



When Professional Judgement Becomes a Duty to Act

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Introduction

Professional judgement is central to both advisory and compliance roles. However, judgement is not unlimited discretion. There are critical thresholds where professional judgement transitions into professional duty—where hesitation becomes negligence, and inaction becomes misconduct.

This guide defines those thresholds. It unifies the TCCA (advisory) and TCCS (compliance) frameworks by establishing when professionals must act decisively, regardless of uncertainty or client preference.

Authority: This guide is authoritative for both TCCA and TCCS examinations. Scenario responses that demonstrate hesitation beyond these thresholds will lose marks.

The Fundamental Principle

INSTITUTE POSITION

The Institute's position is that professionals have a duty to refuse, reject, or escalate when continuing would breach professional standards—regardless of client preference, commercial pressure, or personal uncertainty.

Professional judgement includes the judgement to say 'no'.

1. Portfolio Advisory: When to Refuse Allocation

Judgement Zone: Allocation is within risk profile range. Client understands risks. Financial capacity is adequate.

Duty to Act Zone: One or more of the following conditions exist:

- Client cannot tolerate total loss of crypto allocation
- Near-term liquidity needs exist (<5 years)
- Requested allocation exceeds risk profile range without exceptional circumstances
- Volatility contribution exceeds 30% of portfolio risk (moderate client)
- Client does not understand that crypto can go to zero

Required Action: REFUSE allocation. Document rationale. Explain to client why allocation is unsuitable. Offer alternative (reduce allocation, defer until circumstances change).

What You Cannot Do: Proceed because 'client insisted' or 'it's their money'. Suitability obligations override client preference.

2. Custody & Security: When to Refuse Inadequate Security

Judgement Zone: Client has chosen self-custody or reputable third-party custody. Security practices are reasonable. Client understands custody risks.

Duty to Act Zone: One or more of the following conditions exist:

- Client plans to store significant holdings (>£10k) on exchange without 2FA
- Client refuses to create backup/recovery phrase for self-custody wallet
- Client plans to store seed phrase digitally (cloud, email, photo)
- Third-party custodian lacks insurance, segregation, or regulatory registration
- Client does not understand 'not your keys, not your coins' principle

Required Action: REFUSE to proceed until security practices are improved. Provide clear guidance on minimum acceptable standards. Document discussion and refusal.

What You Cannot Do: Advise client to proceed with inadequate security because 'it's simpler' or 'they'll figure it out'. Inadequate custody creates foreseeable loss risk.

3. Financial Promotions: When to Escalate or Refuse

Judgement Zone: Promotional content is balanced, risk warnings are prominent, and Section 21 approval is obtained. Content may be optimistic but not misleading.

Duty to Act Zone: One or more of the following conditions exist:

- Content claims guaranteed returns or capital protection
- Risk warnings are buried, hidden, or in smaller font than promotional text
- Content uses urgency tactics ('invest now or miss out')
- Content describes crypto as 'low risk' or 'safe'
- Section 21 approval is missing or inadequate (rubber-stamp)

Required Action: REFUSE to approve or ESCALATE to compliance/legal. Document specific deficiencies. Do not publish until corrected.

What You Cannot Do: Approve misleading content because 'marketing wants it' or 'competitors do worse'. Professional duty overrides commercial pressure.

4. Compliance & AML: When Waiting Becomes Negligence

Judgement Zone: Red flags are ambiguous. Customer has plausible explanation. Risk is borderline. MLRO consultation is ongoing.

Duty to Act Zone: One or more of the following conditions exist:

- Direct knowledge or clear suspicion of money laundering exists
- Sanctioned entity, ransomware, or darknet market exposure identified
- Waiting for 'more evidence' will delay SAR filing beyond reasonable timeframe
- Customer refuses to provide Travel Rule information for transfer $\geq \$1,000$
- Multiple red flags exist without reasonable explanation

Required Action: FILE SAR immediately (critical risks). Consult MLRO and file within 1-2 days (high risks). REFUSE transaction if Travel Rule cannot be satisfied or sanctions exposure exists.

What You Cannot Do: Wait for certainty. Delay filing because 'we need definitive proof'. Proceed with transaction while 'investigating'. POCA obligations are time-sensitive.

5. Professional Ethics: When to Report or Escalate

Judgement Zone: Minor conflicts of interest exist but are disclosed and managed. Professional boundaries are maintained. Competence is adequate for the task.

Duty to Act Zone: One or more of the following conditions exist:

- Financial interest in client's transaction outcome (undisclosed)
- Commercial pressure to compromise professional standards
- Request exceeds professional competence (e.g., complex DeFi legal analysis)
- Colleague's conduct creates regulatory or client harm risk
- Employer requires action that breaches professional obligations

Required Action: DISCLOSE conflict immediately. DECLINE work beyond competence and refer to specialist. ESCALATE unethical conduct to MLRO/compliance. REPORT to Institute if employer demands breach of professional standards.

What You Cannot Do: Proceed silently with undisclosed conflicts. Accept work beyond competence to avoid disappointing client. Ignore colleague misconduct. Prioritise employment over professional obligations.

Summary: Judgement vs Duty Across Domains

Domain	Duty to Act Trigger	Required Action
Portfolio Advisory	Allocation unsuitable (client cannot tolerate loss, exceeds risk profile)	REFUSE allocation
Custody & Security	Inadequate security practices (no 2FA, digital seed storage)	REFUSE to proceed until corrected
Financial Promotions	Misleading content (guaranteed returns, hidden warnings, urgency tactics)	REFUSE approval / ESCALATE
Compliance & AML	Knowledge/suspicion of ML, sanctions exposure, waiting delays SAR	FILE SAR / REFUSE transaction
Professional Ethics	Undisclosed conflict, work beyond competence, employer demands breach	DISCLOSE / DECLINE / REPORT

Across all domains, the pattern is consistent: when conditions cross threshold, professional judgement becomes professional duty. Hesitation becomes negligence. Inaction becomes misconduct.

CLOSING PRINCIPLE

The Institute's position is that professionals earn the privilege of exercising judgement by demonstrating the wisdom to recognise when judgement must yield to duty.

Scenario responses that demonstrate hesitation, deference to client preference, or inaction beyond these thresholds will lose marks. The examination assesses your ability to act decisively when duty requires it.

Professional judgement includes the courage to say 'no'.

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