

Cracking the Code to More Ethical Decision Making



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All decisions made and risks taken by employees stem from some form of reasoning. This involves their consideration, assessment, and weighing up of countless factors such as the different options available to them, the various pros and cons, and their sense of what is right and wrong.

Before the emergence of the comprehensive laws, rules, and regulations that now guide the actions of firms and their employees, a Code of Ethics was often relied upon as both a moral compass and a decision-making framework. It drove more ethical decision-making from employees by broadening the scope and quality of their reasoning and prompting them to consider factors they might otherwise overlook. It was an approach that recognised positive outcomes rarely came from poorly reasoned decisions such as those that were made impulsively; focused solely on profit; failed to account for the potential risks, issues and consequences; or did not consider related stakeholders e.g., customers, markets, society, and regulators.

Today, many firms lack a Code of Ethics altogether, while others have relegated it to a dusty back-office shelf, brought out only when regulators are coming in. Over time, these codes have simply become overshadowed, with the decisions of firms and employees now being guided almost entirely by their ever-expanding and ever more detailed legal and regulatory requirements. Such a shift is understandable, given the pressures, demands and consequences associated with legal and regulatory compliance. But compliance doesn't cover all risks, issues and eventualities, and firms still need to empower their employees by developing their reasoning skills for more ethical decision-making.

The following are some key considerations on how firms can actually develop greater reasoning and

more ethical decision-making through their existing compliance programme e.g., policies, procedures, training and communications.

Explain the Why, Not Just the What

In most interactions between a firm and its employees, the firm holds the entire balance of control. They talk at their employees rather than talking to them, issuing one-way instructions focused entirely on the risks, issues and needs of the firm rather than those of the employee by the firm and its legal and regulatory requirements. For greater engagement and buy-in, firms also need to support their employees in understanding the reasoning behind what is required of them e.g., Why is this necessary? Why is this important?

Why is this relevant to them? Explaining the 'why' also develops, broadens and strengthens their understanding and ability to reason, which they can then also apply to similar situations in the future.

Embed Stakeholder Consideration

The ethical reasoning behind any decision-making and risk-taking requires a deliberate consideration of those who have an impact and those that will be impacted. It could be argued that in regulated sectors, firms must pay a price for the right to do business. That price is an acceptance that, whilst there is nothing wrong with them making money, they must show a duty of care to their stakeholders, regardless of the cost. Such stakeholders generally include their customers, employees, markets, and society. The duties of firms to such stakeholders, is why rules, regulations and even regulators exist. To force the decisions, actions, and behaviours of firms to account for someone other than themselves and to prevent them from always prioritising revenue and profits above all else.

Integrating stakeholder considerations into employee reasoning helps them to better



understand the broader risks and impacts of their decisions, anticipate potential pitfalls, and navigate consequences more effectively. Yet even firms that recognise the importance of stakeholders often fall into the trap of persistently prioritising and promoting the firm's risks and interests above all else. This is frequently evidenced in corporate messaging that frames the only reason for compliance being the protection of the firm against enforcement actions, civil or criminal liabilities, and reputational damage. Such messaging risks inadvertently conditioning employees to always put the firm first which is not conducive to either ethical reasoning or legal and regulatory compliance. By contrast, firms that openly and actively focus on and discuss stakeholder impact, risks, issues and needs in their policies, procedures, training, and communications broaden employee understanding and expand ethical reasoning leading to better decision-making.

Embed Risk Accountability into Reasoning

Understanding the risks and consequences of their actions should be a key part of every employee's ethical reasoning. Employees can be driven to more careful reasoning and better decision-making when they know and accept that accountability for the decisions they make and the risks that they take belongs to them. This requires firms to embed a clear and practical understanding of the three lines of defence, ensuring that the ownership of risk is clearly placed with the business in the

first line rather than the control functions in the second line. When such accountability is not clearly understood and accepted by employees, it becomes absent from their reasoning. As a result, first line employees may become looser or more reckless in the risks they take because they assume that someone else will be accountable for anything that goes wrong. Through a firm's frameworks, policies and procedures, accountability needs to be clearly assigned to individual employees so that every decision they make and risk they take is influenced as much by a concern for what can go wrong as it is by the potential benefits to be gained. This is re-enforced by IAF/SEAR placing a fear of accountability, that is not determined and cannot be controlled by the firm, front in centre in the reasoning of its senior management.

Conclusion

Ultimately, better decision-making comes from more ethical reasoning, something that many firms are guilty of not developing in their employees. They can easily start to address this by simply expanding the content of existing policies, procedures, training and communications beyond linear instructions to employees focused almost entirely on the needs of the firm. Instead, such content should be rooted in explanation of the broader factors that employees should understand and be considering in their decision-making.