

DIFFERING ROLES OF THE INSOLVENCY PRACTITIONER FOLLOWING INSTRUCTIONS TO ASSIST WITH AN IVA/CVA

After accepting instruction to assist you/the Company with an IVA/CVA proposal, the role undertaken by the Insolvency Practitioner will be split. Following instruction, he/she becomes the “nominee”. If the creditors accept the proposal, the Insolvency Practitioner then becomes the “supervisor” of the arrangement.

At all times the Insolvency Practitioner must maintain independence.

The differing roles are as follows:-

Nominee

As Nominee the Insolvency Practitioner, has to:-

- Perform an independent, objective review and assessment of the proposal.
- Ensure that the proposal is in the best interest of the company/debtor and creditors.
- Maintain independence and objectivity irrespective of his/her involvement in drafting the proposal.
- Report his/her opinion to the court. If it is thought that the proposal is not “fit” this must be stated.

As debtor/director, you must be aware that the duties of the nominee cannot be fettered by any instructions from you/the directors, or any third party.

The nominees work will include:-

- Assisting with the drafting of the proposal.
- Assisting with any court applications to commence the IVA process.
- Liaison with creditors.
- Calling and holding a creditors meeting (and also a members meeting in a CVA).

Supervisor

Should the proposal be approved by creditors, the Insolvency Practitioner becomes “supervisor” of the arrangement.

The Supervisor’s duties are laid out in the proposal and so will be in the main governed by the terms within it. He/she will still have responsibilities to the court and creditors.



The Supervisor's duties will include:-

- Reporting the result of the creditors meeting to you/the Company, creditors and the court, (also the Registrar of Companies in a CVA).
- Preparation and issue of an annual report to the above.
- Ensuring that the terms outlined in the proposal are adhered to.
- The issuing of a bankruptcy petition against you (or a winding up petition against the Company in a CVA), should the terms in the proposal not be adhered to.

