

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:

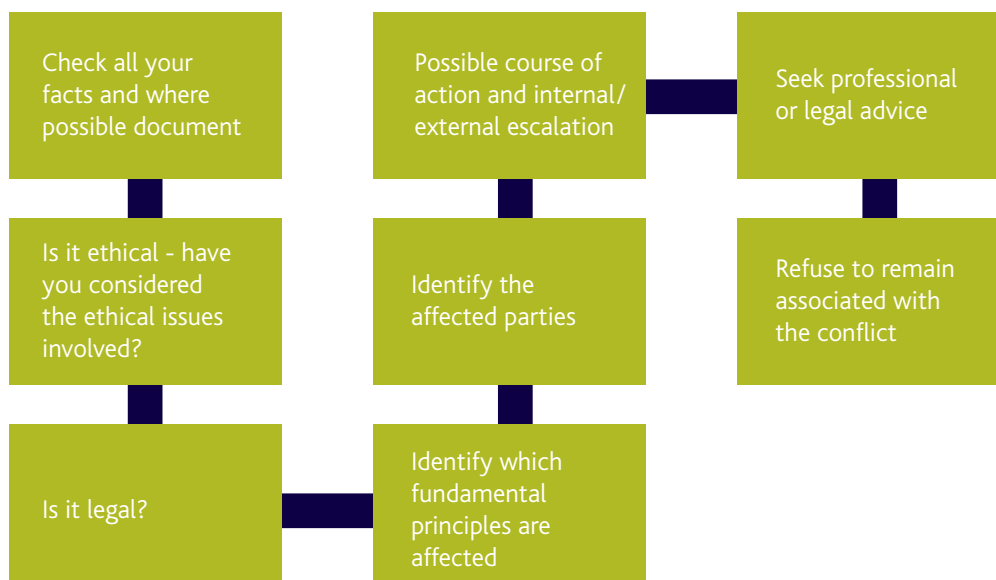
- a) Integrity
- b) Objectivity
- c) Professional competence and due care
- d) Confidentiality
- e) Professional behaviour

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 FIVE: EMPLOYEE ISSUES

You are a CIMA member who has recently joined a limited company that processes food. The company is effectively run by one director. The other directors are non-executive and all have close personal relationships.

As a key member of the finance team you have discovered that some employees are being paid cash in hand and not via the formal payroll. You also have suspicions that some of these people are being employed illegally and you have no records of their formal employment documents or contracts.

What would you do?

Integrity	The situation demands that you are honest and straightforward with your concerns with the management. See section 110.2.
Objectivity	Your objectivity could be compromised if you are unable to obtain the full facts. See sections 120, 310.
Professional competence and due care	You will be required to act competently and diligently in relation to relevant legislation and professional standards. Sections 130 and 320.3-320.6.
Confidentiality	If you are unable to resolve the issue internally you may need to consult externally, particularly if legal requirements are being breached. See sections 140.7-140.8.
Professional behaviour	You will need to bring to the attention of the management the risks and also the need to act within the law and fairly with employees. See sections 150.1 and 310.2 to 310.3.

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:

- a) Contains a materially false or misleading statement;
- b) Contains statements or information furnished recklessly; or
- c) 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

120.1 The principle of objectivity imposes an obligation on all professional accountants not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others.

120.2 A professional accountant may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. A professional accountant shall not perform a professional service if a circumstance or relationship biases or unduly influences the accountant's professional judgment with respect to that service.

310.1 A professional accountant in business shall comply with the fundamental principles. There may be times, however, when a professional accountant's responsibilities to an employing organization and professional obligations to comply with the fundamental principles are in conflict. A professional accountant in business is expected to support the legitimate and ethical objectives established by the employer and the rules and procedures



drawn up in support of those objectives. Nevertheless, where a relationship or circumstance creates a threat to compliance with the fundamental principles, a professional accountant in business shall apply the conceptual framework approach described in Section 100 to determine a response to the threat.

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 organization; 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.

310.3 The significance of any threats arising from such pressures, such as intimidation threats, shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:

- Obtaining advice, where appropriate, from within the employing organization, an independent professional advisor or a relevant professional body.
- Using a formal dispute resolution process within the employing organization.
- Seeking legal advice.

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.



130.3 The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a professional accountant to develop and maintain the capabilities to perform competently within the professional environment.

130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

130.5 A professional accountant shall take reasonable steps to ensure that those working under the professional accountant's authority in a professional capacity have appropriate training and supervision.

130.6 Where appropriate, a professional accountant shall make clients, employers or other users of the accountant's professional services aware of the limitations inherent in the services.

320.3 A professional accountant in business shall take reasonable steps to maintain information for which the professional accountant in business is responsible in a manner that:

- a) Describes clearly the true nature of business transactions, assets, or liabilities;
- b) Classifies and records information in a timely and proper manner; and
- c) Represents the facts accurately and completely in all material respects.

320.6 Where it is not possible to reduce the threat to an acceptable level, a professional accountant in business shall refuse to be or remain associated with information the professional accountant determines is misleading. A professional accountant in business may have been unknowingly associated with misleading information. Upon becoming aware of this, the professional accountant in business shall take steps to be disassociated from that information. In determining whether there is a requirement to report, the professional accountant in business may consider obtaining legal advice. In addition, the professional accountant may consider whether to resign.

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.

140.8 In deciding whether to disclose confidential information, relevant factors to consider include:



- a) Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client or employer consents to the disclosure of information by the professional accountant;
- b) Whether all the relevant information is known and substantiated, to the extent it is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgment shall be used in determining the type of disclosure to be made, if any;
- c) The type of communication that is expected and to whom it is addressed; and
- d) Whether the parties to whom the communication is addressed are appropriate recipients.

Professional behaviour

150.1 The principle of professional behavior imposes an obligation on all professional accountants to comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes actions that 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 adversely affects the good reputation of the profession.

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