

Chartered Banker

Leading financial professionalism

Double dilemma

Martin is a young assistant manager working in his bank's regional office in Leeds. He is a Chartered Banker. Martin's manager sees him as a bright prospect and has advised him to take on additional responsibilities in the community. For some time, Martin has been involved in a local charitable sports organisation for young people, so in order to act on his manager's comments, suggested to the Chairman of the charity that he would be prepared to play a more active role. The charity has been established for 20 years, and owns a sports and social club just outside Leeds, with 10 acres of playing fields.

A few weeks after the initial discussion, Martin was invited by the Chairman of the charity to join its Management Committee. This body has similar responsibilities to a Board of Directors of a company, but is accountable to the Charity Commission, the government agency that regulates charities in England and Wales. Martin was delighted to accept this invitation.

The first meeting of the Management Committee that Martin attended coincided with the draft financial accounts of the charity becoming available, and these were considered after the Treasurer's monthly report. Martin wanted to appear keen to make a positive contribution and prepared some questions to ask at the meeting. In particular, he was puzzled by the heading 'intangible assets' and was rather concerned that these seemed to represent a large proportion of the total assets of the charity. His colleagues on the Management Committee were rather bemused at this question, as they always relied on one particular member to deal with financial matters, and he happened to be away on holiday. The Chairman of the committee told Martin that the fine detail of the accounts were 'nothing to worry about' and as far as he was concerned, this particular figure had been in the accounts as far back as he could remember.

At the same meeting, the Management Committee discussed a project to build an extension to the social club building in order to accommodate a games room. The meeting was informed that the charity could only partially fund the development and would need to borrow the balance necessary to complete the work, probably offering the premises as collateral. One of the members of the committee suggested that as Martin worked for the local bank he could approach the bank on behalf of the charity in order to try to raise the necessary funds.

How should Martin respond to the answer given to his question on intangible assets, and to the committee's suggestion that he should approach his employer for finance?

Martin faces two dilemmas in this scenario.

In relation to the issue raised about the meaning of intangible assets, Martin should be aware that he has a duty as a member of the Management Committee to satisfy himself that the figures are representative of the affairs of the charity. As the charity has been running for 20 years, there is probably little to be concerned about. As a charity, the financial accounts would be audited and any anomalies would have been identified many years ago, assuming that the auditors were doing their job properly. However, Martin is right to ask, as he bears not only a statutory duty as a member of the committee but also a duty of trust (or fiduciary duty) to the charity.

If, for example, the auditors were not doing their job properly, and it was found that by stripping out the intangible assets the charity could be insolvent, Martin and his colleagues could be personally liable. The broader implication is for the charity itself, to which such a problem could be fatal. As unlikely as such a 'doomsday scenario' may be, Martin should therefore persist with his question and seek a reasonable explanation as soon as possible.

The second issue is a conflict of interest, and so would be governed by rule 5 of the Institute's Code of Professional Conduct, '...be alert to and manage potential conflicts of interest which may arise whilst performing my role'.

Martin has a duty to his employer and a different duty as a member of the Management Committee of the charity. If Martin is to be regarded as an independent member of the committee, he should not have anything to do with the issue of raising funds from his employer, except perhaps to refer the committee to an appropriate lending officer in the nearest branch office. If Martin puts a borrowing proposition to the bank and makes a representation on behalf of the charity, he should definitely play no part in the assessment of the application or the risk decision. To do so would compromise his position with the bank, especially if the proposition is flawed. He would lack independence and would be putting himself in an impossible position.

The innuendo in the scenario is that Martin should use his position with the bank to raise the funds necessary. In practice, most banks have standard safeguards that preclude such actions.