IAIA 2019
Let's Talk about this – Evolution or Revolution for IA

Let's talk about .....Ethics

Professional Ethics, Impact Assessment and 'Blind' Science

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Impact Assessment is distrusted by the community

Three challenging (revolutionary?) suggestions from David Morris:

- *Break the nexus between proponents and impact assessment consultants,*

- *statements of compliance with best practice and*

- *legislated 3rd party merits review rights*

indicate that **trust** between the community and impact assessment practitioners, needs to be established and rigorously maintained.

….. Similar for environmental profession(s) generally

Professional ethics of environmental practitioners

- **Background … young diverse profession, no single accredited training, no government regulation, high community scepticism**

- **Certification panel interviews & ECP ethical confusion**

Research Question:
"*How do leading environmental practitioners construct meaning for their practices with respect to ethical principles and codes?*"

Semi-structured interviews with senior practitioners in Australia & NZ

Practitioners consider themselves ethical

- **We all consider ourselves ethical**

- **But under client pressure to cut corners and help approvals,**

- **And regard 'other' consultants as unethical if they do so.**

*Ethical behaviour is a necessary but not sufficient pathway to establishing trust*

Pathway to (and characteristics of) a "profession"

Core strategies by which professions have established & maintained trust include:

- **agreed pre-requisite qualifications, particularly University courses**

- **a 'closed shop' profession which excludes unqualified practitioners, through government regulation or through a certification or registration scheme**

- **demonstrably providing a community benefit … in return for 'status'**

- **individual accountability, offering trusted advice and acting in interests of others**

- **a collegiate approach to maintaining values and continued professional development eg. through an association or institute**

- **adoption of Codes of Ethics, with sanctions applicable to breaches**

Scientists are (generally) trusted

Science *per se* does not meet the definitions of a profession, but has its own codes of behaviour (eg. truth-telling, evidence-based, no plagiarism). Codes are enforced in academia and in research publications, but not in industry, except as may be imposed by legislation, company policy, professional ethics or client requirements.

SINGLE BLIND

DOUBLE BLIND
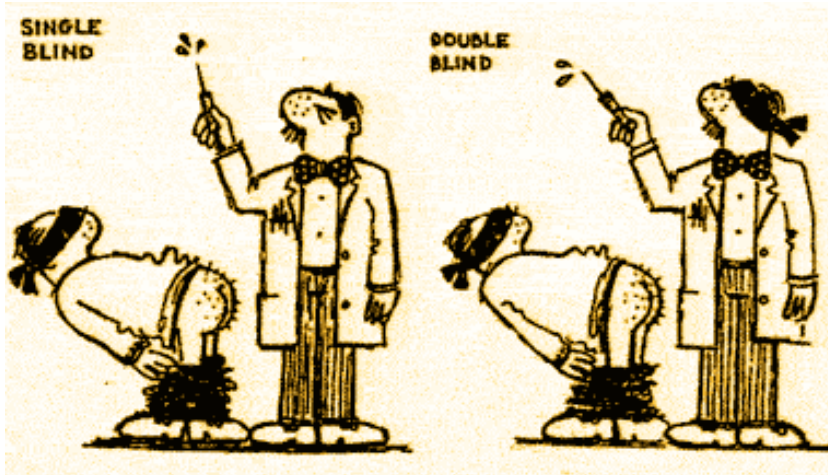
One principle is "Blind Trials" (first used in 1784) and 'Blind' Peer Reviews .... **to reduce or avoid bias.** Similar principles apply to expert witnesses.

Data and Jargon

'Blind Science' doesn't mean 'blinding with science"

Obscuring the truth through jargon, 'weasel words' and masses of data is '**obfuscation**' which is contrary to the EIANZ Code of Ethics and Professional Conduct under the heading of "Demonstrate Integrity":

*(a) Be honest and trustworthy, **avoid misrepresentation or obfuscation,** distinguish between fact and opinion, and state opinions which are honestly held;*

…..particularly applicable to 10,000 page EIS documents !

Bias reduction, independence, ethics and trust

❑ **Are 'independence' or 'double blind' approaches the only way to reduce or avoid bias? And would this establish trust?**

❑ **Can high standards of ethical behaviour achieve community trust, even when the investigators are not 'independent' ?**

❑ **Is bias avoidance an 'ethical' principle? And can it be somehow extended to EIS in order to establish trust in science and professional environmental practitioners?**

❑ **Is <u>certification</u> (annual 'licencing') of impact assessment practitioners, such as CEnvP(IA) part of the 'answer'?**

What is 'ethics'?

Ethics are the moral principles we use when choosing between alternatives.

Ethical dilemmas arise when a choice is presented between two or more courses of action, each of which has moral dimensions

(a '*should I*?' question).

"… one of man's oldest exercises in moral philosophy; that is, the search for a superior moral justification for selfishness"

(John Kenneth Galbraith)

Limiting the ethical decision-space

Our unspoken 'social contract' expects that most people will "Do the Right Thing" …. but interpretations and community opinions differ

Consistency (& mutual trust) can be enhanced by limiting the range of moral choices,

❑ Law – complying with legislation is not an ethical decision *per se*, but interpreting the 'spirit of the law' may involve an ethical choice.

❑ Codes – organisations, religions, professions and fields (such as science or anthropology) may adopt codes of behaviour, some of which have become so tried and tested that they are ingrained and form the basis of trust. People who choose to be bound by these codes accept limits within which to behave, and can expect others to behave, as the basis for trust.

❑ Current social mores (norms and taboos) – the newspaper test, the 'pub' test ?

Professional Codes of Ethics eg. EIANZ (2012)

Compliance with this Code of Ethics and Professional Conduct is central to sound environmental practice and the credibility of the profession, and is required for persons who are members of the EIANZ and also for Certified Environmental Practitioners. Environmental practitioners are committed to practice in accordance with this Code of Ethics and Professional Conduct, and accept personal accountability for professional conduct. This Code commits environmental practitioners to:

PROMOTE ENVIRONMENTAL PRINCIPLES

(a) Advocate the integrity of the natural environment and the health, safety and welfare of the human community and future generations as being central to environmental practice;

(b) Advocate the protection of environmental values and the mitigation of environmental harm, based on objective scientific and technical knowledge;

(c) Advocate and undertake environmental practice in accordance with principles of environmental stewardship, resilience and sustainability, with a view to achieving no net loss of environmental values and preferably a net gain, and to an appropriate standard.

NOTE: ByLaws allow complaints and sanctions (incl withdrawal of certification) against practitioners who breach these standards.

EIANZ Code of Ethics & Professional Conduct (contd)

DEMONSTRATE INTEGRITY

(a) Be honest and trustworthy, avoid misrepresentation or obfuscation, distinguish between fact and opinion, and state opinions which are honestly held;

(b) Respect obligations of confidentiality and privacy;

(c) Be objective, <u>seek peer review and other quality assurance of work as appropriate</u>, and accept as well as give honest and fair criticism when required;

(d) Avoid or manage conflicts of interest, and make all relevant parties aware when there is such a conflict;

EIANZ Code of Ethics & Professional Conduct (contd)

REPRESENT AND PROMOTE THE PROFESSION

(a) Promote and provide leadership in the adoption of high standards of environmental practice;

(b) Contribute to the development and maintenance of knowledge about environmental practice and standards of professional competence;

(c) Support others in their development as environmental practitioners;

(d) Do not advertise or represent services, or those of another, in a manner that may bring discredit to the profession.

PRACTICE COMPETENTLY

(a) Provide services at an appropriate standard as required to achieve or foster optimal environmental outcomes;

(b) Only practice and offer services in functional areas and specialisations in which one is appropriately qualified, experienced and competent;

EIANZ Code of Ethics & Professional Conduct (contd)

(c) Comply with all applicable governing laws and statutory requirements, <u>and actively discourage non-compliance by others</u>;

(d) Promote the involvement of all stakeholders and the community in decisions and processes that may impact on environmental values;

(e) Respect the contribution of other professionals and collaborate in multi-disciplinary approaches;

(f) Be diligent in practice, providing accurate, up-to-date, objective, impartial and unbiased advice;

(g) Acknowledge data and information sourced from others, and be accountable for data collected, analyses performed and conclusions drawn or plans developed as part of an assignment;

(h) Be prepared to explain work and conclusions drawn, and provide the evidence on which the work is based;

(i) Continuously update and develop skills through relevant professional development as a basis for competent practice.

More detailed codes for specific practice areas

Specialist fields, such as Impact Assessment (through EIANZ SIS) may develop more detailed codes and best-practice standards to guide practitioners and allow complaints and sanctions against those who breach the agreed ethical standards. This will also encourage regulators, NGOs and the community to have greater trust in impact assessments.

The EIANZ Code encourages <u>peer review</u>, and this could be structured in a way that adopts some 'Bias Reduction' principles eg. avoiding conflicts of interest.

EIANZ/CEnvP Guidance Note on Peer Review (2018)

A peer reviewer should

- have appropriate and relevant experience to assess the work being reviewed, be independent from the proponent and the project;

- demonstrate independence by acting objectively, disclose interests as appropriate and be free from conflicts of interest that may arise in relation to the engagement;

- give honest and fair professional criticism when commenting on another's works or making public comment;

- Where appropriate (consistent with the review brief), should consult with the 'reviewee' regarding the findings of the review or to seek explanation and corrections;

Guidance Note on Peer Review (contd)

- should not maliciously nor carelessly do anything to injure, directly or indirectly, the reputation, prospects or business of others;

- should neither attempt to supplant another individual or organisation who has been duly appointed by a client or employer, nor accept engagement from a client or employer in replacement of another without first ascertaining that the appointment has been terminated by due notice;

- should not unfairly criticise past work conducted in accordance with the accepted standards and practices and community values of the time.

Applicability to IA

Multi-disciplinary team exercises: ethical challenges associated with:

- ❑ **competitive multidisciplinary firms, placing high value on client relationships**

- ❑ **'whole of project' team expectations and 'best-for-project' compromises**

- ❑ **the drive to optimise project manager, client, agency and stakeholder demands.**

In these circumstances, some of the bias reduction principles of expert witness roles, double-blind trials and peer reviews may be of assistance in developing a new set of ethical principles specifically for impact assessment, as part of a renewal of trust between the professions, regulators, NGO and affected communities.