
Professional Ethics

PHI402



**University of Ibadan Distance Learning Centre
Open and Distance Learning Course Series Development**

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Vice-Chancellor's Message

The Distance Learning Centre is building on a solid tradition of over two decades of service in the provision of External Studies Programme and now Distance Learning Education in Nigeria and beyond. The Distance Learning mode to which we are committed is providing access to many deserving Nigerians in having access to higher education especially those who by the nature of their engagement do not have the luxury of full time education. Recently, it is contributing in no small measure to providing places for teeming Nigerian youths who for one reason or the other could not get admission into the conventional universities.

These course materials have been written by writers specially trained in ODL course delivery. The writers have made great efforts to provide up to date information, knowledge and skills in the different disciplines and ensure that the materials are user-friendly.

In addition to provision of course materials in print and e-format, a lot of Information Technology input has also gone into the deployment of course materials. Most of them can be downloaded from the DLC website and are available in audio format which you can also download into your mobile phones, IPod, MP3 among other devices to allow you listen to the audio study sessions. Some of the study session materials have been scripted and are being broadcast on the university's Diamond Radio FM 101.1, while others have been delivered and captured in audio-visual format in a classroom environment for use by our students. Detailed information on availability and access is available on the website. We will continue in our efforts to provide and review course materials for our courses.

However, for you to take advantage of these formats, you will need to improve on your I.T. skills and develop requisite distance learning Culture. It is well known that, for efficient and effective provision of Distance learning education, availability of appropriate and relevant course materials is a *sine qua non*. So also, is the availability of multiple plat form for the convenience of our students. It is in fulfilment of this, that series of course materials are being written to enable our students study at their own pace and convenience.

It is our hope that you will put these course materials to the best use.



Prof. Abel Idowu Olayinka

Vice-Chancellor

Foreword

As part of its vision of providing education for “Liberty and Development” for Nigerians and the International Community, the University of Ibadan, Distance Learning Centre has recently embarked on a vigorous repositioning agenda which aimed at embracing a holistic and all encompassing approach to the delivery of its Open Distance Learning (ODL) programmes. Thus we are committed to global best practices in distance learning provision. Apart from providing an efficient administrative and academic support for our students, we are committed to providing educational resource materials for the use of our students. We are convinced that, without an up-to-date, learner-friendly and distance learning compliant course materials, there cannot be any basis to lay claim to being a provider of distance learning education. Indeed, availability of appropriate course materials in multiple formats is the hub of any distance learning provision worldwide.

In view of the above, we are vigorously pursuing as a matter of priority, the provision of credible, learner-friendly and interactive course materials for all our courses. We commissioned the authoring of, and review of course materials to teams of experts and their outputs were subjected to rigorous peer review to ensure standard. The approach not only emphasizes cognitive knowledge, but also skills and humane values which are at the core of education, even in an ICT age.

The development of the materials which is on-going also had input from experienced editors and illustrators who have ensured that they are accurate, current and learner-friendly. They are specially written with distance learners in mind. This is very important because, distance learning involves non-residential students who can often feel isolated from the community of learners.

It is important to note that, for a distance learner to excel there is the need to source and read relevant materials apart from this course material. Therefore, adequate supplementary reading materials as well as other information sources are suggested in the course materials.

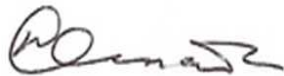
Apart from the responsibility for you to read this course material with others, you are also advised to seek assistance from your course facilitators especially academic advisors during your study even before the interactive session which is by design for revision. Your academic advisors will assist you using convenient technology including Google Hang Out, You Tube, Talk Fusion, etc. but you have to take advantage of these. It is also going to be of immense advantage if you complete assignments as at when due so as to have necessary feedbacks as a guide.

The implication of the above is that, a distance learner has a responsibility to develop requisite distance learning culture which includes diligent and disciplined self-study, seeking available administrative and academic support and acquisition of basic information technology skills. This is why you are encouraged to develop your computer skills by availing yourself the opportunity of training that the Centre’s provide and put these into use.

In conclusion, it is envisaged that the course materials would also be useful for the regular students of tertiary institutions in Nigeria who are faced with a dearth of high quality textbooks. We are therefore, delighted to present these titles to both our distance learning students and the university's regular students. We are confident that the materials will be an invaluable resource to all.

We would like to thank all our authors, reviewers and production staff for the high quality of work.

Best wishes.

A handwritten signature in black ink, appearing to read 'Bayo Okunade', with a stylized flourish at the end.

Professor Bayo Okunade

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About this course manual

Professional Ethics PHI402 has been produced by University of Ibadan Distance Learning Centre. All course manuals produced by University of Ibadan Distance Learning Centre are structured in the same way, as outlined below.

How this course manual is structured

The course overview

The course overview gives you a general introduction to the course. Information contained in the course overview will help you determine:

- If the course is suitable for you.
- What you will already need to know.
- What you can expect from the course.
- How much time you will need to invest to complete the course.

The overview also provides guidance on:

- Study skills.
- Where to get help.
- Course assignments and assessments.
- Margin icons.

We strongly recommend that you read the overview *carefully* before starting your study.

The course content

The course is broken down into Study Sessions. Each Study Session comprises:

- An introduction to the Study Session content.
- Study Session outcomes.
- Core content of the Study Session with a variety of learning activities.
- A Study Session summary.
- Assignments and/or assessments, as applicable.
- Bibliography

Your comments

After completing Professional Ethics we would appreciate it if you would take a few moments to give us your feedback on any aspect of this course. Your feedback might include comments on:

- Course content and structure.
- Course reading materials and resources.
- Course assignments.
- Course assessments.
- Course duration.
- Course support (assigned tutors, technical help, etc.)

Your constructive feedback will help us to improve and enhance this course.

Course Overview

Welcome to Professional EthicsPHI402

The course examines the role of ethics in professional life generally and in some selected professions in particular. A proper entry point into the course is a clarification of ethics; hence, this manual opens with a brief analysis of ethics and its relationship with morality. It proceeds to clarify the idea of a profession and what it means to say that an individual is a professional.

A section of the course is devoted to an examination of the nature of the relationship between a professional and his/her clients. A number of models of the professional-client relationship are examined in a way that learners would be in a position to decide on which model is more suitable for specific professions. The course also examines the basic moral principles that should guide professions for professionals to render quality professional service to clients.

Course outcomes



Outcomes

Upon completion of Professional EthicsPHI402, you will be able to:

- *distinguish* between morality and ethics.
- *highlight* the salient features of professional behaviour.
- *explain* the basic objectives of professional ethics.
- *discuss* lying and deception in the professional-client relationship.
- *demonstrate* confidentiality in your professional engagement.

Timeframe



How long?

This is a 15 week course. It requires a formal study time of 45 hours. The formal study times are scheduled around online discussions / chats with your course facilitator / academic advisor to facilitate your learning. Kindly see course calendar on your course website for scheduled dates. You will still require independent/personal study time particularly in studying your course materials.

How to be successful in this course



As an open and distance learner your approach to learning will be different to that from your school days, where you had onsite education. You will now choose what you want to study, you will have professional and/or personal motivation for doing so and you will most likely be fitting your study activities around other professional or domestic responsibilities.

Essentially you will be taking control of your learning environment. As a consequence, you will need to consider performance issues related to time management, goal setting, stress management, etc. Perhaps you will also need to reacquaint yourself in areas such as essay planning, coping with exams and using the web as a learning resource.

We recommend that you take time now—before starting your self-study—to familiarize yourself with these issues. There are a number of excellent resources on the web. A few suggested links are:

- <http://www.dlc.ui.edu.ng/resources/studyskill.pdf>

This is a resource of the UIDLC pilot course module. You will find sections on building study skills, time scheduling, basic concentration techniques, control of the study environment, note taking, how to read essays for analysis and memory skills (“remembering”).

- http://www.ivywise.com/newsletter_march13_how_to_self_study.html

This site provides how to master self-studying, with bias to emerging technologies.

- <http://www.howtostudy.org/resources.php>

Another “How to study” web site with useful links to time management, efficient reading, questioning/listening/observing skills, getting the most out of doing (“hands-on” learning), memory building, tips for staying motivated, developing a learning plan.

The above links are our suggestions to start you on your way. At the time of writing these web links were active. If you want to look for more, go to www.google.com and type “self-study basics”, “self-study tips”, “self-study skills” or similar phrases.

Need help?



As earlier noted, this course manual complements and supplements PHI402at UI Mobile Class as an online course.

You may contact any of the following units for information, learning resources and library services.

Distance Learning Centre (DLC)

University of Ibadan, Nigeria

Tel: (+234) 08077593551 – 55

(Student Support Officers)

Email: ssu@dlc.ui.edu.ng

Head Office

Morohundiya Complex, Ibadan-
Ilorin Expressway, Idi-Ose,
Ibadan.

Information Centre

20 Awolowo Road, Bodija,
Ibadan.

For technical issues (computer problems, web access, and etcetera), please send mail to webmaster@dlc.ui.edu.ng.

Academic Support



A course facilitator is commissioned for this course. You have also been assigned an academic advisor to provide learning support. The contacts of your course facilitator and academic advisor for this course are available at onlineacademicsupport@dlc.ui.edu.ng

Activities



This manual features “Activities,” which may present material that is NOT extensively covered in the Study Sessions. When completing these activities, you will demonstrate your understanding of basic material (by answering questions) before you learn more advanced concepts. You will be provided with answers to every activity question. Therefore, your emphasis when working the activities should be on understanding your answers. It is more important that you understand why every answer is correct.

Assessments



There are three basic forms of assessment in this course: in-text questions (ITQs) and self assessment questions (SAQs), and tutor marked assessment (TMAs). This manual is essentially filled with ITQs and SAQs. Feedbacks to the ITQs are placed immediately after the questions, while the feedbacks to SAQs are at the back of manual. You will receive your TMAs as part of online class activities at the UI Mobile Class. Feedbacks to TMAs will be provided by your tutor in not more than 2 weeks expected duration. Schedule dates for submitting assignments and engaging in course / class activities is available on the course website. Kindly visit your course website often for updates.

Bibliography












For those interested in learning more on this subject, we provide you with a list of additional resources at the end each Study Session; these may be books, articles or websites.

Getting around this course manual

Margin icons

While working through this course manual you will notice the frequent use of margin icons. These icons serve to “signpost” a particular piece of text, a new task or change in activity; they have been included to help you to find your way around this course manual.

A complete icon set is shown below. We suggest that you familiarize yourself with the icons and their meaning before starting your study.

			
Activity	Assessment	Assignment	Case study
			
Discussion	Group Activity	Help	Outcomes
			
Note	Reflection	Reading	Study skills
			
Summary	Terminology	Time	Tip

Study Session 1

Morality and Ethics

Introduction

In this Study Session, you will explore the concepts of morality, law and convention. We will also discuss the essential features of morality and what makes an issue a moral issue. Finally, we will examine ethics and discuss sub-division in ethics.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

1.1 *define and use* correctly the terms in bold:

- **morality**
- **ethics**

1.2 *discuss* the essential features of morality.

1.3 *point out* what makes an issue a moral issue.

1.4 *describe* the sub-divisions in ethics.

1.1 Morality

Morality The set of principles employed by a group of people to determine the forms of behaviour accepted as right or good in opposition to those that are to be rejected as wrong or bad.

The word **morality** refers to the set of principles employed by a group of people to determine the forms of behaviour accepted as right or good in opposition to those that are to be rejected as wrong or bad. Such normative principles include: stealing is bad, honesty is good, promise keeping is a virtue and it is wrong to murder human beings. Morality provides a guide of conduct for human beings as they engage in social interaction by providing a standard for determining the conducts, personality traits and social institutions or practices that should be accepted as opposed to those that should not be accepted in society. Hence, it is proper to describe morality simply as a venture committed to the specification of the types of conduct people should embrace, the kind of character traits and social institutions or practices that should be accepted and those that should be avoided in society.

The idea of morality is essentially social. It is only meaningful because humans interact with one another in society. By virtue of social interaction, necessitated by the reality of the scarcity of resources, human vulnerability and lack of self sufficiency, questions about how men ought to relate in society and who should get what at a given time become very important. It is in an attempt to provide plausible answers to these questions that morality came into being.

Indeed, the objective of morality is primarily to regulate human behaviour and interactions in society in a way that would enhance social stability, the wellbeing of all in society and also provide an adequate

context within which all members of society can effectively pursue their interests in ways that would be mutually beneficial. It is in an attempt to achieve the above objectives that standards are set to specify those actions and character traits that are acceptable as good or bad, right or wrong, justifiable or unjustifiable in society. These standards, in turn provide the basis for the specific moral judgments we make about specific human conducts. For example, we pass the judgment that an act of stealing is morally wrong simply because of an existing moral standard that specifies that all acts of stealing are morally wrong.

From a perspective, it is very tempting to say that morality can be individual when individuals have personal moral standards and codes of conduct that are distinct from those of society. But then, individuals upholding such moral standards must at least be thinking of other members of society as they determine how they want to relate with others in society and possibly also wish that others in society would adopt their personal codes of conduct. If the people upholding such “personal moral standards” take others into consideration, we can reasonably contend that these personal moral standards have sufficient social contents. Indeed, society provides the normal atmosphere and training ground for morality. Moral ideas develop and are constantly criticized and modified as people engage in social interaction.

When considered as a social system for regulating human conduct, morality is related to law (the legal system) on one hand and convention on the other. The three concepts (morality, law and convention) are designed to regulate human behaviour and facilitate cordial and mutually beneficial social relationships, social stability, peace and social development. In a fundamental sense, the three are concerned with the determination of what ought to be done and how people ought to behave in society.

However, convention differs from law and morality in that it is primarily about what is socially convenient and is largely a matter of appearance and taste. It is simply about the way a people traditionally behave is reinforced by the assumption that they should, for this reason, continue to behave the same way. It relates to the way a people traditionally conducts its affairs. Examples of conventions include traditional modes of greetings and how wedding ceremonies are conducted. Convention does not deal with matters that are socially crucial in the way that morality and law do. This is in the sense that while matters of convention may not have any serious and direct implication on the prospects of human wellbeing, issues of morality and law do. Both, for example, forbid such acts as murder and stealing and encourage honesty and respect for human dignity.

One important similarity between convention and morality, and which distinguishes the two from law is that while the former are not created or changeable by a deliberate legislative, executive or judicial act, the latter can be so created or changed. Another important similarity between morality and convention, which separates them from law, is that the former do not have any sanction beyond praise and blame and other verbal expressions of approval or disapproval, favour or disfavour. Legal sanctions, however, extend beyond expressions of approval or

disapproval or the apportioning of praise or blame to include physical force or at the least, a threat of its use.

1.2 Essential Features of Morality

The following are the distinctive features of morality:

1. Morality involves making normative statements or judgments about specific human actions to the effect that they are either good or bad, right or wrong, just or unjust.

Below are examples of normative statements made in the realm of morality.

- a) John did something wrong by lying.
 - a. It was right for Mary to have told the truth.
 - b. It is morally bad for Steven to have stolen the money.
2. It is always meaningful to demand for the reasons or justifications for the normative statements made in the domain of morality.
 3. There is usually a reliance on some normative principles, rules or ideals in the effort to provide justification for the moral judgments made in the arena of morality. Such normative principles include: Lying is wrong; Honesty is a virtue; Stealing is bad.
 4. Morality involves some emotional states of approval or disapproval attached to the moral judgments made and the moral rules and principles relevant to them. There would also be the desire to communicate such emotional states to others.
 5. There are sanctions or incentives, usually verbal, in the form of either blame or praise attached to moral judgments.

1.3 What Makes an Issue a Moral Issue?

Obviously moral issues are about human actions. Non-human actions are usually not appraised from a moral perspective. For instance, it would not make much sense to say of a flood or hurricane that ravage cities, killing multitudes and destroying vast infrastructures that it has done something immoral. Neither do we normally evaluate the behaviour of animals from the moral perspective. A dog that bites a child cannot be said to have carried out an immoral act. Even when we say that the dog has done something bad, we definitely are not using the word “bad” in a moral sense.

We need to appreciate that terms such as, good, bad, right and wrong, employed to denote the moral value of human actions, apart from having their usual moral connotations also have non-moral meanings. For instance, when we say that a knife or a car is good, the term good is not used in a moral but a non-moral sense to connote, for instance, the fact that it is effective in achieving the purpose for which it was made.

Another understanding we need to have is that it is not every human action that is susceptible to moral evaluation. Some are morally neutral

and are called amoral human actions. This category of actions is not morally relevant as it would not be meaningful to say that they are morally good or bad, right or wrong. For instance, no one could reasonably say that my decision to wear black shoe and not a brown one or perhaps to eat bread and sausage for breakfast rather than pancake is a moral decision. Hence, it is important that we are able to distinguish between those human actions that are morally relevant and the ones that are morally irrelevant.

An important question to ask now is: what makes an issue a moral issue? Essentially, moral issues are defined by their relevance to the well being of people in society. For an issue to be moral, it must affect the well being of people in society either by increasing or decreasing the harm or benefit that would accrue to them. However, there is a debate over whether or not an issue is a moral issue when only the wellbeing of the agent is at stake.

Apart from the fact that a moral issue is essentially related to human actions and borders on their wellbeing, it is also a product of free choice. This suggests that for a human action to be subject to moral evaluation, it must have been an action carried out by the individual as a free agent. It must not be an action carried out under any form of compulsion.

1.4 Ethics

Ethics The general term for attempts to state or determine what is good, both for the individual and for the society as a whole. It is often termed the science of morality.

Ethics is defined simply as the philosophy of morality. This suggests that the subject matter of ethics is morality. Thus, ethics may be rightly understood as the critical examination of morality. Given the understanding of morality as being concerned with the setting of normative standards for evaluating human actions and character with a view to determining which ones are right or wrong, good or bad, just or unjust, ethics as the philosophy of morality can be rightly described as a critical examination of the normative standards employed by individuals, groups and societies to determine the moral status of human actions, character and in some situations, social institutions or practices. Such critical examination would also include:

1. The analysis of ethical concepts such as good, bad, right, wrong, just, unjust, duty, rights, etc. The objective of such analysis would be to clarify what these ethical concepts stand for as well as their implications.
2. The scrutiny of moral judgments so as to ascertain their actual meaning and implications. Effort is also made to justify moral judgments by appealing to appropriate moral principles or general rules.
3. The clarification and justification of the moral principles normally appealed to for the justification of moral judgments.

From the foregoing, it is instructive to note that while the major concern of morality is to evaluate human conducts, personality traits and social institutions or practices and arrive at normative judgments about them to the effect that they are good or bad, just or unjust, right or wrong, etc. Ethics critically examines these judgments and attempts to determine the

extent to which they are or can be justified. But, to do this effectively, it is important that the core concepts featured in these judgments are clarified, and the principles on the basis of which they are arrived at are also clarified and justified.

1.4.1 Sub-Division in Ethics

It is common to identify the three sub-division in ethics:

- Descriptive Ethics;
- Normative Ethics; and
- Meta-Ethics.

Let us now briefly examine each of these in turn.

Descriptive Ethics

The basic concern of descriptive ethics is to describe the moral positions subscribed to by individuals, groups or societies. For instance, the claim that ‘Maxwell believes that abortion is morally acceptable’ or that ‘stealing is construed as morally good in ancient Greece’ falls within the domain of descriptive ethics. These claims merely give a report that can be verified, about the moral conviction of Maxwell or the people of ancient Greece. This is the kind of report presented by sociologists and anthropologists and is denied of being truly philosophical.

Normative Ethics

Normative ethics is the arena where moral judgments and principles are made. It is often described as the arena of morality proper. Statements such as, ‘John did something wrong by lying’, ‘it was right for Mary to have told the truth’, ‘it is morally bad for Steven to have stolen the money’ are the kind of normative statements that are made in normative ethics. Examples of moral principles that are arrived at in this arena include ‘stealing is wrong’, ‘Honesty is good’ and ‘kindness is a virtue’. Such claims are made by practically every person in our daily existence. They are usually arrived at by assessing the actual behaviours of individuals.

An important distinction between normative judgments and normative principles is that while the former are about specific human actions or character, the latter is concerned with kinds of actions or character.

Meta-Ethics

This is the investigation of the nature of ethical statements. It involves such questions as: Are ethical claims truth-apt, that is, capable of being true or false, or are they, for example, expressions of emotion? And are they ever true absolutely or always only relative to some individual, society, or culture? (The position that all ethical statements are false is known as moral nihilism.)



In meta-ethics, the major interest is to subject moral statements, moral principles and their constituent moral terms to critical examination in order to determine their actual connotations and implications.

Tip

Philosophers of the analytic school are of the opinion that this is the primary interest of philosophers and what should be their basic concern in ethics. The reality, however, is that, the analysis of ethical concepts as well as the evaluation of moral judgments and principles would not even take off until moral concepts that are employed to construct moral judgments and principles have been analysed and clarified. Thus, the three sub-divisions of Ethics, discussed above appear to be integrally related.



- Normative judgments are about specific human actions or character.
- Normative principle is concerned with kinds of actions or character.
- Meta-ethics is the investigation of the nature of ethical statements.

Fig 1.1 Ethics and Moral Comparison Chart

	Ethics	Morals
What are they?	The rules of conduct recognized in respect to a particular class of human actions or a particular group, culture, etc.	Principles or habits with respect to right or wrong conduct. It defines how things should work according to an individual's ideals and principles.
Where do they come from?	Social system - External	Individual - Internal
Why we do it?	Because society says it is the right thing to do.	Because we believe in something being right or wrong.
What if we don't do it?	We may face peer/societal disapproval, or even be fired from our job.	Doing something against one's morals and principles can have different effects on different people, they may feel uncomfortable, remorse, depressed etc.
Flexibility:	Ethics are dependent on others for definition. They tend to be consistent within a certain context, but can vary between contexts.	Usually consistent, although can change if an individual's beliefs change



How will you justify that there is a difference between morality and ethics. Use at least two brief scenarios to buttress your claim.

Post your response on Study Session one forum page on course website.

Discussion Activity

Study Session Summary



Summary

In this Study Session, we concentrated on the clarification of the ideas of morality and ethics. We noted that morality is primarily about the setting up of normative standards for assessing human actions, personality traits and social institutions or practices as acceptable or unacceptable. And, we noted that the concern of ethics is basically to critically evaluate these outputs of morality in order to justify them.

Assessment



Assessment

SAQ 1.1 (measures Learning Outcome 1.1)

Differentiate Moral and Ethics?

SAQ 1.2 (measures Learning Outcome 1.2 and 1.3)

What are the sorts of complexity and murkiness that may be involved in moral situations?

SAQ 1.3 (measures Learning Outcome 1.4)

Label the following statements into appropriate sub-division of ethics (meta-ethics, descriptive ethics, and normative ethics):

- I. What does "good" and "right" mean?
- II. Are moral values objective?
- III. Do unto others as you would have them do unto you.
- IV. The right action is the action that produces the greatest happiness for the greatest number.
- V. How do you know that the right action is the action that produces the greatest happiness for the greatest number?

Bibliography



Reading

<http://www.ethics.org.au/content/ethics-and-morality> retrieved Sept., 2013.

www.fact-index.com/e/et/ethics_1.html retrieved Sept., 2013.

<http://atheism.about.com/od/philosophybranches/p/Ethics.htm> retrieved Sept., 2013.

Study Session 2

Profession and Professionalization

Introduction

The focus of this Study Session is on the concept of profession and what it means to say that an occupation is professionalised or not. We will, in our course of study, identify the essential features of a profession as well as some normative features in terms of which professions may be defined.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

2.1 *define* and *use* correctly the following terms in bold:

- **profession**
- **professional**

2.2 *describe* the essential features of profession.

2.3 *highlight* the common features of professions.

2.4 *discuss* normative features of professions.

2.5 *explain* the types of professions.

2.6 *discuss* at least three features of professional behaviour.

2.1 Essential Features of a Profession

Three essential features are singled out by many authors who have tried to characterise professions.

- The first is that a rather extensive and thorough process of training is required to acquire the skills and competencies required to practice a profession. For instance, most professionals have advanced academic degrees in addition to years of practical training. Lawyers in Nigeria, for example, apart from their years of academic training in the university, are still required to undergo a year of practical training in the Nigeria Law School.
- The second feature of a profession is that it involves a significant intellectual component as opposed to those occupations such as bricklaying, barbing and tailoring, that require more of practical skills. It is in this respect that professionals are able to advise people on issues that the average person does not know much about or understand. Indeed, a prominent aspect of professional service is providing advice.
- Lastly those professions such as accountancy, architecture, law and medicine provide services that are important to the organised functioning of society.

2.2 Common Features of Professions

A feature common to many professions though not necessary to attain a professional status is the process of certification or licensing. For example while accountants receive license to practice, lawyers are certified by being called to bar. It is in this regard that professions have a monopoly over the provision of services in the sense that you need to be certified or licensed before you can practice. However, in some contexts, the fact that one has a licence does not make one a professional: one needs to have a license to drive a car or fly an aircraft, but the fact that you have such a license does not make you a professional driver or pilot. Conversely, some professionals do not need to be officially licensed. For instance, lecturers may not need to be certified or licensed even though they are expected to have a higher university degree.

Another feature that is common to professions which is not essential to them is an organisation of members. Virtually all major professions have organisations that represent them, regulate the behaviour of members, and generally strive to enhance the interests and economic wellbeing of its members. We have, in the case of the legal profession in Nigeria, Nigeria Bar Association, and for the medical profession we have Nigeria Medical Association.

A third feature common to many professions is the autonomy of the professional in his or her work. As an example, lawyers have the liberty to use their discretion in drafting a contract or agreement the same way a medical surgeon have the liberty to use their judgment or discretion about the details of a surgery procedure. However, we must understand that many professionals, working within large bureaucratic organisations, have their autonomy restricted by superiors who direct them and sometimes overrule their decisions.

2.3 Normative Features of Professions

The task of defining what a profession is might be approached by discussing what it ought to be as opposed to what it is, that is, by identifying those features professions should have and not what they actually have. These features may generate ethical debates over what professions should be concerned with and what considerations should motivate professionals, but they do not, and should not, in reality define what professions are.

One of such normative feature is that a profession should be primarily concerned with the provision of services and only secondarily with making money. But the fact remains that even if a profession is primarily concerned with making a profit (business for instance), it still constitutes a profession.

Another normative feature of professions is that their practitioners have the responsibility of determining how to render their services to those who need them in a way that public interest is best served. Three normative principles are deducible from the above. The first is that services should be provided by professionals to all who need them. The

second is that professional services should be provided in such a way that public interest is best promoted. Third is that a profession should be the sole judge of the method for achieving the first two principles.

2.4 Classification of Professions

Professions may be classified on the basis of the kinds of services rendered by most of their practitioners. To this end, we may make a distinction between consulting and scholarly professions.

- **Consulting professions**, such as medicine, architecture and law, have traditionally practiced on a fee-for-service basis with a personal, individual relationship between the client and the professional. Basically, a consulting professional acts on behalf of his or her clients.
- **Scholarly professionals** normally work for a salary rather than as an entrepreneur who depends on attracting clients. Scholarly professionals, such as a college teacher or a scientific researcher normally have many clients, students, at the same time. When such professionals belong to an organisation, they have no personal client and have duties assigned to them by superiors.

2.5 Professional Behaviour

For behaviour to be correctly classified as professional in nature, it would be characterised by four essential features. The first is a high level of generalised and systematic knowledge. It is in this regard that professionals are said to “profess” to know better than others, particularly their clients, about the nature of certain matters. For instance, medical doctors profess to know better than their patients what ails them just as lawyers profess to have a better understanding of legal affairs than their clients. It is on the basis of such knowledge that clients are expected to trust and rely on professionals for their skills and advice.

A second characteristic of professional behaviour is that the behaviour and activities of professionals are primarily oriented towards community interest rather than self interest. Given that generalised and systematic knowledge provides a powerful control over nature and society, it is important to society that such knowledge be used primarily in the interest of the community. This does not suggest that the self interest of professionals are completely neglected, but only that they are served indirectly.

Professional behaviour is also characterised by a high level of control through codes of ethics that should be internalised in the process of work socialisation and through voluntary associations that are organised and operated by the professionals themselves. Other forms of control of professional behaviour may be provided through the informal agency of public opinion and governmental-legal agencies.

The fourth feature of professional behaviour is the operation of a system of reward, which might be monetary or honorary for occupational performance. The system of reward is often a set of symbols of work achievement and as such end in itself and not means to some ends of individual self interest. However, since monetary reward is a more

appropriate reward for individual self interest while prestige and honours are more appropriate for community interest, the latter types of reward are relatively more important in professional than in non-professional behaviour. Thus, the actual reward system in the professions tend to consist in a combination of titles and prestige, medals and prizes, offices in professional associations, together with sufficient monetary income for the style of life appropriate to the honour bestowed.

The four features above define a scale of professionalism and offer a means of measuring the extent to which professionalism is present in an occupation. The most professional behaviours would be those that are characterised by the four attributes listed above in the fullest possible way.



For behaviour to be correctly classified as professional in nature, it would be characterised by four essential features.

- The first is a high level of generalised and systematic knowledge.
- The second is that behaviour and activities must be primarily oriented towards community interest rather than self interest.
- Professional behaviour is also characterised by a high level of control through codes of ethics that should be internalised in the process of work socialisation and through voluntary associations that are organised and operated by the professionals themselves.
- The fourth feature of professional behaviour is the operation of a system of reward, which might be monetary or honorary for occupational performance.

2.6 Occupation, Profession and the Professional: A Definition

Profession The occupation that requires an extensive and thorough process of training designed to equip its practitioners with the high level of knowledge and skills required to provide certain services that are important to the organised functioning of society.

From the foregoing, a **profession** may be defined as an occupation that requires an extensive and thorough process of training designed to equip its practitioners with the high level of knowledge and skills required to provide certain services that are important to the organised functioning of society. This suggests that the essential distinction between an occupation and a profession is that the former is any job you engage in as a means of livelihood but which does not require what might be described as a high level of knowledge and skills. Hence, a professional is an individual who has successfully completed stipulated training and has acquired the level of knowledge and competence necessary to render given services that are important for wellbeing in society.



A profession might be considered as a reasonably well-defined occupation that meets a defensible set of criteria for being a profession, whether those are derived from a social construct, trait or sociological perspective. Arguments about whether or not occupations can be considered professions are highly perspective-dependent.



Discussion Activity

All professions are forms of occupations but not all occupations are professions, do you agree? If yes, what is your definition of profession; and which occupations will you ascribe as not been professional.

Post your response on Study Session Two forum page on course website.

Study Session Summary



Summary

In this Study Session, we concentrated on the clarification of the idea of profession and what it means for an individual to be rightly described as a professional. To this end, we identified three essential features of a profession as well as some normative features in terms of which professions may be defined. We discussed two basic types of professions: the scholarly and consulting. We highlighted some of the core features of professional behaviour also.

Assessment



Assessment

SAQ 2.1 (tests Learning Outcomes 2.1, 2.2 and 2.3)

What are the criteria required for a Profession?

SAQ 2.2 (tests Learning Outcome 2.4)

Sule and Soji, who are architects, meet Professor Chinwe, their course facilitator, at the national conference. From the foregoing statement, how many forms of professionals can you deduce?

SAQ 2.3 (tests Learning Outcome 2.5)

Can you summarise the behaviours expected of a professional?

SAQ 2.4 (tests Learning Outcome 2.6)

Views on whether occupations can be considered professions are not perspective-dependent. (True / False)

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Study Session 3

Professional Ethics

Introduction

In this Study Session, we will examine professional ethics as a sub-set of ethic. We will highlight the basic objectives of professional ethics. Lastly, we will discuss basic principles of professional ethics.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

- 3.1 *describe* professional ethics as a field of study.
- 3.2 *highlight* the basic objectives of professional ethics.
- 3.3 *appraise* the basic principles of a professional ethic.

3.1 Professional Ethics

Ethics of a profession The set of moral principles that guide the conduct of the practitioners of the profession in their capacity as professionals.

Generally speaking, the professional ethics of an organisation consist of the moral principles or standards that regulate or guide the conduct of the members of an organisation as well as its overall administration as it pursues its fundamental goals. Likewise, the **ethics of a profession** refer to the set of moral principles that guide the conduct of the practitioners of the profession in their capacity as professionals. Usually, such moral principles are embodied in the codes of conduct of organisations or professions.

Members of diverse professions, such the legal, medical and accounting professions, are expected to maintain the ethical standards of their professions. They are deemed to have acted unethically whenever they act contrary to the basic ethical principles of their profession. For instance, a medical doctor would be considered to have acted unethically by releasing information that is private to a patient to either the public or a third party without the consent of the patient in question.

3.2 Basic Objectives of Professional Ethics

However, from the academic perspective, professional ethics is the sub-set of applied ethics where basic ethical principles are employed in the evaluation of the goals, methods and practices of diverse professions in such a way that the overall wellbeing of members of society and public interest would be adequately protected and effectively enhanced by professional practice. Our objectives in professional ethics include:

1. Provision of an ethical standard that would serve as guide for professional conduct.
2. Justification of fundamental ethical principles that are appealed to in various professions through critical analysis.
3. Identification of those professional conducts that is morally acceptable as opposed to those that are unacceptable.
4. Ensuring that the conduct of professionals is consistent with the basic objectives of their profession and overall social wellbeing.

3.3 Fundamental Principles of Professional Ethics

In order to facilitate the attainment of the primary goals of professional ethics, professionals are required to abide by a number of fundamental ethical principles. These include professional behaviour, professional competence and due care, confidentiality, integrity and objectivity. We shall now examine each of these in turn.

Professional Behaviour

- This principle maintains that practitioners of a profession must always abide by the standards of the profession and do nothing that might bring the profession to disrepute. This principle specifies that they must always comply with relevant laws and regulations.

Professional Competence and Due Care

- The principle of professional competence specifies that professionals have a duty to ensure that they acquire all the skills and competence required by their profession. They are also required to keep themselves up-to-date with developments in their profession through regular training and interaction with their professional colleagues.
- The second component of this principle, which is due care, imposes a duty upon professionals to take appropriate care or caution in ensuring that the quality of work produced meets the high standard expected of their profession. Professionals have a duty to assess each assignment in relation to its importance to the client and the time within which it should be completed. In as much as each task should be completed as soon as possible, quality of work done should not be compromised in any way. Due care also requires professionals to keep clients informed about all their actions, the result of the work they have done on behalf of the client as well as the implications these would have for the client.

Confidentiality

- Many professions require professionals to maintain the confidentiality of their clients. This specifies that professionals should not disclose to the public or any third party any confidential information acquired about their clients in the course of their professional relationships without the consent of the clients in question. However, under some special conditions, a professional may be justified to breach the duty of confidentiality. For instance, when there is a legal duty to do so.

Integrity

- This speaks of the quality of honesty and the determination not to compromise fundamental moral principles. Professionals have a moral duty to be honest and straightforward in the performance of their professional work and relationship with clients.

Objectivity

- The principle specifies that any professional decision should be based on real facts and should be devoid of any influence due to personal feelings or beliefs. Professionals must always act fairly, be sensitive to all relevant facts, and free of all forms of prejudice.

**Case Study**

Make a comparative study of two professions that is prevalent in your locality.

Task:

Justify the need for code of ethical conduct in the professions.

Post your findings on Study Session Three forum page on course website.

Study Session Summary

**Summary**

In this Study Session, we examined professional ethics and its basic objectives. In a general sense, professional ethics is understood to consist the set of moral principles that guide the conduct of the practitioners of a profession in their capacity as professionals. We also discussed the fundamental principles of professional ethics that are designed to facilitate the attainment of the fundamental goals of professional ethics.

Assessment



Assessment

SAQ 3.1 (tests Learning Outcome 3.1)

Define Professional Ethics?

SAQ 3.2 (tests Learning Outcome 3.2)

This year's induction to professional teaching comes in two months time. What are the objectives that facilitate the achievement of professional ethics?

SAQ 3.3 (tests Learning Outcome 3.3)

- i. Define Integrity?
- ii. Give the two aspects of Honesty?
- iii. Differentiate Self-respect and Self-esteem?
- iv. What are the senses of Responsibility?

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Study Session 4

Professional-Client Relationship

Introduction

In this Study Session, we will examine the professional-client relationship. The central issue here is who should have the major authority and responsibility in decision making between the professional and the client. We will therefore identify and discuss the models of relationship between a professional and client.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

4.1 *discuss* at least four models of professional-client relationship

4.1 Models of Professional-Client Relationship



Tip

The central issue in the professional-client relationship is the allocation of responsibility and authority in decision making—who makes what decisions. The ethical models are in effect models of different distributions of authority and responsibility in decision making.

One may view the professional-client relationship as one in which the client has most authority and responsibility in decision making, the professional being his employee; one in which the professional and client are equals, either dealing at arm's length or at a more personal level; or as one in which the professional, in different degrees, has the primary role. Each of these conceptions has been suggested by some authors as the appropriate ethical model of the relationship. Each has some commonsense support. In this section, we shall explore the following models of professional-client relationship:

- agency model
- friendship model
- contract model
- paternalist model
- fiduciary model

4.1.1 Agency Model

According to the agency model, the client has most of the authority and responsibility for decision making. The position of the profession is that of an expert that acts at the direction or instruction of the client with the objective of protecting the interest of the client or facilitating the achievement of the client's goal. By this model, professionals are hired by clients to perform specific tasks. This is particularly true of lawyers, who always act for and on behalf of clients. It is for this reason that some people might want to describe a lawyer as the mouth piece of the client.

There are two principles underlying the agency model:

- the first is that a professional is neutral or detached from the client's purposes; and
- the second is that the professional is an aggressive partisan of the client working to advance the client's ends. The combination of these two principles culminates in what is known as the ideology of advocacy, which is applicable to lawyers, physicians, architects and even engineers.

However, there are a number of problems with the agency model. The first is that professionals have obligations to several clients that would restrict the extent to which they can act on behalf of any particular client in the pursuit of the client's interests. Second is that the focus of this view appears too narrow to be a general account of the professional-client relationship. This is because the model is most often appealed to when there is a need to defend or protect a professional from the attribution of a client's sin. For instance, a lawyer or a physician would want to adopt this model when representing or treating a person that is well known for certain illegal or immoral activities.

A third problem with the agency model is that it is inconsistent with the emphasis professionals lay on their independence of judgment. By virtue of their training and competence, professionals should make objective decisions, but this feature is ignored by the agency model that suggests that professionals should do whatever they are directed to do by their clients.

A fourth problem with the agency model is that it is too extreme or strong. This is in the sense that as ethically free and responsible individuals, and for the sake of their own freedom and the protection of others, professionals should not totally abdicate authority and responsibility of decision making to clients. At least professionals, except in some extreme cases of dire need such as medical emergencies, professionals have the right to either accept or reject clients. They also have the right to terminate professional relationships that have been instituted earlier.

4.1.2 Friendship Model

The friendship model suggests that the relationship between a professional and a client is quite personal. This is based on the fact that professionals and clients have a relationship of mutual trust and

cooperation. It is as though they are involved in a mutual venture or partnership. For instance, the relationship between a physician and a patient may be described as a cooperative effort between friends to resolve the patient's health challenge. This model also emphasises the fact that professionals sometimes devote special attention and care to clients the way friends take each other's interests seriously in a personal way, thereby giving them more weight than those of other persons.

However, there are quite a number of dissimilarities between a friendship relationship and the professional-client relationship. One of these is that the professional-client relationship is usually in only one direction: the professional is concerned about the interest of the client while the latter is usually not concerned about the interest of the former. In a friendship relationship, the concern for interests is normally mutual.

Second is that friendship is normally between two people who are more or less equals, and professionals and clients are not equals. A third problem is that the affective commitment of friendship is normally lacking between a professional and client. Professionals only accept a client upon the payment or at the least agreement to pay a specified fee.

With regards to the fact that professionals pay special attention to the interests of clients, it is to be noted that such special attention is not predicated on any sense of friendship but on the fact that the role of a professional is essentially to provide specific services to clients, and the acceptance of a client is sufficient reason to justify such special attention.

4.1.3 Contract Model

The contract model sees the professional-client relationship as being based on a contract, which consists essentially in an agreement freely made between two equals, mutual obligations and rights, and a true sharing of ethical authority and responsibility. This model recognises the freedom of the parties involved in the contract, that is, the professional and the client, to equally determine the terms of their relationship.

However, many commentaries on the contract model hold that there are relevant inequalities between professionals and clients. One of such is that, with regards to the professional knowledge required by a client, the professional's knowledge far exceeds that of a client. A professional by virtue of long training, has the kind of knowledge a client could not have.

Besides, a professional cannot be as concerned about the basic value or issue which is at the core of the professional-client relationship as the client. The client usually has more at stake than the professional. For instance, a patient of a physician is usually more concerned about his or her health condition than the physician. In addition, professionals frequently have the liberty to institute professional-client relationships in a way that clients lack. It is usually easier for professionals to obtain clients than it is for clients to obtain professionals to represent their interests. This is especially so, for instance in the case of a patient with an acute sickness or someone who has just been charged with a crime. In either case, the potential client does not have much liberty to shop around for another professional.

4.1.4 Paternalist Model

The paternalist model of the professional-client relationship rejects the view that the professional and client are equal. It maintains that the professional, in some important respects, is superior to the client. The relation is likened to the one that exists between parents and children. As parents have knowledge and experience that children lack, professionals also have knowledge and skills lacked by clients, and the possession of such knowledge by parents and professionals render it ethically appropriate for both to exercise judgment and make decisions on behalf of or in the interest of their children or clients. Besides, it appears justified to maintain that professionals should have the authority and responsibility to make decisions on behalf of clients because they are actually hired to do so. Hence, the relationship between the two should be seen as one of paternalism.

We say of an action or conduct that it is paternalistic if the reasons it is carried out are primarily to enhance the interest or the well being of another person regardless of the completely voluntary and informed consent of the person on behalf of whom it is carried out. It might be that the person on behalf of whom the paternalistic action is carried out is not in a position to give or withhold consent (if, as might be the case in a medical case, a patient is unconscious), or he or she might not have been asked, or might have refused to give consent.

Paternalism may be justified within the context of the professional-client relationship on the following grounds: First is that because a professional has a superior understanding and knowledge of what is in the best interest of the client, it would be justifiable for the professional to act on behalf of the client irrespective of the latter's consent. At least, the professional is in a better position to perceive the advantages and disadvantages of alternative actions. Hence, the professional and not the client should have the main authority and responsibility to make decisions.

Second is that a client is usually incapable of giving a totally free and informed consent. By totally free consent, we mean one that is free of all forms of duress, psychological compulsion or disturbance. The argument goes on that because clients are often unable to make totally free and informed consent in their cases, their decisions cannot adequately reflect their reasonable desires and will not reflect their true selves. This would be the case, for example, within the context of the medical profession especially in cases involving patients that are very ill. Such people, apart from having a strong feeling of dependence, are usually worried about their state of health and consequently of a weakened mental state that denies them of their normal mental acumen. The same would be true of the client's of lawyers, especially those charged with criminal offences.

A third justification of the paternalistic model of the professional-client relationship is that usually the client would later appreciate that the decision taken by the professional is correct. This is similar to the way parents argue that when children grow up, they would come to appreciate the decisions taken on their behalf.

However, one problem with paternalism in the professional-client relationship is that while professionals are not normally trained in value

choices, important professional decisions involve value choices and not simple choices of technical means to certain ends. Besides, professionals often would not know the value scheme of their clients sufficiently well to determine what is best for them when all things are considered. For instance, from the medical perspective, a physician might consider bed rest to be the best option for a patient while the patient, given his financial needs, might consider it best for him to first of all seal a business deal before taking a bed rest.

Another problem with the paternalistic model is that it denies clients their rights and liberty to direct their own lives. What they really need is the information that professionals would provide which would assist them in conjunction with an assessment of their values to make wise choices to achieve their objectives.

4.1.5 Fiduciary Model

The fiduciary model attempts to achieve equilibrium between giving adequate recognition to the superior knowledge possessed by the professional and giving significant authority and responsibility in decision making to the client. In a fiduciary relationship, both parties are responsible and their judgments given due consideration. Within the context of the professional-client relationship, a client has more authority and responsibility in decision making than in the paternalistic model in the sense that the client's consent is required, and he participates in the decision making process. However, the client depends on the professional for much of the information upon which he gives or withholds consent. The profession, by this model, proposes courses of actions and the client has the right to consent to one of them.

However, the client would have to trust the professional to accurately analyse the situation or problem, identify the plausible and available alternatives, identify the possible consequences, fully and accurately convey all relevant information to the client, make a recommendation, and work honestly and loyally for the client to correctly choose between the proffered alternatives.

A problem with this model is that it would not work in the case of a client who is not competent to make decisions, especially in legal or medical matters. In such a case, a legal guardian may be appointed to take decisions on behalf of the client.



Discussion Activity

Assuming your professional association intends to update her code of ethics, and some members have suggested that the model of professional-client relationship should be well defined in the new code of ethics.

Which model of professional-client relationship best aligns with your profession? Post how you will tackle this issue.

Post how you will tackle this issue on Study Session Four forum page on course website.

Study Session Summary



Summary

In this Study Session, we examined the professional-client relationship. The central issue here is who should have the major authority and responsibility in decision making between the professional and the client. Five models of relationship between a professional and client were identified and discussed in some details. The models discussed include:

Assessment



Assessment

SAQ 4.1 (measures Learning Outcome 4.1)

Fill the cells in the table below with the most appropriate client-relationship model that captures the given description.

- | | |
|------------|---|
| I. _____ | The client has most of the authority and responsibility for decision making. |
| II. _____ | Maintains that the professional, in some important respects, is superior to the client. |
| III. _____ | The relationship between a professional and a client is quite personal. |
| IV. _____ | The professional-client relationship is based on a contract, which consists essentially in an agreement freely made between two equals. |
| IV. _____ | Attempts to achieve equilibrium between giving adequate recognition to the superior knowledge possessed by the professional and giving significant authority and responsibility in decision making to the client. |

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Study Session 5

Professional Morality and the Duty of Veracity

Introduction

In this Study Session, we will examine the duty of veracity from the perspectives of both ordinary morality and professional morality.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

5.1 *distinguish* between lying and deception.

5.2 *discuss* lying and deception in the professional-client relationship

5.1 Lying and Deception in Ordinary Morality

Lie is a statement that the person making it knows is false while **deception** involves a true statement that is misleading, an action that conveys false impressions or the deliberate withholding of information where the person not informed is misled into drawing a false conclusion.

However, in ordinary morality, there are a number of considerations pointing to the fact that the two are not substantially different. First is that both are equally harmful to the person deceived because they deny him or her of required information. Secondly, the difference between lying and deception is a difference in terms of the means adopted to deceive while the moral considerations of human actions often focus on the intention and consequences. In the case of both lying and deception, the intention is usually the same, which is to get a person to hold a wrong belief. Thirdly, both deception and lying is a form of disrespect and contempt for the person deceived. They suggest that you do not respect the person deceived by claiming for yourself the right to make the person deceived to adopt a false belief and consequently manipulate him or her.



Tip

Lying is giving some information while believing it to be untrue, intending to deceive by doing so.

However, again from the perspective of ordinary morality, there are a number of considerations suggesting that while both lying and deception are morally wrong, the former might be seen to be morally worse than the

former. Two of these factors would be discussed here. The first is that a liar takes advantage of the weakness of the person lied to more than the deceiver. This is because the person deceived could only be harmed by the victim drawing an inference on the basis of what has been told while in the case of a liar, the victim is harmed directly by what he or she is told. For instance, a surgeon could be said to have deceived a patient who has just been operated for the removal a fibroid that all went well without mentioning that in the process of the operation it was discovered, for instance that she has ovarian schist. In this case, the patient is deceived because she assumed that when the surgeon said all went well, this was said from the patient's perspective and not the surgeon's perspective and with direct reference to only the removal of fibroid. As such, the person deceived could be held responsible, at least in part, for the harmful inference made. People can protect themselves against harm arising from deception if they adopt a principle of prudence which specifies that they believe what they are told without making any inference on the basis of this unless there are independent supporting evidence. In the case of lies, we might protect ourselves by adopting a principle which says: do not believe anything you are told unless you have adequate and independent evidence to so believe.

The second argument to the effect that a lie is a greater wrong than deception emanated from the argument above; it is that the liar is more responsible for the harm done against the person lied to than the deceiver is for the harm done against the person deceived. This is because, in the case of deception, the person deceived participates in the deception through the inferences made and as such has to share in the responsibility. In the case of the surgeon discussed above, the patient might have been able to discover the deception if she had bothered to ask the surgeon direct questions about the findings emanating from the surgery.

5.2 Issue of Veracity in Professional-Client Relationship

In the previous section, we examined some reasons why lying and deception are both morally wrong as well as two reasons supporting the view that lying is worse than deception. However, the case of deception may be different within the context of the professional-client relationship. This is in the sense that it might not be morally wrong, under some circumstances to deceive a client.

To begin with, the professional-client relationship, especially with specific reference to the fiduciary relationship is governed by the pursuit of specific ends. This is because people engage professionals in order to achieve defined goals such as to improve their health, protect their legal position or to promote their financial interests. When professionals are engaged, they are expected to employ their superior knowledge and skill to protect those interests for which the professional-client relationship is enacted. This marks an important distinction between ordinary and professional morality. The former is designed to protect people's overall interests while professional morality protects only those interests for which the professional relationship was enacted. As such, professional

moralties need to give consideration to various interests in order to balance them appropriately in cases of conflict. It is for this reason that deception is not morally wrong in a professional-client relationship as professionals have no obligation to protect their clients' interests in having true beliefs, in not being manipulated or in being treated with respect. These interests would only be relevant to a physician's or an attorney's responsibility, for example, to the extent that they might affect a patient's health or a client's legal status.

Within the specific context of the medical profession, as an example, if information would affect a patient's health, what to tell the patient, how to convey the information or whether or not to convey the information are purely medical questions to be answered on medical grounds. If the interests that are likely to be harmed by deception are not medical, there is no reason within the medical context to prohibit the use of deception. However, this is not to suggest that professionals have a liberty to deceive their clients for any reason whatsoever. The main point is that professional morality allows for the use of deception where it is necessary to protect or promote a client's relevant interest. Thus, when in the best judgment of a professional, the possession of information may harm a client's relevant interest, a professional would be morally justified to use deception, and it is at this point that ordinary morality and professional morality may conflict.



Discussion Activity

When can deceitfulness be right?

[Post your response on Study Session Five forum page on course website.](#)

Study Session Summary



Summary

In this Study Session, we examined the duty of veracity from the perspectives of both ordinary morality and professional morality. To do this effectively, a distinction was made between lying and deception. We pointed out that both are generally considered to be morally wrong in ordinary morality, but lying is considered to be more wrong than deception. In the context of professional morality, however, we noted that there are some situations in which it would not be wrong for professionals to employ deception in the pursuit of the specific goals for which the professional-client relationship was enacted.

Assessment

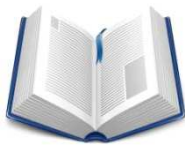


Assessment

SAQ 5.1 (tests Learning Outcome 5.1 and 5.2)

A lie does not have to give false information. (True / False). Justify your answer.

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Study Session 6

Duty of Confidentiality

Introduction

In this Study Session, we will examine “duty of confidentiality”, the paradox of the duty of confidentiality, and justification for the duty of confidentiality. We will also discuss various limitations to the duty of confidentiality.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

- 6.1 *define and use* correctly the term “confidentiality”.
- 6.2 *explain* the paradox of the duty of confidentiality.
- 6.3 *justify* confidentiality.
- 6.4 *highlight* the limitations to the duty of confidentiality.

6.1 Confidentiality

Confidentiality The duty professionals have not to disclose to the public or any third party any confidential information acquired about their clients in the course of their professional relationships without the consent of the clients in question.

Professionals such as doctors, lawyers and even priests recognise the duty of confidentiality which specifies that professionals should keep as secret all the information clients confide to them. They are usually information about issues that are of great concern to individuals which they would want to share with people considered to be in a position to assist them while they want to keep such information from others. Such information, usually personal to clients, includes issues of drug abuse, alcoholism, marital problems and financial difficulties. They can be intimate, discrediting and accurate to different extents.

Normally, when clients disclose personal information to professionals, they expect the latter to treat such information as secret even when they do not make any specific demand to that effect. Indeed, it is often assumed by clients that professionals owe them the duty of confidentiality just as professionals assume that they should receive and respect the confidence of their clients. This suggests that on the part of professionals, there is:

- ☞ first, the assumption that clients should hold them in confidence by giving them such information that they would not ordinarily want to give anyone, and
- ☞ second, the presupposition that they as professionals should not divulge such information to any third party.

ITQ

- Define confidential information?

Feedback to ITQ

- Confidential information is information deemed desirable to keep secret.

6.2 Paradox of the Duty of Confidentiality

In contemporary times, the issue of confidentiality is no longer simply about professionals keeping to themselves personal information about clients that approach them for assistance. This is because these days, apart from the professionals retained by clients, there are a number of office personnel and other professional collaborators who can easily access such confidential information. Besides, there are some situations in which there are clients with complex and interdependent needs requiring the collaboration of several professionals and the free exchange of what is ordinarily considered to be confidential information.

The manner in which information is acquired, stored and retrieved in recent times also tends to weaken the idea of confidentiality. For instance, the uses of various forms of information technology render confidential information more open and accessible to unauthorised persons than before. In addition, a lot of people in recent times need to give up more and more information which they consider to be personal and confidential for them to have access to public welfare assistance, some work training programmes, and even some kinds of employment.

Ironically, as confidential information are becoming more accessible, there remains a great deal of immoral and even illegal secrets that are not recorded in any way, but which continue to burden professionals, such as lawyers, accountants, priests and journalists, who are convinced that they are professionally bound to secrecy on the basis of their understanding of their professional duty of confidentiality. Our society today is confronted by a growing demand to reveal and at the same keep some information as confidential. This has placed those who need to make decisions about whether or not to uphold confidentiality in serious moral dilemma.

In such situations of moral dilemma, the legal system might be appealed to in deciding on the proper choice to make and the actual decision to take. But the problem here is that such a moral dilemma would be considered from a legal perspective which may not be able to resolve the actual moral problem on ground. As we know, there are situations in which what is appropriate from the legal perspective may not be proper from the moral perspective. For instance, while it is proper from the perspective of law to employ all legal means to facilitate the payment of some money you are owed, it might be immoral to do so if you are aware that the debtor is willing to pay but has not been able to do so due to severe ill health that has had a devastating effect on his finances.

A major issue with regards to confidentiality relates to why it should be binding as a duty on professionals. Why should it be considered as an absolute duty by a few while many accept that the onus of proof of justification rests on whomever wants to override this duty?

6.3 Justification for the Duty of Confidentiality

Confidentiality may be justified on four premises. The first and most fundamental of these four premises relates to the autonomy of the individual over personal information. It maintains that the right of individual to have secrets should be respected. If individuals do not have a measure of control over secrecy and openness about themselves, their thoughts, intentions, and properties, they would not be able to maintain their privacy nor guard against danger. However, this right is not absolute and is to be set aside when it conflicts with the right of others. An example would be when an individual is afflicted with a contagious disease that endangers others in society. In this circumstance, the individual in question cannot claim a right to confidentiality. Also, there are a good number of issues over which an individual cannot claim a right of secrecy over, for instance, a broken arm or a habit of stealing.

The second premise, which is derived from the first, maintains that apart from the right to have secrets, there is also the cognate right to share them. It also assumes respect for human relationship and intimacy between humans. On the basis of this, the premise asserts first that it is natural and proper to respect the secrets of those that are intimate and associated with us and second that human relationships could not survive without such respect. This premise is primary in the marital privilege upheld in the American law that a spouse cannot be coerced to give evidence against the partner.

The third premise is that an oath of silence creates an obligation that is supposed to be binding. However, when questions are raised over the legitimacy of an obligation of secrecy that is based on an oath, further questions may be raised about the legitimacy of the oath in the first instance and if the person with whom the oath is made has any right to accept it. In addition, other questions may be raised to determine the circumstances that might justify overriding the oath.

The three premises identified above, when combined, offer a strong *prima facie* reason to support the idea of confidentiality although it must be recognised that there might be contrary reasons that are strong enough to override these premises. For example, these premises are overridden when secrecy would allow violence to be perpetrated against the innocent or make a person an unwitting accomplice of a crime. In such situations, autonomy and relationship do not provide sufficient ground for secrecy or silence. Indeed, in such situations the oath of silence should never be made, or if made for whatever reason, may be legitimately breached.

The fourth premise is more specific to the issue of confidentiality in the professional-client relationship. It adds more weight beyond ordinary loyalty to professional confidentiality given its utility to persons and society. It is for the sake of such utility that professionals grant clients secrecy even when ordinarily they have good reasons to speak out. Hence, lawyers for example believe that they are justified in concealing past crimes of clients or priests the sins they hear at confession.

A benefit of professional confidentiality for individuals is that it allows them to seek help which they might otherwise fear to ask for. For

instance, those that are most vulnerable or at risk of grievous ailments that are considered embarrassing, such as HIV/AIDS, would be very reluctant to go to doctors for help without the assurance that their health status would be kept secret. By this, diseases that could otherwise be better managed could take a greater toll among those ashamed of the nature of their ailments. By extension, society gains in the sense that everyone benefits in society when professionals are able to access secrets that would enhance their capacity for helping clients.

6.4 Limitations to the Duty of Confidentiality

There are three clear situations in which it would be acceptable for professionals to disclose confidential information about their clients. These are discussed below:

Authorised Disclosure: In some circumstances, a client may authorise the professional to disclose confidential information.

Disclosure Required by Law: There are cases in which there are legal requirements to disclose confidential information. The power of the law is stronger than the duty of confidentiality. Such requirements may be divided into two major categories:

- *Where the information is required as evidence in court.* This might require a professional to either appear in court in person or provide relevant documents to the court. In either case, the professional has a legal obligation to comply with the request of the court. Hence, the professional must break the duty of confidentiality to the client even though the client has not or has refused to give permission for the evidence to be provided.
- *Where the law requires that information must be revealed to the relevant authorities in situations where a law has been contravened.* A good example of such is in relation to money laundering.

Professional Duty of Disclosure: In some given situations a professional is required by the code of conduct of his or her profession to disclose some information that would otherwise be treated as confidential. Alternatively, such disclosure may be required either to satisfy a technical standard of the relevant profession or to protect the integrity of the professional or the profession itself. For instance, when a client lodges a complaint about a professional with the relevant professional body, the professional in question may breach the duty of confidentiality to the client in contest in order to protect his or her own professional integrity



Discussion Activity

When, if ever, is it morally permissible for a professional to breach client confidentiality? If yes, substantiate your position with relevant scenarios.

Post your findings on Study Session Six forum page on course website.



Note

The Decision to Disclose

Before a professional decides to disclose confidential information, three points must be considered:

- The professional must ensure that he or she has all the facts relevant to the issue and has enough evidence to back up the facts.
- The professional must decide who is the right person to whom this information should be disclosed, as well as how it should be disclosed.
- The legal consequences of such disclosure must be carefully considered. In this regard, it would be wise for legal advice to be sought.

Study Session Summary



Summary

In this Study Session, you learnt that the duty of confidentiality is the duty professionals have, not to disclose client's information to the public or any third party. We also discussed the paradox of the duty of confidentiality, and identified the moral dilemma professionals often face with regards to the decision to either reveal and or keep some information as confidential. We examined reasons that could be appealed to in the justification of the duty of confidentiality as well as a number of limitations to this duty.

Assessment



Assessment

SAQ 6.1 (measures Learning Outcomes 6.1 and 6.2)

What are the criteria for identifying that information is "labelled" confidential at the workplace?

SAQ 6.2 (measures Learning Outcome 6.2)

How will you justify the obligation of confidentiality?

SAQ 6.3 (measures Learning Outcome 6.3)

Can you identify any situation wherein a professional can disclose confidential information?

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Study Session 7

Whistle Blowing and Professional Responsibilities

Introduction

In this Study Session, we will look at whistle blowing within the context of the professional moral responsibility. We will also examine the moral conflicts inherent in whistle blowing along with its nature and preconditions.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

- 7.1 *describe* the nature of whistle blowing.
- 7.2 *discuss* the moral conflicts in whistle blowing.
- 7.3 *highlight* the preconditions for whistle blowing.
- 7.4. *point out* the steps to take in whistle blowing.

7.1 Nature Whistle Blowing

Whistle blowing The attempt by an employee or former employee of an organisation to disclose what is believed to be a wrong doing in or by the organisation.

Whistle blowing may be defined as the attempt by an employee or former employee of an organisation to disclose what is believed to be a wrong doing in or by the organisation. It is an attempt by an employee to bring to the awareness of relevant people certain practices that are considered to be illegal, unjust, or injurious. For a disclosure to be rightly considered as an act of whistle blowing, it must be engaged in primarily for moral reasons.

A distinction may be made between a whistle blower and a muckraker. The latter does not have any previous or existing tie with the organisation whose wrong doing he or she seeks to disclose. Besides, there are various categories of whistle blowers: internal and external whistle blowers; open and anonymous whistle blowers and; current and alumni whistle blowers. When a wrong is disclosed to higher management in an organisation, the whistle blowing is internal, but when it is disclosed to someone or a group outside the organisation, the whistle blowing is external. When a whistle blower reveals his or her identity, the act is open whistle blowing and it is described as anonymous when the whistle blower does not reveal his or her identity. A current whistle blower is an existing employee of an organisation about which a wrong is reported while an alumni whistle blower is a person who has left the organisation about which the report is made.

ITQ

Fill the cells in the table with the appropriate form of whistle blowing.

I	Information is passed outside the organization.
II	Information is conveyed to someone within the organization.
III	Individuals openly reveal their identity as they convey the information.
IV	Involves concealing one's identity.

ITQ Feedback

- I. External Whistle Blowing
- II. Internal Whistle Blowing
- III. Open Whistle Blowing
- IV. Anonymous Whistle Blowing



Tip

Whistle-blowing is alerting relevant persons to some moral or legal corruption, where "relevant persons" are those in a position to act in response, if only by registering protest. That is, the employee disclosure of an employer's illegal or illegitimate practices to persons or organizations that may be able to take corrective actions.

7.1.1 Nature of Whistle Blowing

The following are three central features that characterise acts of whistle blowing:

Dissent

Whistle blowing makes public a disagreement. Generally, dissent might concern virtually all forms of disagreement over religious, political, economic or legal issues legal, but whistle blowing has a narrower aim of revealing a neglect or abuse, pointing out the risk involved in it as well as apportioning responsibility for this risk.

As is the case with all instances of dissent, whistle blowers confront a conflict between conforming with and rebelling against a policy or practice considered to be unjust, illegal or wrong.

Breach of Loyalty

Whistle blowing is usually seen as a violation of loyalty. As an employee of an organisation, it is assumed that the whistle blower has some responsibility of loyalty to the organisation and colleagues working in the organisation. Hence, when allegations are levelled against an organisation or a colleague, this is perceived as a violation of the obligation of loyalty. However, this situation might be understood as one in which there is a conflict between loyalty to the public and those who might be harmed if

the revelation is not made on one hand, and either the organisation or colleagues in the organisation on the other.

Accusation

A feature of whistle blowing that elicits the greatest reaction from an organisation is the accusation of a wrong doing levelled against it or one of its members. Indeed, for an act to be rightly referred as whistle blowing, there must be an accusation of a wrong doing as well as the identification of a person to be held responsible. In addition, the accusation must be about an impending or already existing threat.

7.2 Moral Conflicts in Whistle Blowing

Anyone considering whistle blowing would be confronted by several moral conflicts. For one, the person would have to decide if blowing the whistle is actually in the public interest. Second, the potential whistle blower must weigh the responsibility to protect or enhance the interest of the public against the responsibility he has towards his colleagues or the organisation against which he or she is considering blowing the whistle. A third form of conflict straddles the two identified above. After it has been concluded that it is in the interest of the public to speak out and that the duty to do so outweighs the duty to colleagues and organisations, there is often the fear concerning the outcome of blowing the whistle. This is because, in practice, retaliation which adversely affects the career, and the ability of whistle blowers to support their families, is usually very common against whistle blowers. It is for these reasons that whistle blowing is considered to be morally permissible but not obligatory.

7.3 Preconditions for Whistle Blowing

While some people argue that whistle blowing as an exercise of free speech is always justified, others deny this on the ground that the right to free speech is never absolute. Hence, it is argued that it is not every case of whistle blowing that is justified. A third position is that whistle blowing is never justified on the ground that employees have obligations of absolute loyalty to and confidentiality to the organisations in which they work.

Nonetheless, given that actions of organisations often harm or violate the rights of others, and there is a general obligation to prevent harm to anyone, a total rejection of whistle blowing is not acceptable. As such, it is helpful to identify conditions under which whistle blowing is morally acceptable. Five of such are listed below:

1. The organisation must be involved in a practice or about to do something that would be harmful to society or people. The more the likelihood and intensity of harm the more the responsibility to blow the whistle.
2. The potential whistle blower must first report the matter to his or her immediate superior.
3. If no adequate solution is found, the issue may then be taken to the managerial level. Basically, before a whistle blower goes

public, the internal facilities and resources for resolution within the relevant organisation must have been exhausted and found to be inadequate.

4. The employee that wants to blow the whistle must have documentation and adequate proof of the wrong he or she want to complain about. Without this, the possibility of success is remote.
5. The whistle blower must have good reasons to believe that by going public, he would be able to facilitate the desired and perceived necessary change.

7.4 Steps to Take in Whistle Blowing

1. Ensure that the situation warrants whistle blowing. There must really be a wrong doing.
2. Confirm that the harm to be avoided is greater than the problem that might be created.
3. Examine your motive and ascertain that your primary objective is to protect the interest of the public.
4. Carefully verify your information and get adequate proof for your allegations.
5. Be clear about the wrong you wish to report and the person or group to whom the report should be made.
6. Decide whether the whistle blowing should be internal or external. This should be based on the availability and potentials of available internal mechanisms for correcting and preventing wrongdoings in relevant institutions.
7. Decide whether the whistle blowing should be open or anonymous.
8. Determine if the whistle blowing should be current or alumni.
9. Identify how much protection is available for whistleblowers in your organisation, or relevant state or federal agency.
10. Make your allegations in an appropriate manner by being as specific as possible.
11. Stick to the facts of your case and avoid abusing people or making judgmental statements.
12. Anticipate and document retaliation.
13. Get legal advice at every stage of whistle blowing.



Discussion Activity

What would you do if you inadvertently discovered evidence that:

- a) the head of your research group had been discarding data points, apparently to make the results of recent experiments (or studies) look better than they actually were?

Or

- b) your boss has been making more profits for your organisation by falsifying tax records.

Post your findings on Study Session Seven forum page on course website.

Study Session Summary



Summary

In this Study Session, we focused on whistle blowing within the context of the professional moral responsibility. We defined it as the attempt by an employee or former employee of an organisation to disclose what is believed to be a wrong doing that is illegal, unjust or harmful in or by the organisation to relevant people, institutions or the general public for moral reasons. We examined the moral conflicts inherent in whistle blowing along with its nature and preconditions.

Assessment



Assessment

SAQ 7.1 (measures Learning Outcome 7.1)

What are the main features of whistle blowing?

SAQ 7.2 (measures Learning Outcome 7.2)

When is whistle blowing morally permitted and morally obligated?

SAQ 7.3 (measures Learning Outcomes 7.3 and 7.4)

Point out the conditions to be met for whistleblowing.

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Study Session 8

Professional Ethics in Two Selected Professions

Introduction

In this Study Session, we will explore the practice of professional ethics in relation to two selected professions: legal profession and financial services profession. We will discuss the role-differentiated character of the position of legal practitioners in relation to clients, their position in the adversary legal system, as well as some of the moral dilemmas they can confront in the dispatch of their professional duties.

Learning Outcomes



Outcomes

When you have studied this session, you should be able to:

8.1 *discuss* legal ethics.

8.2 *highlight and explain* financial ethics and services.

8.1 Legal Ethics

Legal Ethics Principles of conduct within the legal profession.

A central feature of professions generally and the legal profession specifically is that there is a special and somewhat complicated relationship between the professional and the client. This relationship often makes it appropriate and desirable for professionals to put aside many moral considerations that would, if not for the professional-client relationship, be relevant and perhaps decisive. The actions of professionals that involve setting aside ordinary moral considerations are described as role differentiated behaviour. Essentially, the role-differentiated character of a situation greatly alters the relevant moral point of view.

The relationship between a parent and child presents a good illustration to explain role differentiated behaviour. In virtually all cultures, as a parent one is entitled if not obligated to prefer the interests of one's own children over those of other children generally. It is regarded as appropriate for a parent to provide excessive goods to his or her children, even though other children may have substantially more pressing and genuine needs for the same items. Essentially, if one were to decide on how to distribute assets among a group of children all of whom are strangers, the relevant moral consideration would be different from those that would be considered relevant once one's own children are included. As a parent, the needs of other children are less morally significant if not

morally irrelevant.

In the case of lawyers, the professional-client relationship alters the moral point of view of the attorney. This relationship renders it appropriate and even obligatory for lawyer to things which an ordinary person normally need not and should not do. Once a person is accepted as a client, the lawyer in question has a duty to fully use his skills, knowledge and expertise in pursuit of the ends sought by the client irrespective of the moral worth to which the end will be put or the character of the client who seeks to utilise it. As long as the end sought by a client is not illegal, the lawyer is essentially an amoral technician whose skills and knowledge of the law are available to the client that requires them.

It is considered to be appropriate and obligatory for a lawyer defending a client charged with a criminal offence to put up as vigorous and persuasive a defence as though the lawyer is totally convinced of the innocence of the client. Basically, the argument is that the job or responsibility of the lawyer is not to approve or disapprove of the moral character of the client, the end for which the client seeks the services of the lawyer, or the avenues provided by law to achieve the client's desired end. Rather, the lawyer is to provide the skill and competence lacked by the client. Thus, the lawyer occupies an amoral position in which a number of considerations that non-professionals would consider as relevant and important become morally irrelevant.

Arguments in support of the a moral position of lawyers include the fact that their role differentiated position and behaviour renders the moral universe of the lawyer to be simpler than the moral world of our ordinary life because the lawyer is able ignore a number of moral issues that we are usually confronted with in ordinary life. A lawyer is able to maintain that it is not his or her professional responsibility to judge the moral status of a client or the end he or she is pursuing but to defend as best as possible the client's interest for which he was employed as a professional.

Another argument is that the amoral role differentiated position of lawyers enables them to adhere more strictly and consistently to institutional and professional roles as lawyers. For instance, if a criminal defence lawyers judges the moral character of a defendant, such judgment might be substituted for the public and institutional judgment of the judge, thereby denying the defendant an opportunity to have the established judiciary system determining whether or not he or she is in fact guilty.

A third argument is that appearances can be very deceptive. People that appear to be guilty before trial may turn out to be actually innocent. Hence, the adversary system is an effective method to determine the legally relevant facts in any given case. And, this system works only when an adversary each has a lawyer that plays the institutional, appropriate and professional role of representing the client's interests. In this regard it is important to know that a plea of not guilty does not necessarily mean "not guilty in fact" for the defendant may simply mean "not legally guilty". A person is deemed to be legally guilty only after a case of guilt has been established beyond all reasonable doubt.

8.1.1 The Position of an Attorney in an Adversary System

An adversary system, within the context of the legal profession, is the system employed to establish the truth of a case between a prosecutor and a defendant. While the objective of the prosecutor is to establish that the defendant is guilty, the primary goal of the defendant and his counsel is to establish the innocence of the defendant who has been accused of a crime. The following holds true for all lawyers in an adversary system whether they function as a prosecutor or as the attorney of a defendant:

1. The attorney is an officer of the court whose primary objective is to search out the truth of the case on hand.
2. A lawyer in an adversary system has a responsibility to undermine the claims of the opponent.
3. Each lawyer in an adversary system has a responsibility to be devoted to the interest of the client, especially the protection of the client's rights, to the best of his or her ability.
4. An attorney must preserve the confidence of the client but at the same time must not violate the law or commit any form of chicanery or fraud.
5. In practice, lawyers often keep silent on facts or issues they know would disfavour their clients.
6. A lawyer should fully know all that pertains to a case and must therefore seek to know the truth from a client in confidence, and on the understanding that he has a sacred duty never to reveal a client's confidence.
7. In a criminal case, the defendant is presumed innocent with the burden of proof on the prosecution to establish beyond reasonable doubt that the defendant is guilty.

8.1.2 Moral Dilemma in the Legal Profession

In virtually all areas of legal counselling and advocacy, a lawyer may be faced with a dilemma of either betraying the confidence of a client or participating to some extent in purposeful deception of the court. This problem is quite prominent in the practice of criminal law, especially in the representation of a defendant. It is evident in the following questions:

- *Should a defending counsel cross-examine for the purpose of discrediting the reliability or credibility of an adverse witness whom you know is telling the truth on the basis of the confidential information a client gave you?*

Strictly speaking, an attorney's failure to cross-examine would not directly violate a client's confidence since it does not constitute a disclosure. However, the principle that supports the obligation of confidentiality also imposes an obligation on the attorney not to prejudice the interest of a client in any way because of the knowledge gained in his professional interaction with him or her. If a lawyer refuses to cross-examine a witness because a client had been candid then the basis for such confidence and candour is eroded, and this is a thing which the

legal system cannot tolerate. Indeed, a client's confidence must at all times be inviolable in order to avoid greater complications that might set in if a client does not have enough confidence in the lawyer he consults for legal support.

- ***Should an attorney put on stand a client who has told you that he or she would commit perjury?***

Given the wide consensus among prosecutors and defence lawyers that the chance is greatly increased that a defendant would be convicted when he or she does not take the stand, it follows that a defence counsel that prevents a client from taking the witness stand on the ground that the latter had confided his or her guilt in the attorney is violating that confidence by acting upon the information in a way that will seriously prejudice the client's interest.

An option open to the defence counsel may be to withdraw from the case if there is enough time for the defendant to enlist another attorney. But then, the client would have formed the opinion that the obligation of confidentiality is not strictly adhered to and, thus, very likely to withhold incriminating information from the new attorney. Hence, withdrawal from the case may not be the best alternative as the perjured testimony would still be presented in court.

For all practical purposes, the obligation of confidentiality in the adversary system gives an attorney no alternative but to put a client who is likely to lie on oath without disclosing this fact to the judge or jury. The only two exceptions are: First, when a client accuses a counsel that needs to disclose some confidential information about the client in order to defend himself or herself. Second, when the client has announced an intention to commit a crime.

However, a lawyer has a duty to convince or persuade a client not to perjure on both moral and legal grounds. The danger of an untrue testimony should be made known to the client as there is a high possibility that the prosecutor would expose the perjury during cross-examination. Nonetheless, the final decision on whether to perjure or not should lie with the client.

- ***Should you as an attorney provide legal advice to a client when you have strong reasons to believe that the knowledge and information you give him would tempt him to commit perjury?***

A primary responsibility of a legal counsel is to provide a client with all the legal information about relevant laws. Indeed, a client has a right to such information and it is also left to him to decide on what he would do with such information. Hence, it would be unethical for a legal counsel not to provide all relevant legal information even if such might encourage a client to commit perjury.



Tip

Moral dilemmas involve situations in which one cannot escape making a decision. In these circumstances, you have to decide whether doing nothing has the moral status of doing something.

8.2 Financial Ethics

Financial services deal with the acquisition, allocation, and management of money and other factors that relate to the flow of money in an economy. They include all issues that affect the circulation of money. Institutions in the financial industry that render financial services include banks, credit unions, stock brokerage firms and insurance firms. Products offered by financial institutions include loans, insurance, credit cards, money management, investment opportunities, and provision of information on the stock market and general market trends. Professions that are central in the provision of financial services include accounting, banking and insurance.

Banking is one of the most popular professions in the financial sector. Banking services include the following:

- Safe keeping of money in a way that allows for withdrawals when needed.
- Issuance of cheque books for ease of financial transactions.
- Provision of different forms of loans.
- Issuance of credit cards/debit cards.
- Wire or electronic transfer of funds between banks.
- Provision of overdraft facilities.
- Internet banking.
- Provision of cashier or certified cheques.
- Notary services for financial and other documents.
- Foreign exchange services.
- Investment services.

8.2.1 Characteristics of Financial Services

1. **Customer Specific:** Financial service providers study the needs of their customers in details before deciding on their financial products and strategies, giving due regard to costs, liquidity other maturity considerations. Financial service providers remain in constant touch with their customers so that they can design services and products that can cater for their specific needs. They often carry out market surveys so they can offer new products ahead of needs and impending legislation.
2. **Credibility:** Unless financial service providers are credible and have a good image, enjoying the confidence of clients, they cannot succeed.
3. **Concomitance:** The production and supply of financial services are performed simultaneously.
4. **Perishable Services:** Financial services are perishable and cannot be stored. Hence, they must be supplied as required by

customers. As such, financial institutions must ensure a proper synchronisation of demand and supply.

5. **Market Dynamic:** Financial services need to be constantly redefined and refined to suit changes in the market. While evolving new services, providers need to be proactive in visualizing in advance what the market wants and respond by evolving new services. They must also be reactive to the needs and wants of their customers

8.2.2 Sub-Division of Financial Ethics

Financial ethics is a sub-division of both ethics and finance, with each laying emphasis on different aspects of financial ethics. Indeed, the approaches adopted by scholars of ethics on one hand and finance on the other hand differ significantly. For instance, a primarily financial perspective on financial ethics would be concerned with the question, “are moral behaviours such as promise keeping and honesty financially rewarding?”. This approach, called the positive approach to financial ethics, primarily examines the financial implications of moral behaviours. It involves an objective examination of the effects of such moral virtue as honesty on profitability and trust on efficiency

Alternatively, a primarily ethical approach to financial ethics focuses on an examination of the moral implications of certain financial practices or procedures. This is called the normative approach to financial ethics. A question that might be relevant in this regard is “is insiders trading morally defensible?”. To answer such a question, and to arrive at the correct moral implication of given financial procedures or practices, various moral theories and arguments would be employed.

Normative and Positive Financial Ethics

Normative financial ethics involves making evaluative and prescriptive “ought statements while positive financial ethics employs the positive, descriptive and explanatory statements of the sciences. In terms of methodology, normative financial ethics relies on the methodology of moral argumentations while positive financial ethics relies on the methodology of the positive science. This consists in description, theory, hypothesis building, explanation, prediction and testing.



Assignment

Review the code of ethics of any profession of interest.

Upload your submission on Study Session eight assignment page on course website. You may also use this session’s forum page to discuss this Study Session and its activities with your peers online.

Study Session Summary



Summary

In this Study Session, we focused on the legal profession and professions that provide financial services. We discussed the role-differentiated character of the position legal practitioners in relation to clients, their position in the adversary legal system, as well as some of the moral dilemmas they can confront in the dispatch of their professional duties.

With regards to the financial services, an attempt was made to define financial services, identify its salient characteristics. We also identified two basic approaches to financial ethics: Normative and positive financial ethics.

Assessment



Assessment

SAQ 8.1 (tests Learning Outcome 8.1)

When may a lawyer represent a client with interests adverse to those of a former client?

SAQ 8.2 (tests Learning Outcomes 8.1 and 8.2)

- i. Which of these are safeguards for upholding high ethical standards?
 - a. Having written orders to do something
 - b. Companies' internal codes, policies and education
 - c. Corporate governance regulations
- ii. If you face an ethical dilemma, what should your first step be in resolving the issue?
 - a. Contact the regulators
 - b. Stay quiet
 - c. Check your facts

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Feedbacks to Self Assessment Questions

SAQ 1.1

MORAL:

- Refers only to personal behaviour.
- Refers to any aspect of human action.
- Social conventions about right or wrong conduct.

ETHICS:

- Involves defining, analyzing, evaluating and resolving moral problems and developing moral criteria to guide human behaviour.
- Critical reflection on what one does and why one does it.
- Refers only to professional behaviour.

SAQ 1.2

We don't know what you have considered as sorts of complexity and murkiness that may be involved in moral situations, but your list may include the following:

- Vagueness
- Conflicting reasons
- Disagreement

SAQ 1.3

I, II and V are meta-ethics. Meta-ethics investigates of the nature of ethical statements.

III and IV are actually normative ethics. Normative ethics attempts to arrive at practical moral standards that tell us right from wrong, and how to live moral lives.

SAQ 2.1 The criteria required for a profession includes

- Knowledge
- Organization
- Public Good

SAQ 2.2

Two. Firstly, the consulting professional; in this case the architects who are Sule and Soji. Secondly, the scholarly professional who in this case is Professor Chinwe, a course facilitator.

SAQ 2.3

We don't know what you have come up with, but your summary may include the professional behaviours:

- high level of generalised and systematic knowledge.
- activities must be primarily oriented towards community interest rather than self interest.
- a high level of control through codes of ethics.
- the operation of a system of reward for occupational performance.

SAQ 2.4

False. Arguments about whether or not occupations can be considered professions are highly perspective-dependent, the perspective and criteria being used need to be stated.

SAQ 3.1

Your definition of professional ethics should include the following elements:

- Study of the moral ideals, character, policies and relationships of people and corporations involved in a professional activity.
- Moral standards / values and system of morals.

SAQ 3.2

Principles that facilitate attainment of professional objectives include:

- i. Provision of an ethical standard that would serve as guide for professional conduct.
- ii. Justification of fundamental ethical principles that are appealed to in various professions through critical analysis.
- iii. Identification of professional conducts that is morally acceptable as opposed to those that are unacceptable.
- iv. Ensuring that conduct is consistent with the basic objectives of the profession and overall social wellbeing.

SAQ 3.3 (tests Learning Outcome 3.3)

- i. Integrity is the bridge between responsibility in private and professional life.
- ii. The two aspects of Honesty are:
 - Truthfulness – meeting responsibilities concerning truth-telling.
 - Trustworthiness – Meeting responsibilities concerning trust.
- iii. Self-respect: It is a moral concept; refers to the virtue properly valuing oneself.

Self-esteem: It is a psychological concept; means having a positive attitude toward oneself, even if the attitude is excessive or otherwise unwarranted.
- iv. We don't know what you have listed, but your list may include the following:

- a. a virtue
- b. obligations
- c. general moral capacities of people
- d. liabilities and accountability for actions
- e. blameworthiness or praiseworthiness

SAQ 4.1

Here are the professional-client models that best captures the presented descriptions sequentially:

- I. Agency Model
- II. Paternalistic Model
- III. Friendship Model
- IV. Contract Model
- V. Fiduciary Model

SAQ 5.1

True. What makes a lie a lie is that the liar intends to deceive (or at least to mislead) the person they are lying to. It does not necessarily matter whether the information given is true or false. Here is a scenario:

I want the last helping of pie for myself, so I lie to you that there is a worm in it. When I later eat that piece of pie I discover that there really is a worm in it.

The above scenario is a case where someone inadvertently gives true information while believing that they're telling a lie.

It is also possible to have a case where nobody is deceived by because they know that the fellow is always tell lies.

SAQ 6.1

The criteria for identifying that information is “labelled” confidential at the workplace include:

- Professionals shall treat information coming to them in the course of their as confidential.
- They shall also identify any information which if it became known would cause harm to the corporation or client.
- Confidential information is any information that the employer or client would like to have kept secret in order to compete effectively against business rivals.

SAQ 6.2

The obligation of confidentiality can be justified at two levels as shown below.

First Level: Moral Considerations

- Respect for autonomy
- Respect for promises
- Regard for public well-being

Second Level: Major Ethical Theories

- Rights Ethicists
- Duty Ethicists
- Rule-utilitarians
- Act-utilitarians

SAQ 6.3

We don't know what you have considered; a professional can however disclose confidential information as a result of any of the following situations:

- Authorised Disclosure
- Disclosure Required by Law
- Professional Duty of Disclosure

SAQ 7.1

We don't know what you have pointed out as the main features of whistle blowing, but the following features might be in your list:

- a. Act of disclosure
- b. Topic
- c. Agent
- d. Recipient

SAQ 7.2

- i. Whistle blowing is morally permitted if:
 - a. the harm that will be done by the product to the public is serious and considerable.
 - b. they make their concerns known to their superiors.
 - c. getting no satisfaction from their immediate supervisors, they exhaust the channels available within the corporation, including going to the board of directors.
- ii. Whistle is morally obligated when:
 - a. He or she must have documented evidence that would convince a reasonable, impartial observer that his [or her] view of the situation is correct and the company policy wrong.
 - b. There must be strong evidence that making the information public will in fact prevent the threatened serious harm.

SAQ 7.3

The conditions to be met for whistle-blowing are

- a. Need
- b. Proximity
- c. Capability
- d. Last resort

SAQ 8.1

Successive representation is permitted when there is no conflict between the interests of the former and current clients or when written waiver of the conflict has been obtained.

Where successive representation is permitted, attorneys are to refrain from disclosing the confidences of their former clients or otherwise using them to the disadvantage of those clients.

To obtain the informed consent required by the rule, a lawyer must adequately explain to the former client "the material risks of the proposed course of conduct and reasonably available alternatives."

Switching Firms

Conflict issues involving successive adverse representation often arise after a lawyer switches firms and her prior law firm represented a client adverse to a current or prospective client of her new firm.

This situation requires examination of the lawyer's involvement in the prior law firm's representation of the former client in order to determine whether the former client's informed consent is necessary to permit the lawyer and/or her new firm to continue representing a current client or to undertake the representation of a new client. Moreover, where the newly-associated lawyer is barred from the representation, the lawyer's firm is too.

SAQ 8.2

- i. **B and C.** Learn more about corporate governance and code of ethics of your profession. You can always update yourself ethical practice seminars and conferences for more details about safeguards.
- ii. **C.** Before you take action, make sure to check your facts.