

# **STANDARD OF PROFESSIONAL PRACTICE ON ETHICS**

INCORPORATING  
GUIDANCE ON  
APPLICATION

DECEMBER 2000



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## STANDARD OF PROFESSIONAL PRACTICE ON ETHICS

### FOREWORD

Aristotle said:

‘Ethical leadership must come first from those in public office. Such people exercise a teaching function. Among other things we see what they do and think that is how we should act. Unfortunately, when they do things that are underhanded or dishonest that teaches us too.’

It does not matter whether you are chief executive, director of finance, section head or trainee someone is watching you and learning. You owe it to the public, to your profession, to your Institute, to your employer and to yourself that you act in accordance with standards you would expect others to respect and by which you would want to be judged.

That is why ethics are so important in public and business life. Ethics are concerned with proper human behaviour and conduct. Everyone is expected to act ethically and the expectations are higher for professionals. However, the pace and complexity of modern living and work, higher stakeholder expectations and improved communications are all putting pressure on the way we behave and give a greater profile to ethics. This has been given particular emphasis in the public sector by the reports of the Committee on Standards in Public Life.

Ethical problems arise when different values compete. These could include:

- Client and corporate
- Individual and collective
- Means and ends

They constitute dilemmas rather than technical problems, and often we find defence of unethical conduct expressed in terms of the end justifying the means. CIPFA, as a member of the International Federation of Accountants (IFAC), is committed to the Federation’s broad objective of developing and enhancing a co-ordinated world-wide accountancy profession with harmonised standards. CIPFA Council has therefore adopted the IFAC Code of Ethics and tailored it in this standard for the CIPFA membership.

**This standard constitutes one of CIPFA’s Standards of Professional Practice (SOPPs), with which members are required to comply. Failure to comply is regarded by the Institute’s bye-laws as grounds for disciplinary action.**

## 1 INTRODUCTION

- 1.1 This SOPP sets standards of conduct for Institute members, students and diplomates (collectively referred to as ‘members’ in this document) covering the fundamental principles to be observed by members in order to achieve common professional objectives.
- 1.2 A profession is distinguished by certain characteristics including:
- Mastery of a particular intellectual skill, acquired by training and education;
  - Acceptance of duties to society as a whole, to employers and to clients;
  - Establishment of and adherence to a common code of professional ethics and technical standards;
  - An outlook which is essentially objective;
  - Provision of services to high standards of conduct and performance.
- 1.3 The specialised knowledge and skills, the training and experience required to be proficient professional accountants, and the nature of the services they provide can make it difficult for those who depend on them to assess the quality and standards of the professional services they receive.
- 1.4 It is therefore essential in the interests of the public and of members themselves that the ethical standards expected of members should be clearly stated and that they are understood by all concerned.

## 2 THE PUBLIC INTEREST

2.1 Finance is central to many activities in business and public life. The integrity of the finance function, in its widest sense, is essential if business and government is to operate properly. That integrity is largely in the hands of the accountancy profession.

2.2 The accountancy profession's public includes taxpayers, direct clients, employers, employees, governments, investors, debtors and creditors and those within the business and public service communities who rely on the independence and integrity of financial information for:

- Supporting loans and capital investment;
- Ensuring efficient and effective use of resources;
- Demonstrating sound internal control within organisations;
- Establishing confidence and fair application within the tax system;
- Assisting in sound management decision making;
- Demonstrating accountability.

The need to maintain the collective wellbeing of the community of people and institutions served by the accountant imposes a responsibility on the accountancy profession and gives the accountant an important role and position in society.

2.3 Members can remain in this privileged position, of continuing to provide the public with their unique services and being held in high regard, only if they are seen to be regulated and can demonstrate that their services are provided to high levels of performance, in accordance with ethical standards designed to maintain public confidence that the accountancy profession will always act in the public interest and not in its own.

### **3 OVERALL OBJECTIVES**

- 3.1 The SOPP recognises that the objectives of the accountancy profession are to work to high standards of professionalism, to attain high levels of performance and generally to meet the public interest requirement set out above. These objectives require three basic needs to be met:

#### **Credibility**

In the whole of society there is a need for credibility in information and information systems.

#### **Quality Services**

There is a need for assurance that all of the services obtained from members are carried out to high standards of performance.

#### **Confidence**

Users of the services of members should be able to feel confident that there exists a framework of professional ethics and technical standards which governs the provision of those services and which will not be compromised.

## 4 THE FUNDAMENTAL PRINCIPLES

- 4.1 In order to achieve these objectives members must observe and be seen to observe a number of fundamental principles. These are set out below. Guidance on the application of the principles is provided in Appendices A and B.

### 4.2 INTEGRITY

**Members must be trustworthy, truthful and honest.**

### 4.3 OBJECTIVITY

**Members must at all times maintain their professional independence. They must be fair and must not allow prejudice or bias, conflict of interest or influence of others to override their judgement and actions.**

### 4.4 COMPETENCE AND DUE CARE

**Members must perform professional services with due care, competence and diligence, and have a continuing duty to maintain their professional knowledge and skill at a level required to ensure that an employer or client receives the advantage of competent professional service based on up-to-date developments in practice, legislation and techniques.**

### 4.5 CONFIDENTIALITY

**While there is a need to conduct all activities in as open and transparent a manner as possible, members must respect the proper confidentiality of information acquired during the course of performing professional services. They should not use or disclose any such information without specific authority unless there is a legal or professional right or duty of disclosure.**

### 4.6 PROPER CONDUCT

**Members must act in a manner consistent with the good reputation of the profession and the Institute and refrain from any conduct which might bring discredit to either body or to themselves in their professional capacity. They should also promote and support these fundamental principles by leadership and example.**

### 4.7 TECHNICAL AND PROFESSIONAL STANDARDS

**Members must carry out professional services in accordance with the relevant technical and professional standards.**

## **5 APPLICATION OF THE STANDARD**

- 5.1 The objectives and fundamental principles contained in this SOPP apply to all members of the Institute and or breach of them constitutes grounds for disciplinary action. They are, however, stated in general terms and can be used only as the basis of the approach to specific ethical dilemmas. Appendix A to the SOPP provides guidance on the application of the objectives and fundamental principles of this standard. Appendix B provides illustrative case studies of how the SOPP might be applied in practice.
- 5.2 Members will, of course, encounter situations not specifically addressed in the appendices. This is inevitable in a profession providing such a diversity of financial, accounting and auditing services. In such an event members are advised to use their judgement in applying objectives and fundamental principles of the SOPP to the particular circumstances of the case. The absence of detailed guidance in the appendices to a specific case would not of itself constitute a valid defence against a disciplinary charge brought by the Institute under the relevant bye-laws.
- 5.3 In the event that members are still uncertain as to how to resolve their ethical problems, they should seek advice from CIPFA's Ethical Advice Panel through the Institute Secretariat.
- 5.4 Guidance on applying the standard to members in public practice and to members working outside the UK is given in Appendix A at A.10 and A.11.



## **APPENDIX A: GUIDANCE ON APPLICATION OF THE STANDARD**

### **SECTION 1**

(This section of the appendix provides guidance on the application of the SOPP's fundamental principles.)

When applying these fundamental principles, members must be aware that in order to retain public confidence they should conduct their activities in such a way that they can demonstrate that these principles are being applied.

#### **A.1 Integrity**

- A.1.1 It is essential for members to retain a reputation for integrity. This implies not merely honesty but trustworthiness, fair dealing and truthfulness.
- A.1.2 Such attributes most obviously relate to matters of personal advantage arising from professional activities but they are of equal importance in the way that services to employers and clients are carried out. For example situations occur where opportunities arise to present information in varying ways, which can create entirely different financial pictures. Members must resist any pressure, for whatever reason, to misrepresent the facts. Where professional judgement is exercised in circumstances that might lead to challenge, such judgements and the reasoning behind them should be documented.
- A.1.3 Members are expected, in appropriate circumstances, to provide advice and comment on a financial matter of which they may become aware even if not invited to do so.

#### **A.2 Objectivity**

- A.2.1 Objectivity is exercised when members make judgements, based upon all the available evidence, not depending on, or influenced by, personal opinions or prejudices, or by inappropriate pressure or influence.
- A.2.2 Members may be exposed to situations which involve inappropriate pressure being exerted on them which can threaten their objectivity. Similarly, some relationships may allow the prejudice, bias or influence of others to threaten that objectivity. It is impossible to define and prescribe all such situations and relationships where these possible pressures exist. Reasonableness should prevail in identifying circumstances and relationships that are likely to, or appear to, impair a member's objectivity. An inability to uphold one or more of the other fundamental principles in this standard on account of circumstances or relationships would indicate a lack of objectivity.
- A.2.3 Members should not concurrently engage in any business occupation or other activity which impairs or might be perceived to impair their ability to carry out their public service role with integrity and objectivity. They should advise their

employers of all outside interests of a pecuniary nature and any non-pecuniary interests which are relevant to the employment responsibilities of the member. Many organisations operate a register for this purpose. Members should be aware that a declaration of interest may not always be sufficient to remove the perception of a lack of objectivity and integrity.

### **A.3 Competence and Due Care**

A.3.1 Members should refrain from agreeing to perform professional services which they are not competent to carry out, whether in terms of skill or resources, unless competent advice and assistance is obtained so as to enable them satisfactorily to perform such services.

A.3.2 Professional competence may be divided into two separate but related parts:

(a) *Attainment of professional competence*

The attainment of professional competence requires a high standard of general education followed by specific education, training and examination in professionally relevant subjects, and a period of work experience. This is the normal pattern of development for Institute members.

(b) *Maintenance of professional competence*

The maintenance of professional competence requires a continuing awareness of developments in the accountancy profession including relevant national and international pronouncements on accounting, auditing and other relevant regulations and statutory requirements. Members are encouraged to demonstrate this by participation in the Institute's CPD programme.

A.3.3 Members should also be aware of the risks to their own and the Institute's reputation from incompetent work. Members should ensure that they meet statutory requirements, accounting and auditing standards. Where the Institute has issued codes of practice or there is other formal guidance, such advice should be followed.

### **A.4 Confidentiality**

A.4.1 Members have an obligation to respect the confidentiality of information about an employer's or client's affairs in the course of professional services. The duty of confidentiality continues even after the end of the relationship with the employer or client.

A.4.2 Members should always observe confidentiality unless specific authority has been given to disclose information or there is a legal or professional duty to disclose. Members have an obligation to ensure that staff under their control and persons from whom advice and assistance is obtained respect the principle of confidentiality. Confidentiality is not only a matter of disclosure of information.

It also requires that a member acquiring information in the course of performing professional services shall neither use nor appear to use that information for personal advantage or for the advantage of a third party.

A.4.3 In particular, a member who discloses confidential information, or uses such information for her or his own purposes may in some circumstances be guilty of the offence of insider dealing. The attention of members is drawn to the provisions of Part V of the Criminal Justice Act 1993 (see Appendix C for a summary of these provisions).

A.4.4 However there may be occasions when confidential information should be disclosed:

- when disclosure is authorised – even when disclosure is authorised by employer or client, the interests of all parties, including third parties who may be affected, should be considered
- when disclosure is required by law – eg money laundering
- when disclosure in the public interest is protected by law (ie whistleblowing). The Public Interest Disclosure Act 1998 puts in place certain protection for employees to encourage them to voice their concerns. This requires organisations and employers, if they are to avoid severe criticism and liability, to ensure that proper channels and procedures are in place to hear those concerns. (See Appendix C for further detail on the Act.)

A.4.5 When the member has determined that confidential information should be disclosed, the following points should be considered:

- whether all the relevant facts are known and substantiated, to the extent it is practical to do so; when the situation involves unsubstantiated fact or opinion, professional judgement should be used in determining the type of disclosure to be made, if any;
- the extent of communication; in particular the member should be satisfied that the parties to whom the communication is addressed are appropriate recipients and have the responsibility to act on it;
- in all such circumstances, the member should consider the need to take professional legal advice and/or consult with an appropriate organisation before disclosing.

A.4.6 Confidentiality should not be used unnecessarily by members in their own work, as this can give rise to the perception that breaches of the fundamental ethical principles are being hidden.

## **A5 Proper Conduct**

- A.5.1 Members must not engage in conduct, whether in pursuit of their profession or otherwise, which would discredit, be prejudicial to or likely to diminish public confidence in them in their professional capacity, or the accountancy profession or the Institute. They should also promote the fundamental ethical principles through leadership and example.
- A.5.2 A member who has evidence of professional misconduct by another member should take necessary steps to protect the public, the profession, the Institute, the employer, and the other member. Before taking any action a member should establish the facts and any report of misconduct must be honest and sustainable. The member should then inform an appropriate person or authority, for example a proper representative from the employer, CIPFA or any other regulatory body.
- A.5.3 If members break the law, this diminishes public confidence. The severity and nature of the offence would have to be taken into account by the Institute in determining its impact on the accountancy profession or the Institute.
- A.5.4 Proper conduct also encompasses behaviour. Members should conduct themselves with courtesy and consideration towards all with whom they come into contact during the course of performing their work.

## **A.6 Technical and Professional Standards**

- A.6.1 Where relevant to the conduct of their professional activities members must comply with the standards set by such bodies as:
- The Institute (CIPFA), in particular its Standards of Professional Practice (SOPPs)
  - The International Federation of Accountants (IFAC)
  - The Fédération des Experts Comptables Européens (FEE)
  - Parliament, through relevant legislation and regulations
  - The Accounting Standards Board
  - The Auditing Practices Board
  - The Ethics Standards Board
  - The European Commission, for example its charter against organised crime
- A.6.2 Members must also comply with their employers' codes of conduct. For example, the Civil Service Code which, in return, expressly acknowledges that Civil

Servants should serve the Administration recognising "ethical standards governing particular professions".

- A.6.3 It is conceivable that the provisions in some of these standards and codes may conflict occasionally. This SOPP is not able to establish precedence between standards. The matter would have to be put to the organisations responsible for setting the standards.

**APPENDIX A continued**

## SECTION 2

(This section of the appendix provides other general guidance)

**A.7 Corporate Governance**

A.7.1 CIPFA expects its members to support proper corporate governance and the application of the principles of public life within their organisations. The Nolan Committee, deliberating on the Standards in Public Life, determined seven principles:

Selflessness  
Integrity  
Objectivity  
Accountability  
Openness  
Honesty  
Leadership

A.7.2 CIPFA, having given evidence to Nolan, set down a framework for establishing proper corporate governance. This framework is built on three of the above principles, they are openness, accountability and integrity, and involve organisational structures and processes, financial reporting and controls, and standards of behaviour.

A.7.3 Organisational structures and processes should cover:

- statutory accountability
- accountability for public money
- communications with stakeholders
- the roles and responsibilities and balance of power between the constituent parts (eg boards, councils, committees) and people (eg chairs, elected/appointed members, executive management) that comprise the system of governance.

A.7.4 Financial reporting and internal controls should cover:

- annual reporting
- risk management and internal audit
- audit committees

- performance review committees
- external audit.

A.7.5 Standards of behaviour involve:

- leadership
- codes of conduct

**A.8 Conflicts of Interest**

A.8.1 From time to time members will encounter situations which give rise to conflicts of interest. Such conflicts may arise in a wide variety of ways, ranging from the relatively trivial dilemma to the extreme case of fraud and similar illegal activities. Members should be constantly conscious of and be alert to factors which give rise to conflicts of interest. It should be noted that an honest difference of opinion between a professional accountant and another party is not in itself an ethical issue.

A.8.2 It is recognised, however, that there can be particular circumstances when a member's responsibilities may conflict with internal or external demands of one type or another. Hence:

- In the workplace there may be the danger of pressure from an overbearing politician, board member, supervisor, manager, director, partner or client.
- Outside the workplace there may be family or personal relationships which can give rise to the possibility of pressures being exerted upon members.
- A member may be asked to act contrary to technical and/or professional standards.
- A question of divided loyalty as between the member's superior and the required professional standards of conduct could occur.
- Conflict could arise when misleading information is published which may be to the advantage of the employer or client.
- Members may be faced with opportunities to gain personal advantage at the expense of the employer or client
- In determining their approach to these conflicts, members should always keep in mind the fundamental principles of this SOPP. The introduction to Appendix B sets out guidelines for the resolution of professional dilemmas.

## A.9 Hospitality and Gifts

A.9.1 The course of business can involve the offer of hospitality or gifts from persons having or proposing to have a contractual relationship with the member's employer.

A.9.2 The attention of members is particularly drawn to the provisions of the Prevention of Corruption Acts, 1889 to 1916. The Acts concerned are:

*The Public Bodies Corrupt Practices Act, 1889*

*The Prevention of Corruption Act, 1906/16.*

See Appendix C for further detail on these Acts.

A.9.3 There are, in addition, related common law criminal offences, as well as civil liability (on the part of both the receiver and the taker of a bribe) for any loss caused to the employing body or a third party. Members will appreciate that the receipt of hospitality or acceptance of a gift is, in law, no different from the receipt of monies.

A.9.4 To resolve any doubts about the wisdom of accepting hospitality or a gift, whether or not such is intended (or might be thought to be intended) to influence a member's actions, where there is an offer of hospitality or gifts from persons having or proposing to have a contractual relationship with the members' employer, then the proper course of action for members is:

- (a) to consider acceptance of any such offer only where the member regards it as normal and reasonable. 'Normal and reasonable' is defined for this purpose as no more than the member's employer would be prepared to offer in equivalent circumstances. Most employers provide guidance as to what may be considered appropriate and members should not exceed such guidance without the specific and written authority of the employer
- (b) Where there is no guidance, and even when the 'normal and reasonable' test has been satisfied, then the member must ensure that any hospitality or gift is not of a level or amount which would lead to the public perception that the member might be influenced. Members should ask themselves the question 'how would acceptance of the hospitality or gift be perceived by an objective member of the public' and check their answer by seeking an independent view from within the organisation's governance and management structure
- (c) ensure that a full record is kept of all hospitality or gifts offered, (irrespective of whether they are accepted, declined or returned) and that this is reported.
- (d) if there is doubt as to the propriety of acceptance, to decline.



A.9.5 As a matter of law, it does not matter if the gift or the hospitality is given to or received by the employee before or after a contract is awarded or other favour shown. However, the timing of any acceptance of hospitality or a gift is important, as demonstrating a possible connection between the acceptance and the grant of a contract. No hospitality or gift should be accepted from a tenderer in the period between invitation to tender and acceptance by the employer, nor, so far as is practicable, in the immediate period before invitations to tender are requested or the immediate period after the grant of a contract.

## **A.10 Application of the Standard to Members in Public Practice**

A.10.1 This SOPP applies to all Institute members, whether with employed status or working in public practice. Members in public practice (ie members providing professional services such as audit, tax or consultancy to clients) are in addition directed to Part B of the IFAC Code of Ethics for Professional Accountants with respect to such issues as fees and commissions, clients' monies, relations with other professional accountants, and advertising and solicitation.

## **A.11 Application of the Standard to Members Working Outside the UK**

A.11.1 When considering the application of ethical requirements in cross border activities a number of situations may arise. Whether an Institute member is a member of the profession in the United Kingdom only or is also a member of the profession in the country where the services are performed should not affect the manner of dealing with each situation.

A.11.2 A member qualifying in the United Kingdom may reside in another country or may be temporarily visiting that country to perform professional services. In all circumstances, the member should carry out professional services in accordance with the relevant technical standards and ethical requirements. Members should be guided by the ethical requirements set out below.

A.11.3 When a member performs services in a country other than the United Kingdom and differences on specific matters exist between ethical requirements of the two countries the following provisions should be applied:

- When the ethical requirements of the country in which the services are being performed are less strict than these ethical guidelines then this standard should be applied.
- When the ethical requirements of the country in which services are being performed are stricter than this standard, then the ethical requirements in the country where services are being performed should be applied.

## APPENDIX B – CASE STUDIES

### RESOLUTION OF PROFESSIONAL DILEMMAS

Professional dilemmas are rarely clear cut. It is often very difficult to identify the appropriate way forward. Problems often arise because of divided loyalties; to employers, to work colleagues, to clients and customers, to the general public and one's professional organisation. The following general guidelines apply:

- Try to be clear in your own mind about the problem and which fundamental ethical principle(s) you may be in danger of breaching.
- Keep notes of events and conversations.
- Have regard to the established policies of the employing organisation.
- Review the conflict problem with the immediate superior. If the problem is not resolved with the immediate superior and you decide to go to the next higher managerial level, you should notify the immediate superior of your decision. If it appears the immediate superior is involved in the conflict problem, you should raise the issue with the next higher level of management.
- Raise the issue with internal audit and/or the audit committee.
- Seek counselling and advice on a confidential basis with an independent advisor or the Institute's Ethics Advisory Panel to obtain an understanding of possible courses of action.
- If the ethical conflict still exists after fully exhausting all levels of internal review, the member may be obliged to report or appeal to an appropriate external body, external auditor or regulator. The circumstances of the case must be taken fully into account before any such action is taken. See Section A.4 'Confidentiality'.

Members are required to observe the law and other relevant rules on the disclosure of interests. In the treatment of ethical conflicts complete openness should be observed. The appearance of a conflict of interest could be as damaging as the existence of the actual conflict and members should do their utmost to ensure that in all their activities, both professional and private, the appearance of conflict does not arise.

This appendix contains six case studies designed to assist members in applying the SOPP. They aim to illustrate the application of all the SOPP's fundamental ethical principles and have been drafted in accordance with the following common format:

- Outline of case study
- Fundamental ethical principles involved

- Suggested course of action
- Comment

Each case study presents a workplace dilemma that requires an ethical course of action by the member, in order to deal with the situation in a professional manner. In real life all cases are different and depend on the relevant facts, therefore the uncritical adoption of stereotyped solutions is not advised. However, the use of case studies is helpful since they demonstrate how compliance with ethical principles assists members in conducting themselves in an appropriate manner. The comment section of the case study highlights to the reader how the SOPP acts as a support to members in reaching acceptable solutions to professional dilemmas

## CASE STUDY 1

## Outline of the Case

You are an external auditor in the first year with a local authority that has enjoyed a very good working relationship with your predecessor, despite going through a period of severe financial constraints and subsequent cut backs in service. You hope to maintain the relationship and also identify value for money savings to aid the authority's financial position.

As part of your work in certifying a grant claim you find that, because of a misunderstanding by council staff of the complex subsidy rules, there is a significant error amounting to an overclaim of £200,000. The finance director (FD) accepts this and despite the problems it imposes, submits a revised claim for certification. Whilst the error is being corrected, it dawns on both you and the FD that the error has been going on for 5 years and the council has received in excess of £1million to which it is not entitled.

The previous 5 years have all been signed off without qualification by the previous auditor, who is a personal friend of yours and very respected within the auditing profession. The claims have also been accepted and paid by the government department.

In resolving this matter in a satisfactory manner, both you and the FD will independently have to ensure that ethical standards are met, notwithstanding that if the issue is reopened:

- The authority may have to repay the money and effect further very severe cuts in service.
- The FD's standing with the chief executive and members may be damaged.
- The reputation of your auditor friend will be tarnished
- Your wish to establish good working relations and assist by finding value for money savings may be destroyed.

## Fundamental Ethical Principles Involved

Integrity — Can you consider overlooking a previous incorrect claim?

Objectivity — Can you allow a conflict of interest to influence your professional judgement?

Conduct — How should you proceed so as not to discredit either the Institute or the accounting profession?

Suggested Course of Action	<p>As the council's external auditor you should:</p> <ul style="list-style-type: none"><li>• report the facts to the government department</li><li>• formally report the situation to the council</li></ul> <p>(You could decide to allow the FD to report the facts to the Government department and council first in order that s/he is afforded every chance to put his/her viewpoint.)</p> <p>It is for the FD to:</p> <ul style="list-style-type: none"><li>• agree with the council a strategy for managing the financial consequences</li><li>• appeal to the government department to treat the overclaims sympathetically on the grounds of the finality of the previous claims.</li></ul>
Comments	<p>Such a course of action would enable you to demonstrate:</p> <p><b>Integrity</b>, by being open and honest about the situation.</p> <p><b>Objectivity</b>, by addressing the problem and the consequences which follow, and by ensuring that personal and business relationships do not influence your conduct.</p> <p><b>Proper conduct</b>, by resisting any temptation to ignore previous years' incorrect financial claims, when you know them to be wrong.</p>

## CASE STUDY 2

## Outline of the Case

You are the finance director (FD) of a public service organisation and you become aware that the organisation's chief executive is making frequent overseas trips and charging the expense to the organisation. The relevance of the destinations and the nature of the activities undertaken by the chief executive appear to have only partial relevance to the business of the organisation.

You raise your concerns with the chief executive, who gives assurances that the nature and purpose of these trips is covered by an 'understanding' reached between the chief executive and the chair of the organisation's board. The chief executive however does not provide any further evidence of this understanding nor does she offer any further justification for the business nature of these overseas trips.

## Fundamental Ethical Principles Involved

Objectivity — How should you demonstrate your independence from the chief executive?

Conduct — Can you allow the payments without adequate explanation and continue to carry out your professional duty as FD to the organisation?

Technical & Professional Standards — Would the proposed payments comply with financial regulations?

## Suggested Course of Action

The following course of action should be followed: -

- Care needs to be taken to ensure that premature conclusions are not drawn, and the chief executive must be kept informed and her co operation sought at all times.
- You should see the chief executive, tell her what authorisation is required to conform with the organisation's financial regulations, and ask her to provide appropriate evidence of authorisation. If she will not, tell her that until it is received you cannot pay the expense, because of the need to protect her and your integrity and professional standing.
- Assuming no satisfactory response from the chief

executive, then discuss the issue on a confidential basis with the board chair and/or chair of the audit committee and the external auditor.

- Assuming this matter is not resolved satisfactorily, a report should be submitted to the chair and the board so that a decision can be taken.

#### Comments

Such a course of action would enable you to demonstrate:

**Objectivity**, in that your assessment of possible incorrect payments is made despite your immediate superior's explanations and assurances.

**Technical and Professional Standards**, in that you have correctly refused to pass payments until you have confirmed that they are in accordance with financial regulations.

**Proper conduct**, in that you have acted in a way which confirms the reputation of your Institute for upholding proper financial management and probity.

## CASE STUDY 3

## Outline of the Case

You are an accountant working for a public service trading organisation. Your immediate manager is a very forceful, domineering individual and you have accepted his views over the last two years on the level of work in progress. According to him, it increased by 200% during the period in question. Although you have expressed some concern at a number of meetings with the manager, he has given specific assurances to you that work in progress is correctly stated. Therefore you have reported the work in progress figures (as determined by the manager) in the monthly management accounts. The year end draft financial accounts show that the organisation has only just met its business plan financial targets.

Evidence then becomes available (which you were not aware of when the draft accounts were produced) to indicate that something is clearly wrong and the work in progress had not increased at anywhere near the rate advised by your manager.

## Fundamental Ethical Principles Involved

Integrity — Should you allow the accounts to remain as originally drafted?

Objectivity — Knowing that something is wrong, should you acquiesce and accept your manager's assurance?

## Suggested Course of Action

Report the facts of the situation immediately to the manager. Obtain an accurate estimate of work in progress, and redraft the accounts. Assess the implications of the changes to the trading results, and submit a report to the manager. Review and document your involvement in the episode. Ensure that all evidence associated with the matter is preserved.

If your manager refuses to accept the revised accounts, you will need to take your concerns to the next tier of management.

## Comments

The financial performance of trading organisations is critical, and therefore the possibility of mis-stating key financial data must always be guarded against. It is important that your conclusions are based on facts and not impressions.

By conducting yourself in this way you demonstrate:

**Integrity**, in that you are concerned for the correct presentation of the trading results and accounts.



**Objectivity**, in that you are not swayed by the views and assurances of your immediate manager.

**Proper conduct**, in that you are not content with a situation which might ultimately have reflected adversely on your Institute.

## CASE STUDY 4

## Outline of the Case

You are an accountant employed by an NHS trust that is doing sterling work in providing health care services to the deprived inner city population of its catchment area. Nevertheless the trust cannot meet the demand for its services, due to the inefficiencies inherent in its crumbling Victorian buildings. The board believe that the solution is for a new building on one of the sites, with the other two being disposed of for redevelopment. Government departments will not provide any funding, and the only way forward, is for the project to proceed with an alternative funding source.

The finance director (FD) has engaged an accountancy firm specialising in Private Finance Initiative (PFI) consultancy and they have put together what they consider a sound PFI outline business case that represents value for money and will be of interest to contractors. The FD has obtained a preliminary view from the firm of accountants that the deal would be 'off balance sheet' for the trust. You are asked by the FD to confirm that view. Having reviewed similar schemes and consulted the Treasury and NHS Executive guidance you believe there are flaws in the accountancy firm's reasoning and some of the assumptions in the statistical model of risk transfer. However, the arguments are finely balanced and you realise that without the PFI deal, there is little prospect of the trust enhancing health services in the way it desires

## Fundamental Ethical Principles Involved

Integrity — Should you remain silent on the possible flaws in the scheme or expose them and jeopardise the redevelopment proposal?

Objectivity — Should you accept the view of the accountancy firm given that the arguments are finely balanced and the firm has proven PFI experience?

Competence and due care — Do you have sufficient technical understanding of PFI schemes to come to a considered professional judgement?

Technical & Professional Standards — What are the relevant accounting standards which govern the treatment of PFI schemes in the health service?

**Suggested Course of Action** You have been asked for your opinion and therefore you should provide it, but you should seek and take into account relevant technical advice issued, for example, by the Accounting Standards Board and the NHS Executive. In coming to your opinion, you need to understand the basis on which the accountancy firm's opinions were formed, so you can try to achieve agreement, and ensure you have not overlooked anything.

The implications and effects of the scheme on the trust's balance sheet should be highlighted to the FD, so that a proper judgement can be made on the way forward. Recommend that the FD raises your concerns with the accountancy firm and that the FD takes independent legal advice on the legal points at issue.

Ensure the FD fully understands the implications of the proposed action in terms of accounting treatment and that these are discussed with the external auditor.

**Comments** This course of action would demonstrate:

**Integrity**, by presenting your honest and well researched opinion in the face of compelling practical circumstances to do otherwise.

**Objectivity**, by having the courage to maintain your honest opinion when faced with a contrary view from other professionals.

**Competence and due care**, by ensuring you fully understand the issues before giving an opinion.

**Technical and Professional Standards**, by ensuring that the importance of full compliance with relevant accounting standards is understood by the FD.

## CASE STUDY 5

## Outline of the Case

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

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

## Fundamental Ethical Principles Involved

Confidentiality — Are there proper grounds for disclosing the information?

Integrity — Would the claimant regard you as trustworthy if you disclosed?

Objectivity — Where is the boundary between your duty to the employer and that to the claimant?

## Suggested Course of Action

What is needed here is a rational, firm and honest response, which is convincing and credible and which is delivered with the authority the chairman would find unchallengeable. You must be clear about the rights of the councillor (as a HB claimant), and ensure there is no breach of confidentiality rules. On the other hand councillors (including chairs) are entitled to receive certain information that is required by them for their official duties. In clarifying the confidentiality rules with for example, other officers, you must be careful not divulge confidential information.

You should see the chief legal officer of the council and clarify the confidentiality rules applying and whether there are any circumstances that might apply to this particular case and which enables the chair to have access to the information required.

On the basis that there is no entitlement (most likely), tell the chair in a letter you do not confirm that any information is held, and even if it was, he is not entitled to see it and therefore cannot see it. You should explain the statutory position which determines why this is so, and that it is not a matter over which you have any discretion.

If this is unacceptable, see the chief executive for support, but do not provide the chief executive with the confidential

information.

If there are circumstances that entitle the chair to confidential information, you must clarify (with appropriate legal advice) what this applies to in particular, and ensure no other confidential information is provided. The chair should be asked to put the request for information in writing, and the reply should be in writing.

You may also wish to remind benefits staff that they are not to disclose information on claimants and to seek your advice if pressed to do so.

#### Comments

This course of action would enable you to demonstrate:

**Confidentiality**, by ensuring you do not disclose unauthorised confidential information.

**Integrity**, by being trustworthy and honest with respect to the claimant.

**Objectivity**, by resisting inappropriate influence.

**Competence and due care**, in that you seek professional legal advice in resolving the issue.

## CASE STUDY 6

## Outline of the Case

You have been appointed finance director (FD) to a public sector organisation. At the interview you are told that the board is very concerned about its ability to attract and retain the best possible finance staff, and therefore one of your first tasks will be to draw up a benefits package to assist in overcoming this problem. You are told that your entitlement to benefits will be in accordance with the new benefits package. Having examined a number of private sector schemes you come to the conclusion that the existing benefits package would require a significant increase in the whole range of benefits in order to achieve the board's objective. You are therefore faced with the dilemma of proposing to the board a benefits package which will provide significant increases and which would benefit you personally.

## Fundamental Ethical Principles Involved

- Integrity — Is it appropriate for you to report on a subject which will benefit you personally?
- Objectivity — Should you disqualify yourself from the new benefits package?
- Competence and due care — Do you have all the necessary skills to draw up such a package?

## Suggested Course of Action

There is a case to be made for the FD not to be involved in the report's authorship at all, but assuming that this case has been rejected by the board, which specifically does want the FD involved, the following course of action is suggested.

In order to show integrity and objectivity, you need to provide a comprehensive report that clearly sets out the full implications, costs, benefits and tax implications, which apply.

You should take professional human resource advice to ensure that the report is based on sound human resource management principles in addition to financial considerations.

The report should provide an assessment of the likely effect the new benefits package is expected to achieve, so the board can form its own view on the value for money to be attained.

The report should clearly declare your personal interest in the matter and should be a joint report from you and the head of human resources. With respect to your personal position you

should ask the head of human resources to write this aspect of the report. The report should also recommend to the board that in future, such matters should be dealt with by a remuneration committee.

Before the report is presented to the board, you should ensure that the chief executive is fully aware of the issues and your personal interest. You should ask the head of human resources or the chief executive to present the report to the board. At the board meeting, you should withdraw from the meeting when the board considers your personal position.

Since specific outcomes are sought, you should ensure that if the board approves the report, close monitoring and review of the effects of the package are carried out by you and the head of human resources and reported to the board.

#### Comments

Such a course of action would enable you to demonstrate:

#### **Integrity**, by

- asking the Head of Human Resources to author that part of the report which affects you.
- asking that officer or the chief executive to present the report.

#### **Objectivity**, by:

- recognising the conflict of interest and submitting a joint report to the board from you and the head of human resources, setting out all the implications
- recommending that a remuneration committee be set up
- providing the board with continuing professional advice and information on the outcomes of the scheme.

**Competence and due care**, by drawing on human resources expertise, both for the general benefits package and its specific application to you.

**Proper conduct**, by withdrawing from the board meeting when your personal case is being considered to avoid the possibility of undue influence.





## **APPENDIX C – RELEVANT LEGISLATION**

The following legislation is specifically referred to in Appendix A.

### **The Public Interest Disclosure Act 1998**

The Act protects not only employees but most consultants from dismissal or some other detriment as a result of making a ‘protected disclosure’. Such disclosures include the disclosure of information relating to criminal offences, any failure to comply with a legal obligation, health and safety matters and damage to the environment, as well as deliberate concealment of any of these issues.

An Institute member may make a disclosure to his or her employer in accordance with any whistleblowing procedure or if the disclosure relates to a matter for which the employer does not have legal responsibility, to the person who does have such responsibility. Alternatively, a disclosure may be made to the organisation which the government has designated for this purpose in relation to a particular type of disclosure. Designated organisations include the Audit Commission, the Accounts Commission for Scotland, the Health and Safety Executive and the National Audit Office.

As a last resort, a disclosure may be made to some other person in certain circumstances if the same disclosure has already been made to the member’s employer, or the member fears that he or she will be subject to a detriment if the disclosure is made to his or her employer, or the member believes that evidence will be concealed or destroyed if the disclosure is made to his or her employer. Members should seek legal advice before making a disclosure to any person other than their employer. Disclosure in the course of obtaining legal advice is also protected by the Act.

### **The Public Bodies Corrupt Practices Act 1889**

### **The Prevention of Corruption Act 1906/16**

In summary, these Acts provide as follows:

A person who corruptly solicits, receives, or agrees to receive for himself or any other person, any gift, loan, fee, reward or advantage as an inducement to or reward for any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which that public body is concerned or for showing or forbearing to show any favour or disfavour to any person in relation to the public body’s affairs, is guilty of an offence.

Likewise, a person who corruptly gives, promises or offers any gift, loan, fee, reward or advantage to any person as an inducement to or reward for any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which that public body is concerned or for showing or forbearing to show any favour or disfavour to any person in relation to the public body’s affairs, is guilty of an offence.

Where it is proved in any proceedings for an offence under the Acts that a gift or other consideration has been paid or given to or received by any person in the employment of a government department or other public body by a person holding or seeking to obtain a contract from that person's employer, then the gift or other consideration shall be deemed to have been given and received corruptly unless the contrary is proved.

**NOTE:**

This represents a departure from the general principle that the prosecution has to prove its case. The burden of proof is placed on the accused.

The penalties on conviction, at the discretion of the court, are imprisonment or a fine, as well as disqualification from public office and loss of pension rights or both.

### **Part V Criminal Justice Act 1993**

The award of, for example, a large contract or planning permission to a publicly-quoted company, or a decision by a public body to bring proceedings against such a company may affect its share price. An Institute member who knows in advance about such action needs to act in such a way so as not to commit the offence of insider dealing.

In summary, the provisions of the Act provide that a person who has information by virtue of his employment office or profession and that information relates specifically to a company limited by shares and such information has not been made public and if it were made public would be likely to have a significant effect on the price of such shares is guilty of insider dealing if:

- s/he deals in (eg buys or sells) the shares or
- s/he encourages another person to deal in the shares or
- s/he discloses the information, otherwise in the proper performance of the functions of her/his employment office or profession, to another person.

This offence is very wide and covers a number of other related situations and members should obtain professional legal advice if they are in any doubt. It should be noted that this offence may be committed without revealing any confidential information if another person is encouraged to act in an inappropriate way.