

# THE INCLUSION OF PROFESSIONAL ETHICS IN THE COURSE CURRICULUM DESIGN FOR PROPERTY AGENTS

Hera Antoniades

*University of Technology, Sydney (AUSTRALIA)*

## Abstract

Professional ethics is considered to be a key component within the daily activities of all businesses, and in particular a real estate agency practice. During the last 100 years, regulatory policy has been developed to exemplify the standards for social responsibility and ethical behaviour within the property industry. However, documented increases in fraud indicate a lack of moral behavior within the profession and a clear need to enhance consumer protection. Therefore, is there a necessity to include a separate subject for professional ethics within the course curriculum for property agents; or is the integration of ethics within nominated subjects, a sufficient approach for the student to grasp the key learning outcomes associated with professional ethical practice? This research paper examines the design of the real estate licensing curriculum in Australia and the relevance and flexibility of the subjects included. Additionally, the method of assessment, which is primarily competency based learning, is discussed and mapped against suggested applications of ethics. The paper concludes with recommendations on best practice approaches to enhance the curriculum and learning outcomes for property agents.

Keywords: Curriculum design, Education, Professional practice, Real estate.

## 1 INTRODUCTION

In New South Wales, occupational licensing for real estate agents, and certificates of registration for sales and property management, is mandatory under the Property Stock and Business Agents Act 2002 (Property Act), if working in the property industry. Furthermore, occupational licensing and mandatory education is managed under the auspices of individual state and territory *Fair Trading* offices.

Since the 1990's educational institutions, which includes private and government colleges, and universities, were able to develop their own course and syllabus and submit this to Fair Trading for approval. However, in 2005, the first national training package (NTP) for the real estate industry was introduced, with a focus on recognition of prior learning (RPL), and the application of competency based assessments. Therefore, RPL includes on-the-job learning and assessment; recognition from previous jobs undertaken throughout different industries; skills acquired through other courses and knowledge from seminars and professional membership courses. However, the downside to this method of assessment is the lack of grading to reflect the students' academic ability and approach to their studies. Generally the assessment task is considered "competent" or "not yet competent" for the learning outcomes which are associated within each module. So for the student the question arises "how competent are you? 100% or barely competent?".

Traditionally students since kindergarten are geared towards an awarded mark/grade to indicate their level of ability to understand topics. Particularly for many students who use the grading system as an indicator of motivation to excel and do better. On the other hand there are students who will barely pass a subject, and the lower marks can be demeaning and not encouraging for the future growth of their career pathway. Many employers will consider the mark as a feature to determine whether or not the applicant is worthy of employment in their business. There are many stories of "self made millionaires" who will testify that they had minimal education, but succeeded later in life. Therefore the debate on competency based assessment and learning can vary for each situation.

Traditionally, the NTP are considered vocational courses and are labeled Vocational Education Training (VET). The individual Fair Trading Offices within the various states and territories, select compulsory modules from the NTP, as the minimum educational requirement for real estate licensing. The compulsory modules from the NTP form the core learning fields of knowledge, and depending on the license category, specialist streams are available. These NTP were developed in conjunction with industry and an extensive national consultation process. The national Industry Skills Council (ISC) is responsible for the co-ordination, development and review process for all the training packages.

Consequently, this provided the platform for educational institutions, from 2005, to deliver common standard modules for real estate licensing and a choice of additional modules which could lead to a higher level of qualification. The Australian Qualify Framework which was introduced in 1995, regulates all qualification standards, ranging from Certificates of Attainment to Higher Educational courses. Each level of qualification has differing requirements for course content and hours of delivery. The minimum acceptable qualification for a real estate agent and other occupational licenses is a Certificate IV or above. Therefore, the aim with providing Certificate II and III qualifications is primarily as an exit point for students. Generally, the student is provided with an overview of the industry, and an opportunity to proceed to a higher qualification and a more advanced understanding of the industry. Depending on the job description and responsibility and the desired career pathway, the training packages are designed to provide flexibility and appropriate exit points.

More recently, licensing has been identified as an important tool for protecting consumers (Office of Fair Trading, 2008 & 2010) and for the “benefit of citizens” (Parliament Legislative Council 2007). The Property Stock and Business Agents Act 2002, and the Regulations 2003 (Property Act) prescribe the educational requirements. However, as with anything that is compromised, the industry has experienced adverse commentary with the changes to the course content. Particularly in the last 10 years, there is an increase of complaints from the consumer, such as issues relating to fraud occurrences, duty of care, negligence, and mismanagement of their clients’ financial requirements.

Therefore this paper examines the content relating to professional ethics within the property agency curriculum. The first part of this paper discusses the literature for professional ethics. The paper continues with a discussion on the benefits associated with ethics, and this is mapped against data relating to consumer complaints. It is argued that a separate subject for professional ethics within the course curriculum for property agents is desirable.

## 2 LITERATURE REVIEW

Professional ethics is considered to be a key component within the daily activities of all businesses, and in particular a real estate agency practice. Generally, a real estate agent has responsibility for the management of properties, which can relate to rental collection, and the selling of a property on behalf of their client. As mentioned earlier in the paper, formal education for licensing is a pre-requisite requirement, prior to carrying out these duties. Research from overseas also acknowledges the importance of education and this alignment with various occupational licences (Crews 2004). For instance occupational licensing can be linked to the enhancement of consumer protection with regards to better services from estate agents (Rudolph 1998), and also from the improved technical knowledge offered through educational resources (Crews 2004). Therefore, the content/course syllabus for property education may play a pivotal role for the estate agent.

The notion of ethics and fraud is also an important consideration. Agboola et.al. (2012) surveyed real estate agents in Nigeria, to obtain their opinion on their professions’ ethical values. The respondents listed “fraud in the discharge of their duties” as the highest ranking item of disapproval of fraudulent practices, amongst their profession. Ethics has generally been associated with honesty and a sense of appropriate behaviour in business dealings (Hunter 1997).

So is the Australian government justified with the implementation of minimum educational standards for the real estate agent? What is the purpose of education for real estate agents? Is this to provide consumer protection, or perhaps to provide agents with minimum fields of knowledge and expertise? Therefore, the consumer might well be justified to ask the following question “*why have consumer complaints against property agents increased in the last 10 years?*”

In response, various researchers have sought to identify the underlying reasons attributed by the consumer as a contributing factor when selecting agents to assist with their property transaction. Interestingly, Day & Nourse (1991), identified that clients selected the services provided by an agent, rather than the individual agency trading name as the selection criteria, indicating that service needs are a priority instead of the agency name. This notion is further supported by Dabholkar & Overby (2006) who examined the services provided by real estate agents from the perspective of the vendor, via a survey from 32 respondents, and identified seven factors which were very important to the vendor. This included communication, effort, advertising, guidance, professionalism, representation and results. Therefore, without the minimum educational standards, incorporating relevant fields of knowledge, there is no assurance for the consumer that the agent selected has the appropriate skills and knowledge required.

Hence, there is a recognised link between education, service and knowledge. Issues such as ethics and governance are also interwoven within these requirements. Other supporting research for these themes includes Rudolph (1998) who acknowledged the benefits afforded with education to include a better standard of service and knowledge; similarly Oladokun & Olatoye (2011) identified the advancement relating to technical knowledge and familiarity with relevant property laws, as a bonus associated with compulsory education.

Brinkmann (2009) researched the ethics of Norwegian real estate agents and suggested action research as a method to add professional ethics to the agents' agenda. For instance a recommendation was to provide an environment for the agent to critically self evaluate their involvement within a variety of business transactions. This trigger mechanism on self reflection would focus on the sensitive issues which contained moral conflicts relating to the discharge of their daily duties.

Research undertaken by Schlaefli et.al. (1985) sought to assess the impact of moral education as a stimulant to assist the students in their development with their moral judgement. Findings suggested that all groups of students benefited from the program, better results were obtained from programs where the adults were 24 years and older and the duration of the program was between 3 to 12 weeks. Therefore, this is a strong indication if ethics is introduced into the real estate curriculum and then followed up with the ongoing continuing professional development education there would be good benefits for both the agents and also the consumer.

Literature readily acknowledges the importance of professional ethics and indeed this topic is taught as a separate subject in many real estate curriculums. However, questions are raised if there is a more effective method of teaching ethics and embedding the values within the course curriculum. For instance, is ethics a topic where the knowledge is *acquired* or *developed*? Generally ethics is considered to be developed, based on scenarios and decisions learnt from a very young age, and would form part of a person's education within their social skills learnt at home. For instance, Yiu (2008) argued that ethics education should not be taught through the traditional lecture and exam based style of learning. During the day to day activities of agency work, professions are in conflict between their clients' interest, the public's interest and their personal interest.

For instance, research by Young (2011) identified that agents had a conflict of interest with their property agency transactions. Agents were acting on behalf of a vendor wishing to sell their property, whilst simultaneously advising potential homebuyers for the same property. Issues such as sales commission and loan fee kickbacks to the agent were cited as conflicts of interest. However in contrast, Australia has very strict laws within the Property Act identifying their duty to disclose conflicts of interest, and highlighting that the agent is acting on behalf of their client only and cannot include the purchaser as their client if they are acting on behalf of the vendor. Furthermore, legislation in Australia, prohibits an agent from giving financial advice.

The author (Yiu 2008) argued that students needed to develop their moral and ethics processes, through a series of role plays, workshops and involvement with practitioners. This indeed could be argued that in Australia, competency based assessments are a model approach to assess professional ethics, rather than the traditional exam style assessment.

However, research into the viability of the competency standards introduced in Australia has indicated that private organisations have been reluctant to adopt the NTP (Smith et.al. 2006). This is due to the limitations where employers are unable to determine the level of skills acquired because of the lack of grading. This is reiterated by Wheelehan and Carter (2001), who argued that NTP could result in poorer student learning outcomes, when compared to graded assessments. Additionally the composition of course content is also a consideration (Wells & Williams 2010), and so blame cannot be laid entirely on the assessment method. In contrast, Dunfee & Robertson (1988) developed a plan to integrate ethics systematically throughout their business courses. They used methods such as orientation sessions, readings, packages, short classes and lectures, and the development of sample modules.

In conclusion, literature supports the inclusion of professional ethics within the course curriculum. Various research has also highlighted the importance of course content to include additional topics such as communication, effort, advertising, guidance, representation, results, and governance as essential skills and fields of knowledge. The next section of the paper outlines the research method adopted for this paper.

### 3 RESEARCH METHODOLOGY AND LIMITATIONS

The aim of this research paper is to examine the design of the real estate curriculum in Australia, with particular emphasis relating to the contents of professional ethics. Issues raised earlier in this paper include the course content and the need to enhance consumer protection. Therefore, these considerations lead to the following research questions which demand further attention:

1. Does the National Training Package adequately embed the application of ethics within the course curriculum?
2. Why have consumer complaints against property agents increased in the last 10 years?

The first stage of the research is a discussion on the literature for education and the inclusion of professional ethics in the course curriculum. This is followed by an analysis of the course content in the NTP for real estate licensing. The analysis is mapped against identified fields of knowledge for professional ethics together with a discussion on the method of delivery and the assessment requirements. In summary, this section of the research is seeking to determine if there were any anomalies within the modules set out in the NTP.

The next step, being the second stage of the research, was to analyse data relating to consumer and trader complaints for real estate transactions. The data extracted was from the financial years 2005 to 2013 inclusive. The commencement year of 2005 was used as the common starting point relating to the national training packages for real estate, and the commencement of competency assessment and recognition of prior learning credits. The results for both stages are then compared and discussed. Because each jurisdiction in Australia has varying licensing and educational requirements, the second state of the research is limited to the state of New South Wales, as it is beyond the scope of this paper to include all states and territories. Currently in New South Wales, there are no undergraduate degrees whose course content includes real estate licensing, and therefore, the discussion in the paper relates to qualifications such as certificates and diplomas.

### 4 DISCUSSION AND ANALYSIS

Research acknowledges the benefits of flexibility when assessing students. However, there is a simultaneous acknowledgment for the need to maintain compulsory education and recommended core modules. Therefore, it is desirable to acquire a balance between these two themes. A key component in the selection of core modules is driven by the desire and need to improve consumer protection. Consequently it is considered necessary that technical knowledge, property information, governance and ethics form part of the licensing course.

To commence the contextual analysis of the real estate curriculum in New South Wales, a chronological sequence from 2005 (as noted previously this is the commencement date for the NTP) to the current date was undertaken. Table 1 below provides an overview of the minimum qualification required with compulsory education for property agents. The NPT is reviewed every few years and superseded with a new training package. Also, Fair Trading NSW with the release of each training package will itemise the compulsory units of education for each category of property licensing.

**TABLE 1: Chronological development of licensing for real estate agents.**

	QUALIFICATION	COURSE NUMBER	NATIONAL CODE	NATIONAL TRAINING PACKAGE	NOMINAL HOURS or attendance	THIS COURSE REPLACED	This course has been replaced by
Prior 2005	Diploma			PRD01	2 to 3 years part time		CPP07
2005 to 2009	Certificate IV In Property Services (Real Estate)	9672 and 9674	90779NSW	PRD01	2 years part time		CPP07
2005 to 2009	Certificate IV in Property Services (Operations)	17685	CPP40607	CPP07 Property Services	570 hours	19196 Property (Operations)	18366
19/6/2009 to 23/2/2012	Certificate IV in Property Services (Operations)	18366	CPP40609	CPP07 Property Services	590 hours	17685 Property Services Operations	11168 Property Services Operations

24/2/2012 to 5/7/2012	Certificate IV		CPP40609 OR CPP40611	Transitional		Transitional	Transitional
6/7/2012 to date	Certificate IV in Property Services (Real Estate)	17672	CPP40307	CPP07 Property Services	730 hours	9672 Property Real Estate	

**Source:** Training packages from the Construction and Property Services Industry Skills Council and TAFE NSW.

As indicated in Table 1 above, the attendance prior to 2005 was for 2 to 3 years part time, which was the equivalent of approximately 600 to 700 hours of attendance. When the national training package was introduced the hours were initially 570 hours and then later increased to 590 hours. This represents approximately 140 hours of reduced class room attendance, although the qualification prior to 2005 was at the Diploma level and so at the lower level of Certificate IV a decrease in hours can be justified as warranted. A further analysis was undertaken of the course content from the current National Training Package CPP07 Property Services identified with the National Code CPP40307.

The next section of the paper provides an overview of course content. Embedded within the discussion are the pros and cons for competency assessments. Below in Table 2 is the listing of this course content identified by the title of each module.

**TABLE 2: Course content.**

<b>CPP40307 Certificate IV in Property Services (Real Estate)</b>		<b>Hours</b>
CPPDSM4009A OR CPPDSM4009B	Interpret legislation to complete agency work Interpret legislation to complete agency work	30
CPPDSM4015A OR CPPDSM4015B	Minimise agency and consumer risk OR Minimise agency and consumer risk	30
CPPDSM4004A OR CPPDSM4020A	Conduct auction OR Present at tribunals	20
CPPDSM4007A2	Identify legal and ethical requirements of property management to complete agency work	30
CPPDSM4008A	Identify legal and ethical requirements of property sales to complete agency work	30
CPPDSM4080A	Work in the real estate industry	20
CPPDSM4003A	Appraise property	40
CPPDSM4005A	Establish and build client-agency relationships	20
CPPDSM4006A	Establish and manage agency trust accounts	30
CPPDSM4010A	Lease property	50
CPPDSM4011A	List property for lease	25
CPPDSM4012A	List property for sale	30
CPPDSM4013A	Market property for lease	25
CPPDSM4014A	Market property for sale	15
CPPDSM4016A	Monitor and manage lease or tenancy agreement	50
CPPDSM4017A	Negotiate effectively in property transactions	20
CPPDSM4019A	Prepare for auction and complete sale	20
CPPDSM4022A	Sell and finalise the sale of property by private treaty	50
CPPDSM4049A	Implement maintenance plan for managed properties	25
CPPDSM4056A	Manage conflict and disputes in the property industry	20
BSBRKG304B	Maintain business records	20
BSBMB406A	Manage small business finances,	40
BSBLED401A	Develop teams and individuals	40
one elective unit	From the property sales and management, specialist or common units from CPP40307 Certificate IV in Property Services (Real Estate).	50
<b>TOTAL HOURS for Certificate IV</b>		<b>730</b>

**Source: Property, Stock and Business Agents (Qualifications) Order 2009**

The analysis from Table 2 did not disclose any missing fields of knowledge within the current training package. In fact there were a number of additional topics which appear to be in line with changes to various legislations and procedures applicable to the management of property. Therefore at this stage, there did not appear to be a lesser course content than prior to 2005, and whilst the research acknowledges the fewer hours allocated to the course, this has been attributed to the qualification dropping down one level.

Furthermore, a detailed examination of the whereabouts for professional ethics finds this topic embedded within modules CPPDSM4007A2, CPPDSM4008A and CPPDSM4006A. However, it could be argued that the resources and depth of information for professional ethics is not sufficiently highlighted in these modules, and the consequential treatment of the estate agent, if they do not adhere to the rules as laid down in the relevant legislation. The modules also include an awareness of the benefits associated with professional organisations for property agents in NSW, such as The Real Estate Institute of New South Wales (REINSW) and the Australian Property Institute (API). The institutes have adopted and implemented their Code of Practice/Rules of Conduct for their members, in addition to the legislative requirements.

For instance the values and behavioural expectations for property agents and employees are clearly listed in the Rules of Conduct under the Property, Stock and Business Agents Regulation 2003. These rules provide the expected standard of behavior, professionalism and ethics within the property industry. Therefore the fiduciary relationship between the principal and their agent is adequately covered in these models. In summary the agent must always act in the best interest of their client. However, once again, because these topics are within the main course modules, it is not possible to monitor the extent of the knowledge and information imparted to the students. Consequently, a stand-alone subject covering all these aspects of ethics would be desirable. Again, the research highlights the increase, during the last 10 years, in consumer and trader complaints.

Therefore, the final stage of the analysis involved an investigation of consumer and trader complaints relating to real estate. Table three lists the total number of consumer and trader complaints in the real estate sector from 2005 to 2013 inclusive, for New South Wales.

**TABLE: 3. New South Wales - Consumer and trader complaints about market place transactions.**

	<b>Number of complaints</b>	<b>% Increase since 2005</b>
1 <sup>st</sup> July 2004 to 30 <sup>th</sup> June 2005	1,756	Base year
1 <sup>st</sup> July 2005 to 30 <sup>th</sup> June 2006	2,181	24.20%
1 <sup>st</sup> July 2006 to 30 <sup>th</sup> June 2007	2,650	50.91%
1 <sup>st</sup> July 2007 to 30 <sup>th</sup> June 2008	2,612	48.75%
1 <sup>st</sup> July 2008 to 30 <sup>th</sup> June 2009	2,440	38.95%
1 <sup>st</sup> July 2009 to 30 <sup>th</sup> June 2010	2,564	46.01%
1 <sup>st</sup> July 2010 to 30 <sup>th</sup> June 2011*	2,358	34.28%
1 <sup>st</sup> July 2011 to 30 <sup>th</sup> June 2012	2,341	33.31%
1 <sup>st</sup> July 2012 to 30 <sup>th</sup> June 2013	1,444	17.77% decreased

**Source: Individual annual reports from Fair Trading New South Wales**

\* Fair Trading revised their 2011 complaints total. Previous annual reports from Fair Trading listed this item as 3,094.

As indicated above, consumer complaints increased in 2005 from 1,756 to 2,341 in 2012, which represented an increase of 33.31% in consumer complaints. However, significantly for the financial year ended 2013, consumer complaints decreased by 17.77% since 2005. It is difficult to link this increase and decrease in complaints directly to the changes with education requirements as there are other factors to consider. For instance, there is no longer a mandatory two year experience prior to obtaining the real estate licence. The Property Act does however provide for mandatory continual professional development and Fair Trading NSW continues with random audits and quality control

visits to agencies premises. Overall, for the first time since 2005 consumer complaints have decreased in the financial year ended 30th June 2013.

Therefore, is there a justification to negatively reflect on the quality of the training and implementation of the National Training Packages? The analysis for the NTP identifies that there is no single module dedicated to professional ethics and therefore this is questionable with regards to the level of information and scenarios imparted to the students. As mentioned earlier in the literature review, professional ethics is *developed*, and processes must be incorporated into the curriculum to provide the environment for the student to grasp the main principals, and practice self reflection and evaluation.

In conclusion the contextual analysis from Table 2 did not disclose any missing fields of knowledge from the training packages, although this is acknowledged that there is no stand alone subject for professional ethics. Additional there were a number of extra topics (in comparison to previous years when there was no NTP), which appear to be in line with changes to various legislations and procedures applicable to a real estate agent. Modules which commence with CPP are the specifically developed modules for the real estate NTP. The remaining modules are borrowed from other NTP and are transferred across industries as required. Therefore, if there is a generic module existing elsewhere, the module is duplicated, which eliminates unnecessary subject development.

## 5 CONCLUSION

This research paper set out to examine the design of the real estate licensing curriculum and in particular the integration of professional ethics. The analysis mapped the educational knowledge fields with the nominal hours allocated within the National Training Package for real estate licensing. Whilst the government sought to simplify the process of accrediting courses for real estate licensing, through the implementation of the national training package, an analysis of the course content and delivery indicates the following:

1. The current course content within the modules CPPDSM4007A2, CPPDSM4008A and CPPDSM4006A embeds professional ethics, although there is no opportunity to assess the depth that this topic is actually covered or assessed.
2. There is no stand alone subject for profession ethics and it is recommended to introduce this topic as a core module for all aspects of property agency licensing and registration.
3. The literature review also acknowledged that mature aged cohorts were better equipped to grasp the intricacies of ethics and therefore the recommendation is to incorporate ethics into the compulsory CPD units.
4. The literature review indicates that professional ethics is best assessed using a variety of techniques such as a critical self-evaluation through self-reflective practices; the development of moral and ethical processes; and to lessen the approach to traditional exam based assessments. Therefore, the competency based approach for New South Wales could be viewed as in part meeting this recommendation (see additional information on this item, below).

**Competency based education:** Before competency based assessments were introduced, students who failed an exam would be required to re-sit the entire exam, and were usually awarded a graded mark. However, with competency assessments, the student is only required to be re-assessed on the components of the exam where the student was deemed not competent. Additionally competency assessments are not graded. It could be argued that this is a fairer method of assessment where the student can focus on issues which were not understood, rather than a re-examination on all the topics in the module. There is also the opposite thought here, where a student can do very well in some sections of the exam and pass the exam under the old method of assessment. Whereas in the new assessment method, the student would not pass the exam and be required to re-sit parts of the exam paper.

Nevertheless, research in this paper has stated that since 2005 to 2012, consumer and trader complaints increased by 33.31%; significantly in the financial year ending 2013, a decrease of 17.77% was noted. Interestingly, in 2005 RTO's commenced the real estate licensing courses from the NTP; however it is inconclusive if the RTO's attributed to the increase in consumer complaints or if indeed there are other external factors. Therefore, in an era where society's needs are constantly changing, and in comparison to 100 years ago, social and professional ethics were ingrained within the growing up process of children and adults, one must question whether the fault lies with the real estate course

curriculum or if in fact there is a deeper underlying reason which must be sourced back to each individual.

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