

## Professional standards column

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Smart  
contracts

In 1994, the inventor of the 'smart contract', Nick Szabo, defined the term as a 'computerised transaction protocol that executes the terms of a contract'. The transaction protocol works with algorithms following an 'if-then' logic.

When we talk about smart contracts now, we refer to a computer protocol run on a decentralised blockchain system, usually the Ethereum blockchain, which allows automated (i.e., self-executing) contract execution between two or more parties with previously coded data. As with all data on a blockchain, the distinct features and current legal limitations of smart contracts are theoretical immutability, perpetuity, decentralisation and encryption.

A smart contract is not a contract in the legal sense but rather a computer 'technology' or a software for contract execution and storage of data on the blockchain that takes on the function of a transaction register. This understanding is mostly shared by legal doctrine throughout the world.

Current fields of application for smart contracts include: borrowing/lending, escrow or trading transactions in decentralised finance (DeFi); creation and sale/purchase of non-fungible tokens (NFTs) in the gaming industry; and building and managing decentralised autonomous organisations (DAOs).

Smart contracts come with legal challenges and limitations. For example, the decentralised and immutable nature of smart contracts poses questions concerning jurisdiction and governing law. As these contracts are hosted on blockchain networks that are globally distributed, it becomes difficult to establish which national laws apply in the event of a dispute.

Another challenge is the legal recognition and enforcement of smart contracts. For now, smart contracts (in most jurisdictions) rely on *ex ante* formal legal contracts.

Moreover, the immutability of smart contracts raises concerns about rectification and dispute resolution. Once a smart contract is deployed on the blockchain, it cannot be changed, which poses difficulties when programming, when other errors occur or in the event of unforeseen circumstances.

Finally, building a legally binding contract on a blockchain, even if it was possible under the law, could become a complex endeavour. Since it is, by definition, self-executing, all eventualities would have to be taken into account *ex ante* and would have to be pre-programmed.

Legislators worldwide are actively exploring smart contracts' potential implementation and integration within legal frameworks. It promises to be a captivating journey to observe the forthcoming developments in this domain.

#DIGITAL ASSETS #TECHNOLOGY



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The power of  
reflection at work

STEP has now completed the latest audit cycle of members' continuing professional development (CPD) records. Those selected for audit were required to show us their CPD plan that identified what they hoped to achieve in the year, a record of the actions taken to support or improve the skills they needed to fulfil their job role and, finally, how they would reflect on those actions. Reflection involves stating whether they achieved their CPD aims and whether it prompted them to plan any further action.

Although we are still reviewing the full audit results and planning our own work programme, we have identified that although members are carrying out relevant CPD, there was a mixed response from members in demonstrating how they have reflected upon their CPD.

Reflecting on our practice can help us avoid being complacent at work and can give us the ability to reframe and resolve workplace challenges. It is often assumed that working harder or longer will increase productivity. However, this is only ever a short-term solution. We work smarter when we take the time to stop doing and start thinking.

Taking the time to consider what we have learned is powerful and assists in building our confidence and capability as individuals. Learning does not have to involve a full day out of the office at a conference or attending an online webinar. We can learn from our daily work activities.

When a project has been completed, for example, we typically consider lessons learned, identifying what went well and what can be improved for next time. We reflect in order to improve future projects. This process of reflection is easy for us to build into our daily routines. At the end of the working day, take five minutes to consider: what did I do today? What strategies did I use? Did I achieve what I planned to do? If not, why not?

This is easy to do. We do not need any fancy tools to support us. Old-fashioned pen and paper will do, but if you do want to use technology (which will enable quicker submission if selected for audit), open a Word document or Excel spreadsheet and jot down a sentence or two. In less than five minutes, you will have thought through your day and completed a small amount of reflective practice that contributes to your CPD.

We hone our skills through doing. We learn to make judgements without overthinking and we develop the ability to do our jobs while juggling varying workplace demands, such as meeting the needs of clients and colleagues, adhering to professional codes and keeping up with the latest compliance requirements. Honing our skills improves our judgement and gives us the confidence to deal with complex matters and identify ways to improve our processes and policies.

It has probably taken you less than five minutes to read this. Maybe you learned something, maybe not, but in order to answer that you will have had to reflect on what you have read and, just like that, your CPD for the day is complete.

#BUSINESS PRACTICE

#CAREER AND PERSONAL DEVELOPMENT

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