In October 2009 an Insolvency Guidance Paper “IGP” for dealing with complaints was approved by the Joint Insolvency Committee of the recognised professional bodies in the UK, which includes the Institute of Chartered Accountants of Scotland, and The Insolvency Service (the State body that maintains an overview of insolvency matters). This document, whilst more detailed than the Insolvency Guidance Paper, incorporates the principles contained therein.

The IGP narrates that it is in the interest of complainants, the licensed insolvency practitioner “IP”, and in the wider public interest, that all complaints directed to an IP are dealt with professionally and expeditiously. Failure to do so can only exacerbate any problem that exists, prolong a sense of grievance felt by a complainant, and undermine confidence in the insolvency profession.

Further, the Insolvency Code of Ethics, endorsed by the Institute of Chartered Accountants of Scotland, require an IP to act in a professional manner when a complaint is received.

It is recognised that, on occasion, a complaint may be received from an external party regarding the service provided by Meston Reid & Co “MR&Co”, whether it is against the IP or a member of staff. The complaint may be received from a debtor, creditor or other stakeholder group. MR&Co prides itself in observing the highest professional standards and takes the receipt of any complaint seriously. The key objective in dealing with any complaint is to ensure that it is handled promptly, fairly and with full transparency. The IP will always have an overview of every complaint.

Should a complaint be received verbally, the person receiving the complaint will attempt to assuage whatever concern is being expressed. It is hoped that this process will resolve the majority of cases and if that should occur, a file note will be prepared and placed on the case file by the person who received, and dealt with, the verbal complaint. A copy of such file note will be provided to the IP for review who may annotate it but, as a minimum, will initial the file note to evidence his review and place it in the MR&Co complaints file.

Any complaint received in writing will be retained in the case file to which the complaint relates and a copy placed in the MR&Co complaints file. An acknowledgement will be sent to the complainant promptly and if possible, a verbal response provided within five working days. A copy note, copy held in both the case file and complaints file, will be prepared by the IP. If a verbal response is insufficient to satisfy the complainant, a letter will be sent outlining the response. In all cases the IP will have seen/approved the file note and signed whatever letter is sent to the complainant. If an error has been made by the IP, it will be rectified in appropriate manner promptly and an apology provided to the complainant.

When responding to a complaint, an IP should provide where appropriate a clear explanation of the matters affecting the duties of an office holder, including the relevant legislation.

The IP must ascertain the background facts as quickly as possible and seek additional information from the complainant as required. Where a complaint is more sustained, the complainant will be invited to submit a detailed summary of the position on personal/company notepaper. Such complaint will be acknowledged by the IP within five working days of receipt and a formal reply provided no later than fifteen days thereafter. The reply will seek confirmation from the complainant that the response is sufficient and make it clear that a further fifteen day period is available for any further observations that the complainant may have. If no further observations are received, the complaint will be deemed to have been concluded.

If the IP concludes that a complaint is unjustified, the complainant will be provided with a full and clear explanation of the reasons within five working days of such conclusion being reached.

However, if the complainant reverts with further issues, such letter, together with previous communication, will be provided to the MR&Co complaints partner who will acknowledge the letter within five days of receipt and provide a full response no later than fifteen days thereafter. The complainant will also be provided with a fifteen day period with which to provide further responses and as referred to above, any such response must be on complainant notepaper and be co-signed by another representative of the complainant in order to evidence validity within the aforementioned fifteen day period because this helps to remove the potentially fictitious nature of a complaint and focus upon clear fact. If no response is received, the complaint will be deemed to have been concluded.

The complaints procedure is advised to all complainants at the outset of a customer relationship when an insolvency service is being provided. It is also made known in key correspondence with other stakeholder groups e.g. creditors, when circulars are issued for both corporate and personal insolvency assignments. A copy is always available from MR&Co upon request. It is a feature of an IP’s work that complaints may arise because of an incomplete understanding of the legislation under which insolvency office holders are required to act. In many cases, actions or outcomes that are obvious to an IP may be seen as wrong or unfair by complainants, because the duties of the office holder may be misunderstood.

If the internal procedures have been exhausted without satisfaction to the complainant, future correspondence can be addressed to The Institute of Chartered Accountants of Scotland (www.icas.com), the body which authorises the IP responsible for MR&Co’s insolvency work. ICAS deals with professional matters and regulates MR&Co. There is also a Complaints Gateway which is managed by the government body known as The Insolvency Service (www.gov.uk/complain-about-insolvency-practitioner) A complaint will be acknowledged and passed to ICAS in order that it can be progressed in a manner consistent with others.

A complaint may, in some circumstances, have to be notified to an insolvency practitioner’s professional indemnity insurer. In such cases, any action or response by the practitioner will necessarily be subject to any conditions imposed by the insurer.

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