



# INSOLVENCY ETHICS – A GUIDE FOR CREDITORS

**T**HE regulators are undertaking a review of the Code of Ethics for Insolvency Practitioners (IP), but in the meantime have identified that increased awareness of the existing Code would aid stakeholders' understanding of an IP's work, and potentially promote transparency and trust in the profession.

IPs are now required to inform creditors at the earliest opportunity that they are bound by the Insolvency Code of Ethics when carrying out all professional work relating to an insolvency appointment. Additionally, an IP should, if requested, provide details of any issues relating to compliance with the fundamental principles of the Code and the safeguards applied to address those issues. If it is not appropriate to provide such details, the IP should say why.

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To assist IPs in fulfilling these new requirements, the Insolvency Practitioners Association (IPA) has produced a Guide to the Ethics Code – a useful summary which may be provided to creditors. There is no regulatory requirement for this to be used or supplied in this form. <http://www.insolvency-practitioners.org.uk/regulation-and-guidance/a-guide-to-the-ipa-ethics-code>

## THE KEY ELEMENTS OF THE GUIDE MAY BE SUMMARISED AS FOLLOWS:

**INTRODUCTION:** The Code is designed to ensure that IPs operate to high standards. It contains five fundamental principles covering integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour. (A separate note on transparency explains the need to balance the fundamental principle of confidentiality with the need to make sure that creditors have as much meaningful information as possible in most circumstances).

**THREATS:** The note then explains common circumstances in which adherence to the Code's principles may be compromised by issues such as self-interest threats to objectivity or self-review.

**FRAMEWORK APPROACH:** IPs are expected to identify these issues, evaluate them, and respond accordingly.

## IDENTIFY > EVALUATE > RESPOND

Not all circumstances can be covered,

so instead IPs are required to follow these steps to determine the level of the threat and then act appropriately. In some cases, that should cause the IP to decline accepting an appointment. In others, certain safeguards may be sufficient, such as addressing potential conflicts of interest by working jointly with another IP or consulting a creditors' committee. The key is to ensure the assignment can be conducted with independence and objectivity, and be seen to be so. Accordingly, perceptions may be as important as any actual conflict.

**PROHIBITIONS:** In a few circumstances, IPs are prohibited from acting, for example where they have had a significant professional relationship with the insolvency person/company. IPs are also prohibited from paying for the instruction of insolvency assignments.

The perception test is based on how conflicts and other threats may be seen by stakeholders with no specialist knowledge of insolvency.

Creditors can request information about the IP's assessment of the above factors. Note that this is only a very brief summary of a comprehensive Code. The full Code can be found on the IPA website; it is a Code that applies across the profession, covering all IPs. Any revision of the Code is not likely to be completed until 2017.

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