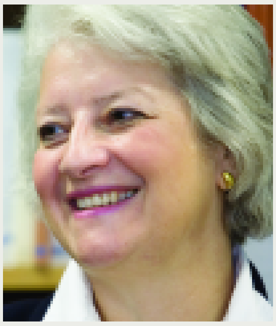
Ask the experts:

Does ethics matter?

ETHICS HAS BEEN MOVING STEADILY UP THE CORPORATE AGENDA, BUT DO ORGANISATIONS REALLY NEED AN ETHICAL POLICY WHEN REGULATION HAS GROWN SO PERVASIVE?



Philippa Foster Back, director, Institute of Business Ethics (IBE)

Doing business ethically is about going beyond the minimum standard required, so ethics picks up where the law ends. Much innovative work is being done by companies that believe operating ethically enhances their business. As industry leaders, their examples encourage others to aim higher. So I'd suggest that ethics matters even more than compliance with regulation. If the ethical culture is right, then compliance will be in order.

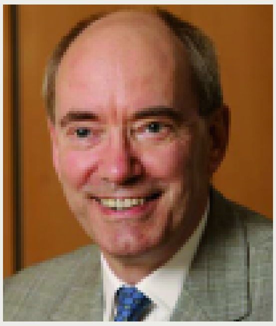
Striving to uphold high ethical standards is the hallmark of a well-managed company. Although we at the IBE would suggest that organisations do the right thing for the right reasons, there are also business benefits in implementing an effective ethics programme: attracting and retaining quality staff; winning the confidence of investors that the business is actively managing risks; and enhancing the company's reputation. These benefits usually feed through to the share price as well as lower costs of borrowing, all of which helps the bottom line. Our research a few years back (the Does Business Ethics Pay? report) confirms that companies with strong ethical commitments have historically outperformed.

Having an ethical policy is worth little unless it is communicated and embedded within the organisation so that doing business ethically is part of "how we work around here". No training means potential inconsistencies in employee conduct – you don't bring the code alive. Training is a worthwhile investment, and needn't be expensive: the IBE has developed an e-learning tool as a cost-effective way of introducing the concepts of ethical behaviour to staff.

It helps if the leaders of the company "walk the talk". Supporting staff to do the right thing – for instance by setting up a speak-up line – might cost initially, but those costs are far outweighed by savings made by potentially averting risks to the company.

Treasurers are uniquely aware of their organisation's reputation and responsibilities, whether to bankers, investors, the general public or fellow employees. As part of their role is to manage risk, treasurers can view their company's ethical policy as an insurance against integrity and reputation risk. But as individuals, because of their roles as ambassadors for the company both internally and externally, all treasurers have an important role to play in setting the corporate tone and behaving with the highest probity. The ACT ethical code sets out very clearly the treasurer's responsibilities to those who put their trust in them.

One concern is that the whole ethical tone of an organisation can be changed with a change of chief executive, and not necessarily for the good. Tone and example from the top cannot be underestimated. Boards and senior management need to do more to demonstrate ethical sensitivity. They must look at the bigger picture, and their strategy, through an ethical lens.



John Grout, ACT policy and technical director

Business needs both ethics and regulation. Ethics is the practice of making principled choices between right and wrong. It is concerned with how people ought to act and not how they do act. Ethics is value-driven and guides the way in which we make our moral precepts actionable. Its conclusions are determined by the contingencies of the situation; these should be considered as widely as necessary to analyse the consequences of an action or inaction.

By contrast, regulation is the way in which moral pressures – possibly based on widely shared moral principles – are translated into requirements of society, with sanctions for failure to follow them.

If everyone based their ethical approach on sound moral precepts and was able to apply them intelligently and with sufficiently good information about the consequences of their actions, we might not need regulation. But these standards are hard to achieve. Human frailty means not everyone will succeed, and perhaps everyone will fail in some or many ways.

Most societies have adopted the general principle that preventing harm is better than compensation after the fact. But there is vigorous debate about the principles to be applied in deciding what the ethical course of action is and even in deciding what regulation to prescribe.

Regulation can make things, including social responsiveness, easier or more difficult for business. Its purpose is to change what happens away from what the market, left to itself, would determine. Effective, good regulation needs actors in society, including businessmen (yes, treasurers too), to engage in shaping it.

Law and regulation play an important role in promoting ethical behaviour and discouraging the unethical. In themselves, though, they are incomplete and can actually produce the opposite effects. Companies need to bear that in mind in designing ethics programmes but go further in setting a more general framework. That means seeing regulation as context, rather than content.

Business efforts to influence regulation must be more than self-interest if they are to be socially acceptable. Businessmen and women then require an ethical understanding and an ethical framework so they are better able to influence regulatory formation and determine their general and specific responses to regulation and ethical issues which arise in the course of business.

Of course, regulation can never anticipate all the contingencies that may arise. A company needs a framework if it is to behave well and consistently across its activity and over time.

Stuart Siddall, chief executive of the ACT

From the ACT's perspective, members are working in what is still, outside of the financial sector, largely an unregulated market. This makes the articulation of a business ethics policy crucial.

Although the ACT explicitly covers business ethics as part of its international treasury management certificate (CertITM), as members move up the organisation ethics steadily becomes more implicit as a major part of the way in which people conduct themselves. So the ACT is working with the Institute of Business Ethics to raise the profile of ethics and we have scheduled a session on the issue for the 2011 annual conference.

The ACT must provide an environment in which people can ask questions when any situation involving business ethics arises that they don't feel comfortable with. The culture within the company that employs them is vital, particularly if it condones turning a blind eye to practices such as money laundering. And if they are unable to achieve satisfaction there is still the option of consulting the Serious Organised Crime Agency (SOCA).

Looking back 20 or 30 years ago there were many practices, such as paying commissions, which the authorities sanctioned provided that companies stayed within accepted parameters. This is no longer permitted; today's environment has become much more onerous and companies must go beyond simply "ticking boxes" if they want to be truly ethical.

Treasury departments operate in markets that are subject to regulation and must be aware of the rules governing contraventions such as market abuse. Yet unethical behaviour hasn't been entirely eliminated, as evidenced by the fines still imposed on cartels, such as banks that attempt to fix lending costs. The incentives for informing the authorities of such unethical practices are very high, so not only are the rules changing but also the ways in which they are enforced.

Often, the treasurer is the first person to see money coming into the company and the last one to see any money going out. He or she needs the wherewithal to ask if there are invoices or receipts to support these payments.

Although treasurers are likely to come under various pressures when economic times are hard, both regulation and a stronger ethical culture make it less likely that employees will behave unethically. Companies will work hard to ensure that their reputation is not affected. They know that if they gain a reputation for being unethical, then other businesses, governments and investors may refuse to deal with them. So any failure to follow good business ethics runs the risk of ultimately undermining the trading position.

A SLEEPY, SUMMER MEETING OF A MANAGEMENT GROUP CAN SUDDENLY FIND ITSELF FACED WITH AN ACUTE ETHICAL DILEMMA AFFECTING OPERATIONS AND NEEDING RAPID RESOLUTION.

Justin Welby, dean of Liverpool Cathedral and confidential ethical adviser to ACT members

Most people have three main sources for deciding on ethics. One is likely to be upbringing and culture, another will come from learning and educational influence – whether home-grown or external – and a third is the workplace. Companies and organisations have characteristics, which include ethics, in a similar way to individuals, and members of the organisation contribute to its ethics at the same time as being shaped by corporate ethical behaviour. The result is that ethics is often implied and understood – what we do or don't do – rather than expressed.

Ethical problems seldom warn us of their arrival. A sleepy, summer meeting of a management group can suddenly find itself faced with an acute ethical dilemma affecting operations and needing rapid resolution. A casual request for a helping hand on a deal by a counterparty can conceal action that one later regrets. Regulation sets minimum standards, with penal results for breaches; ethics is about the framework of often subconscious thinking that we use to guide us intuitively and consciously.

Three examples illustrate the different bases for ethics. The first is a (retrospectively) humorous meeting in the early 1980s between a New York lawyer advising a French client on the acquisition of a quoted US company and a senior executive of the client. The lawyer had flown over to France in a rush after hearing rumours of the target's stock being bought in France before the bid had been announced. The executive (long since dead) replied: "Of course, we are all buying; it's going to go up." Clash of cultures!

Second, a natural resource company meeting was considering a report that people escaping from a local country had been picked up by a support vessel near a drilling rig. "If the local country's support vessel had been on station, they would have been shot," said the report. Long and anguished discussion ensued of the right thing to do, the options being pragmatism or withdrawal from operations. Each person brought their personal views; the latter option won – just.

Lastly, late at night during preparations for a major rights issue to fund an acquisition, I suggested we skip detailed checks on one minor section of the prospectus. I was exhausted, the matter unimportant, but a colleague said quietly: "That's not what we do here." Corporate culture!

So ethics is complex in origin, and regulation is no substitute because it lacks the adaptability and elasticity needed to cope with surprise, pressure and culture, not to mention change. Ethics says that certain conduct (for example, extreme risk taking) is not merely unwise, but wrong because it is gambling with the company, and thus other people's money and employment. Regulation may say that it is legal.

All this explains why ethics must continue to be taught, thought and caught. Ethical pressures increase in hard times, although one suspects that practice does not deteriorate. Treasurers have an essential role because they are so often both the interface with financial and insurance markets and also centrally involved in risk management. Ethical risk does not feature in as many analyses of risk as it should, but its consequences can be more devastating than simple equipment failure, because reputational damage ultimately, and often quickly, impacts on the capacity to generate and raise funds.

The IBE report, Does Business Ethics Pay?, is available at bit.ly/a8st6P
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