

A CODE OF ETHICS FOR ARCHIVISTS: SOME POINTS FOR DISCUSSION

Anne Cooke

The Australian Society of Archivists is considering formulating a code of ethics. This paper examines some key points for discussion, the philosophical background for ethical codes and some existing codes that may provide guidelines.

When a profession reaches a certain point in its development there is often discussion amongst its members as to the need for a 'formal code of ethics'. The Australian Society of Archivists would seem to have reached this point with discussion groups now active in both Sydney and Melbourne.

When discussing the formalising of a code of ethics we must consider our motives. They may not always be as straightforward as those expressed by E. W. Russell in 1976, "many of the problems which I see as inseparable from the role of the archivist quite properly belong to the area of professional ethics, being of the kind which are too particular to be controlled by law, by-law or regulation but too general to be regarded solely as a matter for the individual judgement of the archivist concerned."¹ One of the reasons for a professional code may be to enhance the cohesion and prestige of a particular professional group, so that it becomes part of the group identification process, like special technical jargon and ritual dress. This is to ignore the most fundamental question of professional ethics, that is "whether those in professional roles require special norms and principles to guide their well intentioned conduct."²

While most archivists might acknowledge with some honesty that a code of ethics would enhance their professional status, most would be worried by the suggestion of needing 'special' norms or principles, especially if considered in conjunction with the statement by the same author, A.H.

Goldman, that "the professional must elevate certain values or goals, those central to his profession, . . . to the status of overriding considerations in situations in which they might not appear overriding from the view of normal, moral perception."³ The establishing of a code of ethics seems then to be redolent of elitism and forces us to consider carefully if such a code is necessary.

To answer this question we need to return to basics and examine the roots of our ethical and moral perceptions. Philosophers agree that we in our daily lives seek some guidance by which we can direct our activities. "By the time we begin to reflect rationally about such matters we find ourselves with a set of feelings of right and wrong, of obligation, of beliefs that we ought to do so and so, and ought not to do something else. Many of these feelings have a common quality which we acknowledge by grouping them together under the common name 'ethical'."⁴

From the above statement it is clear that what we, as private individuals, consider ethical may vary considerably depending on our background, education and experience and that such ethics will change over time in response to changes in public attitudes. K.E. Garay gives the example of Howard H. Peckam in an article in *American Archivist* in 1956, recommending "the exclusion of those whose researches will be 'superficial or of no great significance' into which category he consigned the newspaper feature writer and the genealogist."⁵ Few archivists would be prepared to make such sweeping access restrictions now.

Against this rather fluid background a code of ethics can be seen as providing two things, a reference point for solving ethical problems and a useful training device for future archivists. If we feel that archivists face serious ethical problems that cannot be resolved by individual norms and that the profession of archivist has special values or goals outside the common domain the time has come to establish a code of ethics.

A code of ethics can take different forms. It can be aspirational and state the moral values of importance to the profession, or it can be a quasi-legal guide for adjudicating complaints and standardising ethical norms shared by professional colleagues.⁶ In either case one of the hardest problems for a profession is the enforcement of a code. The profession of archivist has no legal status or restrictions; anyone may call himself an archivist. While training courses exist, the Australian Society of Archivists has no internal examination or registration procedures, and there is no compulsion for those working as archivists to belong to the Society. Therefore the only 'weapons' the profession has to deal with misconduct are expulsion from the membership of the Society (if the person in question belongs) and publicity. Unfortunately neither course of action seems likely to discourage deliberate infringements, nor to prevent repetition. What the code may prevent is 'ethical mistakes' resulting from lack of awareness of ethical issues.

If we return to the idea that “the professional must elevate certain values or goals, those central to his profession”,⁷ we have a starting point from which to consider a code of ethics. What values or goals are central to the profession of archivist? Jenkinson states: “The business of the Archivist put in the simplest terms, is to take over such documents, conserve them and make them available for study. The outstanding feature of the Archive, putting this also at its simplest, is that it is by its nature unique, represents some measure of knowledge which does not exist in quite the same form anywhere else.”⁸

Margaret Cross Norton emphasises the other fundamental of archives, that is, their importance as legal evidence. This outweighs their historical importance and governs the way an archivist should care for the records.⁹

Both give us key concepts—the archivist as ‘guardian’ of the records with specific duties and concerns, and the archives themselves as unique, with legal and historical value.

When considering the creation of a code of ethics it is useful to look at existing codes for other professions, especially those which may have values or goals in common with archivists. The profession which seems to be the closest is that of museum curator. The International Council of Museums defines a museum as “a non-profit making permanent institution, in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for the purpose of study, education and enjoyment, material evidence of man and his environment.”¹⁰ Libraries could claim they fit this definition, but their ‘material evidence’ lacks the uniqueness of the material held by museums and archives, and it is this uniqueness that is the basis of many of the archivist’s ethical problems.

In discussing codes of ethics I will be using three existing codes: firstly that of the Society of American Archivists (1980), secondly that of the Museums Association (1977) and thirdly that of the Council of Australian Museum Associations (1985) which replaces the Museums Association of Australia 1982 Interim Code.

Codes set out to establish guidelines in the role of institutions, their standards and policies; the material held by the institution, its acquisition, conservation, display, use and disposal; the role of the professionals and their relationships and responsibilities to the institution, to the material held by the institution, to the public and to the profession. The code may or may not include some form of sanctions for non compliance.

I only propose to discuss in some detail areas which are unique to archives (and museums) and contentious, these are acquisition, disposal and access. Other areas, while equally important, are common to many professions and many more guidelines are available.

One of the most hotly debated topics in archives and museums is acquisition. Collecting policies are often poorly defined if they exist at all. Even amongst institutions caring for government records there are areas of overlap or uncertainty; and, once in the area of the 'collecting' archives, the possibilities for dispute are endless.

In the acquisition of material, the enthusiasm for 'prestige' or 'comprehensive' collections often outweighs ethical considerations. A code of ethics cannot hope to eliminate competition, for as the American archivists state, "we realise that institutions are independent and that there will always be room for legitimate competition"¹¹ and there is no doubt that some competition gives a healthy impetus to services and standards. However, any competition must give priority to archival principles, that is the integrity of the records and their preservation.

The aspirational approach to this can be seen in the Code of Ethics of the American Archivists. "Archivists arrange the transfers of records and acquire papers in accordance with their institutions' purposes and resources. They do not compete for acquisitions when competition would endanger the integrity of safety or records and papers, they co-operate to ensure the preservation of these materials in repositories where they will be adequately processed and effectively utilised."¹²

A more specific and perhaps more helpful approach is that of the Council of Museum Associations' Code of Ethics:

- Clause 3.1 Each museum authority should adopt and publish a written statement of its acquisition policy. This policy should be reviewed from time to time and acquisitions outside the current stated policy should only be made in very exceptional circumstances.
- 3.10 Each museum authority should recognise the need for co-operation and consultation between Museums with similar or overlapping interests and collecting policies, and should seek to consult with such other institutions on defining areas of specialisation.
- 11.7 Museum officers should respect the boundaries of the recognised collecting areas of other museums and should avoid collecting, borrowing or purchasing material with special local connections or of special local interest from the collecting area of another museum without due notification of intent.¹³

In addition to these concerns museums place considerable emphasis on any object which they acquire having a clear title, and "that in particular it has not been acquired in, or exported from, its country of origin and/or any intermediate country in which it may have been legally owned in violation of that country's laws."¹⁴ As Australia is a signatory to the UNESCO *Convention of the Means of Prohibiting and Preventing and Illicit Import, Export and Transfer of Ownership of Cultural Property* it would seem appropriate for the Society of Archivists to reflect this in any code of ethics.

Of course the most carefully established policies can still be upset by the wishes of donors, who may insist on giving their papers to what they consider a 'prestige collection', for example the National Library, or one in which they have a personal interest rather than the institution to which they should more properly belong. While the archivist can suggest a more suitable repository, and encourage the donor to place his records there, he may not necessarily be successful. It is a fine ethical line at which the archivist must decide, if he will accept the records even though they more properly belong elsewhere, or refuse and risk the records not being deposited in any repository.

The increasing value of records has also led to donors either selling their records to the highest bidder in a de facto auction between institutions or actually selling records in the marketplace, often at the expense of their integrity. While no one would deny the owner or creator of the records fair recompense, the archivist's first duty must be to archival principles. This is an area where clearly stated collection policies for institutions, greater communication and more clearly defined ethics could result in more complete and accessible records for the researcher.

The relationship between acquisition and the ability to process and preserve the records is again an area where some guidelines would be helpful. There are obviously difficult decisions to be made by the archivist if the choice is between collection or loss of the records, and most archivists would acquire important records threatened with destruction even if they had no expectation of being able to process them. The American Society of Archivists in its 'commentary' says that in the case where archives are forced to accept records (by law), the "archivists must exercise their judgement as to the best use of scarce resources, while seeking changes in acquisitions policies or increases in support."¹⁵

Both the above situations differ from an active collecting policy which results in a collection which the institution is unable to process or administer. Such institutions are "so over committed that they can neither administer their holdings nor accept additional instalments to collections they have acquired years earlier,"¹⁶ and a code of ethics would need to draw clear distinctions between rapacious collection and preservation.

The antithesis of acquisition is disposal or deaccessioning of records. This again is an area of intense debate, and yet in the Society of American Archivists' code the subject is not even mentioned. The museum codes, however, do provide some guidelines. These state that disposal must be done rationally with the purpose of the collection in mind and with due regard for the legal position of the institution in respect of the objects in question, that is do they have the legal right to dispose of the objects? The museums' code further adds that "such material might well be offered first, by exchange, gift or private treaty sale, to other museums before

sale by public auction or other means is considered,"¹⁷ and that monies raised by such sales should only be used for acquisitions.

Further points for consideration are raised in Clause 6.5 which states:

"A decision to dispose of any object should be the responsibility of the governing body of the museum, not of the curator of the collection concerned acting alone. No objects should be deaccessioned without written recommendation of the relevant curator. Full records should be kept of all such decisions and the objects involved, and proper arrangements made for the preservation and/or transfer, as appropriate, of the documentation relating to the object concerned, including photographic records."¹⁸

These codes provide a broad guideline for the approach that the Australian Society of Archivists may take but there are also of course purely archival considerations. For example archivists might wish to specify that record destruction is done in an appropriately secure manner. Finally I feel such a code should only be a guide to disposing of records already accessioned, it should in no way be seen as a guide to disposal scheduling.

The next major area for consideration is that of access. The Society of American Archivists code states that "Archivists respect the privacy of individuals who created or are the subject of records and papers, especially those who had no voice in the disposition of the materials. They neither reveal nor profit from information gained through work with restricted holdings".¹⁹ On the other hand it is generally accepted that archivists should discourage donors from imposing unnecessarily restrictive access conditions, and that once access conditions are established all researchers should be informed that the material is available.

It is immediately apparent that the archivist is in the unenviable position of negotiating between contrasting interests, that of privacy and confidentiality and the needs of the researchers for free access. In negotiating access conditions, three broad questions need to be considered. These are: who is to determine whether access is to be granted, the donor or the archivist; to whom access is to be granted; and how access is to be granted. The answers to these questions will vary depending on the type of Archive and the type of record, but over all the archivist should be aiming at accessibility and equality of access.

While in some areas restrictions will be necessary, in public records the archivist must work for greater openness, reflecting the public demand for greater accountability in government which resulted in the Freedom of Information Act. "This will work best if governments and citizens reduce the kinds and amounts of information under dispute: if government agencies request less information of a personal or sensitive nature, and therefore have less to keep secret; and if those who channel information through government agencies—individuals and businesses, for example—reconsider what they think must be kept secret on their behalf."²⁰

It should be the role of archivists to examine statements such as that above and, if they feel them to reflect the concerns of the profession, use whatever weight they have as a profession to contribute to debate in public policy areas. Areas in which archivists might contribute could include privacy, freedom of information, data collecting techniques, and copyright.²¹ This concept of professional interest or goals can be included in a code of ethics; for example, that of The Royal Australian Institute of Architects states that architects should “provide the community with information which will assist in formulating policies and making decisions on matters affecting the built environment.”²² In formulating a code the profession as a whole must decide if it wishes to commit itself to this kind of public role.

To return to access, usually with public records the access restrictions are established by government regulation or company policy; the archivist may need to query or oppose unreasonable restrictions, but the basic decision as to the sensitivity of the records is already made. In the case of private records or in open access public records, where the archivist feels records intrude on the privacy of the individual, we may need to consider the question more deeply.

Firstly what exactly is privacy? It can be defined as “the condition of being protected from unwanted access by others — either physical access, personal information or attention.”²³ Of course what we regard as private information differs radically from person to person, making protection of that privacy difficult.

If archivists decide to impose access restrictions on records they need to be sure of their judgement and perhaps help is available in the following: “The moral arguments for any secret practices must be capable of being publicly discussed. They should never themselves require secrecy, nor should the existence of the practices themselves [require secrecy]. Thus there should be no secrecy about the normal principles supporting medical confidentiality about what patients reveal to their physicians, but in order to debate the principles, and the limitations upon them in different circumstances, it is not necessary to reveal the secrets of individual patients.”²⁴ In other words you may keep the records restricted but you must be prepared to justify the moral principles on which you make your decision.

Another difficult ethical decision is whether to protect the confidentiality of records that come into your archives, which you feel contain information that should be made public. An archives will only obtain deposits of complete and uncensored records if the depositors have confidence in the discretion of the archivists. To betray this trust is against all our training and instincts. However, unthinking guarantees of professional confidentiality are not good enough.

We can perhaps take guidance from the theologians, who agree that certain types of secrets are not binding on professional recipients, foremost among them grave threats against the public good or against innocent third persons.²⁵ This still leaves the decision as to whether the archivist should sound the alarm or “blow the whistle” and we need to weigh the seriousness of the information and its effect, and our own motives, before deciding whether or not to disclose it. In assessing the situation we require “judgement and accuracy in dissent, to explore alternative ways to cope with improprieties that minimise the breach of loyalty and fairness of accusation.”²⁶ We need to remember that no matter how difficult the situation “the fact that one has promised silence is no excuse for complicity in covering up a crime or violating public trust.”²⁷

Many professions dealing with confidential information, use the criterion of the ‘law’ as a reason for disclosure. The Australian Association of Consulting Archaeologists say “a member shall not disclose such information unless the law so requires,”²⁸ and the Professional Historians Association states “nor shall a member use such information to the disadvantage of the employer/client nor disclose such information, except where such disclosure may be justified at law.”²⁹

However, such clauses do not really address the problem as they place the onus on the law to demand the information rather than the professional to make an active decision. This disinterested attitude is no longer publicly acceptable as changes in public attitudes place greater emphasis on accountability and the general public’s ‘right to know’. The “United States Code of Ethics for Government Servants” (1958) which asks them “to expose corruption wherever uncovered” and to put “loyalty to the highest moral principles and to the country above loyalty to persons, party or government department”³⁰ has changed from being aspirational in 1958 to a practical guide in 1987. The question of conflict between an archivist’s professional conduct and moral judgement is a very complex one and rigorous debate within the profession will be necessary before any attempt is made to provide ethical guidelines.

In general whatever decisions are made about access, it is accepted that no distinction should be made between researchers, that is the archivist should make no judgements about the ‘quality’ of the research or the ‘qualifications’ of the particular researcher if they fulfil whatever guidelines are set down by the particular institution. The archivist may have some redress if information from the archives has been misinterpreted, but this should be limited to correction of facts and exclude comments on the quality of the research in general.³¹

Both the museums and the archivists codes of ethics allow the archivist or curator to research their own collections, though the museums code contains the following provisos: “Museum officers should allow bona fide

researchers full access to any materials in their care, even when this is the subject of the officer's own research or special field of interest" and that the results of the curator's research should be published within a reasonable time, and he should respect the research area of other scholars who are working and publishing in that field.³²

This is by no means an exhaustive study of all the areas which should be covered by a code of ethics; indeed it hardly touches on many of those suggested by E.W. Russell, for example "the equality of archival provision, preventing of undue influence, plagiarism, monopolisation, discrimination towards staff and loyalty"³³ and others such as conservation, display of archives, the acceptance of loans, legal requirements, abuse of position and relations with donors and the public.

In preparing a code of ethics it is useful to keep in mind the pitfalls cited by Joan Hoff-Wilson; these are a failure to distinguish between ethical codes and ethical guidelines resulting in terms such as principles and rules being used interchangeably and very vaguely; such principles and rules being imprecise; the lack of procedural or budget lines for enforcing the code, and few concrete suggestions or procedures for resolving conflicting interests or obligations.³⁴

A carefully considered code of ethics has a definite role to play in a profession but to be effective it must be sufficiently detailed and precise to give clear guidelines to its users. It should provide guidelines for settling internal and external disputes and some sort of action which can be taken for non compliance. It must be reviewed at regular intervals and adapted to reflect changes in public attitudes. Of course there is always the problem that those most in need of ethical guidance are those least likely to pay attention to a code of ethics, but at least such a code provides a clear set of 'norms' or guidelines for the profession. Its use in training courses and publication through the profession as a whole should create a greater awareness of ethical dilemmas.

FOOTNOTES AND REFERENCES:

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25. *Ibid.*, p. 130.
26. *Ibid.*, p. 219.
27. *Ibid.*, p. 222.
28. The Australian Association of Consulting Archaeologists *Constitution* Clause 13.3.
29. Professional Historians Association, *The Code of the Professional Historians Association NSW*, Clause 7.
30. S. Bok, *op. cit.*, p. 211.
31. A Code of Ethics for Archivists *op. cit.*, p. 417.
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33. E.W. Russell, *op. cit.*, p. 232.
34. J. Hoff-Wilson, *op. cit.*, p. 442.