

Parliamentary Joint Committee on Corporations and Financial Services

Inquiry into Corporate Insolvency in Australia

ANSWERS TO QUESTIONS ON NOTICE

Australian Taxation Office

January 2023

Agency: Australian Taxation Office
Question No:
Topic: Internal training on insolvency law
Reference: Spoken (13 December 2022)
Senator/MP: Paul Scarr

Question:

Senator SCARR: There was some testimony given to the committee about the experience of insolvency practitioners dealing with the ATO in an insolvency context, and sometimes being frustrated that perhaps the individuals they're dealing with don't have adequate knowledge with respect to insolvency law and the issues they're dealing with. They find it hard, in some cases, to get the assistance, for want of a better word, that they need from the ATO. Does the ATO have any programs or training in place to assist staff to understand the insolvency process and protocols for assisting insolvency practitioners, registered liquidators, et cetera, to try and achieve the best economic and most efficient outcome for the individuals concerned but also for the larger community of creditors?

Mr Busby: There is training that is provided to tax officers, and we do have specialist teams that deal with insolvency matters. Where it may be something that might be outside the scope of the training of a tax officer, it would be escalated internally to one of the insolvency specialists. We do undertake quite a broad program of engaging with practitioners, and that has proved quite successful in terms of getting good outcomes from these company arrangements and small business restructuring. We do participate in various technical forums for the insolvency industry, and we do write articles for the industry journals, so we do continue to engage that way.

Senator SCARR: Mr Busby, are you aware of this feedback? Is the ATO aware of this feedback? I'll just quote from ARITA's submission:

Whilst some staff at the ATO are highly trained and knowledgeable—

No doubt we have staff here today who meet that criteria—

this is not consistent across the relevant parts of the ATO's workforce.

We recommend that there be more focus by the ATO on substantially increasing its staff's knowledge of insolvency law so that the ATO can be an active, informed creditor in insolvency processes.

Do you have any response to that?

Ms Kitto: I would probably just add that we do get a range of feedback, so while we have heard at some ends of the spectrum that we need to invest in more training, we also hear very positive feedback that our staff are very knowledgeable and very good to deal with.

Senator SCARR: I think this is a mixed bag itself. It's saying that in some cases they're very knowledgeable, and in other cases it would be good if there were more training. So maybe you could take that on notice and reflect on it. This is an opportunity for us to exchange feedback and to let you know what various stakeholders are saying in this regard.

Answer:

The ATO has teams across three areas that action different components of insolvency:

- those who action general insolvency telephony and correspondence
- specialist teams trained in creditors' meetings, unfair preference claims and requests for documents; and
- a complex insolvency team who deals with more advanced insolvency issues such as voluntary administration, small business restructuring and large corporate group tax clearances, insolvency practitioner tax compliance issues and stakeholder engagement.

Given the diversity of this work and levels of engagement with practitioners, the ATO's insolvency training is differentiated and tailored for the specific needs of each team, reflecting the nature and complexity of each team's work. Overall, there are 13 training products covering the breadth of the insolvency work, seven of which focus on corporate insolvency. The ATO also uses Program Specific Evaluations to confirm staff understanding of the delivered training.

The ATO regularly refreshes the training products provided to staff to ensure it remains contemporary. The ATO's quality assurance framework is used to identify learning gaps, alongside complaints data which can indicate when additional training may be needed.

Escalation pathways and access to insolvency scripting are also available to all staff to ensure the consistency of information sharing and escalation of key and priority issues.