



INSOLVENCY GUIDANCE NOTE GUERNSEY INSOLVENCY PRACTICE STATEMENT 1:

AN INTRODUCTION TO GUERNSEY INSOLVENCY PRACTICE STATEMENTS

INTRODUCTION

1. This Guernsey Insolvency Practice Statement (GIPS) is one of a series of guidance notes issued to 'insolvency practitioners'¹ ("Practitioners"), by the Association of Restructuring and Insolvency Experts (ARIES), the Channel Islands professional body for those practising or interested in restructuring and insolvency. GIPSs are issued to Practitioners with a view to maintaining standards by setting out basic principles and best practice procedures in order to harmonise Practitioners' approach to particular aspects of insolvency.
2. GIPS 1 applies to all Guernsey processes, both solvent and insolvent, including:
 - a) Administration under Part XXI of The Companies (Guernsey) Law, 2008 ("the Law");
 - b) Solvent voluntary winding up under Part XXII of the Law;
 - c) Insolvent voluntary winding up under Part XXII of the Law;
 - d) Insolvent compulsory winding up under part XXIII of the Law;
 - e) Insolvent winding up of an incorporated cell company under part XXVIII of the Law; and,
 - f) Administration under Part I of The Protection of Investors (Administration and Intervention) (Bailiwick of Guernsey) Ordinance, 2008.
3. For the purpose of GIPS 1, references to 'company' may also apply to other entities including an incorporated cell company.
4. GIPS 1 is based upon Statement of Insolvency Practice (SIP) 1 'an introduction to Statements of Insolvency Practice', which applies in England and Wales from 1 October 2015.
5. GIPSs should not be relied upon as definitive statements of the Law. No liability attaches to ARIES or to any body or person involved in the preparation or promulgation of GIPSs.

REGULATORY STATUS

6. GIPS are a voluntary industry initiative issued by ARIES and set best practice principles and key compliance standards with which Practitioners are encouraged to comply.
7. Practitioners should follow the GIPS wherever possible and practical.

¹ Such persons undertaking the appointment of liquidator, administrator or administration manager of an entity in Guernsey

8. **GIPS set out best practice, but they are not statements of the law. Where a Practitioner is in doubt about any of the requirements contained in the GIPS, they should obtain appropriate guidance from their professional body.**
9. **No liability attaches to any body or person that prepares, issues or distributes GIPS. The decision whether to comply with GIPS rests solely upon the Practitioner.**

PURPOSE AND PRINCIPLES

10. The purpose of GIPSs is to promote and maintain high standards by setting out best-practice and harmonising the approach of Practitioners to particular aspects of insolvency practice. They apply in parallel to the prevailing statutory framework.
11. GIPS should be read in conjunction with the wider fundamental ethical principles and should be applied in accordance with the spirit of these principles. A literal interpretation of a GIPS may not be appropriate where it would be contrary to the fundamental ethical principles.
12. The fundamental ethical principles are:

Integrity

13. A Practitioner should be straightforward and honest in all professional and business relationships.

Objectivity

14. A Practitioner should not allow bias, conflict of interest or undue influence of others to override professional or business judgements.

Professional competence and due care

15. A Practitioner has a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques. A Practitioner should act diligently and in accordance with applicable technical and professional standards when providing professional services.

Confidentiality

16. A Practitioner should respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships should not be used for the personal advantage of the Practitioner or third parties.

Professional behaviour

17. A Practitioner should comply with relevant laws and regulations and should avoid any action that discredits the profession. Practitioners should conduct themselves with courtesy and consideration towards all with whom they come into contact when performing their work.

18. A Practitioner who becomes aware of any Practitioner who they consider is not complying or who has not complied with the relevant laws and regulations and whose actions discredit the profession, should report that Practitioner to that Practitioner's recognised professional body (if applicable).
19. In addition, Practitioners should ensure that their acts, dealings and decision making processes are transparent, understandable and readily identifiable, where to do so does not conflict with any legal or professional obligation.

Effective Date: May 3rd 2017