



At the coalface: dilemmas in providing advice

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A long-term client reveals he has secretly buried \$100,000 in cash under the house and not told his family. Within a short time of his death the family lists the house for sale. Do you buy the property or tell the family about the money?

A couple of columns ago I promised I would share with you some of the feedback I have received from financial advisers in regards to what they perceive are ethical dilemmas in their practice. The above is among the most intriguing of them.

The purpose of this article is not to offer solutions to these typical ethical dilemmas – finding resolutions to conflict is ultimately our own enriching challenge. But I do trust that sharing the experience of other practitioners will be of value – especially to the very few who said they never have ethical dilemmas, it may perhaps alert them to the surreptitious nature of conflict.

The exercise will also plainly show that the nature of humans must be a prevailing consideration in understanding why these situations often occur in the first place, and that they should hence be viewed by outsiders with similar rational practicality.

So to the coalface. As you'd expect there are many samples involving the topical issue of fees versus commission. Other perceived dilemmas, however, clearly demonstrate the contexts of an adviser's role are wider and more complex than many are possibly consciously and productively aware.

While not all of the conflict reported falls into what may normally be regarded as ethical, it is important to note that it was designated as such by the respondents. Many advisers may still find the boundaries beyond compliance blurred and hence tend to err on side of caution when it comes to understanding ethical conduct. This is where the skills of critical thinking and reflection are essential in an adviser's toolkit, along with a personal benchmark for the application of such skills for coming to terms with conflict. Compliance clearly does not, and was never intended to, supply all the answers.

For the record, nothing of what appears here is a full direct quote of any individual respondent (except in one case where I've used quotation marks). This is to preserve privacy and keep the points concise. If nothing else, it might demonstrate an edifying stratum of advice in our times.

MAIN THEMES

I have collated and restricted the literally hundreds of responses into themes in an attempt to include as many as possible. For the purposes of base-lining, you may need to know the question being addressed was: "Give examples of situations involving ethical dilemmas you may come across in your daily work," which meant the feedback on what may occur was as relevant and rich as that which is actually experienced by advisers.

Some general issues were:

- managing client expectation of adviser role and expertise,
- adviser's values or opinion influencing investment and other strategies,
- ignoring or reporting colleagues' compliance violation,
- dealing with sub-standard or unethical advice of client's accountant or estate planner, and
- introducing ethical investment options.

Client conduct – where a client:

- demonstrates dishonesty or intention to act fraudulently,
- behaves selfishly or offensively,
- wants to expedite procedures disregarding due process,
- gives money ill-advisedly to charity or family, and
- hides asset values in a divorce.

In relationships with clients:

- overcharging to meet targets,
- a client/adviser closeness that leads to conflict of interest, and
- meeting with someone who is known not to be able to afford advice fee.

Adviser remuneration:

- choosing product with higher commission,
- not charging all clients the same fee regardless of their value to the business,
- rejecting clients because of low net worth, and
- inappropriate or unclear referral protocols.

Pressure from above:

- enforced promotion of products adviser does not believe in, and
- sales training where scripts and cues "manipulate clients into making biased decisions".

Personal ethics

- fund manager soft dollar incentives,
- loyalty to business versus client's interests,
- use of privileged information for personal gain,
- client has insufficient funds to fulfil their dreams,
- criticising competitors' advice to try and win clients,
- completing online education using name of another adviser, and
- balancing help for a client in relation to the fee level.

Staffing issues:

- maintaining trust in employer,
- hypercritical whistle-blowing protocols; payment issues,
- mistreatment of employees who fear job security, and
- employer's right to information on employees' private affairs.

Regardless of the dilemma, the inherent test in conflict is knowing what will act as your canary warning system when going beyond the coalface of financial planning. Aside from any personal values benchmark, that is something branded by how you perceive the moral professionalism with which you serve clients and fulfil your own satisfaction. «

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