

1. Introduction

- 1.1 Insolvency Practitioners (“IPs”) are in a position of trust in their dealing with the affairs of an insolvent company or individual. The professional bodies that regulate insolvency practitioners recognise this and operate under an agreement with the government whereby each body has agreed to apply an ethical code to its members, and will seek to ensure that those members work to common professional standards, to enable creditors and others to receive an efficient service at fair cost.
- 1.2 The regulators have, therefore, agreed an Ethics Code to ensure that all insolvency practitioners are held to high professional standards, and regulators will have regard to those standards as a benchmark when considering the conduct of IPs when undertaking their regulatory work or in relation to complaints made against IPs.
- 1.3 The Code gives five Fundamental Principles which should govern all of an IP’s actions, the headings of which are as follow, with details in the code:
- Integrity
 - Objectivity
 - Professional competence and due care
 - Confidentiality
 - Professional behaviour

2. Threats to the Fundamental Principles

- 2.1 The Code acknowledges that an IP’s actual or perceived adherence with the Fundamental Principles may be threatened in certain circumstances. It identifies that these threats typically fall under five main categories:
- Self-interest threats - will the proposed action unfairly directly benefit the IP, his/her firm, a close or immediate family member or an individual within the IP’s firm?
 - Self-review threats - will the IP find themselves reviewing the work or judgements of an individual connected with his/her firm (or their own work)?
 - Advocacy threats - is a position or opinion being promoted to the point where the IP’s objectivity is subsequently compromised?
 - Familiarity threat - is an individual within the firm becoming too antagonistic or sympathetic to the interests of others as a result of a close relationship?
 - Intimidation threats - these may occur where an IP is deterred from acting objectively by threats either actual or perceived

3. The Framework Approach



- 3.1 Rather than endeavouring to anticipate every circumstance that may present a threat to the Fundamental Principles, the Code sets out a method (a “Framework Approach”) which should be adopted by an IP to ensure their compliance with the Fundamental Principles.

- 3.2 An IP should consider the Fundamental Principles and threats to them in all of his / her activities, both before they accept an insolvency appointment and during the process of that appointment. Once an IP has identified any actual or potential threats to their compliance with the Fundamental Principles, s/he should then evaluate the severity of the threats that have been identified and respond appropriately. That response may in some circumstances be to decline an appointment, and in others of lesser severity, to take steps that will reduce the threat to an acceptable level.
- 3.3 A commonly encountered threat to accepting an insolvency appointment is a potential "conflict of interest" situation. This is most likely to be encountered where there have been some previous dealings between the parties.
- 3.4 Therefore, before accepting an insolvency appointment an IP should undertake thorough assessment to ensure that there is no prior relationship that would make it inappropriate to accept the appointment. The IP should also evaluate what s/he will be expected to do during the appointment and on whose behalf it will be done to ensure that not only will s/he be acting with independence and objectivity, but will be seen to be doing so by people with no specialist knowledge or understanding.
- 3.5 The Code itself provides a number of specific instances where accepting an appointment is absolutely prohibited. Outside of these prohibitions and in all other instances, the Code requires practitioners to identify any threats presented (including conflicts of interest) and evaluate their severity. It may be possible for some threats to be managed by the IP to an acceptable level and the Code provides a number of practical suggestions about how this might be achieved.
- 3.6 In instances where there is uncertainty on the IP's part whether or how to take an action or accept an appointment s/he may consult others to reduce the threat, or share the responsibility for those aspects of the work. S/he may, for example consult a creditors' committee, obtain legal advice or involve another IP to perform a part of the work undertaken (for example, an investigation into the directors' conduct).
- 3.7 The IP should document the steps they have taken to identify, evaluate and respond to any threats and the strategy behind their decisions. This process should be repeated if further information comes to light that would (for example) have made acceptance of the appointment inappropriate (had it been known at the time). In such circumstances, the IP may need to consider whether they should resign.
- 3.8 Since 01 October 2015, an IP should, if requested, provide details of any threats identified to compliance with the fundamental principles and the safeguards applied. If it is not appropriate to provide such details, the insolvency practitioner should provide an explanation why.

4. Financial incentives

- 4.1 It is never acceptable for an IP to offer an inducement to obtain an insolvency appointment, although it is acceptable for an IP to pay an employee partly or wholly on the basis of introductions obtained by the efforts of the employee.

The purpose of the Guide is to assist stakeholders in understanding the ethical standards expected of Insolvency Practitioners and is not a definitive statement of expected professional standards. Nothing in this summary seeks to fetter the authority of the IPA's regulatory and disciplinary committees to make determinations about a Member's conduct. Members should refer to the full text of the Ethics Code and it remains incumbent upon them to be satisfied that his/her conduct meets the legal and professional requirements placed upon Office-Holders/Members.

The full text of the Ethics Code may be found here:

<http://www.insolvency-practitioners.org.uk/regulation-and-guidance/ethics-code>

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