

Guidance on ethical matters for members in business

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SCOPE AND STATUS

This factsheet provides guidance on ethical matters for ‘members in business’.

This document has no regulatory status. It is issued for guidance purposes only. Nothing contained in this document should be taken as constituting the amendment or adaptation of the *ACCA Rulebook*. In the event of any conflict between the content of this document and the content of the *ACCA Rulebook*, the latter shall at all times take precedence.

‘Members in business’, referred to as ‘members’ throughout this guidance, refers to non-practising members, which includes members in industry, commerce, charities, financial services and the public sector. It includes all members, whether employed or not, who are engaged in work relevant to their qualification as a member except for those in a practising office. Members in practice may also find this guidance helpful in dealing with ethical issues other than those that concern clients.

‘Employing organisation’ refers to the organisation, whether an employer or not, on behalf of which the member is engaged in work relevant to their qualification as a member otherwise than in a practising office.

As part of their membership obligations, members must adhere to the fundamental principles set out in ACCA’s Code of Ethics and Conduct (the Code), within Section 3 of the *ACCA Rulebook*. The fundamental principles are explained in Part A of section 3, ‘General application of the Code’. Members are encouraged also to follow the guidance set out below, which ACCA believes will be helpful in resolving ethical dilemmas. Failure to follow this guidance may not, of itself, make a member liable to disciplinary action but a member may be called upon to justify any departure from it.

The guidance below has been prepared in collaboration with other member bodies of the Consultative Committee of Accountancy Bodies. In creating the Code, ACCA has adopted the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (IESBA), although ACCA has augmented the IESBA code with additional requirements and guidance that are appropriate to ACCA and its members.

The objective of this guidance is to provide ethical advice to members to assist them in discharging their professional obligations, by setting out the fundamental principles to which they should adhere and considering the ethical conflicts that can arise in business situations. Members should be aware of the possibility of conflicts of interest arising in relation to their activities and should seek to ensure that any such conflicts are addressed at the earliest opportunity. Where members are uncertain as to how they should respond to a problem, they should take early advice from those charged with governance of the organisation or ACCA’s technical advisory service.

The case studies included in the appendix to this guidance are intended for illustrative purposes only, indicating how this guidance might be applied in a number of example situations. The case studies are not an integral part of this guidance but should be read in conjunction with it.

SECTION 1 – INTRODUCTION

Members are engaged in an executive or non-executive capacity in such areas as commerce, industry, the public and service sectors (including public sector audit bodies), education, the not-for-profit sector, regulatory bodies and professional bodies.

Investors, creditors, employers and other sectors of the business community, as well as governments and the public at large, may all rely on the work of members. Members may be solely or jointly responsible for the preparation and reporting of financial and other information, on which both their employing organisations and third parties may rely. They may also be responsible for providing effective financial management and competent advice on a variety of business-related matters, including reviewing internal controls.

Members may be salaried employees, directors (whether executive or non-executive), owner managers, consultants, partners, volunteers or others within an organisation. The legal form of the relationship with the organisation in which they are engaged has no bearing on the ethical responsibilities incumbent on members.

Members have a responsibility to further the legitimate aims of their employing organisation. This guidance does not seek to hinder members from properly fulfilling that responsibility, but considers circumstances in which conflicts may arise with their duty to comply with the fundamental principles.

In some cases, members working in the public sector may, by law or public expectation, need to maintain a degree of independence greater than that normally expected of an employee, and where this applies the guidelines should be interpreted accordingly.

Members often occupy senior positions within employing organisations. The more senior they become, the greater will be their ability and opportunity to influence events, practices and attitudes. Members in such positions are expected, therefore, to encourage an ethics-based culture in their employing organisations.

A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore, the member's responsibility is not exclusively to satisfy the needs of an employer. The term 'public interest' relates to matters of legitimate public concern, not public curiosity. Public concern extends to the concerns of clients and customers, government, financial institutions, employers, employees, investors, the business and financial community and others who rely upon the objectivity and integrity of the accounting profession to support the propriety and orderly functioning of commerce.

SECTION 2 – FUNDAMENTAL PRINCIPLES

Integrity

Members shall be straightforward and honest in all professional and business relationships.

Objectivity

Members shall not allow bias, conflicts of interest or the undue influence of others to override professional or business judgments.

Professional competence and due care

Members have a continuing duty to maintain professional knowledge and skill at a level required to ensure that clients or employers receive competent professional service. Members shall act diligently and in accordance with applicable technical and professional standards when providing professional services.

Confidentiality

Members shall respect the confidentiality of information acquired as a result of professional and business relationships, and shall not disclose any such information to third parties without proper and specific authority or unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships shall not be used to the personal advantage of members or third parties.

Professional behaviour

Members shall comply with relevant laws and regulations and shall avoid any action that may discredit the profession.

The Code, which contains Part A, 'General application of the Code' and Part C, 'Professional accountants in business', can be viewed on ACCA's website at www.accaglobal.com/members/professional_standards/rules_standards/rulebook

SECTION 3 – FRAMEWORK APPROACH

The environment in which members operate may give rise to specific threats to compliance with the fundamental principles. This guidance provides a framework to assist members to identify, evaluate and respond to threats to compliance with the fundamental principles. If identified threats are not at an acceptable level, members must implement safeguards to eliminate the threats or reduce them to an acceptable level so that compliance with the fundamental principles is not compromised. This guidance offers a wide range of examples of safeguards dealing with a variety of circumstances in which threats may arise. Members should use the framework to address ethical issues surrounding their work at an early stage such that the likelihood of the need for disassociation at some later stage is reduced.

The following sections are intended to illustrate the application of the fundamental principles and the types of safeguards that can be implemented. These sections are not intended to be, nor should they be interpreted as, an exhaustive list of all circumstances experienced by members that may create threats to compliance with the fundamental principles. Consequently, it is not sufficient for members merely to comply with the examples; rather, they should apply the principles to the particular circumstances they face.

Threats to compliance with the fundamental principles

Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances. Many threats fall into the following categories:

- self-interest
- self-review
- advocacy
- familiarity
- intimidation.

These threats are discussed more fully below.

The self-interest threat

Self-interest threats may occur as a result of the financial or other interests of members or of immediate or close family members.

Circumstances that may create self-interest threats for members include, but are not limited to:

- holding a financial interest in, or receiving a loan or guarantee from, the employing organisation
- participating in incentive compensation arrangements offered by the employing organisation
- inappropriate personal use of corporate assets
- concern over employment security
- commercial pressure from outside the employing organisation.

The self-review threat

Self-review threats may occur when a previous judgement needs to be re-evaluated by members responsible for that judgement.

Circumstances that may give rise to self-review threats include, but are not limited to:

- business decisions or data being subject to review and justification by the same person responsible for making those decisions or preparing the data

- determining the appropriate accounting treatment for a business combination after performing the feasibility study that supported the acquisition decision.

The advocacy threat

Advocacy threats may occur when members promote a position or opinion to the point that subsequent objectivity may be compromised.

It is natural for a member to advocate their employer's position, and there is nothing improper in this provided it does not result in misleading information being given. There could be circumstances, however, where this may not be acceptable, and these include, but are not limited to:

- commenting publicly on future events in particular circumstances, having made assertions without sufficient support
- advocating a position with such tenacity that objectivity may be compromised.

The familiarity threat

Familiarity threats occur when, because of a close relationship, members become too sympathetic to the interests of others.

Circumstances that may create familiarity threats include, but are not limited to:

- being responsible for the employing organisation's financial reporting when an immediate or close family member employed by the entity makes decisions that affect the entity's financial reporting
- long association with business contacts influencing business decisions
- accepting a gift or preferential treatment, unless the value is trivial and inconsequential.

The intimidation threat

Intimidation threats may occur when members may be deterred from acting objectively by threats, actual or perceived.

Circumstances that may create intimidation threats include, but are not limited to:

- threat of dismissal or replacement of the member, or a close or immediate family member, over a disagreement about the application of an accounting principle or the way in which financial information is to be reported
- a dominant personality attempting to influence the decision-making process, for example with regard to the awarding of contracts or the application of an accounting principle.

Members may also find that specific circumstances give rise to other threats to compliance with one or more of the fundamental principles. In all professional and business relationships, members should always be on the alert for such circumstances and threats.

Safeguards to offset the threats

The examples given below are only intended to be illustrative and alternative action may need to be considered depending on the circumstances.

Safeguards that may eliminate or reduce to acceptable levels the threats faced by members fall into two broad categories:

- safeguards created by the profession, legislation or regulation
- safeguards in the work environment.

Examples of safeguards created by the profession, legislation or regulation include, but are not restricted to:

- educational, training and experience requirements for entry into the profession
- continuing professional development requirements
- corporate governance regulations

- professional standards
- professional or regulatory monitoring and disciplinary procedures
- external review by a legally empowered third party of the reports, returns, communications or information produced by a member.

Safeguards in the work environment include, but are not restricted to:

- the employing organisation's systems of corporate oversight or other oversight structures
- the employing organisation's ethics and conduct programmes
- recruitment procedures in the employing organisation emphasising the importance of employing high-calibre, competent staff
- strong internal controls
- appropriate disciplinary processes
- leadership that stresses the importance of ethical behaviour and the expectation that employees will act in an ethical manner
- policies and procedures to implement and monitor the quality of employee performance
- timely communication of the employing organisation's policies and procedures, including any changes to them, to all employees and appropriate training and education on such policies and procedures
- policies and procedures to empower and encourage employees to communicate to senior levels within the employing organisation any ethical issues that concern them without fear of retribution
- consultation with another appropriate professional accountant.

Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards, which may be created by the accounting profession, legislation, regulation or an employing organisation, include, but are not restricted to:

- effective, well-publicised complaints systems operated by the employing organisation, the profession or a regulator, which enable colleagues and employers to draw attention to unprofessional or unethical behaviour
- an explicitly stated duty to report breaches of ethical requirements.

The nature of the safeguards to be applied will vary depending on the circumstances. In exercising their judgement, members should consider what a reasonable and informed third party, having knowledge of all relevant information, including the significance of the threat and the safeguards applied, would conclude to be unacceptable.

SECTION 4 – APPLICATION OF FRAMEWORK APPROACH IN ETHICAL DILEMMA RESOLUTION

Members have a professional obligation to comply with the fundamental principles. There may be times, however, when their responsibilities to an employing organisation and their professional obligations to comply with the fundamental principles are in conflict. Ordinarily, members should support the legitimate and ethical objectives established by their employing organisation and the rules and procedures drawn up in support of those objectives. Nevertheless, where compliance with the fundamental principles is threatened, members must consider their response to the circumstances.

As a consequence of their responsibilities to their employing organisation, members may find themselves under pressure to act or behave in ways that could directly or indirectly threaten compliance with the fundamental principles. Such pressure may be explicit or implicit; it may come from supervisors, managers,

directors or other individuals within the employing organisation. As a result, members may find themselves under pressure to:

- act contrary to law or regulation
- act contrary to technical or professional standards
- facilitate unethical or unlawful earnings management strategies
- lie to or otherwise intentionally mislead (including misleading by keeping silent) others, in particular
 - i those acting as auditors to the employing organisation or
 - ii regulators
- issue, or otherwise be associated with, a financial or non-financial report that materially misrepresents the facts, including statements in connection with, for example:
 - i the financial statements
 - ii tax compliance
 - iii legal compliance or
 - iv reports required by regulators.

The significance of threats that might give rise to such pressures, such as intimidation threats, should be evaluated and, if they are not at an acceptable level, safeguards should be considered and applied as necessary to reduce them to an acceptable level. Safeguards that might mitigate such pressures include:

- obtaining advice where appropriate from within the employing organisation, an independent professional advisor or a relevant professional body
- the existence of a formal dispute resolution process within the employing organisation
- seeking legal advice.

When initiating an ethical dilemma resolution process, members should consider the framework below:

- gather the facts and identify the problem
- define the fundamental principles involved
- identify the affected parties
- determine whether a procedure of conflict resolution exists within the organisation
- identify who should be involved in the conflict resolution process
- discuss the ethical dilemma and the conflict with the relevant parties, in accordance with the prescribed procedure
- consider courses of action and associated consequences
- decide on a preferred course of action
- implement the appropriate course of action and monitor progress.

When resolving an ethical dilemma, it may be in the member's best interest to document the substance of the issue and details of any discussions held, and conclusions reached, concerning that issue.

Members may find it useful to discuss the ethical conflict issue within the organisation with the following parties:

- immediate superior
- the next level of management
- a corporate governance body, for example the audit committee or board of directors
- other departments in the organisation which include, but are not limited to, legal, audit and human resources departments.

In addition, members may wish to consult ACCA's technical advisory service, which will be able to provide guidance on ethical issues without breaching confidentiality. They may also consider seeking legal advice.

If, after exhausting all relevant possibilities, the matter remains unresolved, members should, where possible, disassociate

themselves from the matter. They may also consider whether, in the circumstances, it is appropriate to withdraw from the specific project or in extreme circumstances resign from the organisation in which they are engaged.

To assist members to determine an appropriate course of action when faced with a situation which could threaten their compliance with the fundamental principles, the following sections (preparation and reporting of information; acting with sufficient expertise; financial interests; inducements; and disclosing confidential information) give examples of specific areas of activity that could give rise to ethical dilemmas and the actions that could be taken in response. This is not a comprehensive list of examples but aims to cover the key areas most likely to be encountered by members. Illustrative case studies of how the guidance might be applied in example situations are given in the appendix to this guidance.

SECTION 5 – PREPARATION AND REPORTING OF INFORMATION

Members are often involved in the preparation and reporting of information that may be either made public or used by others inside or outside the employing organisation. Such information may include but is not limited to financial or management information, for example financial statements, management discussion and analysis, and the management letter of representation provided to the auditors as part of an audit of financial statements. Members should prepare or present such information fairly, objectively, honestly and in accordance with relevant professional standards so that the information will be understood in its context. Members should maintain information for which they are responsible in a manner that:

- describes clearly the true nature of business transactions, assets or liabilities
- classifies and records information in a timely and proper manner
- does not materially misrepresent the facts.

Threats to compliance with the fundamental principles, for example self-interest or intimidation threats to integrity, objectivity, or professional competence and due care, may arise where members are pressurised (either externally or by the possibility of personal gain) to allow themselves to be associated with misleading information or to become associated with misleading information through the actions of others.

Accordingly, members should not be associated with reports, returns, communications or other information where they believe that the information:

- contains a materially false or misleading statement
- contains statements or information furnished recklessly
- omits or obscures information required to be included where such omission or obscurity would be misleading.

The significance of such threats will depend on factors such as the source of the pressure and the degree to which the information is, or may be, misleading. The significance of the threats should be evaluated and, if they are not at an acceptable level, safeguards should be considered and applied as necessary to reduce them to an acceptable level. Such safeguards might include consultation with superiors within the employing organisation, for example the audit committee or other body responsible for governance, or with a relevant professional body.

Where it is not possible to reduce the threat to an acceptable level, members should refuse to remain associated with information they consider is, or may be, misleading. Should they be aware that the issuance of misleading information is either significant or persistent, they should consider informing appropriate authorities in line with the guidance in Section 9. They may also wish to take legal advice or consider resignation.

SECTION 6 – ACTING WITHOUT SUFFICIENT EXPERTISE

The fundamental principle of professional competence and due care requires that members should only undertake tasks for which they have, or can obtain, sufficient specific training or experience. They should not intentionally mislead employers as to how much expertise or experience they have; nor should they fail to seek appropriate expert advice and assistance when required.

Circumstances that may threaten the ability of members to perform their duties with the appropriate degree of competence and due care include:

- insufficient time for properly performing or completing the relevant duties
- incomplete, restricted or otherwise inadequate information for performing the duties properly
- insufficient experience, training and/or education
- inadequate resources for the proper performance of the duties.

The significance of such threats will depend on factors such as the extent to which members are working with others, their relative seniority in the business and the level of supervision and review applied to their work. The significance of the threats should be evaluated and, if they are not at an acceptable level, safeguards should be considered and applied as necessary to reduce them to an acceptable level. Safeguards that may be considered include:

- obtaining additional advice or training
- ensuring that there is adequate time available for performing the relevant duties
- obtaining assistance from someone with the necessary expertise
- consulting, where appropriate, with:
 - i superiors within the employing organisation
 - ii independent experts
 - iii a relevant professional body, such as ACCA.

Where threats cannot be eliminated or reduced to an acceptable level, members should consider refusing to perform the duties in question and, if refusal is considered appropriate, make clear their reasons for doing so.

SECTION 7 – FINANCIAL INTERESTS

Members may have financial interests that could, in certain circumstances, give rise to threats to compliance with the fundamental principles. For example, self-interest threats to objectivity or confidentiality may arise through the existence of the motive and opportunity to manipulate price-sensitive information in order to gain financially. Examples include situations where the member or an immediate or close family member:

- holds a significant direct or indirect financial interest in the employing organisation and the value of that financial interest could be directly affected by decisions made by the member
- is eligible for a profit-related bonus and the value of that bonus could be directly affected by decisions made by the member
- holds, directly or indirectly, or may qualify for share options in the employing organisation, the value of which could be directly affected by decisions made by the member.

Members should be alert to the threats inherent in holding or trading capital instruments in the employing organisation. If threats are not at an acceptable level, safeguards should be considered and applied as necessary to reduce them to an acceptable level. Such safeguards might include:

- disclosure of all relevant interests, and of any plans to trade in relevant shares, to those charged with the governance of the employing organisation, in accordance with any internal policies

- consultation, where appropriate, with superiors within the employing organisation
- consultation, where appropriate, with those charged with governance of the employing organisation or relevant professional bodies
- internal and external audit procedures
- up-to-date education on ethical issues and the legal restrictions and other regulations around potential insider trading.

Members should neither manipulate information nor use privileged information for personal gain.

SECTION 8 – INDUCEMENTS

Receiving offers of inducements

Members may find themselves in situations where they or immediate or close family members are offered inducements intended to encourage unethical behaviour. Inducements may take various forms, including gifts, hospitality, preferential treatment and inappropriate appeals to friendship or loyalty.

Offers of inducements may create threats to members' compliance with the fundamental principles. When they or their immediate or close family members are offered inducements, members should consider the situation carefully. Self-interest threats to objectivity or confidentiality may arise where inducements are made in an attempt to unduly influence actions or decisions, encourage illegal or dishonest behaviour or obtain confidential information. Intimidation threats to objectivity or confidentiality may arise if an inducement is accepted and it is followed by threats to make that offer public and damage the reputation of either the member or an immediate or close family member.

The significance of such threats will depend on the nature and value of the offer and the intent behind it. When offers of inducements are made which a reasonable and informed third party, having knowledge of all relevant information, would consider to be insignificant, members may conclude that the offers are made in the normal course of business without the specific intent to influence behaviour or to obtain information. In such cases, they may generally conclude that there is no significant threat to compliance with the fundamental principles.

If evaluated threats are not at an acceptable level, members should not accept inducements. As the real or apparent threats to compliance with the fundamental principles do not solely arise from acceptance of inducements but, sometimes, merely from the fact of the offer having been made, additional safeguards should be adopted. Members should assess the risk associated with all such offers and consider taking the following actions:

- immediately informing higher levels of management or those charged with governance of the employing organisation
- informing third parties of the offer – for example a professional body or the employer of the individual who made the offer; members should, however, consider seeking legal advice before taking such a step
- advising immediate or close family members of relevant threats and safeguards where they are potentially in positions that might result in offers of inducements, for example as a result of their employment situation
- informing higher levels of management or those charged with governance of the employing organisation where immediate or close family members are employed by competitors or potential suppliers of that organisation.

Offering inducements

Members may find themselves in situations where they are expected to, or are under other pressure to, offer inducements to subordinate the judgement of another individual or organisation, influence a decision-making process or obtain confidential information.

Such pressure may come from within the employing organisation, for example from a colleague or superior. It may also come from an external individual or organisation suggesting actions or business decisions that would be advantageous to the employing organisation.

Threats to compliance with the fundamental principles may arise in the following circumstances:

- a member experiences pressure from within the employing organisation to offer an inducement to suborn the judgement of another individual or organisation, influence a decision-making process or obtain information
- a third party outside the employing organisation asks a member for an inducement that might influence favourable business decisions or actions.

Members should not offer inducements that a reasonable and informed third party, having knowledge of all relevant information, would consider to have an improper influence on the professional judgement of a third party.

Where the pressure to offer an unethical inducement comes from within the employing organisation, members should follow the principles and guidance regarding ethical dilemma resolution set out in this document.

SECTION 9 – DISCLOSING CONFIDENTIAL INFORMATION

Members should observe the duty of confidentiality. Confidentiality is the duty to keep private another person's information given or obtained in confidence. The duty of confidentiality is not only to keep information confidential, but also to take all reasonable steps to preserve confidentiality. Members should not disclose confidential information acquired or received in the course of their work unless they have a right or obligation to do so or they have received informed consent from their employer to whom the duty of confidentiality is owed.

Section B1 of the Code, 'Professional duty of confidence in relation to defaults and unlawful acts of clients and others', considers the duty of confidentiality in further detail.

The possession of confidential information may give rise to specific threats to confidentiality in certain circumstances. However, the Code explains that information required as a result of a business relationship should not be disclosed outside the employing organisation without the proper authority or 'unless there is a legal or professional right or duty to disclose'. Therefore, information may (or must) be disclosed when members:

- are required by law to disclose information to the appropriate public authorities or suspected infringements of the law that come to light, for example in connection with anti-money laundering or anti-terrorist legislation
- are required to produce documents or other provision of evidence in the course of legal proceedings
- are permitted by law to disclose and are authorised by the organisation in which they are engaged
- believe that confidential information should be disclosed in the public interest, for example where the employing organisation has committed, or proposes to commit, a crime or fraudulent act
- have a professional duty or right to disclose, when not prohibited by law:
 - i to comply with technical standards and ethics requirements
 - ii to protect the professional interests of a member in legal proceedings
 - iii to comply with the quality review of a professional body such as ACCA
 - iv to respond to an inquiry or investigation by ACCA or a regulatory body.

Whistleblowing

Where required by law to disclose confidential information, for example as a result of anti-money laundering or anti-terrorist legislation, or in connection with legal proceedings involving either themselves or their employing organisations, members should always disclose that information in compliance with relevant legal requirements.

Members should take care when communicating relevant facts to others relating to known or suspected criminal activity. Under the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and the Terrorism Act 2000, it is a criminal offence to 'tip off' a suspected party to a crime.

For further information, members should refer to ACCA's money laundering guidance at www.accaglobal.com/general/activities/subjects/moneylaundering. Members should also consider obtaining legal advice and/or consulting ACCA's technical advisory service before making any disclosure.

In some circumstances, members may consider disclosing information outside the employing organisation when not obligated to do so by law or regulation, because they believe it would be in the public interest. When considering such disclosure, members should, where appropriate, follow the internal procedures of the employing organisation in an attempt to rectify the situation. If the matter cannot be resolved within the employing organisation, members should consider the following:

- the relative size of the amounts involved and the extent of likely financial damage
- whether members of the public are likely to be affected
- the possibility or likelihood of repetition
- the reasons for the employing organisation's unwillingness to disclose matters to the proper authority.
- the gravity of the matter
- relevant legislation and professional standards

In deciding whether to disclose confidential information, they should also consider the following points:

- when the employer gives authorisation to disclose information, whether or not the interests of any parties, including third parties whose interests might be affected, could be harmed
- whether or not all the relevant information is known and substantiated, to the extent this is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgement should be used in determining the type of disclosure to be made, if any
- the type of communication that is expected and to whom it is addressed; in particular, members should be satisfied that the parties to whom the communication is addressed are appropriate recipients
- the legal or regulatory obligations and the possible implications of disclosure for the member.

Before making such disclosure, members should obtain legal advice as to their duties and obligations in the context of their professional and business relationships, and possible protection under the Public Interest Disclosure Act 1998.

SOURCES OF ADVICE

A member who is in doubt as to their ethical position or duty of confidentiality may seek advice from ACCA's technical advisory service. The technical advisory service is a confidential service free from the duty to report misconduct.

There are also independent organisations which have been established to provide support for employees troubled by ethical dilemmas at work, such as Public Concern at Work (www.pcaw.co.uk) and Freedom to Care (www.freedomtocare.org), both of which can provide more detailed guidance on the requirements of the whistleblowing legislation.

Members who act as non-executive directors may obtain guidance from ACCA's corporate governance resource at www.accaglobal.com/general/activities/subjects/governance

APPENDIX – CASE STUDIES

CONTENTS

Introduction

Ethical dilemma resolution framework

Case studies:

- 1 Unsupported expenses
- 2 Incorrect reporting of financial information
- 3 Non-disclosure to auditors
- 4 Acting without sufficient expertise
- 5 Personal financial interest in a proposal
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- 8 Earnings management
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INTRODUCTION

Members may encounter situations where their responsibilities to the employing organisation and their professional obligations to comply with the fundamental principles are in conflict. These dilemmas are rarely clear cut and members can be faced with a difficult decision as to the best course of action in such circumstances.

This appendix contains a number of case studies designed to illustrate to members the thought processes that might be followed in applying the principles-based ethical guidance to their situation. The case studies deal with a few specific scenarios, unlike the more general circumstances in the ethical guidance. The case studies set out to establish the principles which are in danger of being breached and the factors that could be considered when resolving the particular ethical dilemma, and indicate a possible course of action for the member in order to deal with the situation in a professional manner.

Members should bear in mind that the appearance of a conflict could be as damaging as the existence of an actual conflict and should therefore take the necessary steps to address this. The guidance for members is predicated on perceived as well as actual threats to compliance with the fundamental principles as presumed by a reasonable and informed third party weighing all the specific facts and circumstances available to the member at that time.

The case studies are additional to the forgoing guidance and should be read in conjunction with it. However, ultimately it is the requirements of the ACCA Code of Ethics and Conduct that must be applied to the particular circumstances, particularly section 100 'Introduction and fundamental principles', section B1, 'Professional duty of confidence in relation to defaults and unlawful acts of clients and others', section 220, 'Conflicts of interest', and Part C, 'Professional accountants in business'.

ETHICAL DILEMMA RESOLUTION FRAMEWORK

In applying the fundamental principles, members may encounter problems in resolving an ethical dilemma. A number of dilemma resolution models have been published. In essence, the steps they suggest can be summarised as follows:

- Gather the facts and identify the problem. In order to identify the problem, the member should establish the known facts of the situation and any limitations. Facts may not be easily or readily available. Therefore, the member may find it helpful to obtain more background information by:
 - referring to the organisation's policy, procedures, code of conduct and previous history
 - discussing the matter with parties internal and external to the organisation, for example managers, colleagues, family and friends (bearing in mind the duty of confidentiality).
- Define the fundamental principles involved. The member should refer to the ethical advice detailed in the guidance in order to establish which fundamental principles are affected by the situation.
- Identify the affected parties. The member should consider affected parties ranging from individuals and organisations to society. The parties to be considered include, but are not limited to, employees, employers, shareholders, consumers/clients, investors, government and the community at large.
- Determine whether a procedure of conflict resolution exists within the organisation.
- Identify who should be involved in the conflict resolution process. The member needs to consider which parties should be involved, in what role, and at what stage of the conflict resolution process. For example, the member may need to consider when it would be appropriate to refer to external sources, such as ACCA.
- Discuss the ethical dilemma and the conflict with the relevant parties, in accordance with the prescribed procedure.
- Consider courses of action and associated consequences. In considering courses of action, the member may consider the following:
 - the organisation's policies, procedures and guidelines
 - applicable laws and regulations
 - the safeguards identified in this factsheet and the ACCA *Rulebook*
 - universal values and principles adopted by society
 - long-term and short-term consequences
 - symbolic consequences
 - private and public consequences.
- Decide on a preferred course of action. The member should determine the best course of action consistent with the fundamental principles. When evaluating a suggested course of action, members should consider the following:
 - Have all consequences associated with the course of action been discussed and evaluated?
 - Is the suggested course of action enduring from an ethical perspective?
 - Would they apply a similar course of action to a similar situation?
 - How would they feel if details of the suggested course of action were disclosed to peers, family and friends?
- Implement the appropriate course of action and monitor progress.

When resolving an ethical dilemma, it may be in the member's best interest to document the substance of the issue and details of any discussions held and conclusions reached.

CASE STUDIES

The case studies below provide examples of workplace dilemmas that could arise in the areas of activity described in the body of this guidance. The case studies are intended for illustrative purposes only, and should be read in conjunction with the guidance.

The possible courses of action outlined in the case studies below may differ according to a variety of variables, including, but not limited to, industry sector, size of business, seniority, organisation structure, role and culture.

CASE STUDY 1 – UNSUPPORTED EXPENSES

Case outline

You are the finance director of an organisation. You become concerned that the chief executive is making frequent overseas trips and charging the expenses to the organisation. The relevance of the destinations and the nature of the activities undertaken appear to have only partial relevance to your organisation's activities.

You raise your concerns with the chief executive, who gives assurances that the nature and purpose of these trips are covered by an 'understanding' with the organisation's chairman. This is not evidenced in writing, and no further justification for the expenses is forthcoming.

Key fundamental principles involved

Integrity

Would processing the payments without adequate explanation be seen as being honest and fair by others?

Objectivity

How will you be able to demonstrate your independence, actual or perceived, from the chief executive?

Professional competence and due care

How can allowing the expense payments to be processed without adequate explanation be seen as acting with due skill, care and diligence?

Professional behaviour

How should you proceed so as not to discredit yourself?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practice, applicable laws and regulations. Is it possible to obtain details or documentation of the 'understanding' between the chief executive and the chairman? Have you discussed the matter adequately with the chief executive and/or chairman to ensure you have the real facts?

Identify affected parties

Key affected parties are you, the finance director and the board. Other possible affected parties are the expense processing department, human resources, internal audit, tax department, audit committee, employees, shareholders and financial backers.

Who should be involved in resolution

Consider not just who should be involved, but also for what reason and the timing of their involvement. Have you thought of contacting ACCA for advice and guidance? Do you have trusted colleagues with whom you can discuss your position? At what point will you consider involving the board and the audit committee?

Possible course of action

Discuss the issue further with the chief executive and ask for details of the trip or documentary evidence of this 'understanding' between the chief executive and the chairman. During this discussion, explain to the chief executive the reasons why this information is needed, for example to conform with the organisation's policies, procedures and guidelines. Explain to

the chief executive that it may be necessary to ensure that the contentious items are included in a P11D. If the chief executive will not provide the necessary information, explain to him that the matter will have to be discussed with the chairman, and you will set up a meeting involving all three of you.

If no satisfactory response is obtained from the chief executive and the chairman, the next steps could include discussions with the board, internal audit, the audit committee and the external auditors.

During the resolution process, it may be helpful to consult with ACCA. You should document your involvement and the substance of all discussions held, who else was involved, what conclusions were reached and why.

CASE STUDY 2 – INCORRECT REPORTING OF FINANCIAL INFORMATION

Case outline

You are a reporting accountant in a company. 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. He has given you specific assurances that work in progress has increased by 200% during the current reporting period, and instructed you to report this level 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.

Key fundamental principles involved

Integrity

Will you be able to demonstrate that the accounts are true and fair without re-drafting?

Objectivity

How would you maintain your objectivity given that your immediate manager is a forceful, perhaps intimidating individual?

Professional competence and due care

Are the draft accounts prepared in accordance with technical and professional standards?

Professional behaviour

How should you proceed so as not to discredit yourself?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practice, applicable laws and regulations. Is the evidence that work in progress is incorrectly stated supported by other documentation, for example analytical review of cost of sales, margins and cash flows?

Identify affected parties

Key affected parties are you and your immediate manager. Other possible affected parties are the next levels of management, recipients of the management accounts and the financial accounts, finance, purchasing, accounts payable, human resources, internal audit, the audit committee, the board, the external auditors, shareholders and financial backers.

Who should be involved in resolution

Consider not just who should be involved, but also for what reason and the timing of their involvement. Have you thought of contacting ACCA for advice and guidance? Have you discussed the matter with your immediate line manager in light of all the available evidence and possible consequences? Can you discuss the matter with recipients of the management and financial accounts? At what point will you consider involving other affected parties?

Possible course of action

Check the relevant facts by corroborating with other available documentation, for example cost of sales calculations, margins, previous stock counts and other financial information. Discuss the matter with your immediate line manager as to the appropriate course of action, for example undertaking a stock count.

If you feel that your manager's response is not appropriate, discuss the matter with recipients of the management and draft financial accounts and the next level of management. Next steps could include discussion with the senior management, internal audit, the audit committee, the board and the external auditors.

During the resolution process, it may be helpful to consult with ACCA. You should document your involvement and the substance of all discussions held, who else was involved, what conclusions were reached and why.

CASE STUDY 3 – NON-DISCLOSURE TO AUDITORS

Case outline

You are employed as an accounting systems manager. During your work you overhear a financial controller in one department saying that she has not been disclosing certain things to the auditor. You do not know whether to believe this but are uneasy, as the culture appears to be one of 'getting away with as much as possible'. In addition, you have heard that a bribe was paid to an overseas company to secure work. You are uneasy about the situation and worried that a poor relationship with your line manager may prevent you from exploring the accuracy of the information that you have received.

Key fundamental principles involved

Integrity

Can you overlook the financial controller's comments, the culture, and the bribe allegedly paid to the overseas company, and still demonstrate integrity?

Objectivity

Knowing that something may be wrong, how can you maintain your objectivity?

Confidentiality

Is there any basis on which you could or should make disclosures?

Professional behaviour

How should you proceed so as not to discredit yourself?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practice, applicable laws and regulations. Can you corroborate the facts further with documentation or discussion with relevant parties? Do you have an internal process for whistleblowing? What steps have you taken to understand your rights and responsibilities under the Public Interest Disclosure Act?

Identify affected parties

Key affected parties are you, the financial controller, the employee raising allegations about a bribe, your line manager and the auditor. Other possible affected parties are employees, the next level of management, internal audit, the audit committee, the board, shareholders and financial backers.

Who should be involved in resolution

Consider not just who should be involved, but also for what reason and the timing of their involvement. Have you thought of contacting ACCA for advice and guidance? Do you have trusted colleagues with whom you can discuss your position? At what point will you consider involving your line manager, the next level of management, the board and the audit committee?

Possible course of action

Check the relevant facts and discuss the matter with your immediate line manager. If you feel that the response from your line manager is not satisfactory, the next step may be to discuss the matter further with the next level of management, internal audit, the audit committee or the board.

If you have suspicions or evidence of criminal activity, contact ACCA and/or take legal advice.

During the resolution process, it may be helpful to document your involvement and the substance of all discussions held, who else was involved, what decisions were made and why.

CASE STUDY 4 – ACTING WITHOUT SUFFICIENT EXPERTISE

Case outline

Your employer has put you in charge of a project which you consider requires detailed actuarial knowledge. You are uneasy about doing the work, as you do not possess the necessary expertise, and are uncertain about what to say to the employer.

Key fundamental principles involved

Professional competence and due care

Do you have the necessary skills and experience to undertake the work?

Professional behaviour

How should you proceed so as not to discredit yourself?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practice, applicable laws and regulations. Can you demonstrate your lack of expertise in this area, the potential impact on the organisation and pension fund, and offer alternatives? Can you make reference to ACCA's professional values and disciplinary process?

Identify affected parties

Key affected parties are you and your employer. Other possible affected parties are the auditors, employees, human resources, pensioners, shareholders and financial backers.

Who should be involved in resolution

Consider not just who should be involved, but also for what reason and the timing of their involvement. Have you thought of contacting ACCA for advice and guidance? Do you have trusted colleagues with whom you can discuss your position? At what point will you consider involving the next level of management and human resources?

Possible course of action

Discuss your concern about your lack of actuarial knowledge with your employer and suggest clearly defining the scope of the project and a course of action for addressing issues such as lack of actuarial knowledge, for example employing a person with the necessary expertise. During the discussion, focus on the potential consequences to the business, pension fund and you personally of undertaking this project. Explain that employing a person with the necessary expertise does not remove your obligation to ensure that the work is conducted in accordance with accounting standards, laws and regulations.

If your employer does not agree to the suggested course of action, it may be appropriate to discuss the matter with the next level of management. If the response from management is not satisfactory, it may be necessary to involve internal audit, the audit committee, pension and/or investment committee or the board.

During the resolution process, it may be helpful to consult with ACCA. You should document the substance of all discussions held, who was involved, what conclusions were reached and why, and your involvement.

CASE STUDY 5 – PERSONAL FINANCIAL INTEREST IN A PROPOSAL

Case outline

You have been appointed finance director to a public sector organisation which has major difficulty attracting and retaining skilled staff. The board has asked you 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 scheme. You conduct appropriate research and conclude that a significant increase in the whole range of benefits is required in order to achieve the board's objective.

Key fundamental principles involved

Integrity

In view of your personal interest, how will you ensure that your honesty remains unquestionable?

Objectivity

How will you remain unbiased, and consider only the relevant facts, despite your personal interest in the benefits package?

Professional competence and due care

Do you have all the necessary skills to draw up such a package?

Professional behaviour

How should you proceed so as not to discredit yourself?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, best practice, applicable laws and regulations. Is the information used for assessing the potential new benefits package independent? Who else has been involved in the proposal for the new benefits package?

Identify affected parties

Key affected parties are you and the board. Other possible affected parties are employees, human resources, shareholders and financial backers.

Who should be involved in resolution

Consider not just who should be involved, but also for what reason and the timing of their involvement. Have you thought of contacting ACCA for advice and guidance? Do you have trusted colleagues with whom you can discuss your position? Have you discussed the matter with the board and/or human resources?

Possible course of action

Before explaining your findings to the board, it may be advisable to tell the board how you approached the project and who else was involved, for example human resources. You should declare your conflict of interest and not vote on the proposal for the new benefits package. It may be advisable to involve human resources or another independent party to present the findings to the board. During the presentation, demonstrate how your findings were arrived at and who else was involved in the project.

During the resolution process, it may be helpful to consult with ACCA. You should document the substance of all discussions held, who was involved, what conclusions were reached and why, and your involvement.

CASE STUDY 6 – INAPPROPRIATE BUSINESS PRACTICES

Case outline

You have recently accepted a new, and better-paid, job and are due to start in a week. At interview, the company explained its charging system. On reflection it appears that customers are charged inflated rates that exceed agreed fixed prices. You are beginning to feel uncomfortable, and worry that you might be doing the wrong thing accepting this position.

Key fundamental principles involved

Integrity

If your assessment is accurate, should you associate yourself with this kind of practice? How can you withdraw with integrity?

Objectivity

How can you overcome the risk that your self-interest (better pay/career opportunities) will cause you to accept the role, despite your concerns?

Professional behaviour

How should you proceed so as not to discredit yourself?

Discussion

Identify relevant facts

Do you have all the facts, or could you have misunderstood the charging scheme? Do you have supporting evidence (for example, from employees of your potential employer)? Did you explore this problem area during the interview? Can you discuss it at this stage?

Identify affected parties

Key parties affected are you and the prospective employer. Other possible parties affected are your current employer (for example, if you have resigned), and your family (who may be affected whether you accept or decline the new job).

Who should be involved in resolution

Consider not just who you should involve, but also why and when. Can ACCA provide help and advice? Are there trusted colleagues with whom you can discuss your position? Can you talk with the prospective employer about your concerns?

Possible course of action

Check out your facts. Arrange an informal talk with a sales person to explain their practices again. Consider whether what you learn supports your initial views. Discuss remaining concerns with a trusted colleague (take care not to reveal confidential information). Consider whether you will be able to influence the business practices of the company. Discuss your concerns with the new employer and ask whether they can help resolve this issue with you. If this seems unlikely, and you wish to withdraw, consider taking legal advice (for example, through the Citizens Advice Bureau or similar) before withdrawing from the role. At all times keep your family aware of your concerns, your approach and the possible implications.

During the resolution process, it may be helpful to consult with ACCA. You should document the substance of all discussions held, who was involved, what conclusions were reached and why, and your involvement.

CASE STUDY 7 – INDUCEMENTS FOR NON-DISCLOSURE OF INFORMATION

Case outline

You have been with your employer less than a year, but things have not turned out well and you are moving on. You have some grave concerns about business conduct, and believe there may be issues which should be disclosed (to auditors or the regulator). However, you have been led to understand that, if you report any concerns, you will not receive a settlement from your employer, whereas if you agree to a gagging clause then you will receive a substantial payoff.

Key fundamental principles involved

Integrity

How far do you need to go to demonstrate your integrity?

Objectivity

How will you manage the conflict between financial benefit and integrity?

Confidentiality

Is there any basis on which you could make disclosures?

Discussion

Identify relevant facts

Do you have the facts to back up your 'concerns'? Do you have all the facts, or only a selection, and can you establish the rest? What steps have you already taken to try to resolve your concerns, and are they documented? Do you understand how to use the Public Interest Disclosure Act 1998 to obtain protection?

Identify affected parties

Key affected parties are you and the employer. Other possible affected parties are the regulator, the auditor and the public, as well as your family.

Who should be involved in resolution

Consider not just who you should involve, but also why and when. Can ACCA provide help and advice? Are there trusted colleagues with whom you can discuss your position? Have you made full disclosures to your solicitor, and received advice? Have you discussed the matter with your family? Have you considered contacting organisations such as Public Concern at Work or Freedom to Care?

Possible course of action

Try to keep the issues clear. One is how to deal with the matters of concern; the second is achieving a satisfactory financial settlement. Take advice early and often. It is key to establish whether the facts support your concerns. If so, you must judge if there is a basis for disclosure – ACCA may be able to advise you – and whether the Public Interest Disclosure Act can provide any protection to you. (Public Concern at Work can provide confidential advice.) If there is a basis, you need to determine what the value and consequences of that disclosure might be for you, your family, the employer, the industry and the profession. Resist the gagging clause, and argue for your concerns about the company's behaviour to be documented and considered by the executive body. Ensure that your family is at all times aware of your concerns and actions, and their implications, but take care not to reveal confidential information.

During the resolution process, it may be helpful to document the substance of all discussions held, who was involved, what conclusions were reached and why, and your involvement.

CASE STUDY 8 – EARNINGS MANAGEMENT

Case outline

You are the accounts manager in a family business, although in reality you think you would be considered to be the finance director. After some financial difficulties, a bank and a venture capitalist have invested and acquired over 33% of the shares, but no board seats. The continuing support of the bank and venture capitalist are dependent on performance figures being achieved. You have been told that if you produce the 'right' figures you will get a large bonus and 1% share option.

The company is secretive, and as little information as possible is being given to the auditors and the investors. You believe that some figures may be being 'massaged'. You have tentatively raised your concerns with the father and son chair and chief executive. You have been told that if you pursue the matter or fail to produce the 'right' figures, you will lose the bonus and share option.

Key fundamental principles involved

Integrity

Can you support the business without being involved in potentially misleading information?

Objectivity

How can you avoid your financial interest influencing your professional judgement?

Professional behaviour

How will you manage relationships with the affected parties?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, accounting standards, applicable laws and regulations. Double check your facts, including significant figures in the accounts, and the assumptions underlying them. Consider whether the culture of secrecy means that you are not in possession of material facts, and challenge the management if necessary. Above all, how could you demonstrate objectivity, should your work be challenged in the future?

Identify affected parties

Key parties are you, the family business, professional advisers, the bank and the venture capitalist. Other possible affected parties are your family, ACCA and the profession.

Who should be involved in resolution

Consider not just who you should involve, but also why and when. Are there trusted colleagues or friends with whom you can discuss your position? Can ACCA provide advice and assistance? Have you discussed the matter with your family?

Possible course of action

Discount the short-term financial benefits on offer. Prepare accounts for the business, noting any assumptions made, and impress on the directors the implications of short-term manipulation in the long term. Encourage the family to focus on the underlying business issues, and address them to enhance long-term value. Ask the directors to review the basis of your remuneration - to remove the link to the company's performance, over which you have no actual control.

Draw up realistic figures for presentation, and explain how your professional standing demands that these be presented. Do not become involved in manipulation, and do not allow your name to be associated with figures not prepared by you. Consider whether the values of the organisation are compatible with your own, and if necessary your employment options.

During the resolution process, it may be helpful to consult with ACCA. You should document the substance of all discussions held, who was involved, what conclusions were reached and why, and your involvement.

CASE STUDY 9 – DISCLOSING PERSONAL INFORMATION

Case outline

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 of your department holds 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.

Key fundamental principles involved

Integrity

Would the actions proposed be fair and honest? Would there be any breaches of trust?

Confidentiality

Are there proper grounds for disclosing the information?

Discussion

Identify relevant facts

Consider the organisation's policies, procedures and guidelines, applicable laws and regulations. Relevant facts may include 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 and the councillor. Other possible affected parties are the committee the chairman represents, those responsible for the administration of housing benefit, and the officer responsible for data protection.

Who should be involved in resolution

Consider not just who you should involve, but also why and when. You and the chairman must engage effectively. Other parties may need to be drawn in, depending on the facts, but may include the data protection officer, housing benefits officers, legal officers and internal audit representatives. It is possible that senior council figures may need to support you in resisting the chairman.

Possible course of action

Try to get the request formalised in memorandum form, with reasons appended, and maintain a file of related correspondence. If this is not forthcoming, ensure that notes are made of the details of the request and any reasons given or implied. Impress on the chairman the duty of confidentiality and legal implications associated with the request – if necessary, with the help of specialist or legal knowledge. Refer the chairman to public domain information, if any, but deny access to other information. Try to establish whether there is a basis for investigating the councillor, for example for reasons of suspected impropriety, and the reasons why the councillor should not be asked for consent. Determine whether, in the light of those reasons, internal or external investigation may be appropriate (and by whom), and whether or not it is appropriate to inform the councillor of the request and any follow-up actions.

During the resolution process, you should document the substance of all discussions held, who was involved, what conclusions were reached and why, and your involvement.

CASE STUDY 10 – TRANSFER OF FUNDS TO AN OFFSHORE ACCOUNT

Case outline

You work as an interim finance director. You are not an executive director, do not attend board meetings and do not appear as a director on the Companies House register. A newly appointed director has paid a substantial sum of money into the company to save it from financial collapse. The new director has asked you to transfer several thousands of pounds into an offshore account. When an explanation was sought, the director told you that the sum was to pay for work. However, no invoice or supporting documents were offered. You have received a memorandum instructing you to make the payment and confirming that the transaction was to pay for legitimate expenses. You conclude that, as you are an employee, you cannot refuse in the absence of evidence that you are being asked to commit a crime or other irregularity. Therefore, you make the payment but express concern to the chief executive and chairman. Shortly afterwards, you are informed that your interim role cannot continue due to financial difficulties.

An insolvency practitioner, who has been appointed as administrator, contacts you. He is seeking information from you.

Key fundamental principles involved

Integrity

Were the actions you took, and would any conversation with the administrator be, unfair, untruthful or dishonest in any way?

Objectivity

Where is the boundary between your duty to the former employer and your responsibility to the insolvency practitioner?

Confidentiality

Are there proper grounds for disclosing information to the administrator?

Discussion

Identify relevant facts

Consider the business's policies, procedures and guidelines, best practice, applicable laws and regulations. Of particular relevance might be the Proceeds of Crime Act 2002, and provisions relating to aiding or abetting money laundering. Have you made records of how you attempted to deal with the offshore payment, any concerns you raised, and any responses received?

Identify affected parties

Key affected parties are you, the investor/director, the administrator, creditors, chief executive and chairman. Other possible affected parties are ACCA and the profession as a whole.

Who should be involved in resolution

Consider not just who you should involve, but also when and why. Take advice early and often from ACCA, and if necessary from a lawyer.

Possible course of action

You will normally be able to co-operate openly with an administrator, but you should ask for an explicit statement from the administrator of the authority under which he is requesting the information. On receipt, consider seeking legal advice, unless you are very familiar with the law and your duties in respect of it. Open a dialogue with the administrator, and try to establish the scope of the enquiry. If there is any suggestion of potential action against you for wrong-doing, seek further legal advice and continue your discussions under legal guidance.

Ensure that you keep a record of all interactions with the administrator. It may also be helpful to document the substance of other discussions held, who was involved, what conclusions were reached and why.