

Session 5

3.4. Professional ethics

Professional ethics encompass the personal, organizational and corporate standards of behavior expected of professionals.

Professionals and those working in acknowledged professions, exercise specialist knowledge and skill. How the use of this knowledge should be governed when providing a service to the public can be considered a moral issue and is termed professional ethics.

Professionals are capable of making judgments, applying their skills and reaching informed decisions in situations that the general public cannot, because they have not received the relevant training. One of the earliest examples of professional ethics is probably the Hippocratic Oath to which medical doctors still adhere to this day.

Components

Some professional organizations define their ethical approach in terms of a number of discrete components. Typically these include:

Honesty

Integrity

Transparency

Accountability

Confidentiality

Objectivity

Respectfulness

Obedience to the law

Loyalty

Implementation

Most professions have internally enforced codes of practice that members of the profession must follow to prevent exploitation of the client and to preserve the integrity of the profession. This is not only for the benefit of the client but also for the benefit of those belonging to the profession.

Disciplinary codes allow the profession to define a standard of conduct and ensure that individual practitioners meet this standard, by disciplining them from the professional body if they do not practice accordingly. This allows those professionals who act with conscience to practice in the knowledge that they will not be undermined commercially by those who have fewer ethical qualms. It also maintains the public's trust in the profession, encouraging the public to continue seeking their services.

Internal regulation

In cases where professional bodies regulate their own ethics, there are possibilities for such bodies to become self-serving and to fail to follow their own ethical code when dealing with renegade members. This is because of the nature of professions in which they have almost a complete monopoly on a particular area of knowledge. For example, until recently, the English courts deferred to the professional consensus on matters relating to their practice that lay outside case law and legislation.

Statutory regulation

In many countries there is some statutory regulation of professional ethical standards such as the statutory bodies that regulate nursing and midwifery in England and Wales. Failure to comply with standards can thus become a matter for the courts.

Examples

For example, a lay member of the public should not be held responsible for failing to act to save a car crash victim because they could not give an appropriate emergency treatment. This is because they do not have the relevant knowledge and experience. In contrast, a fully trained doctor (with the correct equipment) would be capable of making the correct diagnosis and carrying out appropriate procedures. Failure of a doctor to help in such a situation would generally be regarded as negligent and unethical. An untrained person would not be considered to be negligent for failing to act in such circumstances and might indeed be considered to be negligent for acting and potentially causing more damage and possible loss of life.

A business may approach a professional engineer to certify the safety of a project which is not safe. Whilst one engineer may refuse to certify the project on moral grounds, the business may find a less scrupulous engineer who will be prepared to certify the project for a bribe, thus saving the business the expense of redesigning.

Separatism

On a theoretical level, there is debate as to whether an ethical code for a profession should be consistent with the requirements of morality governing the public. Separatists argue that professions should be allowed to go beyond such confines when they judge it necessary. This is because they are trained to produce certain outcomes which may take moral precedence over other functions of society.

For example, it could be argued that a doctor may lie to a patient about the severity of their condition, if there is reason to think that telling the patient could cause them so much distress that it would be detrimental to their health. This would be a disrespect of the patient's autonomy, as it denies them information on something that could have a great impact on their life. This would generally be seen as morally wrong. However, if the end of improving and maintaining health is given a moral priority in society, then it may be justifiable to contravene other moral demands in order to meet this goal.

Separatism is based on a relativist conception of morality that there can be different, equally valid moral codes that apply to different sections of society and differences in codes between societies (see moral relativism). If moral universalism is ascribed to, then this would be inconsistent with the view that professions can have a different moral code, as the Universalist holds that there is only one valid moral code for all.

3.4.1. Duties to itself

Man, as an individual, stands in relation to himself. He has two aspects: his individuality and his universal essence. His Duty to Himself consists partly in his duty to care for his physical preservation, partly in his duty to educate himself, to elevate his being as an individual into conformity with his universal nature.

Explanatory: Man is, on the one hand, a natural being. As such he behaves according to caprice and accident as an inconstant, subjective being. He does not distinguish the essential from the unessential. Secondly, he is a spiritual, rational being and as such he is not by nature what he ought to be. The animal stands in no need of education, for it is by nature what it ought to be. It is only a natural being. But man has the task of bringing into harmony his two sides, of making his individuality conform to his rational side or of making the latter become his guiding principle. For instance, when man gives way to anger and acts blindly from passion he behaves in an uneducated way because, in this, he takes an injury or affront for something of infinite importance and seeks to make things even by injuring the transgressor in undue measure. It is a lack of education to attach oneself to an interest which does not concern him or in which he cannot accomplish anything through his activity. For it is reasonable to engage one's powers upon such an interest as is within the scope of one's activity. Moreover, if a man becomes impatient under the regular course of events [Schicksals] and refuses to submit to the inevitable he elevates his particular interest to a higher degree of importance than his relation to other men and the circumstances warrant.

To Theoretic Education there belong variety and definiteness of knowledge and the ability to see objects from points of view from which things are to be judged. In addition one should have a sense for objects in their free independence without introducing a subjective interest.

Explanatory: Variety of knowledge in-and-for-itself belongs to education for the reason that man, through this, elevates himself above the particular knowledge of insignificant things that surround him to a universal knowledge through which he attains to a greater share in the common stock of information valid for other men and comes into the possession of universally interesting objects. When man goes out beyond his immediate knowledge and experience he learns that there are better modes of behavior and of treating things than his own and that his own are not necessarily the only ones. He separates himself from himself and comes to distinguish the essential from the unessential. Accuracy of information relates to essential distinctions, those distinctions which appertain to objects under all circumstances. Education implies the forming of an opinion regarding relations and objects of the actual world. For this it is requisite that one knows what the nature and the purpose of a thing is and what relations it has to other things. These points of view are not immediately gained through sensuous intuition but through attentive study of the thing, through reflection on its purpose and essence, and of whether the means of realizing the same are adequate. The uneducated man remains in the state of simple sensuous intuition, his eyes are not open and he does not see what lies at his very feet. With him it is all subjective seeing and apprehension. He does not see the essential thing. He knows only the nature of things approximately and this never accurately, for it is only the knowledge of general points of view that enables one to decide what is essential. They present the important aspects of things and contain the principal categories under which external existences are classified, and thus the work of apprehending them is rendered easier and more accurate.

The opposite of not knowing how to judge is to make rash judgments about everything without understanding them. Such rash judgments are based on partial views, in which one side is seized and the others overlooked, so that the true concept of the thing is missed. An educated man knows at once

the limits of his capacity for Judgment. Moreover, there belongs to culture the sense for the objective in its freedom. It consists in this: that I do not seek my special subjectivity in the object but consider and treat the objects as they are in-and-for-themselves in their free idiosyncrasy: that I interest myself in them without seeking any gain for myself. Such an unselfish interest lies in the study of the sciences when one cultivates them for themselves. The desire to make use of natural objects involves the destruction of those objects. The interest for the fine arts is also an unselfish one. Art exhibits things in their living independence and leaves out the imperfect and ill formed and what has suffered from external circumstances. The objective treatment consists in this: that it has the form of the universal without caprice, whims or arbitrariness and is freed from what is strange or peculiar, etc. and, if one's aim is the genuine object itself and not a selfish interest, it must be grasped in the inner essential nature.

Practical Education entails that man, in the gratification of his natural wants and impulses, shall exhibit that prudence and temperance which lie in the limits of his necessity, namely, self-preservation. He must (a) stand away from and be free from the natural (b) on the other hand, be absorbed in his avocation, in what is essential and therefore, (c) be able to confine his gratification of the natural wants not only within the limits of necessity but also to sacrifice the same for higher duties.

Explanatory: The freedom of man, as regards natural impulses, consists not in his being rid of such impulses altogether and thus striving to escape from his nature but in his recognition of them as a necessity and as something rational; and in realizing them accordingly through his will, he finds himself constrained only in so far as he creates for himself accidental and arbitrary impressions and purposes in opposition to the Universal. The specific, accurate measure, to be followed in the gratification of wants, and in the use of physical and spiritual powers, cannot be accurately given but each can learn for himself what is useful or detrimental to him. Temperance in the gratification of natural impulses and in the use of bodily powers is, as such, necessary to health. Health is an essential condition for the use of mental powers in fulfilling the higher vocation of man. If the body is not preserved in its proper

condition, if it is injured in any one of its functions, then it obliges its possessor to make of it a special object of his care and, by this means, it becomes something dangerous, absorbing more than its due share of the attention of the mind. Furthermore, excess in the use or disuse of the physical or mental powers results in dullness and debility.

Finally, moderation is closely connected with Prudence. The latter consists in reflecting on what one is doing, so that in his enjoyment or work he is not wholly given up to this or that individual state, but remains open to consider something else which may also be necessary. A prudent person distinguishes himself mentally from his condition, his feeling, his occupation. This attitude of not being completely absorbed in one's condition is on the whole requisite in the case of impulses and aims which though necessary are not essential. On the other hand, in the case of a genuine aim or occupation, one's mind must be present in all its earnestness and not at the same time be aloof from it. Hence Prudence consists in being aware of all the details and aspects of the work.

As to what concerns one's specific calling, which appears as Fate, this should not be thought of in the form of an external necessity. It is to be taken up freely, and freely endured and pursued.

Explanatory: With regard to the external circumstances of his lot and all that he immediately is, a man must so conduct himself as to make it his own; he must deprive them of the form of external existence. It makes no difference in what external condition man finds himself through good or bad fortune, provided that he is just and right in what he is and does, i.e. that he fulfils all sides of his calling. The Vocation of a man, whatever his condition in life may be, is a manifold substance. It is, as it were, a material or stuff which he must elaborate in every direction until it has nothing alien, brittle and refractory within it. In so far as he has made it perfectly his own for himself, he is free therein. A man becomes the prey of discontentment chiefly through the circumstance that he does not fulfil his calling. He enters into a relation whom he fails to assimilate thoroughly; at the same time he belongs to this calling: he cannot free himself from it. He lives and acts, therefore, in an adverse relation to himself.

To be Faithful and obedient in his vocation as well as submissive to his fate and self-denying in his acts, these virtues have their ground in the giving up of vanity, self-conceit, and selfishness in regard to things that are in and for themselves necessary.

Explanatory: The Vocation is something universal and necessary, and constitutes a side of the social life of humanity. It is, therefore, one of the divisions of human labor. When a man has a Vocation, he enters into cooperation and participation with the Whole. Through this he becomes objective. The Vocation is a particular, limited sphere, yet it constitutes a necessary part of the whole, and, besides this, is in-itself a whole. If a man is to become something he must know how to limit him that is, make some specialty his Vocation. Then his work ceases to be an irksome restraint to him. He then comes to be at unity with himself, with his externality, with his sphere. He is a universal, a whole. Whenever a man makes something trifling, i.e. unessential or nugatory, his object and aim, then the interest lies not in an object as such, but in it as his object. The trifling object is of no importance by itself, but has importance only to the person who busies himself with it. One sees in a trifling object only oneself; there can be, for example, a moral vanity, when a man thinks on the excellence of his acts and is more interested in himself than in the thing. The man who does small things faithfully shows himself capable of greater ones, because he has shown his obedience, his self-sacrifice in regard to his own wishes, inclinations and fancies.

Through intellectual and moral education a man receives the capacity for fulfilling duties toward others, which duties may be called real duties since the duties which relate to his own education are, in comparison, of a more formal nature.

In so far as the performance of duties appears more as a subjective attribute of the individual, and to pertain chiefly to his natural character, it is properly called Virtue.

In as much as Virtue in part belongs to the natural character it appears as a peculiar species of morality and of greater vitality and intensity. It is at the same time not so closely connected with the consciousness of duty as is Morality proper.

3.4.2. Duties for the professions

Professional responsibility is the area of legal practice that encompasses the duties of attorneys to act in a professional manner, obey the law, avoid conflicts of interest, and put the interests of clients ahead of their own interests.

Professional responsibility violations in general

Common violations include:

Conflicts of interest. This occurs where the same lawyer or firm is representing both sides in a lawsuit, or previously represented one side. In countries with the adversarial system of justice, a conflict of interest violates the right of each client to the undivided, zealous loyalty of his lawyer. Conflicts may also occur if the lawyer's ability to represent a client is materially limited by the lawyer's loyalty to another client, a personal relationship, or other reasons.

Incompetent representation. Attorneys have a duty to provide competent representation, and the failure to observe deadlines or conduct thorough research is considered a breach of ethics.

Mishandling of client money. Clients often advance money to lawyers for a variety of reasons. The money must be kept in special client trust accounts until it is actually earned by the lawyer or spent on court fees or other expenses.

Fee-splitting arrangements. Attorneys may not split fees with non-attorneys, or with other attorneys who have not worked on the matter for which the client is represented.

Disclosure of confidential information. Lawyers are under a strict duty of confidentiality to keep information received in the course of their representations secret. Absent law to the contrary, lawyers may not reveal or use this information to the detriment of their clients.

Communication with represented parties. An attorney may not communicate directly with a person who they know to be represented by counsel with respect to a matter for which the attorney is seeking to communicate. For example, in a civil suit, the plaintiff's attorney may not speak to the defendant directly if the attorney knows that the defendant is represented by counsel without their attorney's express consent.

Improper solicitation and advertising. Attorneys generally may not solicit business by personally offering their services to potential clients who are not already close friends or family members. Advertising by attorneys is also strictly regulated, to prevent puffery and other misleading assertions regarding potential results.

3.4.3. Duties to colleagues

Having analyzed the job and your relationship to it in the previous card, now think about all those people who can help you in the job – your key relationships. Draw a diagram to describe the network and add names or job titles to it. You can expect to include people like your line manager, your mentor, other members of teaching staff, administration and support staff, your students – and family and friends! You can then complete a second diagram in which you list those people and relationships, the state of each relationship's present condition and what you have to do about it. By carrying out these activities, you will have made explicit what was formerly implicit. You now need to act on the basis of the output.

Your line manager

Your relationship with your line manager is a key one. You can expect your line manager to:

- personify the institution and its values;
- be your principal link with the institution and keep in touch with you;
- attend to your induction into the job;
- Say what is expected of you, what the constraints are, what resources you will have and provide the information you need;
- monitor your performance, give you feedback and help you to develop in the job and to overcome any difficulties;
- help to foster your relationship with other colleagues.

In return your line manager will expect you to:

- be committed to the institution and its values;
- keep in touch and ask for and use the information you need;
- welcome feedback and seek continuous improvement, and discuss your difficulties as they arise;
- contribute to the development of a sense of collegiality.

Your academic colleagues your academic colleagues will be an obvious source of support.

Cultivate them and share experiences with them. Both parties will have a great deal to gain from such exchanges. A mentoring system is a case in point. Take opportunities to work with colleagues who will enable you to learn from them, such as joint or team teaching – and ask for feedback.

Your administrative colleagues recognize that you depend upon the administration for the delivery of a high quality service to your students – for general information and organization, for student data and the maintenance of records, for the provision of computing services, for house services and

so on. So nurture your relationships with the administration and ensure that such relationships are friendly and productive.