



ICAS responds to IESBA post implementation review survey on the NOCLAR provisions in the Code of Ethics

Author: Ann Buttery, Head of Ethics, ICAS Policy Leadership

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[The following is a copy of the article published on \[icas.com\]\(https://www.icas.com\) in relation to the ICAS response to the IESBA post implementation review survey on NOCLAR provisions in the Code of Ethics - ICAS responds to IESBA post implementation review survey on the NOCLAR provisions in the Code of Ethics - ICAS](#)

We have recently responded to a survey from the International Ethics Standards Board for Accountants (IESBA) in relation to its post implementation review of the Non-Compliance with Laws and Regulations (NOCLAR) provisions in the Code of Ethics ('the Code').

Non-Compliance with Laws and Regulations (NOCLAR)

The ICAS Code of Ethics is substantively based on the IESBA Code of Ethics.

The IESBA's NOCLAR provisions became effective in the IESBA Code in July 2017 and were adopted into the [ICAS Code of Ethics](#) with effect from 1 November 2017. The provisions are contained within Section 260 (Professional Accountants in Business) and Section 360 (Professional Accountants in Public Practice) of the Code.

The provisions provide a framework for how professional accountants should respond when they encounter potential or actual illegal acts by a client or employer.

The underlying principle of NOCLAR is the same for all professional accountants: they should respond to an issue and not turn a blind eye. However, NOCLAR has different requirements depending on the professional accountant's role and level of seniority.

Four categories of professional accountant are distinguished, and specific steps are identified for each. The classifications are:

Section 260

- Senior-level professional accountants in business
- Other professional accountants in business

Section 360

- Auditors
- Other professional accountants in public practice

Greater responsibility is placed on auditors and senior-level professional accountants in business. We have also specifically highlighted in the ICAS Code of Ethics the need to consider anti-money laundering legislation, particularly relating to the risks of "tipping off" a money launderer or terrorist,

which is a criminal offence in the UK. There is also no de minimis threshold for reporting under anti-money laundering legislation.

Response to NOCLAR post-implementation review survey

The IESBA's NOCLAR [post-implementation review](#) (PIR) survey sought input from a broad range of stakeholders. This will help IESBA determine whether the NOCLAR provisions are achieving their intended objective, identify the benefits and implementation challenges, and decide whether any further action is needed.

ICAS helplines and guidance

In addition to the ICAS Code of Ethics, we highlighted to IESBA the various ICAS ethics helplines that are available to members, as well as ICAS articles and guidance which refer to NOCLAR, including The Power of One '[Moral courage](#)' paper and our '[Shades of Grey – Ethical Dilemmas](#)' case studies.

Ethics helpline service

The [ICAS Ethics Helpline Service](#) enables member queries to be submitted via our help centre, email or telephone.

Ethics Buddy Service

Our [Ethics Buddy Service](#) enables a CA with an ethical dilemma, where deemed appropriate, to have confidential, informal, discussions with an experienced ICAS member – a 'sounding board' – to explore their issue and assist them in considering how they might approach the dilemma.

Protect

ICAS is also partnered with the independent whistleblowing charity [Protect](#) to provide ICAS members with access to its confidential helpline. The helpline is free and provides independent and confidential counsel regarding whistleblowing. Members are encouraged to use Protect to help them make informed decisions about whether/how to whistleblow and understand the implications.

The Financial Conduct Authority (FCA) also [recommends](#) people contact Protect before whistleblowing to the FCA, aligning ICAS's approach with the main UK financial services regulator's advice.

Inquiries

We noted that we commonly receive inquiries in relation to the provisions in Section 260 relating to both senior and non-senior professional accountants in business, with inquiries being received in relation to both UK and overseas related matters.

Level of understanding

We explained to IESBA that we do not have specific data in terms of whether our members have an overall understanding of the NOCLAR provisions. However, in our 2024 Ethical Leadership survey of ICAS members, when asked "When exercising professional judgement, do you actively consider the principles set out in the ICAS Code of Ethics?", 78% responded "always" (41%) or "Yes – sometimes, depending on the circumstances" (37%). In addition, almost all (94%) agreed: "It is your role as a Chartered Accountant to call out behaviour that falls below accepted ethical standards."

Enforcement

In terms of enforcement, responsibility for investigating the actual NOCLAR rests with the appropriate regulatory authority within the UK. The appropriate regulatory authority will depend on the nature of the breach, including which law or regulation has been breached.

ICAS would look into the conduct of members where it is brought to our attention that they have not complied with the provisions of the ICAS Code of Ethics.

Legal protection

We explained that the UK's [Public Interest Disclosure Act 1998](#) protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing. However, we are aware that there have been calls for this Act to be updated as it is widely seen as no longer being fit for purpose.

Observed outcomes

We noted that we don't have information on the specific numbers of members who have whistleblown since the NOCLAR provisions took effect, nor have we conducted research on whether the NOCLAR provisions have been effective. We also noted that we've been contacted by members who have raised how challenging these situations are to navigate.

Cases are harder when ICAS members are in overseas jurisdictions, because they require knowledge of local laws, whistleblowing regimes and the protections available.

Way forward

The IESBA asked what further efforts it should pursue to increase the effectiveness of implementation of the IESBA NOCLAR provisions globally.

We noted that we are aware that some other jurisdictions have not implemented these provisions, and that is one of the challenges in this space.

For these provisions to work effectively, there needs to be an appropriate whistleblowing infrastructure in a particular jurisdiction with appropriate protection for those who may be considering whistleblowing. We believe there may well be a role for IESBA, the International Federation of Accountants (IFAC) and members of the Monitoring Group to seek to influence bodies such as the G20 to encourage the need for whistleblowing frameworks in their respective jurisdictions and others, that are fit for purpose in the 21st century.