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IS FUNCTIONAL CONTEXTUALISM THE APPROPRIATE METHODOLOGY FOR EXAMINING THE MANAGEMENT OF CONFLICT OF INTEREST IN THE REAL ESTATE VALUATION PROCESS IN THE IRISH PROPERTY PROFESSION?

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In examining the research question of the best practice for managing conflict of interest in the real estate valuation process within Ireland a number of research methodologies were considered. Review of literature in the field supports a pragmatic approach to the central issues of the formation of an individual's ethical viewpoint and behaviours, the nature of the ethical challenges faced within the real estate valuation process and the possible frameworks that may influence an individual's behaviour going forward.

Within the pragmatic realm a more focused lens of Functional Contextualism is considered. Functional contextualists seek to predict and influence events using empirically-based concepts and rules (Biglan & Hayes, 1996; Hayes, 1993b; Gifford & Hayes, 1999). This paper examines the suitability of functional contextualism as the primary research methodology for researching conflict of interest in the real estate valuation process within Ireland. Emphasis is placed on highlighting the areas of the approach that fit and also those that require omission due to their lack of suitability to the subject research problem.

INTRODUCTION

In undertaking a doctorate of philosophy, one of the key lynch pins of the research, regardless of the subject area, is the selection of an appropriate and robust methodological grounding. "In considering the appropriate research design, researchers must consider (and make known) to which research community they believe they belong as well as the epistemological, ethical and ontological assumptions of their research" (Remenyi, 1998). Ideally there is existing research in your field that has been peer reviewed and accepted with the research community that can form a directional arrow on where to ground your own work. Even if this is the case, the true understanding of methodological theories and the appropriate application to the subject area, is challenging and often done to a surface level with a stronger focus on the actual research methods.

In considering my research project "Property Valuation Best Practice for Conflict of Interest Management: The Irish Experience" and the appropriate methodology, many difficulties have been encountered and considerable time used to find an appropriate home.

The aim of this paper is to evaluate the current result of the journey through the research enquiry to date and to open this up for peer review and commentary.

THE RESEARCH PROJECT

A fulltime PhD was commenced in September 2015 in the School of Surveying and Construction Management, Dublin Institute of Technology under the supervision of Professor Lloyd Scott. The project title is “Property Valuation Best Practice for Conflict of Interest Management: The Irish Experience” and the aim is to examine how the Irish Real Estate Profession deals with the issue of ethics and whether it is currently robust enough to manage the nuances of the Irish Property Market.

Key areas addressed in the literature review include how the Irish relationship with property evolved, what is the Irish approach to ethics generally, has the Irish political context influenced the approach to ethics on a societal level and has this fed into the property profession’s approach, how are ethics managed and taught to the property profession internationally and the role of ethics education is also examined in current Irish real estate qualifications, the newly formed Property Services Regulatory Authority (PSRA) license requirements and the various professional body membership requirements.

In reviewing literature related to the property profession it is immediately obvious that it is very much a “doing” approach undertaken. However, due to the relative infancy of the industry as a research discipline, it is difficult to identify a common trend in methodological grounding and most focus is clearly on methods, which is in keeping with the industries “doing” nature. Diaz (1993) argues that real estate does not need paradigms to define its body of knowledge and its research effort. While paradigms help to focus research, they can also limit it. Real property is logically the focus of research and interest because of its immense importance in human affairs.” However, in order to successfully structure a research project as substantial as a PhD and to ensure its methodological robustness, it is necessary to address this issue.

Considerable time has been spent familiarising with the various methodologies, understanding the conflicting essences of these approaches, aligning these to the key issues of the subject research project and weighing up the most appropriate route. A key concern is that a methodology is selected prior to full primary research commencement, to ensure methods used are in alignment with this paradigm.

RESEARCH METHODOLOGIES

The starting point in selecting a research methodology, is to consider what your philosophical position is. Philosophy is a broad and daunting subject area, on which vast volumes have been written.

WHAT IS PHILOSOPHY?

“Philosophy is concerned with the very materials of thought, with ideas and their foundations and asks fundamental questions about the nature of things.” (Misak, 2016). It commenced with the works of Plato and Aristotle and is constantly evolving and being updated.

In grappling with the many disciplines within philosophy, it is necessary to become comfortable with the definitions and their meanings. “It is common place to make a distinction between the theoretical sub disciplines of philosophy – to which ontology, metaphysics and epistemology are normally said to belong – and the practical sub disciplines – with the main contenders being ethics and political philosophy.” (Brinkmann, 2018).

“Epistemology is concerned with the questions of knowledge, how we know what we know and how we orient ourselves to what we do not know”. It is a fundamental aspect of philosophy and it is necessary for all researchers to go back to the beginning essentially and query how it is that we know any aspect

relating to the subject research. In relation to the subject project, existing literature reviewed the last twenty years of Irish property market but it was necessary to expand significantly on this to identify how the Irish property market came into being, how this related to the social and political environment at the time and how it is that we have come to the current time with the definitions, understandings and practices that we do. “Epistemology is the branch of philosophy that concerns the origins, nature, methods and limits of human knowledge.” (Fellows & Liu, 2015).

“Ontology is the branch of philosophy concerned with being.” (Brinkmann, 2018). Due to the nature of the subject project and the nature of the property market, the Irish experience and evolution of ethics within the property profession, this is very much a qualitative piece of work and it is correct to state that “No qualitative research endeavour is without ontological commitments.” (Brinkmann, 2018). Metaphysics is often mentioned alongside ontology and can be simply defined as “after physics” and “Metaphysics represents a deeper inquiry into what objects, space and time ultimately are.” (Brinkmann, 2018).

The relationship between epistemology and ontology is core to the research undertaken and has directed the literature reviewed “Epistemology is the philosophical theory of knowledge. All qualitative research projects embody ideas about what knowledge is and how it can be obtained.” (Brinkmann, 2018) and formed the basis for a number of the key areas of primary research. “The ontological and epistemological bases of research are fundamental as they inform all research activities – notably, using and developing theory, which denotes what elements are related to each other and to context.” (Van Maanen, 2007).

After considering how all of the aforementioned influences the subject project, it is natural that the issues of ethics at societal level and how the industry itself is governed arises. “Sooner or later questions about knowledge touch on questions about society, about ethics and about institutions and how they work” (ibid). The bulk of the literature in this area is professional documents and working papers which again underpins the “doing” nature of the issues at hand.

THE METHODOLOGICAL OPTIONS

In moving forward in the methodological grounding, it is now necessary to consider the schools of philosophical thought and which would be most appropriate for the subject research. The main approaches are clearly laid out in the “Research Process Onion” by Saunders et.al. (2007) and it is from here that each was considered and loosely applied to the subject project to identify suitability.

Positivism “Holds that there is one objective reality, it is singular and separate from consciousness” (Greco & Sosa, 1999) and this approach is normally associated with the sciences. A basic example of this approach would be a medical experiment where the results are either positive or negative and the conclusion itself hinged entirely on this outcome. There is no room for interpretation, the conclusion is drawn from the output. In considering the subject project, this approach appears incompatible. There is no clearly measurable quantitative output that the research aim or objectives can be determined by.

Anti-positivism “Stresses that social reality is viewed and interpreted by the individual according to the ideological positions of individuals.” (Greco & Sosa, 1999). This paradigm involves accepting that there are no facts as such and that “Knowledge is personally experienced rather than acquired from or imposed from outside”. (ibid). There are elements of this that fit with the valuation profession in so far as a valuer and the work they complete is undoubtedly a product of experiences and there is no absolute “fact” or right or wrong in this area however, there are universally accepted Rules of Conduct and the quantitative methods are not open to interpretation. The associated research methods such as personal interviews and participant observations are expected to form part of the work undertaken.

Following on from these, Critical Theory is relatively modern and is defined as “A school of thought that stresses the reflective assessment and critique of society and culture by applying knowledge from the social sciences and the humanities.” (Greco & Sosa, 1999). The focus on changing society on the whole appears beyond the scope of this research. The associated research methods of ideology critique and action research do not fit within the research objectives.

Pragmatism can be defined as “An approach that evaluates theories or beliefs in terms of the success of their practical application.” (Oxford Dictionary, 2018). There are essentially two competing schools of thought when it comes to pragmatism; one at Cambridge, US and one in Cambridge UK. Regardless of their areas of divergence, the core principle of “doing” is common. “Ideas are not representations or copies of how the world is but, rather, are tools with which we transform, engage with and cope with the world as we go about living our lives.” (Brinkmann, 2018). The apparent freedom to mix research methods under the pragmatic framework is appealing as the subject research project, due to its complex nature, requires many methods in order to capture the current state of the art.

RESEARCHER’S DILEMMA

Prior to commencing the research project, the entire issue of the researcher’s point of view and philosophical leanings were believed not to be relevant and essentially would not require examination and consideration. Early on in the research process it became evident that this assertion was incorrect and that the identification of the researcher’s philosophical approach or “voice” is one of the key milestones in the PhD journey. Despite this realisation, this point has caused considerable difficulty and to date may not be entirely resolved.

The core piece that is yet to be determined has arisen out of the research undertaken to date. In arriving at the project and in the initial stages, the view was absolutely a “black and white” one, that there is a correct way to manage conflict of interest in the property valuation process and that regardless of the reality on the ground and associated difficulties with this approach, the end justifies the means. However, in reviewing literature and meeting with various stakeholders in the process, it has already become evident that there are many viewpoints with legitimate reasonings and the current position is a result of a myriad of influences that reflect an imperfect reality.

This struggle between idealistic perfection and imperfect reality, has consumed much time and work and frustratingly appears to be a decision that the researcher alone has to ultimately resolve as the work is their own. There are conflicting elements within various methodological approaches that fit various elements of the work and the debate continues on whether this is acceptable and a “best fit” approach is defensible or to continue exploring this area, despite time constraints, in search of a “perfect fit”.

MOVING FORWARD WITH THE PRAGMATIC APPROACH

Having considered all of the aforementioned, it has been decided to move forward in the pragmatic paradigm. In considering the qualitative nature of the research and the very practical nature of the industry being examined, pragmatism appears the “best fit”.

The property industry itself was born out of the need for people to own or rent land for agricultural purposes, to construct dwellings and then to trade them and the same for commercial property along with the added dimension of ownership for investment purposes. This was a practical need that was serviced by doing. The structure of the property market itself within Ireland has been in existence in some form or other since approximately 1155. Its evolution and where we find ourselves from a regulatory and ethical position has been undoubtedly influenced by the political and economic forces.

“As human beings, we exist in this world fundamentally as actively participating beings, and we know the world and its properties solely through practice.” (Brinkmann, 2018).

“Pragmatists, dating back to American philosophers such as Peirce, James and Dewey in the late 19th century, argue that knowledge is about doing rather than seeing.” (Brinkmann, 2018). This is a key concept in the subject research, while ethics and conflict of interest specifically can be very much a theoretical pursuit, when considering it in the context of real estate valuations, it must be based in reality. Lessons to be learned will be derived from the real life experiences of professionals in practice in Ireland.

“In *How We Think*, John Dewey (1910/1911) developed a five-step research strategy or investigation procedure – sometimes also referred to as “abduction”-according to which the investigator follows five steps toward obtaining knowledge.” (Brinkmann, 2018). In considering the appropriateness of pragmatism and Dewey’s approach, this five step structure has been applied to the subject research process. “First, there is the occurrence of an unresolved situational problem, which creates genuine doubt.” (Dewey, 1910). The questions over conflict of interest management in the Irish real estate profession has long been anecdotally acknowledged but has never been formally documented to date. Through my own professional practice as a valuer, the various day to day difficulties with managing this complex issue became obvious, both within a large city based multi-disciplinary firm and also within provincial practices where the individual is multi-disciplinary as opposed to the distinct departments found in the large city firms. In moving into full time academia as a lecturer on real estate programmes, to both traditional third level undergraduate students and masters students with relevant practical experience, anecdotal evidence was apparent on the supposed irregularities over conflict of interest management specifically in the valuation process. In reviewing existing literature and professional guidance around the issue, there is undoubtedly genuine doubt over whether the current professional approach is robust enough and in line with other industries.

“Second, this is followed by a specification of the problem in which the investigator might also either systematically or more loosely collect data about the problem at hand.” (Dewey, 1910). In refining the aim and objectives and arriving at a specific, robust research question, it was necessary to carry out informal interviews with industry professionals, representatives of the professional bodies and various stakeholders in the valuation process. The information provided at this stage further supported the doubt over the current system of management and also provided a more rounded view of the complexities involved in addressing a possible solution.

“Third, the investigator, now equipped with a specification of the problem, by way of his or her creative imagination introduces a hypothesis or a supposition about how to solve the problem.” (Dewey, 1910). An alternative framework is to be produced after identification of all the issues in Irish practice, views and experiences of professionals, comparison and analysis of four other industry’s approach to conflict of interest and a review of how ethics broadly and conflict of interest specifically is taught in the educational programmes and continued professional development requirements.

“Fourth, the proposed hypothesis is now being elaborated and compared to other possible solutions to the problem, and based on reasoning the investigator carefully considers the possible consequences of the proposed hypothesis.” (Dewey, 1910). The various stakeholders and their views will be collected and analysed on the proposed framework and any possible alternative solutions examined. It may be necessary to amend the framework at this stage should the results of this process identify it to be necessary. Due to the sensitive and emotive nature of conflict of interest and ethical conduct generally, already it is noted that some parties are more reluctant to change and to indeed, consider an alternative approach even in theory. That being said, some of the alternatives and criticism to the new framework may be routed in this and so in-depth analysis and consideration will be necessary.

“Finally the hypothesis is put into practice, as it were, through an experimental or empirical testing by which the investigator checks if the intended consequences occur according to expectations and whether the problem is solved or not.” (Dewey, 1910). In research carried out to date, it is evident that an alternative approach will have to be tested in order to ensure a willingness with stakeholders to embrace it. Within some parties, there is a readiness to accept there is an issue but an unwillingness to accept that it can be resolved, if not entirely but then to a significant extent.

This final stage of Dewey’s research strategy essentially supports the abductive concept which is paramount in pragmatism “Methodologically, the core of pragmatism is abduction – that is, developing potentially helpful understandings and explanations in uncertain situations that are tested to determine if the situation becomes more clear and workable.” (Dewey, 1910). The methods by which this testing is to be carried out can be varied which suits the research project. “Without privileging any specific part of the methodological toolbox, with its emphasis on abductive procedures, pragmatism has proved very useful, particularly in explorative qualitative research as a framework for problem-oriented investigation”. (Brinkmann, 2018). As opposed to the other paradigms such as positivism and constructivism which are based on induction and deduction respectively, the focus of pragmatism on a workable, real life solution to the problem is in keeping with the overall aim of the research project. “Unlike induction and deduction, abduction begins with a breakdown in our understanding of something and is oriented toward making the indeterminate more determinate in order to facilitate action (Alvesson & Kärreman, 2011).”

One area of pragmatism which requires further consideration is the contention that a pragmatic approach is essentially a qualitative one and that quantitative work has no place in pragmatism. “The links between mixed methods and pragmatism are problematic and that advocates for mixing methods and pragmatism are problematic and that advocates for mixing methods do not always understand the philosophical underpinnings of pragmatism.” (Brinkmann, 2018). Due to the quantitative nature of the real estate valuation profession and the possible need to include some quantitative analysis on the impact of conflict of interest on reported valuation figures, can an argument be made for the inclusion of this work under a pragmatic approach?

BEHAVIOURAL RESEARCH IN REAL ESTATE

Having accepted a general pragmatic approach is probably the most suited to the subject research, the next dilemma is which of the research disciplines does real estate belong to? It would appear, as mentioned earlier, that the vast majority of real estate research tends to avoid attaching itself to either a philosophical paradigm or indeed a research discipline so it is difficult to identify a clear pattern.

Conflict of interest is essentially an ethical issue, with a core focus of the research on how people perceive conflicts in a given situation and why do people following on from this behave a particular manner. Once this is determined the next stage is to consider how this can be influenced favourably going forward. The concept of human behaviour and an in-depth understanding around this area appears to be essential to successfully completing the research aim and objectives.

The relationship between the real estate profession and behavioural science has been examined to some degree by Diaz, Brown, Grissim, Black and Gibler (2000). They accept that there are distinct areas of real estate research “finance and traditional economics, expert decision making. Marketing and markets, spatial analytics, organisational behaviour and development and the legal and regulatory environment.” But they also acknowledge that one of the major drawbacks in the field has been “Almost all behavioural investigation into the problem solving of property experts has been focused on valuers. This research can be broken down into four categories, departures from normative models, comparable sale selection, valuation biases and feedback.” (Diaz, Brown, et.al. 2000). None of these are a perfect fit for the area

of ethical conduct in a conflict of interest situation but elements of research carried out in all four categories are relevant to the subject project in varying degrees.

In research terms “the real estate asset is most often treated as a financial asset.” which is the case in the context of this project but the financial element is not the primary focus but rather the human behaviour when valuing the asset and how conflict of interest is managed in this project. “One uniting factor of all these disciplines (finance included) is that they ultimately derive their existence from human behaviour.” (Diaz, Brown, et.al. 2000). With this point in mind other methods may need to be considered alongside the more traditional ones used in real estate research “If every real property problem is seen as a finance problem, researchers miss the opportunity to use tools and thoughts from other disciplines.” (Diaz, Brown, et.al. 2000).

FUNCTIONAL CONTEXTUALISM

In trying to find a specific methodology under the umbrella of pragmatism that may provide a definite base for the subject research project, functional contextualism was suggested. It is almost a dual approach with a marriage of elements of pragmatism, as discussed above, and contextualism. “A modern philosophy of science rooted in philosophical pragmatism and contextualism.” (Hayes, Strosahl, et.al, 2011)

Contextualism is associated with the work of Stephen. C. Pepper but is closely linked to the pragmatic work of Dewey, “Contextualism is Pepper’s term for the philosophical pragmatism developed by Charles Sanders Peirce, William James, John Dewey and others.” (Hayes, Strosahl, et.al, 2011). It is a relatively complex concept that is based on the acceptance of “world hypotheses” or “world views” and that any analysis is valid “Insofar as it leads to effective action, or achievement of some goal.” (Pepper, 1942). Contextualists argue that any world view is based on “a distinctive underlying root metaphor and truth criterion” (Pepper, 1942). A root metaphor is defined as “the act in context”, whereby any event is interpreted as an ongoing act inseparable from its current and historical context.” While a truth criterion is defined as “successful working, whereby the truth and meaning of an idea lies in its function or utility, not in how well it is said to mirror reality.” (Pepper, 1942).

Within the approach of contextualism is the concept of functional contextualism. This follows on from pure contextualism but focuses very much on the action or function coming from the research “Functional contextualists seek to predict and influence events using empirically-based concepts and rules.” (Hayes, Strosahl, et.al, 2011). The core concept is, nothing can be considered without reference to the context in which it occurs, which on the surface appears to be in keeping with the subject research and the assertion that the Irish valuer’s psyche and structures of society may pose different challenges to the global conflict of interest best practice guidelines. “From a functional contextualist worldview, any thought can be either normal or problematic, depending on the context in which it occurs.” (Hayes, Strosahl, et.al, 2011).

In considering how functional contextualism can add to the achievement of the research aim and objectives, it is necessary to consider the practicalities of how this approach influences primary research collection and analysis. The overall goal of influencing behaviour instead of merely identifying issues or patterns undoubtedly will require a more thorough approach in order to prove that behaviour can potentially be influenced. This ties back to Dewey’s concept of abduction as opposed to induction or deduction. The most common research method used by functional contextualists is “Controlled experimentation: events in the context of the behaviour are manipulated in a systematic manner and the resulting effects on the behaviours occurrence are observed.” (Hayes, Strosahl, et.al, 2011). This approach is something that has been discussed in relation to isolating the impact of conflict of interest on reported valuation figures, based on the premise that valuers, when informed that research is centering on conflict of interest, may put their “best foot forward” in this regard and ultimately what

we are seeking is a chance to capture the realistic approach to this issue, in practice in Ireland. The use of controlled experiments where valuers are not informed of the purpose of the research, valuation problems are posed mirroring realistic client instructions with conflict of interest issues embedded within, there is potentially a better opportunity to capture the truth of the issue.

However, controlled experiments are one element of a myriad approach that at this stage have been identified as being necessary to achieve research aims. In investigating the compatibility of functional contextualism with a mixed methods approach, it was positive to discover that “While functional contextualists favour experimental techniques, they encourage the use of a diverse set of methodologies, provided that value is always measured against pragmatic goals.” (Hayes, Strosahl, et.al, 2011). Another positive identified was “Group designs using between-subject comparisons can be employed effectively for the purposes of functional contextualism, for example, and even correlational or predictive research” (Hayes, Strosahl, et.al, 2011) and this may be relevant when considering the comparative approach to conflict of interest in the Irish property valuation profession and the four identified industries of fund management, medical, legal and corporate governance.

A concern however, still remains over the functional contextualist’s view that mixed methods have a place but “Are not as effective as experimental procedures for testing the influence of environmental variables on behaviour or for verifying the general utility of principles.” (Hayes, Strosahl, et.al, 2011). Further consideration and exploration is required in order to ensure that this point can be successfully overcome when defending the methodological approach chosen.

CONCLUSION

In order to decide upon the appropriate methodological grounding and associated research methods that are most fitting to examine the issues surrounding conflict of interest management in the valuation process within the Irish market, much work has been carried out. To date, functional contextualism has been selected as the framework within which to approach the research project but there are still potentially unresolved issues over the role of qualitative methods in addition to the more traditional controlled experiments which will need to be explored further before a definitive decision is made.

Another area for resolution is the researcher’s own conflict over their idealistic beliefs and the real world practicality that appears to be required within the valuation profession. A question still remains over whether the work can be structured in such a way to allow for both these elements to be combined or does own distinct school of thought need to be aligned with.

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