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PROFESSIONAL ETHICS IN THE CONSTRUCTION INDUSTRY

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PROFESSIONAL ETHICS IN THE CONSTRUCTION INDUSTRY

ABSTRACT

The results are provided of a small, but representative, questionnaire survey of typical project managers, architects and building contractors concerning their views and experiences on a range of ethical issues surrounding construction industry activities. Most (90%) subscribed to a professional Code of Ethics and many (45%) had an Ethical Code of Conduct in their employing organisations, with the majority (84%) considering good ethical practice to be an important organisational goal. 93% of the respondents agreed that "Business Ethics" should be driven or governed by "Personal Ethics", with 84% of respondents stating that a balance of both the requirements of the client and the impact on the public should be maintained. No respondents were aware of any cases of employers attempting to force their employees to initiate, or participate in, unethical conduct. Despite this, all the respondents had witnessed or experienced some degree of unethical conduct, in the form of unfair conduct (81%), negligence (67%), conflict of interest (48%), collusive tendering (44%), fraud (35%), confidentiality and propriety breach (32%), bribery (26%) and violation of environmental ethics (20%).

Keywords: ethics, professions, construction industry, survey.

INTRODUCTION

For the building and designing professions, the incalculable value of human life demands nothing less than the highest moral considerations from those who might risk it otherwise (Mason, 1998:p2). Engineers, architects, project managers and contractors, therefore, have the fundamental right of professional conscience (Martin and Schinzinger, 1996). An important aspect of ethics in the construction industry is "personal ethics" - often interpreted by construction professionals as just treating others with the same degree of honesty that they would like to be treated (Badger and Gay, 1996). It has been suggested, however, that professionals in general tend to believe that their obligations to their client far outweigh their responsibility to others, such as the public (Johnson, 1991:p28). There also have been cases where criticisms have been made concerning adherence to ethical standards, none more so than the asbestos poisoning scandal that affected many workers in the 1960's (Coleman, 1998:p70)¹.

Today, building professionals gain integrity and respectability to some extent through professional bodies such as the Australian Institute of Building (2001) whose mission includes that of reflecting its members' "... *ideals for education, standards and ethics* ...". These are embodied in codes of practice, which define the roles and responsibilities of professionals (Harris *et al*, 1995) and are the cornerstone of any

¹ Even though many independent reports and investigations were carried out and confirmed that asbestos was fatal, the usage in the building industry remained very high until the usage was completely banned (Coleman, 1998).

ethics programme (Calhoun and Wolitzer, 2001). Of course, codes alone are insufficient to ensure ethical conduct and they need to be complemented with the assignment of functional responsibility (eg., ethics officer) and employer training (Calhoun & Wolitzer, 2001). The effectiveness of this has been the object of most of the empirical studies to date, with particular emphasis on collusive tendering, defined as “illegal agreements between tenderers that result in seemingly competitive bids, price fixing, or market distribution schemes that circumvent the spirit of free competition and defraud clients” (Zarkada-Fraser, 2000) and including 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:p36) where a tenderer withdraws their bid after consultation with other tenderers.

In this paper, we provide the results of a small questionnaire survey of thirty one project managers, architects and building contractors practicing in a major Australian conurbation, concerning their views and experiences on a range of ethical issues surrounding construction industry activities. It is found that most (90%) subscribe to a professional Code of Ethics and many (45%) had an Ethical Code of Conduct in their employing organisations, with the majority (84%) considering good ethical practice to be an important organisational goal. 93% of the respondents agreed that “Business Ethics” should be driven or governed by “Personal Ethics”, with 84% of respondents stating that a balance of both the requirements of the client and the impact on the public should be maintained. No respondents were aware of any cases of employers forcing their employees to initiate, or participate in, unethical conduct. Despite this, all the respondents had witnessed or experienced some degree of unethical conduct, in the form of unfair conduct (81%), negligence (67%), conflict of interest (48%), collusive tendering (44%), fraud (35%), confidentiality and propriety breach (32%), bribery (26%) and violation of environmental ethics (20%).

LITERATURE REVIEW

Business Ethics

Ethics generally constitute “**1.** a system of moral principles, by which human actions and proposals may be judged good or bad, or right or wrong. **2.** the rules of conduct recognised in respect of a particular class of human actions. **3.** moral principles, as of an individual” (Delbridge *et al*, 2000). They evolved initially from religion by many thinkers in the Judeo-Christian tradition (Cohen & Grace, 1998:p9). Their study involves the activity of examining one's moral standards of society and asking how these standards apply to our lives and whether these standards are reasonable or unreasonable (Velasquez, 1998.p13) . The outcome is the notion of rights as doing what will promote the most good, and acts that promote the general good are one of the factors that determine whether they are right (Ross, cited in Pressman, 1997:p48) . However, ethics cannot be arbitrarily created but discovered through argument and persuasion (Johnson, 1991).

Until relatively recently, it was thought that business and ethics should not be mixed (Velasquez , 1998: p35-p38). Indeed, the mere term "business ethics" has been called as an *oxymoron* (Carlin, cited Ferguson, 1994:p1). It is now recognised, however,

that the general concepts of ethics are applicable in business (Fleddermann, 1999:p4) on the grounds that business exists not solely to suit certain individuals, but because it serves society and meets collective and individual needs (Cohen & Grace, 1998: p22) and the environment in general (Fleddermann, 1999:p82).

Unethical conduct, it is said, does not eventuate from a person's upbringing, but rather it is part of the process of learning practical business or being inducted into the practice (Sutherland, 1983:p245). The significance of this is enhanced by new USA federal sentencing guidelines for not taking proactive measures to apply and emphasise ethics in all business areas (Ferguson, 1994). The reality is, however, that little training is provided to employees in the general workplace, where a recent survey by KPMG Forensic Accounting (Weait, 2001) has shown dishonest and unfair conduct to be "endemic".

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:p327). Similarly, bribes are the offering of payments or inducements to someone in a position of trust to get them to do something for the bribe payer to which the bribe payer is not entitled (Whitbeck, 1998:39). As with most activities with an ethical content, "grey areas" exist. These are between the delineation of actions that are termed "gift giving" and what can be defined as bribery in legal terms (Fleddermann, 1999:p55; Almeder and Humber, 1983, cited in Johnson 1991:p327) . This situation is compromised when meals or gifts are no longer of low cost and the expenses of these items are not shared equally, the possibility of abuse becomes large (Turow, 1985). According to Johnson (1991), the following two actions have to be satisfied to transform gift giving to the illegal practice of bribery:

1. The person receiving the gift may, consciously or otherwise, be disposed, predictably, to favour the interests of the gift giver
2. The gift must be of a non-token nature that it is reasonable to think that it may put the interests of the giver in a privileged status even when all else is equal. Consequently, some corporations have allowed gift giving to their clients or potential clients as long as these two conditions do not apply.

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:p9). The advent of accountability in the construction industry may also increase the likelihood of accounting system-generated fraud such as false expense reports, false suppliers invoices and other alteration of accounts (Bolgna *et al*, 1996:p9). The importance of confidentiality is crucial to how an organisation competes in the market place (Fleddermann, 1999:p80). 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). According to Harris *et al* 1995), whistle blowing is not always appropriate and should only be attempted when the four basic requirements of need, proximity, capability and last resort option, are satisfied. Fleddermann, (1999:p81), however mentions that a 'grey

area' exists over the length of time an employee should withhold confidential information and where discontinued employment exists.

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 want of such care". (Delbridge *et al*, 2000). The main sources are design negligence, design defect, production defect or a combination of these factors (Thorpe and Middendorf, 1980:p75). Negligence as it relates to the construction industry may be ambiguous, however (Pressman, 1997:p284), and the courts recognise this disparity and judge negligence in the construction industry on the basis of professional judgment rather than craft (Pressman, 1997:p85).

Professional Ethics

The professions have always been linked with the notion of 'service'. Thus, a profession has been described as a group of people organised to serve a body of specialised knowledge in the interests of society (Appelbaum & Lawton, 1990:p4). Similarly, Whitbeck (1998:p74) confirms that professions are "occupations that both require advanced study and mastery of a specialised body of knowledge and undertake to promote, ensure or safeguard some matter that significantly affects others' well-being". Its responsibilities have been variously described as including the satisfaction of "an indispensable and beneficial social need" (Johnson, 1991:p63-64); and a goal of service to the public (Murdock and Hughes, 1996, cited in Fryer, 1997:p31). A professional operates in a world of people with whom they work, colleagues and other specialists, and people whom they serve, such as their clients and the public (Pressman, 1997:p10) - a relationship that has been termed as "consensual and fiduciary" (Pressman, (1997).

Professionals are not exempt from the common ethical behaviours - such as obligations, duties and responsibilities - that are binding on ordinary people (Johnson, 1991:p131) and are usually bound by a set of principles, attitudes or types of character dispositions that control the way the profession is practiced. This has been termed Professional Ethics (McDowell, 1991:p48), and concerns potential problems confronting members of a profession or group and their impact on society (Johnson, 1991:p132), with the implication that fairness should be attributed not only to clients but also colleagues and the public (Johnson, 1991:p117) . One important aspect is that of conflict of interest, defined as an interest which, if pursued, could keep professionals from meeting one of their obligations (Coleman, 1998:p34). Another is the relevant professional right termed the "Right of Conscientious Refusal" (Martin & Schinzingler, 1996), which is the right of an employee to refuse to partake in unethical conduct when forced to do so by an employer. This may occur in work or non-work situations and may not necessary involve breaking the law (Whitbeck (1998:p51). Conscientious refusal may be done by either simply not participating in the activity that one sees as immoral, or it may be done with the hope of making a public protest that will draw attention to the situation that one believes is wrong (Whitbeck, 1998).

Different professions, however, have different reputations insofar as ethical behaviours are concerned. In a recent public opinion survey, for example, architects were rated superior in ethical behaviour to lawyers, some doctors and almost all

businessman and businesswoman; with the clergy being ranked the highest (Pressman, 1997). Lawyers, it seems, are expected to prioritise their obligations to the client over their obligations to the public even if their client is guilty of committing a crime, regardless of how heinous the crime (Johnson, 1991).

Construction Industry Ethics

In terms of individual professions, it is often assumed that architects are not only talented in the design and construction of buildings, but also of the highest ethical calibre (Abramowitz, 1998:p3; Pressman, 1997:p46). Pressman (1997:p51, for example, has traced this back to the American Institute of Architects Code of Ethics set in 1947. The current code of ethics revolves around the concept of "the common good is right" for matters not based on laws (Pressman, 1997:p52). Similarly, the Royal Australian Institute of Architects (2001, <http://www.raia.com.au/html/coc>), Code of Professional Conduct, comprises Principles, Rules and Notes. Architects have been found wanting at times, however, a recent poll on ethics in architecture carried out by the magazine *Progressive Architecture*, 1987 (cited in Pressman, 1997:p53) citing the main types of unethical behaviour in architecture to be:

- Concealing of construction errors and stealing someone else's drawing
- Exaggerating experience and academic achievements in resumes and applications for commissions
- Charging clients for work not done, costs not incurred or overstated
- False promises of advancement as practiced by some architects
- Misleading clients in project management
- Involvement in conflict of interest

For project managers, one of the critical elements of their profession is the consideration of ethics and social responsibility (Fryer, 1997:p13). There should be no conflict between morality and good management (Willouby, 1994:p56). "... *it is vital that project managers conduct their work in an ethical manner ...* ". This quotation, from the Preamble of the Code of Ethics for Project Managers (Walker, 1989), confirms the scope of proper ethical conduct required by project managers.

Construction contractors are also expected to behave in an ethical manner. A recent interview survey of construction professionals indicated the significant role ethical conduct plays in construction contracting (Badger and Gay, 1996), an unsurprising fact considering that people working in the construction industry are twice as likely to sustain a major injury and five times more likely to be killed, than the average for all industries (Davis, 2001). Being honest and realistic is also said to be a fundamental aspect of professional integrity, especially when making claims and estimates (Johnson, 1991:p114).

In contrast with architects, however, construction contractors have a reputation for unethical behaviour, the main problem being, according to a poll conducted by the journal *Building Research and Information* (Pilvang and Sutherland, 1998), the high level of disputes between proprietors and builders. Their generally poor behaviour has been said to have originated from the influx of new construction companies with new people who lack building construction ethics, with greed being one of the main

factors leading to unethical conduct (Ritchey, 1990). In response, there have been calls from the contracting community itself to “*get rid of the those within our midst who do not do the right thing*” (Master Builder, 1997:p25). There have also been moves to greater self-regulation. The Queensland Master Builders, for example, have initiated a drive to license all builders to provide some assurance of their integrity. Similarly the United Kingdom contractors have introduced a consumer driven initiative called ‘Quality Mark’ with the objective of distinguishing between the ‘rogue’ builders and the reputable organisations, as indicated in *The Magazine of the Federation of Master Builders* (Butt, 2001). The *Bureau of Business and Economic Research* has described a similar initiative in the USA, to curb unethical conduct by contractors, which is called the *Associated General Contractors / American Subcontractors Association (AGC /ASA)* whose objective is to address different problems in the construction industry.

QUESTIONNAIRE SURVEY

Following the literature review, a questionnaire was developed for seeking the views of practitioners on the main ethical issues surrounding construction industry activities. Due to the sensitive nature of the data that would arise from the questionnaire, clearance was sought, and obtained, from the university research ethics committee. A targeted sample of 75 various companies and individual practices in a major Australian conurbation area was selected randomly. A total of 31 (42%) valid responses were received, of which 19 (61%) were from Architects, 5 (16%) from Contractors, 5 (16%) from Project Managers and 2 (6%) from Construction Managers². The respondents had a wide variety of experience, and with a high average experience period of 21 years in the field.

Organisational and professional ethical framework (code of ethics)

The ethical framework relates to the ethical infrastructure, such as a Code of Ethical Conduct, that is implemented within organisations. This determines whether the organisation at least has a guiding mechanism in place to steer the ethical decision-making process or enforcement of ethical conduct. The aim of this question was to establish the existing ethical infrastructure within organisations relative to how they rate ‘good ethical practice’. It also serves as a general marker to indicate the importance of ethics.

14 respondents (45%) were found to work in organisations with an existing framework. However, 28 respondents or 90% of the respondents belong to professional institutions that have an Ethical Code of Conduct, indicating that most respondents had some form of ethical infrastructure in place to guide them in making decisions and judging their ethical content. The professional institutions involved consist of the Australian Institute of Project Managers (AIPM), Royal Australian

² The low response rate by the non-architectural professions may be attributed to the unavailability of ample time to complete the questionnaire. It should be noted that in order to differentiate between the project manager of the client and the building contractor, the latter has been titled construction manager.

Institute of Architects (RAIA), the local Master Builders Association and the Australian Building Institute.

Nearly all organisations, therefore, have access to ethical conduct guidelines to assist with the ethical decision-making process - ruling out the lack of an existing ethical infrastructure as justification for unethical behaviour.

Importance of ethical practice to organisations

In terms of organisational goals, 17 (55%) respondents considered "good ethical practice" as critical to their organisational or business goals with a further 9 (29%) classing it as a major factor. The remaining respondents considered it to be only of minor importance. Taken together with the infrastructure results above, this suggests that most organisations consider good ethical behaviour to be seriously worth pursuing.

Business ethics vs. personal ethics

29 (93%) respondents thought that "business ethics" should not take precedence over personal ethics, with 12 (39%) believing that a balance of business and personal ethics and 14 (45%) believing that personal ethics should drive business ethics, ie., business ethics is acceptable until personal moral codes of conduct are violated.

Professionalism in the industry

Professional obligation

The survey concentrated on analysing the trend, identified in the literature, of professionals prioritising their obligations to clients higher than their obligations to the public (the 'obligations to the public' in this case being the degree of commitment to environmental ethics and public health and safety). Almost 1/3 of the respondents (32%) claimed to have witnessed or experienced breaches of public obligation, including:

- Contamination of the soil
- Degradation of vegetation
- Soil erosion
- Inadequate perimeter fencing on construction sites
- Careless execution of demolition and construction
- Storage of construction waste products offsite
- Inadequate protection for public from debris

The prioritisation of obligations to the client or public is clearly a difficult task for professionals, for if public obligation dominates the client obligation, business would no longer be viable and yet if the client obligation dominates, then the likelihood of unethical and illegal conduct increases. As might be expected in the face of this dilemma, respondents prioritised their professional obligations equally between the client and the public, with 26 (84%) respondents believing that one cannot operate

without the other. Of the remainder, only 2 (6%) respondents considered client obligation to be the sole priority based on the notion that the client pays the bills and takes all the risks.

Professional responsibility

24 (77%) respondents had witnessed or experienced breaches of professional responsibility in the industry, with 22 (48%) being conflicts of interest, 15 (32%) being confidentiality and propriety information infringements and 9 (20%) being breached environmental ethics.

These include, for *conflict of interest*:

- Consultants using their position for financial gain
- Clients awarding contracts to companies in which they hold interest
- Government role is to deliver services, however they are now in competition with the private sector through their business units
- Awarding of contracts to former employees and friends
- Maintaining impartiality when representing clients

For *Confidentiality and propriety information infringements*:

- Developers using Architects drawings to complete projects with other parties
- Improper information flow, internally and externally, within a practice
- Revealing tendering information
- Revealing product information
- Clients using architectural drawings to construct buildings without paying the architect
- Consultants and builder discussing client details

And for *breaches of environmental ethics*:

- Builders failure to stop erosion and acid sulphate leaching during construction
- Unsolicited clearing of vegetation
- Illegal dumping of building debris

Professional rights

The survey attempted to gauge the extent to which professional rights were being violated, in terms of employers or clients attempting to force employees to conduct activities that are considered immoral in nature. The research indicated that of all the respondents, none had witnessed or experienced any breach of professional rights in this way during their respective employment periods.

Ethical improprieties

The intention of this section is to reveal the actual conducts that are a “grey area”, unethical bordering on illegal, that occur in the modern building construction environment. The types of ethical impropriety surveyed are collusive tendering, bribery, fraud, negligence, dishonesty, and unfairness.

Collusive tendering

The survey on collusion during the tendering phase of a building construction project aims to reveal the amount of collusive tendering experienced, the forms of collusive tendering and the parties in collusion. 14 (44%) respondents had witnessed or experienced collusive tendering in the industry. Of these 8 involved cover-pricing, 7 bid-cutting, 2 hidden fees and commissions and 1 compensation of tendering costs.

The two parties that most frequently engage in collusion are clients and contractors (7 respondents), followed by contractor to contractor (4 respondents) and finally contractor to sub-contractor (1 respondent).

Bribery

8 (26%) respondents had experienced or witnessed bribery in the industry, in the form of cash inducements (all respondents), gifts and favours (3 respondents) and entertainment (2 respondents). Other types of occasional inducements were reported, such as round robins, work to private homes, additional work from clients and free travel.

Negligence

20 (67%) respondents had witnessed or experienced negligence in the industry, in the form of poor quality documents (13 respondents), poor workmanship (12 respondents), poor material quality (8 respondents) and inadequate safety standards on site (7 respondents). One further respondent reported inadequate information flow from clients/consultants to contractors and inadequate construction techniques.

Fraud

11 (35%) respondents had witnessed or experienced instances of fraud in the industry. 7 of these highlighted deceit as the most fraudulent conduct in the industry, with major examples being:

- Intentionally covering up poor workmanship and material quality during inspections
- Constructing with materials not included in their quotations
- Over ordering of material
- Tampering of signed contract documents

- Altering of construction documents

The remainder (4 respondents) indicated misinformation, related to the client not disclosing all the information to all tenderers therefore enabling an unfair advantage to a preferred tenderer. Other types of misinformation reported do not warrant being fraudulent and are given below.

Dishonesty and unfairness

25 (81%) respondents had witnessed or experienced unfair and dishonest conduct in the industry. These occur in the four major areas of tendering practices, bureaucratic or government policy, consultant fees and project costs, and design and construct contractual arrangements (see Table 1).

The tendering practices considered to be unfair conduct by both clients and the government mainly involves the use of biased tendering evaluation systems, the practice of re-tendering and shopping for prices after tenders have closed. The respondents were also critical of the manner in which the government and bureaucratic organisations conducted business. They were especially critical of the tendering policies and the predatory nature of the state bodies in the local market undercutting the market by providing services that do not reflect the true production cost and making it difficult for private businesses to compete.

The issue of payment of fees and project costs also concerned many respondents, who stated that the non-payment of consultants fees by client and developers after engaging consultants, and project cost discrepancies by the contractor, constitute dishonest and unfair practices. Projects procured under a design and construct contract are thought to encourage unfair and dishonest conduct, such as the tendering process where architects involved are not paid for their designs, and the manipulation of profit sharing by contractors in collusion with other consultants.

The responses also included mention of theft of materials by the site foreman, bias in favour of the client by consultants even if the client is at fault, “catch all clauses” in contracts and the tendency of some large organisations to “bully” smaller organisations out of work.

Correlation of unethical conduct by profession

Fig 1 shows the relative extent of unethical conduct by project managers, architects, contractors, client and other participants, to identify the ones most likely to be involved. The results indicate contractors to be the most unethical overall. As the diagram indicates, contractors are rated the most unethical on all areas with the exception of negligence, where architects are rated higher, and almost the same level as the client in dishonest and unfair conduct. Interestingly, the client rates very highly where questionable conduct is concerned, being, second only to the contractor in all areas except negligence.

The responses also identify the role of “other” participants and the client in unethical conduct in the industry, which serves as a benchmark to compare the professions examined with other participants in the construction industry. The “other” participants revealed by the survey being:

- Developers (fraud, dishonest and unfair practices),
- Product suppliers (bribery),
- Government bodies (dishonest and unfair practices).
- Engineers (negligence)
- Unions (dishonest and unfair practices).

Impact of association with unethical organisations

This section deals with the impact of association with unethical organisations on business. The purpose was to establish whether organisations experienced a decline in business due to relationships with companies that practice in an unethical manner. More than 2/3 of the respondents stated that association with companies that conduct business in an unethical manner did not affect their levels of business. For the remaining 32% of respondents who have experienced business decline, it happens in varying degrees depending on the extent of the unethical practice. For them, if the unethical conduct of the organisation is extensive then the impact on business is substantial. However, if the unethical conduct is minimal, the effect on the associated company's business is still significant, but over a longer period of time.

Types of unethical conduct not included in the survey

The common forms of unethical conduct covered by the research are based on the literature review findings. However, respondents also outlined other forms of unethical conduct witnessed or experienced in the industry, including:

- Industrial Ethics initiated by Union Bodies
- Impropriety in Government Tendering Practices
- The practice of under bidding to gain work
- Business ethics impact on work quality (lack of quality)
- Culture of large construction companies hinders good ethics
- Lack of ethics in government organisations
- Unethical use of variations
- Impact of political ethics (State & Federal) on the Construction Industry

Response to the objectives of the survey

The final intention of the survey was to gauge the view of the respondents on whether the research would establish the level of “ethical professionalism” in the construction industry. Nearly 2/3, or 20 responses, stated that the questionnaire would not achieve the intended purpose of establishing the level of ethics in the local construction industry. 9 of the respondents stated that a statistical detailed survey would achieve

this purpose. However, in order to achieve an overview of the ethics in the construction industry, the remaining respondents mentioned the survey was sufficient.

CONCLUSIONS

Current literature has highlighted the growing demand for good ethical practice and professional behaviour in all forms of business, including the construction industry. The objective of this survey was to provide an indication of the current trends in the industry through a questionnaire survey of a sample of professionals in an Australian urban construction market - the choice of location being due to logistical, time and financial constraints rather than any expectation of atypical levels of unethical practices.

The survey revealed that 45% of organisations had their own ethical guidelines in place and 90% of all respondents belonged to professional bodies that had an ethical code of conduct. 55% of the respondents also stated "good ethical practice" to be critical, in terms of business organisational goals and 29% considered it a major component. In addition, 93% of the respondents believed that business ethics should not have priority over personal ethics. Despite this, 2/3 of the respondents stated that they had witnessed or experienced unethical professional behaviours and these have been catalogued in this paper.

The research used a structural approach resulting in the extraction of the respondents' beliefs and values. The ambiguity in this type of research is, of course, in the lack of cross checking to ensure that the actions of the respondents are consistent with their reportings. Further clarification of the types of unethical conduct involved is required. For example, 'deceit' is classed here as a type of fraud, but the word 'deceit' is a generalisation within itself, so another level of clarification is required to provide detailed feedback.

The response rate of 41% or 31 out of 75 is a rather small population sample to reflect accurately the current market practice and, as Foreman (1991:p4) confirms, the results of sample surveys are subject to sample errors and are less precise than those of a larger survey or complete enumeration. It should be noted also that the respondents consisted of a majority of architects and bias towards contractors may have distorted the data analysis. The sample may over represent or under represent or fail to even represent infrequently occurring sub-groups of a population (Foreman, 1991:p4).

The data-gathering instrument should be structured to remove bias that exists because of the confrontational nature of the industry participants as a result of their roles (eg. builder vs. architect). The context in which the research is based has a major impact on the outcome of the results, which means the data collected in the Australian market will not be consistent with a market in Asia for example. The environmental impact is significant so caution should be taken to avoid generalisation

The research however does provide future researchers with the basis to analyse professional ethics in detail. The research has indicated and confirmed the types of ethical impropriety that exist. Also confirmed is the continuing role of contractors as champions of unethical behaviours. What is new, however, is the emergence of

clients and government bodies as contenders in the unethical stakes. This group of traditionally highly influential leaders in the development of construction industry practices, seem to have moved dramatically in recent years away from setting the highest ethical standards to a form of economic rationalism that is virtually devoid of any ethical considerations at all.

History suggests that the advancement of professional ethics in the construction industry is very much dependent on the implementation and policing of the ethical guidelines and policies of both professional bodies and private organisations together with the leadership of public sector procurement agencies. The survey revealed that even though the majority of organisations have their own ethical codes of conduct and the employees belong to professional associations that promoted good ethics, the curbing of unethical conduct is difficult. All participants, regardless of professional allegiance, require a common understanding of ethical and professional values. As long as the lack of professionalism and ethics exist, even the ethically good will have difficulty maintaining moral standards.

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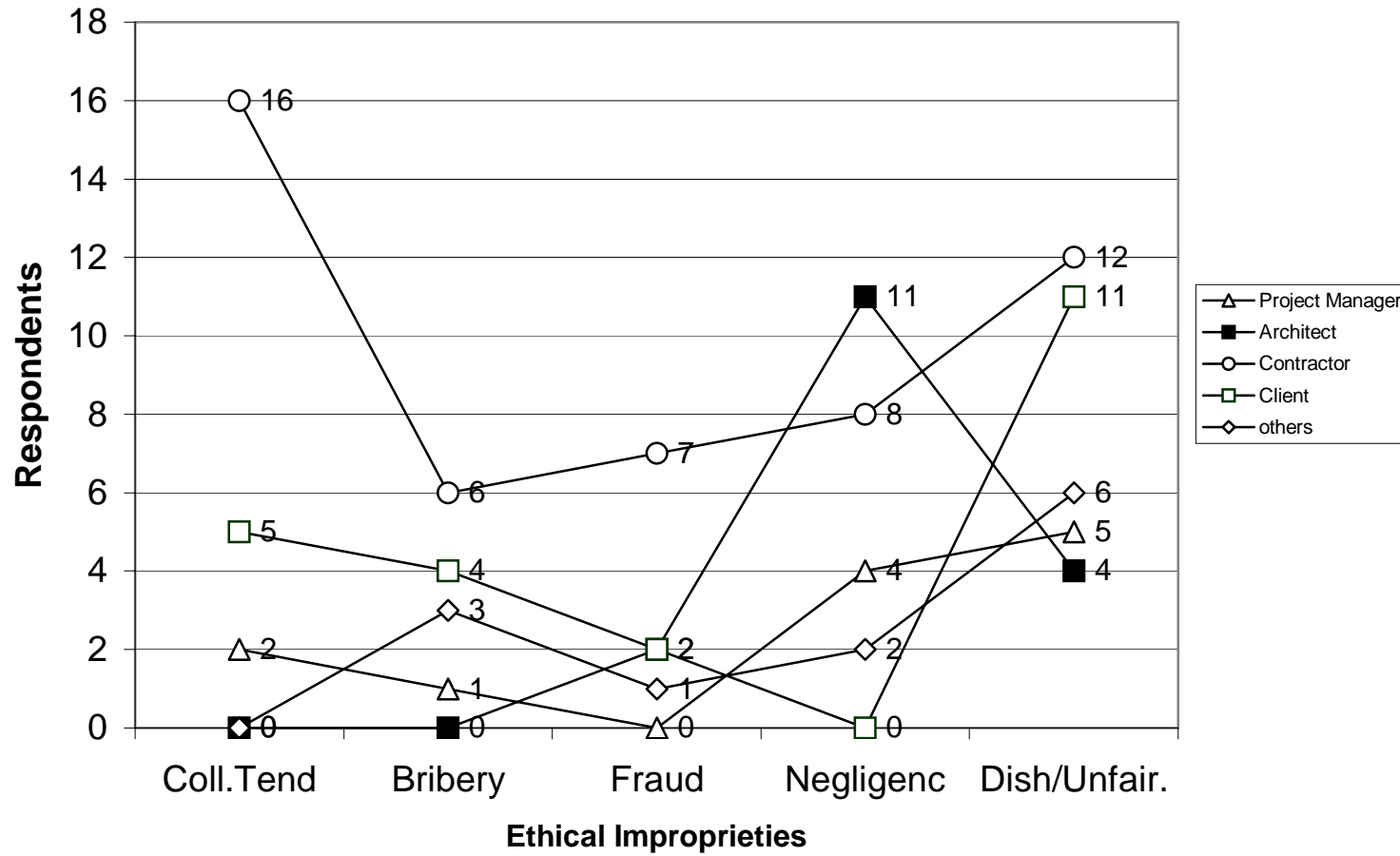


Fig 1: Correlation of Ethical Impropriety vs. Professions

Table 1: Dishonest and unfair conduct responses

Tendering:

- Client divulging more tender information to preferred tenderers and withholding vital information from the other tenderers
- Bias in tendering evaluations to favour major contractors
- Re-tendering after publishing prices
- Re-tendering using a consultants design which they obtained during the first tender
- Shopping prices after tenders closed.
- Clients pre-selecting consultant then calling tenders to fulfil organisational or statutory requirements.
- Competitors overstating their capacity and qualifications to secure work
- Competitors overstating their experience and capabilities and falsification of qualifications

Government & Bureaucratic:

- Public Sector design agencies and council design agencies competing in the market place at very low prices which do not reflect the true cost of their operations
- Government tender practice is based on a system of “exclusion” which unfairly penalises private organisations
- Government bodies bidding against private sector firms while also being part of the tender selection process
- Government tenders being awarded to organisations whose tender price is less than 30% of the mean which is against the state purchase policy
- The government stating tender selection is quality based with low tender prices being only 10% of the criteria, but the job is always offered to the lowest bidder regardless of experience and capacity.

Consultant Fees and Project Costs:

- Developers falsely engaging consultants with the intention of not paying them
- Clients who asked for “upfront” work then went to another architect when the project started
- Main Consultant cutting other consultants fees
- Consultant with holding information from the client which results in variations
- Loading sub-contractors prices to conceal other costs within the project
- Client manipulating consultant fees by playing them of against each other
- Main contractors not paying and deducting subcontractors fees without proper justification

Design and Construction Contracts:

- No design fees for architects and losing tenderer design might be used by client
- Manipulation of profit share by the contractor over the client
- Other consultant such as engineers aiding the contractor in the above unethical conduct.