

Professional Accountants in Business (Part C)

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Section 300 Introduction

300.1 This Part of this Code illustrates how the conceptual framework contained in Part A is to be applied by professional accountants in business*.

Professional accountants in business should also read Part A which sets out the fundamental principles and conceptual framework that professional accountants* are required to adhere to. It may also be helpful for professional accountants in business* to refer to other parts of this Code in relevant circumstances: for example, Sections 221, 'Corporate finance advice', and 241, 'Agencies and referrals.'*

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

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

300.3 A professional accountant in business* may be a salaried employee, a partner*, director (whether executive or non-executive), an owner manager, a volunteer, or another working for one or more employing organisations. The legal form of the relationship with the employing organisation, if any, has no

* See Definitions

bearing on the ethical responsibilities incumbent on the professional accountant in business*

Professional accountants are reminded that this Code applies to all their professional and business activities, with and without reward.*

300.4 A professional accountant in business* has a responsibility to further the legitimate aims of their employing organisation. This Code does not seek to hinder a professional accountant in business* from properly fulfilling that responsibility, but considers circumstances in which conflicts may be created with the absolute duty to comply with the fundamental principles.

300.5 A professional accountant in business* often holds a senior position within an organisation. The more senior the position, the greater will be the ability and opportunity to influence events, practices and attitudes. A professional accountant in business* is expected, therefore, to encourage an ethics-based culture in an employing organisation that emphasises the importance that senior management places on ethical behaviour.

300.6 The examples presented in the following Sections are intended to illustrate how the conceptual framework is to be applied and are not intended to be, nor should they be interpreted as, an exhaustive list of all circumstances experienced by a professional accountant in business* that may create threats to compliance with the principles. Consequently, it is not sufficient for a professional accountant in business* merely to comply with the examples; rather, the framework should be applied to the particular circumstances faced.

Fundamental Principles

300.6A *Professional accountants* are required to comply with the following fundamental principles:*

(a) Integrity

Professional accountants should be straightforward and honest in all professional and business relationships.*

(b) Objectivity

Professional accountants should not allow bias, conflict of interest or undue influence of others to override professional or business judgements.*

(c) Professional Competence and Due Care

Professional accountants have a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques. Professional accountants* should act*

* See Definitions

diligently and in accordance with applicable technical and professional standards when providing professional services.*

(d) Confidentiality

Professional accountants should respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships should not be used for the personal advantage of the professional accountant* or third parties.*

(e) Professional Behaviour

Professional accountants should comply with relevant laws and regulations and should avoid any action that discredits the profession.*

Threats and Safeguards

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

- (a) Self-interest;
- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

300.8 Examples of circumstances that may create self-interest threats for a professional accountant in business* include, but are not limited to:

- Financial interests*, loans* or guarantees.
- Incentive compensation arrangements.
- Inappropriate personal use of corporate assets.
- Concern over employment security.
- Commercial pressure from outside the employing organisation.

300.9 Circumstances that may create self-review threats include, but are not limited to, business decisions or data being subject to review and justification by the same professional accountant in business* responsible for making those decisions or preparing that data.

300.10 When furthering the legitimate goals and objectives of their employing organisations, professional accountants in business* may promote the organisation's position, provided any statements made are neither false nor misleading. Such actions generally would not create an advocacy threat.

* See Definitions

300.11 Examples of circumstances that may create familiarity threats include, but are not limited to:

- A professional accountant in business* in a position to influence financial or non-financial reporting or business decisions having an immediate or close family* member who is in a position to benefit from that influence.
- Long association with business contacts influencing business decisions.
- Acceptance of a gift or preferential treatment, unless the value is clearly insignificant*.

300.12 Examples of circumstances that may create intimidation threats include, but are not limited to:

- Threat of dismissal or replacement of the professional accountant in business* 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.

300.13 Professional accountants in business* may also find that specific circumstances give rise to unique threats to compliance with one or more of the fundamental principles. Such unique threats obviously cannot be categorised. In all professional and business relationships, professional accountants in business* should always be on the alert for such circumstances and threats.

300.14 Safeguards that may eliminate or reduce to an acceptable level the threats faced by professional accountants in business* fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

300.15 Examples of safeguards created by the profession, legislation or regulation are detailed in paragraph 100.12 of Part A of this Code.

300.16 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 programs.
- 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.

* See Definitions

- 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*.

Safeguards created by the individual include, but are not restricted to:

- *Continuing Professional Development, including keeping up to date with technical and ethical requirements;*
- *Keeping records of contentious issues and approach to decision making;*
- *Maintaining a broader perspective on how similar organisations function through establishing business relationships with other professionals;*
- *Using an independent mentor;*
- *Maintaining contact with legal advisers and professional bodies.*

The professional accountant's attention is drawn to the discussions on ethical conflict resolution in Section 100 and on other sources of guidance in paragraphs 1.16 to 1.19 of this Code.*

300.17 In circumstances where a professional accountant in business* believes that unethical behaviour or actions by others will continue to occur within the employing organisation, the professional accountant in business* should consider seeking legal advice. In those extreme situations where all available safeguards have been exhausted and it is not possible to reduce the threat to an acceptable level, a professional accountant in business* may conclude that it is appropriate to *disassociate from the task and/or* resign from the employing organisation.

300.18 *To assist professional accountants* to determine an appropriate course of action when faced with a situation which could threaten their compliance with the fundamental principles the following Sections (preparing and reporting of information; acting with sufficient expertise; financial information; inducements and disclosing confidential information) give examples of specific areas of activity which could give rise to ethical dilemmas and the action which 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 professional accountants*. Illustrative case studies of how the guidance might be applied in example situations are included in the Appendix to this guidance. In addition, a number of interactive case studies on common ethical issues encountered by professional accountants in business* can be found at www.icaew.co.uk/cpd/ethicaldilemmas/reallifeexamples).*

300.19 *Professional accountants* who are in doubt as to their ethical position may seek advice from the Institute's Ethics Advisory Services by e-mail: ethics@icaew.co.uk or phone +44 (0)1980 248258. Further guidance on sources of advice is available in paragraphs 1.16 to 1.19 of this Code.*

* See Definitions

Section 310 Potential Conflicts

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

310.2 As a consequence of responsibilities to an employing organisation, a professional accountant in business* may be 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 a supervisor, manager, director or another individual within the employing organisation. A professional accountant in business* may face pressure to:

- Act contrary to law or regulation.
- Act contrary to technical or professional standards.
- Facilitate unethical or illegal earnings management strategies.
- Lie to, or otherwise intentionally mislead (including misleading by remaining silent) others, in particular:
 - The auditors of the employing organisation; or
 - 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:
 - The financial statements*;
 - Tax compliance;
 - Legal compliance; or
 - Reports required by securities regulators.

310.3 The significance of threats arising from such pressures, such as intimidation threats should be evaluated and, if they are other than clearly insignificant*, safeguards should be considered and applied as necessary to eliminate them or reduce them to an acceptable level. Such safeguards may include:

- Obtaining advice where appropriate from within the employing organisation, an independent professional advisor or *the Institute* (see paragraphs 1.16 to 1.19 of this Code).
- The existence of a formal dispute resolution process within the employing organisation.
- Seeking legal advice.

* See Definitions

Informal discussions with fellow professional accountants in business or in practice may assist in clarifying the steps needed to be taken.*

Section 320 Preparation and Reporting of Information

320.1 Professional accountants in business* are often involved in the preparation and reporting of information that may either be made public or used by others inside or outside the employing organisation. Such information may include financial or management information, for example, forecasts and budgets, financial statements*, management discussion and analysis, and the management letter of representation provided to the auditors as part of an audit of financial statements*. A professional accountant in business* should prepare or present such information fairly, honestly and in accordance with relevant professional standards so that the information will be understood in its context.

320.2 A professional accountant in business* who has responsibility for the preparation or approval of the general purpose financial statements* of an employing organisation should ensure that those financial statements* are presented in accordance with the applicable financial reporting standards.

320.3 A professional accountant in business* should maintain information for which the professional accountant in business* is responsible in a manner that:

- (a) Describes clearly the true nature of business transactions, assets or liabilities;
- (b) Classifies and records information in a timely and proper manner; and
- (c) Represents the facts accurately and completely in all material respects.

320.4 Threats to compliance with the fundamental principles, for example self-interest or intimidation threats to objectivity or professional competence and due care, may be created where a professional accountant in business* may be pressured (either externally or by the possibility of personal gain) to become associated with misleading information or to become associated with misleading information through the actions of others.

Accordingly, professional accountants 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.*

320.5 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,

* See Definitions

misleading. The significance of the threats should be evaluated and, if they are other than clearly insignificant*, safeguards should be considered and applied as necessary to eliminate them or reduce them to an acceptable level. Such safeguards may include consultation with superiors within the employing organisation, for example, the audit committee* or other body responsible for governance, or with the Institute.

320.6 Where it is not possible to reduce the threat to an acceptable level, a professional accountant in business* should refuse to remain associated with information they consider is or may be misleading. Should the professional accountant in business* be aware that the issuance of misleading information is either significant or persistent, the professional accountant in business* should consider informing appropriate authorities in line with the guidance in Section 140. The professional accountant in business* may also wish to seek legal advice or resign.

Section 330 Acting with Sufficient Expertise

330.1 The fundamental principle of professional competence and due care requires that a professional accountant in business* should only undertake significant tasks for which the professional accountant in business* has, or can obtain, sufficient specific training or experience. A professional accountant in business* should not intentionally mislead an employer as to the level of expertise or experience possessed, nor should a professional accountant in business* fail to seek appropriate expert advice and assistance when required.

330.2 Circumstances that threaten the ability of a professional accountant in business* to perform duties with the appropriate degree of professional 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.

330.3 The significance of such threats will depend on factors such as the extent to which the professional accountant in business* is working with others, relative seniority in the business and the level of supervision and review applied to the work. The significance of the threats should be evaluated and, if they are other than clearly insignificant*, safeguards should be considered and applied as necessary to eliminate them or 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.

* See Definitions

- Obtaining assistance from someone with the necessary expertise.
- Consulting, where appropriate, with:
 - Superiors within the employing organisation;
 - Independent experts; or
 - The Institute.

330.4 Where threats cannot be eliminated or reduced to an acceptable level, professional accountants in business* should consider whether to refuse to perform the duties in question. If the professional accountant in business* determines that refusal is appropriate the reasons for doing so should be clearly communicated.

Section 340 Financial Interests*

340.1 Professional accountants in business* may have financial interests*, or may know of financial interests* of immediate or close family* members, 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 be created through the existence of the motive and opportunity to manipulate price sensitive information in order to gain financially. Examples of circumstances that may create self-interest threats include, but are not limited to situations where the professional accountant in business* or an immediate or close family* member:

- Holds a 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 professional accountant in business*;
- Is eligible for a profit related bonus and the value of that bonus could be directly affected by decisions made by the professional accountant in business*;
- Holds, directly or indirectly, share options in the employing organisation, the value of which could be directly affected by decisions made by the professional accountant in business*;
- Holds, directly or indirectly, share options in the employing organisation which are, or will soon be, eligible for conversion; or
- May qualify for share options in the employing organisation or performance-related bonuses if certain targets are achieved.

340.2 In evaluating the significance of such a threat, and the appropriate safeguards to be applied to eliminate the threat or reduce it to an acceptable level, professional accountants in business* must examine the nature of the financial interest*. This includes an evaluation of the significance of the financial interest* and whether it is direct or indirect. Clearly, what constitutes a significant or valuable stake in an organisation will vary from individual to individual, depending on personal circumstances.

340.3 If threats are other than clearly insignificant*, safeguards should be

* See Definitions

considered and applied as necessary to eliminate or reduce them to an acceptable level. Such safeguards may include:

- Policies and procedures for a committee independent of management to determine the level of form of remuneration of senior management.
- 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 the 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.

340.4 A professional accountant in business* should neither manipulate information nor use confidential information for personal gain.

Section 350 Inducements

Receiving Offers

350.1 A professional accountant in business* or an immediate or close family* member may be offered an inducement. Inducements may take various forms, including gifts, hospitality, preferential treatment and inappropriate appeals to friendship or loyalty.

350.2 Offers of inducements may create threats to compliance with the fundamental principles. When a professional accountant in business* or an immediate or close family* member is offered an inducement, the situation should be carefully considered. Self-interest threats to objectivity or confidentiality are created where an inducement is 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 are created if such an inducement is accepted and it is followed by threats to make that offer public and damage the reputation of either the professional accountant in business* or an immediate or close family* member.

350.3 The significance of such threats will depend on the nature, value and intent behind the offer. If a reasonable and informed third party, having knowledge of all relevant information, would consider the inducement insignificant and not intended to encourage unethical behaviour, then a professional accountant in business* may conclude that the offer is made in the normal course of business and may generally conclude that there is no significant threat to compliance with the fundamental principles.

* See Definitions

350.4 If evaluated threats are other than clearly insignificant*, safeguards should be considered and applied as necessary to eliminate them or reduce them to an acceptable level. When the threats cannot be eliminated or reduced to an acceptable level through the application of safeguards, a professional accountant in business* should not accept the inducement. As the real or apparent threats to compliance with the fundamental principles do not merely arise from acceptance of an inducement but, sometimes, merely from the fact of the offer having been made, additional safeguards should be adopted. A professional accountant in business* should assess the risk associated with all such offers and consider whether the following actions should be taken:

- (a) Where such offers have been made, immediately inform higher levels of management or those charged with governance of the employing organisation;
- (b) Inform third parties of the offer – for example, a professional body or the employer of the individual who made the offer; a professional accountant in business* should, however, consider seeking legal advice before taking such a step;
- (c) Advise 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; and
- (d) Inform 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.

Making Offers

350.5 A professional accountant in business* may be in a situation where the professional accountant in business* is expected to, or is under other pressure to, offer inducements to subordinate the judgement of another individual or organisation, influence a decision making process or obtain confidential information.

350.6 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 possibly influencing the professional accountant in business* improperly.

350.7 A professional accountant in business* should not offer an inducement to improperly influence professional judgement of a third party.

350.8 Where the pressure to offer an unethical inducement comes from within the employing organisation, the professional accountant* should follow the principles and guidance regarding ethical conflict resolution set out in Part A of this Code.

* See Definitions

Appendix to Part C—Case Studies of Circumstances Faced By Professional Accountants in Business*

The case studies are illustrative and should be read in conjunction with the guidance contained in this Code. Ultimately it is the requirements contained in this Code that must be applied to the particular circumstances. In addition, a number of interactive case studies on common ethical issues encountered by professional accountants in business can be found on www.icaew.co.uk/cpd/ethicaldilemmas/reallifeexamples).*

The case studies below provide examples of work place dilemmas that could arise in the areas of activity described in Sections 310 to 350 of the guidance. The case studies are intended for illustrative purposes only and should be read in conjunction with the guidance.

The possible course of action included 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 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*
6. *Inappropriate business practices*
7. *Inducements for non-disclosure of information*
8. *Earnings management*
9. *Disclosing of personal information*
10. *Transfer of funds to an offshore account*

<i>Case Study 1 Unsupported expenses</i>
<i>Case outline</i>
<p><i>You are the Finance Director of an organisation. You become concerned that the Chief Executive is making frequent overseas trips and charging the expense to the organisation. The relevance of the destinations and the nature of the activities undertaken appear to have only partial relevance to your organisation's activities.</i></p> <p><i>You raise your concerns with the Chief Executive, who gives assurances that the nature and purpose of these trips is covered by an 'understanding' with the organisation's Chairman. This is not evidenced in writing, and no further justification for the expenses is forthcoming.</i></p>

* See Definitions

Case Study 1 <i>Unsupported expenses (continued)</i>
Key fundamental principles
<p>Integrity—Would processing the payments without adequate explanation be seen as being honest and fair by others?</p> <p>Objectivity—How will you be able to demonstrate your independence*, actual or perceived, from the Chief Executive?</p> <p>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?</p> <p>Professional Behaviour—How should you proceed so as not to discredit yourself?</p>
Discussion
<p><i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, best practices, Code of Ethics, 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 directly with the Chief Executive and/or Chairman to ensure you have the real facts?</i></p> <p><i>Identify affected parties: Key affected parties are you, the Chief Executive 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.</i></p> <p><i>Who should be involved in resolution: Consider not just who should be involved, but also for what reason and timing of their involvement. Have you thought of contacting the Institute 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*?</i></p>
Possible course of action
<p><i>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, and argued as a deductible expense with the Revenue. If the Chief Executive will not provide the necessary information, explain that the matter will have to be discussed with the Chairman, and you will set up a meeting with all three of you.</i></p>

* See Definitions

Case Study 1 <i>Unsupported expenses (continued)</i>
<p><i>If no satisfactory response is obtained from the Chief Executive and the Chairman, next steps could include discussion with the Board, internal audit, Audit committee* and external auditors.</i></p> <p><i>During the resolution process, it may be helpful to document your involvement, the substance of the discussions held, who else was involved, what decisions were made and why.</i></p>
Case Study 2 <i>Incorrect reporting of financial information</i>
Case outline
<p><i>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.</i></p> <p><i>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.</i></p>
Key fundamental principles
<p><i>Integrity</i>—Will you be able to demonstrate that the accounts are true and fair without re-drafting?</p> <p><i>Objectivity</i>—How would you maintain your objectivity given that your immediate manager is a forceful, perhaps intimidating individual?</p> <p><i>Professional Competence and Due Care</i>—Are the draft accounts prepared in accordance with technical and professional standards?</p> <p><i>Professional Behaviour</i>—How should you proceed so as not to discredit yourself?</p>
Discussion
<p><i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, best practices, Code of Ethics, applicable</i></p>

* See Definitions

<p>Case Study 2 Incorrect reporting of financial information (continued)</p> <p><i>laws and regulations. Is the evidence that work in progress is incorrectly stated supported by other documentation, for example, any hard copy relating to the valuation, or analytical review of cost of sales, margins and cash flows?</i></p> <p><i>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, Audit committee*, Board, external auditors, shareholders and financial backers.</i></p> <p><i>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 the Institute 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?</i></p>
<p>Possible course of action</p> <p><i>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 to determine an appropriate course of action, for example, undertaking another stock count.</i></p> <p><i>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, Audit committee*, the Board, external auditors or other actions indicated in internal whistle-blowing procedures.</i></p> <p><i>During the resolution process, it may be helpful to document your involvement, the substance of the discussions held, who else was involved, what decisions were made and why.</i></p>

* See Definitions

Case Study 3 Non-disclosure to auditors
Case outline
<p><i>You are employed as an Accounting Systems Manager. During your work you overhear a Financial Controller in one department, saying that she had not been disclosing certain things to the auditor. You don't 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 statements given to you.</i></p>
Key fundamental principles
<p>Integrity—Can you overlook the financial controller's comments, the culture and the bribe allegedly paid to the overseas company and still demonstrate integrity?</p> <p>Objectivity—Knowing that something may be wrong, how can you maintain your objectivity?</p> <p>Confidentiality—Is there any basis in which you could or should make disclosures?</p> <p>Professional Behaviour—How should you proceed so as not to discredit yourself?</p>
Discussion
<p><i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, best practices, Code of Ethics, applicable laws and regulations. Can you corroborate the facts further with documentation or discussion with relevant parties? Do you have an internal process for whistle-blowing? What steps have you taken to understand money laundering legislation and the Public Interest Disclosure Act?</i></p> <p><i>Identify affected parties: Key affected parties are you, the financial controller, the employee raising allegations about a bribe, line manager and auditor. Other possible affected parties are employees, next level of management, internal audit, Audit committees*, the Board, shareholders and financial backers.</i></p> <p><i>Who should be involved in resolution: Consider not just who should be involved, but also for what reason and timing of their involvement. Have you thought of contacting the Institute for advice and guidance?</i></p>

* See Definitions

Case Study 3 Non-disclosure to auditors (continued)
<i>Do you have trusted colleagues with whom you can discuss your position? At what point will you consider involving your line manager, next level of management, the Board and the Audit committee*?</i>
Possible course of action
<p><i>Check the relevant facts and discuss the matter with your immediate line manager. If you feel that the response by the line manager is not satisfactory, next steps may be to discuss the matter further with the next level of management, internal audit, Audit committee* and the Board.</i></p> <p><i>If you have suspicions or evidence of money laundering, contact the Institute or the Money Laundering Helpline and/or take legal advice.</i></p> <p><i>During the resolution process, it may be helpful to document your involvement, the substance of the discussions held, who else was involved, what decisions were made and why.</i></p>

Case Study 4 Acting without sufficient expertise
Case outline
<i>Your employer has put you in charge of a project, which you consider requires detailed actuarial knowledge. You are uneasy about doing the work given that you do not possess the necessary expertise and are uncertain about what to say to the employer.</i>
Key fundamental principles
<p>Professional Competence and Due care—Do you have the necessary skills and experience to undertake the work?</p> <p>Professional Behaviour—How should you proceed so as not to bring discredit yourself?</p>
Discussion
<i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, best practices, Code of Ethics, 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 the Institute's professional values and disciplinary process?</i>

* See Definitions

<p>Case Study 4 Acting without sufficient expertise (continued)</p>
<p><i>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.</i></p> <p><i>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 the Institute 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?</i></p>
<p>Possible course of action</p>
<p><i>Discuss your concern of 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 e.g., 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.</i></p> <p><i>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, Audit committee*, pension and/or Investment Committee and the Board.</i></p> <p><i>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</i></p>
<p>Case Study 5 Personal financial interest* in a proposal</p>
<p>Case outline</p>
<p><i>You have been appointed Finance Director (FD) 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.</i></p>

* See Definitions

Case Study 5 Personal financial interest* in a proposal (continued)
Key fundamental principles
<p>Integrity—How will you manage your personal interest with the need to be true and fair?</p> <p>Objectivity—How will you manage your personal interest in the benefits package with the need to remain unbiased and consider only the relevant facts?</p> <p>Professional Competence and Due Care—Do you have all the necessary skills to draw up such a package?</p> <p>Professional Behaviour—How should you proceed so as not to bring discredit yourself?</p>
Discussion
<p><i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, best practices, Code of Ethics, 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?</i></p> <p><i>Identify affected parties: Key affected parties are you and the Board. Other possible affected parties are employees, human resources, shareholders and financial backers.</i></p> <p><i>Who should be involved in resolution: Consider not just who should be involved, but also for what reason and timing of their involvement. Have you thought of contacting the Institute 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?</i></p>
Possible course of action
<p><i>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.</i></p> <p><i>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</i></p>

* See Definitions

Case Study 6 Inappropriate business practices
Case outline
<i>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.</i>
Key fundamental principles
<p>Integrity—If your assessment is accurate, should you associate yourself with this kind of practice? How can you withdraw with integrity?</p> <p>Objectivity—How can you overcome the risk that that your self-interest (better pay/career opportunities) will cause you to accept the role, despite your concerns?</p> <p>Professional Behaviour—How should you proceed so as not to bring discredit on yourself?</p>
Discussion
<p><i>Identify relevant facts: Do you have facts, or could you have misunderstood the charging scheme? Do you have supporting evidence (from, for example, employees of your potential employer)? Did you explore this problem area during the interview? Can you discuss it at this stage?</i></p> <p><i>Identify affected parties: Key parties affected are you and the prospective employer. Other possible parties affected are your current employer (e.g., if you have resigned), and your family (who may be affected whether you accept or decline the new job).</i></p> <p><i>Who should be involved in resolution: Consider not just whom you should involve, but also why and when. Can your Institute 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?</i></p>
Possible course of action
<i>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</i>

Case Study 6 Inappropriate business practices (continued)
<p><i>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 (e.g., through the Citizens Advice Bureau), and withdraw from the role. At all times keep your family aware of your concerns, approach and possible implications.</i></p> <p><i>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</i></p>

Case Study 7 Inducements for non-disclosure of information
Outline of the case
<p><i>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 maybe issues which should be disclosed (to auditors or the regulator). You are negotiating a compromise agreement, and you have been led to understand that if you report any concerns you will not receive a settlement, whereas if you agree to a gagging clause then you will receive a substantial payoff.</i></p>
Key fundamental principles
<p>Integrity—How far do you need to go to demonstrate your integrity?</p> <p>Objectivity—How will you manage the conflict between financial benefit and integrity?</p> <p>Confidentiality—Is there any basis on which you could make disclosures?</p>
Discussion
<p><i>Identify relevant facts: Do you have the facts to back up your discomfort? Do you have all the facts, or only a selection, and can you get to the rest? What steps have you already taken to try to resolve your concerns, and are they documented? Do you understand how to use Public Interest Disclosure Act (PIDA) to obtain protection?</i></p> <p><i>Identify affected parties: Key affected parties are you and the employer. Other possible affected parties are the regulator, auditor, and the public, as well as your family.</i></p> <p><i>Who should be involved in resolution: Consider not just whom you should involve, but also why and when. Can your Institute provide help and advice? Are there trusted colleagues with whom you can discuss your position?</i></p>

Case Study 7 Inducements for non-disclosure of information (continued)
<i>Can you talk with the prospective employer about your concerns? Have you made full disclosures to your solicitor, and received advice? Have you discussed the matter with your family?</i>
Possible course of action
<p><i>Try to keep the issues clear. One is how to deal with the issues 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—your Institute can advise you—and whether PIDA can provide any protection to you (Public Concern at Work can provide confidential advice http://www.pcaw.co.uk). If there is a basis, you need to determine what the value and consequences of that disclosure might be for you, your family, the firm*, 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, actions and implications, but take care not to reveal confidential information.</i></p> <p><i>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</i></p>
Case Study 8 Earnings management
Outline of the case
<p><i>You are the Financial Controller in a family business, though in reality 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 put in the “right” figures you will get a large bonus and 1% share option.</i></p> <p><i>The company is secretive and as little information as possible 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 Chairman and Chief Executive. You have been told that if you pursue the matter and/or fail to put in the right figures you will lose the bonus and share option.</i></p>

* See Definitions

Case Study 8 Earnings management (continued)
Key fundamental principles
<p>Integrity—Can you support the business without being involved in potentially misleading information?</p> <p>Objectivity—How can you avoid your financial interest* influencing your professional judgement?</p> <p>Professional Behaviour—How will you manage relationships with the affected parties?</p>
Discussion
<p>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, applicable laws and regulations. Double check your facts, including forecast figures 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.</p> <p>Identify affected parties: Key parties are you, the family, professional advisers, bankers and venture capitalists. Other possible affected parties are your family, the Institute and the profession.</p> <p>Who should be involved in resolution: Consider not just whom you should involve, but also why and when. Are there trusted colleagues or friends with whom you can discuss your position? Can your Institute provide advice and assistance? Have you discussed the matter with your family?</p>
Possible course of action
<p>Discount the short-term financial benefits on offer. Prepare a range of forecasts for the family, and impress on them 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. 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 consistent with your own, and if necessary your employment options.</p> <p>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</p>

* See Definitions

Case Study 9 Disclosing personal information
Outline of the case
<p><i>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 hold about the financial and personal affairs of a councillor.</i></p> <p><i>The Chairman 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.</i></p>
Key fundamental principles
<p>Integrity—Would the actions proposed be fair and honest? Would there be any breaches of trust?</p> <p>Objectivity—Where is the boundary between your duty to the employer and that to the claimant? How do you avoid being brought into political wrangling that could compromise you in the future?</p> <p>Confidentiality—Are there proper grounds for disclosing the information?</p>
Discussion
<p><i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, 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.</i></p> <p><i>Identify affected parties: Key affected parties are the Chairman and the Councillor. Other possible affected parties are the committee the Chairman represents, political allies and opponents of the two core parties, those responsible for the administration of Housing Benefit, and the officer responsible for Data Protection.</i></p> <p><i>Who should be involved in resolution: Consider not just whom you should involve, but also why and when. You and Chairman must engage effectively. Other parties may need to be drawn in depending on the facts, but may include Data Protection officers, 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.</i></p>

Case Study 9 <i>Disclosing personal information (continued)</i>
Possible course of action
<p><i>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 and kept off site. 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 councilor, e.g., for reasons of suspected impropriety, and the reasons why the councilor should not be asked for consent. Determine whether in the light of those reasons, internal or external investigation may be appropriate, and who by; and whether or not it is appropriate to inform the councilor of the request and any follow-up actions.</i></p> <p><i>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</i></p>

Case Study 10 <i>Transfer of funds to an offshore account</i>
Outline of the case
<p><i>You work as an interim Finance Director. You are not an Executive Director, do not attend board meetings and don't appear as a Director on the Companies House register. A newly appointed director paid a substantial sum of money into the company to save it from financial collapse. The new director asked you to transfer several thousands of pounds into an off-shore 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 received a memorandum instructing you to make the payment and confirmation 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. You therefore make the payment but express concern to the Chief Executive and Chairman. Shortly after challenging the director you are informed your interim role could not continue due to financial difficulties.</i></p> <p><i>An Insolvency Practitioner who has been appointed as administrator has contacted you. He is seeking details from you.</i></p>

Case Study 10 <i>Transfer of funds to an offshore account (continued)</i>
Key fundamental principles
<p>Integrity—Were the actions you took, and would any conversation with the liquidator be, unfair, untruthful or dishonest in any way?</p> <p>Objectivity—Where is the boundary between your duty to the former employer and the Insolvency Practitioner?</p> <p>Confidentiality—Are there proper grounds for disclosing the information?</p>
Discussion
<p><i>Identify relevant facts: Consider the business' policies, procedures and guidelines, accounting standards, applicable laws and regulations. Of particular relevance might be Proceeds of Crime Act 2002, and provisions relating to 'furthering, concealing, aiding, abetting' money laundering. Have you made records of how you attempted to deal with the offshore payment, and the responses?</i></p> <p><i>Identify affected parties: Key affected parties are you, the investor/director, the Administrator and creditors. Other possible affected parties are the Institute and profession as a whole, as well as your family.</i></p> <p><i>Who should be involved in resolution: Consider not just whom you should involve, but also when and why. Take advice early and often from your Institute, and if necessary from a lawyer.</i></p>
Possible course of action
<p><i>You will normally be able to cooperate 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.</i></p> <p><i>During the resolution process, it may be helpful to document the substance of the discussions held, who was involved, what decisions were made and why, and your involvement.</i></p>