Developing the 'Ethical Competence' of Public Officials - a Capacity-building Approach

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Traditional notion of 3E (economy, efficiency and effectiveness) in public administration is transformed into 4E adding the ethical aspect of public servants activities. Author argues that the professionalism in contemporary public service is inevitably associated with ethical competence. Subject-matter knowledge, attitude and commitment, advocacy, reasoning, problem-solving, self-awareness and consensus-building skills are the core elements of such competence. Training public servants in-office a video based training methodology may be effective tool reaching the desired results. Application of such training method is described in the paper analyzing the experience of the transitional societies (Lithuania, Latvia, Estonia and Bulgaria).

Raktažodžiai*: etinė kompetencija, etikos mokymai, valstybės tarnautojai.*

Keywords*: ethics competence, ethics training, public officials.*

Introduction

This paper argues that a competency-based approach to what might be called 'professional ethics for public officials', based on role-related norms and values specific to a particular country's public sector, can provide a relevant framework for a capacity-building approach to training and education in ethics and integrity for public officials.

The paper outlines a professionalisation strategy which deploys a competency-based approach to Public Sector Ethics norms, understood as professional standards, together with a Problem-based Learning pedagogy. Central to this capacity-building strategy is the use of video case-scenarios of a particular type developed by the author.

Based on pilot projects undertaken in the public services of five countries, the potential for linking this form of capacity-building in ethics to assessment, and thereby to employment rewards and sanctions through the use of existing HRM systems, is identified.

It is suggested that as a result, initial 'professionalisation' training followed by ongoing Con-

tinuing Professional Education using this methodology, together with an appropriate HRM regime of rewards and sanctions, could render a given public service more manageable, reliable, accountable, coherent, and ethical, and less readily corruptible.

1. Professional ethics for public officials

Public servants exercise power in a variety of ways, at least some of which are seen as problematic in democratic systems of government. The ethical standards according to which they do so are likewise problematic, for reasons related not only to compliance, but also to the competent identification in each case of 'the ethics problem' itself.

For all practical purposes, public servants and public officials, (I use the term interchangeably for the purposes of this paper), control the use of various state-provided resources and benefits, the interpretation and application of law and policy, access to both official and private information, and the grant of licenses and permissions affecting the rights and interests of citizens and non-citizens. They exercise discretionary powers which can impact on the processes of governing, both for themselves and for other officials. Public servants can determine the performance of state institutions, and thereby the electoral fortunes of Ministers and elected governments. In so doing, public servants

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are required to respect multiple loyalties: to their employer, the State; to their institution; to their profession; and to 'the public interest' however defined. It is little wonder, then, that public service is often regarded as a profession.

There are some important consequences of this view, and so it is useful here to clarify what the notion of 'professionalism' in the public service context brings with it when the discussion is about the ethical norms, standards, and obligations of public officials.

First, the notion of 'professionalism' usually implies the existence of a body of expert, significantly self-regulating practitioners of a knowledge-based discipline, who exercise specialised skills consequent upon having qualified through specific training and certification. The license to practise obtained entails, at least at the rhetorical level, a recognition by the professional of some form of trust duty to those who rely on their expertise. Self-regulation is expected to protect the profession's standards, especially in relation to specifically ethics-related issues such as duty of care, conflict of interest, regard for the best interests of the citizen/client (including involuntary 'clients'), and service to the wider community and to the profession itself. The responsible use of the professional's power, to advance the interests of those that rely on them, is usually a particular focus of concern in any profession's Code of Ethics. Conflicts of Interest, in whatever form, are usually, and appropriately, to be found at the heart of the profession's regulatory regime.

Except for the matters of entry to the profession and regulation of conduct and professional judgement by peers, the Public Service in democratic systems of government generally shares the main features of a profession, even where, as is commonplace, entry to Public Service employment does not require prior mastery of, or even familiarity with, the profession's ethical standards prior to admission to 'practise'.

Further, the ethical standards required of public officials are usually weakly stated, as aspirational codes of conduct, and are enforced – if at all - by the employer, rather than by peers. The exception to this general picture is the case of employed members of established professions, where deregistration or cancellation of a member's licence to practise, by the professional body, can lead to dismissal from public sector employment.

Unlike the established professions, in-service training on a public sector institution's Code of Conduct or Code of Ethics, is typically of minimal duration and relevance, but even so is the main mechanism for exposing new officials to the 'core values' of the public sector profession. In OECD countries,

moreover, these core values are not settled, and were the subject of fundamental reconsideration as late as the end of the 1990s[1].

The typical modern public servant works at implementing government policy, policy development or application, providing expert advice of various kinds to governments, elected officials and the public, and/or at case-based decision-making at some level involving the discretionary application of agency policy, rules and precedents. Meeting the demands of procedural and substantive fairness, due process, and the exercise of discretionary judgment, are seen as providing fertile ground in which for ethical dilemmas may grow. Taking account of 'the public interest' is generally demanded, and this requirement has long provided a contextual factor of great difficulty for officials faced with the inherent conflict of loyalties.

Judging what constitutes ethically appropriate conduct by a public official, to be reliable, must emerge from a process of normative, values-based reasoning, sometimes referred to as 'moral reasoning', or Casuistry[2]. Since at least as far back as Cicero's Rome, 'the skilled evaluation of 'where the weight of duty lies' has been regarded, at least by some, as a desirable skill for a public official. For the rest – especially those who would favour John Rohr's 'low road' of strict compliance with exhaustive rules - the siren songs of Consequentialism or Utilitarianism, or even everyday reasonableness, must somehow be neutralised.

In all versions of what constitutes 'good' official decision-making we find buried the key ethical notions of trusteeship and fiduciary duty: public officials are expected to recognise that they exercise state power and manage state resources as trustees, by delegation or directly, for the general good[3].

Most officials have no professional training in dealing with such matters: such skills as they may possess are developed, well or badly, on the job. It appears to be generally assumed by public sector recruitment authorities that candidates for appointment

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[1] The OECD's work from 1996 in the area of Public Sector Ethics, Trust in Government, and Conflict of Interest, is a useful source of data on much comparative international practice: see http://www.oecdbookshop.org/oecd/display.asp?sf1=identifiers&st1=422000061P1

[2] An excellent account of the mixed history of Casuistry, and of the clear necessity for structured moral reasoning to be part of the skill-set of modern public officials, is provided by Jonsen and Toulmin.

[3] See generally the accounts of Administrative Ethics in a democratic society given by Rohr, Cooper, Langford, Kernaghan and Vigouroux cited below. See Baumann for a useful view of Duty in a modern society. (pp 53-59).

have somehow learned how to reason about the application of the 'core values' of Public Service to specific cases before they enter public employment. As we know ourselves, disciplined reasoning about ethics matters is a skill which must be learned, either through personal experience and reflection, or training. As the proverb has it: 'Good judgment comes from experience: and experience comes from bad judgment'.

This assumption applied to public administration is clearly problematic: for public officials to prove reliable in deciding what their duty amounts to in a particular situation, especially if they are permitted or required to exercise a discretion under law, they need a functional competence to prioritise relevant public sector 'core values' in the context provided by law and policy, their institution's objectives and practices, relevant community values, the rights and interests of those who will be affected by the decision, and their own values.

The prioritisation of specific 'core values' in relation to a particular case is necessarily one aspect of the task of competent official decision-making. Even this task is problematic: while most scholars and professionals agree about the centrality of notions such as 'duty', 'rule of law', 'transparency', 'accountability', 'disinterestedness', 'continuity', 'reliability', and 'procedural fairness', many would agree to disagree over the relative significance, or indeed the meaning, of a host of other candidates for inclusion, such as (to name but a few) 'Diligence', 'Loyalty', 'Equity', 'Efficiency', 'Representativeness', 'Legitimacy' 'Responsibility', 'Responsiveness', and 'Integrity'. What 'the public interest' might require in a particular case, in terms of both outcomes and procedures, is always likely to be contestable.

The other, and logically prior, aspect of the public administrator's decision-making task is the competent construction of 'the Ethics problem' in a given situation. Circumstances alter cases, and different individuals can construe the same state of affairs or circumstances differently, with chaotic results. Before officials can be taught how to resolve a professional ethics problem appropriately, they must first be taught to recognise or construe the problem relevantly, and reliably.

2. Ethical Competence for Public Officials

Wherever public officials seek to administer power ethically, the key first questions must be: 'What *exactly* are the ethical issues for the decision-maker to consider in the matter to be decided? How are the issues to be relevantly judged?'

Once the issue of judgement is raised, the question of what criteria are relevant follows, as the basis

for explanation and accountability. Officials' decisionmaking is generally subject to various forms of scrutiny, for example by Courts, Ministers, peers, professional experts, stakeholders of various kinds, the media, and (often) the public at large, and many views of what is 'ethically appropriate conduct' can jostle for attention, even if there is agreement about what the issues are. Deciding how to regard the ethics problem at least part predetermines what the resolution of the problem may, and may not, involve.

In these circumstances, the decision-maker's personal moral intuition alone will rarely, if ever, be sufficient.

For most officials, ethics and integrity matters are difficult, controversial, and sensitive subjects, being generally concerned with judgement, standards, conflict, and ultimately, blame[4]. Especially in Europe, ethics and integrity matters for officials are widely viewed as being grounded on the individual's right to hold to a religious belief or philosophical orientation, or on general Human Rights doctrines. Judgement on ethical matters is thus often seen as a matter of subjective preference, which is closed to rational argument and justification, and in any case no business of the employer – the State.

Exhaustive codification of ethics standards is widely seen as the solution. The value of the codification approach is illusory, however, at least once basic integrity standards, such as '*You will not lie, cheat, or steal, or tolerate those who do*' are established. 'Circumstances alter cases' as we know from experience. By their nature, Codes of Ethics cannot prescribe actions for every possible case that might arise. Even prescriptive 'Justinian' style codes which attempt to set down regulations for standard problems, can provide certainty only in relation to standard prohibitions, and even that certainty is limited. Ethical dilemmas arise because rules conflict, or miss the mark, or otherwise seem likely to produce adverse unintended consequences in a given case.

When dilemmas arise, codes cannot give more than an indicative prioritisation of the fundamental principles and values relevant to official conduct. Officials will always need reliable reasoning skills to identify, extract, and transfer general principles from their Code, and other authorities such as law, to new situations which the Code's writers have not foreseen. New situations emerge continuously, and an

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[4] Dubnick has noted the implicit connection between claiming to uphold ethical standards and inviting measurement against those standards, including blame for failure to meet self-imposed requirements, especially in the context of public office.

existing rule-based Code may as a result be found in relation to a given case to offer both conflicting *and* insufficiently specific guidance. In recognition of this, modern Codes are often cast in general terms, sometimes so general as to provide no meaningful guidance at all.

Conversely, Codes often require uncritical compliance with stated rules. Where this is the case, the Code will tend to deal with broadly standard cases and offences, usually by way of simplistic prohibition, or by a requirement to observe standard operating procedure. In either case, a primary focus on simple compliance encourages risk-averse, and ill-considered, conduct by officials. 'Wilful obedience', where an official refuses to consider alternatives even though the required strict compliance with a applicable Code will likely produce adverse consequences, can be very damaging to both the institution and public confidence. Even worse, a 'strict compliance' or 'zero-tolerance' approach discourages officials from developing the judgment skills needed to be reliable at resolving complex matters, or situations not covered by their institution's Code.

What makes public officials act in particular ways has been the subject of much study. Research in public administration has explored the cognitive basis of moral reasoning development, deriving mainly from the work of Kohlberg and later 'Neo-Kohlbergian' scholars such as Rest, Rizzo and Swisher, who identify three main 'stages' of moral development: 'Personal Interest', 'Maintaining Norms', and 'Post-conventional Reasoning'. The reference-points for decision-making for each stage are respectively self-interest, laws and social conventions, and the principles and ideals which underlie those laws and conventions.

Kohlberg has demonstrated that adult responses to general moral dilemmas in the experimental context tended to be reflected in real-life situations through conduct which was consistent with democratic principles such as fairness, social justice, and 'the Golden Rule'[5]. Stewart further noted, however, that while research has supported the contribution of the Extended Dialogue method in raising levels of ethical reasoning and behavior, the complex psychological and cognitive underpinnings of ethical decision-making indicate the need for multi-stranded development to improve reliability of discretionary behavior[6].

It is reasonable to conclude that a competency-based approach to ethics regulation which takes into account the centrality of democratic principles, as much as informed, critical, responsible, and accountable judgment - notions which already underpin the concept of 'professionalism' - can enable public officials to function effectively, ethically speaking, when faced with ethically problematic situations.

Given the limitations of codes as guides to conduct, a capacity-building approach to developing role-relevant skills in the practical application of the core values of a public service is to be preferred.

In principle, effective ethics codification is not the issue it seems to be: a public sector organisation's Ethics code and rules could be reduced to the following general precepts:

- *Act responsibly;*
- *Avoid conflicts of interest;*
- *Do no harm.*

This is an extreme example perhaps. But as a 'professionalisation' model it is neither unrealistic nor undesirable: to sustain such an approach to ethical regulation, an institution's capacity-development must focus not on codification but on the strengthening of the ability of its leaders, managers, and employees to apply these abstract notions reliably, through the deployment of specific knowledge and reasoning skills – 'ethical competence'[7]. An organisation whose members cannot do this reliably is at risk of corruption, fraud, maladministration, scandal, and legal and other sanctions, and ultimately loss of public and political confidence.

The key elements of such competence include:

Subject-matter knowledge*:* the substantive institutional ethics standards, both *de facto* and *de jure* standards of ethical official conduct and integrity standards, together with the legal, institutional, political, and cultural justifications for those standards;

Reasoning skills*:* the diagnostic and analytic skills needed to identify ('construct') an ethically problematic situation, and the skills of values-clarification and values-based reasoning needed to apply relevant standards appropriately, to identify and test assumptions, and to recognise where a case is not covered by a particular rule or where further information is required in order to understand the matter at issue;

Problem-solving skills*:* the skills needed to resolve an issue where competing and conflicting goods contend for attention: demands of ethical or moral principle, the law, the organisation's policy,

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[5] See the instructive general discussion of this issue, and the specific cross-cultural research results, in the work of Stewart D, and Sprinthall, M, in Cooper's *Handbook of Administrative Ethics*.
[6] See Stewart and Sprinthall, ibid.

[7] For a helpful discussion of the background to the idea of competence in this context, see Snell, especially Ch 6.

standards, and guidelines, 'the public interest', and the particular citizens' interests, (etc.) all have to be considered. This requires a 'systems' thinking' approach to the recognition of the long-term consequences of a proposed resolution of the issue in each of these domains[8];

Advocacy skills: the ability to advocate effectively a principled view of the matter, and the proposed or actual decision. This activity is necessarily undertaken with different audiences, such as Ministers, media, civil servants, review tribunals, and the public at large, and so relies on specific conceptual, language, and argumentation skills: 'getting the names of things right', as Confucius observed, is a primary duty of rulers, and of their delegates;

Self-awareness and consensus-building skills: 'Doing Ethics' is fundamentally a social activity, involving the legitimate rights and interest of others, (including the State). Officials need to develop skills in recognizing the various merits and weaknesses of their own positions, and of the principled positions which may be taken by other officials, individuals, interest-groups, and the State, and building consensus.

Attitude and Commitment: not normally regarded as a skill, but perhaps the most problematic area of developmental intervention is achieving the development of the attitudes or commitments needed for ensuring reliable application of standards. Training and knowledge does not of itself guarantee conforming conduct: ethically competent public officials may choose to ignore ethics considerations, even duties, in performing their functions, just as licensed truck-drivers may opt to ignore the traffic laws, especially when unobserved. Competence-Based Training in professional ethics among officials seeks to promote development of rational commitment to appropriate norms and standards, through the use of reflective learning

It is not greatly surprising, given this background, that 'professional ethics for public administration practitioners' still gives the appearance of being fraught with difficulty, such that the minimalist position adopted by many a public organisation is requiring that employed officials certify that they have read the relevant Code of Ethics, understand the basics of Conflict of Interest, and have enough familiarity with the law and established policy and procedures to keep themselves and their institutions out of trouble: an exercise in prospective blame-shifting.

Professional Ethics for public officials remains 'a bridge too far'.

3. Development of the methodology

In the absence of well-developed empirical research on the application of video based training, the suggestions by Stewart and others in 1996, that video case-scenarios might prove effective in ethics training for public officials, seemed intuitively plausible. To test this approach, the author designed in 1997 a suite of multi-issue case-scenarios which could be delivered on video so as to eliminate the difficulty of *describing* problematic actions or relationships in words, without wholly or partly notifying the issue(s) and possible solution(s) to trainees, as is unavoidable with a descriptive document-based case-study[9]. On average, some 20 ethics issues were clearly depicted in each 10-minute case-scenario. Typically, in training uses in Australia and elsewhere over some four years, participants would identify only 5-8 issues, and very rarely more than ten. In subsequent discussion, the various participants would routinely reveal that they had each identified a different set of issues, often reflecting their professional training or occupational focus.

The original *Public Sector Ethics Resource* was developed and deployed in response to the specific needs of the ten civil services of Australia and New Zealand which by 1990 had experienced two decades of unremitting scandals, inquiries, and corrupt and abusive conduct by elected and appointed officials, including official's at the most senior levels of government. Professionalism in the civil services was held to be at risk, if not in actual decline. Given the scale of the capacity-building task seen as required to address these concerns it was self-evident that traditional approaches to face-to-face public service training, via stand-alone seminars and workshops, would be unacceptably expensive, slow and unreliable.

The *Resource's* developmental approach was attractive to Government agencies because it was inexpensive (on a per capita basis), and authoritative, and would enable directed group discussion in the context of relevant texts, such as law, policy guidelines, ethics and conduct standards, government policy documents, settled cases, academic articles, and international instruments. A comprehensive selection of authorities, in the form of law, policy and case documents, was provided on CDROM, together with the related case scenarios. The option for further enriching the training by the addition of agency-specific training materials, and updating as new cases emerge or authorities change, was also provided.

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[8] See Senge's *The Fifth Discipline* on this crucial issue generally.

[9] See Whitton, H, and Hazlehurst, C (Eds) *The Public Sector Ethics Resource Series* at www.EthicsLearn.com

Five subsequent applications of the methodology developed by the author have been undertaken, in part as a pilot intervention to test the applicability of the non-didactic video-scenario methodology, in part to provide basic reference materials for officials to strengthen good decision-making and fight corruption. Government anti-corruption agencies from two of the New Member States of the EU - Lithuania, and Latvia, and the Chancellery of Estonia, and the Institute of Public Administration and European Integration in Bulgaria, each undertook separate adaptation projects 2003-5 in partnership with the OECD, a Paris-based think-tank which maintains an interest in public governance and corruption. In 2006, Nigeria's Bureau of Public Service Reforms, an office within the Office of the Presidency, piloted a project which continues at the time of writing. The author acted as expert adviser to local partner agencies on each project.

The projects in Lithuania, Latvia, Estonia and Bulgaria adapted the original Australian video case-scenarios through a process whereby the original story outlines were informed by local stories and issues, as identified and developed by local focus groups of officials, academics and interested citizens. In this process, names of institutions, people and locations were changed to be more 'European', and the issues rendered generically.

Issues and processes were changed where necessary to lend credibility to the story: for example, scenes involving an application for promotion were re-scripted in one country project as an application for overseas study assistance, reflecting the fact that promotion in the relevant Civil Service is not generated by a personal application from a would-be promotee, but by centralised HRM processes. In another case, a story involving a review of government information-holdings by an in-house auditor, which in the original version was generated by a privatisation scenario, was changed in one country to become a story resulting from a Freedom of Information application by a citizen, necessitating a search of government records by an inspector. In each pilot project, the new storylines were dubbed and subtitled onto the original video stream, which otherwise remained unchanged.

In subsequent training use during 2004-5, the partner agencies have all reported that the generic depiction of familiar issues has proved unproblematic. Further, two countries reported also that the decision not to represent the stories as specific to a particular country was vindicated when training participants reported that the lack of country-specific detail had meant that they could focus on the generic ethics/integrity anti-corruption problem without being distracted by apparent references to a particular local scandal. All reported that participants found the video case-scenarios engaging, and a relevant way of depicting serious, and often undiscussable, ethics and integrity issues.

In Bulgaria's case, interest levels were so high among officials that the responsible Institute for Public Administration and European Integration, with government support, issued an additional 20,000 sets of an expanded form of the 2-CD resource within the first year of use, in 2006.

In the current Nigerian project, eight new 20-minute video case-scenarios were developed in 2006, based on specifically Nigerian issues and contexts. The non-didactic case-scenarios were developed directly from the input of a series of Focus Groups sponsored by the Bureau of Public Service Reforms, and conducted by the author over the course of two weeks in Abuja in August 2006. The groups involved some 30 participants, drawn from the public sector (with both very senior and very junior officers attending), NGOs, religious bodies, the universities, and the media. A list of some 150 specific issues was developed and prioritised by the participants: of these, about 80 have been incorporated into the first eight case-scenarios. The video scripts were developed by three professional scriptwriters, and filmed professionally using mainly Nigerian actors and African film directors.

The video case scenarios were audience-tested in Abuja, Nigeria's public service capital, before a range of audiences in February 2007, to very positive responses. In summary, audience comments to date make it clear that the non-didactic case-scenario methodology is regarded as providing an appropriate vehicle for raising issues of public sector ethics, integrity, and corruption for discussion, at arm's length, in particular where particular cases have rendered the underlying issues effectively undiscussable. At the time of writing the materials-development stage of the project is expected to be completed in May 2007, with actual training and evaluation to follow during the second half of 2007.

4. Training applications of the methodology

It has long been assumed that case-scenarios which use specific issues, dilemmas, and conflicts, drawn from the daily experience of the public administration activity, would be more effective in engaging officials' attention than broad and generic ethical dilemmas drawn from ordinary life. The decision to present case-studies in the form of video-based case-scenarios reflected the view that '*a picture is worth a thousand words, and is easier to remember*'.

A central tenet of the author's approach was that issue-depiction requires participants to identify and deal with a role-related problem using the provided 'facts' and states of affairs residing in the video as an undifferentiated stream of events in real time. This level of realism in the learning experience is not available with the use of document-based case studies, where to state 'facts' as facts removes all realistic ambiguity and with it the need for the student to construe the circumstances of the case in a relevant way.

A structured decision-making model was also introduced, to assist discussion of both the nature of 'the ethics problem' to be solved, and the appropriate weighting of particular norms and values in doing so. The apparent realism of video cases was preferred for its potential to enable the trainer (and the self-directed learner) to engage with different interpretations and alternative possible responses, testing them against the provided authorities.

Experience with this methodology has shown that this form of Problem-Based Learning (PBL) can move the student progressively through the levels of learning posited by, for example, Bloom's Taxonomy of educational objectives[10], in that it encourages participants to seek to apply a best-fit resolution of the Ethics dilemma or issue, in the light of the group's understanding of 'the ethics problem'. Participants are required to assemble, select, consult, interpret and apply to the problem, as it is understood by the participant, the relevant authorities such as law, policy, established organisational practice, 'community values', and so on. This is an iterative process which continues until the participants themselves are satisfied with their considered position. Argument among peers about the relevant construction of the presented 'facts' is a key part of the training.

Using video case-scenarios also enables the trainer to choose the training experience to be provided, according to the needs of the individual or group. Experience has shown that this is best achieved by initially moderating the extended discussion process, and prompting the use of relevant authority such that progression to higher levels of complexity and synthesis are available. The learning format can in principle range from a simple exercise, where there is one correct solution and limited acceptable ways of reaching that solution, (suitable for Induction Training of people who are new to the organisation), to the more open-ended analysis of complex dilemmas, where there will be many potentially acceptable outcomes and justifications for them.

Participants are encouraged to use their own ethical judgement about what is a desirable, practicable, and justifiable, against whatever test they see as reasonable. Extended dialogue among peers from different functional backgrounds can expose the range of relevant opinions and prompt the discriminating use of authorities such as law and policy, while allowing for the introduction of personal values and community norms. Dialogue can promote the development of argumentation, listening, and advocacy skills, provided that extraneous issues, such as institutional power and seniority, are not permitted to inhibit discussion. Cross-cultural issues based on different priorities and ethical principles can also be exposed in such discussions.

Prioritising proposed solutions to an Ethics problem requires participants to examine the probable and possible long term consequences of a proposed resolution, its costs, benefits, acceptability, and its principled justification – as in other management disciplines. In short, trainees are encouraged to use higher-order thinking skills in applying their understanding of an issue to a probable or possible future, and call up the thinking skills from all six of Bloom's hierarchy of skills, from basic recall of relevant factual information, and comprehension of its significance, to application of newly understood information in a new context, analysis and explanation of similarities and differences (for example in applying a legislated definition to a case), synthesis of participants' prior knowledge to produce a new understanding of a problem, and finally, evaluation of proposed solutions against relevant public sector criteria, and crucially central notions such as 'the public interest'.

These criteria are based on notions of the proper 'role' of the public official and the competing claims of legal and professional duty, justice, fairness, equity, and utility. Not far away are deeper questions about the proper objectives of public management, what democratic (or other) forms of governance require of their public servants, and not least, what 'integrity' should or could mean for public managers.

Secondarily, the case-videos may be deployed for the important (and usually overlooked) diagnostic purposes of the organisation, especially in relation to regulatory reform and training needs analysis. An experienced trainer can also apply the materials to identify the ethics/corruption (etc) issues which are raised by a particular video scenario but which are *not* recognised as problematic by participants. Such responses might serve to identify a lack of coherence between organisational policy and stated 'core values', or to focus other interventions in particular areas.

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[10] See the OECD's *Adult Learning and Literacy Survey*, (OECD 2003) p 305.

Thirdly, the use of the scenario-based case can be reversed. A competent trainer can use the case-scenarios to focus primarily on the relevant legal or policy framework, using the case-scenario primarily as a basis for directly teaching the application of relevant law and policy.

The case-scenarios themselves can further serve as surrogate examples of organisational experience - synthetic but credible 'war stories', accessible to all in the organisation, which can be especially useful where the organisation has been newly created or significantly reorganised, for example after a change of government, and has not yet established its version of 'the way we do things around here'. (See Figure 1 below) In this application, participants must be made aware of the prevalence and complexity of Ethics issues while at the same time gaining a sense of being able to influence real change in the long term (a crucial 'locus of control' issue). As set out in Figure 1 below, organisational change is usually slow, and dependent on a process of absorption of new stories, derived from experience.

For this methodology to be effective, the 'ideal' approach is an Action Learning strategy within the context of a Learning Organization[11]. The minimum training requirement is that the selected trainer be a credible, competent professional adult educator capable of managing an interactive dialogue, able to take every opportunity to engender systems thinking, critical analysis, rational decision-making and the adequate justification of decisions or positions. This is not a task for neophyte Training Officers.

5. Adult learning

Recent work by the OECD in the area of Adult Learning has focused on problem-solving by adults working with moderately familiar problems in a multi-domain setting. The research results support the validity of teaching Ethics by 'problem solving' methods, which for the OECD means 'goal-directed thinking and action in situations for which no routine solution procedure is available'[12]. Problem-solving success has been shown to be in part dependent on knowledge of concepts and facts ('declarative knowledge'), and in part on knowledge of applicable rules and strategies ('procedural knowledge') in a given subject domain. The task of analytical problem solving is seen as central to Adult Learning Competence. The OECD Adult Learning and Literacy research has

identified five steps that are characteristic of the problem-solving task, all of which are represented in the author's methodology:

- Problem Representation: *'Deconstruction', Description, Disambiguation, Definition;*
- Solution strategies: *Values Clarification, Resolution;*
- Self-monitoring: *Consistency-checking, adequacy of state of personal knowledge;*
- Explanation and justification: *Judgment against relevant criteria, coherent rationale.*

OECD and other research have also shown that adults' problem-solving skills clearly improve under well-designed training conditions, and substantial transfer across problem areas can be achieved. These findings have considerable relevance for the intuition that the Public Sector Ethics Resource could be effective in teaching higher-level skills in the area of Professional Ethics competence. They also support the view that individual performance on ethical decision-making, values clarification, and problem definition, advocacy and judgement, can be identified and assessed against contextually relevant norms, as with other cognitive learning tasks.

6. Institutionalising ethics and integrity standards

It is now broadly agreed that establishing new standards of Ethics and Integrity in an organisation must be understood as a dynamic process of developing new institutional knowledge, not merely setting and training on new aspirational and disciplinary standards[13].

The following diagram, based on a model of organisational learning developed by Boisot[14] demonstrates the value of construing Ethics standards as institution-specific knowledge. According to this model, if an organisation's new Ethics and Integrity policy and standards are to become institutionalised, that is, if the new standards are to become accepted generally as 'The way we do things around here', the organisation must ensure that it takes a coherent, systemic, critical, and sustained approach to the creation,

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[11] Bloom's 1956 Taxonomy of higher order learning skills has generated an enormous literature, and has had a major impact on pedagogy. Two typical sources are cited below.

[12] See OECD's work on Adult Learning and problem-based learning in particular, cited below.

[13] See in particular Cooper's *The Responsible Administrator*, especially the well-considered Part Two for a modern view of the requirements of institutionalization

[14] Boisot's model explains the phenomenon of 'absorption' as crucial to the process of institutionalization of new knowledge in an organization. This model has been adapted here to show how an organization's newly-promulgated ethics and integrity (including anti-corruption) policies standards and practices, as forms of new knowledge, must be subject to the same development, codification, and reinforcement processes if they are to be effectively institutionalized.

implementation and absorption of such standards as 'general knowledge'.

The model shows that achieving compliance with ethics standards is much more than a simple 'input/output' process. Institutional structures, management practice, sanctions, incentives to encourage actual compliance, and an organisational culture supportive of the new standards, are also relevant.

As we know from experience, incoherent stories generated by management non-compliance will likely compromise the absorption of the new standards. Conversely, it is self-evident that even a well-trained employee may still choose not to act in accordance with their training, given a sufficient incentive and a reasonable likelihood of getting away with it: coherent sanctions for non-compliance are also likely to be required.

The model shows how new knowledge - in this case about ethics and integrity standards in an organisation - develops dynamically, commencing when the *status quo* -the organisation's established and accepted knowledge of appropriate ways of doing things (represented by Box A – '*Absorption*') - is challenged by the unplanned emergence of anomalous or contradictory situations. These challenges must be recognised by the organisation, which must then understand and deal with them by a process of developing new policy when they arise (represented by Box S/P – '*Scanning / Problem-solving*').

At this point the resulting new knowledge about the anomaly remains uncodified and undiffused, and possibly available to only a few members of the organisation. The new knowledge which arises from the problem-solving process must then be formally adopted and codified as legitimate new rules or policy (represented as Box P – '*Policymaking*').

This newly codified and formalised knowledge then must be institutionalised, by specific training, leadership, and - crucially - by coherent, consistent, and *public* implementation by management (represented as Box D – '*Diffusion*'). In addition, *consistent institutional incentives and sanctions for compliance and non-compliance must also be public.* Only if all these elements are in place will the organisation's new policy be 'adopted' (as 'Absorption') and become part of the organisation's culture by completing the cycle of new knowledge creation (at Box A).

Constructive internal criticism (and perhaps whistleblowing activity) provide the proverbial 'canary in the cage' for dissonance between policy and practice: the principled disclosure of wrongdoing, or failure to comply with set standards, can be seen as a critical response to perceived incoherence between required institutional standards (Box P), and expectations set in training, actual management practice (Box D), 'organisational culture' (Box A), or 'the public interest' (implicit in both Box S/P and Box P). Principled dissent may also occur if the organisation proposes a solution to an emergent uncodified problem (Box S/P), which is seen as inconsistent with codified policy, or 'the public interest'.
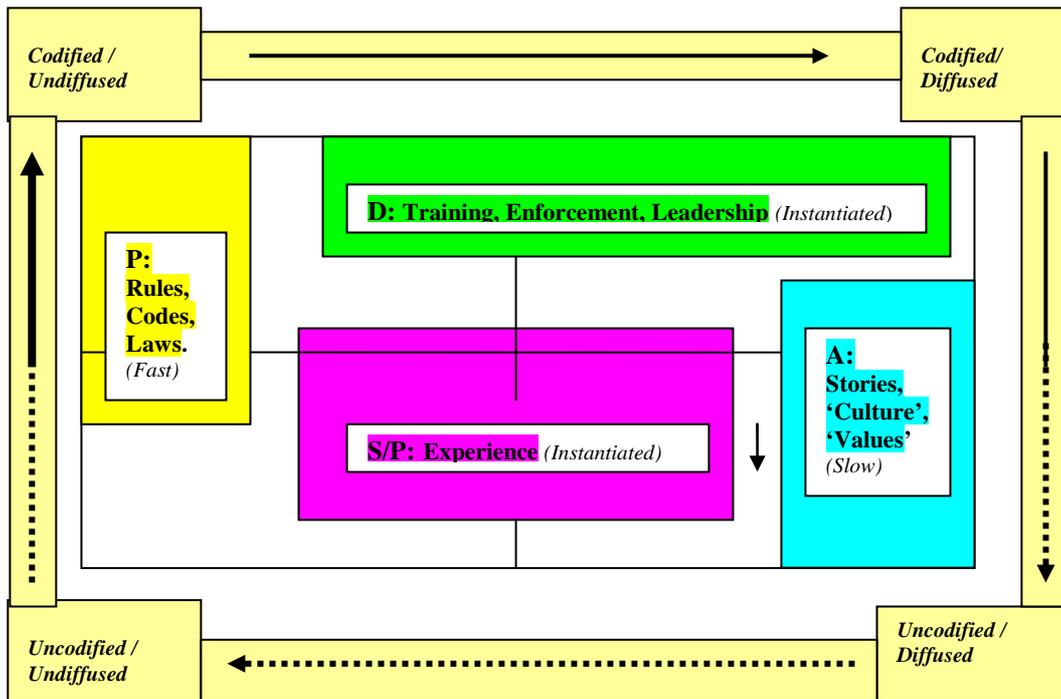

Figure 1: Institutionalising ethics standards as organisational knowledge

Finally, the model shows why Ethics capacity-building is likely to be a two-way street: employees who have relevant knowledge and skills, and a focus on integrity which goes beyond narrow rule-based compliance, are in principle equipped to make better-informed and properly considered decisions, and provide good advice: organisations which encourage their members to take a constructively critical stance towards ethics-related norms, culture, and actual practice, based on their 'ethical competence', should be more likely, other things being equal, to sustain a reputation for coherence, integrity and professionalism derived from actual competent performance. A benchmark test of such an organisation would be that it needed no whistleblower protection policy.

7. Evaluation of training effectiveness – the Bulgaria project

In 2005-6 Bulgaria's Sofia-based Institute conducted an independent evaluation of the effectiveness of the present training methodology. An instrument was developed by the author, in an effort to identify what participants had learned to do, or do better, during the course of the one-day training session on ethics and integrity/ant-corruption matters. The evaluation, conducted by Professor Antoniy Galabov of the Bulgarian Institute of Social Sciences for the OECD, was based on a pre-test and post-test applied to each of two groups of participants, one of which engaged in training based on the present methodology, while the other (control) group was subjected to traditional didactic lecture-based training.

The pre-test and post-test, for both the control and test groups, consisted of exposure to the same short video case-scenario, originally made in Australia but adapted, dubbed, and subtitled in Bulgarian. The video case depicted unambiguously thirteen standard ethics, integrity, professionalism, or corruption problems. In addition, three open-ended questions were asked of participants after viewing the video:

1. *'How many ethics, integrity, professionalism, or corruption problems did you identify in the course of the story?';*
2. *'How do you think these issues came about?';* and
3. *'What could you do to prevent or resolve these issues if you were in charge?'.*

Participants were invited to note down their responses to the questions on personal work-sheets.

The tests and training were both administered by an experienced Bulgarian trainer.

Both groups, of about 20 participants in each case, were selected so as to be broadly comparable in terms of age, gender representation, experience in the public sector, rank, and education. In the case of the control group, the pre-test was administered at the beginning of the one-day intensive session, and followed immediately (ie without group discussion) by a lecture from the trainer, on the subject of Corruption in the Public Sector: discussion of the lecture followed. In the afternoon session, two further lectures were delivered by the trainer – one on Conflict of Interests, and one on Ethics, followed by discussion.

In the pre-test, the mean participant response for the control group was 4.0 issues identified of the 13 possible: there was no significant level of response to the three interpretative questions. At the conclusion of the day's lectures, the post-test (identical to the pre-test) was administered. In summary, the mean response rate for the group rose minimally, to 4.1 issues identified, and there remained no significant level of response to the three interpretative questions.

In the case of the test group, the same pre-test was administered at the commencement of the session, and again as a post-test at the end of the day. By contrast with the control group, the participants in this group viewed one of the adapted video-scenarios in the morning in place of the lecture, and then participated in approximately 90 minutes of group discussion of the issues raised by the video, as identified by the group, minimally facilitated by the trainer. In the afternoon session, the group viewed and discussed two further video case-scenarios over a three hour period, again minimally facilitated by the same trainer.

The mean participant response for the test group on the pre-test was 3.9 issues identified: there was no significant level of response to the three interpretative questions. At the conclusion of the day's video screenings and group work, the post-test was administered. In summary, the mean response rate for the test group was 8.2 issues identified, and there was a high level of response across group to the three interpretative questions. In this group participants commented specifically that 'abstract lectures on dry philosophical principles had little meaning, whereas with the video cases they could see themselves reflected in a familiar situation'.

In addition, the women participants in the test group demonstrated a markedly (and unexpectedly) higher level of engagement with the discus-

sion of the issues than the women in the control group had shown.

There are a number of possible (and intriguing) explanations for the different responses of the two groups, and for the differences between the two groups of women participants, which appear to warrant further study.

Conclusions

Whereas the original Public Sector Ethics Resource project set out to explore the intuitions of writers on Public Sector Ethics, to the effect that a capacity-building approach would be effective in teaching public officials about 'professional ethics' issues, the later version of that methodology referred to in this paper appears to have relevant application in the more comprehensive task of developing 'ethical competence', as defined, among public officials[1].

The feasibility of adapting this methodology from an English-speaking, 'Westminster' tradition of civil service and adapting it for use in Countries in Transition and countries emerging from conflict, has been demonstrated.

The potential for engaging women more actively in the ethics and integrity standard-setting processes of institutions appears to have been identified, and should be the subject of further exploration.

In developing materials for use in training with this methodology, Stewart's claim concerning the importance of developing relevantly 'local' storylines, drawn from Public Administration and public governance experience, is supported. In addition, it appears to be valuable to ensure that such storylines are not so case-specific as to distract participants from the task of recognising and responding to general principles raised by the issues depicted in the case-scenario.

On the evidence of the Bulgarian pilot, it would appear to be open to conclude that the use of the non-didactic video case-scenario methodology (together with peer group discussion) produces a markedly positive effect in terms of improved skills among participants in identifying, analysing and resolving role-related ethics (etc) issues relevant to public officials. It is less clear as to how this effect is engendered, and whether there are other contributing factors: more research on this and related questions appears to be warranted.

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[1] The later methodology discussed in this paper is referred to as the 'Multi-Issue Non-Didactic Ethics Scenario', or 'MINDES'© methodology.

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Valstybės tarnautojų etinės kompetencijos vystymas gebėjimų tobulinimo požiūriu

Santrauka

Laikant, kad tradicinė 3E koncepcija (ekonomiškumas, efektyvumas ir rezultatyvumas) transformuojasi į 4E, ją papildant etiniu aspektu, straipsnyje pabrėžiama, kad profesionalizmas šiuolaikinėje valstybės tarnyboje neišvengiamai susijęs ir su etine kompetencija. Nurodoma, kad ši kompetencija apima reikalų žinojimą, atsidavimą darbui, savęs pažinimą, konsensuso siekimą ir kitus įgūdžius. Teigiama, kad valstybės tarnautojų mokymas naudojant video medžiagą gali būti efektyvi priemonė, siekiant aukštesnių profesionalumo ir etiško elgesio standartų. Analizuojant etinės kompetencijos vystymo metodus, remiamasi pereinamojo laikotarpio šalių - Lietuvos, Latvijos, Estijos ir Bulgarijos – patirtimi.