

## Scenarios

The following scenarios demonstrate the real life application of the principles of good culture as it relates to insolvency work. These show how the principles, whether applied positively or negatively, can significantly impact our culture and our stakeholders.

### 1. Trusted

1.1 *A pensioner decides to respond to an advertisement to have her credit history checked. The case officer who picked up the call starts to turn the conversation into a discussion about the debtor's current financial situation, and querying whether they had considered a debt agreement. The case officer is mindful of his targets that month and decides to skip discussing the alternatives to debt agreements as required by the firm's scripts. The pensioner seems a bit confused because English is her second language, but verbally agrees to a debt agreement proposal being prepared. The case officer never sends any paperwork describing the other insolvency options for the debtor, despite it being required by the firm's processes, but proceeds to put together a draft debt agreement proposal.*

### 2. Competent

2.1 *A creditor who holds 75% of the debt in a bankrupt estate writes to the current trustee to have the estate transferred to another trustee. The current trustee doesn't provide a response for over a month, despite numerous attempts from the creditor to obtain one. Only when the creditor threatens to complain, does the trustee initiate the transfer. Later, when the new trustee receives the file, she writes to the former trustee for further information about the file. The former trustee responds with a curt and brief response refusing to assist, saying that he is no longer being paid for work done on the estate anyway.*

### 3. Impartial

3.1 *A trustee is administering a bankrupt estate where the major creditor, a law firm, is also a regular referrer for the trustee's firm. The trustee wants to retain a solicitor to provide legal advice about a possible undervalued antecedent transaction. The major creditor approaches the trustee and offers their services, citing their previous history with the bankrupt as an advantage. The trustee, considering how their independence and impartiality would be perceived by others, declines the offer and instead retains a solicitor with no history with the bankrupt.*

3.2 *A trustee has acted as an investigative accountant for a bankrupt the year prior to the bankrupt lodging their debtor's petition. The trustee does not include this in their DIRRI. Later in the bankruptcy, the trustee decides to overlook certain transactions made by the bankrupt during the period the trustee was acting for him as an investigative accountant.*

## 4. Compliance and Learning

- 4.1 *A debt agreement administrator decides to formalise a learning & development program to provide staff with regular training and support. The administrator decides to start offering training sessions every month for their staff, with senior staff and the administrator rotating responsibility for running each session. The administrator also decides to change how they measure performance of their staff. When she first established the business, their only KPI had been how many potential leads were converted to actual debt agreements. Now that the business is more established, the administrator decides to include a mix of financial and non-financial measures – such as low number of verified complaints, involvement in projects, quality of communications to clients and the amount of learning and development delivered to other staff.*

## 5. Diversity

- 5.1 *A senior manager receives a call from his daughter's school, saying she is sick and needs to go home. He asks his direct report, a trustee, for time off to pick up his daughter and then work the rest of the day from home. The trustee appears unimpressed and reluctantly allows the senior manager to work from home. The trustee then makes a suggestion to the senior manager that he have a serious think about his career and questions whether his recent request shows that he is not committed to his job.*

## 6. Fair and Equitable

- 6.1 *A debtor is made bankrupt by sequestration order for a debt of \$15,000 for a credit card debt. The bankrupt lives alone and is the sole owner of an unencumbered house property which had sufficient equity to cover his debts. He has been non-responsive to the petitioning creditor and trustee. The property has been left in disarray because of the bankrupt's hoarding and has no access to electricity.*

*The trustee thinks the bankrupt probably has mental health issues and would be unable to deal with the bankruptcy on their own. The trustee decides to make an application to have a guardian appointed to help the bankrupt. A caseworker is appointed who helps the bankrupt find necessary medical assistance, find a new residence and to establish a trust for the surplus funds that he would receive after an annulment.*

- 6.2 *A few months before a bankrupt's discharge, a trustee is reassessing the bankrupt's actual income derived during the period. During that time, the bankrupt was made redundant. While employed, the bankrupt's former employer had an arrangement where they would pay for a novated lease for his car. When the bankrupt was made redundant, the employer decided (in accordance with the employment contract) to deduct the outstanding amount owed for the car lease from the redundancy payment. Seeing this, the trustee, having realised the car as divisible property, decides to use her discretionary power under section 134(1)(ma) of the Bankruptcy Act 1966 to avoid double counting the amount deducted as income and an after acquired asset. The trustee chose to make an allowance to the bankrupt from the sale proceeds of the car, reflecting the amount that had been deducted. As the amount involved was significant, the trustee circularises a report to creditors advising them of her decision to make the allowance and inform them of their rights to seek a review of her decision.*