

# Professional Ethics in Construction – a lost cause?

CIC Seminar

(presentation for Society of  
Construction Law, UK)

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# Talk in outline

- *The ethical dimension: good, bad and the ugly*
- *The unregulated sectors*
- *Corruption – a problem half-solved*
- *Ethics – two remaining issues*

# Professional Ethics: Are they sufficient?

“Anti-corruption efforts often attempt to create an ethical standard by which individuals are supposed to abide...

...ignoring the fact that if such officials were moral beings, the corruption would not occur in the first instance.”

Source: Review of anti-corruption strategies,  
Australian Institute of Criminology

# Professional Ethics: Good, bad and Ugly

- *RICS*
  - *Law Society*
  - *CIOB*
  - *CI Arb*
  - *Institute of*
  - ...
- Strong on ethical principles, regulation of firms, disciplinary action visible and publicised
- Strong on ethical principles, evidence of regulation/ disciplinary action weak?
- Statement of principles only

# Ethics: Conclusion 1

- *An collection of ethical rules or principles is insufficient as a corruption deterrent*
- *An effective deterrent requires five elements:*
  - *Clear rules, effectively communicated*
  - *Repeated reminders that rules exist & will be policed*
  - *An effective regulatory/policing regime*
  - *Regular publicity that [members] are being sanctioned*
  - *An overarching independent governing body, with periodic review of the rules*

# Unregulated Sectors

- *Are Bribery/Corruption opportunities available?*
  - *Amongst UK professionals – Few opportunities*
  - *Main contractor/Subcontractors – ?*
    - *Do individuals have opportunity/freedom for corrupt behaviour?*
    - *Institutionalised? Rare*
  - *Subcontractors – opportunities when seeking new work (survival based)*
  - *“Door openers”: Business Development market – Some opportunities*
- *Compare with:*
  - *Work outside UK*
    - *Less regulation/transparency with procurement*
    - *More likely to find individuals willing to participate in corruption?*
  - *Permitted kick-backs under Corporate Supply Agreements*
    - *“value-added” performance*
    - *Group trade volume discounts*
    - *Referral fees (undisclosed)*

# Corruption – a problem half solved?

What type of “Unethical Conduct”? *	Addressed in UK?
Negligence (67%)	
Conflict of interest (48%)	
Collusive tendering (44%)	Cover Pricing investigation, Competition Commission
Fraud (35%)	Theft Act 1968
Confidentiality/propriety breach (32%)	
Bribery (26%)	Bribery Act 2010 EU Procurement rules
Violation of environmental ethics (20%)	Environmental Protection Act 1990

\*C Vee & RM Skitmore (2003) Australia

# Ethics: Conclusions 2

- *Bribery opportunities not significant in UK construction, nor institutionalised – but compare with non-UK*
- *Poor appreciation, in UK, that claims for amounts to which a party is not entitled is an Indictable Criminal Offence*

*Theft Act 1968 (obtaining property by deception)*

- *Whistleblowers*
  - *Where are they? Why so few?*
  - *To whom should they make a complaint?*



# Questions?

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