



Ethical Dilemmas Case Studies

Professional Accountants in the Public Sector

April 2012

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CCAB Ethical Dilemmas Case Studies for Professional Accountants in the Public Sector

Introduction

The following case studies were developed by the UK and Ireland's Consultative Committee of Accountancy Bodies (CCAB). They illustrate how the ethical codes of the CCAB bodies can be applied by professional accountants working in the public sector. These scenarios are not intended to cover every possible circumstance, but instead to outline key principles and processes that could be considered when attempting to identify, assess and resolve ethical problems in line with the ethical codes. These case studies were published in April 2012. The CCAB welcomes comments on these cases. Please email admin@ccab.org.uk

The professional accountant in the public sector

All members (and registered students) of CCAB bodies have a responsibility to behave professionally and ethically at all times. In addition, as a professional accountant in a visible role within an organisation, you will have a particularly important role to play in creating, promoting and maintaining an ethical culture within that organisation. You may be approached by other employees wishing to report unethical behaviour and, as a senior figure within the organisation, you will have an impact on its ethical tone.

A professional accountant in the public sector has a responsibility to further the legitimate aims of his or her employer. The ethical codes of the CCAB bodies do not seek to hinder the professional accountant from properly fulfilling that responsibility, but address circumstances in which compliance with the fundamental principles may be compromised.

The professional accountant is also required to act in the public interest. (For the professional accountant in the public sector, this might be particularly relevant.) To that end, objectivity must be exercised at all times and, on occasions, it may be difficult to reconcile this requirement with the duty to act in the interests of the public sector organisation. Therefore, it is important to understand the conceptual framework approach to resolving ethical dilemmas.

Resolving ethical dilemmas

These case studies are compatible with the ethical codes of the CCAB member bodies, which are derived from the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (IESBA).

The case studies illustrate the application of the 'conceptual framework' approach to resolving ethical dilemmas. This approach focuses on safeguarding the fundamental principles of:

- integrity,
- objectivity,
- professional competence and due care,
- confidentiality, and
- professional behaviour.

In order to do so, it is important to be alert to situations that may threaten these fundamental principles. Identified threats need to be evaluated and managed, to ensure that they are either eliminated or reduced to an acceptable level. Threats may arise as a result of any of the following:

- self-interest: the threat that a financial or other interest will inappropriately influence your judgement or behaviour
- self-review: the threat that you will not properly evaluate the results of a previous judgement made or service performed by you (or someone else within the organisation) when forming a judgement as part of providing a current service
- advocacy: the threat that you will promote a position (usually your employer's) to the point that your objectivity is compromised
- familiarity: the threat that, due to a long or close relationship with someone, you will be too sympathetic to that person's interests, or too accepting of their work
- intimidation: the threat that you will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over you.

When resolving an ethical conflict, consider carefully whether other parties could or should be involved in discussions and, if appropriate, how those parties should be approached. You should keep in mind confidentiality obligations. If you are facing, or think you might be facing, an ethical dilemma, you may wish to seek advice from a trusted colleague within the organisation, your professional body or an independent lawyer.

You should take care to ensure that any advice obtained is sufficiently well documented, either by way of minutes or your own records. Similarly, discussions held, actions you decide to take, and the reasoning behind your decisions should be clearly documented. In many situations, the perception of a reasonable and informed third party will be relevant to the resolution of the dilemma, and you might be required to evidence the steps you took to resolve the issue.

These case studies do not form part of the CCAB bodies' ethical codes. You may find it useful to refer to the advisory services and websites of the individual CCAB bodies for further information. The IFAC website may also be of use.

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Outline of the case

You are the deputy director of finance and information for a hospital trust, with overall responsibility for the preparation of non-financial performance information. The newly appointed director of finance and information is putting considerable pressure on you concerning the collation and reporting of this year's performance information for presentation to the trustees and your regulator. The director has made it clear that he expects the reported performance information to result in the hospital retaining its 'excellent' rating by the regulator.

Some favourable performance information has not been adequately verified, but the director is willing for it to be reported, because it will enhance the perceived performance of the trust. You are aware that some departments have had difficulties meeting targets during the last year, due to funding constraints and staff shortages. From your scrutiny of the information systems, you are concerned that the relevant information may be incorrect, and that the correct performance information would draw attention to some severe performance shortfalls within the hospital.

You are aware of some instances where departments have been double counting activity in order to increase the funding income of the hospital. This was highlighted in a recent internal audit report, which will shortly be submitted to the audit committee. The director is putting considerable pressure on you to conceal this issue, in the short term, while he reviews the position and puts in place a plan for remedial action.

Key fundamental principles

Integrity: You must use your best endeavours to ensure that the performance information finally reported gives a straightforward and honest picture of the performance of the hospital trust.

Objectivity: How can you maintain your professional objectivity in the face of pressure from the director of finance and information? If the trust's performance rating affects your own position, how can you avoid self-interest influencing your ethical judgement?

Professional competence and due care: You are required to perform your work diligently, thoroughly and on a timely basis. This will require balancing the need to verify much of the performance information with the need to report within a reasonable time.

Considerations

Identify relevant facts:

You suspect that some of the performance information you have is incorrect or misleading. You are also aware of inaccuracies in the information provided by certain departments, but you have been asked to conceal these in the short term. You must obtain adequate information concerning the extent of any inaccuracies. Consider the relevant policies, procedures and guidelines of the trust, together with your professional body's code of ethics, applicable law and regulations and any applicable technical standards.

Identify affected parties:

Parties affected include you, the director of finance and information, the hospital trustees, the audit committee, the regulator, and any other users of the information you are compiling. The managers of the departments that have provided inaccurate information may also be affected.

Who should be involved in the resolution:

In the first instance, you should involve the director of finance and information. Also available are the audit committee, the trustees, and any mechanism within the trust or the wider health service that exists to advise on ethical issues and policies.

Possible course of action

It is important that you try to maintain a good working relationship with the director of finance and information. However, you should deliver a rational, firm and honest statement of the situation in your discussions with him.

You are likely to feel pressure to follow the director's wishes, but you should not allow intimidation to sway your professional judgement. Nor should you be influenced by any self-interest arising from the hospital retaining its 'excellent' quality rating due to the reporting of inaccurate information.

You should suggest to the director ways in which the performance information may be best presented. This should be done objectively and accurately, while highlighting positive data based on both historical events and projections. If the director continues to urge you to present the information dishonestly or with an unreasonable bias, you should bring to his attention the trust's relevant policies, procedures and guidelines, together with your professional body's code of ethics.

By acknowledging that issues exist in the collation and processing of information, and suggesting an action plan, you may successfully demonstrate to the director that efficiency improvements can be made to the information systems. Your proposed action plan might also indicate how the reputation of the trust and its relationship with the regulator may be maintained.

It is possible that your proposals will not be sufficient to prevent a fall in the hospital's quality rating. In any event, the director may not accept your proposals, and may try to insist that you present unverified information. You should not allow yourself to be associated with such information. In the event of such an impasse, you may wish to bring the matter to the attention of the chairman of the board of trustees. If possible, this should be done with the co-operation of the director. At any time, you may seek advice from an individual or department responsible for ethics within the trust, or from your professional body or an independent lawyer. If unverified information is reported against your will, you should consider how best to disassociate yourself from it. At all times, bear in mind the need for appropriate confidentiality, especially if raising the matter outside the trust.

Having taken suitable advice, it may be appropriate to file a report with the hospital trustees, or to report directly to the audit committee. In extreme circumstances, it might be necessary for you to report your concerns to the regulator.

You should document, in detail, the steps that you take in resolving your dilemma, in case your ethical judgement is challenged in the future.

Outline of the case

The year end accounts for a local authority have been prepared, and they will soon be adopted by the council, ready for audit. You are the head of social services finance, and you have become aware that some work has been performed by a consultant which has resulted in a proposal to close an elderly persons' care home. The council members want to suppress this information from becoming public knowledge because there is a forthcoming by-election in the electoral division where the care home is located.

The consultant has agreed not to submit the invoice for their fees, which are significant, until after the by-election. Normal accounting treatment would require the consultant's fees to be included as an expense in the accounts. Additionally, the estimated costs of the potential closure may need to be included as a provision in the accounts. The members will not make their decision known until after the by-election, which will be after the audit has been completed and the opinion signed.

Key fundamental principles

Integrity: How can you ensure that the accounts are an accurate and honest representation of the council's activities? You cannot allow yourself to be involved in the publication of information that is misleading.

Professional behaviour: You are required to perform your work in accordance with applicable law and regulations, including relevant accounting standards. How should you act so as not to discredit yourself or your profession?

Considerations

Identify relevant facts:

Consider the Local Government Code, generally accepted accounting standards, and applicable law and regulations. Also, establish the extent of the potential misstatement of the accounts. What is the likelihood that the council members have already decided to act on the consultant's advice, in which case the provision for the costs of closing the care home is also required? Could past accounts have been misleading as well?

Identify affected parties:

Affected parties include you, the council, council members, the consultant, the occupants of the care home, and the electorate.

Who should be involved in the resolution:

As the intention to conceal the consultation exercise is that of the council members, you should involve the leader of the council in the resolution process. You should also consider involving other senior managers, the internal audit department, and the external auditor.

Possible course of action

The consultant's fees are significant, and so they should be included in the local authority's year end accounts. You should establish, through discussions with senior management, whether the accounts should also reflect the proposal to close the care home.

You should try to explain to your colleagues the accounting principles that require the liability in respect of the consultant's charges and the potential provision in respect of the closure of the care home to be accounted for. You should make clear your professional and ethical responsibilities, and be prepared to discuss the issues with the leader of the council, if necessary.

You could notify the central finance team, who may decide to bring the matter to the attention of those responsible for internal compliance (e.g. the internal auditors). They should also immediately notify the external auditors.

If it appears necessary to whistleblow to third parties, you should consider carefully to whom you should report, bearing in mind the fundamental principles of confidentiality and professional behaviour. You could consult your professional body for advice, and consider seeking independent legal advice. You should determine what access you have to organisations that can offer guidance and support to employees who find they have a whistleblowing responsibility.

You should document, in detail, the steps that you take in resolving your dilemma, in case your ethical judgement is challenged in the future.

Outline of the case

You are head of internal audit in a public sector organisation which is about to put out for tender the contract for the internal audit service. It will be an open tender process, for both external and internal providers.

The newest member of your team was recruited from the department responsible for devising the tender process. He is now a support administrator in your department. Although he took no part in establishing the tender process, a former colleague (and personal friend) of his was heavily involved in drawing up the tender specification document and will be involved in the evaluation process.

The support administrator has had sight of some of the evaluation criteria, and has offered to share with you information that may be of use when preparing the tender. However, this information is confidential and should not be seen by any of the tendering parties. Bids from external providers are being encouraged, and the evaluation process has been designed with this in mind.

If the contract is awarded externally, you will be unsure of your future position in the organisation. You understand that the use of any insider knowledge of the tendering process would be inappropriate when preparing the tender proposal, but you would have a better chance of success if you used the confidential information.

Key fundamental principles

Integrity: If you use the confidential information being offered to you, the tendering process may be undermined. What must you do to act with integrity and be seen to be acting with integrity?

Objectivity: If you receive information that could benefit your department's tender, can you retain your objectivity? If third parties were made aware of the connection between your support administrator and the department responsible for devising the tender process, would you still be perceived as acting with objectivity?

Confidentiality: Confidential information acquired as a result of professional and business relationships should not be used to your personal advantage.

Professional behaviour: You must avoid any action that may discredit you, the organisation you work for or the accountancy profession.

Considerations

Identify relevant facts:

As head of internal audit, your future position within the organisation is uncertain if the internal audit contract is awarded to an external provider. Therefore, there is a significant self-interest threat. This threat needs to be carefully managed, and the perception of integrity needs to be maintained, as well as actual integrity.

Identify affected parties:

Parties that may be affected by the integrity of the tender process are you, other members of your department, the head of the department that devised the tender process, and third

parties tendering for the contract. The reputation of your organisation might also be affected.

Who should be involved in the resolution:

You should consider raising the matter with your line manager, but you will also need to involve the support administrator and the head of his former department in the resolution.

Possible course of action

Your future role within the organisation (if any) is unclear. If you had more information about this, you might be less anxious about your career, and your objectivity might not be so threatened.

However, it currently appears that there is the potential for personal gain from using the evaluation information. You should not use this confidential information in your tender document. You should state clearly to the support administrator that his offer of assistance cannot be acted upon, and you should try to prevent him from communicating further with you about the tender process.

In offering you information about the tender process, your support administrator may already have passed relevant information to you. In any event, it is likely that the perception of third parties (if they were well informed regarding the relationship between the support administrator and the department responsible for devising the tender process) would be that you may have already received confidential information. You need to take decisive action to protect your reputation and that of the organisation for which you work.

You should disclose to the tendering department the relationship between a member of your staff and a member of theirs, and specifically make them aware of any confidential information already in your possession. You might suggest to the tendering department that they make the same information available to other bidders. You may further reduce the threats to your objectivity by disclosing the situation to your line manager.

You must also make the support administrator aware that you will not be using any confidential information, and that any further communication between him and his former colleague regarding the tender process would be a breach of confidentiality. By openly stating your intentions, you are also demonstrating to others within the organisation a level of expected ethical behaviour. You may also be able to refer your staff to the organisation's internal code of ethics if one exists.

You should document, in detail, the steps that you take in resolving your dilemma. Keep records of meetings and conversations, in case the integrity of the tender process or your ethical judgement is challenged in the future.

Outline of the case

You are the finance director of a district council. The chairman of the finance committee approaches you asking to see all the information the housing benefits section holds about the financial and personal affairs of a councillor.

The chairman of the finance committee insists on seeing this information (saying that he will not disclose how he acquired it), even though he cannot identify any legitimate reason. The chairman is not willing for you to contact the councillor about this.

Key fundamental principles

Integrity: Can you be straightforward and honest in your dealings with the people concerned?

Confidentiality: Are there proper grounds for disclosing the information?

Professional behaviour: What should you do to safeguard your reputation?

Considerations

Identify relevant facts:

Consider the organisation's policies, procedures and guidelines, applicable laws and regulations, and the code of ethics of your professional body. You should attempt to establish other relevant facts, including any allegations of fraud or impropriety on the part of the councillor, whether in the public domain or not.

Identify affected parties:

Key affected parties are you, the chairman, the councillor, and possibly the council. Other possible affected parties are the finance committee, members of council staff responsible for housing benefit, and the officer responsible for data protection.

Who should be involved in the resolution:

This appears to be a sensitive matter, and so you should consider not just whom you should involve, but also when to involve them and the reasons for their involvement. You will have to involve the chairman of the finance committee. Others may include the data protection officer, legal officers and internal auditors.

Possible course of action

You must engage effectively, but diplomatically, with the chairman of the finance committee. You should explain to him the ethical dilemma you are facing, and make your concerns clear. If possible, obtain from the chairman a formal, reasoned request in writing.

If this is not forthcoming, ensure you make detailed notes of the request and any reasons given or implied. Impress upon the chairman your duty of confidentiality, and any legal implications of complying with his request, as well as the ethical ones. You should obtain specialist legal advice if necessary, as meeting the request might infringe data protection legislation in some jurisdictions. You may refer the chairman to any information in the public domain, but you must deny him access to other information.

If the request is formally made in writing by the chairman, you should try to establish whether there is a basis for investigating the councillor. This might be suspected impropriety, and again you are likely to need legal advice to establish any such basis for investigation. Your professional body will also be able to provide you with advice, as more facts come to light.

Try also to establish any reasons why the councillor should not be asked for his consent to the release of information about his affairs. Determine whether, in the light of any such reasons, an internal or external investigation may be appropriate (and by whom it should be conducted). It may be advisable to inform the councillor of any ensuing investigation at the relevant time, bearing in mind the need for confidentiality surrounding the investigation.

You should document, in detail, any discussions that you have with the chairman and any advisors, and the steps that you take in resolving your dilemma, in case your ethical judgement is challenged in the future.

Outline of the case

You are finance director in a public sector organisation that has experienced difficulty attracting and retaining skilled staff. To assist in overcoming this problem, the board has engaged a consultant to recommend an improved benefits structure, to apply to all staff. The consultant has produced his report, and you have been asked to consider the proposed staff benefits structure, and make appropriate recommendations to the board.

You study the report, conduct appropriate research, and assess the costs involved. You conclude that it will be necessary to increase staff costs, but you believe these will be offset by the efficiencies brought about by recruiting and retaining high-quality staff. The report contains the following recommendations:

Benefits should be related to the length of service of members of staff.

After one year of continuous employment, a member of staff will qualify for private health insurance.

Private health insurance should cover the member of staff and his or her spouse, but no other members of the employee's family.

Enhanced pension benefits will accrue to all staff after one year of service.

You decide to advise the board that the consultant's recommendations should be adopted in full.

You are pleased with your work on this assignment, and feel confident that the proposed package of benefits should serve as a strong motivator to all staff.

Your personal circumstances mean that you will benefit greatly if the board accepts the consultant's report. You have been with the organisation for eleven months. You have recently become engaged to your girlfriend, who works in a different department. She has handed in her notice, as you both decided that it was inadvisable to work so closely together after you are married. Her new job will provide a slightly lower salary, and you are both saving hard to buy your first home. The date of your wedding is only two months away, but you do not intend to start a family in the near future. You have been concerned about starting to provide for your pension, and neither you nor your fiancée have been able to afford health insurance.

Key fundamental principles

Integrity: In view of your personal interest in the proposed benefits structure, how will you ensure that you are perceived as straightforward and honest?

Objectivity: Can you remain unbiased and consider only the relevant facts and the interests of the organisation, despite your personal interest in the proposed benefits package?

Professional behaviour: How should you proceed so as not to discredit yourself or your profession?

Considerations

Identify relevant facts:

An independent consultant has produced a report, and you are required to express your opinion on the recommendations made within it. These recommendations, if adopted by the board, would benefit you greatly. Are there ethical policies and procedures within the organisation that could help you? You must manage the reasonable perception of third parties, as well as your actual objectivity.

Identify affected parties:

Key affected parties are you, your fiancée, other staff within the organisation, and the board. Other possible affected parties are the organisation's personnel department and the consultant (whose reputation might be tainted if your own ethics are questioned).

Who should be involved in the resolution:

Before involving the board, you might discuss your dilemma with a senior member of the personnel department. The consultant's report concerns staff remuneration, and so you should take care if you decide to involve any other colleagues. You may seek independent, objective advice from your professional body.

Possible course of action

It is important that any personal interest you have in the consultant's recommendations is disclosed before your advice is considered by the board. As a member of staff yourself, it will be clear that you have a personal interest in the organisation's benefits package. However, the extent of your interest in accepting the recommendations (in view of your marriage plans and impending eligibility for the major benefits) may not be known to the board.

You should discuss the issue with an appropriate member of the personnel department before reporting to the board. You should attempt to present the board with a solution to the perceived threat to objectivity. The quality of the report provided by the consultant is not thought to be an issue, and you are required to provide the board with an opportunity to consider the proposals within it. Those proposals may well be in the best interests of the organisation.

In arriving at this stage, you should consider who else within the organisation would be able to review the report objectively. If nobody within the organisation has the necessary skills and independence, you might think it appropriate to procure a second opinion from another consultant.

You should be prepared to explain to the board how you approached the assignment, and who else has been involved in your discussions. Also, you should provide the board with information concerning the qualifications and independence of the consultant. When preparing your presentation to the board, including your costings, you should declare your interest in the consultant's recommendations being accepted.

If possible, you might arrange for the proposal to be presented to the board by someone other than yourself. This might be the chief executive or the most senior member of the personnel department. When the item arises for discussion at the meeting, you should refer to your personal interest, and leave the room until a final decision has been reached.

During the resolution process, it may be helpful to consult with your professional body. Finally, you should ask yourself whether the process of reviewing the consultant's report has met the relevant quality assurance procedures laid down by the organisation.

You should document, in detail, the steps that you take in resolving your dilemma, in case your ethical judgement is challenged in the future.

Outline of the case

You are the external auditor of a hospital trust. The trust is hoping, and expecting, to receive enhanced status in the near future, which will afford it more autonomy and provide opportunities to pursue a number of exciting projects.

As the trust passed its financial year end, some unforeseen liabilities came to light. The trust's director of finance and chief executive had reported to the board of trustees and the regulator that the trust would break even for the year. The director of finance then made a number of accounting adjustments in order to ensure that the trust would meet its financial responsibilities, including the requirement to break even each and every year.

The adjustments required changing the accounting policy in respect of stock, which had previously been valued on a 'first in, first out' basis as specified by International Financial Reporting Standards. In addition, certain salaries have been capitalised, and the trust has failed to account for its share of liabilities under a partnership agreement with a local authority, which has yet to prepare the memorandum account.

The adjustments come to your attention during your audit process, and you do not accept that they are correct. As they are material, if the trust does not amend its accounts, you will have to qualify your audit opinion on the year end accounts. When you discuss the issues with the director of finance, he is emphatic that his view represents a legitimate interpretation of accounting policy. He indicates that if you do not accept it, he will ensure that the trust appoints different auditors next year. He also threatens to tell the local newspaper that your firm is determined to make the trust's financial position look worse than it is.

Key fundamental principles

Integrity: Would you be acting with integrity if you were influenced by the finance director's threats, and accepted his year end adjustments?

Objectivity: How can you maintain your professional objectivity in the face of the threats made by the finance director? If your firm's local reputation and continued engagement by the trust affect your own position, how can you avoid self-interest influencing your ethical judgement?

Professional competence and due care: You must observe relevant auditing and accounting standards, policies and procedures, so that you demonstrate your professional competence.

Professional behaviour: You are required to perform your work in accordance with applicable law and regulations, including relevant auditing standards. How should you act so as not to discredit yourself, your firm or your profession?

Considerations

Identify relevant facts:

The director of finance has adjusted the year end financial statements primarily in the interests of the trust and those working within it. You are being intimidated by the director of finance, who is asking you to compromise your objectivity. You must research the relevant accounting requirements to ensure that your technical knowledge is accurate and

up to date.

Identify affected parties:

Key affected parties are you, your firm, the director of finance, the chief executive, the trust and the general public. Others employed within the trust may also be affected.

Who should be involved in the resolution:

Within the trust, you should involve the director of finance, the audit committee and, if necessary, the chief executive. However, you should also involve senior members of your firm, as the firm will take responsibility for the audit report and its reputation is being threatened in terms of both competence and ethics.

Possible course of action

You should ensure that your technical knowledge is accurate and up to date by reviewing the relevant accounting standards, guidance and manuals issued by the government health department and discussing the technical issues with appropriate members of your firm and, if necessary, your professional body. You will then be able to discuss the issues further with the director of finance and the chief executive, if appropriate, and refer them to the relevant accounting standards and the ethical requirements of your professional body.

If this fails to persuade the directors to make the changes to the financial statements that you consider necessary, you should formally report the implications of this to the trust's audit committee, setting out the requirements of the accounting and auditing standards concerned, and the necessary amendments to the financial statements. You should explain the consequences for your report – a qualified audit opinion – if the trust fails to amend the financial statements.

You should make senior members of your firm aware of the accounting issues and the threats – to objectivity and to the firm's reputation. They should be involved in the drafting of the report to the audit committee, and then kept informed of developments.

You and your firm should consider whether the intimidation from the director of finance should be reported to the chief executive and the chair of the audit committee. You should document, in detail, the steps that you take in resolving your dilemma, in case your ethical judgement is challenged in the future. In particular, if you conclude that the financial statements continue to be materially misstated, your firm must issue a qualified audit opinion, and it is essential that you document fully the reasons for doing so.

Consultative Committee of Accountancy Bodies

ICAEW | ACCA | CIPFA | ICAS |
Chartered Accountants Ireland

tel: 020 7920 8100
fax: 020 7920 8783
email: admin@ccab.org.uk
web: www.ccab.org.uk

PO Box 433
Chartered Accountants' Hall
Moorgate Place
London EC2P 2BJ