Key Decisions in Developing a Code of Ethics

Excerpted from:


Codes of ethics have an ambiguous reputation. Some ethical codes are powerful instruments that guide the behaviour of organisations; others are totally ineffectual. This clearly indicates that a special effort is required to make an ethical code effective.

The purpose of this document is to discuss the most important decisions that need to be made in order to develop an effective code of ethics. Before doing so, it will first be determined what is meant by a ‘code of ethics’. Finally, the limitations of ethical codes will be explored.

1. What is a code of ethics?

It sometimes happens that other names are used to refer to a code of ethics. These include:
• credo;
• declaration of business principles;
• value statement;
• standard of conduct; and
• code of conduct.

Sometimes statements or documents are called ethical codes, when they are clearly not worthy of the name. A code of ethics is a document or agreement that stipulates morally acceptable behaviour within an organisation. It defines the moral standards or guidelines that need to be respected by all members of an organisation in their dealings with internal and external stakeholders.

2. Key decisions in developing a code of ethics

In developing a code of ethics a number of key decisions need to be made. The quality of these decisions will determine the ultimate effectiveness of the code. These key decisions revolve around the following six aspects of ethical codes:

• Purpose. • Process.
• Form. • Content.
• Tone. • Implementation.

2.1. The purpose of a code of ethics

The first decision that needs to be made in developing an ethical code is about the purpose(s) that the code is supposed to serve. Codes of ethics can be developed to serve a number of purposes. A distinction can be drawn between internal and external purposes that a code can serve.

A code of ethics for internal purposes
An ethical code can be used to achieve a number of internal organisational goals:

(a) It can establish agreement about standards of morally acceptable behaviour within an organisation.
(b) It can provide guidance in moral decision-making.
(c) It can promote organisational integration and co-ordination. An ethical code can rally staff around specific moral values, and strengthen commitment to the organisation.

A code of ethics for external purposes

Ethical codes can also be adopted to satisfy external stakeholders. A code of ethics sends a message to external stakeholders that will bolster their trust in or their expectations of an organisation. In some cases this is the main purpose of a code of ethics. A number of studies found that ethical codes are in some cases not even distributed to employees of organisations, but only to external stakeholders.

In the case of ethical codes for external purposes, the audience might be:

(a) Consumers or society at large: The intention might be to enhance the reputation of an organisation amongst its external stakeholders.
(b) The State: The purpose might be to deflect state interference in the internal affairs of a business or even an industry. The code of ethics is then intended to communicate a public commitment to moral responsibility.
(c) Potential litigants: An ethical code can be used to pre-empt legal action against a company. Through publication of an ethical code, an organisation can demonstrate its intention to avoid moral malpractice.

The above lists of internal and external purposes that a code can serve are not exhaustive lists and can consequently be further extended. What matters is that as a first step in developing an ethical code, clarity must be gained on what single purpose or combination of purposes the code is supposed to serve. This decision will have an impact on the remaining decisions that need to be made in developing an ethical code.

2.2. The purpose of developing a code of ethics

The ultimate purpose and intended audience of a code of ethics determine the process that will be followed in formulating the code. The process of developing the code is vital to the ultimate success of the code. In the process of developing a code, one can already start building support for the values and directives that will be written into it.

A code might be intended to impose certain moral standards upon the workforce. If so, it would be sufficient to determine the employer’s expectations and formulate them into a code of ethics. Should the purpose of the code be to establish trust amongst external stakeholders, the process would have to be structured differently. It would have to involve some engagement with these stakeholders. Should a code be intended to discourage state
regulation, the process would have to be structured in such a way that it includes discussion and negotiation with the government.

If the purpose of a code is to establish agreement about shared values between members of an organisation, a consensus-seeking process is required. This will require extensive consultation and consensus-building interventions. Commitment to a common set of ethical values cannot be imposed upon any organisation. People need to discover the need of ethical values for themselves before they will subscribe to them. The process of establishing a common set of values should allow for the personal discovery as well as for the opportunity to develop a commitment to such values. If this is not allowed to happen, the chances are slim that the values espoused in an ethical code will live in the hearts and minds of the people who are supposed to hold them. Although this might be a time-consuming process, it is the only way of ensuring that the final product enjoys everyone’s support.

2.3. The form of the code

Ethical codes can take one of two forms: It can either be an aspirational code or a directional code (or a combination of the two forms). Each of these forms has benefits and limitations.

Aspirational code

This is usually a short document that spells out the ethical values that should guide behaviour towards internal and external stakeholders of an organisation. It is aspirational in that it sets standards that all members of an organisation are expected to meet.

The benefits of an aspirational code, include the following:

• It is a concise document, so it is easy to remember.

• Being brief, it does not contain much detail and so is less likely to be confusing.

• It does not spell out every single moral action, and so shows respect for the maturity and discretion of people to apply these values as they see fit.

The strengths of an aspirational code also point to its weaknesses:

• Its general nature does not provide specific guidance on what is expected from organisational members in morally complex situations.

• This also makes it difficult to specify the consequences for someone who disregards the code. This means that it might be hard to enforce.

Directional code

In this format the ethical code is a more extended document that provides specific guidelines about what is expected from members of an organisation in specific circumstances. It has a definite directional purpose, as it spells out clearly how people within an organisation are expected to behave.
A directional code has obvious strengths:

- It is specific. It gives clear guidance to everyone within an organisation and leaves little room for misinterpretation.

- It is easy to enforce. It can spell out the consequences that will follow if someone should contravene the code.

The strength of this format is simultaneously its greatest weakness:

- Because it is so specific it tends to be long. This makes it difficult to remember.

- It does not allow much discretion. This can breed an attitude that encourages what some have come to name the eleventh commandment: ‘Thou shalt not be caught out’.

2.4. The content of the code

All or some of the following categories of content might be included in a code of ethics:

- the rationale for the code;
- ethical values or standards;
- prescriptions or prohibitions; and
- sanctions.

The rationale of the code

This is the justification for the code. It explains why the code has been developed and what purpose it is meant to serve for the organisation. The rationale for the code intends to convince the readers of the importance of the code by explaining what everyone stands to win from adherence to it.

Ethical values or standards

These provide the norms that will guide organisational behaviour. They set ethical targets for all, and can be considered the backbone of any ethical code. When a code takes the form of an aspirational code, it is not likely to go much beyond the stating of ethical values or standards. In a directional code the implications of these values and standard for organisational behaviour are likely to be spelt out.

Prescriptions or prohibitions

These are more likely to be found in directional codes. They prescribe or prohibit specific actions. Their purpose is either to avoid malpractice or to promote ethical behaviour by giving explicit directions about what is expected from organisational members.

Sanctions
These stipulate the consequences of disregard for the code. In the case of an aspirational code, sanctions can only be specified in a general way, while a directional code can refer to specific transgressions and sanctions. Common sense would seem to suggest that sanctions will make people more mindful of an ethical code, but research has not yet been able to prove this. Reward for ethical behaviour seems to be a stronger incentive for adhering to an ethical code.

2.5. The tone of the code

The spirit in which the content of a code is being communicated is important. The tone of an ethical code can have a marked influence on its effectiveness. The tones of codes can vary on a spectrum from negative and prohibiting to positive and supporting. In general, codes intended to stamp out ethical malpractice by imposing sanctions will have a negative and prohibiting tone. Codes intended to inspire members of an organisation to live up to ethical values are likely to have a positive and supportive tone.

2.6. Implementation of the code

Proper consideration needs to be given to the implementation of the code of ethics. Without this, the code will remain words on paper. It is important to realise that plans for the implementation of the code should not be postponed until after its completion. Communication of the code does not need to wait until it is finished, but should start long before that. The development process should also be a communication process. This can happen when a code is developed through consultation, negotiation, and participation. If a code is created in a transparent way the credibility of the code is greatly enhanced.

Once finalised, the ethical code needs to be communicated regularly and in different ways so it is reinforced over and over again. Communication of the code does not always have to be direct. It can also be done through the discussion of moral dilemmas or case studies. In training sessions the code can be introduced as an aid to resolution of the case at hand. The idea of a launch, where all members of an organisation are expected to subscribe to the code by undersigning it is a good idea, but it is not enough. A special effort should also be made to ensure that new appointees are acquainted with the code.

Measures to enforce the code should also be taken well in advance. There should be clarity about what would happen if a member of the organisation were to contravene the code. If special structures need to be created to deal with such transgressions, they should be in place by the time the code is officially adopted by an organisation. The ways in which a code can be enforced can be through positive or negative enforcement. Positive enforcement rewards those who behave in an exemplary fashion in terms of the code. In the case of negative enforcement some form of punishment is meted out to transgressors.

There are also other factors that have a marked influence on the effectiveness of a code. Communication of the code should be accompanied by public commitment on the part of prominent and visible people in the organisation. Should a prominent person contravene the code and get away with it, the code’s credibility will be damaged. The opposite is equally true. By demonstrating a commitment to the code in word and deed, a prominent person can enhance its influence.
The level of trust that prevails in an organisation is crucial. If the level of trust is low there will be a lot of scepticism about the ethical code. It will be regarded with suspicion. Introducing a code into such an environment is usually ineffectual. In such cases, the issue of trust needs to be addressed simultaneously.

3. Limitations of ethical codes

A well-developed and properly implemented ethical code can be a valuable asset to an organisation. It can be a powerful instrument for preventing ethical malpractice as well as for raising standards of moral behaviour in an organisation. Useful and important though it is, it would be a mistake to overestimate the value of an ethical code. An ethical code can play a vital role, but it should not be regarded as the sole instrument for managing the ethical performance of an organisation. Some of the limitations of ethical codes are identified below.

Moral autonomy

Moral autonomy refers to the ability to think independently and originally about moral matters. Members of an organisation are expected to obey an ethical code. Such obedience can be a very good thing, especially if the code offers sound ethical guidelines. It may, however, blunt people towards issues not covered by the code. A blind reliance on a code of ethics can mean that people do not develop moral sensitivity on their own. Various initiatives should be taken to keep moral debate alive in an organisation such as ongoing discussions of ethical dilemmas or new moral issues that employees have to face. This will assist them in cultivating their moral sensitivity.

Moral decision-making

A further limitation of an ethical code is that although it can provide valuable guidance, it cannot ensure that people will be able to apply the code in situations that require ethical decision-making. To make proper moral decisions, one needs to develop the relevant skills and knowledge. This implies once more that the ethical code on its own is not enough. Training in moral analysis and moral decision-making must complement it.

Dissident views

Ethical codes tend to silence dissident voices in organisations. As the purpose of a code is to enforce uniformity in moral behaviour, it follows that by its very nature an ethical code will tend to silence alternative moral views. It might well be that there are other valid moral viewpoints within an organisation that are not accommodated in the existing code. In such cases, the existing code could be viewed as oppressive and intolerant by some. The debate on ethical matters must remain open and it is important to make provision for the regular revision of the ethical code. Ironically, those codes that are most regularly re-opened for revision are the ones that most often survive a revision exercise unscathed.

Counterproductive

Introducing a code of ethics can be counterproductive when there is a discrepancy between the professed and actual behaviour of an organisation. If the ethical code is perceived by
external stakeholders, for example, to be nothing but a ploy intended to pacify or impress, they are likely to react with greater cynicism towards the organisation. The same can happen within an organisation, when employees perceive the ethical code to be an insincere effort at manipulation by the employer.

4. **Conclusion**

Ethical codes can be effective instruments for promoting better behaviour in organisations. A code of ethics can help to limit ethical malpractice. But its effectiveness is not guaranteed, and much depends upon careful planning and a number of vital decisions that need to be taken during as development and implementation. Even in cases where ethical codes are effective, they will have limitations and need to be complemented by other measures.