



ICAS Code of Ethics Helpsheet:

Confidentiality

October 2024



ICAS CODE OF ETHICS HELPSHEET: CONFIDENTIALITY

1. Introduction

The fundamental ethics principle of confidentiality is discussed in Subsection 114 of the ICAS Code of Ethics. As it states in the Code at paragraph 114.0 A1:

“The principle of confidentiality is not only to keep information confidential, but also to take all reasonable steps to preserve confidentiality. Whether information is confidential or not will depend on its nature. A safe and proper approach for professional accountants to adopt is to assume that all unpublished information about a client’s or employer’s affairs, however gained, is confidential. Some clients or employers may regard the mere fact of their relationship with a professional accountant as being confidential.”

2. Maintaining confidentiality

Client confidentiality

Professional accountants in public practice must not disclose confidential information to a client even though the information is relevant to an engagement for, or would be beneficial to, that client.

Where professional accountants in public practice have confidential information which affects an assurance report, or other report which requires a professional accountant to state their opinion, the professional accountant cannot provide an opinion which they already know, from whatever source, to be untrue. If the professional accountant in public practice is to continue the engagement, the professional accountant must resolve this disparity. In order to do so, the professional accountant is entitled to apply normal procedures and to make such enquiries in order to enable the professional accountant to obtain that same information but from another source. Under no circumstances, however, should there be any disclosure of confidential information outside the firm.

Conflict of interest

Member firms should ensure that all who work on their behalf are trained in and understand:

- The importance of confidentiality;
- The importance of identifying any conflict of interest and confidentiality issues between clients, or between themselves or the firm and a client, in relation to a current or prospective engagement; and
- The procedures the firm has in place for the recognition and consideration of possible conflict of interest and confidentiality issues.

Detailed guidance on conflicts of interest, including situations where such conflicts may result in threats (or perceived threats) to preservation of confidentiality, are included in the ICAS Code of Ethics Sections 210 and 310, and also the ICAS publication “[Guidance on Conflict of Interest](#)” (March 2019).

Disclosure of confidential information

As it states in paragraph 114.3 A1 of the ICAS Code of Ethics:

“Confidentiality serves the public interest because it facilitates the free flow of information from the professional accountant’s client or employing organisation to the accountant in the knowledge that the information will not be disclosed to a third party. Nevertheless, the following are circumstances where professional accountants might be required or have the duty or right to disclose confidential information:

- (a) Disclosure is required by law or regulation, for example:
 - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
 - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and
- (b) There is a professional duty or right to disclose or use, when not prohibited by law or regulation:
 - (i) To comply with the quality review of a professional body;
 - (ii) To respond to an inquiry or investigation by a professional or regulatory body;
 - (iii) To protect the professional interests of a professional accountant in legal proceedings; or
 - (iv) To comply with technical and professional standards, including ethics requirements.”

Where required by law or regulations to disclose confidential information, for example as a result of anti-money laundering or anti-terrorist legislation, or in connection with legal proceedings involving either themselves or their employing organisation, professional accountants should always disclose that information in compliance with relevant legal requirements. Professional accountants should take care when communicating relevant facts to others relating to known or suspected money laundering or terrorist activities. Under The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the Money Laundering Regulations 2017”) and subsequent, the Terrorism Act 2000, the Terrorism Act 2006, and The Proceeds of Crime Act 2002, it is a criminal offence to “tip off” a money launderer or terrorist.

For further discussion, please refer to the money laundering legislation and guidance available from the ICAS website: www.icas.com

A professional accountant may disclose confidential information to third parties, when not obliged to do so by law or regulations, if the disclosure can be justified in the public interest and is not contrary to laws and regulations. Before making such disclosure, professional accountants ought to obtain legal advice as to their duties and obligations in the context of their professional and business relationships, and possible protection under the Public Interest Disclosure Act 1998.

See also the ICAS Code of Ethics Section 260 or 360, as applicable, “Responding to Non-Compliance with Laws and Regulations.”

Confidentiality and privilege

Confidentiality and privilege is a complex area. For example, information which is confidential may not be privileged and, therefore, may be admissible in court proceedings. Privilege is a difficult area, quite distinct from confidentiality, and it is recommended that further advice be taken if a professional accountant is in doubt as to the action to be taken.

For guidance on money laundering reporting requirements in privileged circumstances contact ICAS’ anti-money laundering helpline, telephone +44 (0)131 347 0271, or submit a query via the ICAS Technical Helpdesk. We provide guidance on general issues concerning the regulations, for example, the extent of identification procedures required, plus guidance for specific instances.

Disclosure of confidential information – factors to consider

As it states in paragraph 114.3 A2 of the ICAS Code of Ethics:

“In deciding whether to disclose or use confidential information, factors to consider, depending on the circumstances, include:

- Whether the interests of any parties, including third parties whose interests might be affected, could be harmed if the client or employing organisation authorizes the disclosure or use of information by the professional accountant.
- Whether all the relevant information is known and substantiated, to the extent practicable. Factors affecting the decision to disclose or use, the information, include:
 - Unsubstantiated facts.
 - Incomplete information.
 - Unsubstantiated conclusions.
- The proposed means of communicating, the information.
- Whether the parties to whom the information is to be provided or access is to be granted are appropriate recipients.
- Any applicable law or regulation (including those governing privacy) in a jurisdiction where disclosure might take place and, if different, the jurisdiction where the confidential information originates.”

Other matters to consider may include:

- Whether or not the information is privileged, either in the sense of common law “Privilege” (“Legal Professional Privilege” in England), or, in a narrower sense, according to the interpretation of “privileged circumstances” under Section 330 of the Proceeds of Crime Act 2002; and
- The legal and regulatory obligations and the possible implications of disclosure for the professional accountant.

Alleged illegal or improper actions by employees or management of a business

The paragraphs above deal with professional accountants’ treatment of confidential information belonging to a client or employer. There is another context in which professional accountants will be given or may obtain information which they must handle sensitively. Professional accountants may be approached in confidence with information about alleged illegal or improper actions on the part of employees or management of the business for which the informant works or with which the informant has some other relationship.

Professional accountants may receive that information because of being trusted by the informant, or may receive it in connection with work their firm is carrying out for the informant’s employer.

Whatever the circumstances in which the information comes to professional accountants, the professional accountants should:

- Advise informants to pass the information to their employer through the medium of the employer’s own internal procedures (if they exist);
- Use their best endeavours to protect the identity of the informant, taking care not to mislead the informant as to the extent to which this can be done, and should only cause

- the employer to be made aware of the informant's identity where this cannot be avoided;
and
- Take care in determining the quality of the information and how best to use it, if at all.

See also the ICAS Code of Ethics Section 260 or 360, as applicable, "Responding to Non-Compliance with Laws and Regulations".

Other sources of guidance

Professional accountants who are in doubt as to their ethical position may seek guidance from the following sources, available to all members of ICAS:

- ICAS Technical Helpdesk <https://www.icas.com/regulation-technical-resources/support>).
- Alternatively, members with a Code of Ethics query which is not audit/assurance related may also contact us at ethicalenquiries@icas.com or by telephone on + 44 (0) 131 347 0271.
- For ICAS' anti-money laundering helpline, telephone +44 (0)131 347 0271, or submit a query via the ICAS Technical Helpdesk. We provide guidance on general issues concerning the regulations, for example, the extent of identification procedures required, plus guidance for specific instances.

ICAS has also partnered with whistleblowing charity Protect to provide members and CA Student members with access to an independent, confidential [helpline](#). This service offers free advice regarding whistleblowing and speaking up. ICAS Protect Helpline Number: 0800 055 7215.

In addition, we offer the [ICAS Ethics Buddy Service](#) which enables members with an ethical dilemma, where deemed appropriate, to have confidential, informal, discussions with an experienced member in order to explore their issue and assist them in considering how they might approach their dilemma.



Ethical
Leadership
since 1854

CA House, 21 Haymarket Yards, Edinburgh, UK, EH12 5BH
+44 (0) 131 347 0100
connect@icas.com
[icas.com](https://www.icas.com)

 @ICASaccounting

 ICAS - The Professional Body of CAs

 ICAS_accounting

 ICAS_accounting