

ETHICAL DILEMMAS:

What would you do?



At some point in your career you may be faced with an ethical dilemma. Given that you are required to comply with the CIMA Code of Ethics in order to uphold your professional standing – what would you do?

Ethical dilemmas do not always have a prescriptive and clear cut response (unless there is evidence of breaking the law or accepted regulations). You may have discovered something you believe to be illegal or fraudulent, or someone may be pressuring you to mislead, or to report in a way that is against or marginal to accepted accounting standards or outside the law. Conflicts of interest and confidentiality are also ethical issues.

By using the Code as guidance members and students can review their options and decide on a course of action in order to resolve the issue. As a trained professional you have a responsibility and a professional duty to exercise good judgement and be accountable for your actions to the profession and the public. Understanding the wider strategic implications and the impact on the business, or society, is part of your role.

These case studies are linked to the fundamental principles which a CIMA professional accountant is required to uphold:

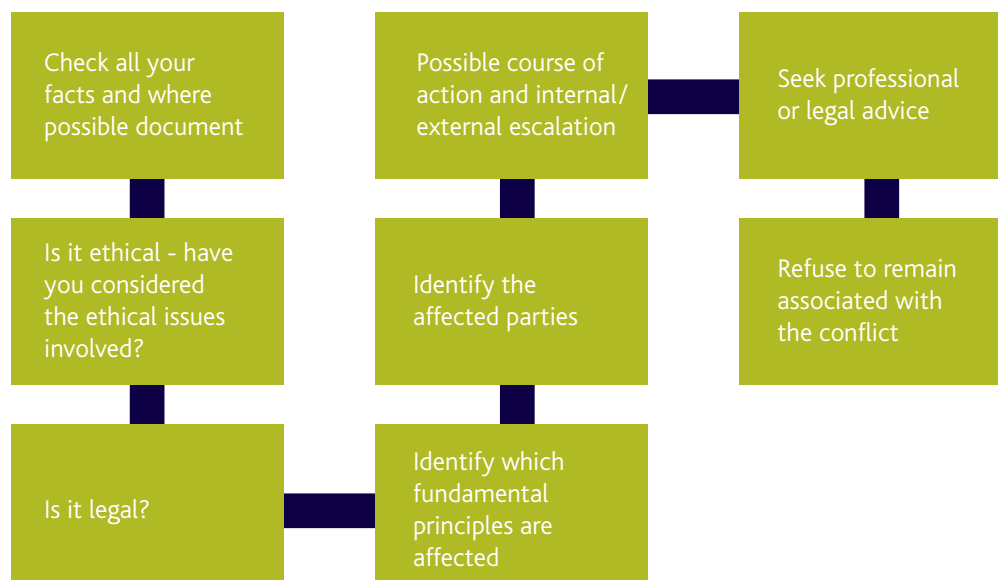
- a) Integrity
- b) Objectivity
- c) Professional competence and due care
- d) Confidentiality
- e) Professional behaviour

The case studies demonstrate how the Code of Ethics works in practice and guides you to areas in the Code which would apply. It is not exhaustive. There is also a checklist (see full checklist) you can work through when faced with an ethical dilemma to help you determine a course of action.

CHECKLIST (summary)

Key questions to also consider when facing an ethical dilemma rest on a personal feelings – you generally know if something feels right, if you are unsure ask yourself:

- Would I feel comfortable about my professional peers, family and friends knowing about the situation?
- How would I feel if I saw this in a newspaper?



If you have concerns – you most probably have a dilemma! The longer you leave resolving it, the more chance there is for there to be repercussions for the organisation, yourself and the standing of the profession.

Please see CIMA's full ethical checklist.



CASE STUDY THREE: POSSIBLE INSOLVENCY

As financial controller at a manufacturing company you have been advised by a colleague that the sales director is unlawfully declaring fuel benefits as the tax value is high. This has been creating higher profit margins and if declared those margins will go down. There is potential that this could push the company into insolvency, which would result in job losses for 300 employees. You have made the other directors aware of the situation but they have expressed a wish not to disclose the misleading tax bill.

You are aware that by declaring this information to the tax authorities, as required by law, that the organisation may have to declare insolvency and those 300 employees could lose their jobs.

What would you do?

Integrity	By not declaring the unlawful tax benefits your integrity is clearly compromised. See section 110.2
Objectivity	Your objectivity is threatened by the perceived threat of job losses. The short-term and unlawful actions to increase margins will not help the business model in the longer term. See sections 300.12-300.15.
Professional competence and due care	By not declaring you are undermining both your professional competence as well as not acting with due care and diligence as a professional accountant. See sections 130.1-130.2 and 100.16.
Confidentiality	In this case there is a legal and professional right and a duty to disclose. The issue will not go away and you will be seen as complicit. See section 140.7.
Professional behaviour	There is a need to comply with the relevant law and regulations on this matter. By failing to declare your actions both discredit the profession and put you in disrepute. See sections 300.2, 300.6, 310.2 and 200.10.

Integrity

110.2 A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:

- Contains a materially false or misleading statement;
- Contains statements or information furnished recklessly; or
- Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.

Objectivity

300.12 Examples of circumstances that may create intimidation threats for a professional accountant in business include:

- Threat of dismissal or replacement of the professional accountant in business or a close or immediate family member over a disagreement about the application of an accounting principle or the way in which financial information is to be reported.
- A dominant personality attempting to influence the decision making process, for example with regard to the awarding of contracts or the application of an accounting principle.



300.15 In circumstances where a professional accountant in business believes that unethical behaviour or actions by others will continue to occur within the employing organization, the professional accountant in business may consider obtaining legal advice. In those extreme situations where all available safeguards have been exhausted and it is not possible to reduce the threat to an acceptable level, a professional accountant in business may conclude that it is appropriate to resign from the employing organization.

Professional competence and due care

130.1 The principle of professional competence and due care imposes the following obligations on all professional accountants:

- a) To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and
- b) To act diligently in accordance with applicable technical and professional standards when providing professional services.

130.2 Competent professional service requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service. Professional competence may be divided into two separate phases:

- a) Attainment of professional competence; and
- b) Maintenance of professional competence.

100.16 Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards, which may be created by the accounting profession, legislation, regulation, or an employing organization, include:

- Effective, well-publicized complaint systems operated by the employing organization, the profession or a regulator, which enable colleagues, employers and members of the public to draw attention to unprofessional or unethical behaviour.
- An explicitly stated duty to report breaches of ethical requirements.

Confidentiality

140.7 The following are circumstances where professional accountants are or may be required to disclose confidential information or when such disclosure may be appropriate:

- a) Disclosure is permitted by law and is authorized by the client or the employer;
- b) Disclosure is required by law, for example:
 - i) Production of documents or other provision of evidence in the course of legal proceedings; or
 - ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and
- c) There is a professional duty or right to disclose, when not prohibited by law:
 - i) To comply with the quality review of a member body or professional body;
 - ii) To respond to an inquiry or investigation by a member body or regulatory body;
 - iii) To protect the professional interests of a professional accountant in legal proceedings; or



- iv) To comply with technical standards and ethics requirements.

Professional behaviour

300.2 Investors, creditors, employers and other sectors of the business community, as well as governments and the public at large, all may rely on the work of professional accountants in business. Professional accountants in business may be solely or jointly responsible for the preparation and reporting of financial and other information, which both their employing organizations and third parties may rely on. They may also be responsible for providing effective financial management and competent advice on a variety of business-related matters.

300.6 A professional accountant in business shall not knowingly engage in any business, occupation, or activity that impairs or might impair integrity, objectivity or the good reputation of the profession and as a result would be incompatible with the fundamental principles.

310.2 As a consequence of responsibilities to an employing organization, a professional accountant in business may be under pressure to act or behave in ways that could create threats to compliance with the fundamental principles. Such pressure may be explicit or implicit; it may come from a supervisor, manager, director or another individual within the employing organization. A professional accountant in business may face pressure to:

- Act contrary to law or regulation.
- Act contrary to technical or professional standards.
- Facilitate unethical or illegal earnings management strategies.
- Lie to others, or otherwise intentionally mislead (including misleading by remaining silent) others, in particular:
 - The auditors of the employing organisation; or
 - Regulators
- Issue, or otherwise be associated with, a financial or non-financial report that materially misrepresents the facts, including statements in connection with, for example:
 - The financial statements;
 - Tax compliance;
 - Legal compliance; or
 - Reports required by securities regulators.

200.10 A professional accountant in public practice shall exercise judgment to determine how best to deal with threats that are not at an acceptable level, whether by applying safeguards to eliminate the threat or reduce it to an acceptable level or by terminating or declining the relevant engagement. In exercising this judgment, a professional accountant in public practice shall consider whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude that the threats would be eliminated or reduced to unacceptable level by the application of safeguards, such that compliance with the fundamental principles is not compromised. This consideration will be affected by matters such as the significance of the threat, the nature of the engagement and the structure of the firm.

