

SECTION 6

VIEWS FROM CONSULTATION

6.1 We take into account the views expressed by those we consulted at the appropriate places in this report but it is worth mentioning some of the main issues raised here:

- The Service's performance has improved significantly over the last 5 years. This was mentioned by almost everyone we interviewed and covered all aspects of The Service's operations. Suggestions for improvement were made but did not detract from the commonly held view that the operation of The Service was being delivered to a high standard.
- Communications and feedback arrangements are generally well developed. The Service's publications and leaflets and the consultation arrangements in place for policy and operational developments were well regarded. User Groups and the recent "Fresh Start" policy consultation were cited as examples.
- No other part of government has the expertise to undertake the functions.
- The Service is needed to administer low asset cases where IPs would not take an appointment though some suggested that the work could be contracted out if the right fee structure could be devised.
- All agreed that enforcement should be a public sector responsibility to ensure independence and minimise conflicts of interest but several thought that investigation could be undertaken outside provided The Service took the decision on action.
- It is very important that wrongdoing was detected and punished and several expressed fears that some were "getting away with it".
- Others were concerned about lack of continuity because of high levels of staff turnover in the DU and whether investigations went into sufficient depth.
- IPs would like better feedback on enforcement decisions to help to understand the rationale for decisions and improve the quality of their reports.
- The requirement that assets from bankrupt or insolvent estates be deposited in the Insolvency Service's Account is viewed by many as out dated, given that the IP profession is now licensed, bonded and regulated.
- Fees especially the Secretary of State's fee, are too high. The funding arrangements need to be reviewed.
- The Secretary of State should no longer authorise individual IPs but concentrate on the regulation of Recognised Professional Bodies where The Service can play a valuable leadership role.
- Many expressed concern that the high level of IP fees reduced the return to creditors.

- The Service should improve their links to organisations that advise individuals and companies in financial difficulty and ensure that they were giving appropriate advice. One respondent commented that more advice was available for debtors than for creditors.
- The Service needed to up-date and extend its use of IT, particularly as a means of communicating with customers, especially regular communications with IPs.
- Specialist functions e.g. personnel management, IT could be contracted out.

6.2 The main points raised in meetings with staff are at Annex 6.1 and the note submitted by the trade union side is at Annex 6.2.

Bankruptcy Advisory Service Survey

6.3 We are very grateful to Gill Hankey of the Bankruptcy Advisory Service for undertaking a survey of clients via its regular newsletter. 112 anonymous replies were received to a simple questionnaire issued to 1,400 clients. Those replying identified themselves as

Bankrupts	87%
Insolvency Practitioners	4%
Advisers	5%
Companies	3%
Other	1%

6.4 The relatively low response rate is consistent with the low response to The Service's own Surveys and probably reflects the fact that this is an area of experience that many of The Service's client group prefer to put behind them as quickly as possible. The replies are nevertheless helpful feedback from the hardest client group to reach in a review of this kind.

6.5 Of those replying to questions of general satisfaction 81% were satisfied with the service of the Official Receiver office that they had contact with and 84% said that they were either treated fairly or well. An analysis of replies to the questions asked is set out at Annex 6.3. The response is in line with the general view that The Service offers a good service but also provided soft information in areas of continuous improvement.

6.6 From within the sample 40 respondents offered expanded comments. Several complimented The Service on their understanding in a difficult situation but many took the opportunity to mention concerns about The Service and IPs. Some felt that they had not been treated kindly; had not been given clear information; and that written responses had been slow. These comments do not detract from the general levels of overall satisfaction with The Service's performance. Furthermore, the sample covered contact with The Service since 1995/96 and some of the comments will reflect experiences before the overall performance of The Service was acknowledged to have improved.

6.7 The views about telephone interviews are worth mentioning as The Service is carrying out pilots. The sample did not include anyone that had actually experienced a telephone interview by The Service. The high number of "no" replies (81%) to the question, "could the interview have been carried out over the telephone?" is therefore not based on experience and

conflicts with the answers to the questions about The Service's pilot telephone interview programme for bankruptcies of £20,000 or less, where 64% of replies thought the bankrupt person would be able to understand their responsibilities and gain any information that may be required over the telephone and 56% thought the Official Receiver would gain enough information to make a judgement on the case. These results can be compared with feedback from the pilot.

MAIN POINTS RAISED IN MEETINGS WITH STAFF

Need for The Service

- It is important that enforcement and regulation are seen to be independent and impartial.
- People are more likely to co-operate with an official.
- The private sector would not take on "no asset" cases unless paid for the work
- A better return to creditors could be given in low asset cases (no profit element), especially if realisation work was centralised.
- Interfaces between examination and investigation are important.
- Government provides an independent view on IP regulation, especially handling complaints.

Targets

- Performance has improved.
- IIP and Charter mark recognises improvement.
- Service is more professional and focused.
- The Service is cost driven rather than quality driven.
- Quality measures needed.
- There is a lot of stress and sickness.
- Detailed recording of monitoring information especially on Charter mark standards is a problem.

Contracting out

- The Service won the previous bid and has improved effectiveness and efficiency since.
- The Civil Service is flexible and can respond to changing circumstances more easily than changing contracts with external organisations.
- Interface problems would exist.
- Would the private sector honour TUPE?
- People want to stay in The Service which offers more interesting and varied work.
- Experience of those who had left suggested opportunities in the private sector offered less variety and interest.
- Contracting monitoring would add to costs.
- Some non-core or specialist services could be contracted out e.g. IT, property management.

IT

- Essential main systems are updated and integrated.
- Needs to be professionally managed - contract out?
- Mixed views exist on telephone pilot interviews - risks exist of not discovering assets and body language is important in detecting wrongdoing - but other ways exist of picking up problems.

- Flexible working offered advantages but people must be capable of self-discipline and be supported properly.
- Centralising administrative work might appear more efficient but local links and networks important.
- Detailed comments included in list given to PKF - see Annex 8.2.

Pay and personnel

- Pay delegation artificial - constrained in practice by Treasury and DTI guidance.
- Problems with advancement - mark time pay on promotion.
- Better rewards needed for good performance.
- Turnover, recruitment and retention problems in growth areas e.g. London. Birmingham and Leeds.
- Training for examiners good, though some regretted replacement of ACCA by NVQ.
- Limited opportunities for administrative staff especially non-mobiles in places with few other DTI or Civil Service options.
- Family friendly policies welcomed.

Customers

- Survey creditors to test satisfaction with handling of all types of insolvencies by IPs as well as The Service.
- Develop relations with main client groups.
- Could be difficult for smaller offices to offer extended access.

Advice

- Each OR office has an officer to handle general inquiries.
- Work more closely with intermediaries.
- Ensure intermediaries give good quality advice.
- Could be difficult to avoid conflict of interest in giving advice on specific cases.

Links with DTI

- Staff understand DTI main objectives and where The Service fits in but this is not at forefront of minds.
- DTI not consistent in consulting agencies.
- The squeeze on running costs affects quality of service to customers and difficult to understand when The Service as a whole generates a surplus for the Exchequer.

INSOLVENCY SERVICE REVIEW TEAM QUESTIONNAIRE

TRADE UNION SIDE RESPONSE

1. Structure and Functions

The Insolvency Service administers the Insolvency Act 1986 and the Company Directors Disqualification Act 1986. The Service is responsible for issuing disqualification proceedings against delinquent directors. Unless the government's intention is to abolish bankruptcy and compulsory company liquidation the Insolvency Service is still required.

The Insolvency Service identifies the cause of failure, i.e. where the creditors' money has gone, deals with fraud and other criminal behaviour and unfit conduct by directors. The Insolvency Service being a government executive agency is seen by our users as unbiased and professional. It is important that any body investigating potential criminal activity is seen to be unbiased and above suspicion.

The Insolvency Service has a statutory duty to investigate every case, with the exception of Summary Administration bankruptcies where the duty is discretionary. The Insolvency Service has a Quality Standard setting out what is necessary in each instance. A successful prosecution or disqualification is dependent on the Quality Standard being implemented from the date of the insolvency order. The Trade Union side are of the opinion that such work has to be carried out by an independent government body.

In the past the Central Accounting Unit was subjected to a market test. The Trade Union side feel that the criticisms levelled against the Insolvency Service Account relate to the political decision taken by past governments that Insolvency Practitioners have no alternative but to use the account and that the Treasury collects the interest of approximately £48 million a year.

However, there has been no complaints or observations that the Central Accounting Unit does not provide an efficient and effective service. Insolvency Practitioners have stated that our service exceeds that offered by commercial banks and has a high degree of customer satisfaction. We provide this service regardless of the size of the Insolvency Practitioner's firm.

Contracting out this service would result in an additional cost, as the contract would have to be monitored. There would be the added costs of Official Receivers using a third party to administer the banking service provided, the administration of fees and dealing with unclaimed dividends and residual balances.

The Insolvency Service has vast experience in detecting fraud and in producing financial reports resulting in criminal and disqualification proceedings being taken. Insolvency Service staff also attend court in criminal trials to give evidence. This expertise is also being used for the benefit of Police fraud squads and other such authorities, and this service could be expanded to cover fraud where there are no insolvencies.

2. Effectiveness in performance of its functions

The Insolvency Service throughout the 1980s and 1990s has been underfunded. This was shown by the Chief Executive's appearance before the public accounts committee over directors' disqualification.

During the current financial year The Insolvency Service is facing an arbitrary cut in funding of £1.4 million. However despite the shortfall in funding the Insolvency Service has provided a significant improvement over the past twenty years in the cost of the initial processing of insolvencies.

The Service has consistently achieved the majority of its performance targets. The Service would, in the opinion of the Trade Union side, become even more effective in fulfilling all of its statutory duties if it was adequately funded by the government.

3. Meeting the needs of customers

The Insolvency Service does not have customers. We have statutory duties and responsibilities

All our "partners" or "customers" in the current terminology are involuntary. Bankrupts and company directors are compelled by statute to attend upon the Official Receiver. Creditors are also involuntary in the sense that they have already lent the bankrupt or company money.

However that does not mean that the people we deal with should not expect to be dealt with efficiently, fairly and politely.

The Trade Union side sees the standards expressed in the Insolvency Service Charter to be appropriate and to be implemented.

The Insolvency Service does not benefit from the fees and charges. If The Insolvency Service were to become a trading entity, with all the income from fees and charges held by The Service, then the Trade Union side would comment on them.

4. Partnership

The Trade Union side sees no other government department, private company or business, non-government public body or voluntary organisation providing, or duplicating the activities we are involved in. Insolvency Practitioners provide a service which complements our work but does not duplicate it. The Trade Union side therefore sees no scope for any public private partnership being able to carry out its statutory functions and duties.

5. Resources

The Trade Union sides do not see the current funding of The Insolvency Service to be adequate.

The present pay system expects more junior staff to work as well and as hard as more senior staff, without the same financial reward. This breeds resentment and ultimately results in staff leaving the Insolvency Service. If this occurs in any significant numbers the efficiency and effectiveness of The Service will be undermined.

The Insolvency Service has used Information Technology extensively over the past 10 years. Improvements have been made. One of the casualties of the current cut in funding is the postponement in developing the LOIS 2 project. As a result we shall not be seeing until a

much later date the full benefits that IT could bring to reducing the cost of initial investigation and processing of casework. The investment needed to bring these benefits is very small compared to the amount spent by the DTI centrally. The Insolvency Service is expected to reduce costs but has not been given the resources to ensure the efficient use of the investment in Elgar by which these efficiencies can take place.

6. Government

The role of The Insolvency Service in dealing with the failures in the market place, and with domestic insolvencies is clear. As a members of staff we are aware of our statutory duties and functions.

The Insolvency Service as an executive agency provides a fair, effective and independent legal and regulatory framework to deal with Insolvency.

How effective this is in promoting the aim of increasing competitiveness and encouraging enterprise cannot be measured. Therefore our effect in the market place is debatable.

7. Any other comments

As civil servants we feel that over the last 20 years our contribution to British Society has been undervalued and at times denigrated. We feel that we provide an efficient and effective service to bankrupts, creditors and the government, which has not been recognised.

The Quinquennial Review once again gives the impression, which may not be the intention, that what we do can and should be done by the private sector.

June 2000

ANALYSIS OF REPLIES TO BANKRUPTCY ADVISORY SERVICE QUESTIONNAIRE

<u>Question</u>	<u>Response</u>
How do you consider you were treated?	
Number replying	109
Well	28%
Fairly	56%
Unfairly	9%
Other	7%
Do you consider a meeting with the OR was necessary?	
Number replying	112
	Yes 85% No 15%
Do you think the interview could have been conducted by any other method, i.e. telephone, video, etc.?	
Number replying	95
	No 81% Yes 19%
The Insolvency Service is pioneering telephone interviews in certain geographical areas for bankruptcies of £20,000 or less. Do you think this will be sufficient contact to enable the bankrupt person to understand their responsibilities and gain any information that may be required?	
Number replying	69
	Yes 64% No 36%
The Insolvency Service is pioneering telephone interviews in certain geographical areas for bankruptcies of £20,000 or less. Do you think this will be sufficient contact to enable the Official Receiver to obtain necessary information and enable him to make a judgement on the case?	
Number replying	66
	Yes 56% No 44%
Were your relevant obligations explained by the Official Receiver?	
Number replying	110
	Yes 90% No 10%
Did you feel that you fully understood your obligations, as a result of the meeting?	
Number replying	103
	Yes 83% No 17%
Did you understand the Official Receiver's role?	
Number replying	105
	Yes 84% No 16%

Has the Official Receiver dealt properly with telephone calls, correspondence, queries, etc?	
Number replying	98
	Yes 84% No 16%
If your affairs are now being handled by an Insolvency Practitioner, are you satisfied with the treatment you have received from him/her?	
Number replying	59

	Yes 64% No 36%
Was the transition between the Official Receiver and the Insolvency Practitioner handled properly?	
Number replying	61
	Yes 79% No 21%
Are you satisfied with the service provided by the Official Receiver's Office?	
Number replying	90
	Yes 81% No 19%