

Ethics Byte

Module 4 – Thinking about Ethics

Transcript

As a migration agent, you are expected to act in accordance with ethical and professional values. These values may be expressed in formal rules such as laws and Codes of Conduct, or in general ethical standards that are understood among migration agents as being 'right'.

Some rules and standards are ethical in nature as they relate to how migration agents deal with clients, and other parties. They outline the requirements for behaviour in a range of circumstances, and are an essential part of making ethical decisions.

But you will also need to know how to act if the rules are unclear, if they don't relate to your particular circumstances, or, if there is no rule at all.

In these cases, you will need to take into consideration all the relevant information in deciding what to do.

An understanding of the principals behind the rules and a clear methodology for decision-making, like the Ethical Deliberation Checklist, will also help.

Let's look at how this may play out in a real case scenario.

This is Aamina.

Aamina is a migration agent who has been acting for Sophie and Mustafa, who are applying for a Partner Visa.

Sophie is an Australian Citizen. She met Mustafa, a Turkish national, while travelling in the Middle East. They have been seeing each other for a couple of years and would like to settle down in Australia. They came to Aamina a month ago, and she has spent quite a bit of time preparing their application.

This morning, Aamina telephoned Mustafa to check on some paperwork.

Just as they were about to wrap up the call, he told her 'confidentially' that he has met someone else, and that he hopes to leave Sophie as soon as his visa is approved.

This was a surprise, as they seemed like a happy couple, and now Aamina is not sure how to proceed with their case.

She decides to use the Ethical Deliberation Checklist to assist her in reaching a decision.

Her first step is to identify the ethical issues she is concerned about.

Aamina feels uncomfortable about keeping this information secret. She thinks that Sophie has a right to know Mustafa has been unfaithful and is planning to leave her. But Mustafa shared this information in confidence, so if Aamina shares it with Sophie, is this a problem?

Aamina is also worried about submitting a visa application that contains information which she now knows to be false.

Aamina is a competent and professional migration agent and always makes an effort to work within the rules and standards of her profession. Aamina is providing immigration assistance to both Sophie and Mustafa and as such they are both her clients.

According to the Code of Conduct, Aamina is expected to deal with her clients competently, diligently and fairly. She is obliged to act in the legitimate interests of her clients, and to maintain confidentiality.

But, what happens when the interests of one client are in conflict with the interests of the other? Whose rights does she represent then?

Aamina is also obliged to act responsibly in terms of statements that are misleading or deceptive. Under the Code Aamina cannot encourage Mustafa to make a statement which she knows or believes to be misleading or inaccurate, If

<p>Mustafa's statements on his visa application regarding his relationship with Sophie are untrue, should Aamina continue with his case?</p>
<p>Aamina's actions should be guided by the Code and when she identifies her options, they should be examined in the context of any consequences they may have.</p>
<p>Aamina has a few options to consider.</p> <p>She could tell Sophie.</p> <p>However just because she believes that Sophie has a right to know, is breaching Mustafa's right to confidentiality the ethical response?</p> <p>In this case, respecting the right to confidentiality for one client is in conflict with the need to keep Sophie fully informed.</p> <p>How would Sophie react if she were told? It's likely she would withdraw her sponsorship of Mustafa, threatening his visa application. Again, this questions Aamina's ability to act in Mustafa's legitimate interests and respect his confidentiality.</p> <p>Alternatively, Aamina could keep quiet and submit the application as planned. But then she would be assisting Mustafa in providing statements that she knows to be dishonest. While Aamina has a duty to her client, she also has an equally important duty to act in accordance with the law and the Code of Conduct.</p> <p>Aamina needs to consider what would happen to her personally if it were discovered that she knowingly submitted such an application. This would have a negative impact on her reputation, and it could also affect how the wider community views the migration advice profession and the integrity of the spouse visa program.</p> <p>Neither option is straightforward. In either case, Aamina may have to break one rule in order to follow another.</p> <p>Perhaps, there's a better option.</p> <p>The Code of Conduct clearly states that you cannot act for a client with whom you have a conflict of interest. As we have seen, there are a range of conflicts here. So, Aamina would be justified in withdrawing from the situation altogether, and ceasing to act on their behalf.</p> <p>She believes this to may be the best course of action.</p>
<p>Aamina now needs to tests the action she is about to take.</p>
<p>Ethical decision making is not about feelings, religious beliefs or personal views. So, Aamina starts by reflecting on her motives for choosing one option over another.</p> <p>Are her motives personal?</p> <p>Perhaps.</p> <p>Aamina concedes it is possible that her initial reaction was framed by her personal beliefs about affairs. She felt that the situation was deeply unfair, and she felt a desire to redress the balance.</p> <p>Aamina needs to consider whether it is appropriate for her personal views and beliefs to impact upon her decision in this case.</p> <p>However her concerns about Mustafa's honesty are not just personal. She knows that continuing to assist him with the visa application would be unethical.</p> <p>Aamina then decides to speak with a colleague, to seek advice on how she might communicate with the couple without giving any confidential information away. Her colleague could also help Aamina identify and explore other options she may have overlooked.</p> <p>Some ethical decisions may not have one single 'right' answer.</p>
<p>But by using the Ethical Deliberation Checklist to review her options, Aamina has ensured her decision would stand up under scrutiny if she were called to explain her actions to the Authority.</p>

In the end, Aamina decides to cease her involvement with this case.

She now feels comfortable explaining the decision to the clients with the full confidence that she has made the right ethical decision.

What would you do? How would you act?

Would you have a discussion with Mustafa so that he understands the consequences of his actions if he does proceed to lodge an application in these circumstances? Would you discuss other legitimate pathways and options available to him? Does he have a personal ethical decision to make?

It took some time to work out what to do, but Aamina has learnt that acting ethically is about more than just following the rules. It is about a commitment to make difficult decisions, even when the rules are unclear, or there is no rule at all. In this case, having a clear methodology to work through the process was beneficial as it allowed her to disentangle the complex issues.

Aamina now has a deeper understanding of the ethical principles that underpin the rules and standards set out in the Code and legislation.

As Aamina has learnt, you need to think carefully before you act, and sometimes, you may need to consider your actions against more than just the rules.

It's a difficult situation - most ethical situations are. Your personal beliefs may be telling you to take a certain action, but when guided by your professional obligations and ethics, the appropriate response may be different.

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