

SCL Ethics Group Recommendations –

October 2004

The recommendations of the group are that:

- the Society prepare and issue a statement on ethical issues, or code of [good] practice, setting out core principles of ethical conduct and giving guidance on the application of these principles in each area of construction law. The objective of the statement is to:
 - a) increase awareness,
 - b) inform and guide (that is, influence) construction law professionals, and
 - c) provide a standard against which others may review compliance;
- the Society establish a working group to implement the recommendations and keep their effects under review;
- an SCL ethics “champion” be appointed from Council to lead this work and act as a focus for other organisations;
- the Society should not, at present, engage in regulation or the imposition of sanctions.

The group concluded that:

- there is a need for action;
- the Society, consistent with its objective ‘to promote the study and understanding of construction law ...’, should publish guidance on ethical issues in the construction industry to promote discussion and debate and increase awareness and understanding; and
- regulation and the imposition of sanctions of the kind suggested by Professor John Uff was not something that the Society should be considering for the time being.

The group agreed that there is a problem of unethical behaviour in the industry. The group’s view in this respect reflects similar perspectives of a number of others in the construction industry who are seeking to raise awareness of unethical practices and do something about it. Ethical behaviour is also under scrutiny in many other spheres of activity, and by companies as well as industry bodies and professions.

Secondly, the group sees a useful role for the Society to perform, in the public interest, in informing and guiding its members and the wider professions of the issues. This would have the effect of increasing awareness of the approach to ethical issues, and is likely to influence the way professionals involved in construction law activities behave. The Society could usefully work in conjunction with others in the industry who are pursuing allied initiatives.

There were some strongly diverging views regarding sanctions. Some group members held the view that, without sanctions, any advice on ethical conduct would be ineffective. Others were deeply concerned that the Society should not take on the role of a regulating body, which could adversely affect the other work of the Society. The constitution of the Society would not permit the SCL to take such a role without significant change.

It was concluded that, at least for the present, regulation and the imposition of sanctions should not be considered by the Society. The group felt that we should concentrate on influencing behaviour in ways other than regulation, consistently with the Society's constitution and objectives. We should also work with other organisations to improve the effectiveness of any advice.

The group was mindful of the context in which the issue was being considered, in particular the objectives of the Society. The intention would be to inform and stimulate debate – and alert those in construction law as to when they might be putting a foot wrong.

The following are suggested ways in which the recommendations can be achieved:

- a statement on ethical issues or code, as described above, be published and promoted as setting out good practice guidance;
- professional bodies be actively involved with the initiative such that they might support the statement as embodying good practice which their members should follow;
- debate on ethical issues be promoted by further talks being given to the Society, in London and around the country;
- interactive debates and discussions (workshops) be held in London and around the country;
- a conference or seminar be held either solely or partly on the topic of ethics, with papers given being published;
- material be made available to members and others in the industry (eg on an expanded ethics section of the website);
- the Society engage with others also looking at ethical issues and obtain their input (eg on criminal conduct).

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October 2004