Ethical decision making framework

THE POWER OF ONE
ETHICAL DECISION MAKING FRAMEWORK

There has been a lot in the media recently about Artificial Intelligence (AI). One of the most difficult tasks for any AI designer will be to replicate the ability to place ethical considerations into the decision-making process. Whilst this might be easier for certain aspects, such as determining compliance with a set of rules on auditor independence, it will be much trickier in other areas where a real understanding of the circumstances, and possible available courses of action, is required.

In order to assist members faced with ethical dilemmas, the following ethical decision making framework has been provided.

Do you have an ethical dilemma?

Often the most difficult action is recognition that you have an ethical dilemma. Once recognised or identified you can start to determine the course of action.

- Does something not feel right?
- Is there a potential conflict of interest?
- Are you being asked to do something you are uncomfortable with?
- Would you be happy to defend your actions?
- Is there any reason you should not do what is being proposed or considered?
- Do you have an interest in the proposed action, or will you benefit from it occurring?

Does your ethical dilemma relate to independence on an audit or other type of assurance engagement?

Are you undertaking an audit in the UK?

Comply with the requirements of the Financial Reporting Council’s Ethical Standard for Auditors\(^1\).

Section 290 of the Code of Ethics deals with independence in relation to audit and review engagements. However, this is redundant from a UK perspective as auditors in the UK have to comply with the FRC’s Ethical Standard for Auditors. There is no requirement to also comply with Section 290 of the Code.

Are you undertaking an overseas audit?

Comply with Section 290 of the Code.\(^2\)

Are you undertaking an independent examination of a charity?

You are specifically scoped out of the requirements of Section 290 of the Code. Comply with the independence requirements of the respective charity regulator.

Are you undertaking a review assurance engagement?

Comply with Section 290 of the Code (taking into account the fundamental principles).\(^3\)

Are you undertaking an assurance engagement which is not an audit or review engagement?

Comply with Section 291 of the Code (taking into account the fundamental principles).\(^4\)

Ascertain all the facts to the extent they are available

A professional ethical judgement can only be made once all relevant information has been collected and analysed.

- Determine the parties involved or likely to be affected
- Read all relevant documentation, including contracts, agreements, correspondence, etc.
- Identify if there are any related or linked matters which need to be considered
- Consider the uncertainties and how some of these might be removed
Consider the five fundamental ethics principles in the ICAS Code of Ethics

The ICAS Code of Ethics ("the Code") applies to all members of ICAS, affiliates, students, employees of a member firm or an affiliate, and member firms. The Code establishes the five fundamental principles of professional ethics for all professional accountants:

- **Integrity** – To be straightforward and honest in all professional and business relationships.
- **Objectivity** – To not allow bias, conflict of interest or undue influence of others to override professional or business judgements.
- **Professional Competence and Due Care** – To maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
- **Confidentiality** – To respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the professional accountant or third parties.
- **Professional behaviour** – To comply with relevant laws and regulations and avoid any action that discredits the profession.

Failure to follow the Code may lead to a professional accountant becoming liable to disciplinary action.

Is there a specific section within the Code which relates to your scenario?

The ICAS Code of Ethics is split into four parts; but any of them may be useful in relevant circumstances (Appendix A):

- Part A applies to all members;
- Part B applies to members in practice;
- Part C applies to members in business; and
- Part D applies to insolvency practitioners.

The use of the word "shall" in the Code imposes a requirement to comply with the specific provision in which "shall" has been used.

- Do not simply "tick the boxes" – challenge yourself from all directions.

Does your ethical dilemma relate to tax?

Refer to "Professional Conduct in Relation to Taxation".

Does your ethical dilemma relate to insolvency?

Refer to Part D of the Code of Ethics.

Are there any legal or regulatory requirements that must be complied with?

These will be jurisdictional specific. For example, in the UK:

- Anti-money laundering legislation

Refer to:
- ICAS Anti-money Laundering Guidance;
- and
- CCAB Anti-money Laundering Guidance

- The Bribery Act 2010
Have you considered your responsibility to the public interest?

Professional accountants have a responsibility to take into consideration the public interest and to maintain the reputation of the accountancy profession. Personal self-interest must not prevail over those duties.

Consider:
- Who is your client?
- Who are the key parties who can influence your decision?
- Who will be affected by your decision? Please note that there is a need to consider all potential relevant stakeholders.
- Is your public interest at local, regional, national, or global level?
- Are there geographical or cultural issues which need to be taken into consideration?
- Is there a “social responsibility” aspect which needs to be taken into consideration?
- Is your advice or work uncorrupted by self-interest and not influenced by the interests of other parties?
- Is your decision “fair” and “balanced”? 
- Could you justify your decision to others?
- What could be the “reasonable and informed public perception” of your actions? (para 100.1 Code of Ethics)
- How could the repercussions from your decision affect your personal or corporate “brand”?
- What could be the reputational damage caused by your involvement with your client, or the outcome of your decision?

Are there reporting or tipping off requirements that need to be considered?

Is there an internal reporting mechanism?
Is there a corporate Code of Ethics?
Is there approval/escalation procedures that have to be endorsed, for example, by the audit committee or board?
Is there an internal whistleblowing policy/Speak Up policy?

Are there reporting or tipping off requirements that need to be considered?

Refer to:
- ICAS Anti-money Laundering Guidance;
- CCAB Anti-money Laundering Guidance

Consider (where possible) discussing with a member of your professional network or ICAS

It may be useful to discuss your dilemma with someone that you trust. However, please ensure adherence to the ethical principle of confidentiality and consider any “tipping off” requirements that may be applicable.

Allow sufficient time to consult.
ICAS contacts:
ICAS Ethics Helpline Members with an ethical query (other than audit ethics) should contact us at ethicalenquiries@icas.com or by telephone on 0131 347 0271.
Members with a query relating to audit ethics should contact our Accounting and Auditing department:
accountingandauditing@icas.com

Make your decision and document your decision making process

Make your decision:
• Consider and assess the range of alternative courses of action. Identify any self-interest and conflicts of interest to ensure the objectivity of the judgement. Consider the possibility of bias in the judgement process and reassess the judgement as appropriate.
• Ensure that you act ethically when making your decision and are not subject to undue pressures.
• Consider whether your proposed course of action is one which you would be happy to defend against any possible reputational risk.
• Inform the client, or relevant parties, of your course of action (being alert to any “tipping-off” requirements)

Document your decision making process including:
• An overview of the issue.
• Relevant ethical standards/Codes considered.
• The final judgement made/decision reached.
• Information known at that point in time.
• The timing of the decision.
• The alternative options considered and why the final solution was chosen and the reasons the other options were discounted.
• Any uncertainties in the decision.
• The process followed in making the decision: sources used and relied upon, discussions held and with whom and date of the decision.

Read “The Power of One” publications

Other useful sources of information – visit ICAS.com
Do you have the necessary skills to identify an ethical dilemma? Consider the need for training.
ICAS resources:
• What do you do now? Ethical issues encountered by Chartered Accountants
• Shades of Grey
• Shades of Grey: Directors’ Dilemmas
• Courses
APPENDIX A

ICAS CODE OF ETHICS
(APPLICABLE FROM 1 JANUARY 2014)

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1 FRC’s Ethical Standard for Auditors
   frc.org.uk/Our-Work/Audit/Audit-and-assurance/Standards-and-guidance/
   Standards-and-guidance-for-auditors/2016-Ethical-Standard.aspx

2 ICAS Code of Ethics

3 ICAS Code of Ethics

4 ICAS Code of Ethics

5 ICAS Professional Conduct in Relation to Taxation
   icas.com/__data/assets/pdf_file/0007/266056/20161101-Professional-Conduct-
   in-Relation-to-Taxation-FINAL.pdf

6 ICAS Code of Ethics – Part D Insolvency Practitioners
   pdf

7 ICAS Anti-money laundering guidance
   icas.com/regulation/anti-money-laundering

8 The Consultative Committee of Accountancy Bodies (CCAB) Anti-money laundering
   guidance for the accountancy sector
   ccab.org.uk/documents/20140217%20FINAL%202008%20CCAB%20
   guidance%20amended%202014-2-17.pdf.pdf

9 ICAS “A Common Sense Guide to the Bribery Act 2010”
   icas.com/ethics/a-common-sense-guide-to-the-bribery-act-2010

10 Companies Act 2006
    legislation.gov.uk/ukpga/2006/46/contents

11 ICAS Anti-money laundering guidance
    icas.com/regulation/anti-money-laundering

12 The Consultative Committee of Accountancy Bodies (CCAB) Anti-money laundering
    guidance for the accountancy sector
    ccab.org.uk/documents/20140217%20FINAL%202008%20CCAB%20
    guidance%20amended%202014-2-17.pdf.pdf

13 ICAS Ethics Helpline Service
    icas.com/ethics/icas-ethics-helpline-service

14 ICAS The Power of One
    icas.com/ethics/the-power-of-one

15 What do you do now? Ethical issues encountered by Chartered Accountants, Dr
   David Molyneaux, Full Research Report, First published by ICAS in 2008
   icas.com/__data/assets/pdf_file/0017/5516/Ethical-Issues-Encountered-by-
   Chartered-Accountants-Molyneaux-ICAS.pdf

16 Shades of Grey – Ethical Dilemmas, Published by ICAS 2009
    icas.com/ethics/shades-of-grey

17 Shades of Grey - Directors’ Dilemmas, Published by ICAS 2016.
   icas.com/technical-resources/shades-of-grey-directors-dilemmas

18 ICAS Training Courses
    icas.com/professional-development/bpp-training-courses-by-date