



COVID-19 - ETHICAL ISSUES FOR MEMBERS IN PRACTICE

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INTRODUCTION

This helpsheet has been issued by ICAEW's Technical Advisory Service to help ICAEW members in practice to navigate some of the ethical issues that may arise during the COVID-19 pandemic in relation to claims under the Coronavirus Job Retention Scheme (CJRS) and other government support schemes.

Members may also wish to refer to the following related helpsheets and guidance:

- [Compliance and professional conduct](#)
- [Disclosure of confidential information \(for members in practice\)](#)
- [Disclosure of confidential information to the police and other enforcement agencies](#)
- [Suspicious activity reports \(SARs\)](#)

Members in business may instead wish to refer to the helpsheet [COVID-19: Ethical issues for members in business](#).

OVERARCHING REQUIREMENTS

Members in practice must comply with a number of ethical and regulatory requirements.

ICAEW Code of Ethics

Professional accountants must comply with the [ICAEW Code of Ethics](#). This includes the requirements to act with integrity (being straightforward and honest in professional and business relationships) and objectivity (not allowing professional or business judgment to be compromised due to bias, conflict of interest or undue influence of others).

Specifically, paragraph R111.2 states:

A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the accountant believes that the information:

- (a) contains a materially false or misleading statement;*
- (b) contains statements or information provided recklessly; or*
- (c) omits or obscures required information where such omission or obscurity would be misleading.*

This means that a professional accountant must not knowingly be associated with a false or misleading claim for government support, and, if they become aware that they have been associated with such a claim, must take steps to be disassociated from that claim.

In addition, professional accountants in practice should have regard to Section 360 Responding to non-compliance with laws and regulations of the [ICAEW Code of Ethics](#). This includes specific requirements and guidance on responding to actual or suspected non-compliance with laws and regulations.

Anti-money laundering obligations

Accountants in practice must also be aware of their anti-money laundering obligations (more information is available in the [CCAB Anti-money laundering guidance for the accountancy sector](#)). Depending on the circumstances accountants may be obliged to make a suspicious activity report (SAR) to their money laundering reporting officer (MLRO) or to the National Crime Agency (NCA).

GENERAL APPROACH

When considering an appropriate response to pressure to act unethically, or to having identified potential issues with claims for government support, a member in practice may wish to refer to the framework for resolving ethical problems as set out in the helpsheet [Ethical problems – framework for resolution](#). When working through the framework, care should be taken to carefully document considerations and the steps they have taken. The following subsections offer a non-exhaustive list of potential actions.

Claim has not yet been submitted

Where an accountant in practice is asked by their client to submit a claim for government support which is erroneous, false or misleading, the accountant is advised to follow the general approach below.

- **Check the facts**
An accountant should first check their own understanding of the eligibility conditions and whether the claim meets or does not meet those criteria. More junior accountants in practice would be advised to consult with a superior within the firm in the first instance.
- **Discuss the situation with the client**
An accountant in practice should discuss the situation with the client (a firm's policies should be considered here – it may not be appropriate for a junior staff member to discuss the situation with the client themselves, for example). The aim of the discussion should be to seek to deter the non-compliance – it may be that the client simply did not understand the eligibility requirements of the scheme. If discussions are unsuccessful initially, they should be escalated to the next tier of management and ultimately those charged with governance. It would be advisable to follow informal discussions up in writing with the client.
- **If the client agrees – take corrective action**
If the client agrees that their proposed claim was incorrect, they should be supported in gathering the correct information and making a correct and appropriate claim.

- **If the client does not agree – consider next steps**

If the client does not agree, an accountant should reiterate their views, preferably in writing (if they haven't already done so). The accountant should consider whether it is appropriate to continue to act for the client (see **Ceasing to act**).

At this stage, as a false or misleading claim has not yet been submitted, there is no obligation on the accountant to make a SAR, as no crime with proceeds has been committed yet. Should more information subsequently come to light to suggest that a false claim had been made, the accountant should reconsider whether they have a suspicion of a crime with proceeds, and if they do, make a SAR to their MLRO or the NCA as appropriate (guidance is available in the helpsheet **Suspicious activity reports (SARs)**).

Claim has been submitted

Where it becomes clear to an accountant in practice that an erroneous, false or misleading claim has been made (whether or not this was a claim the accountant had been involved with), the accountant is advised to follow the general approach below.

- **Check the facts**

An accountant should first check their own understanding of the eligibility conditions and whether the claim met or did not meet those criteria which applied at the time, paying particular attention to changes in scheme rules and requirements. More junior accountants in practice would be advised to consult with a superior within the firm in the first instance.

- **Discuss the situation with the client**

An accountant in practice should discuss the situation with the client (a firm's policies should be considered here – it may not be appropriate for a junior staff member to discuss the situation with the client themselves, for example). The aim of the discussion should be to inform the client of the issue and to secure agreement to take corrective action, where appropriate (it might have been an innocent error for example). Care should be taken to avoid tipping off (see the helpsheet **Anti-money laundering tipping off**), although it is worth noting that enquiries made of a client regarding something that properly falls within the normal scope of the engagement or business relationship would not constitute tipping off. It may be necessary to escalate the issue to higher levels of management and those charged with governance. It would be advisable to follow informal discussions up in writing with the client.

- **If the client agrees – take corrective action**

If the client agrees that their proposed claim was incorrect, and the accountant wishes to continue acting for the client, they should support the client in taking corrective action. This may result in an amendment being made to the previous claim, or an adjustment being made to a future claim, depending on the operation of the particular support scheme. Details records should be maintained.

- **If the client does not agree – consider next steps**

If the client does not agree, an accountant should reiterate their views, preferably in writing (if they haven't already done so). The accountant should consider whether it is appropriate to continue to act for the client (see **Ceasing to act**).

- **Consider anti-money laundering reporting obligations**

An innocent error does not constitute a money laundering offence. As such if an innocent error is identified, highlighted to the client and the client agrees to correct it, there is no obligation to make a SAR.

If, however, the accountant suspects (not just speculates) that a fraudulent claim was made, and the proceeds from such a claim have been received, then the accountant will usually need to make a SAR (guidance is available in the helpsheet [Suspicious activity reports \(SARs\)](#)).

Ceasing to act

Where an accountant determines it is no longer appropriate to continue to act for a client (as will normally be the case where they have had to make a SAR with respect to a client), they should send a disengagement letter to the client (see the helpsheet [Disengagement letters](#)).

The disengagement letter should make reference to the reasons for ceasing to act, pointing out the technical/factual aspects that the client has not complied with. Whilst it would **not** be appropriate to mention suspicions of money laundering (this would risk tipping off), it would usually be appropriate to refer to a disagreement over eligibility for a coronavirus job retention scheme (CJRS) claim, where applicable, for example.

A carefully worded disengagement letter can be of assistance when responding to a professional enquiry letter from a successor accountant as the same wording as used in the disengagement letter can form part of the reply. For further guidance on responding to a professional enquiry, please see the helpsheet [Change of professional appointment - outgoing accountant](#).

SPECIFIC ISSUES

The following sections highlight a number of specific issues for a range of government schemes.

Coronavirus Job Retention Scheme (CJRS)

The CJRS is perhaps one of the most susceptible schemes to fraudulent claims. Accountants should be wary of clients claiming for employees who are still actually working for the employer (or in the case of flexible furlough, working during the hours of supposed furlough).

Self-Employment Income Support Scheme (SEISS)

Accountants are unlikely to be directly involved in making a claim under SEISS, as agents can't claim on behalf of their clients. Nevertheless, accountants may become aware of their clients having claimed under the scheme when not entitled to do so.

HMRC's systems are generally able to review the more mechanical eligibility requirements around past income and submissions of tax returns, however there is a risk that claimants falsely declare that they intend to continue to trade or that they carry on a trade which has been adversely affected by coronavirus.

Coronavirus Business Interruption Loan Scheme (CBILS)

Particular risks around CBILS relate to the declarations made by the borrower. In order to obtain funding, borrowers may be tempted to make false declarations for example:

- They have been impacted by the coronavirus, when they have not;
- That they are not a business in difficulty, when they are; **or**
- That they have not taken out a bounce back loan scheme facility, when they have.

Coronavirus Bounce Back Loan Scheme (BBLs)

Similar risks apply to the BBLs with regard to self declarations as they do to CBILS.

In addition, when applying for a BBLs facility, businesses must confirm to the lender that the loan will only be used to provide an economic benefit for the business. Making a false declaration to obtain the funds may lead to a money laundering offence being committed.

IF IN DOUBT SEEK ADVICE

ICAEW members, affiliates, ICAEW students and staff in eligible firms with **member firm access** can discuss their specific situation with the Ethics Advisory Service on +44 (0)1908 248 250 or via **webchat**.

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