

Faculty of Business and Law

Melbourne campus at Burwood
Burwood Victoria 3125 Australia
Telephone +61 3 9244 6577
Facsimile +61 3924 46283
steven.dellaportas@deakin.edu.au



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Ms Kate Spargo
The Chairperson
Accounting Professional & Ethical Standards Board
Level 7, 600 Bourke Street
MELBOURNE VIC 3000

Dear Ms Spargo

Re: Proposed Guidance Note APES GN40: Ethical conflicts on the workplace – considerations for members in business

Thank you for the opportunity to comment on Exposure Draft 04/11, in relation to the Proposed Guidance Note GN40: Ethical conflicts on the workplace – considerations for members in business.

Overall, I support the proposed standard, and agree that members should always act in ways consistent with the principles espoused in GN40. However, there are some matters in GN40 in which I offer the following critical comments.

The structured approach to ethical decision making (hereafter referred to as the 'model') is outlined in Section 4.2. The following comments address issues that I feel are unclear on operationalising the model.

- This model as set out in section 4.2 appears to be a sequential model of rational decision making with 11 discrete steps. If the model is retained in its current form, I feel that the model would be more sensible if the dot points are sequentially numbered to avoid the potentiality of selecting choosing (or omitting) steps at random or by design.
- Dot point 2: Should this sentence begin with the word 'identify' rather than 'define' so it is consistent with diagram on page 4?
- Dot point 4: At this point of the model, members are asked to seek out and rely on internal organisational protocols as a potential solution to their ethical issue. If the problem is resolved at this point using internal protocols, does this step become an exit point to the model? If so, this is not clear from reading the proposed standard. The sequential nature of the proposed model (without exit points) suggests that all steps must be examined in all cases.

- Dot point 5: Are members expected to introduce stakeholders who are internal or external to the employing organisation (or both) at this point of the model. The introduction of external stakeholders raises issues of confidentiality. The proposed standard does not adequately deal with the potentiality of conflicts arising from confidentiality in this step of the model.
- Dot point 6: In discussing the ethical issues with relevant parties, are members expected to raise the issues with the stakeholders identified in dot point 2, dot point 5, or both. Similar to my comment above, the potentiality of conflicts arising from confidentiality becomes an issue.
- Dot point 8: In my view, discussing the issue with an adviser should be considered only when the ethical issue remains unresolved internally and prior to the member blowing the whistle. This step as outlined in the proposed standard is without limits suggesting that all steps including step 8 must be followed (similar to my comment above). Is it the intention of the standard for members to rely on all dot points in every situation or only when required. This is unclear from the standard.

'Evaluation' is potentially one addition to the model that is currently not addressed by the existing structure. In most models of decision making (ethical and non-ethical), the decision-maker is expected to appraise the final decision to determine whether (or the extent to which) the problem has been resolved. An appraisal requirement is currently absent from the proposed model.

To the extent that the Board agrees, I believe the comments above are to some degree are a matter semantics and can be dealt with additional explanatory memorandum and a representation of the model as a decision tree with various decision and exit points rather than a linear model with sequential steps.

In addition to the above comments, I have two concerns of a more substantive nature that I would like to share with the Board.

1. Section 4.1 outlines the conceptual framework approach to the application of the principles of professional conduct. This section then suggests (or implies) that the model outlined in section 4.2 is consistent with this conceptual framework approach to the code of ethics. The link between the conceptual framework and section 4.2 is not obvious and in my view unclear. Whilst threats and safeguards are mentioned in section 4.1, a discussion of threats and safeguards is omitted in section 4.2 except for possibly dot point 2 where members are asked to identify the relevant principles. There appears to be a gap in linking the conceptual framework in section 4.1 with the structured approach to ethical decision making in section 4.2.

To the extent that these comments are accepted, members in business are now presented with two models of ethical decision making: (1) the conceptual framework approach; and (2) the structured mode of ethical decision making. This could potentially confuse members unless additional guidance is provided.

2. The scope of GN40 as outlined in section 1.3 is applicable to members in business. Ethics in my view is a matter for all members and is not restricted to those employed in business. Members in public practice differ from members in business in the services they provide, not in their professional responsibilities. Adherence to the principles of professional conduct is constant among all members.

While members in public practice provide services to clients they are also employees of professional service firms (public accounting or audit firms) that have revenue growth and profit as major objectives. As employees, members of public practice face issues in the same way as members in business. I see no logical reason why the application of GN40 should be restricted to a particular cohort of members and feel that GN40 should be applicable to ALL members in their capacity as employees. Consider for example a technical partner of public accounting firm who is removed from an audit because the partner raised difficult or sensitive questions with senior management of the client organisation. Similarly how should a junior auditor respond when they discover an irregularity in the client's accounts which is reported to their supervisor but then ignored or overlooked? It appears to me that the proposed model in this standard would be a useful tool for members in business as well as members in public practice to resolve the problems they face as employees.

Please accept the above comments in the good faith in which they are offered.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'S Dellaportas', written in a cursive style.

Steven Dellaportas
Associate Professor in Accounting