

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.

1. The Official Receiver

Powers, duties and functions of the Official Receiver including situations where those powers are limited by law or by internal operational rules.

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Frequently asked questions - Changes to requirements for sanction and permission

What do I need to know to understand these changes?

The Act provides a list of the acts that an official receiver, as liquidator or trustee, can carry out when dealing with an insolvent's affairs. This list includes almost everything that an official receiver could need to do.

So, what has changed?

The list was divided into two sections – one part being things that the liquidator or trustee could do only with sanction (permission) of the Secretary of State and the other part being of things they would not need sanction to do.

The law has changed to remove the requirement to obtain sanction for all acts in the list. Many of the activities are common and routine functions and, in the interests of deregulation, it was decided that the control put in place by the sanction process was excessive.

So, an official receiver can now act freely, without the need to seek sanction?

Unfortunately, it is not quite as simple as that. There are a very small number of activities that an official receiver might want to carry out that are not in the list. They are elsewhere in the Act. Some of those things continue to require sanction before they can be carried out.

What are those things?

The things that still require sanction are:

- Dividing unsaleable property between creditors
- Paying expenses between partnership estates, and
- Calling on shareholders to pay for unpaid shares.

So, apart from those three minor areas, the official receiver has full discretion to act without seeking sanction.

Yes, that is right, and the removal of the requirement to seek sanction has afforded the opportunity to relax other, internal, controls on the activities of the official receiver.

In what ways have the internal controls on the official receiver been relaxed?

There were many parts of the Technical Manual which told official receivers that they needed permission of the Senior Official Receiver's Office (the former Technical Section) before carrying out certain acts. These have all been reviewed and the vast majority of requirements to seek permission have been removed.

For which activities does the official receiver still need the permission of the Senior Official Receiver's Office?

It has been decided that the requirement to seek permission will remain only in respect of those activities where real harm might be done if they were to go wrong. These activities are:

- Bringing or defending legal proceedings where no suitable costs protection is in place,
- Continuing the trading of an insolvent's business, and
- Further spending of more than £2,500 when the estate account is in a debit position.

The official receiver is free to carry out all the other activities that were formerly controlled?

An official receiver is free to exercise their discretion in this way, but they must be able to show a demonstrable benefit to the estate in acting, and all relevant facts and decision making processes must be recorded on the relevant ISCIS Note.

Why have these internal controls been relaxed in this way?

The idea behind these changes is to follow the legislative relaxation of control brought by the removal of the sanction process and to recognise and enhance the discretionary powers of official receivers.

How do I apply for sanction or permission?

Although sanction is a legislative requirement and permission is an operational requirement, they are so similar that it made sense to combine the processes into one easy procedure.

In summary, the procedure is to make an application to the Senior Official Receiver's Office telling that Team why the anticipated action is considered to be the best thing to do. This **flowchart** tells you how to do this.

Introduction

1.1 History

The office of official receiver was created by the Bankruptcy Act 1883, which also commissioned the then Board of Trade with the supervision of bankruptcy. The objective was to impose greater official control over bankruptcy proceedings generally, and over investigations in particular. The official receiver's role was extended to compulsory liquidations by the Companies Act 1890, and is today largely set out in the Insolvency Act 1986. Originally, official receivers were a mixture of salaried officers and fee paid local solicitors. Since the 1950s all official receivers have been salaried, and are now appointed from The Insolvency Service (The Service). The Insolvency Service is an executive agency within the Department of Business, Energy and Industrial Strategy.

Status and responsibility

1.2 Status and functions

Official receivers are appointed, removed and act under the general direction of the Secretary of State for BEIS. On appointment the official receiver becomes a statutory office holder but is also a civil servant employed by The Service.¹

The official receiver's duties as a statutory office holder are largely set out in the Insolvency Act 1986. They may have additional functions conferred on them by the Secretary of State. On an operational level the official receiver complies with any directions, instructions and guidance issued by The Insolvency Service.

The official receiver's primary function is to administer and investigate the affairs of companies and partnerships wound up by the court and of bankrupts. They will act as liquidator of a company or trustee of a bankrupt's estate if an insolvency practitioner is not appointed and as liquidator/trustee ex officio if there is a vacancy in that office. The official receiver remains under a duty to investigate when an insolvency practitioner has been appointed as liquidator or trustee.

1. Sections 399 and 401(4)

1.3 Licensed Insolvency Practitioners

The Insolvency Act 1986 introduced the concept of licensed insolvency practitioners. The official receiver does not have to be licensed to act as an insolvency practitioner.¹

1. Section 388(5)

1.4 Assistant and Deputy Official Receivers

An assistant/deputy official receiver assists or deputises for an official receiver, and may act as liquidator or trustee. The Secretary of State appoints deputy official receivers from The Insolvency Service.¹ One official receiver may be appointed deputy for another if it means a case will be more conveniently administered in that way.

1. Section 401

1.5 Persons acting for the official receiver

The official receiver is not expected to carry out all of their duties personally, and at times will authorise members of their staff to act in their place. Where the nominee is not another official receiver or a deputy official receiver, the authorisation must be in writing (which can include electronic form). The Secretary of State may similarly authorise staff, for example where the official receiver is for some reason not physically able to do so. The nominee needs the court's prior permission to act in any public or private examination or court application. Preferably, though not necessarily, permission to act should be obtained in good time before any proceedings.¹

1. Rules 13.2 and 15.21(1) and sections 133, 236, 290 or 366

1.6 Appointment

Official receivers may be appointed and removed from office by the Secretary of State, who is responsible for their terms and conditions of employment.

An official receiver may not profit from their appointment, and all fees payable to them for work done are paid to the Secretary of State.¹

Each official receiver is attached to either the High Court (in London or a District Registry) or to the County Court. Official receivers are all appointed by the Secretary

of State to the County Court and attend court regarding cases associated with the County Court hearing centres located in the area covered by their office.

1. Section 399

1.7 Secretary of State's general directions

The official receiver acts under the general guidance of the Secretary of State. The Insolvency Service acts as the Secretary of State's representative in this respect.

1.8 Advice to Official Receivers

Advice and guidance is generally available to the official receiver from:

- The Senior Official Receiver's Team , on specific casework issues
- Policy Unit, on general policy and legislative matters
- Investigation and Enforcement Directorate, on criminal and civil disqualification cases

The official receiver, as a statutory office holder, has discretion on how to carry out their functions and how to manage the insolvency estate.

Powers to act and seeking permission to act

1.9 Powers to act - general

The powers of the official receiver to act as liquidator or trustee arise from the Insolvency Act 1986.

1.10 Acts in relation to which permission to act is required

The requirement to seek permission of the Senior Official Receiver's Office is limited to those areas where real harm might be caused were the matter to go 'wrong'.

The permission of the Senior Official Receiver's Office is therefore required before the official receiver can carry out the following acts:

- bringing or defending legal proceedings where there is a risk of adverse costs. Where proceedings are conducted under a valid conditional fee agreement which indemnifies the official receiver no permission would be required

- continuing the trading of the insolvent's business
- to incur/increase a debit balance by over £2,500. Spending a credit balance is at the discretion of the official receiver, whatever the amount

1.11 Acts in relation to which legislative sanction is required

The following acts require the sanction of the Secretary of State before they can be undertaken:

- the division amongst creditors of unsalable property
- making calls on contributories (see guidance on Sundry Assets and guidance on Unregistered Companies)
- payment of expenses in relation to partnership cases

1.12 Incurring or increasing a debit balance

Where the estate is in a debit position, an official receiver must seek the permission of the Senior Official Receiver's Office before they make a payment in excess of £2,500. The permission of Senior Official Receiver's Office is not required however to make a payment from the estate of £2,500 or less, even if the estate is in a debit position. If the estate is in a credit position, an official receiver has full discretion to utilise the credit funds, as necessary, provided that there is a demonstrable benefit to the estate in doing so and all relevant decisions and facts are recorded on ISCIS in the relevant Note.

1.13 The giving of sanction to official receivers

Where the official receiver is liquidator or trustee, the Act provides that the function of giving of legislative sanction is vested in the Secretary of State. For the purpose of giving sanction to the official receiver, the role of the Secretary of State is carried out by the Senior Official Receiver's Office.

1.14 Applications for permission or legislative sanction

Applications for permission and legislative sanction from the Senior Official Receiver's Office are made following the same process, which is to complete the form attached at [Annex 1](#) to this chapter. The form should be completed electronically and e-mailed to the Senior Official Receiver's Office inbox (ORS Advice). All relevant questions in the form should be answered as fully as possible to

allow the application to be considered and dealt with as quickly as possible. Where an act is required to be carried out urgently, and there is insufficient time to complete the written application, staff in the Senior Official Receiver's Office can give verbal permission or legislative sanction in principle, but this must be followed up by a written application, as above, at the earliest opportunity.

1.15 Response to application for permission or legislative sanction

Assuming that Senior Official Receiver's Office is satisfied that sanction should be given, it will be given in writing, in the format attached to this guidance as [Annex 2](#), and e-mailed to the person making the application.

1.16 Consequence of failure to seek legislative sanction

The consequence of failing to obtain legislative sanction where it is needed is that the official receiver will not be able to recover from the estate their costs in carrying out the action. Any act carried out by the official receiver, as liquidator or trustee, without having obtained sanction (where required) is still valid.

1.17 Application for permission or legislative sanction not to be made retrospectively

The application for permission or legislative sanction should be made prior to the act for which permission or legislative sanction is required and, certainly, no later than the time at which the action is carried out – and only then in circumstances where staff in the Senior Official Receiver's Office cannot be contacted by telephone to agree permission or legislative sanction 'in principle'.

Duties and functions of the Official Receiver

1.18 Casework

The official receiver in performing their administrative duties needs to consider the Official Receiver's Casework Process Standard.

In accordance with *ex parte James* [1874] LR 9CH 609 the official receiver is under a duty to be fair, principled, and honourable.

1.19 Accountability

The official receiver is accountable to the court as an officer of the court and as a statutory office holder they are responsible to the creditors, contributories or the bankrupt for the administration of the estate.

In practice these roles rarely conflict but if in a particular case the official receiver had a duty or interest as liquidator or trustee which ran against the interest of BEIS, their duty as liquidator or trustee would prevail.

1.20 Judicial Review

The judicial review procedure is a means by which the courts can supervise how ministers and Government Departments or other public bodies exercise their powers and carry out their duties. In carrying out their administrative functions the official receiver exercises discretion whether to act, to act in a particular way or not to act at all. It is this discretion that may be challenged by the party affected, by way of application for judicial review.

Where the official receiver acts as an officer of the court they are not subject to judicial review because they act under the supervision of the court to which they are attached, and any complainant therefore has a remedy available to them through application to the court.

1.21 Maintaining standards

The official receiver and their staff follow the principles set out in the Civil Service Code and should conduct themselves with honesty and integrity. They should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not accept benefits of any kind from any party which might reasonably be seen to compromise their personal judgement or integrity.

1.22 The complaints procedure

The Insolvency Service is committed to providing a professional, efficient, courteous and helpful service to its users - whether they are creditors, insolvency practitioners, bankrupts, directors, or anyone with whom it has dealt. The Insolvency Service operates a complaints procedure where a user is dissatisfied with the service

provided. Any complaint against the official receiver or their staff is dealt with under this procedure.

Full details of the [complaints procedure](#)

1.23 Supply of information

An official receiver should, where appropriate, tell the people with whom they deal about their general rights and responsibilities, and let them know where they may obtain further information or advice. The official receiver should not attempt to provide legal or other advice or allow an inordinate amount of time to be spent in assisting an individual when it is clear that advice is available elsewhere e.g. from the local CAB.

The official receiver should ensure that any information given is accurate.

1.24 Inspection of Court file

The official receiver and their staff are entitled to inspect the court's files on insolvency proceedings. The court on request will forward any file, unless it is currently in use at the court. The information required should be extracted, and material photocopied if necessary, and the file returned to court as quickly as practicable. No papers should be removed from the court file. Particular care should be taken to ensure that the file is returned intact, with all of its contents in their original order and condition.

1.25 Court Directions

The official receiver may apply to the court for directions when they are uncertain how to proceed or wants the court's approval for a particular course of action

1.26 Right of audience

Official receivers and deputy official receivers have a right of audience in the High Court and the County Court in all insolvency proceedings. That includes all hearings, whether in private or public, regardless of whether or not the official receiver is a party to the application. The official receiver should inform the court of any relevant information which may have a bearing on a particular application, or on a case in general, although they will normally only attend court:-

- on their own applications
- where they have been made a party to, or given notice of, an application
- at the court's request¹

1. Rule 13.1(2)

1.27 Reports to Court

Instead of filing witness statements, the official receiver, as an officer of the court, may submit evidence to the court in the form of a report. Considerable care should be taken over the accuracy of a report, the contents of which are treated as prima facie evidence, and the official receiver should clearly identify any opinions expressed.¹

1. Rule 12.28

1.28 Liability for costs and expenses

Various provisions in the Act and Insolvency Rules (e.g. on public examinations) specify that the official receiver is not to be personally liable for costs. If the official receiver is made a party to any proceedings on the application of another, they will not be liable for costs unless the court so directs. Any expenses, including damages incurred by the official receiver (acting in whatever capacity) in proceedings taken against them, are treated as expenses of the insolvency, and are chargeable to the estate.¹

1. Rule 12.47

1.29 Duty on making of winding up order

On the making of a winding-up order, the official receiver's has a duty to investigate the causes of the failure and identify the reasons for it. The official receiver will also carry out the functions of liquidator if so appointed. They should also consider the conduct of the directors, partners or others who have taken part in the management of the company/partnership, and report any suspected unfitness to the Secretary of State.¹

1. Section 132 and Company Director Disqualification Act 1986

1.30 Duty on making of bankruptcy order

On the making of a bankruptcy order, the official receiver' has a duty to investigate the conduct and affairs of the bankrupt, and report as they think fit to the court. The official receiver will also carry out the functions of the trustee if so appointed. In cases where bankruptcy orders are made against individual partners in conjunction with an order against the partnership, the official receiver will be appointed trustee on the making of the order.¹

1. Section 289

1.31 Duty to report to creditors

The official receiver has a duty to send to the creditors and contributories of a company and to the creditors of a bankrupt at least one report on the insolvency proceedings and the state of the company's or bankrupt's affairs. A copy of the report must be sent to the liquidator or trustee, if this is not the official receiver.

1.32 Liquidation committee

Where the official receiver is liquidator, a liquidation committee is not required or able to act, and its functions vest in the Secretary of State. Where the Secretary of State is required to carry out the functions of a liquidation committee delegated authority to exercise the committee's functions is held by the Senior Official Receiver's Office.¹

1. Rules 7.48 and 10.66

1.33 Creditors' committee

A general meeting of creditors may not establish a creditors' committee when the official receiver is trustee of the bankrupt's estate (except in connection with an appointment of an insolvency practitioner at that meeting). When the official receiver is trustee, a creditors' committee is not required or able to act and its functions are vested in the Secretary of State.¹ Where the Secretary of State is required to carry out the functions of a creditors' committee delegated authority to exercise the committee's functions is held by the Senior Official Receiver's Office.

1. Sections 141(4), 301(2) and 302(1) and rule 17.28

Role in investigation, disqualification and prosecution

1.34 Duty to investigate (companies)

The official receiver has a duty to investigate the affairs and causes of failure of a company, and the conduct of the directors or others concerned in the management of the company. The duty to investigate is imposed in the public interest, but is not owed to any particular person or category of persons, e.g. creditors. Section 132 does not prescribe the nature of the investigation to be carried out.

The official receiver has wide-ranging statutory powers to obtain information, material, and explanations, including the power to examine people in court.¹

1. Section 132

1.35 Duty to investigate (bankruptcies)

When a bankruptcy order is made, the official receiver has a duty to investigate the conduct and financial affairs of the bankrupt for the period leading up to their bankruptcy, in order to establish the causes of the bankrupt's failure. This may involve inquiries into the bankrupt's affairs over a number of years, but the official receiver will concentrate mainly on the period immediately before and after the bankrupt became insolvent.

The duty to investigate is imposed in the public interest but is not owed to any particular person or category of persons e.g. creditors. Section 289 does not prescribe the nature of the investigation to be carried out.

The official receiver has wide ranging statutory powers to obtain information, material and explanations including the power to examine people in court.¹

1. Section 289

1.36 Powers of inquiry

The official receiver has wide powers of inquiry. Company officers, partners and bankrupts are obliged to attend any requisite meetings and supply information, and they may, if it proves necessary, be publicly examined in court.

The official receiver also has the power to apply to the court for the private examination in court, of

- any officer of a liquidating company/partnership
- any person holding property of the company/partnership
- any debtor of the company/partnership
- any person who may be capable of giving information concerning the company/partnership¹

1. Sections 399 and 401(4)

At any time after the bankruptcy order has been made, the official receiver may apply to the court for the private examination in court, of

- the bankrupt or the bankrupt's spouse or former spouse or civil partner or former civil partner
- any person known or believed to have any property of the bankrupt
- any debtor of the bankrupt

- any person capable of giving information concerning the bankrupt or the bankrupt's affairs¹

1. Section 366

1.37 Use of powers of inquiry

The official receiver should rely initially on voluntary co-operation and goodwill during their investigation, and only invoke the court's powers of inquiry when necessary. If the official receiver, as liquidator or trustee, applies for an examination their costs are payable out of the estate unless the court orders otherwise. Where the official receiver applies in some other capacity, no costs order may be made against them.¹

1. Rule 12.22

1.38 Right of audience [Practice Direction: Directors Disqualification Proceedings]

Official receivers and deputy official receivers have rights of audience in any proceedings to which the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 apply, whether the application is made by the Secretary of State or by the official receiver at their direction, and regardless of whether the application is made in the High Court or the County Court.¹

1. Rule 13.1(2)

1.39 Practice Direction: Directors Disqualification Proceedings

Evidence in disqualification proceedings is by statement of truth, except where the official receiver is the applicant, in which case their evidence may be in the form of a report (with or without supporting statements of truth/witness statements by others). A report is treated as prima facie evidence of its contents. The official receiver can only file a report where they are the applicant. Where the Secretary of State is the applicant, or in a case where the company has been dissolved or where the report is being made in an Insolvency Practitioner's case, the evidence must be by statement of truth.

Official Receiver as liquidator

1.40 Acting as provisional liquidator

The official receiver may be appointed as provisional liquidator at any time following the presentation of a winding-up petition. The basic function of the official receiver in such circumstances is to protect property and take control of the company's affairs pending the hearing of the winding-up petition. The official receiver is entitled to be paid for their services as provisional liquidator at an hourly rate.

1.41 Receivership

The court has power to appoint the official receiver as receiver on behalf of debenture holders, but this power is rarely exercised. The official receiver should contact the Senior Official Receiver Office if such an order is made.¹

1. Section 32

1.42 Acting as liquidator

When a winding-up order is made the official receiver becomes liquidator unless and until an insolvency practitioner is appointed in their place. The exception to this is where the court has appointed a former administrator, or supervisor under a voluntary arrangement, as liquidator at the time of the winding up. The official receiver retains their duty to:

- investigate
- report to creditors
- report on the company officers' conduct

The official receiver's functions as liquidator include identifying, collecting, securing and distributing the assets of the company.¹

1. Section 140(3)

1.43 Functions as liquidator

As a liquidator of a company, the official receiver's general functions are to secure the assets, realise them and distribute the proceeds to the company's creditors, and, if there is a surplus, to the persons entitled to it (normally the contributories).

While they are liquidator, the official receiver is liable for their actions on the same basis as an insolvency practitioner. For instance, if they wrongfully interfere with property which does not belong to the company, by seizing or disposing of it, the lawful owner may sue them to establish a right to return of the property or to the proceeds of sale.¹

1. Sections 143(1), 234(3) and (4)

1.44 Duty of Care

There is no strict duty on the official receiver to protect property which does not form part of the estate. A duty of care may arise in respect of such property if the official receiver could be considered a bailee of the property.

1.45 Liability as liquidator

When performing the duties of liquidator, the official receiver is an office holder, the same as any insolvency practitioner, and consequently they are personally liable for their actions. Consequently, section 212 will apply to the official receiver while acting as liquidator, and an application may be made against them under that section.

Any creditor or contributory may apply to the court with regard to any of the powers used by a liquidator. The court is reluctant to interfere in the liquidator's exercise of the powers conferred on them, and will only do so if a decision was taken in bad faith or was so perverse that no liquidator properly advised could have taken it (*Hamilton v Official Receiver* [1998] BPIR 602).

The effect of the release of a liquidator is to discharge all liabilities in respect of acts or omissions in the administration of the estate. Any action subsequently brought under section 212 requires the permission of the court.¹

1. Sections 167(2), (5) and 174

1.46 Fees

The fees payable to the official receiver for acting as liquidator are governed by the Insolvency Proceedings (Fees) Order 2016 and Regulation 35 of the Insolvency Regulations 1994. The official receiver cannot use BEIS funds for administering cases, e.g. obtaining legal advice, except by direction of the Secretary of State (in practice, the Senior Official Receiver's Office).

1.47 Death of an Official Receiver

If an official receiver dies in post, or otherwise ceases to hold office, or is succeeded, any property vested in them, as office-holder, shall vest in their successor without any conveyance, assignment or transfer.¹

1. Section 400(3)

1.48 Vacancy in office (OR as liquidator (Ex Officio))

When a practitioner vacates office as liquidator in a court winding up, the official receiver becomes liquidator ex officio, i.e. by virtue of their office. Normally at that stage the realisable assets will have been dealt with. Any assets becoming available or coming to light after the dissolution of a company, are “bona vacantia” and effectively pass to the Crown. If necessary, a company can be restored to the register so that assets can be claimed for the benefit of creditors.¹

1. Sections 136(3) and 137 and section 1029 Companies Act 2006

1.49 Partnerships Generally

The law on the winding up of insolvent partnerships is contained in the Insolvent Partnerships Order 1994 (IPO) which adapts the provisions of the Insolvency Act 1986 to suit the special circumstances of partnership cases. Generally, a partnership is wound up as an unregistered company as set out in Part V of the Act.

There is an important difference where a winding-up order is made against an insolvent partnership, (as an unregistered company), and concurrent petitions are presented against one or more of the insolvent partners. On the making of a bankruptcy order against an individual partner, the official receiver is appointed trustee in bankruptcy of the individual's estate. The court may order the consolidation of partners' individual insolvency proceedings under section 303(2B), and/or make an order or give directions under section 303(2C) on the administration of the individual and partnership estates.¹

There is another way of dealing with partnership property where individual partners have been bankrupted and no petition has been presented against the partnership. The Court may make a section 303(2A) order enabling the official receiver, as trustee, to exercise the powers conferred by Schedule 4 to the IPO over the partnership assets. The official receiver (or an insolvency practitioner appointed instead of them, would effectively have access to the partnership assets without a petition being presented against the partnership.

1. Section 303 Insolvent Partnerships Order 1994

Duty and functions as interim receiver and trustee

1.50 Interim receiver

The official receiver may be appointed by the court as interim receiver at any time after the presentation of a bankruptcy petition. In such cases their basic function is to protect the debtor's property pending the hearing of the petition.

1.51 Acting as Trustee

The official receiver becomes trustee of the bankrupt's estate on the making of a bankruptcy order (excepting cases in which the court appoints an insolvency practitioner as trustee)

The official receiver will become trustee if there is a vacancy in the office of trustee.

The bankrupt's estate vests in the official receiver immediately on them becoming trustee, without any conveyance, assignment or transfer.¹

1. Sections 293(3), 295(4), 300(2) and 306

1.52 Function as Trustee

The powers and duties of the official receiver as trustee are mainly set out in Chapter IV of Part IX of, and Schedule 5 to, the Act. They should arrange for the sale of any assets and distribution of the proceeds to the creditors. The official receiver as trustee should take appropriate action to identify and recover the bankrupt's assets.

While acting as trustee, the official receiver is liable for their actions on the same basis as an insolvency practitioner.¹

1. Section 287(4)

1.53 Duty of Care

The official receiver is under no strict duty to protect property which does not form part of the estate e.g. third party goods. A duty of care may arise where the official receiver could be considered a bailee of the property.

1.54 Liability of Official Receivers

As trustee, the official receiver is an office-holder, and an application may be made against them under section 303 or 304. Section 303 permits application to be made to the court by a bankrupt, their creditors or any other person who is dissatisfied by any act, omission or decision of a trustee of the bankrupt's estate. The courts are reluctant to interfere where a trustee has exercised their powers in good faith. The effect of a release as trustee is to discharge all liabilities in respect of acts or omissions in the administration of the estate. Any action subsequently brought under section 304 requires the permission of the court.¹

1.55 Fees

The fees payable to the official receiver acting as trustee are governed by the Insolvency Proceedings (Fees) Order 2016 and Regulation 35 of the Insolvency Regulations 1994.

The official receiver cannot use BEIS funds for the benefit of an estate e.g. obtaining legal advice, except where this has been authorised by the Secretary of State, (in practice the Senior Official Receiver Team)

1.56 Release of Insolvency Practitioner as Trustee

When it appears to an insolvency practitioner trustee that the administration of the bankrupt's estate is complete, they have a duty to summon a final meeting of creditors. The trustee must give 28 days' notice of their intention to vacate office to the official receiver, together with notice of any creditors' meeting. If there is no resolution against the trustee's release, it has effect from the date that notice of the final meeting is filed at court. The official receiver then becomes trustee ex officio, i.e. by virtue of their office.¹

1. Rule 10.87

1.57 Duty as ex-officio Trustee

When the official receiver becomes trustee ex officio, they are from then on responsible for dealing with any post-release enquiries. Although normally by that stage any realisable assets would have already been dealt with, there may be assets which subsequently come to light or acquire a realisable value.¹

1. Section 300(1) and (2)