditors ask for this to happen, or if the Official Receiver itself feels that the skills and experience of an IP are required in a particular case.

Regulation

The Official Receiver is not regulated to the same level as the insolvency profession, and does not have to pass the Joint Insolvency Examination Board exams. The Official Receiver is not required to produce the same information for creditors. There is no transparency around Official Receiver performance or disciplinary proceedings involving Official Receiver staff. In addition, Official Receiver reports on cases are not publicly available.

Fees

Official Receiver fees are not regulated in the same way as IP fees. They are set by statute, and do not require the approval of creditors.

Indeed, Official Receivers will charge, as standard, an initial fee of £6,000 when a bankruptcy or winding up order is issued – this fee is charged before this work is undertaken, it is levied irrespective of the details of the case, and must be paid before any dividend can be paid to creditors.

The Official Receiver can also charge for a percentage of the assets they have realised and distributed, as well as for [a range of expenses, deposits and costs](#).

The table below lists the initial fees the Official Receiver can charge for:

NAME OF FEE	CURRENT FEE
Official Receiver's general fee	£6,000.00
Trustee/Liquidator fee	15% of asset value realised by the Official Receiver
Income Payment Agreement/Order set up fee	£150.00
Dismissed/withdrawn petition refund fee	£50.00
Debtor bankruptcy administration fee	£1,990.00
Creditor bankruptcy administration fee	£2,775.00
Company winding up administration fee	£5,000.00
Public interest company winding up administration fee	£7,500.00

In addition, the Official Receiver can then also charge an hourly rate for:

- Making a distribution made by themselves when acting as liquidator or trustee to creditors;
- Realising assets;
- Supervising a special manager;
- Performing any functions when acting as provisional liquidator or an interim receiver⁸

The role of special managers

On very large or complex cases, the Official Receiver might appoint an IP as a *special manager* to assist with the case, through an application to the court. Special managers will often be appointed when the complex nature, or sheer scale, of a case requires specialised skills, specialised knowledge (for example, in relation to the assets involved in the specific case) and many more members of staff working within the IP's team on the case. Public interest factors can also play a role in the need for special manager involvement.

The high-profile liquidations of Carillion in 2018 and Thomas Cook in 2019 were both overseen by the Official Receiver, with IPs appointed as special managers. In the case of Thomas Cook, 150,000 travellers needed to be repatriated to the UK⁹. This would not have been possible to do through the insolvent company given its financial state, and was a hugely complex logistical operation that required the skills, experience, and capacity of a special manager.

Due to the large and complex nature of the cases to which special managers are appointed, their fees can be higher than in standard insolvency cases. It is important to note that special manager fees must be approved by the Insolvency Service.

The reasoning behind the appointment of special managers to such cases was explained by the former Chief Executive Officer of the Insolvency Service, Sarah Albon, at a 2018 House of Commons Select Committee session on Carillion:

*"Special managers can be appointed by an Official Receiver to assist him in carrying out his duties, and essentially we [the Insolvency Service] have done that just because of the scale of this [the Carillion liquidation]. The actual appointment is made by the court, so an application is made to court. That sets out the scope of the special managers, including things like the remuneration and the level of bonding that they have to ensure that they can meet any costs of their own if they fail. That is a process that happens under the governance of the court."*¹⁰

Albon explained that the Insolvency Service would not have had the resources to deal with the scale of the Carillion case, were it not for the appointment of special managers:

"We certainly would not have had the resources without the use of special managers, which is why we made the application to court for that purpose. In the liquidation itself, as I said, there are some 199 UK companies that we need to consider and working with the directors of the companies that are still solvent in the group to consider whether they should also go through some form of insolvency. It is certainly the case that we have needed to quickly boost our capacity through the use of special managers."¹¹

⁸The Insolvency Service, 'Technical guidance for Official Receivers', (June 2021)

⁹National Audit Office, 'Investigation into government's response to the collapse of Thomas Cook' (March 2020)

¹⁰House of Commons Business, Energy and Industrial Strategy Committee & Work and Pensions Committee,

'Oral Evidence: Carillion, HC 769' (January 2018), Q120

¹¹Ibid, Q128

Conclusion

A closer look at insolvency fees shows that the detail behind them is much more complex than headlines make out. Negative coverage of fees often misrepresents this complexity.

Criticisms of IP fees usually overlook the significant personal liability IPs face when carrying out their work, the strict regulatory requirements they must adhere to, the complex and numerous activities they must carry out, and the complicated and unpredictable nature of their cases. As the case studies in this paper show, IPs often accumulate unexpected time costs, particularly where fraudulent behaviour on the part of the company's directors has occurred and the IP only becomes aware of these actions late on in a case.

Importantly, criticisms fail to mention that IPs are unlikely to be paid in full for their work - making the headline-grabbing amounts cited by critics only half the story. Indeed, the case studies show how IP firms – especially smaller ones – often have to write-off tens of thousands from the amount that they should have been paid for the work they have carried out.

Ultimately, fees are a necessary part of the insolvency framework which, in turn, plays a crucial role in the regeneration of the economy, ensuring the UK remains one of the best places in the world to do business.



"The detail behind insolvency fees is much more complex than headlines make out"



R3 is the trade association for the UK's insolvency, restructuring, advisory, and turnaround professionals. From senior partners at global accountancy and legal firms to practitioners who run their own small and microbusinesses, our members have extensive experience of helping businesses and individuals in financial distress.

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