

Professional ethics in the construction industry



Introduction

The business news headlines of ethical meltdowns of global companies such as Enron, WorldCom, and Tyco, which now have become synonymous with greed, serve as a key reminder to the companies and individuals in business to practice ethical behaviour (Doran, 2004). One of the most frequently reported unethical practices in business is bribery, described as: “ the offering of some good, service or money to an appropriate person for the purpose of securing a privileged and favourable consideration (or purchase) of one’s product or corporate project” (Almeder and Humber, 1983, cited in Johnson, 1991: 327).

Building professionals have gain integrity and respectability through professional bodies such as the Royal Institution of Chartered Surveyors (RICS), Malaysian Institute of Architects (PAM), The Institution of Engineers Malaysia (IEM), and Institution of Surveyors Malaysia (ISM), which reflects the professionals of construction industry. These professional standards and ethics are embodied in codes of practice, which define the roles and obligations professionals (Harris et al., 1995) and are the cornerstone of any ethics programme (Calhoun and Wolitzer, 2001).

Ethics and Professionalism

The Oxford English Dictionary defines ethics as the moral principles that govern or influence a person’s conduct. Ethics, as defined by Doran (2004), is the discipline dealing with what is good and bad about moral duty and obligation; a set of accepted moral principles and values about what ought to be; a theory or system of moral principles governing the appropriate conduct for an individual or group; and a code of morality. Doran points out that “
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ethics is something that the industry needs to talk more about, agree on, and put into wider practice” (2004: 4). Hinman (1997) distinguishes morals and ethics by regarding morals as first order beliefs, and practices about what is good and bad which guide behaviour; while ethics as second order, reflective consideration of moral beliefs and practices.

Martin (2000), defines professionalism as setting aside personal values, feelings, and benefits in order to fulfill the obligations inhered in professional roles. Ethical behaviour, in construction context, is determined by the level of trustworthiness and integrity with which organizations and individuals perform their business (Mason, 2009).

In a survey by Vee & Skitmore (2003), it was agreed by 93% of the respondents that “ business ethics” should be driven or governed by “ personal ethics”, where there is a need to maintain the balance of both the requirements of the client and the impact on the public. Greenhalgh (1997), describes the core of professionalism as the self-reliant control of a group of experts possessing honorific status. Ethics have a role to play in general business practice despite the term “ business ethics” being called an oxymoron (Ferguson, 1994). The applicability of general concepts of ethics to business is now realized after the recent appearance of greater consensus on this issue. This has been explained on the grounds that business exists not solely to accommodate certain individuals, but also to serve the society and, conforms to collective and social needs (Cohen and Grace, 1998) and environment in general (Fleddermann, 1999). Put differently, the spirit of any literal profession cannot be attained without an ethics element (Bowie, 1991).

Professional Ethics in Construction Industry

Professional ethics as defined by Martin (2000), consists of moral requirements attached to a profession and imposed on its members, together with ethical dilemmas created when there is a conflict of interest or the requirements are too vague to give guidance. Bayles (1988) describes professional ethics as a system of behavioural norms. Such norms ensure that professional does not take advantage over the client due to the knowledge differential - the application of customer protection through self-regulation. Construction professionals, for instance, engineers, architects, project managers, surveyors and contractors, have the fundamental right of professional conscience (Martins and Schinzinger, 1996, cited in Fleddermann, 1999, p. 87). Another important feature of ethics in the construction industry is "personal ethics" - often interpreted by construction professionals as just treating others with the same point of honesty that they would want to be treated (Badger and Gay, 1996). Yet, it has been suggested that professionals in general tend to believe that their responsibilities to the client far outweigh the public (Johnson, 1991).

An Australian study by Vee & Skitmore (2003), demonstrates that most organizations subscribed to a professional code of ethics (90%), and many (45%) had an ethical code of conduct in their employing organizations. Reeck (1982) notes that ethical codes provide guidance for professionals in determining proper action. A South African study based on the work done in Australia shows that a new suite of professional Acts promulgated in 2000 in South Africa had boosted the profile of ethics (Vee & Skitmore, 2003).

However, Henry (1995) cautions that ethical codes do not solve moral

dilemmas but do help to raise the levels of awareness and so encourage ethical practice.

Professional Misconduct and its Impact to the Construction Industry

The renowned cases of corporate malfeasance such as Enron reflect the unethical business practices that resulted in companies rapidly lose their reputations; shareholders revolt, unemployment, besides causing the whole industries to come under suspicion (Doran, 2004). Doran's research has shown that unethical behaviour affects the public's perception of the industry (61%), and more significantly, it affects the level of trust between clients and contractors (74%), and between contractors and design professionals (60%).

As a matter of fact, codes of practice alone are insufficient to ensure ethical conduct in the construction industry. Ethical misconducts continue to happen in the construction industry, for instance, collusive tendering that results in apparently competitive bids, price fixing, or market distribution strategies that prohibit the spirit of free competition and defraud clients (Zarkada-Fraser, 2000), bid-cutting (May et al., 2001), bid-shopping, cover pricing, hidden fees and commissions and compensation for unsuccessful tenderers (Ray et al., 1999; Zarkada-Fraser and Skitmore, 2000), together with "withdrawal" (Zarkada, 1998: 36) where a tenderer withdraws their bid after consultation with other tenderers.

Other frequently reported unethical practices are related to fraud, breach of confidence and negligence. Deceit, trickery, sharp practice, or breach of confidence, by which it is sought to gain some unfair or dishonest advantage,

is the description of the unethical practice of fraud (Bolgna et al., 1996: 9). A common breach of confidentiality is whistle blowing, described as the act of an employee of informing the public or higher management of unethical or illegal behaviour by an employer or supervisor (Johnson, 1991: 32).

Negligence is the “ failure to exercise that degree of care which, in the circumstances, the law requires for the protection of those interests of other persons which may be injuriously affected by the need of such care”.

(Delbridge et al., 2000). The main sources of negligence are design negligence, design defect, production defect or a combination of these factors (Thorpe and Middendorf, 1980: 75).

Barriers that Limit Professional and Ethical Behaviour

Brien (1998), states that the cause of ethical failure in an organization can often be traced to its organizational culture and also the failure of the leader to encourage ethical practices among the members. In spite of the fact that personal ethics that constitute to perception of beliefs, values, personality and background, any tendency of an individual towards ethical conduct is strongly influenced by the value systems reflected by the employing organization (Mason, 2009). According to one study by Pearl et al. (2007), the extent to which ethical internal control is exercised within an organization will influence the difficulty facing any professional community.

When the participants of the construction industry get caught in a compromising situation, the temptation for them to be unethical can be almost irresistible which is particularly true at the contractor level. The pressure on contractors are emphasized by Stansbury (2005), Chairman of Transparency International (UK) that, the majority of contractors engaged in

corruption are forced by the way the industry and the political environment operate. Furthermore, there is no consensus on precisely what constitutes unethical behaviour and what should be done to improve it (Mason, 2009).

Improving Professional Ethics in the Construction Industry

There are contravening opinions as to whether or not the adoption of ethical codes has enriched ethical standards in the construction industry. Indeed, some commentators have even suggested that an ethical code is nothing more than public relations “ window dressing” (Starr, 1983). Mason (2009), in his research describes that a single-wide code can contribute to the development of ethical standards within the construction industry as “ the first line of defense against corruption” (Uff, 2003). The Code was intended to apply to all professionals of construction industry regardless of their qualification or affiliation. The principles are set out as accepted behaviour benchmark and regroup into seven qualities as honesty, fairness, fair reward, reliability, integrity, objectivity and accountability. Even so, Mason indicates that the change for a better ethical standards of conduct in the industry can only be achieved by reducing the chances for construction participants to consider it a need to draw advantage at someone else’s expense. He points out that other measures such as longer term relationships and collaborative working in the industry also play an equally substantial role in ethical improvement.

Mason (2009), suggests that one way to improve ethical standards is simply by enforcing the law where unethical conduct is also a breach of the criminal law. This can be illustrated by the enforcement activity in the UK by the Office of Fair Trading (OFT 2007). The OFT aim is to ensure a fair competition

during tender bid stages, which regards collusion as a contravention of competition, and the OFT has continues to conduct investigation to battle corruption.

Doran's research (2004) has implied that the construction industry should get more training on professional ethics, where 97% thought that ethics training should begin at the collegiate level. Despite the trend towards increased training in the construction industry continues to grow, the initiatives to offer training on ethics is seldom heard. Doran suggests that companies should adopt ethical codes before increasing the training on ethics so that training will be more goal-orientated.

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