

PROFESSIONAL SELF REGULATION

LORD BENSON'S CRITERIA

In a House of Lords debate, 18th July 1992, when the status of engineers was being discussed, Lord Henry Benson* pointed out that eight years previous to that debate, his profession, accountancy, set down nine obligations to the public. These criteria were:

1. The profession must be controlled by a governing body that directs the behaviour of its members and for their part the members have a responsibility to subordinate their own interests to support the governing body.
2. The governing body must set standards for education and ensure professional competence. Continuing education must also be a requirement.
3. The governing body must set the ethical rules and professional standards to be observed by members which should be higher than the general law.
4. These rules and standards should be designed for members of the public and not the profession's interests.
5. The governing body must take disciplinary action, including expulsion, if any member fails to observe the rules or is guilty of professional misconduct.
6. Work is only reserved for members of the profession by statute so that the public are not at risk of being exploited.
7. Practitioners must give information about their experience, competence, capacity to do the work and the fees payable.
8. The members must be independent in thought and outlook, willing to speak their minds without fear or favour, and must not allow themselves to be put under the control or dominance of any person or organization which could impair their independence.
9. In its specific field of learning a profession must give leadership to the public it serves.
10. The profession should have an 'evidence base' – ie a body of knowledge and research which shows that it may help to improve health (loosely interpreted, can be emotional, physical etc) and well-being (in the case of health professions).

Meeting all the above distinguishes a 'profession' from an 'occupational group'. Fulfilling these criteria is reckoned to be the hallmark of a 'mature profession'.

- Lord Benson died in 1995 after 30 years as an accountant during which time the influence of the profession grew considerably due to his commitment and clarity and public visibility.

PROFESSIONAL BODY – Voluntary Self Regulation

May do all the above, but in addition looks after the interests of its members, promotes the profession and acts as a learned society. May also act as a Trades Union. In some cases sets curriculum and approves training and lays down ethical standards and codes of practice. Maintains a register of ‘full’ members and may admit as ‘associates’ those with an interest in the profession. May create honorary fellows and members. There may be conflict of interest in the case of managing complaints about members from employers and the public. Increasingly professional bodies have lay members on their governing councils to avoid such accusations. There may be several professional bodies which all claim ‘ownership’ of the profession.

There is no requirement on anyone to join such a professional body. Employers may look to the PB for guidance when employing a practitioner (would be normal in NHS, Social Services etc). Anyone could work in private practice without being part of a PB or doing any training, it isn’t illegal. Unfortunately when things go wrong in such cases it will impact very badly on the profession as a whole as there is nothing the PB can do about someone who isn’t one of their members.

REGULATOR

Primary task is to protect the public from being put at risk of poor or dangerous practice by unqualified persons. Provides a ‘bench mark’ of standards which may be largely adopted from one or more professional bodies and which are then enshrined in law. Establishes a Register. Protects the titles of regulated practitioners. Takes on the task of setting standards of proficiency, conduct and competence, education and training (again these may be largely derived from professional bodies’ standards). Approves training providers and programmes and registers those graduates who comply with necessary checks (conduct and health). Manages complaints through investigating panels and arranges tribunals where necessary. Importantly, fitness to practice functions are seen to be independent and thus not liable to accusations of ‘closed shop’ or ‘profession closing ranks’ which might be the case if conducted by the

professional body. When things go wrong, because the title is protected and practitioners must be regulated to use it, the public can see that appropriate action is being taken and this lessens the negative impact on the profession as a whole.

The Regulator does not act as a 'learned society' or provide services to its registrants, although it will in fact be supporting good practice by publicising the standards of all its regulated professions and encouraging members of the public to check practitioners are regulated.

The Regulator does not determine the curriculum nor stipulate which aspects of the profession should be studied nor make detailed requirements about numbers of hours etc. In approving training the panel will seek to ensure that the curriculum as provided by the training institution is cohesive, meets the standards, and that the resources are adequate to deliver it.

(EG if a training purports to focus on Jungian psychotherapy as a basis of clinical training, one would expect to find a range of literature to support this, as well as other comparative literature and mechanisms in place to support students' training placements).

Within this legal framework there is plenty of room for innovation and indeed it is expected that professions will regularly review and update their curriculum in line with current research and discoveries in the sciences and humanities.

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