

Professional Ethics

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property
professionalism
worldwide

Introduction

- In this evening's lecture I will:-
- Define the term Professional Ethics by referring to the 5 basic assumptions underpinning our understanding of the subject
- Review the various Internal and External issues that influence ethical decision making
- Illustrate the consequences of failing to implement in everyday practice the 12 Core Values described in the RICS Help Sheet "Maintaining Professional & Ethical Standards" Version2
- Conclusions and References

What is a Profession?

- “A profession involves a particular kind of relationship with clients,...arising from the complexity of the subject matter which deprives the client of the ability to make informed judgments for himself and so renders him to a large extent dependent upon the professional man...”
- Ormrod Committee Report on Legal Education 1971

Why Ethics are Important to Professionals

- Service involves:-
 - A particular kind of relationship with a client
 - A complex subject matter
 - A client being incapable of making informed judgements
- The result being that the client is therefore entirely dependent on the professional for advice and guidance

Definition of the term Ethics

- Defined in OED as the “science of morals, moral principles or code”
- Moral defined as the “standard of conduct respected by good men independently of positive law and religion”
- The definition of Professional Ethics endorsed by the RICS/SCSI is the “giving of one’s best to ensure that client’s interests are properly cared for, but in doing so the wider public interest is also recognised and respected”

The Five Basic Assumptions

- Professional ethics is a process
- Human behaviour is caused
- Actions have consequences
- Good ethical business practice rests on mutual vulnerability
- What is ethical depends on the individuals point of view
- Source: Christina Hirst; *Ethics and Professional Conduct for Surveyors* 2nd Ed (RICS 2010)

Professional ethics is a process

- It is not a fixed text to be learnt once
- It is a way of reviewing behaviour against constantly changing standards
- What may be ethical today or in a particular society may be reviewed differently by others or at another time

Human Behaviour is caused

- There is a motive for all human behaviour e.g. financial gain; power; compassion
- The way in which a professional behaves may be influenced by:
 - Internal Influences (Unique to each person)
 - External influences (Applies to everyone)

Factors Influencing Ethical Decisions

- INTERNAL INFLUENCES (Unique to each person)
- Social Environment
- Personal Environment
- Individual Attributes

Factors Influencing Ethical Decisions

- EXTERNAL INFLUENCES (Applies to everyone)
- Working Environment
- Legislation
 - Building Control Act 2007
 - Property Services (Regulation) Act 2011
- Professional Environment
 - SCSi Byelaws and Regulations
 - Byelaw 15 Rules of Conduct
 - Article 71 Society's Conduct and Disciplinary Rules and Procedures

Bye Law 15 - Rules of Conduct

- 15.2.1 (a)
- Every member shall conduct himself in a manner befitting membership of the company
- 15.2.2 A member shall be liable to disciplinary action..., by reason of:-
 - Conduct liable to bring the company into disrepute
 - Serious professional incompetence
 - Failure to adhere to Byelaws / Regulations
 - Having been convicted of a criminal offence which could result in a custodial sentence

SCSI Conduct and Disciplinary Rules and Procedure

- Monitoring & Inspection
- Investigation
- Professional Conduct Committee
- Appeals
- Reviews
- Publication of Decisions

Principles of Professional Conduct

- Honesty
- Efficiency
- Loyalty
- Integrity
- Competence
- Confidentiality
- Ability to Communicate
- Of the foregoing it is failure to communicate that generates the majority of complaints to the SCSI

Actions have consequences

- Every force has an equal and opposite reaction
- Chartered Surveyors have traditionally been very conservative in the way they conducted their practice
- In doing so they were able to ride out the peaks and troughs of construction activity

Good Ethical business practice

- Good ethical business practice rests on mutual vulnerability
- The way we are treated depends on how we treat others
- Respect is not a right and must be earned

Parties are more litigious



Perspectives on the meaning of Ethics

- Research into Construction Ethics
 - *Professional Ethics for UK Construction Professionals by Dr J Poon (CIQ Construction Paper 199)*
- Published Codes and Practice Statements
 - *RICS Help Sheet*
 - *Publication of disciplinary findings*

Findings of Dr Joanna Poon

- Issues investigated for QS's included their views on:-
- Ethical Behaviours
- Their ranking and rating of parties and constituencies when they face ethical dilemmas
- Opinion on whether ethical standards have declined over the last decade
- Major influences on their views of professional ethics
- Factors influencing their ethical decision making

Ethical Behaviours

- Sample were asked to rate 12 ethical behaviours based on:
 - Self Interest
 - Company , Organisational Interest
 - Fairness
 - Interest of all Parties
- Fairness was rated the most important ethical behaviour
- The least important consideration was self interest

Ranking and Rating of Parties

- The following were deemed to be the most important parties when resolving ethical dilemmas:
- Clients
- Employer / Company
- Self
- Family
- Superior
- Colleagues
- General Public

RICS Regulation

- RICS Help Sheet: Maintaining Professional and Ethical Standards (Version 2) effective from 1st Dec 2011
- Contains a set of 12 Core Values
- **NOT A SET OF RULES TO BE MEMORISED**
- To be used when reviewing your current practice and procedures to identify anything that may be considered unethical practice
- NB just because your line manager says it is ethical doesn't always mean it is...onus is on you to be aware of any shortcomings

RICS Core Values

- Act honourably
- *Never put your own gain above the welfare of your clients or others to whom you have a professional responsibility. Always consider the wider interests of society in your judgments*

Mrs C K, Bedfordshire

- Findings
- Mrs K pleaded guilty to an offence of fraud
- She dishonestly used funds for her own use
- Sentenced to 51 weeks in custody but suspended for 2 years
- Penalty
- Expulsion with costs of £ 3,310

RICS Core Values

- Act with Integrity
- *Be trustworthy in all that you do – never deliberately mislead, whether by withholding or distorting information*

Mr R B, Surrey

- Findings
- Student member of the RICS
- Committed 4 offences of money laundering
- Served 2 year prison sentence
- Penalty
- Expelled with no costs (no chance of them being recovered)

RICS Core Values

- Be open and transparent in your dealings
- *Share the full facts with your clients, making things as plain and intelligible as possible*
- Be accountable for your actions
- *Take full responsibility for your actions and don't blame others if things go wrong*

Case 2 Mr C, Student Member

- Admitted plagiarising his Critical Analysis Document
- Findings
- Actions showed a lack of integrity, failure to act honourably, to be accountable for his actions and to set a good example
- Penalty
- A caution order not to repeat
- Required to pay £ 2,500 in Costs

Mr N S

- Findings
- Submitted a critical analysis which was not his own work
- Copied critical analysis prepared previously by his supervisor
- Penalty
- Expelled with costs of £ 5,000

Mr N S (Appeal)

- Findings
- He appealed on the grounds that ...”he had been led astray by the supervisor who invited him to copy his work”
- Penalty
- Found no reason or justification to overturn the previous decision to expel him
- Further costs of £ 3,310

RICS Core Values

- Know and act within your limits
- *Be aware of the limits of your competence and don't be tempted to work beyond these. Never commit to more than you can deliver*
- Be objective at all times
- *Give clear and appropriate advice. Never let sentiments or your own interests cloud your judgement*

RICS Core Values

- Always treat others with respect
- *Never discriminate against others*
- Set a good example
- *Remember that both your public and private behaviour could affect your own, the SCSi / RICS and other member's reputations*

Mr A F

- Findings
- Found guilty of sexual harassment and unfair dismissal of female employee
- Admitted the charge
- Had practiced since 1979 with no previous complaints
- Penalty
- Expelled with costs of £ 4,054

Mr B M

- Findings
- Convicted of drink driving
- 8 weeks imprisonment and 8 year driving ban
- Had a previous conviction
- Practiced for 40 years with no previous incidents
- Penalty
- Reprimand and £ 500 fine
- No publication locally
- Costs £ 3,268

Mr M R

- Findings
- Had County Court Judgement against him for:-
- Cultivating cannabis (Medicinal?)
- No shotgun licence or fire arms certificate
- Penalty
- Member cannot resign until all proceedings against him have been completed
- Cautioned with costs of £ 1750

RICS Core Values

- Have the courage to make a stand
- *Be prepared to act if you suspect a risk to safety or malpractice of any sort*
- Comply with relevant laws & regulations
- *Avoid any action, illegal or litigious, that may bring the profession into disrepute*

Mr S K

- Findings
- Failure to pay invoice for £ 700 for work done by another surveyor
- Penalty
- Reprimanded with condition that invoice to be paid within 28 days
- Costs £ 3,252

RICS Core Values

- Avoid conflicts of interest
- *Declare any potential conflicts of interest, personal or professional to all relevant parties*

Mr J McA

- Findings
- Supplying surveying services in your personal capacity to potential customers of your employer without your employer's knowledge
- He did work on the side (“nixer” “foxe” “”)
- No professional indemnity insurance
- Not registered with the RICS
- Penalty
- Expelled with costs of £ 3,796

RICS Core Values

- Respect confidentiality
- *Maintain the confidentiality of your client's affairs. Never divulge information to others unless it is necessary*

Liability and Defences

- Both companies and individuals may be liable for criminal offences
- In order to be liable for criminal offence, all constituent elements of the offence must be established beyond reasonable doubt by the prosecution
- SCSI / RICS Disciplinary Panels have to make decisions based on balance of probabilities.
- The ONLY defence which is likely to have any bearing in certain limited circumstances is that of DURESS

Duress

- Definition
- Is the threat of immediate death or serious personal violence which compels the person to commit the crime in question
- Test
- Is objective
- What would the reasonable person have done when faced with that situation?

Invalid Defences

- That the person was not aware that the activity constituted a crime
- That the person did not or would not make a personal gain from the activity
- That the conduct constituting the offence was widely practised and considered to be normal business practice
- That the conduct constituting the offence was necessary for a party to remain competitive

Invalid Defences

- That the person was following the instructions of a superior in the organisation
- That there were threats of adverse physical or financial consequences made to the person to make him commit the offence (unless they were sufficient to constitute duress)
- That the offence did not succeed.
 - *TI Anti-corruption Code – March 2005 discussion draft*

Conclusions

- Maintaining ethical standards in a challenging construction market relies to a significant degree on the moral motivation of the professional rather than their compliance with a rigid set of rules
- E.g. drivers don't break speed limits because of the rules of the road but because of the threat of getting caught and being punished
- When Professionals are seen to be escaping punishment after behaving unethically then the whole membership suffers as the public lose faith in the integrity of the Society

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- **WEBSITES**
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- http://www.rics.org/Regulations/Conductcases/disciplinary_panel_hearing_reg_030908.html
- http://www.rics.org/Regulations/Conductcases/finding_eaton_160908.html
- <http://www.rics.org/newregulation/memhelp.html>

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