

Professional Independence and the ABCPF Member



ASSOCIATION OF BC
PROFESSIONAL FORESTERS

#1201 - 1130 West Pender Street
Vancouver, BC V6E 4A4
Tel: 604.687.8027
Fax: 604.687.3264
E-mail: guest@rpf-bc.org
Website: www.rpf-bc.org

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This paper is intended to outline the importance of professional independence for ABCPF members. Working drafts of this paper were used as the basis for a series of professional development workshops held in the fall of 1999. It has been edited and modified in light of the discussion elicited and comments received through those workshops. Please file this in your Professional Manual under the tab "Ethics & Responsibilities."

Historical Context

Legislative Framework

In the Canadian constitutional context, regulation of professions falls within the powers of the provinces. Each of the provinces have passed a number of pieces of legislation (acts) which create various self-regulating professions. These acts vary in the degree of self-regulating powers and rights granted as well as the obligations imposed on the self-regulating profession. At the upper-end of the scale are acts such as the *Foresters Act* (the “Act”) which defines an exclusive area of professional forestry practice and grants exclusive rights of title and practice to RPFs. The Act gives foresters a form of monopoly; only qualified RPFs may engage in the practice of professional forestry in British Columbia. In return for this exclusive right, higher levels of obligation are expected.

The Act creates the self-regulatory authority, the Association of British Columbia Professional Foresters (“ABCPF”), and gives it the power to ensure that only those persons who meet the entrance and continuing competence requirements it sets are entitled to practice professional forestry or use the title RPF.¹

In return for the rights of self-regulation, the Act sets out a number of obligations. Section 3 of the Act is a starting point for determining them. This section sets out the purpose of the ABCPF as being to uphold the public interest in professional forestry. The public interest is upheld by ensuring competence, independence and integrity of members and by ensuring that all people engaging in professional forestry practice (whether a member or not) are held accountable.² Additional sources of obligation are found in ABCPF bylaws and policies as well as in the body of common (case) law that has built up over the years in relation to self-governing professions.

Philosophical framework

Why do we have self-governing professions with rights of title and practice in the first place? One of the main reasons is that governments recognize that certain fields of activity are extremely complicated and are important enough to public:

- economic, social, or environmental welfare; and/or
- safety

to only be practiced by individuals meeting certain predetermined standards of education, training, and experience. Given the complexity of the field of activity, the public consensus continues to be that the best people to set these standards and regulate practitioners are the people most expert in the field; the profession itself. The proposition arising from this logic is that it is therefore in the public interest to have self-regulatory professions. This proposition is not without controversy or challenge, particularly in those professions where exclusive rights of practice are granted. The public is, rightfully, sceptical of monopolistic powers and exclusive rights granted to “elites”. This is one of the many reasons that everything we do as professionals and as a profession must meet our public interest obligations. We must be vigilant to ensure that actions taken (or refused) are first and foremost in accord with public interest obligations.

Historical writers and ethicists have often identified public interest obligations as being the defining aspect of professions themselves.

Responsibility separates the professional man from the craftsman. Responsibility to the public transcends selfish and narrow motivations. The professional man accepts responsibility when he enters the profession, and carries out his duties with a high sense of responsibility ever in mind. Personal gain, political advantage, short-run interest, all are eschewed for the permanent public benefit!

The principle of responsibility to society as a whole is a basic difference between a professional society and a labour union. It is also the basis for the foresters' concept of conservation in that it rejects the irresponsibilities of the extremists, those who advocate the very low level of resource use (preservationists) and those who look only at immediate money returns (despoilers).

Source: J.O. Lammi, “Professional Ethics in Forestry,” reprinted in *Ethics in Forestry*. While we may not agree with the gender specific use of language taken from this work first published in 1968, the sentiment about professionalism remains as true today as when this quote was first coined.

The professional forestry framework

The profession of forestry can be visualized as a structure comprised of eight essential elements. These are: (1) the legislative mandate; (2) competence; (3) independence; (4) integrity; (5) accountability; (6) forest stewardship; (7) the external environment; and (8) the internal environment.

The *Foresters Act*, which defines the legislated mandate for the ABCPF, constitutes the foundation. The four purposes set out in section 3 of the Act can be seen as four pillars resting on the legislative foundation. In turn, these pillars support the roof, that being the goal of good forest stewardship. The entire structure is surrounded by an external environment, which includes social, political, environmental and economic dimensions. Just as a real structure cannot stand unless its structural elements are sound, so it is with the profession. Indeed, true professionalism does not exist if even one of the four pillars is absent or deficient.

The character of the profession will continuously be defined by measuring members' actions relative to the pillars of competence, independence, integrity and accountability.

The challenges facing the ABCPF are to maintain the strength and integrity (wholeness) of the structure in a manner that upholds the moral and legal principles on which it is based, and to be responsive to the evolving opportunities and challenges presented by the



external environment of the day.

To maintain the strength and integrity of the structure, the ABCPF must ensure the four pillars are always strong enough to support the roof of good forest stewardship. This paper deals primarily with one of these pillars, that of professional independence.

Professional Independence Defined

The *Canadian Oxford Dictionary* defines “independence” as the state of being independent. Their definition of “independent” includes the following words and concepts:

- Not depending on authority or control;
- Self-governing;
- Not depending on another person for one's opinion or livelihood;
- Unwilling to be under an obligation to others;
- Not belonging to or supported by a party;
- Not depending on something else for its validity, efficiency, value, etc; and
- Impartial

A definition of “professional independence,” while containing many of the elements and concepts above, is different from what the dictionary definition would suggest. By way of example, we can look at the third bulleted point to illustrate a small part of the difference. While professional foresters are personally accountable for the quality and competence of their work, they have a positive duty to practice only in areas in which they are competent. They are duty bound to consult with experts. These experts may be fellow foresters or outside forest resource management experts such as engineers, geoscientists, biologists or agrologists, to name but a few of the many experts contributing to modern forest resource management. This said, the professional forester remains accountable for all work he or she does, including work that incorporates the opinion and/or advice of others.

Just as the complex and specialized nature of professional work necessitates self-regulation, so too does it necessitate a specialized definition of independence. That definition is suggested in the following:

“Professional” independence is a group of characteristic actions resulting from the duty of care that arises out of the social contract with the public who has granted the profession exclusive rights of title and/or practice in return for the obligation of self-regulation. This contract is one based on trust and confidence. It is demonstrated by an objective application of professional judgement and expert knowledge to a given set of circumstances. Objectivity is a state of mind, a quality that lends value to the member's services. It is a distinguishing feature of the profession. The principle of objectivity imposes the obligation to be impartial and intellectually honest.

Extracted from the code of professional conduct for the American Institute of Certified Public Accountants.

The Importance of Professional Independence

One of the most common methods by which the public gauges a profession is the degree to which members are able to—and whether they in fact do—exercise their professional obligations of independence. If members are not, or are not perceived to be, professionally independent, confidence in the profession as a whole may be lost and rights of title and practice and/or self-regulation may be withdrawn.

This fact of professional life is as true for professional foresters as it is for any other self-governing profession. Professional foresters are duty-bound to the public under the first canon of their Code of Ethics to advocate and practice good stewardship of forest land based on sound ecological principles to sustain its ability to provide those values that have been assigned by society. They are also duty-bound under their Code of Ethics to place professional principles, such as embodied in the Act, ABCPF bylaws and policies, and in common law, above demands of their client or employer.

The first canon of the Code of Ethics can be seen to contain expressions of both a land and a social ethic. Sound ecological principles and sustainability are land ethics. Forest values identified by society are social ethics. Through provisions such as these in the Code of Ethics and other such obligations of independence, the profession helps ensure the management of forest resources meets long-term public expectations. It should also be noted that attitudes, expectations and societal ethics are not static. They change over time. The professional has to recognize these changes and adapt his or her thoughts and actions in light of changing social attitudes, expectations and ethics.

The obligations of independence are at the very heart of the grant of public trust given through the *Foresters Act* and which find expression in the profession's exclusive rights of title and practice. In British Columbia, the public has entrusted professional foresters with exclusive rights of management and care of forest resources. This trust embodies principles and obligations separate from those that may be held by economic, political or other interests of employers, whether they be an industrial forest company, government or others.

Independent Attitude

Members must promote a culture of professional independence and not only strive to be independent in their attitudes, actions and practice, but also be perceived as being so.

Members, clients, employers and the public must understand that while professionals have certain obligations as employees or consultants, they are expected to act independently. Professional principles and obligations require independence not only from employer or client interests and obligations, but also from:

1. **Special interest groups.** Despite pressure from local, provincial, national or international interest groups, members must objectively apply their professional judgement and expert knowledge to a given set of circumstances. Professional foresters must consider all resource values and management

objectives and must be impartial and intellectually honest in the application of their judgement. These obligations do not mean that members cannot belong to special interest groups or be advocates for positions. Members are strongly encouraged to further all aspects of forestry debate. In so doing, however, members must still exercise and be seen to exercise professional independence.

2. **Majority groups.** Being professionally independent means, where appropriate, being innovative, adapting to change and not being constrained by “mainstream thinking” or “joining the latest fad.”
3. **Self-interest.** Independent professionals do not allow personal biases and opinions to affect the application of their judgement. Professional foresters are expected to objectively consider a wide and full spectrum of views before making their decisions.

An independent professional considers and evaluates all opinions, resource values, advice and information before exercising professional judgment.³ In so doing, the professional gives independent consideration to the decision. **What does “giving independent consideration” mean?** It means initially considering all opinions, advice, resource values and information to be valid. The professional then takes all opinions, advice, values and information and tests their validity to see if they satisfy publicly established resource objectives. A balancing of established social, cultural, economic and ecological objectives (balancing of public policy issues and resource values) must form an integral part of independent judgment. If resource objectives have not been established, or they are not clear, then the professional will have to draw on his or her own knowledge and consult with specialists to propose suitable objectives.

Independent Action

Asserting professional independence

Bylaw 14.3.2 (Code of Ethics) states “the responsibility of a member to the public is to uphold professional principles above the demands of employment.” If a professional forester is of the opinion that a particular resource management objective, piece of legislation, policy, standard or the desire, direction or objective of his or her client or employer does not embody the principles of good stewardship, then there is a duty to re-evaluate and advocate for change.

If, on the other hand, a professional forester is of the opinion that a particular resource management objective, piece of legislation, policy, standard or the desire, direction or objective of his or her client or employer is detrimental to good forest stewardship, more drastic action may be required, such as the withdrawal of services (this being the ultimate right of a professional). The appropriate course of action is highly dependent on individual circumstances and cannot be generalized in a paper such as this.

A client or employer may not place professionals in situations that compromise their professional principles. In the majority of cases there will not be a conflict between client/employer interests

and professional principles/obligations. In occasions where a conflict does arise, the professional forester may:

- Propose feasible solutions to the person(s) providing persuasion;
- Advocate for change;
- Turn to the ABCPF for assistance if the matter is not resolved between the parties; and
- If all else fails, withdraw their services, and refuse to endorse or facilitate the breach.

It is important to note that **professional independence cannot be used as an excuse to unfairly criticize**, oppose, or refuse to recognize a particular resource management objective, piece of legislation, policy, standard or a direction from a client or employer simply on the grounds that the professional personally does not agree with it or like it. This does not prevent a member from advocating or even lobbying for change but, in so doing, the member must adhere to the standards of the profession. Members are encouraged to voice their opinion by declaring the interest for whom they are speaking, stating the negative and positive aspects or outcomes and not suppressing information or misrepresenting the facts to bolster their opinion. Failure to do these things while advocating a cause or voicing an opinion can undermine the individual's professional independence as well as the independence of the profession as a whole.

Concluding Thoughts

The special relationship between the profession and the public it serves is based upon the exclusive right to practice in exchange for a higher level of obligations. If members of the profession are not professionally independent—or do not appear to be professionally independent—an erosion of professional credibility occurs. The exclusivity of professional practice could then be lost. Defining professional independence, reflecting on parameters for independent attitude, the application of independent consideration and asserting the actions of independence are ways that the profession focuses importance and provides direction on professional independence for its members. Meeting the social contract for the professional forester involves diligence in the development of professional independence.

¹ The Act gives the ABCPF powers to prescribe use of title. This included the title RPF or any other title that could lead a member of the public to believe that the person using the title is a member of the ABCPF and therefore qualified to engage in professional forestry practice.

² Accountability is extracted either through the discipline process or through powers of injunction granted the ABCPF to restrain breaches of the Act.

³ An example of this concept as it relates to current *Forest Practices Code of British Columbia Act* (“FPC”) requirements includes considering, in addition to official “known” information as defined in the FPC or regulations, unofficial “known” information which a member may encounter. If a member were to only consider FPC “known” information, and selectively ignore other pertinent information which may not be in their client's or employer's interest, that member is not being professionally independent and, in so doing, is contravening the *Foresters Act* and ABCPF bylaws. This example demonstrates another aspect of professional independence – meeting legislative demands/standards by themselves does not guarantee that professional demands/standards have been met.