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# Fujitsu Legal Workshop

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# Facilitators & Agenda

**Erica Salmon Byrne**

Chief Strategy Officer and Executive Chair, Ethisphere

**Emily Rickaby**

Director, Shared Expertise & Strategic Projects, Ethisphere

**Alistair Maughan**

Compliance Officer for Legal Practice, Morrison Foerster

# Facilitators & Agenda

## Morning (9:30 – 12:45)

- 9:30 – 9:45 Welcome
- 9:45 – 10:15 Setting the stage on ethical culture
- 10:15 – 10:45 Project Holly overview and debrief
- 10:45 – 11:00 BREAK
- 11:00 – 12:00 Stakeholder impacts mindset
- 12:00 – 12:45 LUNCH

## Afternoon (12:45 – 4:30)

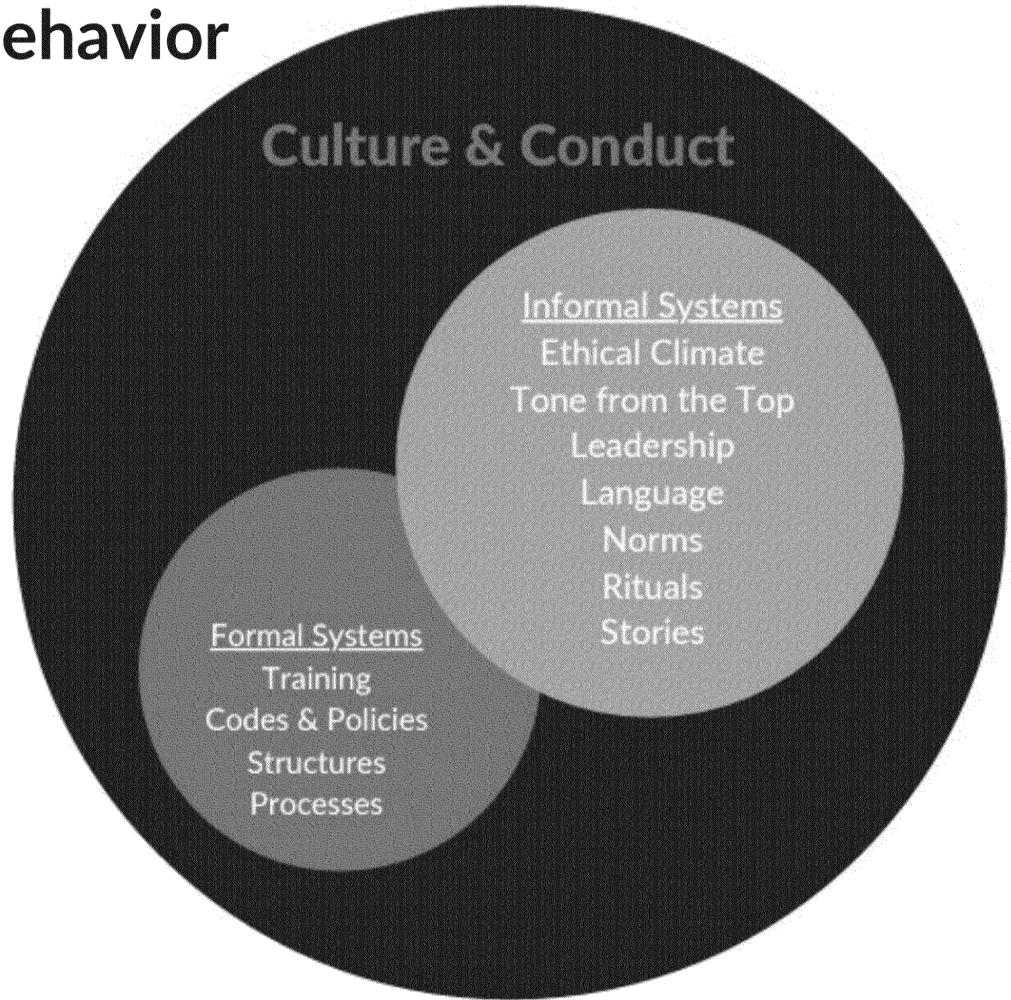
- 12:45 – 1:30 Professional Standards
- 1:30 – 2:20 Project Holly Case Study 1
- 2:20 – 2:30 BREAK
- 2:30 – 3:20 Project Holly Case Study 2
- 3:20 – 3:30 BREAK
- 3:30 – 4:20 Project Holly Case Study 3
- 4:20 – 4:30 BREAK
- 4:30 – 5:30 Principles Development
- 5:30 – 5:45 Wrap-up

# Setting the Stage on Ethical Culture

# Power of informal systems on behavior

INFORMAL SYSTEMS are stronger influencers than FORMAL SYSTEMS when it comes to encouraging conduct and developing culture.

Decision derailers such as PRESSURE, FEAR, ASPIRATION, or perceived FAIRNESS can lead a person to choose an action that is misaligned with their espoused belief in doing the right thing. Many ethics and compliance programmes do not include measures to combat these decision derailers.

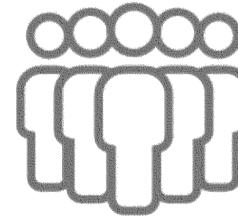


# Ethical Propensities – The Human Factor

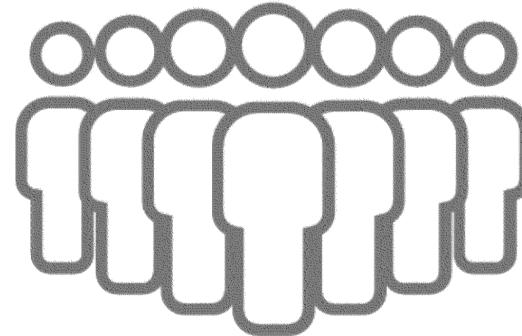
<10% have a "criminal tendency" or are what we may call "bad apples"



~20% of people have a tendency toward ethical behaviour and truthfulness in **all circumstances**



The majority of people (around 70%) are influenced by environment, norms, emotions, and other life circumstances



A Human-Centric Approach to Compliance Program Maturity  
<https://ethisphere.widen.net/s/nzsx5m7csd/a-human-centric-approach-to-compliance-program-maturity-final>

# Reality of Speaking Up

93%

willing to report

58%

actually report



Employees often feel empowered to raise their hand, but in the moment fail to do so

## Impressions Govern Actions, Especially Around Retaliation Fears

Is the non-retaliation  
policy enforced?

Yes      73%  
No      34%

# How People Report – They Choose People. Are Yours Ready?

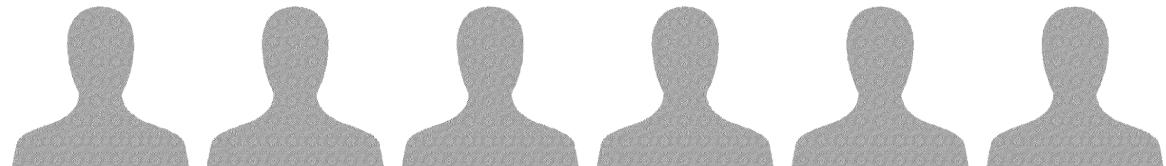
Hotline



HR



Manager



# Creating Psychological Safety

A psychologically safe environment is conducive to taking interpersonal risks or engaging in acts of vulnerability



Giving and receiving feedback



Asking a question



Admitting when a mistake was made



Asking for help

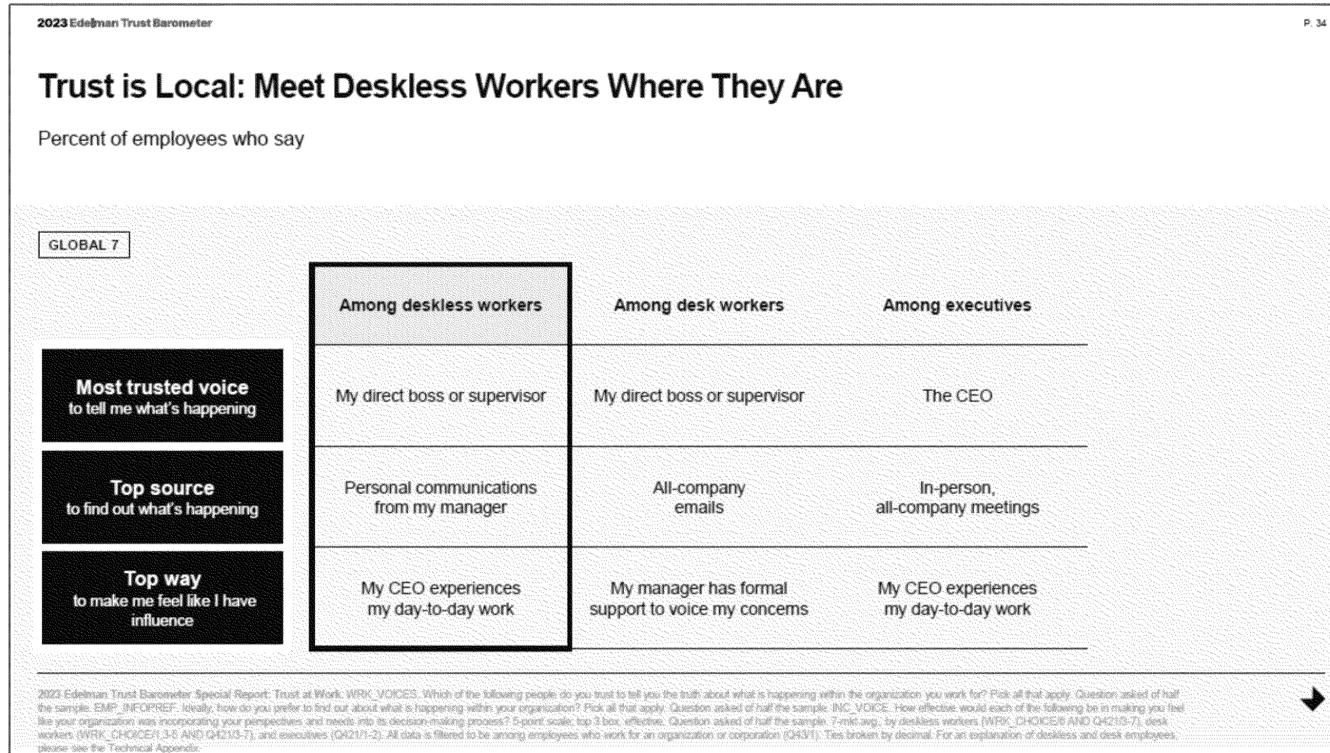


Questioning assumptions

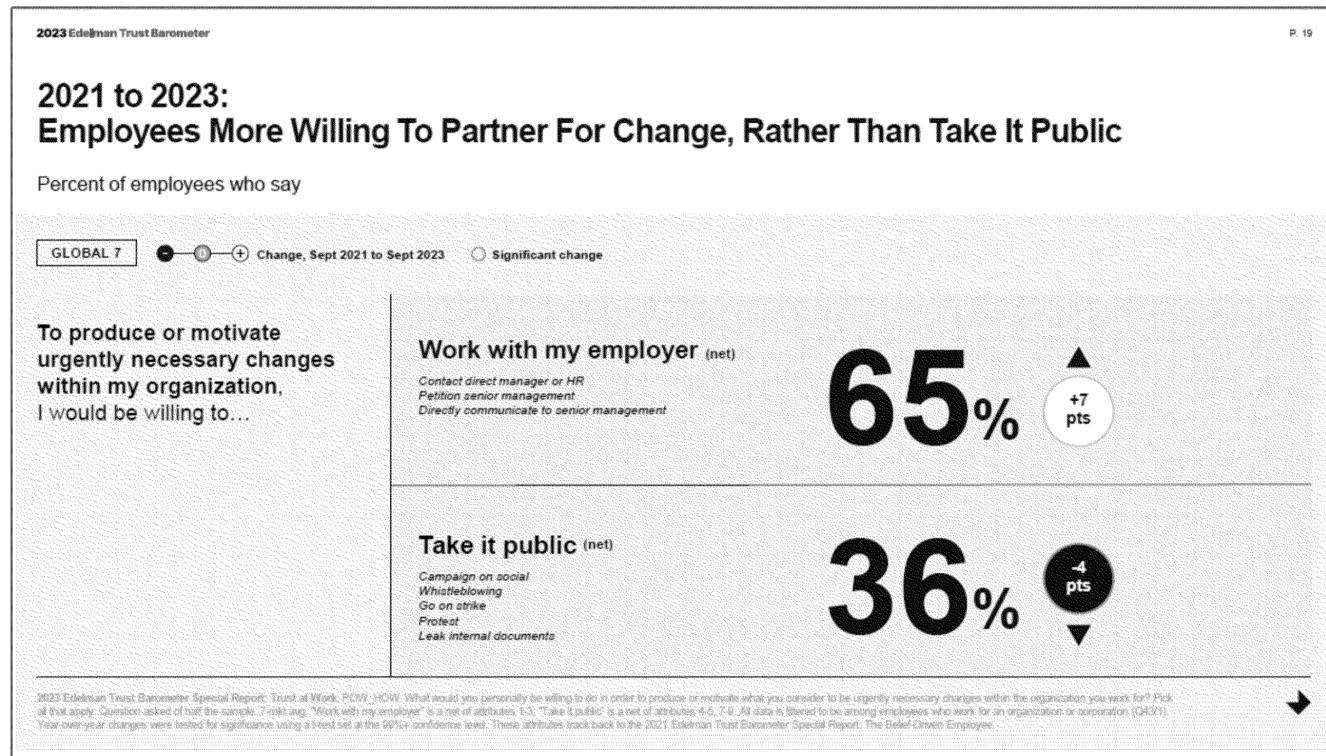
# 4 Stages of Psychological Safety



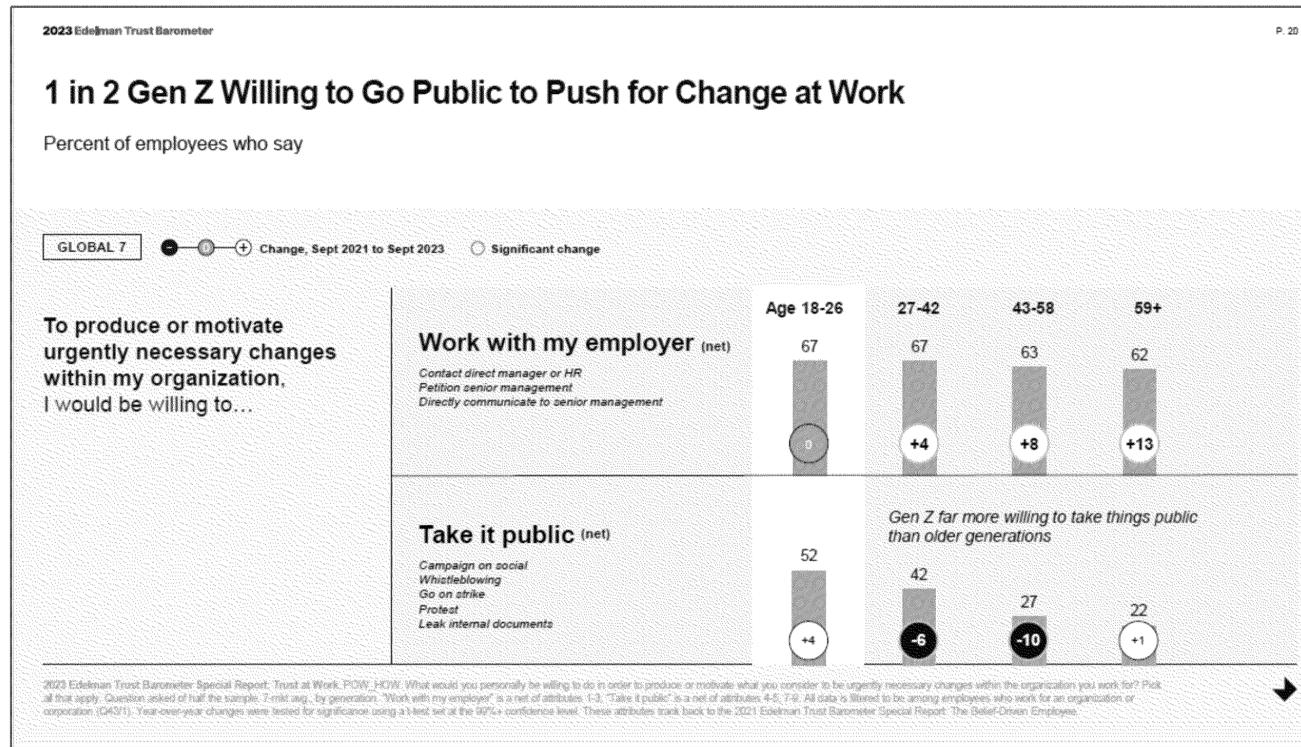
# Managers Matter



# Opportunities to Reduce Risks and Forge Solutions



# Gen Z More Willing to Go Public

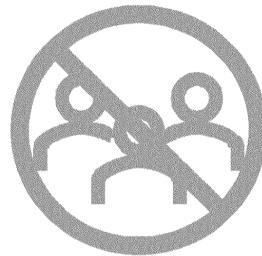


# Four Levers to Influence Culture



## WHO YOU HIRE

- What does it look like to hire to a fit with values?
- How is hiring happening across your organisation?



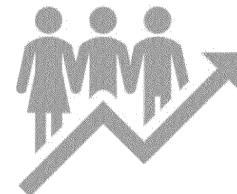
## WHO YOU FIRE

- What are the consequences for misconduct?



## WHO YOU PRAISE

- Do you recognise employees for asking questions?
- Do you reward employees for reaching goals without considering how they reached them?



## WHO YOU PROMOTE

- Is this person a role model

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# Project Holly Debrief

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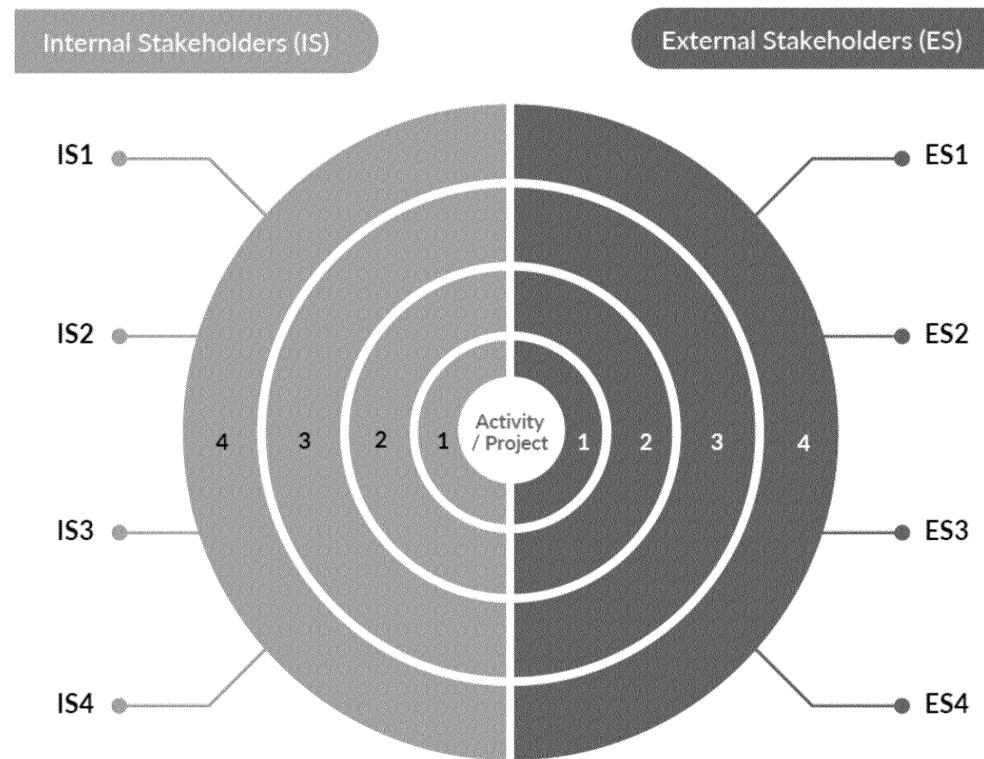
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# 15-Minute Break

# Stakeholder Impact Mindset

# Stakeholder Impact Map and Matrix

- Risk and opportunity identification beyond the customer brief or product features and functionality
- Broaden the lens of individual and team responsibilities
- Start by identifying those closest to the project/product and move outward



# Stakeholder Impact Map and Matrix

- Assess potential positive and negative impacts
- Determine amplifiers and mitigators
- Consider sharing with stakeholders to get a better perspective
- Can be used at the project kickoff and along the way as various milestones are complete or features are designed

Project Name:

# Stakeholder Impact Map and Matrix

- Breakout activity
  - Select a current bid or deal or one in development. As a group, complete the stakeholder map and matrix for that project (30 minutes)
  - Report back to the large group (20 minutes)

# Lunch Break

Resume at 12:45

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## Professional Standards and the SRA

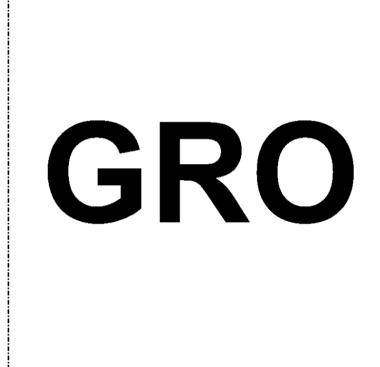
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PRESENTED BY:

ALISTAIR MAUGHAN

30 NOVEMBER 2023

## Contacts



**GRO**

**ALISTAIR MAUGHAN**

MoFo Compliance Officer for Legal Practice  
(COLP)

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# Solicitors Regulation Authority

## Role of the SRA

### Doing More with Less

- Moving from a book to a set of principles
- SRA wants to provide shorter, more user-friendly rules

### Reach for the STaRs

- SRA Standards and Regulations 2019
- The SRA Principles
- Two Codes of Conduct
  - SRA regulated entities
  - Individuals



## SRA and the In-house Sector

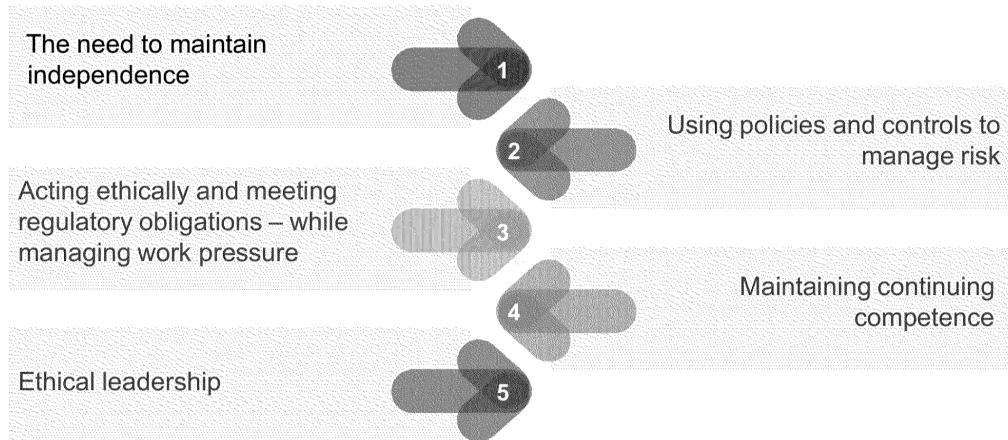
The SRA is historically more focussed at law firms...  
... but has been playing catch-up with the in-house sector

### Why?

- 34,500 in-house solicitors
- 6,000 organisations
- 8,000 more in-house lawyers than a decade ago
- 20% of all practising solicitors are in-house

### March 2023 – In-house Solicitors Thematic Review

5 key findings:



## SRA Principles

### 7 SRA Principles...

“ fundamental tenets of ethical behaviour that we expect all those that we regulate to uphold”

You are required to act:

in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice

in a way that upholds public trust and confidence in the solicitors profession and in legal services by authorised persons

with independence

with honesty

with integrity

in a way that encourages equality, diversity and inclusion

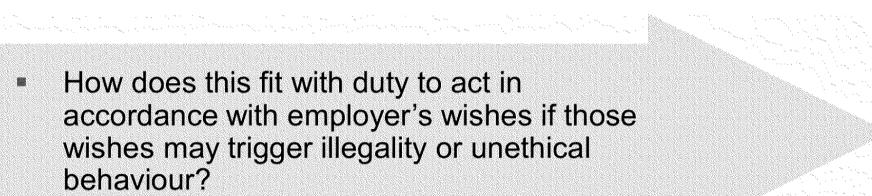
in the best interest of each client

## A Solicitor's Duty to the Court

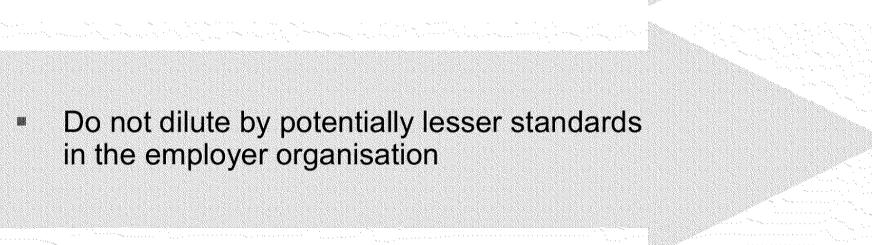
“Those Principles which safeguard the public interest (such as the rule of law, and public confidence in a trustworthy solicitors' profession) take precedence over an individual client's interests”

“You should, where relevant, inform your client of the circumstances in which your duty to the Court and other professional obligations will outweigh your duty to them”

For example:



- How does this fit with duty to act in accordance with employer's wishes if those wishes may trigger illegality or unethical behaviour?



- Do not dilute by potentially lesser standards in the employer organisation

The SRA expects in-house solicitors to ensure that employers' instructions do not undermine adherence to the Principles

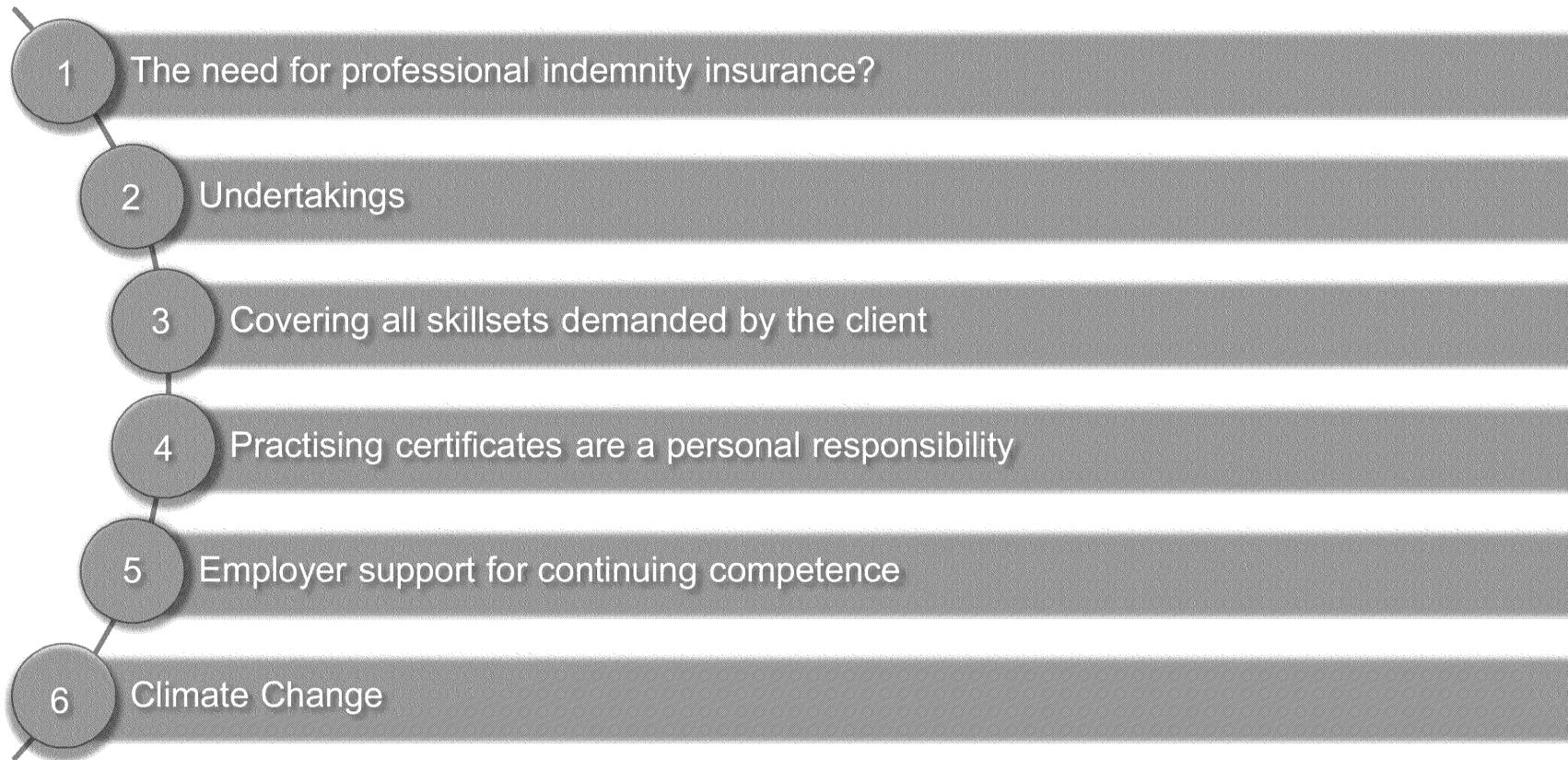
## SRA Code for Individuals

### SRA Code of Conduct for Solicitors, RELs and RFLs

Designed to show that regulated solicitors put the law and ethics first



## Specific Regulatory Obligations



- 1 The need for professional indemnity insurance?
- 2 Undertakings
- 3 Covering all skillsets demanded by the client
- 4 Practising certificates are a personal responsibility
- 5 Employer support for continuing competence
- 6 Climate Change

# Enforcement Strategy



- Understanding the SRA Enforcement Strategy
- NDAs / SLAPPs
- Serious breaches
  - abuse of trust
  - taking unfair advantage of clients or others
  - misuse of client money
  - sexual and violent misconduct
  - dishonesty
  - criminal behaviour

## What Don't You Have To Do?

SRA considers that certain aspects are less / not applicable to the in-house sector

- SRA Codes of Conduct for Firms – private practice entities only
- SRA Accounts Rules mostly irrelevant
- Conflict:  rules?

## Other SRA Focus Areas

### Behavioural fair treatment requirements - a new addition in SRA Code of Conduct 1.5

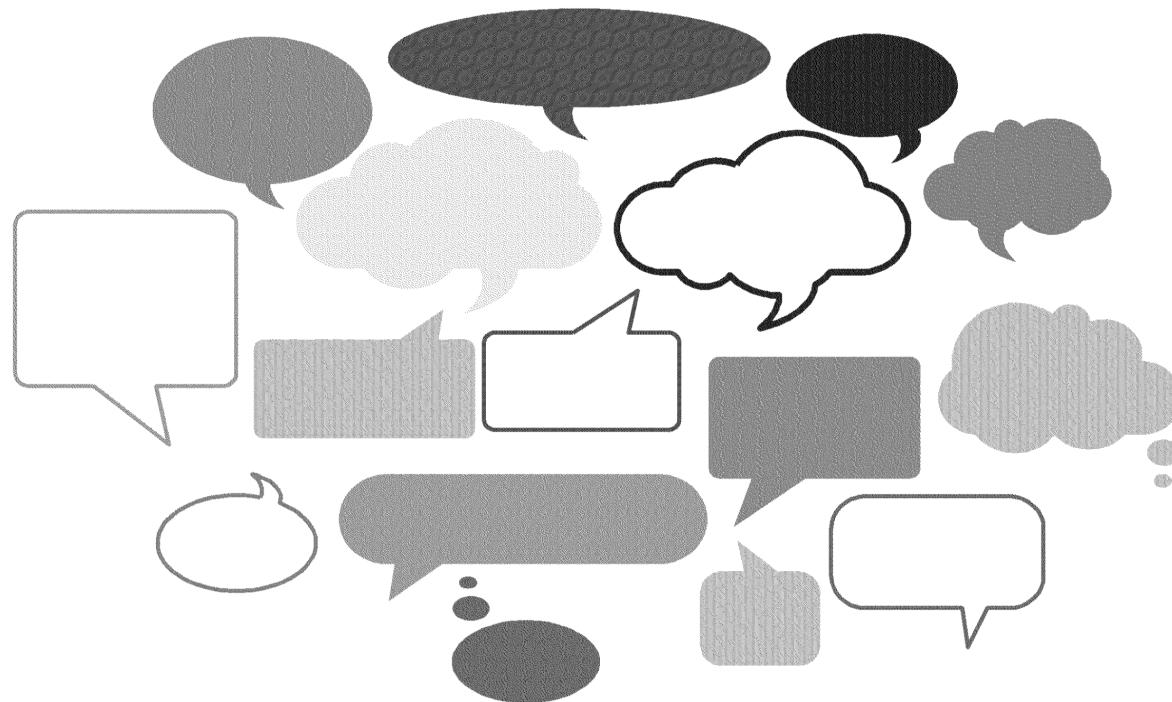
**“You treat colleagues fairly and with respect. You do not bully or harass them or discriminate unfairly against them”**



**“If you are a manager, you challenge behaviour that does not meet this standard”**



## Questions



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# Project Holly Case Studies

# Project Holly- Deep Dive Breakout Work

- Explore three moments from the Holly timeline
- For each timeline moment
  - Assign a scribe / reporter for group
  - Read case study - (10 minutes)
  - Consider and discuss the points on the slide (20 minutes)
  - Large group readouts (20 minutes)

*Disclaimer - these case studies are based on facts and events that occurred within FSL over the past 25 years. However, some of the names of FSL employees have been anonymized and some of the events and roles have been modified or composited for the purpose of this exercise to encourage discussions around key themes that have arisen during the course of Project Holly and the Post Office Horizon IT Inquiry.*

# Project Holly- Deep Dive Case Study 1

- Discussion points:
  - Imagining yourself as a member of the L&C team at the time, how could this situation have happened?
  - What would you do if you were asked to include a contractual provision for court support services and, as in this instance, the customer had a legitimate need for admissible evidence?
  - There is a continuous focus on efficiency and speed in our services, which can include the use of templates or providing guardrails within which the business can self-service or operate independently. How do we ensure that never comes at the expense of discharging our professional duties?

# 10-Minute Break

# Project Holly- Deep Dive Case Study 2

- Discussion points:
  - Imagine you were in L&C at the time and were aware of these activities. How would you react?
  - Would you have challenged the Post Office team despite the contractual obligation to provide court support services, and the strategic importance of this customer?
  - What causes of concern, if any, would members of the L&C team have been able to identify at the time?
  - How would this type of request now be handled and who from L&C would be involved?

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# 10-Minute Break

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# Project Holly- Deep Dive Case Study 3

- Discussion points:
  - To what extent is it L&C's role to question and challenge assurances and information provided by colleagues elsewhere in the business? Should L&C have challenged the reliability of the information used to prosecute SPMs? Does this change after the media coverage and start of the Group Litigation?
  - The provision of evidence to the Post Office for use in its prosecutions was part of the original contract and provided as a contractual service since the start of the contract, and many different L&C members were involved during the 20-year period. How are matters handed over? To what extent can, or should, you rely on the information you're given as opposed to challenging and investigating yourself?
  - If you are aware of matters that require L&C input, to what extent do you raise the need for L&C input and assistance on business account led matters?
  - If you are asked to support a matter for which you don't feel you have sufficient experience, what would you do?

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# 10-Minute Break

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# Principles Development

# Workshop Wrap-Up