



SABPP



ETHICS IN HR MANAGEMENT

**A Guide for HR professionals and line managers
2011**

Contents

Introduction and foreword: <i>CEO of the SABPP</i>	1
Foreword	4
Preface	5
A CEO's perspective: <i>Edward Kieswetter, Group Chief Executive of Alexander Forbes</i>	7
Ethics in Recruitment and Selection.....	9
<i>Job Specifications</i>	9
<i>Advertising</i>	10
<i>Recruitment Agencies</i>	11
<i>Pre-employment assessment</i>	12
<i>Selection criteria and pre-screening</i>	14
<i>Interviews</i>	15
<i>Employment of temporary staff</i>	16
<i>Background checking</i>	17
Ethics in Employment Equity.....	19
<i>Appointment of Members from Designated Groups</i>	19
<i>Skills Development as it relates to employment equity</i>	20
<i>Numerical Goals</i>	21
Ethics in Learning & Development	23
<i>Training and development</i>	23
<i>Ethics training</i>	25
Ethics in Mentoring and Coaching.....	27
Ethics in Consulting	29
Ethics in Organisational Development.....	31
<i>Leadership</i>	32
Ethics in Performance management	36
<i>Setting performance objectives</i>	36
<i>Performance review</i>	37
<i>Performance improvement</i>	38
Ethics in IT Technology in the HR environment.....	41
<i>Codes of good practice, guidelines and regulations</i>	41
Ethics in Employment Relations.....	44
<i>Codes of good practice, guidelines and regulations</i>	44
<i>Managing industrial action</i>	46
<i>Discipline</i>	47
<i>Grievance</i>	48
<i>Retrenchment / Redundancy</i>	49

<i>Sexual harassment</i>	50
<i>Incapacity</i>	52
Ethics in Reward and Remuneration	54
<i>Job evaluation</i>	55
<i>Base pay</i>	56
<i>Variable pay</i>	58
Definitions and Abbreviations.....	66
Resources.....	66
Websites	66
References	67
<i>Disclaimer</i>	67

Introduction and foreword: *CEO of the SABPP*

South African newspapers are full of articles about corruption, fraud, greed, mismanagement, and other forms of unethical practices in organisations, both in the private and public sectors. This reality raises the question whether it is really possible to change the current state of affairs.

"Sadly, numerous studies have shown hundreds of companies having hit the dirt due to failure of governance, culture or ethics."

Leon Kok, Finance Week

Is it possible for business people and government to change their behaviour and become more ethical?

Over the last two years, the South African Board for People Practices (SABPP) published three papers that covered the importance of ethics in the field of HR management. First, our King III papers clearly articulated the important role of HR in promoting ethics in the workplace. Second, the HR professionalism paper highlighted ethics as one of the most important pillars of HR professionalism. Third, our position paper on HR Risk Management also emphasises business risk if ethics is not managed proactively at an

organisation. Moreover, in the book *Wisdom from HR Mentors*, all the SABPP mentors describe the importance of ethics in the field of HR. Now, with this HR Guide on ethics we build on the previous three papers, but this time we are making the transition from the contextual debate to the practical application of ethics in the HR function, with a specific focus on the relevance of ethics to the different fields of HR specialisation.

The King III Code of Governance for South Africa adequately highlights the importance of ethics at board, management and staff levels and, in particular, the need for an ethical culture. However, to think that an ethical code in itself will instil a culture of ethics is short-sighted. Thus, the point of departure in this guide is that despite increased corporate and government efforts to address ethics, people are at the heart of all unethical behaviour and practices. No matter how sound your systems, all corporate scandals start with either employees or managers, in other words, the human resources of an organisation. Therefore, the HR function plays a critical role in addressing ethical challenges in organisations. The guide challenges HR professionals and the organisations they work for to answer these questions:

- If we focus more on ethics in recruiting and selecting staff, will it make a contribution to ensuring that we create a larger pool of ethical employees in organisations?
- Do we concentrate sufficiently on ethics and values when inducting new employees?
- Are we behaving ethically in balancing the need for compliance and performance as part of our performance management systems?
- Do we manage learning and development in an ethical manner, for example when selecting and managing training providers, or when making decisions about learners entering learning programmes?
- When dealing with employees and unions as part of our employment relations system, do we behave in a fair, equitable and ethical manner?

- Utilising salary benchmarking in remuneration, do we encourage greed and reinforce excessive pay packages and thereby widen the gaps between the rich and the poor in one of the most unequal societies in the world?
- What contribution does HR play to create an ethical culture and to reduce unethical behaviour?
- How effective is HR in influencing and guiding management on ethical issues and the promotion of an ethical culture in the organisation?

During 2008 Huma van Rensburg (ex-CEO of SABPP) initiated research amongst senior mentors of the SABPP who provided valuable input into the nature of ethical dilemmas HR professionals face. The outcome of this was the formation of an ethics committee. I want to thank those mentors who participated and especially the members of the SABPP ethics committee for producing and managing this important guide, in particular Christine Botha from Business Resource Development, Pauls Gibbons from DNA (Design Network Associates), Ian Becker from Boston City Campus & Business College, Alexandra King from MTV Africa and Mandisa Ndodana from National Housing Finance Corporation for their pioneering work in compiling this guide with content from various specialists. This is the first edition of this publication and it is our hope that feedback from a number of planned activities over the coming months will give input into future editions.

It is our hope and wish that HR professionals in South Africa will rise to the occasion to become change agents for ethics in their organisations. In fact, ethics is an area where HR as “credible activists” according to the Ulrich competency model, can add significant value to business. Using this guide will help you to achieve this goal, and position SABPP as the custodian of HR ethics in South Africa. As Huma van Rensburg, asserted in the HR professionalism paper:

“The future of the HR profession depends on the commitment of HR practitioners and the HR professional body to position HR strategically and to ensure the highest level of professional conduct, ethics and excellence in people practices.”

The SABPP Code of Ethics is printed overleaf and HR professionals are reminded that these are the principles by which HR professionals are expected to conduct themselves.

Marius Meyer, CEO: South African Board for People Practices



SABPP CODE OF CONDUCT

We value what we can offer as a profession and recognise the stewardship of the profession and its members. This role is embodied in the norms and principles we stand for. The purpose of this code is to entrench the obligations we have as professional HR practitioners, to uphold the profession's norms and principles and to conduct our activities in a professional and ethical manner. To ensure the trust of all our stakeholders, we strive to build the reputation of the profession and its members through the values of responsibility, integrity, respect and competence.

OUR ETHICAL IDENTITY

Members of the profession of human resource management in South Africa who actively pursue the ideals of professionalism and are therefore ethically obliged to:

- Bring meaning and quality of work life to the people we serve in our professional capacities*
- Ensure the sustainability of the organisations that we serve*
- Make a difference to the communities we touch*

ETHICAL VALUES

Responsibility

Our first responsibility is to meaningfully transform the lives of those men and women that are employed by the organisations we serve. We have a further responsibility to contribute to the success and sustainability of the organisations that employ us or that we render a service to. It is our responsibility to comply with the expectations of our profession and fellow practitioners. We accept responsibility for the outcomes of our actions and interventions. In this we contribute to greater goodness of society.

Integrity

As HR practitioners we are committed to exemplary ethical conduct that is characterised by honesty, objectivity, fairness of judgement, consistency of action and loyalty to our profession and the organisations and communities we engage with. We aim to grow the profession in a controlled and responsible manner. In that we strive to attract to the profession members with sound moral character and integrity.

Respect

We are unwaveringly committed to tolerance, respect for human dignity and upholding the human rights as prescribed by the Constitution of the Country. We treat all our stakeholders with respect protect them from harm. We stand in service of our profession and its membership, those organisations that remunerate us for our professional contributions, and the communities we affect. We have an obligation to prevent breaches of principles of respect and to assertively object to such violations when they occur. We respect the confidentiality of information that is entrusted to us.

Competence

Professional registration of HR practitioners is a privilege afforded to individuals that have met the criteria for registration. We are committed to ensure professional credibility by actively evaluating and protecting the quality of professional education and training of those aspiring to enter the profession. We aspire to uphold the highest standards of continued professional development and improvement of competence of members of the profession. We enact this aspiration through role modelling and mentorship. It is our professional duty to integrate and apply sound human resource management principles, policies and practices in all aspects of people management and to assess the value that we add. We strive to formulate generally accepted HR practices that adhere to criteria of scientific and feasibility proportions. It is our quest to build the field of human resource management by promoting and supporting rigorous research.

Organisations are encouraged to use this code, to unpack it and adapt it to form the basis of their own organisational ethical code.

Foreword

This first edition is a 'baseline' to guide HR professionals and line managers on how to approach common HR ethical issues in organisations and it is the first attempt of the SABPP to develop a practical ethical framework. We've set out the guide according to HR functional

responsibilities and have included at the end of each section a block of recommendations and suggestions. We don't for one minute assert that this is an exhaustive work – far from it! It is our intention to stimulate healthy debate on the ethical dilemmas HR professionals are facing and jointly explore practical solutions which will not only form the basis of regular updates of this guide but transform our collective workplaces, human resources and communities where ethical behaviour becomes the norm within which we operate. In order to do this, we need feedback. Specifically we need to include many more examples and case studies on ethical issues and how they have been dealt with which will keep the guide topical and increasingly more useful and relevant.

"Within the context of those defined professional standards and competence profiles for HR practitioners, the SABPP is increasingly shaping and influencing the credibility of our profession and its role as a strategic business partner. In much the same way as is done by other professional bodies in South Africa and abroad, all of us need to play our part in supporting and complying with the high standards of integrity, ethics and competence that the SABPP can help us collectively achieve."

Bill Sewell, SABPP Mentor

In this guide, we tackle the full range of HR functions as stand-alone functions with the purpose of identifying the ethical issues within those disciplines but we expect HR professionals to adopt a holistic view of the whole HR function. For example, the recruitment process may

function well and ethically, however, IR practices may be questionable. Ethics must run as a golden thread through all of the functions. If the recruiters bring in the wrong people; if we recruit well but perhaps there are unethical issues happening in training, these have a ripple effect throughout the whole organisation. The HR professional must be able to stand back and consider the effect of unethical practices across the entire HR value chain.

This is, therefore, a work in progress and it is our sincere hope that future editions will be crafted by those men and women in both the HR profession and in line management who are willing to share their experiences and learning for the common good and to contribute meaningfully to an ethical organisational life in South Africa. Our ethics email address – ethics@sabpp.co.za is the best way of communicating with us about ethical issues and we look forward to some interesting interaction in the weeks and months to come.

Christine Botha and Pauls Gibbons
Ethics Committee, SABPP

Preface

In South Africa's history, we have witnessed corporate scandals such as Leisurennet, Masterbond, Regal Bank, MacMed, Corpcapital, and Saambou. One of the most recent corporate fraud scandals, Fidentia, involved public funds from the Transport Sector Education and Training Authority (TETA), SAA, Eskom and the SABC confirming that poor corporate governance is not confined to the private sector. The media's ongoing coverage of executive corruption, deception, fraud and greed makes us all aware of what unethical behaviour is. Our thoughts on what constitutes an ethical organisation are not so clear. Just because an organisation *avoids* unethical behaviour, does not mean it is ethical. Different organisations in different business environments may function by different ethical principles and yet still be deemed ethical in their contexts. While there are certain universal ethical values such as human life is precious; ideas about business ethics in China may, for example, be very different from those in South Africa. There is an important argument against the 'comply or else' framework: a "one size fits all" approach cannot logically be suitable, because organisations and their business contexts vary to such a large degree. The implications for HR as ethical leaders in a world where organisations become international and globalised are vital and complex.

"Why should the finance or any other profession take leadership when surely, ethics is all about the human being and their individual/collective behaviour? As the custodians of human capital, should the HR profession not be more proactive in becoming the primary ethical spine of an organisation?"

Martin Humphries, Director:
Executives Global Network South
Africa

The moral triumphs and failures of HR carry great weight, since it was found that morality is magnified in leadership. HR professionals as leaders are often very effective mainly on the basis of them being perceived by followers to be ethical.

When the word ethics is mentioned in a South African organisation the most common assumption that is made is that ethics fall under the finance, auditing or risk management department. The role of the HR department is very often overlooked and/or seen as an administrative or support function within the organisation. The responsibility that is bestowed upon HR is much greater than realised by most organisations. HR is the heartbeat of an organisation, the Human Resource professional has a critical role to play as a governor as well as a business partner. The misrepresentation of HR as transactional and administrative leads to a lack of representation on top management and board level and decrease HR's authority and influence.

The HR profession in general is currently moving beyond the strategic business partner role towards being a driver of business success. Therefore HR needs to be responsible for establishing an ethical culture within an organisation that develops policies and procedures to embrace ethics and to provide a structure or framework for the organisation to perform in. The process of establishing an ethical culture within organisations requires HR departments to be ethical custodians. In order for HR to be an ethical custodian, there needs to be an established set of ethical values, supported and adhered to by top management and the board of directors. HR needs to address people risks which include the following but are not limited to organisations' culture, talent shortages and retention, incompetence, employee performance,

unethical behaviour, low morale, grievances and disputes, excessive absenteeism, employee wellness, sabotage, workplace violence, and non-compliance to industry and other regulations and laws. The principles HR believe in relate to moral values that already lie within a person, for example integrity, responsibility, compassion and forgiveness.

Most business challenges involve moral duties to many parties – stakeholders, customers, employees, suppliers and also the public – and often these duties create conflict. What enables a leader to manage his way through such a situation is a capacity for dealing with complexity; the ability to hold multiple perspectives in view at the same time

This guide aims to aid HR professionals in their difficult tasks of handling complexities and moving beyond the business partner and HR governor role towards being a driver of business success.

Frank de Beer is completing his M.Com Industrial Psychology Degree at the North West University. The Title of his dissertation: Human Resource managers as custodians of King III. The problem statement that he is using is: Good corporate governance is a very rare competence in companies, which results in fraud and unethical behaviour by management and employees. The Human Resource department is the heart of an organisation and therefore has the responsibility to manage good corporate governance from a people perspective by using King III as guideline. The general objective of this research is to identify what the understanding of Human Resource managers is with regard to King III; how they implement or use King III; and to identify if the Human Resource managers have the capability to use King III.

A CEO's perspective: *Edward Kieswetter, Group Chief Executive of Alexander Forbes*

Most organisations have a code of ethics but few successfully move beyond a mechanistic approach to ethics. Building ethics into the “DNA” of an organisation requires a systematic approach. Strong ethical, values-based leadership is critical in both the private and public sector to drive ethical behaviour. Ethics needs to overlay the context and tone of an organisation, from board level down. It needs to infuse how we do business. Ethics manifests, for example, at board level by every board member attending meetings and coming to meetings prepared, having read board packs and being able to contribute meaningfully to board issues. Board members and senior leadership need to be consciously self-aware and constantly challenge themselves to put the organisation's interests above self, declaring any self-interest or conflict. The important thing is *being* ethical rather than ticking the ethical box.

I seek to promote a leadership style that is based on humility and servant leadership. I have no sense of entitlement and I have had to work hard from humble beginnings and this has framed my values in both my professional and private life. During my career, which has spanned both public and private sectors, ethical leadership has been a critical issue on which I have been tested very publicly.

The reputation of the pension fund industry suffered as a result of involvement in so called asset stripping. These were clearly examples where the ethical basis could be seriously questioned. When I joined Alexander Forbes, I found that, as an organisation, we had attracted huge public criticism for our involvement as an advisor. We had been defending a matter which had created an impression that we supported these practices. We had to move rapidly not only ‘to do the right thing’ but to be seen to be doing it and to entrench a different corporate culture within the organisation through placing the customer first. The Alexander Forbes of today is a substantially different organisation to what it was when these unethical practices occurred.

Herein lies a great lesson for organisations in the greater ethics context. It is important that organisations are circumspect when they resort to the natural position to defend themselves. Often this further erodes trust and hardens the public criticism. Moving away from defending a position to rather addressing and reversing the consequences of an action is not only more ethical but it builds organisational pride and public trust. When an institution or company falls foul of questionable ethical practices, it has to move quickly to accept responsibility and accountability. It has to take all stakeholders along. The CEO has to build a persuasive business case to shareholders and boards. It requires a courageous and authentic approach to leadership and a deep commitment to doing right for all stakeholders. Taking employees along is key. People will heed a call to action if they believe in the message and can be inspired to take the journey. This means treating people with respect and telling them the truth, even when this is painful. In the case of Alexander Forbes, we articulated strong messages that we serve a higher purpose in the work that we do.

To institutionalise ethical behaviour, a leader's vision has to cascade throughout the organisation. In this regard the human resources profession plays a pivotal role. Line managers require support and coaching. To build an organisation based on values-based leadership, it is important to develop a clear leadership brand which answers the questions - *how* and *what* do we deliver, *what* do we strive for, *what* do we stand for and *why* do we exist? The human resources professional in an organisation needs to be an integral part of the leadership and be on the “right hand” of the chief executive. Establishing and sustaining an ethical ethos, the human resources professional must work closely with the executive leadership team to define

and promote the culture of the organisation based on the underlying values and then entrench the culture through all the touch points in the human capital chain. This means, for example, ensuring that the people we employ are the right people who uphold our values, who deliver on our value proposition and who serve the customer. It means measuring and rewarding the right performance and giving people opportunities to grow. It means dealing effectively with transgressions, giving a voice to whistleblowers and protecting the victims. Many of these ethical issues are dealt with in a practical and down to earth way in this guide. As Peter Drucker has said, culture eats strategy for breakfast and this guide gives the human resource professional a menu of options to support leadership in creating an ethical culture and reducing unethical behaviour.

If you don't stand for something, you will fall for anything¹.

Edward Kieswetter has been Group Chief Executive of Alexander Forbes Limited since January 4, 2010. Mr. Kieswetter served as Deputy Commissioner of SA Revenue Service (SARS). He was a senior executive of Eskom and FirstRand. He has been an Independent Non-executive Director of Shoprite Holdings Ltd since 2010. He holds, amongst others, a Master's degree in Science Education (Cognitive Development) from UWC, an Executive MBA (Strategy and Business Transformation) from the Henley University in the UK and a Master in Commerce (cum laude) (SA/International Tax) obtained through the Northwest University. Mr Kieswetter is Chairman of the Committee for Auditor Ethics at the Independent Regulatory Board for Auditors (IRBA). He was voted South Africa's Boss of the Year 2000. He is a committed servant leader actively involved in community projects and lay ministering, pastoral counselling and leadership development.

¹ The exact origin of this quote is quite heavily disputed with people like Martin Luther King, Malcolm X and Rosa Parks having used it although Alexander Hamilton might have coined it.

Ethics in Recruitment and Selection

The recruitment of potential employees represents one of the most significant human resource activities a manager may undertake. To attract those people who are deemed 'best fit' both in terms of job requirements and in terms of organisational culture, the HR professional should ensure that there is a sound recruitment policy in place which sets out the highest ethical and professional standards to be applied to this important function, recognising that recruitment opens a 'window to the organisation' and is an important branding opportunity. Recruitment (whether internally or externally) gives rise to legally recognised and enforceable contractual relationships and it is necessary to safeguard the organisation from possible allegations of discrimination and/or unfair labour practice and, at the same time, ensure that the terms and conditions of recruitment comply with an organisation's policy and applicable employment legislation.

Recruiting the right people with sound ethical values provides the foundation for creating an ethical organisation culture. Thus, while job-related competencies are of utmost importance to fill positions, managers and HR professionals should concentrate more on values as critical conditions for employment.

Job Specifications

Consider very carefully if the minimum requirements specified in job specifications are indeed required and not merely designed to exclude or favour a certain category of applicant (internal or external).

Employees (including applicants for employment) have the right not to be unfairly discriminated against on arbitrary grounds and have the right to be treated fairly and consistently. (It is not unfair discrimination to take affirmative action measures consistent with an organisation's employment equity plan or distinguish, exclude or prefer any person on the basis of the inherent requirements of a job).

Example(s) and/or Case Studies:

Is it really necessary for a driver to have grade 12? If a driver has the necessary licence and a proven track record of successfully performing such function in the past, the driver could potentially claim an unfair labour practice. Similarly, if a degree is specified for a position but a candidate has a proven track record of performing a similar function in a similar size organisation, the candidate may, likewise, claim an unfair labour practice. Women of childbearing age are often excluded from access to jobs by specifying an unusually large number of years of experience in order to fulfil, for example, a secretarial function.

An employee (or applicant for employment) may claim that the organisation is committing an unfair labour practice. If proved, the organisation may be liable for compensation or may be compelled to employ the applicant. There can be reputational damage to the organisation and there have been a number of such cases in recent years. Perhaps more importantly, employees within the organisation observe and question such practices and this results in loss of credibility internally.

If your basic principles and practices pertaining to recruitment are clear and documented, it limits the potential for unethical practices.

- A clear, detailed job description must set out the scope and nature of the job and the minimum qualifications, skills and experience required and key performance areas before the compilation of an advertisement.
- Draw up competency-based job specifications which focus on what the person needs to do (outputs).
- Ensure that skills, knowledge and experience are linked to performance on the job.
- Specify the qualities sought from applications in addition to skills, knowledge and experience – e.g. instead of having knowledge of a specific legal act, the requirement may be to demonstrate the ability to interpret legislation.
- Make sure that managers understand the implications of relevant legislation and its impact on recruitment.
- Ensure that proper authority is obtained to recruit against pre-determined, inherent job requirements.
- Don't succumb to pressure to recruit with a specific person in mind or that management has earmarked up front. The criteria must fit the position and not an individual.

Advertising

When choosing an advertising medium, consider very carefully if such medium reaches the broader community. The advertisement should be based on job specification criteria and job profile for the position. The pool of potential candidates must be maximised to the extent that it is possible.

Employees (including applicants for employment) have the right not to be unfairly discriminated against on arbitrary grounds and have the right to be treated fairly and consistently.

Example(s) and/or Case Studies:

Advertising a position only on the internet may preclude people who do not have internet access from applying for a position. This might be justified if the organisation is recruiting an IT specialist but would be hard to defend if recruiting, say, a store merchandiser. Advertising only in Afrikaans newspapers because the company wants to retain its cultural exclusivity will certainly exclude certain categories of employees and will not strengthen diversity in the workplace.

Failure to advertise broadly enough may be construed as being unfair and discriminatory. The right skilled people may not be recruited.

One insurance company has a walk-in internet kiosk where job applicants can search their intranet for job vacancies and apply on line thus making internet-based recruitment more broadly available. The trend is, certainly, towards more use of the internet and organisations should recognise this whilst striving to make recruitment opportunities available to as wide a range of applicants as possible.

- Ensure that the organisation's recruitment and selection policy sets out a comprehensive approach to advertising of vacancies including length of advertisement, internal and external advertising and a sufficiently broad range of medium designed to ensure a wide reach of potential candidates.
- Ensure all posts/vacancies are advertised in line with policies and procedures of the organisation.
- Make sure the job description is drawn up before the compilation of an advertisement.
- Make sure that advertisements are not placed in publications to which few people have access.
- Make sure that the EVP (employment value proposition) is clearly defined and that it truthfully reflects the benefits of working for the organisation.
- Highlight the commitment of the organisation towards ethics in advertisements.

Recruitment Agencies

Discuss the job profile with the recruitment agency or search firm which will then screen applicants based on the requirements of the position.

Do not discuss any subjective preferences with the recruitment agency or search firm which are in any way unfair or could be construed as being discriminatory. Do not let personal preferences rather than inherent job requirements drive the recruitment process.

"HR should play a greater role in screening outsourced providers in order to ensure that they meet ethical standards."

Bruno Bruniquel, SABPP Mentor
(Wisdom from HR Mentors)

Example(s) and/or Case Studies:

A recruiting organisation has a confidential discussion with a recruitment agency or search firm about certain 'preferences' in a candidate and the agency excludes applicants based on those 'preferences'. This can happen when the brief states that the person must be 'young and fun loving' which conveys a certain culture but it discriminates against a more mature person who might also be 'fun loving' but just not as young.

Recruitment agencies are often used as scapegoats in practising unfair discrimination. If an arbitrary and unfair screening takes place both the recruitment agency and the organisation for which they recruit may be guilty of unfair and discriminatory practice.

- Do not let personal preferences rather than inherent requirements of the job drive the recruitment process.
- Only use reputable recruitment agencies which belong to a professional body such as APSO. Preferably maintain a preferred provider list of recruitment agencies and regularly rate their services, fees, BBBEE status etc.
- Ideally, the recruitment agency or search firm should have an understanding of the business to source candidates with the right 'fit'. This means understanding the organisation's vision, ethics and goals to strive to find a candidate who meets these standards.

- Ensure that there is no hidden relationship between HR professionals and/or line and recruitment agencies (for example, that the HR professional does not have a proprietary interest in the agency being used or favours one agency over another due to a personal relationship).
- If using a formal search process, consider establishing a Search Committee.
- Document all phases of the recruitment process, in order to report back to management in terms of the governance principles of fairness, transparency, accountability and responsibility.

Pre-employment assessment

When choosing pre-employment assessment tools these must be relevant to the job and must be able to stand the test if challenged. They should adhere to the requirements of legislation and professional codes that regulate the use of such tests.

If an applicant willingly agrees to an assessment then it is absolutely fine to perform such assessment, and web-based applications make it relatively easy to measure many dimensions of an applicant such as cognitive ability, personality, integrity and competence. The Health Professions Council of South Africa sets out ethical guidelines pertaining to psychometric assessments –

- When making use of psychometric assessments, it is important that they are seen to be one part of the selection process and are not solely relied on to make decisions regarding the employment of an individual.
- The psychometric assessments should predict success in the work situation as accurately as possible. Thus it is critical that the professional conducting the assessments has knowledge and understanding of the psychological instruments with which they work.
- The psychometric assessments should be reliable and valid, and free from bias or discrimination against any group of people. According to the Employment Equity Act, psychometric testing and other similar assessments of an employee are prohibited unless the test or assessment being used: (a) has been scientifically shown to be valid and reliable; (b) can be applied fairly to employees; and (c) is not biased against any employee or group.
- The assessment process should be standardised and consistent to ensure that each candidate being assessed goes through exactly the same process.
- The professional conducting the assessments should do so within the context of a professional relationship that is transparent.
- Informed consent must be obtained from the individual undertaking the assessment, informing them of the purpose of the assessments and how the results will be used.
- The confidentiality of who will see the results should be clearly explained to the candidate.
- It is the responsibility of the professional to take the necessary steps to ensure that the results of the assessment are not misused by others in any way. This would include

refraining from releasing the raw test results to any persons other than a qualified professional.

- It is essential that the individual or client organisation to whom the results are released, understands the ethical implications of how they should make use of the results.
- The interpretation of results should include additional information that has any bearing on the overall results pertaining to selection such as situational factors.
- When communicating the results of the assessment to the client, the professional should ensure that this is done in such a manner that the individual receiving the results fully understands those results.

Example(s) and/or Case Studies:

A psychometric assessment is administered by an HR Officer who is not registered to administer such tests. The candidate is applying for a sales position which occupational level is skilled. However, the norm group against which the candidate is compared is that of a norm group of managers/graduates. The candidate performs poorly on numerical ability. The candidate is told he has not been successful for the job as he did not perform well on his psychometric assessment. No job analysis was done and therefore the requirement for a certain standard of numerical ability has not been established and the norm group is in any event, not appropriate. The assessment results are invalid.

In accordance with legislation (Section 8 Employment Equity Act) employers may not force job applicants to undergo psychometric tests and, unless administered, scored, interpreted and reported on by a registered psychometrist or psychologist, these tests are regarded as illegal. Psychometric assessment should never be a sole determinant of a hiring decision. If the candidate challenges the decision, the organisation would not be able to defend its actions.

- The policy regarding the application of psychometric test must comply with relevant legislation and professional codes.
- Ensure that the organisation's policy sets out which level of applicant should undergo psychometric assessment, which assessment questionnaires are relevant to which positions and who will conduct such assessments.
- Ensure, as far as possible, that the choice of test/measure is based upon a careful job analysis, which identifies the abilities and attributes required to perform the job to at least a reasonable standard.
- Ensure test results are stored securely, are not accessible to unauthorised or unqualified persons.
- Assessment results are valid for a limited period only (results over twelve to twenty four months old are usually invalid). Ensure, therefore, that records are confidentially destroyed after two years or when the person leaves the company, whichever is sooner.
- Ensure that managers involved with decisions based on psychometric assessment have an understanding of the use of tests and questionnaires and their associated advantages and limitations.
- Ensure that assessments are conducted by suitably qualified professionals only.

- Avoid using copies of questionnaires or free internet-based assessments to assess applicants.
- In all instances, psychometric assessments should only be used to *confirm* the findings of an interview panel and should never be the sole basis on which the decision to employ is based.

Selection criteria and pre-screening

The objective of pre-screening is to prioritise or weight job applications, giving priority to those applications which, on face value, represent the 'best fit' candidates. Selection criteria must emphasise knowledge and skills however due consideration may be given to applicants' potential to learn, where relevant.

In prioritising applications, defensible criteria must be used. It is quite acceptable to apply preferential employment requirements (for example to people who have recently been retrenched, internal applicants who, with the necessary training and development may be regarded as suitable, employment equity candidates).

Example(s) and/or Case Studies:

If an applicant has submitted a poorly written CV or incomplete job application form and/or does not meet the requirements of the job, it is not necessary to interview the individual. This is especially true of internal job applicants. An internal applicant may feel he or she is 'entitled' to a job as it is the next logical move for them. Ensure that the person appointed to the job meets the requirements or has the potential to do the job with some support and/or developmental aid. This ensures that the HR professional resists what is often undue pressure within a political framework to appoint certain individuals and/or to make appointments just to 'get the figures right' rather than appointing the right person for the job and/or make appointments that are or that border on nepotism.

What about the culture of 'old boy' appointments? How many times are senior appointments and board positions filled by 'who you know' and not 'what you know'? And not just in the board rooms of large corporations; post the 2011 Municipal Elections, President Zuma has promised to push ahead with local government and service delivery reforms, particularly regarding the appointment of only qualified and skilled staff to key posts in municipalities.

If a culture of 'entitlement' is encouraged, this discourages high performers who want to be considered on merit. A clear, unambiguous employment equity policy with clearly stated targets provides clarity on intent and reduces any potential for conflict around recruitment.

- Ensure that the pre-screening and selection policy considers the organisation's approach to such issues as preferential employment requirements, employment of family members, internal applicants versus external applicants, applications from suitably qualified designated groups, appointment of former employees, appointment of employees of supplier companies etc.
- The process of short-listing candidates should be standardised. Where no standards exist, an approach should be decided upon before the short-listing commences.
- Develop policies and procedures which clearly specify criteria for promotion and ensure these are widely communicated and consistently applied.

Interviews

During the interview process, it is preferable to make use of a panel of interviewers and it is necessary to ensure that all candidates are assessed against the same questions and requirements. If the interview is conducted by a single interviewer, the same approach must be followed (i.e. consistency in questions and requirements). Avoid telling candidates how impressed you are by their application as this may raise expectations of employment (this is particularly relevant for internal applicants who must never be promised employment to a certain position). Be careful not to allow one or two panel members to force their own views or preferences on the rest of the panel, abusing their positions of power and/or influence. Panel members should conduct themselves in a professional manner and avoid inappropriate comments about candidates which could be considered as derogatory, insulting or belittling. If the HR professional or line manager is not trained on interviewing skills, then they should not be in an interview panel.

Ensure that there is a planned approach to interviewing. It is important for the interviewer(s) to get to know as much about the candidate as is required in order to assess their suitability to perform the job and to fit into the culture of the organisation but do not ask questions which aren't relevant. Questions around relationships, children, beliefs, sexual or religious preferences should not be asked. No undertakings should be made to any candidate regarding their prospects of success in the interview process.

Example(s) and/or Case Studies:

Questions about child care addressed to a working mother may be used against her if it is assumed by the interviewer that the candidate may take time off when a child is sick, thereby interfering with her ability to be at work or to work late. People who make use of public transport or who have to attend prayers on a Friday may be excluded for similar reasons.

Candidates may be unfairly discriminated against upon arbitrary grounds. Even if they are not discriminated against, they may perceive the asking of irrelevant questions as being the reason for not being appointed and may claim discrimination. It sometimes happens that interviewers favour one person over another and may ask questions in a manner that may place a candidate under unreasonable pressure or the interviewer may ask leading questions. The 'halo effect' (when we consider a person good or bad in one category, we are likely to make a similar evaluation in other categories) can impact hiring decisions.

- Use a formal selection process when interviewing (for example targeted selection-type of interview process). Ensure that planned questions are written down, preferably incorporated into an interview pack.
- Record notes from the interview which show how applicants fared against selection criteria.
- Questions must elicit whether there are any impediments to the person being able to do the job effectively but may not be asked in a discriminatory manner.
- Use a standardised job-application form and request proof of qualifications to be attached.
- Wherever possible, employ a 'one-up' interview process with a first and second interview.
- Ensure that those people involved in the recruitment process are properly trained on interviewing techniques.

- Specify skills needed to perform the job.
- Interviewers should be sensitised to possible stereotyping and biases which may impact on the selection of candidates.
- Ensure feedback is given to unsuccessful candidates but do not provide information as to reason why the candidate was unsuccessful unless this is requested. Use standardised letters of regret. Where a recruitment agency is involved, they should provide feedback directly to applicant.
- Provide feedback to internal non-successful applicants on relevant counselling, coaching and identification of development needs.
- Develop a policy about record keeping, including the organisation's policy regarding keeping applications on file for future consideration.
- Ensure the interviewers take notes and record these on interview packs/forms.
- Ensure that the organisation's policy sets out a position with regards to internal versus external candidates (where appropriate in line with a focus on employee development) and that this covers aspects of confidentiality – including when a line manager of an applicant must be informed.
- Do not allow panel members who have not been trained in interviewing skills, to become an interview panel member.

Employment of temporary staff

Temporary employment is an important access point into the labour market and it also fulfils an important role in the labour market as it helps employers deal with seasonal changes in product demand, staff absences, or a need for employees with scarce skills for a short period. Organisations frequently need to appoint temporary staff for valid reasons.

The employment of temporary staff creates contractual relationships with often little security and often inferior wage and service conditions. Organisations must safeguard the rights of employees and exploitative labour practices have no place in our society. The fixed term contract is exactly what the name implies. It is a contract which runs from one specified date to another. The “fixed term” element can also be not a specified date but can be the completion of a project.

Example(s) and/or Case Studies:

Many organisations utilise the fixed term contract purely as a means of evading their statutory obligations in terms of the Basic Conditions of Employment Act (BCEA), Labour Relations Act and the Employment Equity Act, and also to save money by denying the employee the opportunity of pension/provident fund benefits and also medical aid benefits. Further, in the event of retrenchments, the employee on a fixed term contract is not entitled to severance pay. The organisation continues to renew the contract every time it expires – known as “rolling over”. The employee says nothing because s/he needs a job and the organisation knows the employee needs the job.

After the contract has been “rolled over” twice, the employee now has an expectation that it will continue. When the organisation fails to roll over the contract for the umpteenth time, the employee is dismissed and the CCMA finds in favour of the employee.

- If the organisation makes use of temporary employment agencies, make sure they are registered with the Department of Labour.
- Ensure that temporary employees receive all employment benefits as set out in the BCEA.
- Ensure there is a policy in place that regulates the utilisation of temporary employees which sets out a uniform and standardised approach and the conditions under which such an employee may be employed.
- Consider which policies normally applicable to permanent employees should be applicable to temporary employees – for example reference checking applicants for employment.

Background checking

One study by a group of executive search firms showed that 43% of all résumés contain material misstatements and that one-third of all résumés contains some level of “creative writing”. Background checking is an important component of verifying the accuracy of what is stated in the résumé. The important consideration in background checks is the job applicant’s right to privacy and the right not to be discriminated against and whether the checks are necessitated by the inherent requirements of the job.

Background checks must be relevant to the job and employee consent must be obtained prior to conducting background checks. Organisations can legally provide factual and accurate information in response to requests for reference checks but they should be able to verify any job-related information they release.

Example(s) and/or Case Studies:

A job that requires an employee to drive a delivery truck may lead the organisation to check that the employee has a valid driving licence and/or a history of traffic fines. When applying for a job as a security guard, the organisation will be justified in doing a criminal check. Recent research suggests that 25% of people applying for jobs have some kind of credit record. Given the economic recession, perhaps this isn’t surprising. If a person is being considered for employment as a bank teller and handles money, then having an adverse credit record will be relevant but it may not be relevant to a receptionist. A company recently employed someone in an administrative position and the background check showed that the person had a criminal record – she’d murdered her husband. The business asked HR whether they should reject the applicant, however, the lady had killed her husband in self-defence, had served her time and needed employment. HR advised line to employ. She was a model employee.

Organisations can’t discriminate against applicants for employment. Signs of discrimination would include background checks for information that is not relevant to the particular job. If an applicant for employment feels that they have been discriminated against as a result of background checks then they may claim an unfair labour practice and institute action against the organisation.

- When responding to requests for references, don’t volunteer information. Respond only to specific enquiries and requests.
- Direct all communications only to persons who have a qualified need to know.

- State that the information you are providing is confidential and should be treated as such.
- Provide only reference data that relates to the job and job performance in question.
- Avoid answering questions that are asked “off the record”.
- Ensure that there is a policy in place which sets out which background checks should be carried out for which positions and which guide line managers decision making when adverse results are obtained.
- Do not use background checking as the sole means of decision-making, but use it in conjunction with other recruitment and selection methods.
- Include questions about ethics as an element of reference checking.

Ethics in Employment Equity

In terms of the Employment Equity Act, employment equity is concerned with two aspects of employment law, namely: the prohibition of unfair discrimination in the workplace and the duty of designated employers to implement affirmative action programmes. The Act also requires all employers to take steps to promote equal opportunity in the workplace and to prohibit unfair discrimination in all employment policies and practices. In addition designated employers are obliged to adopt and implement affirmative action measures for people from designated groups (this will happen in the form of an employment equity plan). Affirmative action measures are defined as measures designed to ensure that all suitably qualified people from designated groups (black people, women and persons with disabilities) have equal opportunities and are equally represented in all occupational levels and categories in the workforce of the designated employer (employers who employ 50 or more workers).

Appointment of Members from Designated Groups

The organisation may utilise a wide variety of recruitment and selection measures and advertisements and must modify or replace those recruitment methods that do not attract suitable candidates from designated groups.

Candidates may not be discriminated against on any grounds mentioned in the Employment Equity Act Section 6(1) or on the basis of any other factors not related to the job requirements and selection of a candidate must adhere to the relevant sections of the Employment Equity Act, namely Section 30 (3)-(5).

Example(s) and/or Case Studies:

Organisations which exclude certain mediums or who word advertisements too narrowly may inadvertently or deliberately attract applicants from a 'chosen' population. After a narrow search, an organisation may claim that 'we could not meet our employment equity targets due to a lack of suitably qualified candidates'. Certain members of designated groups may lack real access to employment opportunities because of the recruitment methods used. How often does an organisation send expatriate workers into operations in Africa and neglect to consider local, indigenous people for employment? How often do we read in the newspapers that there wasn't a suitable black person when there hasn't been adequate succession planning?

Employment equity targets may not be achieved. Certain populations may claim that the organisation has practised discrimination and institute action which may have monetary and reputational consequences. At the other extreme is the practice of 'fronting' where people are employed to fill positions without either an expectation of performance nor of due consideration to competency. This impacts not only on productivity and staff morale generally but it is especially obnoxious to talented, hardworking individuals who rightfully deserve their positions and who often find their career paths blocked by such individuals.

- Establish a Search Committee that will plan and outline specific efforts to identify appropriate qualified candidates from designated groups.

- Use a Selection Committee for recruitment and promotion decisions which should be representative in terms of race, gender and the functional expertise of the vacancy being filled.
- A standard statement that declares the organisation's commitment to employment equity and the achievement of a diversified workforce must appear in all advertisements for vacancies.
- Ensure that recruitment agencies are aware of the organisation's employment equity goals.
- Consider involving more than one person in the process of short-listing and the short-listing panel should be properly representative in terms of employment equity demographics.
- Ensure that those people involved in the recruitment process have received employment equity training.
- Include people from designated groups in the interview panel wherever possible.
- Ensure that the organisation's policy sets out a position with regards to affirmative action measures to be employed.
- Where feasible, reasonable accommodation measures should be encouraged for people from designated groups in order to ensure that they enjoy equal opportunities. Reasonable accommodation measures are particularly appropriate when recruiting people with disabilities.
- Develop policies and procedures which will clearly specify criteria for promotion and ensure the criteria is widely communicated and consistently applied.
- If your employment equity plan clearly states that certain positions need to be filled with members from designated groups, do not waste the time of non-designated groups by inviting them for interviews if you have decided upfront that they may not be employed.

Skills Development as it relates to employment equity

Given the huge emphasis on skills development in promoting employment equity, this specialised field also faces several ethical dilemmas. Although skills development opportunities should be offered to all employees, it is not unfair to prioritise the development and advancement of previously disadvantaged individuals consistent with an organisation's employment equity plan. It is known that many companies use skills development to manipulate and inflate their BBBEE scorecard. They train a lot of black employees on irrelevant and non-value adding training just so that they can say they've trained black people.

The organisation must recognise the link between broad-based black economic empowerment, affirmative action and skills development and take all reasonable steps to provide for the preferential development of previously disadvantaged employees in order to promote them into senior positions on merit. There should be clear development and learning objectives for all employees but particularly designated groups, to ensure acquisition of additional skills and competencies for "stretch" positions into which they may be promoted or transferred.

Example(s) and/or Case Studies:

Learners arrive at the workplace for experiential learning and the workplace is not properly prepared to receive them. Managers are 'too busy' to find time to spend with learners and they don't have proper resources. Learners end up doing filing and answering the phone instead of gaining workplace experience. Managers often don't understand the value of learners in the

workplace and see them as a nuisance. The organisation should take reasonable steps to prepare its workplace for learners and learnerships should be carefully planned in order to ensure that learners have sufficient mentoring and guidance.

Employment equity targets may not be achieved. Skills development targets may not be achieved and skills development levy grants not refunded. An organisation's competitiveness may be affected. The skills shortage in South Africa will continue and the gap between skilled and unskilled widened.

- Where possible and applicable, organisations should consider implementing learnerships and internships to offer occupationally driven outcomes based learning while creating employment opportunities for previously disadvantaged students.
- In procuring formal training courses, organisations should take into account the equity profile of the provider and/or ideally offer preference to suitable black economically empowered organisations in support of the development and sustainability of the Broad-Based Black Economic Empowerment Act.
- Where possible, implement principles of Recognition of Prior Learning (RPL) to redress historical education and training disadvantages to promote employment equity and validate employee skills and knowledge.
- Ensure the ETD policy is aligned to both the spirit and provisions of national legislation and strategies, being:
 - The Skills Development Act
 - The Skills Development Levies Act
 - The South African Qualifications Authority Act
 - The Employment Equity Act
 - The Broad Based Black Economic Empowerment Act
 - The National Skills Development Strategy
- Provide effective mentoring and coaching.
- Consider accelerated development for employees with potential from designated groups.
- Where relevant, provide access to basic literacy and numeracy. A functionally literate workforce facilitates better communication which in turn improves the quality of work, productivity, efficiency etc and also contributes to a better understanding and improved relationships.
- Consider offering diversity training to all employees, but specifically to those involved in recruitment and selection, performance management and decisions relating to promotion.

Numerical Goals

In developing numerical goals (Section 20,2(C) of the Employment Equity Act), the following factors should be taken into consideration:

- The degree of under-representation of employees from designated groups in each occupational category and level in the organisation's workforce;
- Present and planned vacancies;
- The provincial and national economically active population as presented in the EEA8;

- The pool of suitably qualified persons from designated groups from which the organisation may be reasonably expected to draw for recruitment purposes;
- Present and anticipated economic and financial factors relevant to the industry in which the organisation operates;
- Economic and financial circumstances of the organisation;
- The anticipated growth or reduction in the organisation's workforce during the time period for the goals;
- Labour turnover trends and underlying reasons, specifically for employees from designated groups, and
- Skills shortage within the industry in which the business is carried out.

The purpose of setting numerical goals is to achieve equitable representation within each designated group. Affirmative action measures designed to achieve numerical targets should recognise the underlying competency requirements which need to be developed as well as an appreciation of the organisation's long term talent "demand" requirements (i.e. developing the talent pool) whilst always actively pursuing its EE transformation objectives.

Example(s) and/or Case Studies:

When they don't meet their targets, employers often turn around and say that they couldn't find enough black people but they didn't put in enough effort into (a) setting realistic targets and (b) employing the right methods to find suitable black people and (c) developing their own staff.

SARS and National Treasury are prime examples of how organisations can transform and become representative of the South African population and become increasingly more efficient and disprove the myth that implementing employment equity results in lower standards of performance and service delivery. These are the good stories. The 2010 report of the Commission for Employment Equity found that a number of organisations were not assigning one or more senior managers, not consulting with employees, not conducting an analysis of their workplaces and did not prepare and implement an employment equity plan as prescribed in Section 20 of the Act.

Employment equity targets may not be achieved, but you will strive to achieve these targets.

- Set up an EE targets management policy
- Ensure that all employees understand their rights and obligations as contained in the EEA.
- Remove all barriers to employment equity.
- Be fair and honest when dealing with employees from non-designated groups.
- Avoid nepotism and favouritism when awarding BEE contracts and tenders.

Ethics in Learning & Development

Training suggests putting 'stuff' into people, when actually we should be developing people from the inside out – so that they achieve their own individual potential (www.businessball.com). We often use the term 'learning' to describe the development of the individual in an organisation. Within the South African higher educational arena, there is the concept of 'lifelong learning'. Quality Research International defines lifelong learning as "all the activity undertaken throughout life, whether formal or informal" and they further expand on the definition by adding that "the concept is closely linked to continuous education and to continuing professional development". Often training is seen as something that an organisation imposes on employees and may be viewed as cumbersome; perhaps even a burden by the employee. Learning on the other hand is often something that a person would do in their own time. When learning, people tend to enhance their own development and this usually results in personal growth. In the workplace, personal growth tends to build and strengthen the relationship between work and individual interests. Most organisations are profit driven and a significant return on investment can be obtained by investing in the managing and development of people which builds individuals who perform well, progress in their careers and encourages employee retention.

Training and development

Investment in training and development is costly and organisations want a return on this investment. Good training is more than just a good investment paying handsome dividends in greater efficiency, better morale and increased competitiveness. However, many organisations pour money down the drain on training that has little chance of working. Then they get disillusioned and stop training. At the same time, most organisations want to get better performance out of their people and training is key to this.

Organisations must provide the right training to the right people, at the right time, the right way and there must be transfer of knowledge. Some managers may avoid their responsibilities in developing their people and they think that by sending people off on a training course they have solved the problem. The HR professional, and especially the HRD professional as expert to line, has a crucial role to play in ensuring the appropriateness of the training and to assess whether an individual needs training or whether there is perhaps another issue to be tackled and will add greatly to their credibility in the organisation by taking seriously their role as custodian of substantial amounts of an organisation's money and spending it wisely.

Example(s) and/or Case Studies:

Organisations often follow a blanket approach to training and some conduct training without a proper needs analysis and, in doing so, they are not assisting the individual to perform optimally or to close certain knowledge and skills gaps. Instead, some internal training departments are ego driven and push statistics to look good and to win as many training awards as they can because their performance bonuses are based on this. Sometimes organisations send people on training courses simply to use up their budget or to obtain points on the BBBEE scorecard. Instead of supplying the right training when it is needed.

Before people go off on training, most managers do not take the time to determine exactly what it is that the person needs to learn and ensure that the employee knows why they are going.

Often, insufficient research is done to ensure that the training programme they are going on is in fact what they need to attend. Many managers do not take time after the employee returns to work to discuss what they have learned and assist them in applying it back in their job. And some trainers are so bad, they should not be allowed to train! Before appointing a trainer or a company to do training, HR professionals should do the necessary research to make sure that the quality of the training matches the money spent. In cases where individuals require a licence to practice, accreditation or professional registration, then proof of this must be provided.

In many organisations, for example in financial institutions, people are trained in order to comply with CPD points. People book to attend seminars (including HR professionals) and then do not attend, they sign the attendance register and then 'do their own thing' – especially at exclusive venues such as one north of Pretoria!

“while CPD in any profession is essentially good professional philosophy and practice, it is reactionary in essence and ethically superfluous. Stimulated self growth should remain the ethical commitment of everyone genuinely concerned about technical and functional currency.”

Johann Coetzee:
SABPP Mentor
(Wisdom from HR Mentors)

Workplace skills plans are designed to focus on specific skills in industries. If the underlying data doesn't have integrity, for example, when training events are fabricated by managers and/or HR professionals and employees are coerced to sign attendance registers in order that their hourly rates can be captured and claimed as training spend when it was an in house meeting, a bosberaad, or a team building session.

Managers and employees expect training to equip them with additional skills which they can then transfer into their jobs. If this doesn't happen, it can result in frustration. Poor training decisions waste money; reflect in a lack of credibility of the HR and HRD department; labour turnover may increase and organisational and individual capacity is constrained. In a survey, American Society for Training and Development members were asked to identify actual unethical training behaviours. Six major categories were revealed: (1) inadequate professional development, (2) confidence violations, (3) use of cure-all programmes, (4) dishonesty regarding programme outcomes, (5) failure to give credit and (6) trainee abuse.

- Draw up skills matrices to identify skills requirements for both strategic business goals as well as specific job requirements.
- Ensure that all education, training and development interventions align to business needs and strategies, comply with relevant legislation and meet the highest possible quality standards – proper training needs analyses must be conducted.
- Ensure there is a quality management system in place which evaluates the effectiveness of training programmes and of training presenters.
- Ensure that there is a study assistance policy in place which is well understood by both managers and employees and that this is applied fairly and consistently.
- Consider whether or not to implement a pay-for-skills policy.
- Each employee should have an Individual Development Plan (IDP) based on the core and elective competence requirements for each job.

- Give preference to learning programmes that are based on unit standards and that lead to credits on the National Qualifications Framework.
- Employees attending training programmes should commit to implementing the new or improved skills and knowledge on the job.
- Monitor the effectiveness of training and development initiatives through appropriate measurement and evaluation methods, such as linkage to the performance management system.
- Ensure that tenders are awarded based on clearly defined criteria and a fair selection of providers, without any chance of nepotism.
- Respect all copy right requirements pertaining to training material.
- Put in place processes to ensure the authenticity of all portfolios submitted as part of learning assessment to detect any forms of plagiarism, and have a one page declaration that it is the learner's own work.

Ethics training

The organisation's value statement should clearly outline its stance on ethics in the workplace and should be clearly defined across all levels of the organisation. An ethics training programme needs to apply across all levels of employees in the workplace and the programme should explain what ethics means in their environment, what behaviours are expected and what their roles are.

People must be encouraged to act ethically and need to understand fully the policy and procedures which apply in the organisation.

Example(s) and/or Case Studies:

Orientating new employees to the organisation's ethics programme during induction ensures that all people working in the organisation understand what ethical behaviour is in their working environment, know who the custodians of ethics are, how breaches of ethical behaviour are dealt with and what their roles are in reinforcing ethical behaviour in the workplace and procedures for reporting questionable or unethical behaviour or conduct. Senior HR professionals often do not do enough to coach and guide junior HR professionals but they should provide much mentorship and guidance on ethics in the HR function and in the organisation as a whole.

Despite policies and procedures, people interpret the behaviour of people around them as the de facto 'way to do things'. Training without the motivation and environment to apply it effectively will not succeed.

- Orient new employees to the organisation's ethics programme during new employee induction.
- Review the ethics training programme in management training experiences.
- Involve staff in the reviewing of ethical codes of practice.
- Include practice and role plays in ethics training in order to give practical examples of resolving simple and complex ethical dilemmas.

- Include ethical performance as a dimension in the performance management system.
- Create forums to discuss ethical challenges and dilemmas and feed this back into the ethics strategy of the organisation.

Ethics in Mentoring and Coaching

Mentoring and coaching are frequently used methods of developing staff in an organisation. Mentoring is normally conducted by managers of the organisation whereas coaching, (other than the coaching done by line managers in the course of performance management, skills development or employee development) is normally conducted by a professionally trained coach either internal or external to the organisation.

Mentoring and coaching should both be integrated with other human resource processes, for example, career development, succession management, knowledge management and performance management. They are tools or processes for supporting such meta-processes. Since the terms mentoring and coaching can be confusing for many people, it is best to have a clear definition for them within the specific context of the organisation. Guidance on this can be obtained from www.comensa.co.za.

“Corruption is an enemy of service delivery and effective governance. The fight against fraud and corruption can only be won if all our people choose to become combatants for clean governance.”

Thandi Modise,
Premier:
North West Province

Mentoring often happens informally in an organisation, but more structured mentoring is required where there is a specific organisational objective to be achieved, for example, fast-track development, or cross-divisional development. The organisation is therefore taking responsibility to ensure that mentoring relationships take place within an ethical framework. Ethical considerations can include the need for clear guidelines for all involved, and how to deal with conflicts of interest that may arise. More information on ethics in mentoring programmes is available from the International Standards on Mentoring Programmes in Employment - www.ismpe.com.

Coaching may be conducted by an internal or external professional coach. The ethics of coaching apply to both, but ethics are sometimes more complicated for an internal coach. All professional coaches should have undergone training and should be affiliated to a coach professional body, of which there are several. Each of these professional bodies has a code of ethics and a complaints procedure. For more information see www.comensa.co.za.

Example(s) and/or Case Studies:

Confidentiality is probably the primary ethical consideration in both mentoring and coaching – the content of the discussion is confidential to the mentor/coach and mentee/coachee. It can be tempting for a mentor to use knowledge obtained in the mentoring discussions to comment on the mentee’s suitability for a particular position under discussion in a talent management forum. Similarly, it can be difficult for a line manager dealing with a performance problem not to ask for a meeting with the problem employee’s coach and ask for details of “what is wrong with” the coachee. Another problem situation unfortunately sometimes arises with sexual harassment (by either party) in cross-gender mentoring or coaching. Complicated ethical considerations arise when one coach is asked to coach both the manager and members of the team individually (note that team coaching is a different concept – the team is coached as a unit).

Breaches of ethics in both mentoring and coaching can have both micro- and macro-level consequences. At a micro-level, the individual employee or the manager-mentor can feel betrayed and will have an enduring negative view of the other person. At a macro-level, the organisation will find it very hard to maintain or grow a mentoring or coaching programme if one or more of the participants have had a bad experience.

- Implement mentoring and coaching programmes as an organisation development project – this will ensure that many considerations are taken into account.
- Research both mentoring and coaching before implementing a programme – ensure a good knowledge of both fields.
- Ensure that the business case for introducing mentoring and coaching is carefully investigated and is clear to all.
- Research other organisations' experience with such programmes and learn from the lessons they learned the hard way.
- Ensure that the HR professional tasked with coordinating the programme is appropriately trained.
- Network continuously with other organisations and ensure that the coordinator has experienced people to consult with as ethical issues arise (which they will).
- Ensure that external coaches are screened and managed, but bear in mind that they are trained professionals and their professionalism should be respected.
- Create a clear framework for mentoring and coaching, including a policy preventing ethical dilemmas moving from coaching to therapy.

Ethics in Consulting

Ethical behaviour is particularly important for consultants because of the high level of trust that organisations grant them and because of the access that many consultants have to the confidential and proprietary inner workings of the organisations that employ them. If consulting to an organisation in a similar industry the consultant may be privy to proprietary or privileged information and may have a conflict of interest. If there is such a conflict, the consultant should disclose this to either or both parties. Consulting services should be performed by professionals who possess the necessary qualifications, education, experience and professional registration. The consultant's professional qualifications and integrity are his warranty that s/he will serve the best interests of the client. Consultants should have a set of principles which define ethical behaviour and guide the consultant's actions towards these behaviours. Consultants must be able to recognise ethical dilemmas.

Consulting has a way of seeming vague and overly complicated. It does not have to be.

Peter Block, Flawless Consulting.

Depending on the nature of the consultancy, the organisation might require the services of a technical expert for a short period of time; someone who can provide specific expertise not available in house. The relationship will only extend for the duration of the project. In other instances, organisations may have a long-term relationship with a consultant and/or employ a consultant on a retainer-basis to provide ongoing advice and support. It is necessary for the HR professional or line manager to be clear about the relationship and terms of reference for the consultancy assignment. If one of the requirements is to transfer skills and knowledge, then both parties must be careful to ensure that this happens and that there is no dependency created for either party.

It is sometimes difficult for the HR professional or line manager to distinguish between people who are able to add value as opposed to someone who might, for example, have become a consultant after, say, having been retrenched and are using consulting as a means to generate immediate alternative income. That is not to say that there are not some excellent consultants who have become consultants after being retrenched but there are also consultants who feel they have no alternative but to consult and they do not always possess the necessary competence or ethical approach. In the HR field as with other functions, consultants are sometimes employed by organisations because of a lack of capacity in the function but the responsible person in the organisation is not held accountable and the organisation is paying double costs – for in house and outsourced resources.

For the duration of any assignment, whether long or short-term, the consultant becomes an extension of the employer and, as such, is deserving of respect, professionalism and fairness. For example, consultants should be paid on time in accordance with pre-agreed terms (after all this is their means of earning a living), stick to agreements, don't chop and change timelines, scope of work (unless absolutely necessary) without proper consultation and agreement with the consultant.

Example(s) and/or Case Studies:

Because the consultant wants to have a good relationship with the client, the consultant adopts the client's perspective on all issues and does not voice any disagreement with the client, thereby colluding with the client.

An organisation uses the services of a labour lawyer/ consultant to 'clean up for them' when they commit unfair labour practices rather than follow due process and the 'expert' uses their skills, knowledge and experience to support the organisation, thus perpetuating unethical behaviour in the workplace. An 'independent' chairperson for a disciplinary hearing is briefed beforehand and told what the outcome of the hearing should be.

Consultants are often used to do an organisation's 'dirty work' that someone else doesn't want to do and sometimes consultants are 'abused' and taken advantage of by their clients. Managers often do not know how to make use of the services of a professional and may use their positions of power to make unrealistic demands on the consultant or expect the consultant to carry a responsibility for something that should remain management accountability. In this instance, the consultant needs to be assertive and should expect their rights to be respected. Consultants should not hesitate to walk away from assignments that are or could be construed as being unethical.

"Our own consulting behaviour should be consistent with the style of management we advocate to our clients".

Peter Block, Flawless Consulting

An HR professional briefing a consultant should ensure that all relevant information is disclosed because it may affect the outcome of the consultant's work if it is based on incorrect assumptions. This can be costly for an organisation and the real issues might not be dealt with.

Consultants must serve their clients with integrity and with the necessary competence, independence, objectivity and professionalism. The organisation and the consultant must establish realistic expectations and scope of work before engagement in order to ensure that consultants only accept assignments for services for which they possess the requisite experience and competence to perform. Failure to do this may result in the consultant making promises that they can't keep and/or not being able to deliver according to expectations.

At the end of the day, the consultant should answer in the affirmative when asking themselves the question "if I were the client, would I pay for the service rendered?"

- The consultant should be registered with a professional body (e.g. SABPP) so that they are governed by a code of conduct.
- The organisation and the consultant should sign a non-disclosure and confidentiality agreement.
- A Service Level Agreement must be drawn up.
- The HR professional or line manager should obtain references before engaging the services of a consultant.
- A pre-engagement interview can be conducted to ascertain the consultant's suitability and also to make a decision about the 'fit' the consultant has with the organisation's value and culture.
- Consultants should provide professional opinions about the organisation regarding the true state of affairs, even if these organisations are not willing to accept their advice.

Ethics in Organisational Development

Organisational Development pertains to organisation-wide, systematic processes to implement effective change in organisations with the aim to increase an organisation's effectiveness and viability. It is a planned response to change – often required to change are the beliefs, attitudes, values and structure of an organisation. While some companies have specialised OD practitioners, other organisations use OD consultants to guide them. Many ethical challenges are encountered by organisations when they implement OD interventions. Furthermore, the current crisis regarding fraud and corruption require strong commitment to OD in turning this situation around in both the private and public sectors. Moreover, the HR and/or OD professional have to have values which are in harmony with the organisation.

HR professionals and line managers need to consider the impact of organisational change on employees and stakeholders and ensure that all ethical challenges are addressed in the process.

Managers are the main drivers for change in organisations, but they need to consider ethical challenges when developing, designing or restructuring the organisation. The key questions to ask when implementing change are:

- Is this the right thing to do?
- Is it ethical?
- What are the key ethical considerations pertaining to the issue?

Example(s) and/or Case Studies:

Organisation change is often “sold” to employees as a need to improve the status quo. However, the real reason for change is often disguised or hidden and therefore not implemented in an honest and ethical manner, or without giving proper attention to the ethical considerations of key business decisions. For instance, employees are told that the organisation will not survive if it is not restructured and therefore retrenchments are used to cut down on costs. Employees are then retrenched, but huge bonuses are paid out to management and large dividends to investors despite the so-called under-performance of the organisation. A similar example is the practice of retrenching some employees and then sharing their workload among remaining employees. In practice, this amounts to work-overload, with one employee now doing two or three employees' work. Be careful not to reward or remunerate people based on the savings achieved during restructuring as they could be tempted to reduce headcount to the extent that it paralyses the organisation. In such instances the exercise of cutting overheads is driven by self-interest rather than the good of the organisation and its employees.

“...demonstration of a deep concern for the ethically right and proper way of doing things. This includes keen judgment in being sensitive to and balancing, the differing (sometimes conflicting) needs of multiple stakeholders, while at the same time maintaining integrity and consistency of performance and service delivery in line with company strategy.”

Mike Honnet: SABPP Mentor
(Wisdom from HR mentors)

When the real reason for change is hidden and later exposed, trust in management is eroded, and often employees retaliate with unethical behaviour on their part, for example sabotaging operations, theft, or openly working against management. Thus, an unethical organisational culture is created.

- Infuse the governance principles of fairness, accountability, responsibility and transparency in all organisational development interventions.
- Give careful attention to all ethical considerations when changing the organisation.
- Create a set of ethical guidelines to be used consistently when changing the organisation.
- Brief all HR and OD professionals or consultants about the ethical stance of the organisation pertaining to OD interventions.
- Rather disclose the truth about change, even if the truth is uncomfortable to deal with.
- Build and maintain an ethical culture for the organisation.
- Keep accurate records of engagement with stakeholders and ensure that their ethical concerns are addressed.

Leadership

Leaders in organisations set the standards for ethical behaviour. The best trainer in ethical behaviour is the behaviour of our leaders (*Bill Goodman, Chief Human Resource Officer at Aveda*). What defines an ethical leader? An ethical leader -

- Is articulate and able to embody the values of the organisation
- Focuses on organisational success rather than personal ego
- Finds the best people and develops them
- Creates a continuous discussion on ethics, values and the creation of stakeholder value
- Creates mechanisms of dissent
- Takes a charitable understanding of others' values
- Makes tough calls while being imaginative
- Knows the limits of the values and ethical principles
- Has a framework that takes action in ethical terms

Leadership is a process of morality to the degree that leaders engage with followers on the basis of motives, values and goals. What this means is that leaders are not holding such a position or title solely on account of their competence, skills or physical attributes, but also fundamentally on the basis of their character. For leaders, there are few challenges more critical than the application of values and ethics in organisations. To reshape an unethical organisational culture, leaders must employ ethical and moral codes as a standard. Reshaping an unethical organisational culture requires all individuals to look beyond themselves and focus on higher purposes.

Example(s) and/or Case Studies:

What allowed some of the well reported corporate scandals to occur, and what allows unreported wrongdoings to continue in many organisations, is fear-based silence and complacency. While a few people might be the perpetrators of the wrongdoing, there are much greater numbers of co-conspirators who enable the perpetuations through their silence and fear of retaliation. Coca Cola Company evaluates all executives on their ability to lead ethically in their annual performance review. A single person is rarely responsible for unethical scandals within an organisation. Poor ethical behaviours are often the result of interaction among several individuals that have rationalised their values.

The crisis of poor ethics impacts on public trust, causes an erosion of organisational cultures, creates human suffering, causes unemployment and profit losses.

Some unethical, but not necessarily dishonest actions could be:

- Dishonesty or distortion of the facts – being the consequence of the loss of credibility and respect. Each time this occurs, the dishonest person runs the risk of the truth coming out.
- Misleading or confusing communications. Employees tend to believe the communications of senior members of organisations.
- Manipulation of peoples' feelings. Manipulation is about being used, being coerced into doing something you don't want to do. When we do something that is not in our best interest simply because we are pressurized into it, we surrender our personal power and turn control over our lives to others.
- Deception, trickery or rule bending. When discovery of deception occurs, the fundamental beliefs are crushed, with that also comes the destruction of trust.
- Excessive profit.
- Greed. Humans have limited capacity and, as such, there is never unlimited growth. First of all areas of corruption and exploitation are exposed. Then those dependent on the money derived from corruption and exploitation find that they did not stick to sound principles and essentially it all becomes a house of cards.
- Disrespect for employees' family responsibility and personal time, expecting employees to work unreasonably long hours and making others feel guilty when they are not able to fulfil the leader's expectations.

- Communicate a clear vision. Request the Board to make a clear statement on how it would address ethical dilemmas involving Board members and members of the executive team. The Board should undertake to act immediately on reports implicating any executive employee. Look for warning signs within the culture of potential unethical practices that might include harassment, discrimination, and double standards.
- Incorporate ethics policies into new employee orientation and training programmes. Senior leaders should openly express support for ethical practices within the organisation and each employee should sign a statement acknowledging the value of workplace ethics and practices.

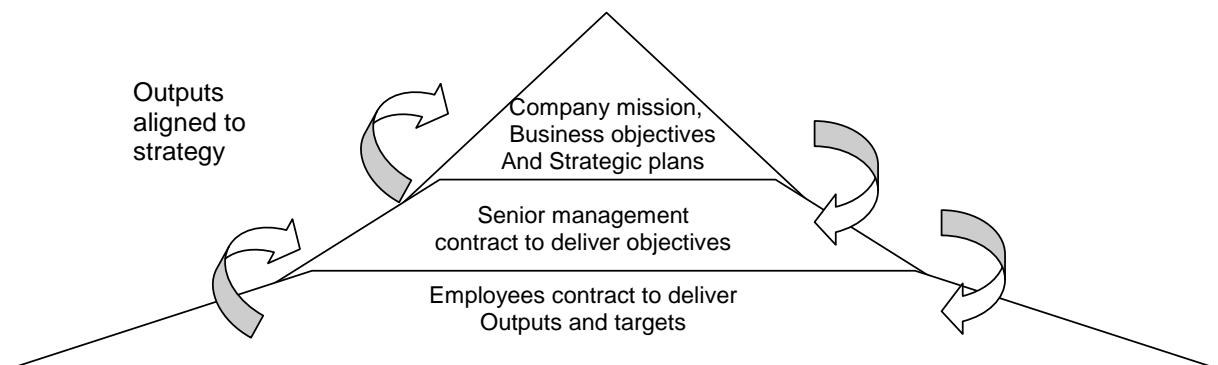
- Name an executive position. Like VP of Ethics or some vernacular that alerts all employees, customers and citizens that ethics is a valued part of the culture, to raise the visibility of ethical performance to the same level as safety, audit and other value added programmes within the organisation.
- Establish an ethics hot line and/or a whistle blowers policy.
- Personal ethics must start at the top. Establish a culture within the organisation of personal responsibility for ethics.
- Create a leadership training and development course that focuses on ethics and accountability.
- Avoid groupthink cultures. Groupthink occurs in situations when team consensus is placed above other factors in the decision-making process, such as the exercise of sound judgment or ethical considerations. This could result in a questionable decision that may become the basis for adverse outcomes.

Ethics in Performance management

Performance management is a systematic data based approach to managing human behaviour in the workplace (<http://www.acjournal.org/holdings/vol5/iss1>). There are various tools which are used to measure and manage performance and processes differ between organisations, however the basic principles and process results in targets being set and each individual's performance is measured against the target. Individual behaviour that is positive is reinforced and any undesired behaviours should be corrected by removing obstacles to performance so that behaviour can be positively changed. The main objective of performance management is to align individual performance to business strategies to achieve the organisation's goals and performance management often provides a basis for rewarding people in relation to their contribution to business success and assists with employee development.

Setting performance objectives

Managers and employees set objectives based on organisational strategy and business plans. Individual objectives should, collectively, result in the implementation of strategy and successful achievement of operational goals. Objectives should be set formally at least once per annum, usually this coincides with the financial year planning. The performance management process can be depicted as follows:



Objectives should be set by management but should be agreed by employees. Setting of objectives is a key and critical component as it gives clarity on performance expectations. Objectives should be realistic and achievable and yet provide stretch for employees. It is important that there is consistency in approach to setting of objectives and it is for this reason that most organisations use some form of formalised performance management system (for example balanced scorecard). If there is inconsistency, employees will perceive that they are being treated unfairly. HR professionals can assist managers and employees and provide tools to enable the process but it is management's responsibility to ensure that appropriate objectives are set.

Example(s) and/or Case Studies:

An organisation sets performance objectives without a proper framework. Employees are measured against their achievement against objectives but these are inconsistent. One manager is assessed as being 'above average' for exceeding his budget by 20% and another

manager is assessed as being 'excellent' for achieving the same result. Manager No. 2 gets a far higher bonus than manager No. 1.

What about the manager who presents the employee's work as his or her own and then gets rewarded and there is no recognition for the employee? As well as being unethical, this creates relationship problems.

If objectives are not set clearly or consistently, when performance reviews are conducted employees may feel aggrieved, particularly when (as is often the case) performance scores are used in remuneration decisions. There is lack of credibility in the performance management system and in HR. Decisions are based on subjectivity instead of objective performance which results in unhappiness and real high performing staff may leave.

"the ethical culture in companies should be strengthened by making it part of the company's DNA."

SA Corporate Ethics Indicator,
2009

If your basic principles and practices pertaining to performance management are clear and documented, it limits the opportunities for unethical behaviour.

- Ensure that the performance management standards and system are well understood by all.
- Provide training in performance management to both managers and employees.
- Performance objectives must be linked to the overall business plan and over-arching strategy of the organisation.
- Set objectives jointly and let the employee know that the objectives can be revised if the situation changes.
- Develop specific, measurable, objectives that are challenging yet realistic.
- Where the successful attainment of objectives is pay/bonus linked, it is advisable to have a committee review these to ensure consistency and fairness based on pre-determined criteria.

Performance review

Depending on the organisation and the process, there might be a number of informal reviews, culminating in one (or more) formal performance reviews which can be used for developmental and/or reward purposes. The goal of a performance review should be to increase communication, establish clear expectations, reinforce good performance, improve unsatisfactory performance and foster a spirit of cooperation and teamwork.

It is preferable to have at least two reviews per cycle, particularly if there is a link to reward. One review can be more developmentally focused and identify any training and development needs which might be necessary to ensure performance but this should also include a frank discussion about performance to positively reinforce desired behaviours and remove any obstacles to performance. There might be more frequent informal or formal reviews but these usually culminate in a final formal review which may be used on its own or as a combination of all previous reviews as an input into remuneration and/or bonus purposes.

Example(s) and/or Case Studies:

If there is only one review and it links to reward, an employee might not raise any training needs and will use the review opportunity more like a bargaining tool to ensure the highest score if this will link to better remuneration or a higher bonus. Some managers do not properly review individual performance and treat the exercise as something that HR requires them to do. Managers sometimes avoid the performance review completely and ask the employee to do their own rating and then moderate it without consulting with the employee who then doesn't get feedback on their performance. This is a serious abdication of management accountability. How often does a manager tell HR that an individual is a poor performer but their performance appraisal says otherwise? The manager then says that the review was 'just an HR exercise'. 'Poor performers' aren't given an opportunity to discuss reasons for under-performance and they are often oblivious to any performance issues.

If the performance management system has a 360 degree appraisal, then it is important that the different participants understand the process fully. When a 360 is developed and guidelines are issued, the HR professional should provide sufficient training to ensure that the person rating does not inflate or manipulate the ratings and that it is clear that the person rating bases inputs on performance and not a personal relationship with an individual.

Failure to properly review, and reward, performance results in high performing employees becoming disillusioned and poor performance is not extinguished. If this is allowed to continue, it impacts on workforce morale and productivity. Managers who are allowed to get away without properly managing employees are poor managers – remember that people join organisations and leave managers so this also impacts on labour turnover.

- Train managers and employees in how to conduct performance reviews.
- Where relevant, HR can facilitate the performance reviews and provide practical guidance and advice to both managers and employees.
- Provide managers with anti-bias and emotional intelligence training to ensure that they are able to objectively and consistently manage performance and provide honest feedback whilst being sensitive to employee differences.
- Ensure that there are moderation and appeal processes in place.
- Ensure that there is a performance counselling programme in place which links to performance review.
- Document a summary of performance.
- Consider a 360 degree review (manager, self, customers, subordinates, peers).
- Conduct an analysis of the distribution of increases and/or bonuses paid to employees that can be attributed to performance outcomes. This will enable identification of areas of potential unfairness and inconsistency and/or discrimination.

Performance improvement

Employees have a duty to work efficiently and diligently and do their jobs with all reasonable care and skill. It is the manager's role to set the standards against which employee performance

will be measured. Under-performance needs to be addressed directly with the employee and the employee needs to be given an opportunity to improve.

The investigation into poor performance needs to follow a process which adheres to legislation and the organisation's policy and procedures. The employee must have an opportunity to fully understand the areas of performance which require improvement and must be given an opportunity to improve. Moving goal posts achieves little; in fact it confuses employees and leaves them frustrated and feeling powerless and/or inadequate. Monitoring of performance to measure improvement should be put in place. If there is no improvement, disciplinary action may eventually result. It is unfair and too late to begin dealing with under-performance at the performance review stage. As soon as under-performance is identified, steps must be taken to manage the employee's performance. This is particularly true during the probation period. Often employees are not sufficiently assessed and guided during this period and, at the end of the probationary period, they are dismissed. The fact that managers do not assess and guide the employee on probation does not necessarily mean that the employee failed to perform but could be that the employee didn't realise what was required or did not get the right support or resources to do the job.

Example(s) and/or Case Studies:

Many organisations reward high performers and ignore poor performers. An employee has been working for the organisation for more than a year and has been scored as an under-performer in terms of the performance review. As a result, he has not been awarded a performance bonus. However, the manager has not placed the employee on a performance improvement programme. The manager wants HR to help him to get rid of the employee because of poor performance.

Poor performers affect sales, revenue and profitability and staff morale, especially that of high performing employees. The HR professional needs to ensure that a fair and proper process is followed and that the employee understands how, exactly, his performance needs to improve. The HR professional needs to ensure that the manager arranges for performance counselling to take place and to put the employee on a formal performance improvement plan. In the absence of this, the employee is not being treated fairly. The manager is not managing employee performance and this will result in conflict which leads to discontent with the organisation.

- Ensure that the performance management process links to a performance improvement process.
- Ensure that managers are trained to conduct performance counselling.
- Seek clarity that under-performance is not linked to a lack of clearly defined job deliverables.
- Where promotion and succession planning are based on performance, then it is critical that performance is measured objectively otherwise poor decisions are made.
- Managers must present facts and be respectful to employees during performance counselling and must be open-minded and not pre-judge the outcome. The HR professional can assist by providing a clear, objective and transparent process which satisfies management's objectives but also ensures fairness and consistency towards employees. In fact the HR professional could, when required, facilitate the performance discussion to ensure that the employee input is sufficiently solicited and guidance given to the manager to identify suitable corrective interventions.

- Train managers so that they are able to provide the necessary coaching, mentoring and support to employees to motivate them towards performance excellence.
- Consider the extent of transparency regarding talent and succession pools.

Ethics in IT Technology in the HR environment

Most organisations today store the majority of their information using computer technology infrastructure. Depending on size and sophistication, this can range from e-mail on a single computer in a small organisation to large scale technology systems covering all aspects of the business. In many organisations the use of technology is governed by an 'Acceptable Usage Policy' which guides employees in what is acceptable and what is unacceptable. Some aspects that such policies usually cover are use of e-mail, internet, storing of information and notification of levels of monitoring. This, then, determines how much privacy an employee has. In South Africa there are multiple pieces of legislation that can assist in determining if the organisation is behaving ethically in terms of IT technology. Moreover, the next decade is expected to be dominated by cybercrime and other unethical practices relating to internet fraud, and the abuse of social media and other forms of IT.

"The Board should oversee the cultivation and promotion of an ethical IT governance and management culture and awareness and of a common IT language."

Kina III

Codes of good practice, guidelines and regulations

There are a number of important codes, guidelines and regulations that can aid in ensuring ethical behaviour in the use of IT technology in the HR environment. The following two pieces of legislation are available for download:

- Regulation of Interception of Communication and Provision of Communication – Related Information Act No. 70 of 2002 (RICPCA).
- Electronic Communications and Transactions Act 25 of 2002.

Employees must be educated in the organisation's IT and systems policy and they must understand and adhere to the policy. Depending on how the policy is monitored and who is responsible for supervision, the appropriate people must be aware of their responsibilities.

Legislation governs how much privacy an employee has in the workplace. However, the organisation's policy can set levels of complete, partial or no privacy and, accordingly, will review employee data. Employees must have a clear understanding of the various legal issues involved when using an organisation's IT systems.

Example(s) and/or Case Studies:

Lack of clarity from an organisation in terms of how much employee data is reviewed may create confusion and conflict in the workplace. While an employer has a right to protect its systems and data and restrict the use of its resources, an employee also has a right to privacy and, therefore, the rules that apply must be very clear, up front so that there are no surprises. An employee was sent a link to an offensive website and she was referred to it as an example of hate mail. She viewed it and somebody saw her viewing it and raised a grievance and an allegation that she was viewing offensive material. However, in this instance, the employee was

innocent of the content until she viewed it when she was also horrified, not gratified. Many people use e-mail both for work and private purposes and it is necessary for an organisation to set out the limits of use and the degree of review. Failure to do this could result in a person with administration rights who regularly reviews an employee's e-mail without the employee being unaware that this is taking place. In South Africa there is a case where an employee was dismissed as a result of the employer reviewing all the information on a computer owned by an organisation. In the USA, there is a school district that is facing a class action lawsuit in respect of allegations that it spied on students through the webcams that were issued to the students by the school.

If the organisation is aware of exactly how the IT technology infrastructure is being used (and abused), this can impact on productivity levels, protect the organisation from legal liability and potential cyber threats. On the other hand, there is the contentious issue of protection of privacy. There needs to be a clear policy in place and a strong link to the organisation's discipline policy setting out remedies for breach of policy but also setting out what types of communication may be intercepted and in what circumstances. Failure to do so may result in legal action and conflict and a sense of distrust in the workplace.

Some specific consequences are –

- Sexual harassment. As a result of bringing objectionable or sexually explicit material into the workplace.
- Racism. Numerous racist emails or politically enticing emails are doing the rounds and, if transmitted by employees, may implicate the organisation and place it at unnecessary risk.
- Social networking could be put to positive use by organisations but needs a clear policy and an accountable person to be appointed to control and coordinate such activities. Often employees use their social network to air gripes and grievances about the organisation which could potentially have a negative impact on employer branding, reputation and credibility.
- Copyright infringements. While often this occurs unintentionally, it can be the result of downloading a software programme, picture or proprietary documents on the basis that as it is available on the internet it must be free.
- Misrepresentation. Can occur accidentally; in such instances it often occurs through e-mail. Employees must clearly know who they are communicating with as well as when expressing an opinion that it is their own opinion and not the opinion of the organisation.

The internet makes a lot of information freely available but, remember, copyright still applies and all original documentation must be acknowledged. If there is something freely available as a tool or a document which helps, then use it by all means but don't claim it as your own work.

- Ensure the organisation has a clear policy in place which governs acceptable usage.
- Ask employees to confirm that they have read and understood the policy before they are able to make use of technology (many organisations use a 'pop up' on screen which needs to be ticked before the employee can proceed to use the equipment).

- The policy should outline what the appropriate consequences are for violations. Such policy should have a clear link with the organisation's disciplinary policy. For instance, viewing child or any other form of pornography should be a dismissible offence while unauthorised surfing of the internet for private purposes could attract a written or final written warning as an appropriate sanction.
- Training should be provided. Training must be ongoing as many users may have developed bad habits prior to being exposed to a good IT usage policy.
- Users should receive regular updates on aspects of the policy.
- A good quality IT usage policy should address issues of:

Hours of activity – many organisations have a cost associated with being connected to the internet. Some aspects of these costs are e-mail which improves communication time, collaboration servers or collaborative documents that allow multiple people in different locations to work on single projects or documents at the same or similar times. If the organisation's infrastructure is not used during certain times of the day (e.g. after hours) it is possible to allow employees unrestricted access during this time.

Personal use – the policy should outline in no uncertain terms what is the acceptable usage of the internet. In some organisations where creativity is a pre-requisite for the tasks at hand, roaming may enhance this.

Confidentiality – Certain documents in any organisation are considered highly confidential. The policy must stipulate what documents can and cannot be sent via e-mail. It is possible to send any document to hundreds of locations at the push of a button; some documents should not be shared or even sent out electronically. In all instances, official company documents such as quotes, tenders, undertakings etc should be transmitted in PDF or similar format to ensure that documents cannot be changed or falsified. Employees should be warned about the risk of sending out documents with an electronic signature as such signatures could be cut and pasted to recreate fraudulent or misrepresentative documents.

- Ensure that any person that is collating or distributing employee data has the necessary approval to do so (this may be set out in the policy or in contracts of employment, for example).
- Ensure that the organisation's IT policy complies with the chapter on IT Governance in King III.

Ethics in Employment Relations

South Africa is world renowned for its Constitutional Court. It was the Constitution that laid the foundation for the Labour Relations Act, in which everyone (note this is not limited to South African citizens) in South Africa is afforded the right to protection under the Constitution and the Bill of Rights. The Labour Relations Act and its supporting Codes of Good Practice, if applied correctly, could become an additional guide on ethics for HR professionals. Flowing from the Labour Relations Act, together with the Basic Conditions of Employment Act, the Skills Development Act and the Employment Equity Act, HR professionals should develop an industrial relations policy which forms the basis for labour relations in the organisation to maximise the effectiveness of the relationship between the employer and employee. A Code of Ethics sets the spirit in which the employer operates, and should not be viewed as exhaustive but rather as a minimum by which HR professionals, as the middle tier (the 'ham in the sandwich') between the employer and the employees, are expected to conduct themselves.

Codes of good practice, guidelines and regulations

There are a number of important codes, guidelines and regulations that can aid in ensuring ethical behaviour in labour relations. The following codes of good practice are available for download from the department of labour (www.labour.gov.za) -

- Code of Good Practice on Arrangement of Working time
- Code of Good Practice on Key Aspects of HIV/AIDS and Employment
- Code of Good Practice on Dismissal
- Code of Good Practice on Dismissal Based on Operational Requirements
- Code of Good Practice on Employment and Conditions of Work for Special Public Works Programmes
- Code of Good Practice on Employment of People with Disabilities
- Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace
- Code of Good Practice on Integration Employment of Children in the Performance of Advertising, Artistic or Cultural Activities
- Code of Good Practice on Integration of Employment Equity into Human Resource Policies and Practices
- Code of Good Practice on Picketing
- Code of Good Practice on Preparation, Implementation and Monitoring of Employment Equity Plans
- Code of Good Practice on Protection of Employees During Pregnancy and After the Birth of a Child
- Code of Good Practice on Who is an Employee
- Numerous Codes of Good Practice for Broad-Based Black Economic Empowerment

The CCMA also provides a number of information sheets which are available for download (www.ccma.org.za). Some of the more common ethical labour relations issues are dealt with in more depth below.

HR (and especially IR) professionals should have a good understanding of the Labour Relations Act and of the various codes of good practice. The HR/IR professional should however not

neglect the policies which are in place in the organisation and should seek to interpret the policies in the spirit and purpose of the Labour Relations Act. The organisation must ensure that employees are educated appropriately in this area, are equipped with the correct tools and guidelines and are informed of their rights and possible implications of failure to comply with their organisation's labour relations policies and procedures.

Employees have rights and obligations conferred on them by legislation amplified in the Codes and rights and obligations contained in the organisation's policies and procedures. The organisation must apply these rights and obligations fairly and consistently. Having said this, fairness and consistency should form the moral basis of how employees are treated and should not necessarily be governed by law but by "doing what is right". The HR/IR professional has a dual and impartial role to play; one is to assist management and to protect the organisation's rights and the other is to ensure that employee rights are protected. This can be a difficult role which requires skill and the willingness to stand up against the wishes of management at times but, by behaving ethically by following clearly defined guidelines, the HR/IR professional's role will be that much easier and unambiguous. Simply put, the legislation and supporting codes require that no action be taken against an employee without the following guiding principles:

- Knowledge and understanding – of rules, rights and obligations, roles, support structures, processes, etc.
- Support, information, training and representation
- Unbiased, consistent and impartial input/decisions – of those in a position to make decisions

Example(s) and Case Studies:

An organisation that does not have a clear employment relations policy may act inconsistently and therefore unfairly to employee(s). In the absence of a common standard, one employee may be dismissed by a manager for dishonesty but another employee may be given a written warning by another manager for a similar offence. Sound administrative practices are very important to ensure effective HR processes and consistent application of discipline supporting an ethical employee relations environment.

Absence of clarity and transparency and, especially, inconsistent and unfair treatment of employees causes workplace conflict. This can result in industrial unrest (strikes) and can manifest in referrals to the CCMA and/or Labour Court for unfair labour practices. The organisation may be liable for compensation or may be compelled to re-employ people unfairly dismissed. Apart from potentially costly implications, there could be reputational damage to the organisation. The credibility of management and its ability to manage is affected.

- Ensure that the organisation has a comprehensive industrial relations policy which covers, inter alia –
 - Industrial relations structures
 - Collective / recognition agreement
 - Communication
 - Disciplinary codes and procedures
 - Grievance procedure
 - Work stoppages / strikes
 - Retrenchments
 - Safety and health
 - Conditions of employment
 - Dispute resolution
 - Freedom of Association

- Make sure that managers and employees understand the relevant legislation, policies and procedures.
- Provide training to managers and employees.
- Ensure that sufficient numbers of managers are trained to act as chairpersons during disciplinary proceedings to safeguard the organisation and employees against procedural or substantive unfair dismissals.
- Ensure the effective implementation of administrative processes in order to facilitate easy access to relevant information.
- Highlight all ethical issues in the field of employment relations and ensure that the company address these matters proactively.
- Make it clear to all employees that any ethical transgressions will follow the disciplinary route.

Managing industrial action

The organisation must provide guidelines on the management of industrial action in the workplace. Legislation gives every employee the right to strike and every employer the recourse to lock out, provided that certain guidelines are followed. It is not an absolute right and places specific limitations on the parties. There are various forms of strike action such as go-slows, work-to-rule, overtime bans etc.

The Code of Good Practice on Picketing must be followed and incorporated into policies if picketing takes place.

It is important to establish clear objectives and training for managing industrial action at a time when there is no immediate threat of industrial action. The emotions during industrial action are not conducive to managing the situation optimally. In the event that the media may get involved, it is imperative that the HR professional works in partnership with business executives and the public relations department to ensure that the situation is handled correctly and with due consideration of reputational damage to the organisation.

Example(s) and/or Case Studies:

Gathering information during industrial action is critical. Clear lines of communication must be established, with clear roles and responsibilities. From a public relations perspective, many organisations are not ready to deal with the issues and challenges presented by industrial action e.g. some unions creatively make use of a bulk SMS system to immediately inform their members of what has transpired and what is the next step.

If an organisation does not have a proper plan to deal with industrial action, including a clear communication plan, it may manage a crisis ineffectively and cause a further breakdown in relationships with key stakeholders. If there is no strike diary or record of who is on strike, it is difficult for management to implement contingency plans in order to continue with full or limited production and/or to inform customers of the impact on deliveries or institute legal action e.g. urgent interdict to prevent damage to the organisation or individuals.

- Ensure that there is a comprehensive policy and procedure with standardised forms which guide all role players during industrial action including the critical contact numbers e.g. emergency services and role players.
- Open up a channel of communication between key stakeholders to provide for an open-door” policy, and also to ensure that all requests and queries are dealt with and that feedback is provided.
- A crisis management plan must be prepared and the crisis management team should have at least one industrial action orientated drill.
- Picketing rules and strike rules should be agreed with the union(s).
- It is important to form a good relationship with representative trade union officials so that potential problems can be discussed and averted where possible.
- Ensure that all communication during times of industrial action reflect the truth. In the event of any incorrect communication, rectify the situation immediately.

Discipline

Disciplinary procedures should be progressive and not punitive, geared towards the correction of poor performance or misconduct. The organisation of work requires rules and conformity. Discipline forms an important part of the system of production and the organisation of work and should be applied fairly without fear or favour.

The principles contained in the Code of Good Practice: Dismissal Schedule 8 to the LRA must be incorporated into the organisation’s policies.

Discipline is aimed at preventing or correcting unacceptable performance or behaviour. The punishment must fit the crime. Dismissal, the ultimate discipline step, should wherever possible be the last resort and not the first. Flexibility is important i.e. account must be taken of the circumstances of each case. Consistency is equally important i.e. like circumstances should be treated in a like manner. Discipline must be substantively and procedurally fair and must be known and understood and respected.

Discipline loses its effectiveness if the employees don’t trust the system. The HR/IR professional must therefore instil confidence in the organisation’s disciplinary code so that employees can feel confident to put their trust in the policy and co-operate with processes. The HR/IR professional plays an objective role in disciplinary proceedings and it is critical that s/he takes this seriously and remains impartial.

Example(s) and/or Case Studies:

The HR/IR professional needs to ensure that the principles of procedural and substantive fairness are applied across all levels. For example, an administrative employee forges a sick note and is dismissed; soon thereafter a manager forges a performance review to qualify for a bonus and the presiding officer at the disciplinary enquiry wants to give a sanction of a written warning because it will be difficult to replace the manager. The HR/IR professional needs to take a firm stand and ensure that both cases are dealt with along similar lines and if forgery results in dismissal of a non-management employee then it should result in dismissal of a management employee even if it does impact in the short-term on productivity. People (often

there is pressure to do this for managers) should not be allowed to resign rather than face disciplinary action. HR/IR professionals are often given instruction to 'get rid of an employee' regardless of the consequences because managers do not want to follow lengthy performance management procedures. The organisation has the money to frustrate the dispute resolution process or pay a settlement. The emotional and social impact on the employee is not taken into consideration. Also, these stories get out and the organisational credibility and reputation is seriously affected.

The organisation condones "minor" illegal activities by employees – such as driving cars with no number plates, speeding, bribing traffic cops, illegal dumping, littering etc, etc – especially where carried out by high performing, high value employees. Often the erosion of values and culture of the organisation is quite gradual but the effects are eventually harmful.

If fairness and consistency are not applied, then it can result in workplace dissatisfaction and in the creation of an 'us and them' climate of distrust which has a greater impact on employment relations.

- Draw up a disciplinary code which sets out guidelines for consistent treatment of transgressions and indicates appropriate sanctions.
- Maintain a record of sanctions imposed and make sure that HR/IR professionals and managers involved in the disciplinary process are aware of the precedents set in previous cases.
- Train all managers and employees in disciplinary procedures.
- Draw up checklists which govern the disciplinary process.
- Draw up standardised forms and templates.
- Integrate ethics into disciplinary policies and procedures, e.g. the use of company equipment.
- HR should be present during all disciplinary hearings to ensure fairness and consistency.
- HR should communicate the processes and the next steps to employees and attempt to instil confidence in the policy and procedures with all employees.

Grievance

A grievance is any feeling of dissatisfaction that an employee or group of employees may have as a result of their employment relationship or working conditions. A grievance procedure is a formal process which usually contains an escalation and increasingly formal handling by progressively more senior managers.

A grievance process sets out the manner in which an employee may freely discuss a problem s/he might have relating to his/her job without fear of victimisation. It provides an outlet for employee frustration through creating a channel for upward communication and a mechanism for resolving conflict.

Grievances should be dealt with by the HR/IR professional with the necessary sensitivity and seriousness that each case deserves. Communication is key as employees are placing trust in HR to resolve what has become, at least to the employee affected, a source of serious concern. There is nothing worse than not receiving constant feedback and an assurance that the employee's concerns are shared by the employer and are receiving the attention they deserve.

Example(s) and/or Case Studies:

If an employee is aggrieved because he or she feels that she has been spoken to rudely by a manager in front of other people then a formal grievance can be raised. It might simply be a misunderstanding which can be sorted out by a verbal discussion between the two individuals. However, a manager may resort to bullying or be abusing his or her position and it may be necessary for an intervention to take place whereby the manager has training in management behaviour. By taking grievance issues seriously, the HR/IR professional can assist the business in maintaining workplace harmony. However, it is important that the HR/IR professional is objective and does not 'take sides'. This is a situation whereby the HR/IR professional needs to wear 'both hats' and understand both viewpoints in trying to assist line management in resolving potential conflict. It may simply be a communication breakdown but it can be the trigger for the HR/IR professional to suggest to the line manager a change in approach or for a coaching or training intervention.

Often a grievance is an opportunity to 'step-in' and resolve an issue before it becomes a bigger issue and/or results in wider workplace conflict. Workplace bullying has serious implications for employee well-being and organisational health and could ultimately result in constructive dismissal claims against the organisation.

The grievance process applies equally to management and employees and the same criteria must be applied in deciding the outcome of the grievance regardless of position.

- Draw up a grievance procedure which sets out a procedure for consistent treatment of grievances and which provides a recognised structure to raise grievances and give employees protection in doing so.
- Ensure that no victimisation takes place by handling all employees in a fair and consistent manner.
- Implement a 'whistle-blowers' policy.
- Have a clear policy about workplace bullying.

Retrenchment / Redundancy

It is important that employees know their rights and obligations in cases where operational requirements necessitate terminations and that a fair process is followed which adheres to labour legislation. Dismissal for operational requirements is categorised as a 'no fault' termination.

The Code of Good Practice on Dismissal Based on Operational Requirements must be followed and incorporated into the organisation's policies.

The organisation should consider all reasonable alternatives and appropriate measures to avoid termination for operational requirements. The Labour Relations Act sets out specific requirements which are mainly directed towards ensuring that a proper consultative process is followed, that all possible alternatives to dismissal are explored and that the employees to be dismissed are treated fairly.

Example(s) and/or Case Studies:

Managers sometimes use a restructuring exercise to get rid of poor performers. The HR/IR professional must be alert to this. Restructuring creates uncertainty even amongst high performers and could have a negative impact on staff morale. Also important is the message it sends out into the marketplace and competitors may use this to their advantage. Poor performers should be dealt with as part of the disciplinary and/or poor performance process and not by a restructuring process.

If an employee is unfairly retrenched because of performance issues and not because there is a genuine need in terms of operational requirements, this is an unfair dismissal and the CCMA or Labour Court will set it aside.

- Ensure that selection criteria are well documented and are objective (consider such criteria as skills, experience, length of service, affirmative action).
- A retrenchment/redundancy policy should also cater for and regulate voluntary retrenchment.
- Consider offering counselling, training and/or re-skilling to employees who are retrenched.
- Ensure that records of retrenched individuals are kept and that if there is a change of circumstances causing vacancies to occur for a period of time (minimum six months) these employees will be considered for re-employment as a first option.

Sexual harassment

Sexual harassment is any unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes itself from behaviour that is welcome and consensual. Sexual harassment in the workplace is not permitted and persons who have been subjected to sexual harassment have a right to raise a grievance and to be reassured that appropriate action will be taken.

The Code of Good Practice on the Handling of Sexual Harassment must be followed and incorporated into the organisation's policies.

Management and employees must create and maintain a working environment free of sexual harassment and, if it does occur, must deal with it seriously, expeditiously, sensitively and confidentially regardless of the status of the employee. Employees experiencing sexual harassment must be protected from victimisation and/or retaliation.

The HR/IR professional must deal with cases involving sexual harassment with the necessary sensitivity and confidentiality. By its very nature sexual harassment is a very personal trauma and each case should be dealt with according to its own particular circumstances.

Ideally, HR/IR should have both a male and a female representative who would be able to receive and deal with sexual harassment allegations.

Example(s) and/or Case Studies:

Some forms of sexual harassment are quite blatant and others more subtle. The role of the HR/IR professional is to ensure that a proper investigation takes place and to give support to the person who has made the allegation. The HR/IR professional needs to ensure that the issue is dealt with immediately, sensitively and in complete confidence and also that sexual harassment issues are not 'swept under the carpet'. The approach must be balanced and mindful of the rights of the accused including the principle "innocent until proven guilty" as there are also incidents of false accusation for ulterior motives. The arrest of the Managing Director of the International Monetary Fund (IMF), Dominique Strauss-Kahn, as a result of charges of sexual harassment and attempted rape has made headlines. Time will tell and the justice system will run its course. What is certain, though is that Strauss-Kahn, widely tipped to be in the running to be the next President of France, has resigned (to fight criminal charges) and subsequent to his arrest, more allegations of prior sexual harassment have surfaced.

Careful consideration should be given to the facts while investigating a complaint of sexual harassment. In one instance a female employee reported a case of sexual harassment by a senior manager. The 'proof' tabled was an sms received on New Year's Eve and various emails with sexual undertones. Upon further investigation, the senior manager produced various emails received from the female employee, sms messages and even a note handed to him by her with red lipstick marks on it. It turned out that the 'flirting' was consensual and had been going on for a significant time period. What really happened was that the female employee's husband read her sms's and discovered the message. To cover herself, she laid a complaint of sexual harassment. Unfortunately, both employees credibility was undermined, reputations tarnished and their careers damaged in the process.

Sexual harassment has a major impact on working relationships. In addition to a claim for damages, sexual harassment has intangible costs associated with reduced morale, adverse publicity etc. Victims of sexual harassment often experience depression, frustration, nervousness, fatigue and hypertension which, in turn, leads to decreased productivity and increased absenteeism. A victim of sexual assault has the right to press separate criminal and/or civil charges against a perpetrator.

- Develop a sexual harassment policy for the organisation.
- Ensure that there are clear procedures which deal with the situation in a sensitive way.
- Ensure that no victimisation takes place.
- If possible, designate a person outside of line management who victims may approach for confidential advice (should have the appropriate skills and experience or be properly trained and given adequate resources).
- Grievances about sexual harassment should be investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.
- The organisation should give consideration to the granting of additional sick leave in cases of serious sexual harassment where the employee on medical advice requires trauma counselling.
- Include the issue of sexual harassment in orientation, education and training programmes.
- Emphasise the ethical stance of the organisation regarding sexual harassment and take action against all managers and employees who commit sexual harassment.

Incapacity

When employees fail to perform, managers and HR/IR professionals are expected to handle the issues ethically within the ambits of the law. There are various reasons why employees are not able to perform and incapacity may be one of them. Incapacity is the failure or inability of the employee to work according to the requirements of the job. Incapacity could encompass poor work performance and also the inability to perform as a result of ill-health and injury.

Incapacity – Ill Health

Examples of Illnesses that can lead to Incapacity

- Serious heart diseases
- Chronic diabetes, which leads to permanent incapacity
- HIV/AIDS
- Cancer

Guidelines for dealing with incapacity are covered in the Code of Good Practice on Dismissals (Schedule 8 to the LRA). The principles in the Code must be incorporated into an organisation's policies. Cases of incapacity must be dealt with following basic rules of compassion and fairness. There must be substantive fair reason to take action against an employee and a fair procedure has to be followed.

Incapacity because of ill-health differs from poor work performance because there can be no fault attributed to the employee for incapacity due to ill-health or injury. In situations where the employee is not at fault, the HR/IR professional will be required to assist the employee stay in employment if this is at all reasonably possible. All cases of incapacity must follow the basic rules of fairness as established in fair labour practice, that is, there must be substantively fair reason to take action against an employee and a fair procedure has to be followed. Once the HR/IR professional has established that there is of serious ill health, then a fair process which gives the employee an opportunity to respond can be commenced to ascertain whether there is reason to continue with the employment relationship or to terminate it. The test is reasonableness and fairness, in other words, for how long can the organisation reasonably continue to accommodate the employee's inability to perform due to ill health without affecting the operational needs of the business. The HR/IR professional should assist the employee as far as possible to access permanent disability benefits or advise the employee regarding their rights to claim unemployment benefits.

Incapacity – Disability

The Constitution, several statutes including the EEA and the LRA and Codes of Good Practice protect employees with disabilities as a vulnerable group because they are a minority with attributes different from mainstream society. Unemployment, lower wages, poorer working conditions and barriers to promotion plague people with disabilities.

Incapacity – Poor Performance

In instances of poor performance, the process must commence with a written communication calling the under-performing employee to a discussion meeting. The letter must be sensitive but firm so that the employee understands that the situation is serious and cannot be allowed to carry on and, therefore, the focus is on mutually looking for a solution.

It must be clarified in the meeting that the reason for an investigation is incapacity due to poor performance where both the organisation and the employee are trying to find the best solution for a problem. It is, therefore, important for the HR/IR professional to make it clear that whilst it is understood that it is in the employee's interest to keep his or her job, the organisation's operational requirements may mean that it is no longer viable to keep him or her employed unless there is an improvement in performance.

Once the employee has been given a fair opportunity to meet the required performance standard and has not done so, a further meeting must be held similar to the above. Depending on the facts established at the meeting, if it is fair to give a further opportunity for improvement this must be given, alternatively the services of the employee can be terminated with notice in terms of the employment contract.

This is an area where there is often unethical behaviour on the part of management who fail to carry out their responsibilities resulting in the unfair dismissal of employees who are not given an opportunity to improve performance. Many managers do not confront performance issues. HR/IR professionals should have the courage and conviction to report such management practices and ensure that managers do what they are paid to do which is to manage people. Many managers think that their job is to manage outputs and not people forgetting that it is through people that outputs are achieved and performance management is a management responsibility and not an HR responsibility.

Example(s) and/or Case Studies:

In the widely reported case of Ferreira vs Standard Bank of South Africa (JR662/06) the question was asked "what must the biggest bank in Africa do to reasonably accommodate an employee who injured her back in a motor collision whilst on duty? In what circumstances is the dismissal of such an employee fair? In this case, the Court found that the bank inverted the four stage process by first adapting Ferreira's duties and offering her alternative work instead of installing her in a position commensurate to her training, experience and intellectual ability as the primary means of accommodating her and the dismissal for incapacity was found to be procedurally unfair.

- Ensure there is a policy and fair procedure which sets out how to deal with cases of incapacity: ill health.
- Make sure that the prescribed 4 step approach outlined in the LRA is followed.
- As the employer organisation bears the onus of proving that it made attempts at accommodating the employee, the HR professional must make sure that the organisation considers all available options.
- HR has a critical role to play in ensuring that the principles of fairness and consistency are applied in an organisation. The HR professional should mentally put themselves in the shoes of the person who is involved in an employment relations issue and ensure that the process followed gives proper consideration to the employee – i.e. how would they expect to be treated?
- Where an HR professional feels that they are out of their depth in dealing with a complex employment relations matter, they should rather seek advice and guidance from a qualified labour relations professional.

Ethics in Reward and Remuneration

Remuneration is multi-faceted. It provides the means to satisfy universal needs of all employees, namely safety, belonging, growth and self esteem. It facilitates the attraction, retention, engagement and motivation of the “right” people. It fulfils a strategic role in helping the organisation to meet its goals, both now and in the future. Variable or incentive pay in particular is used to communicate corporate strategy, focus people on outcomes they are able to influence and reinforce key behaviours which reflect the values of the organisation. Nobody could possibly doubt that engaged, valued and achievement-focused employees boost organisational performance - both directly and through their ability to inspire and motivate others.

While remuneration makes an important contribution to the achievement of the strategic goals of the organisation; and while it lies close to the heart of the employment relationship; it is also potentially contentious, being subject to the frequently conflicting viewpoints, beliefs and interests of different groups of stakeholders as well as the manifold complex demands arising from increasingly sophisticated knowledge work, globalisation and increased competition for talent, to name just a few.

The nature of remuneration management, the complexities of modern organisations and the potential for conflict, together with implicit reputational and other risks, demand a strong ethical framework for remuneration in every organisation. This framework must be based on the *ethical culture* of the organisation - its values, principles and vigorous support for people doing “the right thing” - and supported by the following, which are the key stones of remuneration ethics.

- *Transparency* in the sense of communicating openly with employees about remuneration; inviting and listening to their feedback, ideas and concerns; discussing alternatives and constraints; and resolving differences by debate.
- *Participation/involvement* of employees in decision making on remuneration policy, practices and decisions which affect them.
- *Compliance* with accepted best professional practice; the prescriptions of good governance (King III); securities exchange and statutory requirements.
- *Fair and non-discriminatory* policies and practices that seek to advance the common good rather than to advantage any particular employee group at the expense of the others.
- *Accountability* of senior leadership and HR professionals for remuneration policies and the effective and well-managed implementation of remuneration processes and practices.

Whether or not remuneration is managed ethically will always have to be judged by employees, the directors/members and any other stakeholders who are involved: There are no objective standards and no “cast-in-concrete” yardsticks for measurement.

In using remuneration to influence the behaviour of employees, we must be clear that we are not in any way implying that they will not (or cannot) perform well without incentivisation. Many

employees would take exception to such an assertion (Look, for example, at the wonderful work done by many thousands of voluntary workers in all countries and across all cultures); and motivation theorists down the ages have held that people inherently *want* to be successful. The difficulty is that employees have varying ideas of what constitutes performance. The remuneration and performance management systems we set up therefore give direction and alignment, among other things.

Finally, ethical behaviour is always pursued for its own sake and not for the sake of “bottom line” benefits that may be expected to accrue as a result of behaving in an ethical manner.

Job evaluation

Job evaluation includes job analysis, job profiling and job grading. All of these processes should focus on the *job* not the *person*.

It should be done as objectively as possible, to ensure fair and consistent treatment of all, in line with the demands of best professional practice and the prescriptions of employment legislation. It should give an accurate, current and complete account of the results or outcomes that have to be achieved in the job; an indication of the steps or methods used to achieve these; and the qualifications, training/experience and skills/competencies that are required to enable proper performance in the job. In addition it should give an accurate and fair assessment of the relative size (or level of responsibility) of the job.

In the interests of ethical job evaluation practices, the people responsible for job evaluation must ensure that all job evaluation processes are focused on the job not the person: Job profiles and job grades should not in any way reflect differences in gender, age, national origin, religious conviction, sexual orientation, physical strength, job performance, or any other personal characteristic.

Example(s) and/or Case Studies:

The job profiles and the job grades of two Quality Inspectors employed on similar production lines in a factory should be identical, *despite* possibly significant differences in their respective performance assessments.

The same will hold true in the event of differences in any other personal characteristic.

The most important consequence of deviating from this widely accepted principle of job evaluation is that one's view of jobs and the job structure will be altered by the (intruding) view of the person or people in the jobs. The problem with this is that changes in the people concerned will cause changes in the perceived job and grading relativities which, if not reflected in the job and grading structure based on the job evaluation programme, will lead to loss of credibility and perceived integrity of the programme.

Job evaluation often then becomes a game, played for the sole purpose of advancing the influence (and pay) of particular employee groups.

- Employees should be trained in job analysis, job profiling and job grading, before becoming involved in the job evaluation process. After initial training has been provided, there should be careful monitoring, back-up support and coaching as required to enable them to become and remain fully effective.

- The final grading of a job should never be the result of one person's opinion. Grading should always be done by a representative committee; and members should always reach consensus in their grading of the job. This will reduce the probability of subjectivity and/or bias in job grading.
- The job contents, as described in the job profile, must balance what the incumbent *actually* does and what the incumbent *ought* to be doing; in such a way that the incumbent and the immediate supervisor as well as the manager ultimately accountable for the department concerned are all able to confirm the accuracy of the job profile. Until all three parties have agreed the job profile, the information it contains remains un-verified and therefore uncertain. If such agreement is not achieved, the job(s) concerned should be left out of the job evaluation programme until the situation has been rectified and all relevant parties are able to agree on the contents and requirements of the job.
- The job specification should give an accurate and realistic description of the educational qualification(s), the training and experience and the skills and competencies required to enable somebody to perform the job. It should *never* reflect a "policy position" (e.g. "We only recruit matriculants"); and *nor* should it compromise the perceived job security of existing employees (e.g. by specifying qualifications which are beyond the level that existing employees have attained). Does your high-speed packaging line Supervisor *really* need Matric with higher grade Maths and Science?
- The organisation should have a clear and concise job evaluation policy with procedure guides which is
 - made available and communicated to all employees; preferably by the use of a number of different communication methods e.g. briefing and/or focus groups, memoranda and notices, individual explanation and/or counselling, presentations and "road shows", etc.
 - adhered to rigorously of in all stages of the job evaluation programme;
 - discussed periodically with employees to ensure full understanding and to give the opportunity to surface issues and concerns for further debate

Base pay

Base pay refers to the fixed remuneration package, excluding discretionary or variable payments based on performance, but including the cost to the organisation of employment benefits (medical aid, retirement and risk assurance) and "perks". It is often referred to as Total Guaranteed Package or Cost to Company.

Employees are entitled to feel confident in the processes used to determine the amount of their remuneration and to know that "*what I get for what I do*" is in line with what others in other disciplines and different job levels get for what *they* do. This internal equity (what Elliott Jaques referred to as "felt-fairness") is one of the main goals of job evaluation programmes. It is also a prerequisite for an ethical remuneration system.

In addition, pay should be externally competitive to the extent that employees feel that they are paid much the same as they would have been paid by any other organisation employing people with the same skill sets; and that their pay is sufficient for their needs – and those of their families.

If a goal of the remuneration system is to pay equally for work of equal value, we must decide what constitutes work of equal value. It is immediately apparent that this goes beyond jobs being graded at the same level. Additional factors such as service, performance, potential, the

scarcity (or otherwise) of particular skill sets, etc must be taken into account: We profile and grade the *job*; but we pay the *person*.

An additional ethical consideration is that of how to establish the “correct” levels – especially given the largely subjective nature of the standards and measures involved.

Example(s) and/or Case Studies:

Returning to the two Quality Inspectors in the previous example, an ethical remuneration system would grade the *jobs* at the same level; but pay the *job incumbents* (all other factors remaining the same) at significantly different levels within the appropriate pay scale for that grade of job. The pay differential would be commensurate with the performance differential: If it is too large, the lower paid individual would have grounds to feel unfairly treated. If it is too small, the higher paid individual is likely to feel unfairly treated. It should be emphasised that the pay differences in remuneration do not in themselves constitute remuneration disparities; only those that are *felt* to be unfair: The felt-fairness of remuneration is a subjective measure.

The consequences of unethical remuneration practices are that the organisation’s ability to attract and retain key skills will be compromised; the remuneration process will lose credibility among employees; and dissatisfaction, even frustration, will prevail – often to the extent that it gets in the way of the work that has to be done – and customer care, productivity, employee loyalty, etc may consequently go “out of the window”.

- Remuneration processes and decisions (like those applicable to job evaluation) should be informed by a clear and concise remuneration policy which is
 - made available to all employees (and their representatives where applicable) preferably by the use of a number of different communication methods e.g. briefing and/or focus groups, memoranda and notices, individual explanation and/or counselling, presentations and “road shows”, etc.
 - applied consistently throughout the organisation;
 - discussed with employees to ensure full understanding and to surface issues and concerns for further debate.
- Internal equity problems in the distribution of pay within the grades should be identified and rectified, over whatever period of time is required to ensure a smooth transition, minimise disturbance to employees; and keep the incremental steps within affordable limits.
- The following indicators of potential ethical problems should be checked at least annually.
 - The *range* of pay within the job grades. Range is usually expressed as the value of the gap between the lowest package and the highest as a percentage of the lowest package. For example, a range of 40% indicates that the gap between the lowest package in the grade and the highest is 40% of the lowest i.e. that the highest is 40% higher than the lowest or 140% of the lowest – If the lowest package was R12,000 and the highest was R16,800 the range would be calculated as:

$$((16,800-12,000)/12,000)*100\% = 40\%.$$

- Significant *differences in the average* remuneration of people of differing demographic groups whose jobs are at the same grade level. For example, the average pay of nurses (all female) compared with the average pay of plumbers (all male) where the job grades are the same; or the average pay of female nurses compared with the average pay of male nurses, where the job contents, requirements and grades are the same.
- Significant *changes in the slope* of the pay curve that give larger or smaller *pay overlaps* between adjacent grades than occur elsewhere in the remuneration structure: The average slope sets the tone and significant deviations from this constitute potential internal equity problems.

A pay structure should be developed (and updated regularly) to provide a means of managing the distribution of pay within and between grades. A pay structure consists of a set of pay scales, one for each job grade, designed so that –

- The range (from the minimum value of the scale to the maximum) is between the “rule of thumb” limits of 30% and 50%. This gives adequate “room” to recognise performance (and relevant qualification, service and other) differences without compromising internal equity.
- The slope of the structure, scale overlaps between adjacent grades and the range of the pay scales should be held constant, to the extent that this is practical. This helps to engender employee confidence in the pay structure and trust in the organisation’s remuneration processes.

External equity or competitiveness should be assessed by benchmarking the pay of each job, according to market sector/industry, job function and job grade for all jobs; as well as organisation size and resource control for executive jobs. Benchmarking in this way will inform the level at which the pay structure is pitched in the external market.

When analysing and/or developing a pay structure, one should ensure that a holistic view is taken of the *total remuneration offering*. Potential problems here include –

- The *cash/non-cash mix*: This refers to the combination of cash and non-cash elements of remuneration in the “fixed” remuneration package. For example, two fixed remuneration packages may have the same value while the cash remuneration (i.e. salary) element differs significantly, because one has more non-cash value than the other: If the total fixed packages are the same, then an increase in cash must reduce the benefits and vice-versa, an increase in benefits must reduce cash in the remuneration package.
- The *fixed/variable pay mix*: This refers to the combination of fixed and variable pay elements in the total remuneration offering. For example, the fixed package that appears to be low may be off-set by a disproportionately large variable pay element.

Variable pay

Variable or incentive pay, also known as performance based pay or P4P (Pay for Performance), is a popular method of focusing employees on outcomes they can influence and rewarding them for their contributions in this regard. It can operate at the individual, team or organisation level or a combination of these. Payments under a variable pay system are seen as separate from the elements comprising “fixed” remuneration. Total Guaranteed Package plus Variable pay is referred to as Total Earnings.

P4P payments are usually conditional upon the achievement of targets set at the organisational, team and/or individual level. The targets are usually demanding; and there is consequently almost always an element of risk, not present in “fixed” remuneration.

This creates special demands on the ethical management of such systems. Not only must internal and external equity requirements be met; not only must there be compliance with best professional practice (including King III, as applicable) and statutory requirements; not only must there be sufficient confidence in the system itself and related processes; but with P4P there must also be sufficient trust in senior leadership for the policy and rules governing the system to evolve and change, year on year: The measures in P4P serve as a proxy for the desired performance. By meeting the P4P measures it is assumed that a certain definition of performance is achieved and performance improvement will result. However the incentivised behaviour may (and often does) lead to unintended negative consequences. A full understanding of the negative consequences has to evolve and be fully appreciated. This in turn demands high levels of integrity on both sides. We all know that *“What gets measured gets managed – and what gets paid for gets done”*. The ethical question then arises; should participants be rewarded for achieving the measures – even if unintended negative consequences arise as a result?

“Those responsible for the practice of human resource management, have an ethical obligation to both the organisation and its people.”

Deon Roussouw &
Leon van Vuuren
(Business Ethics,
Oxford)

Example(s) and/or Case Studies:

A P4P system was introduced in the mechanical workshop of a large passenger road transport organisation. Its goal was to incentivise the artisan staff to work more efficiently, so as to maximise the time that buses spent on the road. Standard times were calculated for all workshop operations. If the artisans could perform the operations faster than the relevant standard times, they earned an attractive cash incentive.

The P4P worked in the sense that the artisans upped their game and vehicles were turned around in record time. Simultaneously however –

- the number of kilometres to next breakdown plummeted
- the incidence of breakdowns arising from causes supposedly checked in the last service skyrocketed
- despite the quicker turn-around time, vehicles off road actually increased
- new spares in stock increased dramatically because it is quicker to replace than repair faulty components
- the artisan headcount increased significantly as it was discovered that more staff made for quicker completion of work
- training of lower-skilled workshop staff came to a halt

Should the artisans have been paid their incentives? In this case, management felt honour-bound to pay. After all, they had offered rewards for beating the standard times; and the artisans had achieved this. They felt the fact that unintended consequences also arose as a result of the incentivised behaviour was a management problem not an artisan or workshop problem.

There is no way of knowing what would have been the consequences of non-payment due to the negative consequences. It is more relevant to ask what the consequences *could* have been.

There is no doubt that the artisans could have lost whatever faith they had in the integrity of company and workshop management. They could have been frustrated that they were not paid

despite achieving the measures set. Overall employee engagement and motivation could have dropped and the workshop could have become less effective as a consequence.

A positive consequence of the decision that was made was that management was enabled *by their good faith decision* to re-negotiate the measures with participants – and this resulted in a more effective win/win outcome for all, with bottom line gains to the workshop running into the millions and artisan staff significantly increasing their take-home pay; experiencing a real sense of belonging (even “ownership”) and achievement.

- Variable pay processes and decisions (like those applicable to job evaluation and base pay) should be informed by a clear and concise policy and procedure guide, which is
 - made available to all participating employees (and their representatives where applicable) preferably by the use of a number of different communication methods e.g. briefing and/or focus groups, memoranda and notices, individual explanation and/or counselling, presentations and “road shows”, etc.
 - applied consistently for all participants;
 - discussed with participants to ensure full understanding and to surface issues and concerns for further debate;
- The performance / reward relationship should be modelled and tested *before* the system is implemented.
- The policy and rules of the system must allow for performance measures to be changed (and, in extreme cases, for the system to be aborted) if negative consequences arise which threaten the well-being of the organisation, and/or if the system fails to achieve the objectives for which it was implemented.
- Variable pay should *always* be self-funding i.e. the measures to be achieved by participants should be directly linked to improvements in the bottom line of the organisation. If this had been done in the example above, the negative consequences would have negated any payment – certainly the organisation’s bottom line was not improved by the first attempt at P4P.
- The measures to be achieved by participants should always be objective, measurable and evidence-based in the sense that they demonstrably link to organisational performance / performance improvement. This is best achieved by analysis of the value drivers in the organisation, in the early stages of development of the variable pay system.
- The measures should be aligned with the management accounts, so there is no question of accuracy of recording of performance data.

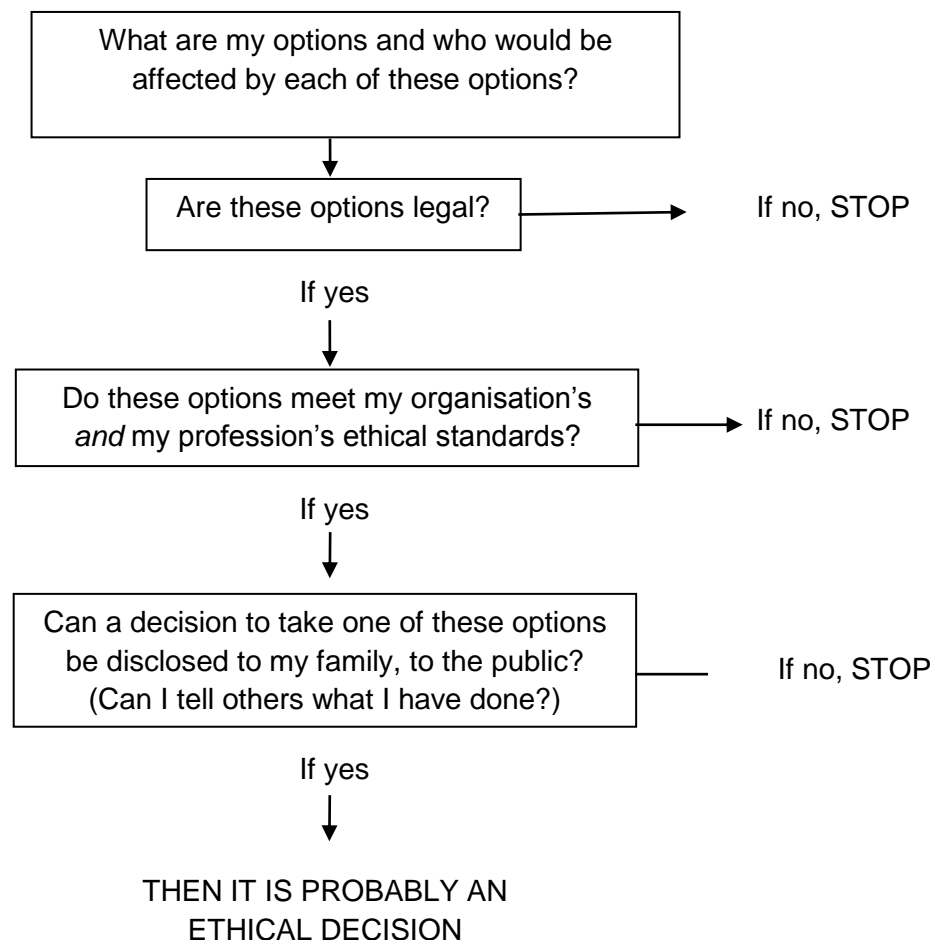
Model of ethical decision making

The following model of ethical decision making is based on work by Professor Leon van Vuuren of the University of Johannesburg. It is included to help HR professionals and line managers who are confronted with ethical issues to make the right decision and to do what is right and not what is always expedient.

A quick test of ethical decision making is to ask yourself the following questions:

1. Is it legal? Is it procedural according to our organisation's policies and procedures?
2. How would it look if published in a newspaper?
3. Is it consistent with our organisational values?
4. Is it fair to all?
5. If I do it, will I feel bad?

If faced with an ethical dilemma consider:



Generic Ethical Guidelines for HR Professionals

Now, as an HR professional, you've been through the guideline and hopefully learnt something but the reality is that you still have some feelings of being uncomfortable and find they don't necessarily fit into one of the silos set out above. Remember, we want HR professionals to look at ethics holistically. What about the situation where you've been given a gift – quite above board and well received? But then the giver starts asking for favours and you feel uncomfortable. There are many instances of nepotism, fraud, corruption, money laundering, bribery, kick-backs, favouritism etc. HR professionals

"The lack of guidelines on how to deal with conflict of interest, anti-competitive practices and the giving or receiving of gifts is of huge concern in a country where these problems have been a cause of many ethical failures in the past."

Hanrie Greebe. Manager: Centre for Business and Professional Ethics.
University of Pretoria

are guided by legislation which is based on fair and equitable processes but if, for example, if as an HR professional you feel uncomfortable with a request or you are given a directive that you are hesitant about or you feel it is downright unethical, you do have options open to you. Most organisations have an ethics policy, and the policy usually sets out channels to be followed. A lot of organisations have a whistle blowers policy. This is something that an HR professional can use if nobody is listening or taking the right actions. There is the internal audit function. There are mentors in the SABPP who can help with ethical dilemmas. And – don't forget, you can always

ask for something to be put in writing or you can put your own unease into writing. Committing an unethical instruction into writing often makes the person giving the instruction think twice!

The HR professional is privy to a lot of confidential and sensitive information because of the nature of the job. Some HR professionals use this information to create a sense of superiority – "I know something you don't". There may be information that needs to be disclosed but the HR professional may turn a blind eye and say nothing. An HR professional is often in the difficult position of knowing something which is confidential and the employee insists that they do not betray this confidentiality. If the HR professional does go to management, they might lose the trust of the employee but if s/he does not, then management may accuse them of not having the organisation's interest at heart. In such a situation, the HR professional should ask the individual for permission to disclose the confidential issue or explain that they cannot take action if they do not. Alternatively, they can inform management of a 'trend'. It isn't always clear and the HR professional must often take a difficult decision based on what is right and ethical.

- Refer to your organisation's Ethics Policy;
- Call Whistleblowers;
- Refer a matter to Internal Auditors;
- Call the SABPP Mentors for guidance and advice;
- Ask for instructions in writing;
- Put your concerns in writing
- The CEO is responsible ultimately for ethics in an organisation – make him or her aware of the ethical issue or what you perceive to be the issue – check it out

-
- Institute mechanisms for ethics training in the company
- Include ethics in the organisation's induction programme
- Respect confidentiality - it is paramount

Conclusion

HR professionals have a fiduciary accountability to uphold fair, objective, transparent, consistent and equitable workplace practices, balancing the rights of both employer and employee while

maintaining uncompromised confidentiality. Their own conduct should reflect professionalism, high personal values and compassion. They should act with integrity and courage, to do what is right without causing undue damage.

“...in assisting to professionalise the HR profession, it is vital for practitioners to register with the SABPP, adopting its standards and code of ethics as a matter of course, and spend time and effort on improving and managing their self-images and the manner in which they present themselves.”

Andrew Butters,
SABPP Mentor
(Wisdom from HR Mentors)

As stated at the beginning, the Ethics Committee of the SABPP hopes this is the start of an interaction with members of the HR profession and line managers who will send in interesting ethical dilemmas and/or ethical solutions which we can share in our next and future editions. It is also our intention to conduct an on-line survey of SABPP members on ethics. A number of people have voluntarily given up their valuable time to help to make this guide a reality. In addition, documents have been accessed via Google and so it is very possible that some readers of this guide may find their work reproduced here without recognition. We

apologise in advance if that is the case and thank you sincerely for collaborating indirectly with this guide.

Please forward all comments to our SABPP email box – ethics@sabpp.co.za.

Contributors:

Penny Abbott is a founding partner and director of Clutterbuck Associates South Africa. She has a M.Phil in Human Resource Development from the University of Johannesburg and is engaged in doctoral research at the same institution. She is actively involved in COMENSA and works in the Research & Definitions Committee as well as leading the Mentoring Special Interest Group.

Peter Bam (PG Bam Law) has been practicing as an attorney since 1974. Since 1985 he has specialised in employment law and industrial relations and related fields of law. Peter is a Tokiso Arbitrator / Mediation Panellist and is also on the Labour panel of the Arbitration Foundation of South Africa (AFSA).

Ian Becker is Group internal moderator for Boston City Campus and Business College. He has a B.Comm, A+, N+, ICDL, MCP and is a HR Educationalist Registered assessor and moderator with SABPP, Services SETA, ISETT and INSETA. He is a member of the Ethics Committee of the SABPP.

Christine Botha is founder and owner of Business Resource Development, HR Generalist, HR Consultant, Mentor (including mentorship training) and business advisor. She has a Dip ADR, Dip Strategic HR Management. She is a Chartered HR Practitioner (CHRP) and is Chairman of the Ethics Committee of the SABPP.

Elizabeth Dhlamini-Kumalo is HR Director, Sandvik Southern Africa and Vice President Region Africa of Sandvik Mining and Construction. She has an IPM Diploma, Post Graduate Diploma in Management, Masters in Management (Wits). She is a Master HR Practitioner (MHRP) and is Chairperson of the SABPP.

Pauls Gibbons is co-owner of DNA (Design Network Associates), a HR Generalist, HR Consultant, Coach and Mentor. She has a B.Com (Hons) HRM, B.Tech and IPM Diploma and is completing a post graduate coaching qualification. She is a Chartered HR Practitioner (CHRP) and a member of the Ethics Committee of the SABPP.

Mike Honnet is a Chartered HR Practitioner (CHRP), a member of the SABPP board and approved mentor. He serves on the CPD committee of the SABPP and is the sole owner of Mike Honnet Consulting (Pty) Ltd, a general human resources consulting practice with specialist experience in performance and reward.

Alexander King is HR Manager at MTV Networks Africa, a HR Generalist specialising in the technology and engineering fields. She has achieved RPL status as an HR Practitioner through SABPP and is currently completing her MBA. She is a member of the Ethics Committee of the SABPP.

Marius Meyer is CEO of SABPP. Following a career as an HR practitioner, Marius worked as an academic for Technikon SA, Unisa and the University of Johannesburg. He was a board member of SABPP before being appointed CEO.

Mandisa Ndodana is Human Resource Development Manager for National Housing Finance Corporation Ltd. She has a B.Admin, and PDM-HRM and is a member of the Ethics Committee of the SABPP.

Khosana Tladi is Director: Transformation, Employment Equity and Diversity at Tshwane University of Technology. He has a Masters Degree in Governance and Political Transformation (UOFS) and is a Board member of the SABPP.

Michael Yeates is a director in the Employment Law Department at DLA Cliffe Dekker Hofmeyr Inc and specialises in individual and collective labour law, as well as expatriate employment and immigration.

Definitions and Abbreviations

APSO – The Association of Personnel Service Organisations

BCEA – Basic Conditions of Employment Act

BBBEE – Broad Based Black Economic Empowerment

Black people – a generic term which means Africans, Coloureds and Indians

Designated group – means black people, women and people with disabilities

CCMA – Commission for Conciliation Mediation and Arbitration

EDT – Education, development and training

EE – Employment Equity

EEA – Employment Equity Act

Employee – includes applicants for employment but excludes independent contractor

Employment value proposition – the articulation of an organisation's attractiveness to employees

Independent contractor – a person or company that offers services under a temporary agreement in which the independent contractor is not an employee

LRA – Labour Relations Act

Pre-screening – prioritisation and/or weighting of job applications, giving priority to those applications which on a 'first sight' basis, represent the 'best fit' candidates

RPL – Recognition of prior learning

SARS – South African Revenue Services

Resources

American Society for Training and Development (ASTD) www.astd.co.za

Basic Conditions of Employment Act No. 75 of 1997 (updated) www.labour.gov.za

Code of Conduct of SABPP www.sabpp.co.za

Codes of Good Practice www.labour.gov.za

Coaches and Mentors of South Africa www.comensa.org.za

Commission for Conciliation Mediation and Arbitration www.ccma.org.za

Electronic Communications Act (No. 36 of 2005) www.info.gov.za

Employment Equity Act No. 55 of 1998 (updated) www.labour.gov.za

Health Professions Act (No. 56 of 1974) www.hpcsa.co.za

King III Report and Code www.iodsa.co.za

Labour Relations Act No. 66 of 1995 (amended) www.labour.gov.za

National Skills Development Strategy www.info.gov.za

Occupational Health and Safety Act (No. 85 of 1993 (amended) www.labour.gov.za

Practical Guide to Human Resource Management www.hrhandbook.co.za

Promotion of Access to Information Act (No. 2 of 2000) www.justice.gov.za

Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000) www.justice.co.za

Protected Disclosures Act (No. 26 of 2000) www.justice.gov.za

Quality Research International www.qualityresearchinternational.com

Regulation of Interception of Communication and Provision of Communication – Related Information Act (No. 70 of 2002) www.info.gov.za

Skills Development Act 97 of 1998 (updated) www.labour.gov.za

Skills Development Levies Act (No. 9 of 1999) www.labour.gov.za

South African Qualifications Authority (SAQA) www.saga.org.za

South African Constitution and Bill of Rights www.info.gov.za

Websites

www.acjournal.org/holdings/vol/iss1

www.astd.co.za

www.businessball.com

www.ccma.org.za

www.comensa.org.za
www.hpcsa.co.za
www.hrhandbook.co.a
www.iodsa.co.za
www.info.gov.za
www.justice.gov.za
www.labour.gov.za
www.qualityresearchinternational.com
www.sabpp.co.za
www.saqa.org.za

References

ASTD 1998. Human Performance Practices Survey.
Block, P. 2000. *Flawless Consulting*. 2nd ed. Pfeiffer. San Francisco
Finweek. S A Corporate Indicator 2009. 28 October 2010
Geebe, Hanrie. 2009. JSE Magazine.
IOD. 2009. King Report on Governance for South Africa 2009. Sandton
Kok, L. 2011. Standing up to cavalier Captains of Business. *Finance Week*, 9 June, p. 23.
Meyer, M. (ed). 2011. *Wisdom from HR Mentors*. SABPP/Knowledge Resources
Rossouw, D. & Van Vuuren, L. 2011. *Business Ethics*. 4th ed. Cape Town: Oxford
Rustenburg Herald. 2011. Corruption under spotlight. 24 June.

Disclaimer

While every effort has been made to ensure its accuracy, this ethics guide should be used as a general guide only and users are encouraged to adapt content to the circumstances within their particular workplace and to consider the content and subject to the prevailing legislation and jurisprudence. Users are responsible for making their own assessment of the information contained herein, and for verifying relevant representations, statements and information. No responsibility is taken by the authors or publishers for any errors or omissions. The material within this ethics guide is distributed as an information source and is subject to change without notice. SABPP disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages and costs which might be incurred as a result of the information being used, or is found to be inaccurate or incomplete in any way, and for any reason.



GOLD FIELDS