



COMMON ETHICAL DILEMMAS IN SMALL AND MEDIUM PRACTICES

Shane McAleer writes:

“That would be an ecumenical matter!”

The Ethics Research Report, published by Chartered Accountants Ireland in January 2019, reported that “94% of respondents have ‘observed or encountered’ some level of unethical behaviour during their professional career”.

Due to the nature of their business, members working in practice can be more exposed to certain ethical dilemmas. In my experience, the following are two typical dilemmas that can arise and, unless appropriately managed, may potentially lead to unethical behaviour.

Business & professional client relationship vs close personal friendship

Over time, practitioners can develop a good professional relationship with their client. On some occasions this can develop into a closer personal friendship which, in some circumstances, can expose the practitioner to a threat to their professional ethics.

The level of threat can vary. For example:

- Acting for two clients, both friends of the practitioner, on opposite sides of the same transaction can present a greater threat to independence (breach of objectivity) than perhaps having two bookkeeping clients who happen to be competitors
- Casually discussing a client’s affairs over a drink with a mutual friend can present a breach of confidentiality.

There are safeguards in the Code of Ethics, or the Ethical Standard for Auditors, to help manage these. The ultimate safeguard is resignation, but only insofar as the threat arises between the client and the practitioner. Where the misconduct arises through an action of the client, then this can lead to specific professional responsibilities, e.g. whistleblowing or reporting suspicious transactions under Anti-Money Laundering legislation. Such scenarios can present an ethical dilemma where the practitioner is torn between the value of friendship and their professional obligations. For some, the dilemma can deepen where the client pleads for discretion. This segues to another typical dilemma, below.

Expectations to deliver vs Undue pressure/influence from the client or management

Situations can arise where practitioners are put under undue pressure/influence from the client to “turn a blind eye” on certain matters. This pressure may also come from management within the practice.

In my experience as an insolvency practitioner, I have come across scenarios in companies where a potential ethical threat existed for the practitioner previously advising or auditing the company.

In one scenario, a sole practitioner provided audit and tax advice to a large family company for many years. There was a good relationship with the client, given that the client had followed from a firm where the practitioner had previously worked. Over time, the owner/director amassed a significant director’s loan. The practitioner was aware of the loan but for several years it was not disclosed correctly in the accounts. The relevant taxes associated with the loan were not submitted.

In another scenario, a practitioner prepared management accounts, showing a solvent position, for the purposes of providing these accounts to a secured lender. The practitioner was aware that the accounts were materially different from the actual position, i.e. an insolvent one. The client was insistent that failure to present a solvent position would result in financial support being withdrawn, with the potential loss of the business and jobs.

The facts of the cases in scenario one and scenario two suggested that the practitioner had, perhaps inappropriately, succumbed to pressure from the client to agree with the client’s rationalisation that it was in the best interests of the company to account for matters in this way, and even that the company’s survival may depend upon it. Perhaps, the decision to accommodate the client was influenced out of a sense of loyalty. Perhaps it was out of fear of losing a client. Or, perhaps it was out of a lack of awareness of the relevant requirements!

In addition to the safeguards outlined in the 'Code of Ethics', there are a number of supports available to all Members and their staff from the Institute, including the Ethics Resource Centre which contains a number of articles and publications to assist members to reach a decision. The Practice Consulting team will always be willing to advise members in practice in dealing with ethical issues and, in addition, CA Support is open to all members to assist them in times of difficulty.

Shane McAleer is a director in Somers Murphy & Earl Corporate Services Limited. He is a member of Council, the Institute's Ethics and Governance Committee, and the Members in Practice Committee. He is also a member of the CCAB-I Insolvency Committee.

ANTI-MONEY LAUNDERING (ROI/UK)

The Professional Standards Department (PSD) writes:

Firms will be familiar with significant changes in the statutory requirements of the anti-money laundering ('AML') supervisory regimes in both jurisdictions. New requirements include conducting whole of firm risk assessments, client risk assessments to ascertain the level of customer due diligence required, and, in the UK, practising certificate applicants and holders obtaining external criminality checks. For supervisors, too, including the Institute, new requirements include increased data collection and the risk profiling of supervised firms for AML purposes. In the UK, the new AML oversight body, the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) has been busy during 2018 and 2019 conducting its cycle of inspections and following up on recommendations made/requirements imposed.

This new impetus on the prevention and detection of money laundering in both jurisdictions has also meant a greater emphasis on the part of the Institute's inspection team to assess how firms are complying with their AML obligations. In future, for some firms within the Institute's AML supervisory remit, it is likely that 'AML only' inspection visits will be conducted.

As a result of the above, the Institute has been reviewing the cost base associated with these new requirements and what additional resources will be needed. From the beginning of 2020, principals, including non-members/affiliates, in those firms which are supervised by the Institute for AML purposes will pay an AML supervisory fee of Euro 85.00/Stg 70.00 to meet the costs of AML supervision, which includes levies payable to external oversight bodies, including OPBAS. This fee is payable on a per principal (including non-members/affiliates) basis and will be itemised separately on regulatory fee invoices that firms will receive early in 2020.

ANTI-MONEY LAUNDERING SUPPORTS AVAILABLE

The Institute has a number of supports for members in practice in dealing with Anti-Money Laundering. Practice Consulting's toolkit 'Anti-Money Laundering Policies and Procedures 2019', suitable for firms in ROI and NI, is available at our online shop (<https://www.charteredaccountants.ie/ProductCatalog/Product.aspx?ID=39432>).

Practice Consulting has also launched a new tailored service offering whereby, using our AML toolkit, one of our expert consultants will provide a half day AML course onsite at your offices. This will allow you to ask the questions and deal with the AML issues that matter to you, as well as giving you peace of mind that your firm is AML compliant. If you are interested in this service, please contact Jeremy Twomey or Bernie Walsh at the contact points below.

Also, see below for our AML Seminar in Chartered Accountants House, Dublin, and the recent Technical Release.



UPCOMING CPD COURSES & EVENTS FOR MEMBERS IN PRACTICE

Over the next few weeks, Practice Consulting is running two courses/events designed with small and medium-sized practitioners in mind.

First up, on the **morning of Wednesday 26 February** we are holding an **Anti-Money Laundering (AML) Seminar at Chartered Accountants House, Dublin**. With recent significant changes in Anti-Money Laundering legislation, this course offers you the opportunity to gain the understanding of what you need to be fully AML compliant in your practice.

On **Thursday 12 March**, our **Practice Forum (Northern Ireland)** takes place at the **Linenhall, Belfast**. Some of the topics we will cover over the day include:

- 2020 Economic Update
- Essential Tax Update
- Stay out of Trouble: Technical & Regulatory Tips for your Practice
- Starting Out & Succeeding in Practice Case Study
- Marketing your Practice
- The Digital Practice Journey
- 2030: What is the future of Practice over the next 10 years? (Panel Discussion).

From technical updates focused on your needs, to the practical matters that will define the success of the accounting practitioner over the coming years, this unique forum is a must attend for all Ulster based accounting practitioners.

Both of these events can be booked online through the Professional Development area of our website and don't forget that Institute Training Ticket discounts apply, while Going into Practice discounts are also available for new practitioners.

TAX MATTERS

The tax staff in the Chartered Accountants Ireland Advocacy and Voice Department write:

NORTHERN IRELAND TAX DEVELOPMENTS

Making Tax Digital - digital links requirement criteria for further deferral

In the last edition of Practice Matters, we brought you news of an unexpected move by HMRC to introduce a new process which allows some businesses additional time to meet the digital links requirement under Making Tax Digital ("MTD") for VAT, once the one year soft landing period from the original mandation date ends (either 1 April 2020 or 1 October 2020).

The business must apply for the additional time to meet the digital links requirement and must do so by the end of the relevant soft-landing period. The application must also be accepted by HMRC.

We now have more information on the relevant criteria to be accepted for further deferral of the digital links requirement. The criteria to do it is strict and is set out in section 4.2.1.3 of the updated MTD for VAT notice 700/22 (<https://www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat>).

This means that HMRC is likely to grant a direction in only a small number of cases. Some relevant extracts from the notice are set out below and it has also been confirmed that agents can apply on behalf of clients.

Extracts from HMRC notice:

"Criteria

To be considered for a specific direction, you will need to:

- make a formal application to HMRC as soon as possible for an extension and by no later than the end of your soft-landing period*
- explain why it is unachievable and not reasonable for you to have digital links in place by the MTD VAT digital links mandation date (in April 2020 or October 2020, for businesses mandated to join MTD in 2019) for example, why does commercially available software not meet the digital link requirement for your business?*
- submit details of the systems that are unable to be digitally linked (provide a current map of your existing VAT systems, highlighting the exact areas that cannot be digitally linked)*
- provide a clear explanation and timetable for when and how you will become fully MTD compliant (ordinarily no later than one year from the end of their soft-landing period)*
- state the controls you will put in place to ensure any manually transferred data is moved accurately and without error.*

What is unachievable and not reasonable

What is unachievable and not reasonable will depend on the individual circumstances, for example where a:

- component part of the businesses IT system is not capable of importing and exporting data from another part of the IT system and it is not possible to update or replace that non-compliant component (or supersede that part of the system) by the end of the soft landing period*
- business is in the process of updating or replacing its IT system and the planned implementation date for the new IT system is not before the end of the soft-landing period.*

This is not an exhaustive list.

Cost alone is not sufficient reason to issue a specific direction. You are expected to make every effort to comply with the MTD requirements by the end of the soft-landing period.

A specific direction in relation to digital links is only intended to be issued in exceptional circumstances."

As further deferral must be applied for, HMRC advises that businesses should ensure they progress their plans to become digitally linked while waiting for a formal response from HMRC.

HMRC Powers and Safeguards Questionnaire

As reported in our Tax News on 11 November 2019, an expert forum has commenced evaluating the implementation of certain HMRC powers and safeguards. Chartered Accountants Ireland will, on behalf of HMRC, be sending out an important questionnaire to our members. Responses to the questionnaire will form part of the evidence to determine whether HMRC's processes, procedures and internal safeguards ensure they intervene appropriately with taxpayers. The questionnaire will seek feedback on some

specific powers and safeguards, and also provide opportunity for respondents to provide anonymised examples to illustrate their points. This is an important stage of the evaluation process and will inform next steps. We encourage you to respond.

REPUBLIC OF IRELAND TAX DEVELOPMENTS

Finance Bill 2019

Finance Bill 2019 was signed into law by the President on the 10 December 2019. Revenue's Finance Bill 2019 guidance notes are now available on www.revenue.ie. Updates to Chartered Accountants Ireland's searchable online tax legislation for Finance Act 2019 will be available in the near future.

Change in USC threshold to account for increase in national minimum wage

As a result of the decision to increase the National Minimum Wage, the USC threshold will see the current ceiling of the 2 percent rate raised from €19,874 to €20,484. This change will be legislated for in Finance Bill 2020 which is expected to be at the end of the year. In the interim, Revenue will implement the increase on an administrative basis for the 2020 tax year. The change will be made to section 531AN Taxes Consolidation Act 1997.

PAYE: No P60 for employees for 2019

Employees and directors will not receive a P60 for 2019. Instead, an Employment Detail Summary is available to view and download in myAccount. This summary replaces the P60 and shows pay and statutory deductions for the year as reported by employers or pension providers. It is like the information that was stated on the P60. It can be used in the same way as a P60 was previously used, for example, it can be provided to third parties as proof of income. The summary can be accessed in the 'PAYE Services' on myAccount. Revenue have an information video which sets out how to access your pay and tax details on myAccount.

Tax treatment of annual membership fees paid to a professional body

Additional guidance included in Tax and Duty Manual Part 05-02-18, published by Revenue, illustrates Revenue's administrative treatment of professional membership fees. This guidance reflects the view the Institute has communicated to members since the legislation on this area changed in 2011.

Two new paragraphs are included in the guidance covering fees that are commercially necessary and fees that are an indispensable condition of the tenure of employment. Additional examples and content are also added which may be helpful when determining the correct tax treatment of professional membership fees.

As a reminder, since 2011, if an employer pays a professional membership fee or registration fee on behalf of an employee/director, PAYE, PRSI and USC apply to the value of the professional membership fee. Essentially the fee is included as notional pay/benefit in kind through payroll for the employee/director. Section 118 (5E) Taxes Consolidation Act 1997 is the relevant legislation.

Section 114 Taxes Consolidation Act 1997 provides for a tax deduction in respect of the professional membership fee if it is incurred wholly, exclusively and necessarily in the performance of the duties of employment.

For ease of administration and to avoid unnecessary claims under section 114 Taxes Consolidation Act 1997, in certain circumstances, income tax, PRSI and USC do not need to be deducted. The circumstances in which Revenue considers that the professional membership fee qualifies under section 114 TCA 1997, and their administrative treatment of professional membership fees, are set out in their guidance included in Tax and Duty Manual Part 05-02-18.

TECHNICAL SIGNPOST

The technical staff in the Chartered Accountants Ireland Advocacy and Voice Department write:

Technical Releases

As the year starts, a reminder to practitioners that the Institute issued two Technical Releases (TRs) during 2019:

Technical Release 01/2019 Anti-Money Laundering Guidance Republic of Ireland: This TR sets out guidance for accountants regarding the nature and extent of their responsibilities to prevent, recognise and report money laundering and terrorist financing, in the light of significant changes introduced by legislation implementing updated and extended EU requirements set out in the 4th Anti-Money Laundering Directive. Key areas of change include:

- greater emphasis on identifying beneficial owners of businesses;
- a wider definition of politically exposed persons;
- a requirement to apply procedures based on an enhanced risk-based approach to assess and respond to potential money laundering or terrorist financing; and
- enhanced requirements relating to client identification.

Technical Release 02/2019 GDPR Guidance for Insolvency Practitioners: This TR highlights features of the General Data Protection Regulation ("GDPR") which are of particular importance for insolvency practitioners ("IPs"). The guidance relates to the duties and responsibilities for IPs in their capacity as appointed insolvency office holders, whether acting as liquidator, receiver or examiner and includes a section of FAQ's.

These TRs are available in the Knowledge Centre section of the website and on CHARIOT.

Statements of Insolvency Practice

The CCAB-I Insolvency Committee recently published revised versions of Statement of Insolvency Practice 1B: A receiver's responsibility for the mortgagor's records and Statement of Insolvency Practice 2B: A liquidator's investigation into the affairs of an insolvent company. These revised Statements of Insolvency Practice are available on our website and on CHARIOT.

Future of audit debate – Sir Donald Brydon's report

In late December, Sir Donald Brydon published his report into the quality and effectiveness of audit which looks at the provision of audit services to UK Public Interest Entities, acknowledging that it could impact on the services provided by auditors beyond the UK. Sir Donald's Brydon's report is available at the following link: <https://www.gov.uk/government/publications/the-quality-and-effectiveness-of-audit-independent-review>.

Sir Donald Brydon stated "I recommend that auditors should be free to include original information, materially useful to a wide range of users, in their audit report and at the AGM, and not be confined to commenting on that which has already been stated by directors."

We look forward to the discussions and debates that this report will no doubt generate, and we will be publishing commentary and further analysis in 2020.

Financial statements of primary schools

By way of update, CCAB-I have again written to the Minister for Education and Skills as a reminder of the need to progress the reporting issues and address the need to update the legislation to facilitate an appropriate and robust reporting process for primary schools. We also hope to engage with the Financial Support Service Unit (FSSU) to progress this. We have had a number of calls from members to date and will keep members informed of any developments.

Some other recent developments

Amendments to FRS 102

In December the Financial Reporting Council (FRC) issued "Amendments to FRS 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland - Interest rate benchmark reform*". These amendments to specific hedge accounting requirements in FRS 102 provide relief that will avoid unnecessary discontinuation of hedge accounting during the period of uncertainty as interest rate benchmarks are being reformed. The amendments are effective for accounting periods beginning on or after 1 January 2020, with early application permitted. The amendments are available on the FRC website and will be on CHARIOT in due course.

Charities SORP (FRS 102) - the second edition and two new Information Sheets published

In October the joint SORP-making body for charities published a second edition of the SORP "Charities SORP (FRS 102) (second edition – October 2019)". The new SORP is available on CHARIOT. They also recently issued two new Information Sheets - "Information Sheet 3: The Companies (Miscellaneous Reporting) Regulations 2018 and UK Company Charities", and "Information Sheet 4: Amendments to FRS 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland – Multi-employer defined benefit plans*", which are available on the SORP website www.charitySORP.org.

European Union (Qualifying Partnerships: Accounting and Auditing) Regulations 2019 (SI No 597 of 2019)

SI 597 of 2019 was issued and a copy of the Regulations were made available on the Department of Business, Enterprise and Innovation (DBEI) website in December. DBEI noted that these Regulations give effect to the transposed provisions of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (the Accounting Directive) in respect of partnerships and limited partnerships where Article 1(1)(b) of that Directive requires it.

CONTACT POINTS

Practice Consulting (General)

E-mail practicemembers@charteredaccountants.ie

Fax + 353 -1- 5233 997

Telephone: Bernie Walsh + 353 -1- 6377 300

Practice Consulting Team

Conal Kennedy + 353 -1- 6377 396

Michael McAllister +353 -1 -6377 252

Jeremy Twomey +353-1-5233 972

Queries, comments and suggestions are welcomed. The opinions expressed are solely those of the writers and not to be construed as those of the Institute. The purpose of technical articles is solely to draw the attention of the reader to issues, and these should never be construed as guidance or relied on. To the fullest extent permitted by law, no liability is accepted by the Institute or the authors for persons acting or failing to act as a result of anything contained in this publication. © Copyright, Chartered Accountants Ireland.

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