

# Ethics Byte

## Module 1 – Acting Ethically

### Transcript

Every day, migration agents like you are called upon to make decisions about how they should act in particular situations.

Sometimes, those situations cause you to ask yourself “What should I do?”, or “How should I act?”, or “Is this right?”

When you ask yourself such a question, you are making an *ethical* decision.

Being an ethical migration agent means making good ethical decisions in relation to your client, the Department, the tribunals and courts and any other professional relationships you maintain.

Acting ethically isn't always as simple as it sounds. Situations can be complex, and the way forward may be unclear. This is when a methodology for making ethical decisions can really help.

A methodology is best thought of as a step-by-step procedure that you work through to arrive at a decision.

So how do you go about creating a methodology? Well, the good news is you don't have to, because here's one we've prepared earlier! This is the ethical deliberation checklist, it can be found in the Ethics Toolkit .

Now let's take a look at how a migration agent might apply it.

Meet Cameron.

Cameron is a sole trader, running a small practice in the CBD. Most of Cameron's work relates to student visas, and over the past five years he's had a pretty good run.

Lately though, things have slowed down a bit, the bills are starting to piling up, and Cameron's starting to worry about cash flow.

Luckily for Cameron, two potential clients have just walked in - Ross and Lin.

They have been referred by a previous client.

Ross is an Australian permanent resident, and Lin is a Chinese national here on a student visa.

Cameron asks the rather nervous couple how he can help.

Ross hastily explains that he'll be doing all of the talking, as Lin doesn't speak much English.

According to Ross, the couple met a few months ago at the University games. One thing led to another, and they fell in love. It's serious, and they want to get married, but Lin's student visa expires in less than a month.

The solution, according to Ross, is to apply for a Partner Visa - and they're willing to pay Cameron big money to make it happen. Fast.

Cameron quickly finds himself asking those familiar questions - "What should I do", "How should I act?", and "Is this right?"

Cameron has a decision to make, and he's going to use the ethical deliberation checklist to help make it.

Firstly, is there an ethical issue at play here?

Cameron considers himself a good migration agent - competent, efficient and trustworthy. But he's all about student visas. He has never acted for a client in a Partner Visa application before, and is not sure how best to proceed.

On the other hand, the business needs clients, and Ross is keen to sign contracts and pay upfront. Lin doesn't saying anything and stares at the floor. It's hard to know Lin's true feelings on the matter.

Secondly, what options are available to Cameron?

He could take on the case, and attempt to work out the relevant visa criteria and processing requirements as he goes along. He's sure he could get it right if he had enough time to do some research... but Ross says they're in a hurry. This could seriously impede Cameron's ability to act competently, diligently and fairly.

He could find a mentor to help him work through the case - someone with plenty of experience applying for partner visas. Unfortunately Cameron doesn't know anyone like this.

Another option is to refuse the job, or refer Ross and Lin to another agent, one with more experience in Partner visa applications. But then Ross and Lin's fee walks out the door.

Step three is about working out the consequences - in particular, what happens if things go wrong.

Well, in this case, if Cameron is unable to prepare and lodge Lin's partner visa application before the expiry of her current student visa, Lin will become an unlawful non-citizen, and this could limit future options for her.

Alternatively, if Cameron is able to lodge Lin's application in time and the application is

refused because she does not meet the relevant visa criteria, Ross and Lin would equally be furious. In either case Ross and Lin could make a complaint to Office of the MARA. If Cameron's actions are investigated and deemed a breach of the code of conduct, disciplinary action may result. Cameron's reputation would be mud.

Finally, Cameron needs to think about his core business. He focuses mainly on Student visas, and while he spends the next two weeks scrambling to research and complete the Partner visa application, fixing mistakes as he goes, there's a good chance he's missing out on new student visa clients.

Next up, Cameron should reflect on or 'test' the action he's planning to take, by asking some critical questions.

Questions like "Am I feeling uncomfortable with what I'm about to do?"

Well in Cameron's case, the answer is yes, he does feel uncomfortable. He's inexperienced when it comes to partner visas, and he has his doubts about the exact nature of Ross and Lin's relationship. He is also concerned as to whether Lin truly understands the situation.

Would you be happy if you were the client and this was being done to you?

Probably not - we all want a competent, experienced agent handling our case.

Would you be comfortable sitting down with a senior migration agent or the Authority and explaining why you did what you are about to do?

Well let's think about this one. The Authority expects all migration agents to be frank and candid about the prospects of success when assessing a client's request for assistance. Cameron does not have the experience to determine what the prospects would be. He would have a tough time justifying why he accepted the case when he had no experience, no mentor, and very little time for research.

And then there's the media. What if the story was picked up by a newspaper, or investigative programme? Would you be able to defend your actions publicly?

Once again, in Cameron's case it looks as though the answer is no.

Having tested the action he's planning to take, it's essential that Cameron is then able to explain his decision to others.

If we review Cameron's answers to the ethical deliberation checklist so far, it soon becomes clear that in this particular case its best if Cameron refers Ross and Lin to a migration agent with more experience in Partner visa applications.

This decision will give Ross and Lin the best chance of success.

At the very least, Cameron will know that he acted in his client's best interests, and would be comfortable explaining this decision to another migration agent or Authority.

The final step is to learn from each experience, and to take action if you think you can make an improvement to your business or skills.

If Cameron had more experience dealing with partner visas, more time on his hands to process the application, or had a mentor to guide him through his first attempt, then he may have arrived at a different decision.

Cameron now knows that he needs to decide whether to expand his skill set, and gain experience in a range of visa application processes. By referring Ross and Lin to a migration agent with experience in partner visas, Cameron has made a valuable business contact, and could approach that agent to be a mentor.

Cameron could undertake research and attend professional development courses focusing on Partner visas to ensure he's ready next time.

Situations calling for an ethical decision are never straightforward.

Yet, as we've seen, by applying a methodology such as our ethical deliberation checklist, these situations can be broken down into a series of clearer, more manageable issues, helping us to arrive at a good ethical decision.

Remember, if you need help when making ethical decisions you can seek assistance by:

- Referring to the Code of Conduct,
- Using the Ethics Toolkit,
- Calling Ethi-call on **1800 672 303**, or
- Contacting your Professional Association