

Ethics, Professionalism and Confidentiality

Presentation to University of Western Australia
Legal Internship Students

Chris Field
Ombudsman

Adjunct Professor, School of Law, University of Western Australia

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Overview

- Ethics
- Professionalism
- Confidentiality



Ethics

- Ethical behaviour has clear intrinsic value – it is inseparable from the idea that it is better in any walk of life, including life serving others, to act reliably and with virtue, with fidelity and honesty, responsibly and appropriately, with a clear sense of proper, legitimate purpose and unaffected by the corruptive and perverse.

Ethics

- Ethical behaviour also matters for its instrumental value – the practical consequences that can be observed from its protection and promotion in civil society.
- To adapt the words of the great Austrian economist Friedrich Hayek, we must not simply take for granted even indisputable ethical presuppositions if we want to convince those who do not already share our moral suppositions.

Ethics

- In its most recent 2016 Prosperity Index, the Legatum Institute assessed 149 countries in terms of a series of measures such as “an honest and effective government”.
- Australia finished sixth overall and only a marginal amount separated us from those countries above us.

Ethics

- Ethical governance and ethical behaviour by individuals underpin societies that are the most stable and successful.
- They are the societies where prosperity is the greatest.
- Greater prosperity gives us the capacity to provide the best societal outcomes.

Ethics

- Particular officers may have specific ethical obligations.
- For example, the Ombudsman must take an oath or affirmation before the Speaker of the Legislative Assembly that they will faithfully and impartially perform the duties of their office.

Professionalism

- A professional must have certain levels of training, expertise and commitment to ongoing training.
- But they must also have a commitment to high quality, timely and cost-efficient processes and outcomes and, importantly, to modern, inclusive, safe and supportive workspaces.
- They will also have a greater sense of self and a sense of civic purpose.

Professionalism

- Legal professionals have particular (but similar) attributes - duties to clients, to continuous legal education, to offer services pro bono and as an officer of the court.

Confidentiality

- Confidentiality is critical to rights of privacy, the undertaking of certain investigations and reviews and encouraging certain complaints and disclosures that are otherwise in the public interest.

Confidentiality

- Of course, confidentiality cannot inappropriately become obfuscatory or to hinder appropriate scrutiny.
- Striking the balance of transparency and disclosure on one hand and confidentiality and privacy on the other is one of public interest policy and a matter for our parliaments.

Confidentiality

- Particular officers may have specific confidentiality obligations.
- For example, the Ombudsman must take an oath or affirmation before the Speaker of the Legislative Assembly that they will not, except in accordance with the Ombudsman's legislation, divulge any information received by them.

Questions