



Self-regulation – independence and trust

mentioned last month that, whilst the annual review of insolvency regulation published by the Insolvency Service suggested recently that the system is working well overall and is amongst the top ten in the world as ranked by the World Bank, those involved in the regulatory process in the UK acknowledge that more could be done to convince users of the system that it can meet their expectations.

Philip King addressed the IPA's annual conference in early May to explain what he sees as creditors' requirements when dealing with Insolvency Practitioners (IPs). Top of the list, and a given, was integrity; this is high on regulators' priorities – ethics is a pervading theme in monitoring, and the code of ethics for IPs is actively under review by the regulators acting through the standards setter, the Joint Insolvency Committee (JIC) that Philip now chairs. Integrity in the regulation processes is arguably as important, and might be measured by the degree of demonstrable independence in the decisions made, particularly on complaints – the public facing part of the regulatory system.

As with other regulators, the IPA already has input into its committees from lay contributors. Currently this accounts for a quarter of those who serve on the principal regulation committees – something we probably haven't been shouting loud enough about. Participants include creditors, lawyers and others who are neither members of the Association nor IPs but are regarded as well informed stakeholders. Their involvement is invaluable.

We need to do more though to

develop levels of trust in the decision-making process, and to achieve that IPA's Council has determined that we should move towards a lay majority on our Investigation Committee (which is charged with deciding upon complaints received, at first instance). This will be a gradual process – something that will be implemented over the next year. We believe these new lay participants will add something to the process and that this move will send a strong signal to Government and those who use the complaints system that the IPA is serious about taking the measures necessary to build greater confidence in the present delegated statutory regulation regime.

Lay involvement in all aspects of the regulation regime is now commonplace. The JIC includes lay members from the credit insurance industry and HMRC, as well as the ICM. The Committee's remit is to maintain, improve and promote high standards of practice in insolvency by producing practice statements and guidance, and ensuring consistency amongst regulators.

The leading regulators have taken measures to ensure consistency in complaints processes by setting common sanctions guidance and by appointing common reviewers of complaints, so that decisions are made in accordance with a universally agreed code and challenges to those decisions are looked at by a jointly-appointed group of reviewers. All of which hopefully builds confidence in the regime.

So JIC has a part to play, but the real measure of success is the steps that regulators take to build trust and the extent to which stakeholders are

convinced that the processes are able to deliver on the regulatory objectives set by the Insolvency Service. Those objectives have been consulted on by the Service recently and are likely to be the subject of clarification by the Service when it publishes its response to the consultation shortly, perhaps as soon as June this year.

The Service is taking a backstop power to bring in a single regulator if the present regime doesn't deliver, so the current regulators have every incentive to make the regime we have work effectively. More could be done by the Service to reduce the number of regulators and thereby streamline the system. In the meantime some of the measures referred to above should help to ensure that those using the complaints process in particular are persuaded that the outcomes are trustworthy, whether or not complainants agree with the decisions reached.

It is always likely that complainants will find it difficult to accept a verdict that doesn't accord with their own view, but regulators can only hope that they will respect the process by which the decision has been reached. Whether there are several regulators or one, the same issue arises. Creditors and others will have a desired outcome, and meeting their expectations will be a challenge.



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