

Chapter 4: Is it for me? I think I want to go bankrupt

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Summary

This Chapter suggests that you work through 26 questions (A-Z) with your clients to determine:

- Do they have options other than bankruptcy?
- Are they likely to be seriously affected by the consequences of bankruptcy?
- Are there compelling reasons to go bankrupt even if there may be other options?

*This is a preliminary decision-making tool, not a complete exploration of the consequences of bankruptcy which is covered in **Chapter 6**.*

A sheet containing the questions with spaces for answers that could be downloaded and used when interviewing clients and kept as a file note is included in the separate section of this chapter.

Should my client consider bankruptcy?

People's attitude to debt and bankruptcy can differ enormously. This may be influenced by many things including cultural factors, religious beliefs, perceptions about the reaction of families and friends, and personal ethics and self-esteem. Financial counsellors play a vital role in guiding debtors through the complex range of options, consequences and emotions that bankruptcy raises.

Clients who own or are paying off their home, or who work in certain professions, have to be made aware of the very serious consequences of deciding to go bankrupt. By contrast, clients with no property apart from essential household goods may find that bankruptcy has very little practical impact on their lives. Nevertheless, the financial counsellor needs to make the client aware that their circumstances may change during the period of the bankruptcy, for example inheriting money under a will or winning money or goods. Clients who claim to have little concern about the consequences of bankruptcy may change their minds later if they receive an unexpected windfall and find they have to pay not only their debt but thousands of dollars in trustee fees in order to annul the bankruptcy.

It is necessary and almost always possible for the financial counsellor to give the client time to reflect on the consequences of bankruptcy, which may entail negotiating with creditors to

buy time even if the client is pretty sure that bankruptcy is their preferred option.

The A to Z of bankruptcy

Clients should generally be encouraged to explore other options in coming to an informed decision. Should a client refuse to do so, with or without good reasons, counsellors should explain their concerns about the consequences and make careful notes. However, in some circumstances bankruptcy may be urgent and necessary to prevent detrimental enforcement action. Certain protocols, like a set period of working with a client before considering bankruptcy, may be inappropriate and thus disregarded. A full explanation of the consequences is still required.

When a client understands the limitations of bankruptcy and has nevertheless made an informed decision to go bankrupt, the bankruptcy is more likely to be a positive development in their lives.

a. Is there any urgency (for example imminent enforcement action – garnishee of wages, seizure of goods etc)?

The imminent enforcement of a judgment debt can often be the driver for going bankrupt. A judgment debt is a court or tribunal order confirming that money is owed by one party (the debtor) to another (the creditor).

In some circumstances a client may have their wages garnished or their household or professional assets seized. These can seriously affect the client's standard of living and earning capabilities. In these circumstances the client needs to get the protection of bankruptcy quickly. However, counsellors should attempt to buy clients time to reflect on what is happening and going to happen.

These clients may be candidates for a Declaration of Intention to Present a Debtor's Petition, keeping in mind the consequences of that course of action (see **Chapter 5**).

b. Does your client have a judgment debt of over \$10,000?

A debtor cannot be forced into bankruptcy unless they have a judgment debt or debts totaling over \$10,000.

A debtor can nevertheless choose to go bankrupt for debts of \$10,000 or less. However, clients should be warned that can be expensive to annul the bankruptcy later if their circumstances change (for example, trustees' fees can amount to tens of thousands of dollars). Bankruptcy is therefore generally best avoided for small debts.

Although it is relatively rare for a Creditor's Petition to force someone into bankruptcy for a small debt, financial counsellors are encountering the issue more frequently. This is especially the case where there is an ulterior motive, for example forcing someone out of

business or getting someone out of strata title housing when there are strata fees in arrears. If your client has received a Bankruptcy Notice or a Creditor's Petition, they need urgent legal advice (see **Help I'm being made Bankrupt** in **Chapter 10**).

c. Is your client's current financial problem permanent or long term?

Whether a client's problem is likely to be long term will depend on their individual circumstances.

Where a client's financial problems are long term, bankruptcy may be a suitable option, particularly if they are unable to reduce expenditure, increase income, reduce repayment arrangements or consolidate debts. In limited circumstances, a Part IX Debt Agreement or a Personal Insolvency Agreement may be suitable options (see **Chapter 5**). Sometimes long term or even permanent problems can be solved without resorting to bankruptcy, particularly if the client's debts are small or there are compelling compassionate reasons.

Where a client's financial problems are temporary – for example due to illness or unemployment – there may be other options available such as a temporary reduction in repayments, a repayment arrangement for lump sums owed, a temporary respite from any payments at all (a moratorium), rights to a hardship variation under the credit law or in relation to essential services, and using the available External Dispute Resolution schemes (refer to question e. below).

d. Are most of your client's debts legally owed?

If the client already has a judgment debt, he or she may seek legal advice about whether there is any realistic chance of setting that judgment aside. If not, the debt is 'legally owed' whether the client has a defence or not.

If there is no judgment debt, counsellors may be able to use External Dispute Resolution (EDR) in some circumstances to argue the client's defence (see question e. below). A client should get legal advice if they receive court documents commencing legal proceedings (such as, a statement of claim) and consider lodging an urgent complaint in EDR if available.

The client may have a common sense defence, such as that they did not order the goods, or take out the loan (mistaken identity or fraud), or the work/goods/services were faulty. They may also have a technical legal defence or cross claim such as that the debt is statute barred, there was unconscionable conduct by a lender or service provider, or the lender failed to comply with its responsible lending obligations.

Sometimes a client will have a defence or cross claim in relation to only some of the alleged debts. Consider whether the client has capacity to pay or make suitable arrangements in relation to the remaining debts that are legally owed. Where the remaining debts will still be insurmountable there may be little point in investing time and resources in raising a dispute if bankruptcy is inevitable. Also consider that some defences and cross claims will only reduce

the debt, leaving a residual amount to pay.

Where there is doubt about whether a client has a defence to a debt, get legal advice or encourage your client to do so (see **Useful Contacts**).

e. Are your client's debts covered by the National Credit Code? If so, has your client (or someone acting on behalf of your client) applied for a hardship variation or lodged a complaint in the Australian Financial Complaints Authority (AFCA)?

For consumer credit debts (including investment loans for residential property), the Australian Financial Complaints Authority (AFCA) may be available free of charge. AFCA is an option if there is no judgment debt and the alleged debtor has not taken a step in any legal proceedings beyond lodging a defence (and/or cross claim), even if the debtor has received a notice commencing legal action.

Starting the AFCA process may help counsellors establish contact with people within the lending organisation that can make real decisions to resolve long term debt problems. If the debt is relatively small, lenders may agree to a permanent reduction in repayments and an extension of the loan term. This is still a hardship variation under the law and is available using AFCA.

AFCA can assist counsellors looking to gain time for their clients. [A temporary stay of enforcement may be sought through the AFCA website.](#)

It is important, however, not to mislead the creditor or any other interested party into accepting a settlement if the client does not seriously intend to attempt to meet their obligations under the settlement. In other words, if the client has made an informed decision to go bankrupt, counsellors should notify the other parties and withdraw the AFCA complaint or other settlement negotiations promptly.

Remember: Energy and Water debts can also be taken to the appropriate EDR service in each state (for example [EWON in NSW](#) or [EWOV in Victoria](#)) and telecommunications debts can be taken to the [Telecommunications Industry Ombudsman](#).

f. Has your client (or someone acting on behalf of your client) tried to come to a suitable informal arrangement with creditors? (including reduced amount settlements). Has anyone sought a compassionate release?

Financial counsellors can be invaluable in facilitating arrangements between clients and their creditors. Despite this, the client may want to let the enforcement process play out in the hope that something comes up to save them from what looks like inevitable bankruptcy. Counsellor's still need to ensure the client understands the consequences of this choice before they lodge their Debtor's Petition (see **Chapter 6**).

Serious health issues can also be a driver for the consideration of bankruptcy. The financial counsellor may be able to get the creditors to stay action while a compassionate waiver is considered as an alternative. If it is not possible to get a compassionate waiver, then the financial counsellor needs to explain the impact of bankruptcy on any co-borrowers, guarantors or even beneficiaries under a will.

g. Will your client be released from their debts (or most of them) as a result of going bankrupt?

Not all debts are provable in bankruptcy. Some debts are provable but the debtor is not released from the debt after the bankruptcy. Bankruptcy may not be productive course of action if the client will not be released from a significant proportion of his or her debts upon discharge. Which debts are provable, which are not, which debts may have to be paid regardless for practical reasons, and which will survive the bankruptcy, is covered in **Chapter 6 Part 1**.

h. Has your client considered accessing any available superannuation? Is this a good idea in the circumstances?

While superannuation remains in a superannuation fund it is protected in bankruptcy.

A client may be eligible for early access to his or her superannuation to assist with the payment of debts including mortgage. Early access to superannuation may be appropriate if it will pay all the client's debts, or reduce the debts to a manageable size, or if the client is meeting their current repayments but cannot catch up on arrears as a result of a past period of hardship that has now ended. If bankruptcy is inevitable, however, early access to the client's superannuation is an obvious waste and may cause financial hardship in the future.

More information on when [early access to superannuation is available at the Services Australia website](#) (see also **Chapter 8**).

Remember: the amount your client can access will be limited by the relevant rules and tax will be deducted.

i. Are there joint debts with another person who is not going bankrupt? Is there a guarantor?

Where there are joint debts, the other person will be left exposed to the whole of the debt after their joint debtor becomes bankrupt (not half the debt as many clients mistakenly believe). Bankruptcy can cause difficulties for debtors hoping to maintain a familial or working relationship. Clients should be strongly encouraged, where possible and only if there is no imminent risk of family violence, to discuss their plans with the joint debtor.

Clients must be told of the consequences for the guarantor who, like a co-debtor, is likely to be pursued for the whole debt in the event of the primary debtor's bankruptcy. It should be strongly advised that the guarantor gets legal advice.

j. Has your client claimed on any insurance policy that could assist to meet their financial commitments? Is your client expecting any type of insurance claim to be paid out in the near future?

Check whether the client has any insurance policies that would assist him or her to pay their debts – for example income protection, consumer credit insurance, accident insurance, or total and permanent disability policies attached to the client's superannuation. In some cases, clients may have multiple superannuation accounts, each of which holds separate insurance policies.

Counsellors should inspect any paperwork the client may have in relation to insurance or superannuation. Counsellors can assist their clients to [look for lost super using the ATO website](#) and then obtain the client's authority to seek details of any insurance policies. For other insurance (not attached to super) that the client may not be aware of, search their bank and credit card statements for evidence of premiums being paid.

If the client has tried to claim on an insurance policy and has been rejected, they may seek free legal advice from the Insurance Law Service on [1300 663 464](tel:1300663464). Counsellors may wish to make a call themselves with the client's authority.

Any policy paid out after the date of the bankruptcy will vest in the trustee unless it is the proceeds of a life insurance or endowment policy received on or after the date of the bankruptcy (where the insured person is the bankrupt, his or her spouse or de facto partner), or it is a claim for property that would have been protected in bankruptcy. Total and permanent disability claims may also vest in the trustee – see **Chapter 8**.

If the insurance claim covers property that was secured by a loan (such as a motor vehicle or home) then the proceeds of the policy must be paid to the lender.

Keep in mind that if the client is unlikely to avoid bankruptcy as a result of such a claim, it is probably not worth the time and effort.

Bankruptcy and insurance is covered in more detail in **Chapters 6 & 8**.

k. Does your client own (or partly own) any assets other than household furniture and personal possessions (real estate, cars, boats, caravans, shares, pedigree breeding

animals, livestock etc)? Is your client considering selling any available assets to meet their debt?

First, the client should consider whether these assets could be liquidated to meet the debts (or make lump sum offers) as an alternative to bankruptcy. If these assets will not produce enough money to avoid bankruptcy, clients should be made aware that any assets not protected in bankruptcy will vest with the Trustee and are likely to be sold. For a detailed description of property that is protected in bankruptcy see **Chapter 6 part 2**.

Where the client is considering selling goods or property, they should be informed of what is protected property so that they understand what they will be allowed to keep in bankruptcy. Clients must sell their property or goods for market value, or else face the possibility of the Trustee declaring it an undervalue transaction if they end up bankrupt regardless.

Personal injury compensation paid to the bankrupt, and the property wholly purchased with that compensation, is protected in bankruptcy. Compensation paid to other members of the family, such as the bankrupt's partner, and the property purchased with it, is not protected if it is in the bankrupt's name, or the bankrupt has a claim to it. More details on protected property are contained in **Chapter 6 Part 2**.

Where your client owns real estate or other assets jointly with others, the implications for the other owners will need to be considered (see **Chapter 6 Part 3**). If the house is owned jointly, the co-owners will be asked to buy out the bankrupt's share or join the Trustee in the sale.

In some cases, there may be someone (such as another family member) who could buy out the client's share (for full market value) to assist the client pay their debts and try to avoid bankruptcy.

Cash is also an asset. While clients in financial difficulty rarely have savings, it is important to ask the question specifically and warn clients that the Trustee will also take any available cash apart from a modest amount for living expenses (see **Chapter 8 – Freezing of Accounts**).

I. Are there secured debts? Is your client paying off a mortgage on a house/home unit or investment property?

Clients should consider whether, on bankruptcy:

- the asset will be sold by the Trustee due to its equity (now or later);
- the client can afford to maintain payments on the loan to keep the asset;
- the secured debt is a joint liability; and/or
- the secured asset is the family home.

Where the client needs the secured vehicle to travel to work or access services, bankruptcy

will only allow them to keep the car if they can make the repayments (or a payment arrangement) under the secured loan and there is insufficient equity for the Trustee to sell up the car. Where the secured car loan is the major debt, bankruptcy may make little difference to the client's overall financial position.

Where there is a mortgage over a house, the issues are even more complex. If the client has sufficient equity, the house will be sold by the trustee. If there is not sufficient equity now, there may be sufficient equity later – the trustee has many years in which to take action.

Secured debts are covered in more detail in **Chapter 6 Part 1** and, if the client has a mortgage **Chapter 6 Part 3**.

m. Has your client ever made a substantial gift of assets or money or sold/transferred any property for less than its market value (for example, to family or friends)?

Where your client has given away money or property in the last five years or sold or transferred property for less than its market worth, the transaction may be voidable. The Trustee may take and sell the property and will only reimburse the person to whom it was given the amount that person paid for it (if anything). This is particularly an issue for clients who have transferred property into the name of their spouse or children, or who purchased property in the name of someone else while providing a substantial amount (or all) of the purchase price.

The many ways in which the Trustee can undo past transactions to recover money for the bankrupt estate are covered in **Chapter 6 Part 3**.

n. Has your client withdrawn any superannuation or been paid out under any life insurance or total and permanent disability (TPD) policy in the last few years? Have they made any substantial extra payments into their superannuation fund?

Any money that has been withdrawn from superannuation or paid out under a life insurance policy prior to the date of the bankruptcy is not protected in bankruptcy. The money itself, or property purchased with that money, can be taken by the Trustee. This includes amounts given to family or associates to improve their property or provide a deposit for a home. For a detailed description of the circumstances in which the Trustee can claw back property which has been sold or given away, see **Chapter 6 Part 3**.

Superannuation money taken out of the fund, or a life insurance claim paid, on or after the date of the bankruptcy is protected. This is in contrast with property that has been received by the bankrupt by way of compensation for personal injury, which can be kept whether received before or after the date of the bankruptcy.

Extra payments into a superannuation fund prior to bankruptcy may be recovered by the Trustee if it can be established that those payments were made to defeat creditors. More detail on this can be found in **Chapter 6 Part 2**.

o. Does your client have any legal proceedings on foot, or are they likely to be involved in legal proceedings in the near future?

Generally, a creditor cannot enforce any remedy against the person or property of a bankrupt in relation to a provable debt (s 58(3) Bankruptcy Act). This does not affect a secured creditor's right to enforce against property that is security for a loan. Enforcement action can also be taken in relation to a maintenance agreement or maintenance order under the *Family Law Act 1975* or *Child Support (Assessment) Act 1989*. Proceeds of crime proceedings and orders are also unaffected by bankruptcy.

Any legal action commenced by a person who subsequently becomes a bankrupt is automatically stayed until the Trustee elects in writing whether to continue the proceedings (s 60(2) Bankruptcy Act). Clients generally cannot continue or commence court proceedings during bankruptcy without the permission of the Trustee, because the right to recover property or money owed to the bankrupt vests in Trustee (s 116(1)(b)). Normally, any money recovered will vest in the Trustee (s 58(1)), though there are exceptions (s 60(4)) for proceedings in relation to:

- any personal injury or wrong done to the bankrupt, his or her spouse or de facto partner, or a member of his or her family; and
- the death of the bankrupt's spouse or de facto partner, or of a member of his or her family.

See more on legal proceedings in **Chapter 6 Part 5**.

p. Is your client separated/divorced? Have they already done a property settlement?

Bankruptcy can have serious consequences for non-bankrupt spouses and de facto partners (or ex-spouses/partners) and their children. Ideally both partners to a relationship should seek family law advice (from different lawyers) prior to one of them going bankrupt, but even after bankruptcy has been declared it is not too late to get independent legal advice.

Family law applications for a property settlement or maintenance can be made in relation to property that has already vested in the Trustee as a result of the bankruptcy. However, the Trustee can seek to set aside Family Court orders in certain circumstances, or to set aside Binding Financial Agreements under the Family Law Act, particularly where it was clear one of the parties was insolvent (unable to pay their debts as they fell due) and the effect of the orders or agreement is to deprive those creditors of their ability to recover their debt. This is less likely to occur with Court Orders than agreements, provided the Court was fully informed of the relevant facts when the orders were made.

See **Family Law & Bankruptcy** in **Chapter 6 Part 7**.

q. Has your client ever received an inheritance? Is your client likely to receive an inheritance in the next 3 to 5 years?

A client's inheritance may be money or property available to the Trustee. This includes small interests in property that may have been forgotten because the client is one of a group of owners, or the property is occupied by someone-else, or the client has an interest that they can only claim after a life tenant has died. Where this is the case the Trustee will find the property upon conducting routine searches. This may cause embarrassment to the bankrupt and inconvenience to the occupant when the Trustee seeks to claim the bankrupt's share for the estate.

In addition, any inheritance received by your client during bankruptcy will also vest in the Trustee. Where there is sufficient money in the inheritance, the bankruptcy can be annulled but this will mean paying out the creditors (including post-bankruptcy interest which may have accrued) plus the Trustee's costs, which can be substantial. It is important to note that it is the date of the death of the benefactor that matters, not the date the client receives the money. The money will vest in the Trustee even if the person dies only days before discharge and the money will be distributed many months after discharge.

r. Does your client manage a company or hold a directorship? Are they a partner in a business?

Bankruptcy and businesses pose particular challenges. For a start, a bankrupt cannot hold a position as a director of a company. Where your client is in a partnership the partnership will usually be dissolved as a result of the bankruptcy and the bankrupt's interest in the business will vest in the Trustee. Where your client is a sole trader and wants to keep trading, they will face a range of practical problems. **Small Business and Bankruptcy** is covered in **Chapter 6 Part 6**.

s. Is your client in a licensed profession or required to be a member of a professional association?

Some professions and licensed trades exclude bankrupts or require people to show cause why they should be permitted to continue in their trade or profession while bankrupt. This is covered in more detail in **Chapter 6 Part 5**. Clients should contact their own professional association or licensing body to ensure they get accurate and up-to-date information about their own circumstances. This can be done anonymously for initial enquiries at least.

t. Does your client earn more than the prescribed limit for making contributions during bankruptcy?

Bankrupts must contribute from their income while bankrupt if they earn more than the prescribed limit ('threshold amount'). The limit increases with each dependent. Essentially, the bankrupt will pay 50c in every dollar earned above the threshold amount in any given year until they are discharged, or the bankruptcy is annulled (s 139K Bankruptcy Act). Non-payment of contributions is a common reason for bankruptcy to be extended beyond three years. For a detailed description of how the income contributions provisions work, see **Chapter 6 Part 4**.

u. Does your client want/plan to travel overseas in the next few years?

Bankrupts may travel if they have permission. Permission can be obtained by making an application and payment of a fee.

In some limited cases a bankrupt may be asked to hand in their passport (if they have one) to their Trustee and they will not be permitted to travel outside Australia without the Trustee's permission. Even if the Trustee does not take the passport, if the bankrupt is considered a 'flight risk' his or her name may be placed on a Ports Watch List which could result in the bankrupt being accosted upon trying to leave the country.

More details on travel restrictions is contained in **Chapter 6 Part 5**. **Chapter 8** covers how to apply for permission to travel and the circumstances in which it is likely to be granted.

v. Does your client have long term plans to buy a home or start a business?

Buying a home or starting a business as a bankrupt, or even a discharged bankrupt, can be difficult. The bankrupt's credit report is affected by bankruptcy. Bankruptcy will be listed on a credit report for 5 years from the date of bankruptcy or 2 years from discharge – whichever the longer. and there is a record on the National Personal Insolvency Index forever. This can make it much harder to obtain credit and insurance. The bankrupt is also prohibited from being a company director until discharge and must disclose their bankrupt status if they want to borrow more than a specified amount during the period of the bankruptcy.

More details on small business and bankruptcy are contained in **Chapter 6 Part 6**. There is also a detailed description of the other consequences of bankruptcy (apart from the impact

on debts, property and income) in **Chapter 6 Part 5**.

w. Has your client been bankrupt before?

The Official Receiver in Bankruptcy has the discretion to refuse a Debtor's Petition in certain circumstances where a client has been bankrupt before in the last 5 years or has already been bankrupt 3 times previously (s 55(3AA) Bankruptcy Act). This is covered in **Chapter 7** about the process of going bankrupt. Second and subsequent bankruptcies also attract greater scrutiny. The client becomes more likely to have their financial affairs investigated or to face prosecution for offences such as gambling and hazardous speculation if there is evidence to suggest these factors may have been at play in causing the client's insolvency (see below).

x. Were your client's debts acquired through gambling and hazardous speculation, fraud, or are they non-provable?

It is an offence under the Bankruptcy Act for a person to cause or exacerbate their insolvency by gambling or hazardous speculation in the 2 years prior to becoming a bankrupt (s 271 Bankruptcy Act). While not often used, there have been prosecutions under these provisions. This is covered in **Chapter 6 Part 8**.

Debts incurred by fraud are not extinguished by bankruptcy. The risk of investigation and prosecution under criminal law increases if the debt is not paid.

y. Is your client physically or mentally ill?

Consider whether the client is physically or mentally ill to a significant degree. Sometimes a client may have other options but does not have the physical or mental fortitude to see them through. Stress can cause serious setbacks for people trying to recover from mental illness or serious physical illness. Bankruptcy may be a legitimate way of relieving stress, but the client may see their present circumstances differently if and when they recover in the future.

Determine whether the client has the 'capacity' to understand and file for bankruptcy and, if not, refer them for specialist assistance. Capacity is a legal test, not a medical test. Legal Aid may be able to assist with a capacity assessment. Several jurisdictions have developed a local Capacity Toolkit which can be a useful resource (for example, [NSW Department of Communities and Justice](#) and Victorian Government Department of Human Services).

z. Will bankruptcy make a positive difference to your client?

This is often the cornerstone question for the financial counsellor: How will bankruptcy make a positive difference in my client's life? This is usually linked to the physical, mental and emotional health of your client. The relief of the pressure of the debts will only be positive if the stress and consequences of bankruptcy are less onerous than the consequences of not

going bankrupt.

The A to Z of bankruptcy questionnaire

Your clients' answers to these questions will help them make an informed decision as to whether they are a suitable candidate for bankruptcy. You should explain the consequences of bankruptcy in detail as there may be things your client has forgotten or failed to disclose. Clients should be encouraged to explore other, viable options. Clients need to understand that there can be legal and financial implications if their circumstances change.

- a. Is there any urgency (for example imminent enforcement action – garnishee of wages, seizure of goods etc)?**
- b. Does your client have a judgment debt (or judgment debts) of over \$10,000?**
- c. Is your client's current financial problem permanent or long term?**
- d. Are most of your client's debts legally owed?**
- e. Are your client's debts covered by the National Credit Code? If so, has your client (or someone acting on behalf of your client) applied for a hardship variation or lodged a complaint in the Australian Financial Complaints Authority (AFCA)?**
- f. Has your client (or someone acting on behalf of your client) tried to come to a suitable informal arrangement with creditors? (Including reduced settlements)? Has anyone sought a compassionate release?**
- g. Will your client be released from their debts (or most of them) as a result of going bankrupt?**
- h. Has your client considered accessing any available superannuation? Is this a good idea in the circumstances?**
- i. Are there joint debts with another person who is not going bankrupt? Is there a guarantor?**
- j. Has your client claimed on any insurance policy that could assist to meet their financial commitments? Is your client expecting any type of insurance claim to be paid out in the near future?**

- k. Does your client own (or partly own) any assets other than household furniture and personal possessions (real estate, cars, boats, caravans, shares, pedigree breeding animals, livestock etc)? Is your client considering selling any available assets to meet their debt?**
- l. Are there secured debts? Is your client paying off a mortgage on a house/home unit or investment property?**
- m. Has your client ever made a substantial gift of assets or money or sold/transferred any property for less than its market value (for example. to family or friends)?**
- n. Has your client withdrawn any superannuation or been paid out under any life insurance or total and permanent disability insurance policy? Have they made substantial extra payments into their superannuation fund?**
- o. Does your client have any legal proceedings on foot, or are they likely to be involved in legal proceedings in the near future?**
- p. Is your client separated or divorced? Have they already done a property settlement?**
- q. Has your client ever received an inheritance? Is your client likely to receive an inheritance in the next 3 to 5 years?**
- r. Does your client manage a company or hold a directorship? Are they a partner in a business?**
- s. Is your client in a licensed profession or required to be a member of a professional association?**
- t. Does your client earn more than the prescribed limit for making contributions during bankruptcy?**
- u. Does your client want/plan to travel overseas in the next few years?**
- v. Does your client have long term plans to buy a home or start a business?**
- w. Has your client been bankrupt before?**
- x. Were your client's debts acquired through gambling and hazardous speculation, fraud or are they non-provable?**
- y. Is your client physically or mentally ill?**
- z. Will bankruptcy make a positive difference to your client?**