

Ethics Byte

Module 2 – Client Relationships

Transcript

As a migration agent, your clients place a great deal of trust in you. They rely upon you to act competently and to do your best to help them achieve the result they want. They also expect that you will act ethically: that you will be honest, and fair, and act with integrity.

It is important to consider the client-agent relationship. Implicit in this relationship is an obligation on you to do right by your client and to act in their legitimate interests.

In some cases, rules that guide your actions within this relationship are outlined in the Code and in law. In other cases, you are required to decide on the most preferable option, given the circumstances.

Making these kinds of decisions can be difficult. That's where a practical methodology like the Ethical Deliberation Checklist can help you work through your decision-making process and instil confidence that you have chosen the right course of action.

Let's have a look at how this might play out in a common situation – the handling of client money.

Here we have Louisa. She is an experienced migration agent who runs a small practice in the CBD.

On Friday afternoon she took on a new client - Gonzalo.

Gonzalo has come from Chile to pursue his dream of becoming a chef in a world-class restaurant. He has paid Louisa's professional fees and his visa application fees up front. After their meeting, Louisa deposits this money into her client account as normal, and heads home for the weekend.

On Saturday, while reading the weekend papers, Louisa comes across a sale discounting airfares to Europe. She has a great idea – she could book a surprise trip to Italy for her partner and herself to celebrate their 10th anniversary in style.

The sale ends on Sunday at midnight, but she doesn't have enough money in her personal account or her business operating account to buy the tickets. She doesn't want to miss out, so she decided to use the Visa debit card linked to her client account.

She tells herself that this is fine as she fully intends to work on Gonzalo's application the following week, thus earning her fee. She will transfer funds to ensure the application fees are in the client account in time to lodge the application.

The following day Louisa meets some friends. She excitedly tells them about her travel

plans, and they all have tips on places she absolutely has to see. She was so distracted by the conversation, that when the bill comes, she uses the same card to pay for her lunch.

It's now Monday morning, and Gonzalo is back in Louisa's office. He has received some bad news over the weekend, and is needed back home in Chile. He's not sure when he will be able to return to Australia, so he no longer wants to proceed with his application. Because he knows Louisa has not yet started work, he has asked for his money back.

Now Louisa is in a tricky situation...

Should she tell Gonzalo what she has done? And about not having the cash to give him a refund? How would she explain her actions to the Authority if it was brought to their attention?

Does it make a difference if the amount that Louisa spent was large or small? Or if she spent Gonzalo's money accidentally or deliberately?

By applying the Ethical Deliberation Checklist, Louisa can work through her options and their consequences. She can measure them against her obligations to her client and to the Authority, and make a clear and informed decision about her course of action.

Because she received her client's payment before completing the work, what Louisa does with the money is both a legal, and, an ethical question.

Legally, you must comply with your contract. There are also rules in the Code, and in the law, that deal with the handling of client monies.

Louisa deposited Gonzalo's cash into her client account. This was the right thing to do. But the Code stipulates that Migration Agents can only charge for services if they perform the work and issued an invoice. They can take money up front, but they must be able to refund any money they haven't invoiced for work already performed.

When spending the money before she has performed the work, she should have asked herself - 'Is it right for me to deprive my client of this money before I have done what I promised?'

The ethical answer here is clear, and in this case the rule merely confirms it. At the time, Louisa thought it would be ok, but she now knows that she should never have put her own needs before the clients.

Now let's look at another example. This time we'll look at how ethical issues can arise while balancing your duties and obligations to your client with your responsibility to act within the law.

It's a week later, and Louisa has taken on another client. This time she is assisting someone who is seeking a skilled visa pathway.

The client lives out of town, but has promised to post the documents supporting their application. When they arrive a few days later, Louisa notices that the documents from the skills assessing authority seem inconsistent with other documents she has seen from the same authority in the past.

This raises alarm bells and she starts to wonder if the documents might be fraudulent. The client wants her to lodge the documents, but should she?

She asks herself "Am I satisfied that what I am lodging is not false or misleading?" and "Is it right for me to lodge these documents?"

When Louisa contacts the authority to verify the documentation, they inform her that they have no record of any contact with her client, and they didn't issue the documents.

What do you think Louisa should do now?

To what extent should she check the accuracy of what the client is telling her? And, is it her role to do this? What is the responsible course of action now that she has evidence that the documents are false?

All of these questions have an ethical dimension.

If she were to apply the Ethical Deliberation Checklist, Louisa could work through the steps to find out what her options are, what their consequences might be, and then test them in order to come to a good ethical decision.

She could then consider her decision against her obligations to her client, under the Code, and her general obligation to act in accordance with the law.

In this case, the Code sets out that you should never make a statement in support of a visa application you believe to be false. So Louisa's action is clear - regardless of whether this is what the client wants, she simply cannot process the application.

Resolving ethical issues is not always easy.

But if you have a good understanding of your obligations and duties to your client, and you recognise the importance of acting ethically within that relationship, you will be able to address these issues as they arise.

And, if you are facing an ethical dilemma, a methodology like the Ethical Deliberation Checklist can really help.

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