

This guidance is tailored specifically for official receivers. It is discretionary and not designed for use by third parties. This version was the most up to date guidance available to official receivers as at 10 March 2020.

17. Interviews and statements

Interviewing bankrupts and directors, including taking statements to record information obtained.

Chapter content

[Introduction](#)

[Interviewing the insolvent](#)

[Conduct of the interview](#)

[Matters specific to company cases](#)

[Matters specific to partnership cases](#)

[The Preliminary Information Questionnaire](#)

[Narrative statements](#)

[Accounting books and records](#)

[Provision of copies of statements and PIQ](#)

Introduction

17.1 Introduction

In the course of the discharge of their duties to protect assets and determine liabilities and the reasons for the insolvency the official receiver will often need to

interview company officers and bankrupts. This chapter provides guidance to the official receiver as to how and when such interviews should be conducted.

Guidance on conducting an investigation interview can be found in the Enforcement Investigation Guide on the intranet.

17.2 Duty to investigate insolvent's affairs

The official receiver has a duty to investigate the reason for the insolvency^{1, 2}. There are no exceptions to this duty in a compulsory liquidation. In a bankruptcy the official receiver may be released from the duty to investigate if they decide that an investigation is unnecessary. In some bankruptcy adjudicator cases, for example, a review of the bankrupt's application may be sufficient to conclude that further investigation is unnecessary.

1. Section 132

2. Section 298

17.3 Protection of assets

In addition to the duty to investigate the insolvent's affairs, the official receiver, as liquidator or trustee, has a duty to protect and realise the property of the insolvent, including assessing whether an Income Payments Agreement (IPA) might be appropriate in bankruptcy cases.

Interviewing the insolvent

17.4 Purpose of the interview

Company officers and bankrupts are generally required to provide the information needed by the official receiver by the completion of the preliminary information questionnaire (PIQ) or the bankruptcy application. In the majority of cases it is likely to be necessary for the official receiver to ask additional questions after this information has been received and this will be by way of an interview.

17.5 Nature of the interview

Additional questioning is carried out during an interview which may take different forms depending on the type and complexity of the case and the amount of additional information required. In the vast majority of company and creditor petition

bankruptcy cases it will be appropriate to interview face-to-face, but the nature of the interview should be appropriate to the circumstances of the case. In most bankruptcy application cases the interview will be by telephone.

17.6 Aim of the interview

The aim of the interview is to allow the official receiver to obtain sufficient information to progress the administration of the case, determine the reason for the insolvency and make a decision as to whether further investigation is necessary. Information provided in the PIQ and the bankrupt's application should generally be taken to be correct without further questioning unless the official receiver has reason to believe it may be incomplete or inaccurate. Questions already answered in the PIQ and the bankrupt's application should not be asked again merely as an interesting exercise, or just to re-check information already given.

17.7 Circumstances where it will generally be necessary to interview in a bankruptcy case

Unless it is clear from a review of initial information (in the bankruptcy application, for example) that an interview is not necessary, a case should be approached with an initial view that an interview would be appropriate. Matters where an interview will be necessary include:

- possible IPA/IPO
- asset queries where there is insufficient information in the application to deal appropriately with the asset, e.g. motor vehicle to exempt, interest in property to be realised etc.
- clarification of the pattern of indebtedness, e.g. where a bankrupt has numerous credit card/loan creditors, the official receiver may decide that it would be appropriate to interview the bankrupt in order to clarify the period over which credit was incurred and what it was used to purchase
- where the bankrupt traded up until the bankruptcy order or ceased to trade shortly before the order
- in bankruptcy application cases, any case where the completion of a Preliminary Information Questionnaire (PIQB) is deemed necessary will, by definition, be likely to require an interview
- where assets have been disposed of within the relevant period leading up to the bankruptcy order
- where the bankrupt has previously been made bankrupt
- where there are indications of potential misconduct in the application.

17.8 Timing of interview

Interviews should be held as soon as possible after the insolvency order is made. The official receiver must contact the company officer or bankrupt within two days of being notified of the order and should arrange an interview date when contact is made. During this initial contact the official receiver will also establish whether there are any urgent matters that they need to be aware of and take action in respect of before the interview is held.

17.9 Postponing the interview

If an interviewee seeks an alternative appointment for a genuine reason the official receiver should accede to this request, provided the proposed delay is reasonable. Where illness is given as the reason for non-attendance and either the illness is a medical condition that will prevent attendance for an extended period of time or it is suspected that this is an excuse to avoid attendance the official receiver should request a medical certificate. In such cases consideration should be given to carrying out a telephone interview instead of requiring the interviewee to attend in person upon the official receiver.

17.10 Interviewee unable to attend the office

Where the director or bankrupt is unable to attend upon the official receiver for reasons of ill health, or another valid reason, the official receiver may, at their discretion, consider asking them to return the completed Preliminary Information Questionnaire and then conduct the interview by telephone or visit the interviewee's home to conduct the interview. Where the interviewer is to attend at the bankrupt's home for interview the safety guidance for staff contained in chapter 11 should be followed.

17.11 Telephone interviews

Telephone interviews should usually be conducted via a land telephone line and the interviewee should be encouraged to provide a landline number. Where a mobile telephone number is the only telephone the interviewee has access to the interview may be conducted via the mobile telephone.

The interview record form (TCIR) form must be used to record information obtained during a telephone interview.

17.12 Failure to attend interview without excuse

Where, without reasonable excuse, a person fails or refuses to attend an interview without first contacting the official receiver then the official receiver must;

- attempt immediately to contact the interviewee and arrange a further appointment
- send a letter to the interviewee making a second appointment for interview and setting out the possible consequences of continued non co-operation with the official receiver
- take such further action as appropriate to confirm the whereabouts of and contact the interviewee in order to enforce attendance. The official receiver should consider whether attendance at the home address of the interviewee may be appropriate
- in the event of continued failure or refusal to co-operate, take appropriate enforcement action such as outlined in chapter 19

17.13 Stay of proceedings in bankruptcy

Where there is a stay of proceedings in a bankruptcy the requirement of the bankrupt to provide information to and attend upon the official receiver will depend on the terms of the court order. If the court orders all proceedings should be stayed generally the bankrupt will be released from their obligation to co-operate with and attend upon the official receiver and such an order should generally be resisted by the official receiver. Such an order should generally be resisted by the official receiver – see chapter 8.

A stay of advertisement in a winding up or bankruptcy does not affect the company officer's or bankrupt's obligation to supply information to the official receiver and attend for interview if required to do so.

17.14 Interviewee in prison

Where the interviewee is in prison the normal interview letter should not be sent, but the official receiver should write to the governor of the prison in order to make arrangements for the interview to be carried out by telephone or by the official receiver's attendance at the prison, depending on the complexity and circumstances of the case. If the governor is unable to guarantee the safety of the interviewer a case note should be made to that effect and any contact should be by telephone or letter. For reasons of safety an interview at a prison should in any case only be conducted with at least two members of the official receiver's staff present and the official receiver should consider whether the information could be obtained in some other way.

Where an interviewee is believed to be in prison but their location is unknown the official receiver should contact;

HM Prison Service

Prisoner Location Service

PO Box 2152

Birmingham

B15 1SD

Enquiries can be e-mailed to prisoner.location.service@noms.gov.uk and should contain the full name of the person subject to the enquiry, any other names by which they may have been known, date of birth and reason for enquiry.

Conduct of the interview

17.15 Punctuality

When an interview is being conducted by telephone the interviewee must be telephoned within five minutes of the agreed interview time. For a face to face interview all interviewees who arrive on time must be seen no later than five minutes after the fixed appointment time. If, in exceptional circumstances, this cannot be done the interviewee must be given an explanation why and told how long they will have to wait or be offered an alternative appointment.

17.16 Privacy of interview

Face to face interviews should be held in a separate room to avoid any interruptions which may disturb the interviewer and interviewee and to afford privacy to the interviewee. The interviewee is likely to be more relaxed and open to answering questions where the interview is conducted in a private room.

17.17 Setting the scene

The interviewer should begin the interview by explaining to the interviewee the form that the interview will take and approximately how long it will last. The interviewer should draw the attention of the interviewee to the appropriate GOV.UK information (Guide to Liquidation, Guide to Bankruptcy) at the beginning of the interview.

17.18 Identification of interviewer

At the beginning of any interview, face to face or telephone, the interviewer must introduce themselves to the interviewee. Any other member of staff present (e.g. for training purposes) must also be identified to the interviewee.

17.19 Conduct of Examiner during interviews

The interviewee must be treated with courtesy at all times. The interview must not be carried out in a way that would leave the official receiver open to criticism for oppressive conduct, e.g. excessive length of interview without breaks, the interviewer raising their voice. The interviewee should not be coerced into signing a statement or any other document with which they disagree. Where information provided by the interviewee indicates the possibility of misconduct the interviewee should be given the opportunity to provide explanations and/or a defence for their actions. These should be included in any statement taken by the official receiver.

17.20 Breaks and refreshments

Breaks should be offered at regular intervals where an interview lasts for more than two hours and, where possible, water should be offered at the beginning and during the interview.

17.21 Third party attending interview

An interviewee may bring a third party such as a solicitor, accountant or friend to an interview and the official receiver should not generally object to their presence. The presence of a third party who is also a potential interviewee in the case, for example another company officer in a compulsory liquidation or another partner in a partnership, should not be allowed.

The official receiver should not object to the presence of a third party who is unconnected to the case but should, if it becomes necessary, inform the third party that they will be asked to leave if they interfere unduly during the course of the interview.

The presence of anyone other than the interviewee and the interviewer should be recorded (name and status of the third party) in the narrative statement or interview notes.

Any charge for the attendance of the third party (with the exception of an interpreter translator) is a matter between the third party and the interviewee and is not payable out of the insolvent estate.

17.22 Interpreters

If an interviewee cannot understand or speak English an interpreter must be used during the interview. Similar considerations will apply where the interviewee has an aural, verbal or visual disability and requires assistance to interpret information given and received at interview.

The interpreter must be asked to translate the questions asked and answers given without changing the meaning. The interviewee may bring a friend or family member to interpret for them and in this case it must be made clear that the interpreter must not answer the questions for the interviewee. A short statement should be taken from the interpreter confirming that they have properly translated the questions asked by the interviewer and the answers given by the interviewee accurately and that the answers given are those provided by the interviewee.

An independent interpreter can be arranged through the Insolvency Service's translation contractor, K-International, contact details can be found in chapter 41, along with other guidance relating to the employment of interpreters and translators.

17.23 Interviewee unable to read

If the interviewee is unable to read, the official receiver should ensure that the interviewee is given the opportunity to ask questions and that the insolvency processes are fully explained as they should not be presumed to understand the written guides.

See also the guidance below regarding the taking of a statement from an interviewee who is unable to read.

17.24 Interviewee refuses to answer question, sign statement or is abusive

If the interviewee declines to sign any questionnaire, schedule or statement until they have taken further advice, or if the interviewee is unsure, or seems worried or confused, then the official receiver should agree and record the need for the return of the signed document(s) within a specified timescale. A copy should be kept of any documents taken away.

If the interviewee refuses to answer questions put to them by the official receiver, their duty to co-operate with the official receiver and the potential consequences of non co-operation should be drawn to the interviewee's attention. Where the interviewee still refuses to answer a note should be made by the official receiver that

details the questions asked and, if a reason has been given, why the interviewee refuses to answer.

Where the interviewee refuses to sign the additional questions form or any narrative statement taken a similar note should be made by the official receiver to record the refusal and the reason why the interviewee will not sign if a reason has been given.

Where an interviewee is abusive the official receiver should make a note of the interviewee's conduct, including as far as possible a full record of what was actually said. If an interviewee continues with threatening or abusive behaviour the official receiver may terminate the interview and should make a note of the reason why the interview was terminated.

Notes of abusive conduct or blatant refusal to co-operate will be of use if some form of action is subsequently taken against the interviewee.

Matters specific to company cases

17.25 Selecting the appropriate interviewee

In a compulsory liquidation the official receiver must select the most appropriate person to interview in the first instance. There may be one or more company directors as well as a company secretary. In addition, there may be other persons who were involved in the running of the company who have not been formally appointed as a company officer.

If the interviewee is unable to attend upon the official receiver for an extended period of time due to reasons of ill health or another valid reason the official receiver may consider interviewing another company officer in the meantime.

17.26 Importance of establishing roles and responsibilities of company officers

It is important for the official receiver to establish the respective roles and responsibilities of all those involved in the running of the company and whether such roles and responsibilities were allocated and recorded in the company's records (e.g. service agreement, board meeting minutes) or by custom. Where there are matters of possible misconduct for further investigation, such as trading with knowledge of insolvency or to the detriment of crown creditors, it is essential to determine which company officer was responsible for the relevant actions taken or not taken. The official receiver should seek to avoid the possibility of a company officer claiming at a

later date to have been unaware of or not responsible for actions which they are alleged to have carried out that form the basis of an allegation of misconduct.

17.27 Interviewing a person who is not a company officer

Where there is information to suggest that a person who is not a formally appointed company officer was acting as a director of the company (a de-facto director), or to have been wholly controlling the company by giving instructions to the directors on which they acted (a shadow director) the official receiver must determine; the extent of that person's involvement, roles and responsibilities in the company, the reasons why they were so involved and why they were not formally appointed as a company director. It may be necessary to do this by way of an interview with the person so concerned.

17.28 Obtaining information of company loans

It is also important to establish the amount, dates and circumstances of monies put into the company and taken out of the company by the company officers. Where the company's records are available during the interview the official receiver may ask the interviewee to show where such transactions are evidenced in the records.

Matters specific to partnership cases

17.29 Partnerships – Winding up order against partnership and bankruptcy orders against partners

In partnership cases where a winding-up order is made against the partnership and bankruptcy orders are made against the partners a preliminary information questionnaire (PIQP) should be completed by the principal partner in respect of the joint estate. If there is likely to be any dispute between the partners it may be necessary for two or more partners to complete separate forms. In addition form PIQB should be completed by each individual partner in relation to their own estate. If there is a corporate partner against which a separate winding-up order has been made, one or more versions of form PIQC should be completed in respect of its affairs by separately interviewing one or more of the corporate partner's officers.

Separate narratives should also be taken if the responsibilities of each partner are not clear, even if these are largely duplications.

17.30 Winding-up order against partnership only

Where there is a winding-up order against the partnership only and no bankruptcy orders against the partners, form PIQP should be completed by the principal partner, or if there is likely to be any dispute by each partner separately. Separate narratives should be taken from each partner.

The Preliminary Information Questionnaire

17.31 Preliminary Information Questionnaire

In all company cases and bankruptcy creditor petition cases a PIQ must be sent to the interviewee for completion prior to the interview. The interviewee should bring the completed PIQ when they attend for interview. If the PIQ is not completed or is only partially completed the interviewee should be invited to complete it before the interview begins. At the beginning of the interview the interviewee should be asked if they completed the PIQ by themselves, or if any assistance was received from anyone else. This information should be recorded by the official receiver on the additional questions form. Where the questionnaire has been completed by a third party the details of who completed it and an explanation of the circumstances and reasons for this must be recorded.

In cases where the bankruptcy order has been made on an application to the Adjudicator it would not normally be necessary for the bankrupt to be required to complete a PIQ, but such can be requested if deemed worthwhile.

17.32 Interviewee unable to complete the PIQ

If the interviewee is unable to complete the PIQ (e.g. due to illiteracy, blindness or other disability) the questions in the PIQ should be read out to the interviewee exactly as they are written and the interviewee's answers recorded fully and accurately in the interviewee's own words. The purpose of reading out the questions in the PIQ exactly as printed is so that the interviewee cannot claim at a later date

that they thought they were answering a different question which could throw doubt on the accuracy of the information given.

17.33 Amendments and additions to the PIQ

No amendments should be made to the PIQ after it has been signed and dated by the interviewee. The official receiver must not alter, delete or add to any answer in the PIQ. At the beginning of the interview the official receiver should check that all alterations in the PIQ have been initialed and dated by the interviewee and that the interviewee has signed and dated the PIQ in the appropriate places. The official receiver should also draw the interviewee's attention to the Perjury Act 1911 section 5 at the beginning of the PIQ and check that the interviewee has completed and signed the declaration that this has been drawn to their attention.

17.34 Going through the PIQ with the interviewee

The official receiver should go through the completed PIQ with the interviewee. Where the interviewee has not answered a question, or the information given is incomplete or needs to be expanded upon, the official receiver should question the interviewee accordingly and record the information given on the additional questions form¹. The official receiver should not ask every question in the PIQ again just to verify information already given but should seek further information where the answer given in the PIQ is incomplete, inadequate or contradicts information given elsewhere in the PIQ or already known by the official receiver.

1. PREADD

17.35 Recording apparently inaccurate or inconsistent responses

If an interviewee insists on giving an apparently inaccurate or inappropriate response to a question in the PIQ, even after the official receiver has drawn their attention to the discrepancy in the information provided, what is said by the interviewee must be recorded. The fact that the discrepancy has been drawn to the interviewee's attention must be recorded with an entry along the lines of:

"It has been pointed out to me that....However I maintain....".

Matters of apparent inaccuracy or inadequacy of information provided in the PIQ and additional questions form may also/alternatively be covered in more detail in a narrative statement taken.

17.36 PIQ question not understood by interviewee

If the interviewee does not understand the meaning of a question in the PIQC the official receiver should try to rephrase the question in such a way that the interviewee can understand and answer the question. Where the interviewee still cannot understand or answer the question this should be recorded in the additional questions form.

17.37 Obtaining interviewee's confirmation of additional information given

When all additional information required to complete the PIQ has been obtained and recorded, the interviewee should be asked to read through the additional questions form, initial and date all alterations made and sign and date at the bottom of each page and at the end of the form. The interviewer should also sign the bottom of each page and at the end of the form as a witness.

Narrative statements

17.38 Cases where a narrative statement should be taken

In some cases, particularly company cases and creditor petition cases, it will be appropriate to take a narrative statement in order to obtain a concise chronological account of matters such as the formation and trading history of the business and to explain the reasons for the insolvency. It might be necessary to take a statement in the following cases, for example:

- where the history of how the debts were incurred is complex
- where there are asset transactions that are complex and require further investigation and explanation
- where the bankrupt has run a business
- where there are matters that indicate possible areas of misconduct

17.39 Taking a narrative statement

The narrative sheet form¹ should be used at the start of the narrative statement and the interviewee should be asked to read through and sign and date each page of the statement and any alterations made. Once signed and dated no alterations should be made to the statement.

The interviewee's attention should be drawn to the Perjury Act 1911 section 5 before the narrative statement is taken.

Where a narrative is lengthy and/or deals with complex matters it may be worthwhile to use sub-headings to divide it, e.g. disposal of asset detail, places of business, trading history, why business ceased to trade, etc.

1. PRENAR

17.40 Narrative statements from different company officers

The official receiver may take a narrative statement from most or all of the company officers in order to verify information given and establish the roles and responsibility of each company officer. Such statements may just cover certain matters, or may be full statements as appropriate. Even where the content of the statements are the same or similar it is important to have separate statements taken independently from each interviewee and it is not appropriate for the official receiver to show an interviewee another company officer's statement.

17.41 Statement taken from a third party

Where a statement is taken from a third party the heading of the statement should read "Statement made in pursuance of section 132/289 [as appropriate] of the Insolvency Act 1986" etc. A Perjury Act warning is not appropriate.

17.42 Contents of narrative statement

A narrative statement may be used to amplify one or more points from the PIQ, or particularly where the case is complex and/or there are matters of possible further investigation, it may be used to give a concise chronological history of the company and the dates and facts that explain the reason for the insolvency.

17.43 Matters that might be covered in a narrative statement - companies

In a company case the narrative statement may cover, amongst other matters;

- details of the formation of the company, dealing with any predecessor business or businesses
- the respective roles and responsibilities of all the company officers and how that responsibility was identified
- how the business operated and how trading was financed, including loans from and to company officers
- details of any transactions with associated companies and an explanation of why such transactions occurred and where they can be evidenced in the company's records
- details of any accounts prepared and what company records were kept and by whom they were maintained
- when and why losses were sustained and what steps were taken and by whom in order to mitigate losses sustained, how continued trading was financed and monitored
- why the business failed (if it failed) and when and why the business ceased to trade
- any matters of apparent misconduct
- any other reasons for the insolvency

17.44 Matters that might be covered in a narrative statement - bankruptcy

In a bankruptcy case the narrative statement may cover, amongst other matters;

- details of the formation of the business, dealing with any predecessor business
- how the business operated and how trading was financed
- details of any accounts prepared and what books and records were kept, and by whom they were maintained
- why the business failed (if it failed) and when and why the business ceased to trade
- where assets have been disposed of in the relevant period before the bankruptcy order, when they were disposed of, to whom, for what consideration and why the bankrupt entered into the transaction
- explanations for any large losses incurred
- how the debts were incurred and where the debts relate to consumer credit obtained, what the credit obtained was spent on
- where the bankrupt did not run a business, brief details of their employment history
- when the bankrupt realised that they were insolvent, and the reasons for the insolvency

17.45 Statement taken in manuscript form

If the statement is taken down in manuscript form the interviewee should initial and date all alterations and each page should be signed and dated on the day on which

the statement is taken. A manuscript statement may be particularly useful where there is a prospect (e.g. previous history of non co-operation) that the interviewee will not sign and return any statement subsequently sent to them.

17.46 Statement taken directly onto an electronic document

Where a statement is taken directly onto an electronic document, the print out should be signed and dated with any alterations also being initialed and dated. Where any versions of the typed narrative are printed off and amended by the interviewee they should be retained by the official receiver.

17.47 Statement prepared at a later date from notes taken at interview

If the narrative is drafted after the interview using notes made during the interview the interviewee should be asked to initial and date each alteration and sign each page of the notes. The notes must be preserved so that if the interviewee later fails to sign the typed statement or disputes its contents there will be evidence as to what was said during the original interview. The interviewee should be told that they will be asked to sign, date and return a typed statement that will be sent to them by post within seven working days.

The typed statement must not include any information which is not contained in the notes and while there may be a desire to tidy up the grammar, syntax, etc., it is crucial that the essence is not changed and no attempt is made to give more or less emphasis or prominence to facts than is reflected in the notes or to insert something by way of clarification. A copy of the notes must be available to the interviewee when they are asked to sign the typed statement. Any matters which might/should have been dealt with in the interview but not reflected in the notes can only be dealt with by way of a further statement.

17.48 Signature and witnessing of statement

At the conclusion of the interview the interviewee should read through the statement, initial and date any amendments made during the course of the interview or asked for during the read through and then sign and date the bottom of each page and at the end of the statement. The interviewer should also sign and date the foot of each page. Once signed and dated and the interview completed no answer given and recorded should be added to, deleted or altered. Such amendments should be

regarded as additional information (even if they constitute a deletion) and recorded in the form of an additional narrative statement taken at that time or at a later date.

17.49 Interviewee unable to read statement

If the interviewee is unable to read the statement it must be read to the interviewee by a third party. On the last page of the statement the person who read it out must endorse it as follows:

“On (date) I (name) (occupation) of (address) read out this statement to (name of interviewee) who signed it in my presence.” The endorsement must be signed and dated by the person who made the endorsement. Where the interviewee is unable to sign the statement, the person who reads out the statement to the interviewee should refer to this in their endorsement indicating why it was not possible for the interviewee to sign the statement.

Accounting books and records

17.50 Accounting books and records – recording whereabouts

Where the official receiver has not taken possession of the company's records by the time the interview is conducted and if the interviewee does not bring the records with them to the interview the official receiver must ascertain their current whereabouts from the interviewee. The details should be recorded in the additional questions form or narrative statement. The official receiver must make it clear to the interviewee that the records must be delivered up to the official receiver and must be preserved until the official receiver is able to take possession of them. Where the company's records are held by someone other than the interviewee the official receiver must contact the person holding the records in order to arrange their collection or delivery as a matter of priority.

17.51 Accounting books and records – recording details

Where accounting records are delivered up at an interview a receipt must always be issued¹. The schedule of records handed over in the proceedings at the back of the PIQ should be completed in every case where there is a possibility of further investigation. The Accounting records schedule² may be completed during the

interview if there is sufficient time to do so and it is desirable to do so if there are matters of apparent misconduct for further investigation.

Details of the allocation of responsibility for the drawing up and maintenance of the company's records should be established in every case and recorded in the additional questions form, narrative statement or accounting records schedule.

For more information on the procedure for dealing with company records, see chapter 16.

1. BPRCT

2. ARS

Provision of copies of statements and PIQ

17.52 Provision of copy of statements and PIQ to interviewee

One copy of the completed PIQ and any additional statements taken should be provided free of charge to the interviewee on request. If the interviewee requires further copies they should be encouraged to make them from the copy provided, but if this is not possible the official receiver can provide further copies at a charge of 15 pence per A4 or A5 sheet and 30 pence per A3 sheet. Any monies received in respect of this should be allocated to the general account, and not the estate account.

17.53 Provision of copy of statements and PIQ to liquidator/trustee

The Rules¹ require the official receiver, on handing over the estate to an insolvency practitioner, to supply to that person such information as they reasonably require as liquidator or trustee for the effective discharge of their duties.

In every case where an insolvency practitioner is appointed as liquidator or trustee the official receiver must consider, based on the facts of the case, whether or not the information in the PIQ and any narrative statement taken is reasonably required by the liquidator or trustee. The official receiver should also bear in mind that as the insolvency practitioner could, in any event, obtain the relevant information from the

company officer or bankrupt through other means at their disposal, it would be an unusual case in which the PIQ and initial statements obtained at the early stages of a case contain information that is not reasonably required by the insolvency practitioner. These documents also contain information which could lead the insolvency practitioner to consider whether a claim lies against a third party.

1. Rule 10.75

17.54 Informing company officer or bankrupt that statement/PIQ will be passed to liquidator/trustee

The company officer or bankrupt is informed in the PIQ that it will be disclosed to any liquidator or trustee subsequently appointed. The following paragraph appears below the interviewee's signature box:

"If an insolvency practitioner is appointed as liquidator/trustee of your estate in place of the official receiver, the liquidator/trustee will have separate powers to require you to provide information. However, a copy of this completed questionnaire will be given to any such practitioner and this should reduce considerably their need to contact you again for information."

A similar paragraph should be added to any narrative statement taken.

17.55 Copies of PIQ and statements can be provided to liquidator trustee if guidance followed

Copies of PIQs and statements should therefore be supplied to insolvency practitioners on handover, provided that the matter has been duly considered, a note to that effect is made on the case file and the above paragraph has been included in any statement taken. If it has not the interviewee should be informed prior to handover that a copy of the statement will be provided to the insolvency practitioner. The official receiver must avoid possible criticism (perhaps at a later date) that proper consideration has not been given as to whether or not material should have been passed to the insolvency practitioner.

Where statements are obtained after a handover has taken place the same consideration should be given to them and the interviewee notified that they will be handed over to an insolvency practitioner, either as part of the statement or separately. If considered appropriate copies should be supplied to the insolvency practitioner and this should be recorded as a note on the case file. If a statement

contains information relating solely to further investigation matters it might not contain information of use to an insolvency practitioner in carrying out their duties. However, if the further investigation relates to the whereabouts or non disclosure of an asset it would be likely to contain such information.

17.56 Disclosure of PIQ or statements to other parties

If a party purporting to represent the insolvent (other than a properly appointed liquidator/trustee) requests a copy of the PIQ or statements given they should be instructed to obtain them from the interviewee.

Where a request is made for the disclosure of statements by another investigation authority, e.g. the police or HM Revenue and Customs, the official receiver may release copies of the statements given, provided that the official receiver is satisfied that the statements are required by the investigating authority requesting them for the purpose of investigating crime. Such disclosure may be made without a court order and without notice to the person who provided the statement¹.

See also chapter 22 generally regarding disclosure.

1. R v Brady 2005 1 Cr App. R.5