

Professional Ethics and Codes of Conduct.

Profession & Business 1

Level 5

Mod Code: M5X01982

Professional ethics

Professional ethics encompass the personal, and corporate standards of behaviour expected by professionals.

The word professionalism originally applied to vows of a religious order. By at least the year 1675, the term had seen secular application and was applied to the three learned professions: Divinity, Law, and Medicine.

The term professionalism was also used for the military profession around this same time.

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.

It is capable of making judgments, applying their skills, and reaching informed decisions in situations that the general public cannot because they have not attained the necessary knowledge and skills.

One of the earliest examples of professional ethics is the Hippocratic oath to which medical doctors still adhere to this day



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Typically these include:

- Honesty
- Integrity
- Transparency
- Accountability
- Confidentiality
- Objectivity
- Respect
- Obedience to the law
- Loyalty

Implementation

Most professionals 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 that 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 a 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.

RIBA Code of Professional Conduct

The Institute of British Architects was founded in 1834 for ‘...the general advancement of Civil Architecture, and for promoting and facilitating the acquirement of the knowledge of the various arts and sciences connected therewith...’. It became the Royal Institute of British Architects(RIBA) in 1837 when it was awarded a Royal Charter.

The RIBA maintains a Code of Professional Conduct for its members to promote professional good conduct and best practice. It sets out the standards of professional conduct and practice that the institute requires of its members. Members are expected to be guided by its spirit as well as its precise and express terms

The current edition of the RIBA Code of Professional Conduct came into effect on 1 January 2005. It is supported by a series of nine guidance notes.

It comprises; three principles of professional conduct and professional values that support those principles and guidance notes which explain how the principles can be upheld:

- 1.Integrity - Members shall act with honesty and integrity at all times
- 2.Competence - In the performance of their work members shall act competently, conscientiously and responsibly. Members must be able to provide the knowledge, the ability and the financial and technical resources appropriate for their work.
- 3.Relationships - Members shall respect the relevant rights and interests of others.

Things to consider

- Integrity, conflicts of interest, confidentiality and privacy, corruption and bribery.
- Competition.
- Advertising.
- Appointments.
- Insurance.
- Continuing professional development.
- Relationships.
- Employment and equal opportunities.
- Complaints and dispute resolution.

ARB code of conduct

The Architects Registration Board (ARB) is the independent statutory regulator that regulates the architects' profession in the UK to ensure standards are maintained.

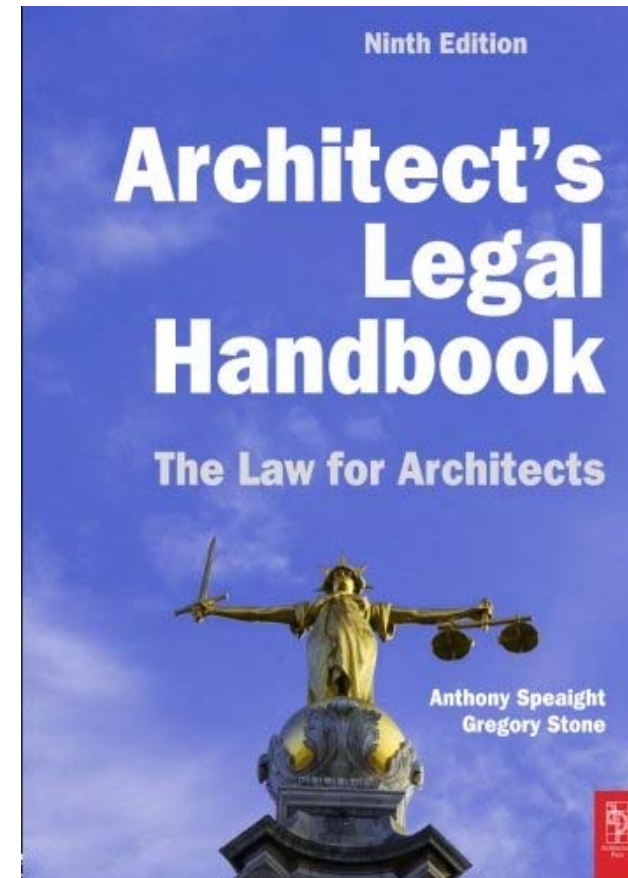
Section 13 of the Architects Act 1997 requires that the ARB issue a code setting standards of professional conduct and practice expected of persons registered as architects under the Act for the benefit of the clients they serve and to maintain public confidence in the profession.

Architects are expected to be guided by the spirit of the code as well as its express terms. Whilst failure to comply with the provisions of the code may not in itself constitute unacceptable professional conduct or serious professional incompetence, it will be taken into account in disciplinary proceedings by the ARB's Professional Conduct Committee.

Twelve standards are described, with further detail provided in supplemental clauses:

- Be honest and act with integrity.
- Be competent.
- Promote your services honestly and responsibly.
- Manage your business competently.
- Consider the wider impact of your work.
- Carry out your work faithfully and conscientiously.
- Be trustworthy and look after your clients' money properly.
- Have appropriate insurance arrangements.
- Maintain the reputation of architects.
- Deal with disputes or complaints appropriately.
- Co-operate with regulatory requirements and investigations.
- Have respect for others.

- The Legal Requirements for Practice



Forms of Practice.

There are generally 4 options for professional practice:

Sole Trader

Partnership

Limited Liability Company

Limited Liability Partnership

Sole trader

There are two forms of sole trader:

- Sole proprietor.
- Sole practitioner.

A proprietor is usually a trader selling physical products to customers.

A practitioner is usually a professionally-qualified person selling services to clients.



Architects can practice as sole traders, either with employed staff or entirely alone.

Many architects choose this form of practice attracted by the freedom of conducting their own business, on their own account. This is generally considered one of the hardest forms of practice, in that they can feel very isolated from fellow professionals.

A sole trader is a legal entity consisting of one liable individual, the individual 'owns' the business, and in effect, this individual holds all of the equity and all of the liability for the business.

As the sole trader holds all of the equity in the business, there is no practical distinction between the business and the owner.

The owner is responsible for all liability, including damages awarded for breach of contract, or tort.

The sole trader is liable for debts incurred, regardless of how much has been invested in the business. This means that the owner has unlimited liability for any debts of the business, and if the owner cannot repay outstanding debts, then all of the personal assets of that individual may be used to repay the debts.

In the event that personal assets do not cover the debt then the owner may be declared personally bankrupt.

Partnership

According to the Partnership Act 1980, a partnership is defined as:

‘...the relationship, which subsists between two or more persons carrying on business in common with a view to profit’.

A partnership is therefore a collection of individuals and not a corporate body. There is no legal requirement for a written agreement but it is highly recommended that a partnership is formalised by a formal deed of partnership in which rights and responsibilities of the partners are set out.



A partnership is effectively the same as sole trader businesses except that the equity is owned by two or more individuals who are jointly and separately liable for all of the debts of the business.

Each partner is liable jointly with the others for all the debts and obligations incurred.

The Partnership is liable for all negligent acts committed by any one of its partners, even though the others may have taken no part in such negligent action.

This also applies to people who were partners at the time of the negligent action, but who have subsequently retired from the practice.

A partner's liability can extend to all of their business and personal assets.

Advantages:

- There are few formalities to setting up and trading as a partnership.
- The financial resource of more than one person is likely to be better than those of a sole proprietorship.
- Responsibility can be shared
- There are good opportunities of expansion due to the ability of collective resources from all the partners
- Employees may share profits via bonuses.

Disadvantages:

- Partnerships have unlimited liability
- One troublesome partner could cause difficulties for the other partners , as the action of one partner makes the others liable.

Private Limited Liability Company

A private limited liability company is the traditional alternative to working as a sole practitioner or partnership.

A limited liability company (LTD) is a legal entity separate from all its members (shareholders). There is no limit on the number of members that form a LTD company, and a board of directors, who carry no personal liability, run the company.

The liability of each shareholder is therefore limited to the nominal value of his or her shareholding. A limited liability company is governed by the Companies Act and must register with the Registrar of Companies.

In terms of company organisation a LTD company must have at least one director and may also have a company secretary, but must have a clearly identified management structured administered by a board of directors.

The senior level of management may include equity and non-equity directors. This structure can allow for young and talented staff to reach the top of the firm by allowing them to buy themselves into the company.

LTD companies have a number of advantages over partnerships:

- Protection of personal assets. The directors are not personally liable for the debt of the company.
- It is easier for a LTD company than a partnership to raise funds from outside sources of finance.
- Tax advantages. The taxation position is relatively simple and overall taxation can be lower than a partnership
- All employees, including directors are subject to PAYE, this can be favorable as it avoids sudden large tax payments.
- It is easier to remove an unsatisfactory director than an unsatisfactory partner.
- The company does not dissolve when a director leaves or shares change hands and there are no complex legal procedures involved.
- Companies are internationally recognised and so it may be easier to develop business relationships overseas than it would otherwise be with a partnership.

Disadvantages:

- The companies finances are in the public domain as annual accounts have to be filed at companies House.
- There can be an administrative burden.

Limited Liability Partnerships (LLP)

Limited liability partnerships (LLP) are most commonly found in the accountancy and legal professions, however they are now more frequently found as a form of practice in the architecture profession.

Limited liability partnership is a relatively recent business structure, and combines elements of the traditional partnership with those of limited liability companies.

Created and governed by the Limited Liability Partnership Act 2000, this hybrid structure seeks to retain the best from best worlds (traditional partnership and limited liability companies), this means an LLP can absorb the Partnership ethos and structure with complete freedom of internal organisation, with the only exception that two of its personnel must be designated to perform duties similar to those of a company secretary and director.

LLPs are highly flexible entities and, depending upon the terms of agreement drawn up to govern such them, facilitate the addition and removal of members in a way which does not apply so readily to the traditional partnership structure.

Usually a LLP is governed according to a LLP agreement. This agreement is similar to a company's Memorandum and Articles but the key point is that, like in a company a member cannot lose more than they have invested, unless fraud or some other form of wrongdoing is proven.

Advantages:

- A limited liability partnership is liable for its debts and other obligations but its members are not liable for the debts of the partnership.
- There are no restrictions on the number of members.
- Registration with Companies House protects the company's name by law, and prevents anyone from trading with the same name.
- The death or resignation of a director does not affect the structure of the company which can continue to trade as before.

Disadvantages:

- There can be complex and costly start-up procedure.
- Accounts must be prepared in accordance with accounting standards and must be audited.
- If the turnover of the company is over a certain threshold then company accounts must be submitted every year. This can incur additional cost as accountants and auditors are required.

Insurances

Types of Insurance to consider:

- Professional Indemnity
- Public Liability
- Employers Liability
- Buildings and Contents

Insurance provides third-party protection against risks.

Risks on construction projects can be significant, and so insurance is very common, providing protection both for the insured, and for the party to whom the insured has a liability.

It is for each individual or party to decide upon insurance policies that are appropriate for their circumstances. It is very expensive to over-insure and it could be very expensive to under-insure in the event that a claim is made. For this reason, expert guidance is advisable.

Professional Indemnity Insurance

Very few professional practices have sufficient resources within their own organisations to meet anything other than minor claims brought against them in respect of professional negligence.

Professional indemnity insurance (PII), sometimes known as errors and omissions insurance (E&O), provides insurance cover against claims of negligence.

It is widely used where professional services are being provided, and will provide insurance up to a specified insured sum where negligence is proven to have been committed on the part of the service provider.

PII Cover

The intention of a professional indemnity policy is to provide an indemnity in respect of the designer's legal liability for damages in respect of claims brought against the designer for breach of professional duty.

The policy is therefore written on the basis that it covers claims made during the period of insurance. The period of insurance of professional indemnity policies is usually 12 months.

It follows that a professional indemnity policy will cover claims made against the insured during that 12-month period.

Run-off cover

When a practice comes to an end, that does not necessarily mean that the possibility of claims has come to an end.

Claims can arise for years after projects have been completed, and it is important that practitioners maintain professional indemnity insurance for as long as such a risk exists.

As the likelihood of a claim reduces as time progresses, so the cost of a run-off policy should reduce year on year.

Public liability insurance

Construction contracts will typically include a clause requiring the contractor to carry insurance to cover expense, loss, liability, claim or proceedings for personal injury or death arising from the carrying out of the construction works, or loss or damage to property other than the works.

Personal injuries of employees will be covered by the contractor's employers' liability insurance, which is compulsory for all employers under the Employers' Liability (Compulsory Insurance) Act.

All firms who employ staff are legally required to hold Employers Liability Insurance.

Personal injury or death, or loss or damage to property of third parties is covered by public liability insurance.

Common law claims for personal injury or death, or loss or damage to property can be very significant and are unlimited. The cover provided does not limit the contractor's liability.

Public liability insurance might cover against claims by:

- Members of the public visiting the business of the insured.
- Customers.
- Clients.
- People taking part in events or activities organised by the insured.
- People watching events or activities organised by the insured.
- Independent sub-contractors.
- That is, anyone that the insured interacts with as part of their business, but not employees, temporary staff, students or people on work placements (who should be covered by employers' liability insurance).

Typically, cover will be between £1 million and £5 million and will insure business premises and activities whilst making visits or working on a construction site.

Insurance will normally cover:

- Damage to property and possessions.
- Personal injury.
- Legal costs, including the claimants' legal costs incurred by the insured if they are found to be at fault.
- Consequential losses such as loss of earnings (including future loss of earnings).
- Public liability insurance and employers' liability insurance are sometimes offered in a single policy which may also cover office contents and buildings insurance requirements.

Employers' liability insurance

Employers' liability (EL) insurance is compulsory for all employers under the Employers' Liability (Compulsory Insurance) Act. All firms who employ staff are legally required to hold employers liability Insurance.

All employers must get employers' liability insurance as soon as they become an employer.

The policy must cover them for at least £5 million and come from an authorised insurer.

EL insurance will help pay compensation if an employee is injured or becomes ill because of the work they do for the employer.

Employers can be fined £2,500 every day they are not properly insured.

Employers can also be fined £1,000 if they do not display their EL certificate or refuse to make it available to inspectors when they ask.