PROFESSIONAL STANDARDS COUNCILS

Guidance note

Association Codes of Ethics: Part three Implementing a code

For professional standards schemes
under professional standards legislation

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Approved by	Professional Standards Councils

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Version	Approved by	Approved date	Effective date	Sections modified
1.0	Professional Standards Councils	17 June 2022	1 November 2022	This is a new guidance

1. What is the purpose of this guidance note?

The guidance is designed to provide an easily accessible, phase-based learning tool to assist associations (scheme applicants or those seeking to re-make or amend a scheme) in building or reviewing a code of ethics oriented towards improving professional practitioner standards and consumer protection. Adherence to a code of ethics is a vital element in setting professional standards. This guidance is aimed at helping associations to establish and continuously improve their codes of ethics.

This is Part Three of the Association Codes Guidance of the Professional Standards Councils. This Part, as set out below, focusses on implementing a code if the substance of an existing code is appropriate, but the systems supporting it need improving.

Other parts of this guidance are located on the Councils' website under 'Research Library of Modern Professionalism' as follows:

- Part One: important questions to consider before developing a code of ethics oriented towards improving professional practitioner standards and consumer protection

- Part Two: developing a code (if an association does not already have a code of ethics)

- Part Four: revising a code (if an existing code needs improving).

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2. Code implementation process

The critical objective is to implement a code of ethics that is oriented towards improving professional practitioner standards and consumer protection.

The first steps involve checking and providing evidence based on the following Guidance Part sections:

- ✓ Does your existing code need revision? (refer to 2.1 Part Four)
- ✓ Code Content: Values, Principles & Standards (refer to 4.2 Part Two)

When a current code of ethics meets these standards, the process as set out below should begin:
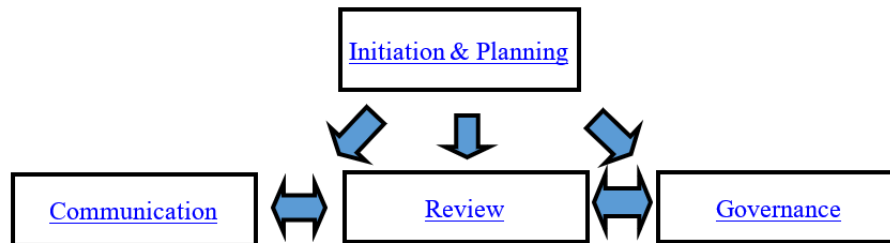
Code Implementation Process

3. Beginning and planning

In the first stage:

1. **Decide formally,** as an association, to establish a new implementation process.
2. **Select an ethics committee** (if not already in place). This group will supervise the process.

The committee will need to make decisions about the timing and the rollout of the new process.

Recommended practices:

- ✓ Make sure the committee is **representative of the full range of members,** not just the full-time staff of the association. The volunteer members are critical to the decisions of the committee being accepted by the association as a whole.

- ✓ Make sure the committee has relatively easy access to **a lawyer who understands the standards and regulations** applicable to the occupation. An ethicist can also be useful. These experts may be on the committee or be a Consultative Advisory Group.

- ✓ **Build stability** in the committee right from the beginning. This helps to achieve long-term reforms.

- ✓ Members must be **fully informed** about the timetable for change to ensure they understand and are involved in the process. This will help build acceptance of the process and help to avoid unrealistic expectations. Other stakeholders should also be kept informed.

- ✓ Strategic decision-making should ensure the **inclusion of all stakeholders** during the process, acknowledging that some groups may have specific obstacles to contributing (for example, time poor members, early-career members, those with few networks within the occupation).

The following stages may be undertaken in any order, and some may be done simultaneously. Associations generally undertake the communication and education activities early on, and then the governance initiatives.

When these practices are underway, they can be reviewed at any time.

A code is irrelevant unless the members use it.

To ensure this, it is important they:

- know it exists

- know its basic principles, and

- find it helpful.

If you already have a functioning code of ethics your members are familiar with, it may be harder to get your members as interested and involved with your new systems as they might have been if you were to start with a completely new code.

This means that it is important for your planning to focus on helping the members see the benefits of the new systems that support them through their code.

Recommended practices

1. **Consider having an 'ethics hotline' or 'helpline'. This is arguably the most important thing you can do to help your members with their ethical dilemmas (resources permitting).**

   This will encourage:

   - **Members** to seek guidance on ethical matters (including anonymously). Ethics codes can work best when people have access to advice from outside the normal chain of command.

   - **Consumers** (customers, clients) to use your complaints processes. Consumers can play a vital role in up driving professional standards, but only if they are made aware of their rights under the code.

2. **Effective communication with members.**

   Do not flood them with communications from you. The association and the new code are rarely your members' top priority – their clients are.

   Make it easy for them to read your message quickly and efficiently. Consider working with your marketing colleagues to work out what ways work best with your members.

   Traditional channels

   ✓ Emails, newsletters, internal memos

   ✓ Websites, bulletin boards, intranet links.

   ✓ Posters of the code's principles for office walls.

   ✓ Articles about the new code in journals or e-zines members often read.

   Newer ways

   ✓ Podcasts, YouTube clips, vlogs, blogs

   Systemic ways

   ✓ Integrating ethics education into all continuing professional development activities, including seminars in universities and other tertiary settings.

   ✓ Using formal ethics exams as one requirement for membership.

   ✓ Requiring senior members to be mentors on ethical as well as conventional professional matters.

   ✓ Having a public commitment to the code of ethics. For example, having new entrants take an oath at a public ceremony or requiring existing members to sign a similar affirmation.

✓ Using brochures, *You, and the Law!* or *How to Keep out of Trouble!*

✓ Working with major employers while they are developing their own ethical codes.

✓ Showing how the code's principles are embedded in the decisions made by senior management.

✓ Ensuring all members are aware of how their actions may be monitored and investigated.

✓ Ensuring all members know their rights and responsibilities under the code.

✓ Using case studies to help members and major employers see the consequences of poor ethical behaviour.

✓ Telling success stories of high standards of ethics, not just tales of where the standards have not been met.

5. Governance stage

To be effective, a code needs a governance process that embeds its principles in everyday practice. A process to responds to serious violations of standards and rules is a minimum requirement.

Sanctions are serious and must always be subject to procedural fairness. They can only be applied when the rules are

- clear
- consistent
- accessible
- about future behaviour, and
- when any allegation of a member breaking these rules is judged impartially.

You must ensure defendants are properly represented and have their cases heard by independent people.

Recommended practices

There is no single pathway to building a governance system around a code of ethics. It can be done alone or with government regulators and employing organisations.

Possible initiatives include:

- Having a sliding scale of offences linked to a sliding scale of disciplinary actions.
- Setting up
  - o an internal 'whistle-blower hotline' (perhaps as part of an ethics hotline), allowing people to report wrongdoing anonymously, and/or
  - o a complaints hotline, allowing consumers to report incidents they feel breached the ethical rules of the association.
- Providing guidance on methods for integrating the code of ethics into the reward system used by employers.
- Auditing the degree to which the occupation is living up to the code's values.
- Using awards and rewards to encourage exemplary ethical practice and innovation.

Tips

Do not be too lenient nor too tough. It can be difficult to strike the right balance between trusting members to behave ethically and ensuring those who behave unethically are punished.

If members behave unethically and get away with it, the code will appear ineffective. If the code is unreasonably harsh, members may resist it and challenge it at every opportunity.

It is usually regarded as good practice for an association to focus their monitoring efforts on:

- new members in their first year of service, and

- members who have been found guilty of a breach of the code of ethics.

Try to work with major employers to demonstrate the benefits of providing a service which embodies high ethical principles.

Traps

1. Avoid the *single greatest threat* to the code working properly – the possibility that 'the process is the punishment'.

    The stress and uncertainty about the consequences of an allegation against members, added to an unclear or drawn-out disciplinary process, can prove a traumatic experience for association members. The negative effects may be disproportionate to the alleged wrongdoing.

    Disciplinary processes must respect the rights of those accused of ethical breaches, especially alleged first-time offenders.

2. Be careful to support members in difficult ethical situations. For example, if a lawyer has duties to report evidence of clients' potentially dangerous criminal activity, systems should be in place to support them. An example of support in that context would be a confidential meeting of the ethics committee which could give practical advice to the lawyer.

6. Feedback, measurement, and review stage

No ethical code is ever perfect, and changing circumstances mean that provisions and principles can become outmoded or counterproductive. Associations need to evaluate how the code is performing.

Recommended practices

- By the end of the first year after implementing the new code, it is reasonable that it be reviewed.

  This includes both the content of the code and how it is affecting the practices of members. To help with this, invite members and other stakeholders to make submissions on any aspect of the code.

  Usually, they are concerned about:

  o   tensions between the principles.

  o   ambiguities in interpretation.

  o   areas imposing unrealistic duties, and

  o   unintended consequences.

- Some implementation issues can be avoided. For example, include worked examples of best practice and show clearly how to interpret the principles in an 'Additional Guidance' section to the code.

- Record all authoritative rulings on the correct interpretation of the code's standards. Tell members about these decisions.

- Run workshops and conference streams on the code's operation, and how it works in new contexts or alongside new technologies, like social media.

- Ask those who teach the code to make submissions on areas of the code they struggle to teach, or that their students find hard to understand.

- Keep records of all the complaints made through complaints hotlines and other processes (such as mediation proceedings).

  Do not just keep records of cases where there were infringements. Complaints that did not lead to infringements can help members to learn about consumer expectations.

  Where there are a significant number of complaints without infringements, it may be necessary to educate the public or perhaps realign the code to meet consumer expectations.

- Monitor the media for issues.

- Manage data appropriately and lawfully.

6.1 Measurement

Associations are required by the Professional Standards Councils to regularly measure a code's efficacy. They are also required to tell the Councils of the results of these measurements.

It can be hard to measure a code's impact. For example, increased complaints might mean:

  o there is more wrongdoing by your members (a bad thing), or

  o it is easier for people to complain (a good thing).

Some ways to get good quantitative data on a code of ethics.

- Access results from tests of people's knowledge of the content of the code (for example, during continuing professional development activities).

- Survey the views or knowledge of members during other professional development activities – a more indirect method which could be valuable over time.

- Count the popularity of activities focussed on the code.

- Record the amount of traffic to the code's website, distinguishing members' visits from other visitors to the site.

- Develop metrics on the advice hotline and other feedback mechanisms.

- Run consumer satisfaction surveys.

- Structure a survey to show the relationship between different groups of members and different elements of the code.

Tips

The code should be considered a 'living document'. As the world changes, the ethical challenges to your members change; so does the impact of new legislation, court decisions and consumer expectations. All these factors mean the code needs to adapt if it is to remain relevant and useful to association members.

A major review may be required every few years. Between major reviews, strengthen the code by:

  o adding extra recommended 'best practices'

  o adding up to date interpretation of complex rules, and

  o welcoming ideas from new members.

Avoiding traps

Balance the big picture with the detail.

The code itself is usually best to be as concise as workable.

The supporting information can be arranged so that readers are not flooded with excessive detail. A code's website can should be designed to balance these competing needs.

Association members are busy. They also may have to be on top of multiple other codes and guides, laws, and contracts. Respect that. A code of ethics is almost certainly not the centre of their working lives. Make it easy for them to find and use your help.

Your code must be:

- easy to find

- easy to use, and

- compliant with all appropriate legal and ethical requirements.

7. Acceptance check-in

Here are 10 questions members may ask of their code of ethics. Consider whether the association would get the answers it wants.

1. Is it the right thing to do?

2. Is it fair?

3. Will it work??

4. Is it coherent?

5. Did we all have a role in developing it??

6. Did we vote for it?

7. Did I personally commit to it?

8. Is it realistic about the way we work now and for the foreseeable future?

9. Does the code respect us?

10. Does the code come from a trusted source?

Do the code's obligations accord with common sense moral principles like honesty and benevolence? Consider some more detailed questions.

1. *Is it the right thing to do?* Do the code's obligations match common sense moral principles like honesty and benevolence?

2. *Is it fair?* Are members appropriately supported and recompensed for shouldering challenging obligations?

3. *Does it work?* Is it possible to obey the obligations and still run a productive, sustainable, and profitable enterprise?

4. *Is it coherent*? Are the obligations contradictory, impossibly vague or written in impenetrable legal terminology? Does the interpretation of the obligations change so regularly that it's impossible to plan ahead?

5. *Did we all have a role in developing it?* Were all members able to provide genuine input into the code's content? Or was it just decreed from above?

6. *Did we vote for it*? Did members or their representatives have the opportunity to democratically endorse the code?

7. *Did I personally commit to it*? Was there a ceremony where each service provider undertook to live up to the code, or was it incorporated into a (employment or service) contract they signed?

8. *Does it represent our local occupation and what we aspire to be*? Do the code's standards and principles reflect how local members practice and what they value?

9. *Does the code respect us as intelligent decision*-makers? Do the code's obligations try to micro-manage every move, or trust that members can make ethical decisions guided by the code's principles?

10. *Does the code come from a trusted source?* Do members trust the integrity, impartiality and expertise of the code drafters and their leadership?

8. Pressures that can weaken your code

There will be ongoing challenges to protecting consumers, even after a code and its supporting systems have been written, reviewed, and adopted. It is never finished. The association will have to monitor and refresh it regularly.

Be aware of these following challenges:

- Every occupation includes corrupt and exploitative people, and those who would happily cut corners to make their jobs easier or more profitable. These people may push back against the code's requirements.

- Many occupations face pressure from other sources - such as employers, licensees, or colleagues from other occupations - to weaken the code's consumer protections.

- It is natural for people to resist accountability systems. The feeling of being 'watched' can make people feel like they are not trusted.

- It will take members time they may feel they do not have, to prove they are complying with the obligations imposed by the code.

- It can feel like a waste of time to invest resources and energy into the code when its obligations are universally accepted by the membership.

- New market pressures or opportunities and technological innovation all may make the code feel old fashioned.

- New initiatives will usually require resources. Once the code is established it may be difficult for it to compete for the continuing professional development dollar.

For all these reasons, the code requires constant monitoring and resourcing.