

Bankruptcy and insolvency

This Information note is intended to detail CIAT's policy on members becoming bankrupt or insolvent in relation to the Institute's current constitution.

Responsibilities under the Code:

Clause 9: Bankruptcy and Insolvency

A member shall report to the Institute within 28 days, 35 days if resident overseas, if they are:

- a) made the subject of an order of court disqualifying them from acting as a company director; or
- b) made the subject of a bankruptcy order; or
- c) a director of a company which is wound up (other than for amalgamation or reconstruction purposes).

If you are the subject of a bankruptcy order or become insolvent you are required to advise the Institute in writing within 28-days, 35-days if the member is a resident overseas, detailing the circumstances with any supporting documentation as appropriate.

If you are declared bankrupt, or you are a director or LLP member of an insolvent company or practice, this will not automatically lead to disciplinary action or permanent cessation of membership, although it is likely that you will not be permitted to be a director or LLP member until the terms of your bankruptcy have been discharged.

The Institute will however require information on the circumstances surrounding your financial situation, for example, its impact on your clients and creditors and how the financial problems arose. If your practice has been placed into liquidation, we may ask for the Company's Statement of Affairs. It is only when our investigations suggest there may have been a wilful disregard by a member of their responsibilities, or a lack of integrity in line with the Institute's *Code of Conduct* Clause 1: Professional Conduct, that the case may fall within the *Conduct and Disciplinary Procedures*; you would be notified formally in writing as per the Procedures.

Clause 1: Professional Conduct

The members shall at all times:

- a) act with integrity so as to uphold the standing and reputation of the Institute;
- b) act faithfully and honourably in their professional responsibilities;
- c) rely only on merit or fair competition to secure commissions and appointments;

- d) not seek directly or indirectly to injure the professional reputation of another;
- e) not knowingly misrepresent the views of the Institute;
- f) not knowingly misrepresent their professional qualification;
- g) describe themselves factually and/or in good faith.

Members should never lose sight of the absolute obligation on them to behave in a professional manner and use their best endeavours to comply with Clause 1 and act professionally at all times.

Should any member be the subject of unfortunate circumstances leading to the closure of their practices, they must also consider the impact that this may have on existing clients, or clients that may rely on their professional integrity for the latent defects or liability period. The Institute expects full and honest disclosure and communication from such members and for them to extend this courtesy to clients who are reliant on them and their professionalism.

Professional indemnity insurance in bankruptcy

The availability of ongoing or run-off PII cover (where the practices has ceased) may vary according to the particular situation. Members should take advice from their insurance broker, provider, or an insolvency practitioner, on any steps that can be taken to continue PII. It is advised that this advice be given to the member in writing and retained for future reference.

CIAT Insurance Services state that the issue is whether the premium has been paid, rather than whether or not the existing policy-holder has been declared bankrupt.

If the member has paid the premium, the policy will remain in force until it expires. Thereafter CIAT Insurance Services would recommend run-off cover when it comes up for renewal should the member be unable to continue to practice; this is the standard procedure for any member who ceases to provide a service.

Should CIAT Insurance Services be approached to provide cover for a member who has been declared bankrupt, the process would operate in the usual way. However, the only possible issue might be with obtaining premium finance should the member wish to pay by instalments, and CIAT Insurance Services would require payment in advance or the individual would need to make arrangements for their own finance of the premium.

Insurers may ask for reasons of the bankruptcy, but this should not affect any provision of cover offered unless the reason for such bankruptcy has emanated from a fraudulent or dishonest act. Should you be covered with another insurance provider, you should check their terms and policy requirements.

General advice for those in financial difficulties

Help and advice is available from a number of sources. Seeking help at an early stage is both constructive and beneficial, and ensures that the range of options available can be fully explored. The Insolvency Service (gov.uk/government/organisations/insolvency-service) provides general guidance, and we would also encourage members to seek professional advice from their accountant, Citizens' Advice Bureau or bank before deciding on the most appropriate way forward. Further information on specific issues such as director disqualification or liquidation of companies can be found on the Government websites: gov.uk/company-director-disqualification and gov.uk/liquidate-your-company/what-happens-to-directors

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