



As part of promoting discussion about ethical practice, OHS professionals, practitioners, educators and students are encouraged to download and use the following scenarios. However, users are required to acknowledge the source of the scenario(s).

Citation should be

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**Ethics and Professional Practice**

Core Body of Knowledge for the
Generalist OHS Professional

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Access *OHS BoK* Ethics and Professional Practice at <https://www.ohsbok.org.au/chapter-38-3-ethics-and-professional-practice/>

# OHS scenarios as discussion starters for professional discourse

As part of OHS education and/or continuing professional development or mentoring relationships, it is useful to analyse situations and share views on how OHS professionals might respond in a range of circumstances. The following scenarios are provided to support such discussion. OHS professionals will have other examples that could be the basis for professional discussion.

In discussing scenarios, it is useful to:

* Review the code of ethics for your professional body
* Identify the OHS ethical challenges (section 7 of chapter)
* Consider the biases or ethical blind spots that might exist or that you might apply in your response (section 5.3 of chapter)
* Consider how the language, communications or context might impact how you and others perceive and respond to the situation.

**Critical risk, cost-benefit analysis and conflicting duties**

You are the OHS Advisor within a major manufacturing organisation. The organisation has recently acquired a small factory in a rural town through a series of takeovers. The factory only employs 35 people and is of marginal profitability, but it is highly significant within the local community. An employee representative at the factory has expressed concern about a frequent task that involves working at height. The Production Manager has reviewed the task and agrees that there is some risk. However, the task has been undertaken for many years without incident and considerable expense will be involved in remedying the situation. The employee representative is threatening to take the matter further. The Production Manager has approached you to advise on the matter of the working-at-height task.

On investigation, you find that:

* The task is very high risk with potential fatal consequence
* The expenditure required to adequately control the risk cannot be justified on the old production equipment and your organisation would use the opportunity to close the factory
* Factory closure would have a devastating effect on the local economy and would seal the fate of the struggling community.

Would your response be any different if you are a consultant?

Would your response be different if your brother ran the general store in the town?

**Confidentiality, privacy and trust**

You have received a report from an employee that he is being bullied by his supervisor. The person reporting the issue has requested that you do not escalate this report as he is aware that others have previously reported similar situations and there was no apparent action taken by the company to deal with the supervisor’s behaviour. The employee knows that his issue is unique enough that disclosing the supervisor’s actions would identify him as the person reporting the bullying. The employee has concerns about reprisals from that supervisor. You know that reporting this issue would breach trust with the employee, but you are concerned that if this situation goes unreported other employees may be at risk.

**Consultant: Information management and communications**

You are a consultant OHS professional in negotiation to provide health and safety services to a large manufacturing company. This contract would bring the consulting company much needed income now and possibly into the future should the project go well. The initial contract was for a thorough review of the company’s health and safety system and included a physical conditions assessment in each of ten locations. The scope of work and the pricing was finalised by both parties and there was also agreement that the manufacturing company would create the contract to be signed.

Upon receipt of the contract you discover that you are contracting with the manufacturer’s law firm, not directly with the company. You know that the company is having some issues with workers related to the current working conditions and you are now concerned that the company may be insulating itself from the results of the final report and you think that the company may use solicitor-client privilege to withhold negative results from the workforce. The contract would need to be signed prior to any work commencing.

**Consultant: Capability and scope of practice**

You have opened your own consulting practice. You knew building your own client base would be a challenge, but it has turned out that business is considerably slower than expected. Your main contract is to provide hazard assessments for a small retail chain. This one customer will provide enough income to keep your business viable for the next six months. You have completed the first store assessment and presented the findings and recommendations to the retail chain’s General Manager. The findings included two contentious recommendations: first, a recommendation for ergonomic assessments for store clerks as there was a high incidence of strain injuries; and, second, a recommendation for a machine guarding assessment of the trash compactor as there were exposed moving parts and it appeared that there may have been some tampering to a safety proximity switch.

The General Manager is concerned about the risks to workers, but is confused by both recommendations. The General Manager’s position was that the contract was for a hazard assessment and because both of these issues were hazards, the two additional assessments needed to be included in the price of the contract.

You realise that both parties should have clarified the scope of the contract prior to agreeing to the terms. You do have some knowledge of both ergonomic and machine safety domains, but you are unsure as to whether you have sufficient expertise to complete a detailed assessment of either issue. You definitely cannot afford to contract for the services of another person.

**OHS manager in global role**

You are an OHS professional in a large international company. You operate at the senior executive level, and report through the CEO to the Board. Your company has operations across several countries, including in Asia and Africa. The in-country legislation, OHS standards and working conditions vary significantly across the countries of operation. While your operations meet the legal requirements in each country, you are concerned that the working conditions and OHS practices within your organisation vary across the countries of operation. At some significantly substandard sites, workers face higher critical risks and health hazards and there have been some fatalities. Profits are quite strong from these sites. Controls implemented in other parts of the organisation have not been implemented where they are not required by legislation. The CEO and the Board do not see this as an issue as they have ‘legal compliance.’

**Consultant: Representation, conflicting duties, legal obligation**

You are working with a partner. The two of you do technical safety assessments for companies for a specific type of hazard. There are many potentially adequate control devices that a company could purchase if you determine a problem exists. Your partner, who is a little stronger than you on the technical aspects, always recommends a product from a particular supplier. You trust your partner’s judgement. The two of you have had many clients over the past several years who have purchased the product on your joint recommendation (you both sign the report). Now your partner has revealed that he has been receiving a benefit from the supplier of the product as a commission. He says he’s been struggling with his conscience and he’s come to the conclusion that it’s only fair to split the commission with you. He hands you a cheque for ‘this year’s work.’ A quick glance reveals it is a hefty sum. Should you take it? Should you end your relationship with your partner? Should you say anything to all your past clients?

Is the main issue here really an ethical one? Or is it a legal one? In most jurisdictions what your partner has been doing would be called an illegal secret commission or a kickback. Isn’t your real problem now to ensure that you do not get accused as a party to the crime?

Assuming you end the partnership, what is your ethical duty to your clients? Suppose there is no economic cost to them of having bought this product. It was a little cheaper anyway. It may be impossible for you to rectify the situation by rebating anything to the customers. If the product was more expensive, is the excess something you should return? But in terms of corrective justice, the wrong-doer should pay, not you. If your ex-partner will not rebate the clients, should you? There may be some potential legal liability on your part solely as a partner.

Does it make any difference if you have been receiving some complaints from clients about the product being inadequate and posing some risk to their employees? Perhaps a failure of the product will cause an environmental disaster. Do you now have a clear duty to warn? Should you send a ‘hazard notice’ to all your clients? Should you tell them about your partner’s behaviour? Again, this may revert to a legal case with you and your clients seeking redress from your ex-partner.

**Junior OHS role: representation of information and data, conflicting duties**

You are a relatively junior OHS professional working for a senior OHS professional. The senior professional has sent a report to top management about hazard X, stating that the risk involved is negligible. You have access to the original data and can see that the senior professional’s conclusions do not match the data. Moreover, the data doesn’t look right; it may have been arbitrarily ‘adjusted’ or ‘smoothed.’ Some critical information in the raw data is simply unaddressed in the report.

You were hired by the senior professional, who has always been a great boss and a good mentor, and has stood up for you during some battles involving office politics. You feel very loyal to the senior professional, who has the authority to terminate your employment or to give you a raise in pay and responsibility. What should you do?

Is the situation any different if, as far as you can make out, the risk is critical, and the senior manager is out of the country and hard to reach? Do you have a professional duty to warn those exposed to hazard X?

You raise the issue with the senior professional, who responds badly, angrily denying that the data have been tampered with or ignored, but does not review the data, or the handling of the data, with you. The senior professional expresses disappointment with your loyalty, tells you that you are “on probation” and says that your discretion (silence) is going to be the test for further employment. Assuming the risk is critical, how should you proceed?

**Consultant: Representation, plagiarism**

You are a consultant OHS professional. You have submitted a proposal to a potential client to do some OHS training. Your client-contact person tells you they would like to engage you, but she wants to discuss a few issues. At your meeting, she hands you a detailed proposal from a competing OHS professional. The proposal has the training materials your competitor is proposing to use attached. A quick glance tells you the materials are excellent. Your contact asks you to take away the materials and review them and to incorporate any good points into your own training materials. Your contact says “don’t copy them of course, just use them for inspiration.” You hesitate, and she says they have several consultants in mind, who “are all about the same” in terms of cost. She says the competitor with the materials she is offering you was four times as expensive as anyone else and “obviously doesn’t really want the business, which is a shame.” She adds, “we do this all the time, to help contractors improve – it’s a quality thing.” What will you say?

Does it make any difference if you know the competitor and you’re pretty sure they would use your materials if positions were reversed? Is your behaviour contingent on what the competitor’s behaviour would be or is it independent? Suppose the competitor has cheated you in the past and now is your chance for some ‘justice’? Is that what commutative justice requires?

Does it make any difference if your contact person tells you the competitor handed out materials to participants at a conference workshop last month? The materials are “in the public domain” she says. At this point do you believe her? Consultants sometimes share material on the basis that others do not use it in competition.

**Reporting and analysis of data, pressure to adjust results, sharing of information**

You are an OHS professional employed in a large company. The HR Executive asked you to conduct an OHS perception survey. It involved interviewing hundreds of employees at all levels and administering questionnaires to everyone. You have produced a big, data-packed report. It reveals weaknesses about ownership of OHS, communication and trust issues, leadership problems and so on. It is not a technical report about the company’s hazards and controls; it’s about the human element in OHS. You’ve found many problems of a management nature; partly personnel issues, partly problems of policy, process and training. These problems no doubt indirectly affect risk, but there is nothing in the report about direct risks.

The HR Executive isn’t happy with the report as it reveals some weakness on their part. There are certain other individuals and groups who will also be very unhappy with the report. While doing the interviews and administering the questionnaires, people asked if the report would be available when completed and you said ‘yes’ because the HR Executive, who was present the first time the question was asked, had nodded agreement. Now the HR Executive has asked you not to deliver hard copies to anyone. They have your report digitally and say they will distribute a synopsis to various people in the company, but not the whole report “because it is too big and complicated.” They are vague as to when this will be done and evade the question of whether they will send you an advance draft of the synopsis. The union representative calls you directly and asks for a copy of the report. You decline to send a copy at this time, and the union representative ends the call by saying “you promised.”

Suppose that one of your questions asked if the respondent had knowledge of any serious, life-threatening hazards, with room to write in details. There was thus a key chapter in the report that listed and classified the hazard comments. You expedited the report largely because of these comments and in fact called the HR Executive to mention several of them while writing the report. (You received no feedback from HR on these calls.) Does this make a difference in how you should proceed?