

Why Ethics Standards are of Limited Use on Their Own for Professionals Working in Land, Property and Construction and If to be Effective How Such Standards Need to Be Embedded, Monitored and Regulated against

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Key words: Standards, risk management, professional practice, International Ethical Standards (IES), trust, client and public protection, implementation, regulation.

SUMMARY:

Last year (2015) I delivered a paper which explored the opportunities and very real benefits that could be afforded not only to professionals working in land, property and construction but also to clients, the public and society more generally by the setting, promotion and monitoring of international standards on business ethics.

A published report by the Chartered Management Institute, based in the UK, stated that trust between businesses and society is still at a low point and that there was a real danger that focusing on targets and regulations can drive dysfunctional and unethical behaviour.

However, a code of ethics on its own is potentially of limited use and this paper takes the subject further focusing on a number of specific issues. It also forms part of a Commission 1 workshop session.

Ethical behaviours is critical to both business, consumers and society in general but what more needs to be done to continue trying to change what for many is 'normal business practice'.

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1. INTERNATIONAL ETHICS STANDARDS COALITION (IESC)

I reported last year that a group of not-for-profit organisations in the land, property, construction, infrastructure and related professions had met at the United Nations in New York in November 2014.

As a result of this meeting a coalition was formed to produce the first global International Ethics Standards in our sector with the intention to align and support the ethics principles already adhered to by professionals in the sector. The Coalition believes that such a standard will de-risk property and markets for investors, businesses and the public at large and help to reassert the role that ethics plays in the global property profession.

The need for a collaborative approach to ethics was emphasised in - “Collaboration for Change” : The Edge Commission Report on the Future of Professionalism published May 2015. (http://www.edgedebate.com/?page_id=2829) At the launch Chris Blythe, Chief Executive of the Chartered Institute of Building stated:-

“The recommendations in the report highlight that change is almost impossible without industry-wide collaboration, cooperation and consensus and the professions and other key institutions can lead the way in ensuring that this collaboration is in the public interest.” -

Whilst Sean Tompkins, CEO of the Royal Institution of Chartered Surveyors added:-

“The title of the Edge Commission’s Report: ‘Collaboration for Change’ neatly encapsulates the challenge facing professions today. If professions are to remain relevant in an ever more interconnected and technologically advanced world, they will need to work together more closely.”

A large section of the report dealt with the role of ethics within modern institutions. The Executive summary for this section stated:-

1.1 Ethics, the public interest and a shared code of conduct

All institutions claim adherence to a code of ethics and an obligation to serve the public interest as a special quality that differentiates their members from those lacking a professional designation. There is, however, confusion between ethics and the public interest, which institutions should resolve by clarifying and codifying a rigorous, shared understanding of expectations at individual,

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corporate and institutional levels - raising awareness, providing guidance to members, operating a transparent sanctioning process, and moving from a tendency to exclusivity (centred on members' interests) to one of inclusivity (centred on the public interest).

The International Ethics Coalition's Trustees were encouraged that the report confirmed their own conclusions and since the Edge report was published a number of organisations who gave evidence to the commission have now joined the Ethics Coalition as partners.

The IES Trustees strongly feel that implementing one International Ethics Standard, that underpins existing codes of ethics, creates an opportunity to re-position business ethics at the heart of the world's land & real estate industry. One over-arching set of ethical principles will also help land & real estate and related professional organisations better promote values that allow ethical business to flourish.

The IES coalition as at the end of March 2016 comprises 65 organisations, from around the world (Appendix 1), with many others in the pipeline. All have agreed to implement the final standard.

Other organisations such as corporates, firms, government departments and academic bodies can join as 'supporting partners' and, although at an early stage, considerable interest has been shown and significant sign ups include a number of firms and Government departments in the UK, Mexico and UAE.

2. IES STANDARDS SETTING COMMITTEE

The IES trustees decided that in order to be transparent and objective an independent standards setting committee should be formed and asked to research and then write a high level draft standard.

Following a transparent and open recruitment process, the IES Coalition selected industry leaders and ethics experts. It is possibly one of the most diverse standards setting committee which has ever looked at ethics across land, real estate, construction, infrastructure and related professions. It was important that the standards setting committee was selected to reflect the global nature of the project.

The Standard Setting Committee is delegated with the authority to set the IES with the express requirement to *'Develop, as a group of experts, world leading international ethics standards for land, property and related professions'*

2.1 Scope of Standards Setting Committee

The IESC Trustees set the following as the scope of the Standards Setting Committee:-

1. The October 2014 meeting in New York agreed the following mission statement for the Standards Setting Committee (SSC):-

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“Develop, as a group of independent experts, world leading international ethics standards for property and related professions.”

2. The Standard Setting Committee will be appointed by the Board of Trustees but will then be an independent body and tasked with the following, which is subject to amendment:-
 - A. *Undertake a review of existing ethical standards/codes and identify areas of commonality around principles.*
 - B. *Identify where there are areas of divergence and inconsistency in the use of ethical principles.*
 - C. *Develop a standard taxonomy of terms.*
 - D. *Define the identified ethical ‘principles’ in a way that they can be understood at an international level. Definitions should include contextual information but not seek to explicitly list behaviours or actions that would constitute ‘rules’ on how to apply the ethical principles.*
 - E. *Include an explanation as to how adherence to the International Standards is intended to include compliance with local, state, regional and international laws and recognition of appropriate customs.*
 - F. *Explain, with examples, the intended relationship between the new International Ethics Standards and the codes of conduct/ethics promoted by individual organizations in the property and related professions.*
 - G. *Provide, and explain, with examples, the nature of, and the intended relationship between the new International Ethics Standards and current ethics related initiatives that are outside the property professions.*
 - H. *Produce a draft standard for consultation by December 2015*

The Trustees also stated that they would be interested to know whether there should be ‘principles of enforcement’ as part of the standards. This could be set out in a declaration at the time of IES publication. It might include guidance on the steps that need to be met in order to state that an organisation has ‘implemented’ the standards.

In January 2016 the draft standard was published. The full document can be seen at <http://www.ies-coalition.org> and the 10 high level draft principals are attached in Appendix (2)

3. NICE WORDS BUT.....

3.1 Is just producing ethics standards enough?

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Producing a set of high level ethics standards which are acceptable globally is hard enough but what happens afterwards. Without proper buy in and implementation it could be argued that they are not worth the paper they are written on.

This is the question that has been occupying the IESC who have set up an implementation sub group of Trustees to consider exactly this matter.

How does a loose grouping of like-minded organisations try to ensure that the standards are more than words whilst not being, and not intending to be a regulatory body?

All coalition members have already signed an undertaking to implement the final ethics standard within their own organisation and generally it has got to be up to each individual organisation to decide what implementation looks like.

Buy in would not be achieved by imposing some form of draconian plan as a requirement of membership. Many are rightly proud of their current ethics code whilst others admit that their own is too lightweight or needs updating.

Adoption is likely to range from replacement of an existing code, as is likely with RICS, through just referencing the international standard within current rules and codes. Either way the IESC has to ensure there is sufficient flexibility to cover all circumstances and ensure that the new standard helps to support good existing codes and reinforce the importance of ethics.

3.2 Bottom up or top down?

Guidance, best practice and case studies will all help to provide examples as to how the standard can be implemented and will be shared amongst coalition members. By keeping the topic alive and on the agenda for meetings and conferences, peer pressure alone has a big part to play. An IESC communications sub group has been working hard to produce quality material that is made freely available to members via a closed community site.

This bottom up approach will certainly go a long way to ensuing implementation but the coalition also feel that it will be critical to also get buy in from the top.

This is taking the form of support and implementation from Government departments through to adoption by large corporate end users who can also insist that the code is followed through the supply chain.

3.3 Regulation

As stated above the coalition is not a regulatory body and regulation of the standard must be left to the individual members. However it is also recognised that regulation means different things. Many make their ethical code mandatory on members but should this be measured reactively or proactively. Clearly any organisation who says they regulate their members against an ethical code is at a reputational risk if they fail to monitor

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Question to the FIG Commission 1 working group..... Should an organisations code of ethics be monitored? Should this be proactive or reactive and what are the pros and cons?

4. HOW THE ROYAL INSTITUTION OF CHARTERED SURVEYORS (RICS) HAVE CONSIDERED THE INTERACTION BETWEEN TECHNICAL STANDARDS, REGULATORY STANDARDS AND ETHICAL STANDARDS

The Royal Institution of Chartered Surveyors (RICS) has considered the interaction between technical standards, regulatory standards and ethical standards.

A major piece of work 'Our changing world' took advice from individuals, companies, organisations and institutions in 19 countries as to the challenges facing our profession in the future. The report can be downloaded at:- <http://www.rics.org/uk/knowledge/research/insights/futuresour-changing-world/> and a video which captured the drivers and trends at <https://www.youtube.com/watch?v=t6hPnE3giXw>

What was abundantly clear is that international technical standards and in particular 'having ethics at the heart of everything we do' are critical to helping to provide transparency, certainty, reduce confusion, enhance or re-build trust, provide higher standards and re-position the importance of ethics.

These are all necessary elements to stimulate investment and growth and importantly de-risk decisions.

As a result, RICS has been working with many like-minded organisations to produce a number of international standards on top of the Ethics work.

International Property Measurement Standards <http://ipmsc.org/>

International Construction Measurement Standards <http://icms-coalition.org/>

International Land Measurement Standards (website under construction)

As well as ongoing work with the well-established:-

International Valuation Standards Council. <https://www.ivsc.org/>

RICS further felt that as an international organisation, acting in the public interest, and accrediting 118,000 qualified practitioners operating in more than 140 countries it was essential that these international standards be implemented across the Institution.

As each International Standard is produced a 'Professional Statement' will be drafted to incorporate the new standard. After consultation the practice statement will be published and will in itself become mandatory on all those members belonging to the organisation. An example of this is the recently published 'RICS Property Measurement' which updates the RICS Code of Measuring Practice, 6th edition and incorporates International Property Measurement Standards (IPMS) and a professional statement.

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All mandatory rules are subject to regulation by RICS regulation which stands at arms length from the rest of the organisation when it comes to investigations and disciplinary matters.

In order to ensure that any eventual standard can be regulated it has therefore been essential for the various RICS departments to consult with each other over any International Standard consultation.

All RICS Professional Statements will also reference the future International Ethics Standard which will also be mandatory.

By taking this approach RICS will tie together the technical standards with the regulation of the standard and ethical standards. Guidance and advice is and will continue to be provided to help ensure compliance.

5. OVERCOMING CYNICISM

Bearing in mind the frequent and public examples of unethical behaviour it is not surprising that in many parts of the world there is healthy scepticism especially within the media and a section of the consumer.

The coalition also realise that expectations and business practices vary tremendously throughout the world. This was shown the recently published (February 2016) La Salle Investment Management 'Smarter Real Estate Markets' written by Dr Robin Goodchild FRICS International Director, Global Research & Strategy and Visiting Professor, University of Aberdeen Business School. A glance at the Transparency index table (Appendix 3) clearly shows this and brings into stark reality the task of introducing and implementing a global ethics standard.

Within this in mind the coalition has been producing material to help overcome this. A recent example were a series of myth busters of which three are set out below.

1. International ethics standards are too high-level to mean anything

The Hippocratic Oath is a Greek medical text that has provided an ethical foundation to the Western medical profession for over 2,500 years – the original version contained only 9 ethical principles. The benefits of creating one universal set of ethics principles for land & real estate and related professions are clear:

- i. Consistency. The International Ethics Standard (IES) principles outline what is expected as a minimum standard for ethical conduct across countries and sectors. Coalition organisations will provide detailed guidance to their members.
- ii. Transparency. Clearly stated ethical values which are promoted and discussed enable better compliance. Through global collaboration, the 64 coalition organisations are

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consulting on the standard with relevant practitioners and public and discussing how it can be implemented in different markets and sectors.

- iii. Clarity. IES aligns ethics principles already found in existing codes of conduct and creates one universal set of principles and a stronger foundation for public trust.

2. It needs a central enforcement authority for international ethics standards to work

Setting ethics standards for 2.5 million accountants globally is a crucial role performed by the International Ethics Standards Board for Accountants (IESBA) which set up in 1977. The Board provides adoption and implementation support and promotes good ethical practices globally. However, it does not have a direct enforcement role.

As yet, there isn't one universal ethics standard for our sectors.

Each of the 64 IES Coalition organisations has different ways of promoting ethics standards. This might be through providing regular advice and guidance or by proactively regulating compliance through mandating and monitoring ethics-related CPD.

Once International Ethics Standards are created, Coalition members have committed to promote effective implementation

3. One ethics standard cannot be applied globally

The International Ethics Standards will outline principles, not rules.

Principles help guide professional judgement when individuals and organisations need to decide on appropriate behaviour and action. The extensive consultation process which the IES Coalition is promoting on the draft standard will help ensure that the final published standard is globally applicable.

6. FOLLOWING THIS PAPER A SERIES OF OTHER QUESTIONS SHOULD BE CONSIDERED BY THE WORKSHOP

A. Question to the FIG Commission 1 working group

What do you see as the other challenges facing the coalition and how can these be overcome?

B. Question to the FIG Commission 1 working group

What are real life examples of ethical issues you face as surveyors in your own geographies?

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This insight will help the FIG Commission 1 working group shape the new updated FIG Ethics Code

C. Question to the FIG Commission 1 working group

FIG is about to write an update to the ethics code which will incorporate the final International Ethics Standard.

How should FIG get the message across to members around the world and how should we look to embed ethics standards into our constituent professional bodies' membership requirements, and training ?

As in RICS, FIG Commission 1 will have to consider how they intend to provide guidance across our many diverse types of members working in different fields?

Appendix 1 – List of International Ethics Standards Coalition Partners as at 1st March 2016

Up to date information can be found at www.ies-coalition.org

<ul style="list-style-type: none"> ▪ Asociacion Espanola de Analisis de Valor (AEV) ▪ American Society of Appraisers (ASA) ▪ American Society of Farm Managers and Rural Appraisers (ASFMRA) ▪ Appraisal Foundation (TAF) ▪ Association of Residential Managing Agents (ARMA) ▪ Asian association for Investors in Non-listed Real Estate Vehicles (ANREV) ▪ Asia-Pacific Real Estate Association (APREA) ▪ Asian Real Estate Association of America (AREAA) ▪ Association of International Property Professionals (AIPP) ▪ Asociacion Espanola de Geometras Expertos (AEGEX) ▪ Asociacion Profesional de Sociedades de Valoracion (ATASA) ▪ Assoimmobiliare ▪ Associazione Societa di Valutazioni Immobiliari per le Banche (ASSOVIB) ▪ Brazilian Chamber of Construction Industry (CBIC) ▪ Bulgarian Chamber of Professional Valuers (KPO) ▪ Chartered Institute of Architectural Technologists (CIAT) ▪ Chartered Institute of Building (CIOB) ▪ Chartered Institution of Water and Environmental Management (CIWEM) ▪ China Electricity Council ▪ China Institute of Real Estate Appraisers and Agents (CIREA) ▪ China Real Estate Valuers Association (CREVA) ▪ Commonwealth Association of Surveying and Land Economy (CASLE) 	<ul style="list-style-type: none"> ▪ HypZert ▪ The Indonesian Society of Appraisers (MAPPI) ▪ Initiative Corporate Governance of the German Real Estate Industry ▪ International Consortium of Real Estate Associations (ICREA) ▪ International Housing Coalition (IHC) ▪ Institute of Estate Agents, Singapore ▪ Institute of Philippines Real Estate Appraisers (IPREA) ▪ Institute of Real Estate Management (IREM) ▪ Institute of Residential Property Management (IRPM) ▪ Institute of Quantity Surveyors Indonesia. (IQSI) ▪ International Real Estate Federation (FIABCI) ▪ Institution of Civil Engineers (ICE) ▪ Institution of Surveyors of Kenya (ISK) ▪ International Right of Way Association (IRWA) ▪ International Valuation Standards Council (ISVC) ▪ Japan Association of Real Estate Counselors (JAREC) ▪ Japanese Society of Independent Appraisers (JASIA) ▪ Lonja De Propriedad De Bogota ▪ National Association of Realtors India (NAR India) ▪ National Society of Professional Surveyors (NSPS) ▪ Nigerian Institution of Estate Surveyors and Valuers (NIESV) ▪ Pro Progression ▪ Real Estate Institute of Australia (REIA) ▪ Real Estate Institute of Botswana ▪ Real Estate Syndicate of Lebanon ▪ Real Property Association of Canada (REALpac) ▪ Royal Architectural Institute of Canada (RAIC)
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<ul style="list-style-type: none"> ▪ CORFAC International ▪ Council of European Geodetic Surveyors (CLGE) ▪ Counselors of Real Estate (CRE) ▪ Dubai Real Estate Institute (DREI) ▪ ETEK (Technical Chamber of Cyprus) ▪ European Association for Investors in Non-Listed Real Estate Vehicles (INREV) ▪ FENACI ▪ Ghana Institution of Surveyors (GhIS) ▪ Hong Kong Association of Property Management Companies (HKAPMC) 	<ul style="list-style-type: none"> ▪ Royal Institute of British Architects (RIBA) ▪ Royal Institution of Chartered Surveyors (RICS) ▪ Royal Institution of Surveyors, Malaysia (RISM) ▪ Russian Society of Appraisers ▪ Singapore Institute of Building Limited (SIBL) ▪ South African Geomatics Institute (SAGI) ▪ South African Property Owners Association (SAPOA) ▪ Society of Chartered Surveyors Ireland (SCSI) ▪ SECOVI
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Appendix 2. – Summary of the draft high level principals contained in the IES consultation

Please see www.ies-coalition/consultation for further information. Note consultation ends on 28th April 2016

2 Ethical Principles

In addition to the ethical principles below, practitioners are expected to observe all appropriate practice standards for their discipline. Practitioners are also expected to observe all laws and statutes applicable to their discipline in the jurisdictions where they practice, as well as all applicable international laws.

The ethical principles below are listed in alphabetical order and are all of equal importance.

1. Confidentiality: Practitioners shall not disclose any confidential or proprietary information without prior permission, unless such disclosure is required by applicable laws or regulations.

2. Disclosure: Practitioners shall make all appropriate disclosures before and during the performance of a service. If, after disclosure, a conflict cannot be removed or mitigated, the practitioner shall withdraw from the matter or obtain written consent of the parties affected to continue.

3. Fiduciary Responsibility: Practitioners shall be honest, transparent and trustworthy in all their financial dealings.

4. High Standard of Service: Practitioners shall only provide services for which they are competent and qualified, and shall ensure that any employees or associates assisting with the provision of services have the necessary competence to undertake those services.

5. Integrity: Practitioners shall act with honesty and fairness in all their dealings, and shall not mislead or attempt to mislead. They shall base their advice on valid evidence.

6. Respect: Practitioners shall provide services that honor client, third party and stakeholder interests in the context of applicable rules of law and social and environmental concerns.

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7. Responsibility: Practitioners owe a duty of care to their clients and due consideration to the rights and interests of third parties and stakeholders.

8. Transparency: Practitioners shall not misinform over the products or terms of service to be provided, and shall present relevant documentary or other material in plain and intelligible language.

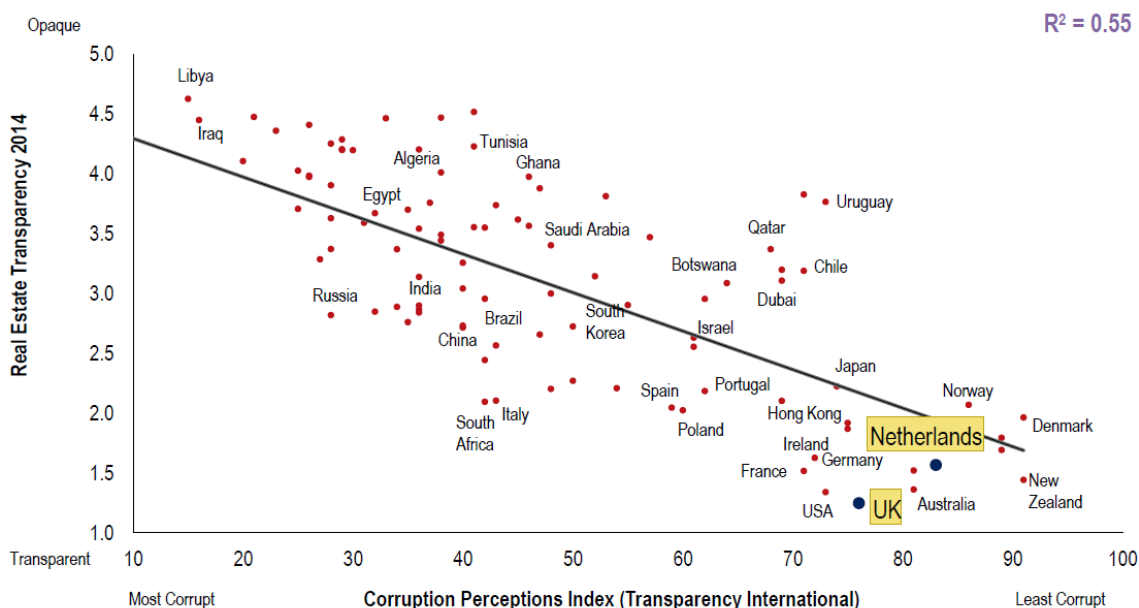
9. Trust: Practitioners shall be truthful in their professional communications and recognize that their professional conduct bears upon the maintenance of public trust and confidence in the real estate professions.

10. Verification: Practitioners shall continually evaluate the services they provide to ensure they are consistent with the spirit and evolution of ethical principles and practice standards.

APPENDIX 3

Real Estate Transparency Index and Corruption

A multi-dimensional measure closely correlated with corruption



Source: JLL/LaSalle/Transparency International (2014)

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