

ETHICAL GUIDELINES

In recent years the perceived lack of individual ethical behaviour has received increasing publicity and scrutiny in the media. The public response has been an increased level of expectations of higher standards from public servants, elected representatives and professional advisors.

The Institute has published these guidelines to assist members and to provide some tests which can be used to gauge the extent or otherwise of members' ethical behaviour.

The Institute's Code of Conduct is founded on three basic principles, namely:

- high standards of service to the client
- independence, objectivity and integrity
- responsibility to the profession

This guidance describes two additional principles that should attach to an ethical decision, and sets out a number of questions designed to assist individual members to gain an objective insight to their quandary. Having considered these questions, a member may feel the need to discuss the problem with someone else, and the Institute will provide access to such support. This service, which is free and without commitment, and which is aimed at assisting the member to develop their own resolution, is described at the conclusion of these guidelines.

Basic Guidelines

A member should consider, with these guidelines, the interests of a wider number and range of 'stakeholders'. 'Stakeholders' has become common usage in ethical circles to refer to those individuals or organisations that have an interest or stake in the situation. Stakeholders may include the general public and the national interest.

Two basic touchstones or tests to use are transparency and vulnerability.

Transparency means the degree to which there is openness in the situation, that is, how much knowledge or information has been made available to the stakeholders. If there is not full and complete openness the reason for such lack of transparency should be carefully examined by the member.

Vulnerability refers to the extent to which each of the stakeholders' interests are at risk as a result of the proposed action (or inaction). It may be that a client or a third party is vulnerable because of ignorance, incompetence or financial weakness. A member must give due weight to stakeholders' interests before acting. However, the client comes first, and a member's ethical concerns and any resulting actions must be explained to the client.

Some questions for testing possible ethical dilemmas

Below are some questions designed to assist individual members to consider how to deal with an ethical problem. They are not equally applicable to every situation and discretion should be exercised in selecting those that are relevant.

The Background

Is it important to try to place dilemmas in context, and the initial questions are designed to obtain facts about the situation.

1. *Have you defined the circumstances accurately?*

This means ‘pulling together’ the facts as objectively as possible. It also means examining other issues which may be less tangible and less easy to evaluate, such as the motives or aims of stakeholders which may have a bearing on the influences involved.

2. *How did this situation occur?*

Again, the circumstances surrounding the events leading up to the present situation, need to be considered carefully. This can be helpful in determining the motives of those involved.

3. *What is your role in this situation?*

Have you contributed to the circumstances wittingly or unwittingly? What have you to gain/lose? What do others in the situation think is your role? Note that if you have a stake in the situation, you are probably breaking the Code of Conduct.

4. *How does your intention compare with the probable results?*

The answer to this question may lay bare the real core of the dilemma – how will you appear to your peers, the public, and the other stakeholders? Should you be influenced by such a consideration? Perhaps by the very act of your decision becoming public the nature of the dilemma changes, and this leads to another question:

5. *Are you confident that your position is as valid over a long period of time, as it seems now?*

With the passage of time, the dilemma may disappear, or it may be exacerbated. Perhaps the potential action (or inaction) will add to the complexity or introduce new factors. Will the solution still seem relevant?

6. *Under what conditions would you allow exceptions to your stand?*

If you can arrive at an acceptable solution (in your judgement), it may be that there can, and should, be exceptions. You must be careful about such a conclusion, since it is then a very short step to justifying a self-serving decision, on the basis that you are the exception.

Up to this point you will be acting not unlike the way a professional management consultant should. Namely, independently and objectively establishing the facts of the situation and bringing to bear an informed and experienced judgement. This process itself may bring a different perspective to the matter, which may result in the potential dilemma dissolving without further action. The very act of seeking objective facts may expose the core of the problem and thus its potential resolution. Some consultants may find that progressing each of these questions with a trusted colleague or associate may help to clarify the answers and make the action to be taken easier to identify.

However, the clearer understanding obtained as a result of your self-questioning may serve to heighten the dilemma and expose a difficult challenge. The following questions are suggested to help you formulate a solution.

Vulnerabilities

1. *What options do you have? As an advisor?*

It is important to attempt to see the situation as objectively as possible. Yet, this may be difficult since ethical dilemmas by their nature are not normally publicised, and it is not normally practical to talk the issue over with a third party. Because you are probably the only one in the possession of all the facts and who understands that a dilemma exists, you are almost certainly the only one who can understand what options there are.

2. *What opportunities do you have to discuss the issue with a colleague or third party?*
If you are a sole practitioner or part of a small firm, you can be more vulnerable than if you work in a larger firm. If you have such opportunities, you can test your opinion against a knowledgeable trusted colleague.
3. *What are the consequences for each stakeholder of your action – or equally important – inaction?*
The consequences may be apparent but sometimes they are not easy to design. There may be damaging consequences, no matter what course of action is taken, and the dilemma rests in making a decision which results in the least damage (at least in your judgement).
4. *To whom and what do you give your loyalty as a person and as a member of the organisation?*
Often the dilemma is coloured, or at least tinged, with personal and/or poor 'client' relationship. In business, one must make decisions, which can affect careers and which can be seen to be disloyal or even hostile to a particular superior. This may result in an uncomfortable working environment, and could contribute to the nature of one's decision.
5. *Could your actions withstand cross-examination in court by an eminent barrister?*
This question is proposed as the strictest of all public credibility tests.

This second group of questions is aimed at helping individual members to formulate an objective understanding of their quandary and to understand where the vulnerabilities lie.

The next few questions are focussed differently and are concerned with transparency. If you feel uncomfortable about any of the answers, you should probe more deeply into the reason(s) for this.

Transparency

1. *Can you discuss the problem with the client before you make the decision?*
The answer to this question indicates to what extent the principles of transparency are present. If there are any circumstances existing which make such a discussion unlikely, you need to consider why this is so. Is it possible that such a discussion could perhaps expose something with which you are uncomfortable or even weaken your legal position?
2. *Would you feel comfortable explaining your behaviour to your family? Your friends? Your fellow workers?*
The purpose of this question is to explore the degree of comfort you have with your behaviour. If you feel uncomfortable with the answer, you must seriously question your behaviour.
3. *Would you feel comfortable if your actions were announced on television or printed in a newspaper?*
Although you may feel comfortable with handling your family and friends, you may still be uncomfortable when faced with the possibility of having to explain your actions in the media. Does this have a bearing on your behaviour?
4. *Would you feel confident that the action you propose to take (or not to take) would be viewed as proper by your peers?*
While you may be confident that you can rationalise and explain your actions to your family, your friends, that stakeholders and to the media, what about your professional peers? They are more likely to understand the issues involved and to be able to form an informed point of view.

Conclusion

Members are responsible for their own action, and these testing questions are offered as guidance for members to help in forming their own opinion. The questions are not exhaustive or exclusive, and other questions may suggest themselves during the course of working through the process.

For further confidential advice, contact the President of the Institute who may refer you to a confidential contact. If you decide to do so, you will be asked for the following information on a confidential basis:-

- the names of the parties involved (to ensure that conflicts of interest are excluded)
- the nature of the work involved and your role in that work
- an outline of the issue
- the time-scale involved (is it urgent?)
- what sort of guidance you are seeking
- confirmation that you wish the Executive Director to approach the confidential contact

An independent panel member will be selected who will contact the member to define the problem and offer assistance – usually by phone. Other panel members will be involved if required and subject to the member's agreement.

The panel will aim to help the member come to his/her own resolution of the matter, and under no circumstances can the Institute or panel member accept responsibility for the consequence of members' actions.