

The professional and ethical approach to HRM and L&D

08

Key concepts and terms

- *Bounded rationality*
- *Core values*
- *Deontological ethics theory*
- *Discourse ethics theory*
- *Distributive justice*
- *Ethics*
- *Fair dealing*
- *Morality*
- *Morals*
- *Natural justice*
- *Procedural justice*
- *Social justice*
- *Stakeholder theory*
- *Utilitarianism*

LEARNING OUTCOMES

On completing this chapter you should be able to define these key concepts. You should also understand:

- The nature of professionalism
- What constitutes a professional ethos

- The role of professional codes of conduct
- The nature of professional ethical standards
- The role and nature of organizational codes of conduct
- The meaning of ethics
- The nature of ethical decisions and judgements
- The ethical concepts of deontology, utilitarianism, stakeholder theory and discourse theory
- The significance of the concepts of equity, justice and fair dealing
- The ethical dimension of HRM
- HRM ethical guidelines
- Ethical dilemmas and how to deal with them
- What is involved in managing within the expectations of the law

Introduction

The theme of this chapter is that there is an ethical dimension to human resource management which requires HR specialists to act professionally. To do this they need initially to appreciate what professionalism means in terms of ethical standards, and the role of professional and organizational codes of conduct. To grasp the ethical dimension in their work they need to understand the nature and principles of ethics, the ethical role of HR and the ethical guidelines they can use. They should also know about approaches to resolving ethical dilemmas and the issues relating to managing within the law.

Professionalism

A profession is defined in the *Compact Oxford Dictionary* (1971: 2316) as: 'A vocation in which professional knowledge of some department of learning is used in its application to the affairs of others or in the practice of an art founded upon it.' Professionalism is defined as: 'Professional quality, character, method or conduct; the stamp of a particular profession' (ibid: 2316).

More loosely, professionalism can be defined as the conduct exhibited by people who are providing advice and services which require expertise and which meet defined or generally accepted standards of behaviour. Work done by a professional is usually distinguished by its reference to a framework of fundamental concepts which reflect the skilful application of specialized education, training and experience. It is accompanied by a sense of responsibility and an acceptance of recognized standards. Even more loosely, people can be described as acting 'professionally' when they do their work well and act responsibly.

Fletcher (2004) stated that a professional ethos is characterized by the following ingredients:

- the possession of specialized knowledge and skills;
- power and status based on expertise;
- self-discipline and adherence to some aspirational performance standards;
- the opportunity to display high levels of autonomy;
- the ability to apply some independence of judgement;
- operating, and being guided by, a code of ethics;
- allegiance to a professional body.

Like those in other fields, HR professionals are required to uphold the standards laid down by their professional body but they must also adhere to their own ethical values. Additionally, they are bound by organizational codes of conduct expressed formally or accepted and understood as core values (the basic values adopted by an organization which set out what is believed to be important about how people and the organizations should behave).

Codes of professional conduct

Codes of professional conduct define the ethical standards that members of a profession should adhere to. The CIPD Code of Professional Conduct (2008) states, *inter alia*, that:

CIPD members are expected to exercise relevant competence in accordance with the Institute's professional standards and qualifications. In the public interest and in the pursuit of its objects, the Chartered Institute of Personnel and Development is committed to the highest possible standards of professional conduct and competency. To this end members are required to exercise integrity, honesty, diligence and appropriate behaviour in all their business, professional and related personal activities.

The standards set out in the Recruitment and Employment Confederation code of practice are:

- respect for work relationships;
- respect for honesty and transparency;
- respect for confidentiality and privacy;
- respect for laws;
- respect for diversity;
- commitment to professional development.

The National School of Government (2010) has produced a code of ethics and practice for learning and development specialists which includes the following 'issues of responsibility':

- You should demonstrate a commitment to professional and ethical practice.

- You should ensure that your relationships with learners are not exploitative or a misuse of your role or power.
- You should behave with sensitivity and professionalism, being an ambassador for your organization and your profession.
- You should at all times make every effort to avoid bringing the profession into disrepute.
- You should demonstrate a respect for individuals and their needs.
- You should deal with trainees fairly, consistently and with impartiality.
- You should avoid language that could be regarded as offensive, suggestive or discriminatory.
- You should avoid behaviour that could be regarded as harassment, bullying, exploitation or intimidation.

Professional ethical standards

Professional ethics are the moral principles and values governing professional behaviour which may or may not be enshrined in codes of practice. The ethical principles of the HR profession require HR professionals to take account of the dignity and rights of employees when making employment decisions.

The ethical frameworks for judging HR practices are the basic rights of people, the principles of social, natural, procedural and distributive justice (these are defined later), the need to achieve fairness, equity and consistency in managing people, and the obligation to treat them with respect and consideration.

These principles can conflict with organizational objectives to maximize performance, increase shareholder value and achieve more with less. They are also affected by issues such as pressure for more flexibility, work intensification, the use of HR techniques such as performance-related pay and performance management, and management practices such as expecting people to meet demanding performance targets and closely monitoring employee performance.

HR specialists are part of management. But there will be occasions when in their professional capacity they should speak out against plans or actions which are not in accord with the ethical standards or values professed by the organization in its code of conduct, if it has one. If not, HR professionals should speak out in accordance with the standards and values they believe in. And they should do their best to develop more exacting ethical standards and influence changes in core values where they feel they are necessary. They must not tolerate injustice or inequality of opportunity. But speaking out is probably the most demanding task that HR people have to do. It is never easy to challenge a course of action proposed or taken by management which may well be supported by a compelling business case. It takes courage and determination and it is, of course, advisable to be sure that there are good grounds for doing so.

HR professionals may often find themselves in a hardnosed, entrepreneurial environment. But this does not mean that they can remain unconcerned about developing and helping to uphold organizational core values in line with their own values on the ethical principles which govern how people should be managed. These may not always be reconcilable, and if this is strongly the case, the HR professional may have to make a choice on whether he or she can remain with the organization.

Professionalism in human resource management means acting in accordance with ethical standards. It means recognizing that there is an important ethical dimension to the work of HR professionals. All the more reason to be surprised that the current CIPD professional standards map issued in 2009 did not indicate that ethical considerations apply to HR at all apart from one passing reference to the need to adopt an ethical approach when managing conflict situations.

Organizational codes of practice (ethics policies)

Organizational codes of practice provide rules, policies and guidelines on what is considered to be appropriate ethical behaviour. The Institute of Business Ethics (2011) has stated that the proportion of larger UK companies with explicit ethics policies has risen over the last 10 years from a third to more than a half. Having an ethics policy is now considered a hallmark of a well managed company. The ethics policy is normally expressed in a code of business ethics, sometimes called a code of business conduct or principles. As described by the Institute of Business Ethics, an ethics policy:

- details an organization's ethical values, standards and commitments to stakeholders that will underpin the way that it does business;
- confirms leadership commitment to the above;
- describes how this will be achieved and monitored through an ethics programme;
- identifies the main ethical issues faced by the organization/sector;
- identifies other policies and documents that support and detail aspects of the ethics policy – such as a code of ethics, a speak-up policy, a bullying and harassment policy, a gifts and hospitality policy, an environment policy, etc.

Aims

The main aims of an ethics policy, code and programme can be set out under the following headings:

- Values – to embed a set of ethical values into the organization's goals and strategies and the way it seeks to do what it does.

- Ethical behaviour – to provide guidance and support to staff for making decisions and carrying out their work in a way that is compatible with the organization's ethical values and standards.
- Corporate culture – to consolidate and strengthen a culture of integrity and openness so as to facilitate a sustainable business.
- Risk – to minimize operational and integrity risks.
- Reputation – to enhance trust among stakeholders so as to facilitate business success.
- Sustainability – to minimize the organization's negative impacts on and maximize its positive contribution to the social, economic and environmental well-being of wider society.

Examples

Here are some extracts from company codes to provide a flavour of what they can contain.

Santander – respect for people

- Harassment, abuse, intimidation, lack of respect and consideration are unacceptable and will not be permitted or tolerated in the workplace.
- Those employees with personnel reporting to them in the group's organizational units should ensure, with the resources available to them, that such situations do not occur.
- All employees, especially those with managerial responsibilities, shall uphold, at all times and at all professional levels, relations based on respect for the dignity of others, participation, equality and reciprocal cooperation, fostering a respectful and positive working environment.

Shell code of conduct

- You should base hiring, evaluation, promotion, training, development, discipline, compensation and termination decisions on qualifications, merit, performance and business considerations only.
- Do not discriminate according to race, colour, religion, age, gender, sexual orientation, marital status, disability, ethnic origin or nationality.
- Be aware of local legislation and cultural factors that may impact decisions.

Unilever code of business principles – employees

Unilever is committed to diversity in a working environment where there are mutual trust and respect and where everyone feels responsible for the performance and reputation of our company. We will recruit, employ and promote employees on the sole basis of the qualifications and abilities needed for the work to be performed. We are committed to safe and healthy working conditions for all employees. We will not use any form of forced, compulsory or child labour. We are committed to working with employees to develop and enhance each individual's skills and capabilities. We respect the dignity of the individual and the right of employees to freedom of association. We will maintain good communications with employees through company-based information and consultation procedures.

Reservations about codes of ethics

Codes of ethics are desirable but they are not the whole answer. As Bagley (2003: 19) commented:

It would be naive to think that devising a corporate ethics policy is easy or that simply having a policy will solve the ethical dilemmas companies face. Directors, managers, and employees need to exercise their own fundamental sense of right and wrong when making decisions on behalf of the corporation and its shareholders. There is a lesson in the story of the pension fund manager who was asked whether she would invest in a company doing business in a country that permits slavery. 'Do you mean me, personally, or as a fund manager?' she responded. When people feel entitled or compelled to compromise their own ethics to advance the interests of a business or its shareholders, it is an invitation to mischief.

Reservations have also been expressed by Webley and Werner (2008: 405–06). They observed that: 'Though necessary, having an ethics policy based solely on a code of ethics is not sufficient to affect employee attitudes and behaviour.' This conclusion was similar to that reached by Schwartz (2004), whose research established that the mere existence of a code is unlikely to influence employee behaviour and that companies simply possessing a code could be subject to allegations of window dressing.

Webley and Werner (2008: 406) also commented that many of the businesses being singled out by the media as less than ethical have had an explicit ethics policy: 'Enron is but one dramatic example... This is what Kenneth Lay wrote in 2000: "We want to be proud of Enron and know that it enjoys a reputation for fairness and honesty and that it is respected."' They also reported on research by the UK Institute of Business Ethics which was conducted in 2005, covering 759 full-time employees. In the survey,

one in two respondents said that they had noticed unethical behaviour but had failed to report it. Further analysis revealed that two out of three of the employees who had noticed unethical behaviour worked for organizations that had a code of ethics. Webley and Werner argued that formal ethics programmes can be deficient for any or all of the following reasons:

- They only encompass a narrow set of issues without addressing wider obligations.
- They might be compliance based, simply consisting of a set of rules that the employees are expected to follow ('Do it or else').
- The code is not company specific, reflecting real issues and involving employees in their identification.
- Management commitment is absent.
- The code is not sufficiently communicated and embedded in the organization.
- The code is inconsistent with embedded corporate culture, for example pressure on managers to meet targets.

The point about embedding is especially pertinent. As Collier and Estaban (2007: 30) concluded:

It is not enough to have mission statements and codes of ethics. It is necessary for ethics to be embedded in the cultural fabric of the business as well as in the hearts and minds of its members.

This is where HR professionals come in, as explained later in this chapter. But to play a part in embedding ethics and resolving ethical dilemmas it is necessary to understand the nature of ethics and the ethics dimension as described below.

The meaning and nature of ethics

Ethics, as a system, is concerned with making judgements and decisions about what is the right course of action to take. It is defined by the *Compact Oxford Dictionary* (1971: 900) as being 'related to morals, treating of moral questions', and 'ethical' is defined as 'relating to morality'. Morals define what is right rather than wrong. Morality is behaving in a moral or ethical way: possessing moral qualities.

Petrick and Quinn (1997: 42) wrote that ethics is 'the study of individual and collective moral awareness, judgement, character and conduct'. Hamlin et al (2001: 98) noted that ethics is concerned with rules or principles that help us to distinguish right and wrong.

Ethics and morality are sometimes treated as being synonymous although Beauchamp and Bowie (1983: 1–2) suggested that they are different: 'Whereas morality is a social institution with a history and code of learnable rules, ethical theory refers to the philosophical study of the nature of ethical

principles, decisions and problems.’ Clearly, ethics is concerned with matters of right and wrong and therefore involves moral judgements. Even if they are not the same, the two are closely linked. Clegg et al (2007: 111) wrote: ‘We understand ethics as the social organizing of morality.’

The nature of ethical decisions and judgements

As defined by Jones (1991: 367), an ethical decision is one that is morally acceptable to the larger community. He also noted that: ‘A moral issue is present where a person’s actions, when freely performed, may harm or benefit others. In other words, the action or decision must have consequences for others and must involve choice, or volition, on the part of the actor or decision maker’ (ibid: 367).

Winstanley and Woodall (2000a: 8–9) pointed out that:

Ethics is not about taking statements of morality at face value; it is a critical and challenging tool. There are no universally agreed ethical frameworks... Different situations require ethical insight and flexibility to enable us to encapsulate the grounds upon which competing claims can be made. Decisions are judgements usually involving choices between alternatives, but rarely is the choice between right and wrong... Moral disagreement and judgements are concerned with attitudes and feelings, not facts.

Clegg et al (2007: 112) emphasized that: ‘Ethical decisions emerge out of dilemmas that cannot be managed in advance through rules.’ People have to make choices. Foucault (1997: 284) asked: ‘What is ethics, if not the practice of freedom?’

Ethics can be described in terms of a framework which is based on ethical theory and makes use of particular concepts such as equity, justice and fair dealing which guide ethical behaviour. Such frameworks can be used to develop, apply and evaluate HRM policies and practices.

Ethical theories

There are a number of theories explaining the nature of ethics. The main ones are deontology, utilitarianism, stakeholder theory and discourse theory, as described below.

Deontological theory

Deontological (from the Greek for ‘what is right’) theory maintains that some actions are right or wrong irrespective of their consequences. It is associated with Kant’s notion of the categorical imperative, which contains two main propositions: (1) that one should follow the principle that what is

right for one person is right for everyone, and thus you must do to others as you would be done by; and (2) that you should respect all people and treat them as ends in themselves, not as the means to an end.

Utilitarianism

Utilitarianism is the belief that actions are justified when they result in the greatest good to the greatest number. Actions should be judged in terms of their consequences. This is sometimes interpreted as supporting the dubious principle that the end justifies the means.

Stakeholder theory

In accordance with the ideas of Freeman (1984), stakeholder theory states that the organization should be managed on behalf of its stakeholders: its owners, employees, customers, suppliers and local communities. As Karen Legge (1998: 22) described it, management must act in the interests of the stakeholders as their agent, and also act in the interests of the organization to ensure the survival of the firm, safeguarding the long-term stakes of each group.

Discourse ethics

Foucault (1972) defined discourse as the taken-for-granted ways that people are collectively able to make sense of experience. Discourse ethics as explained by Winstanley and Woodall (2000a: 14) suggests that 'the role of ethicists is not to provide solutions to ethical problems, but rather to provide a practical process and procedure which is both rational and consensus enhancing, through which issues can be debated and discourse can take place.'

Ethical concepts

The ethical concepts of equity, justice and fair dealing complement the theories described above by providing more specific guidance on ethical behaviour.

Equity

Equity theory, as formulated by Adams (1965), is concerned with the perceptions people have about how they are being treated as compared with others. To be dealt with equitably is to be treated fairly in comparison with another group of people (a reference group) or a relevant other person. Equity involves feelings and perceptions and it is always a comparative process. It is not synonymous with equality, which means treating everyone the same, since this would be inequitable if they deserve to be treated differently.

Justice

Justice is the process of treating people in a way that is inherently fair, right and proper. An egalitarian theory of justice was proposed by Rawls (2005), and contained two principles:

- Every person has the right to basic liberty compatible with similar liberty for others.
- Inequalities should be arranged so that they are expected to be to everyone's advantage and attached to positions open to all.

There are four types of justice: social justice, natural justice, procedural justice and distributive justice.

Social justice

Social justice means treating people in accordance with the principles of human rights, human dignity and equality. In society, as argued by Rawls (2005: 3):

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others.

Rawls thus rejected the principle of utilitarianism and the pernicious belief that the end justifies the means.

In organizations, social justice means relating to employees generally in ways which recognize their natural rights to be treated justly, equitably and with respect.

Natural justice

According to the principles of natural justice, employees should know the standards they are expected to achieve and the rules to which they are expected to conform; they should be given a clear indication of where they are failing or what rules have been broken and, except in cases of gross misconduct, they should be given a chance to improve before disciplinary action is taken.

Procedural justice

Procedural justice (Adams, 1965 and Leventhal, 1980) involves treating people in ways which are fair, consistent, transparent and properly consider their views and needs. It is concerned with fair process and the perceptions employees have about the fairness with which company procedures in such areas as performance appraisal, promotion and discipline are being operated. The five factors that affect perceptions of procedural justice as identified by Tyler and Bies (1990) are:

- adequate consideration of an employee's viewpoint;
- suppression of personal bias towards an employee;
- applying criteria consistently across employees;

- providing early feedback to employees about the outcome of decisions;
- providing employees with an adequate explanation of decisions made.

Distributive justice

Distributive justice (Adams, 1965 and Leventhal, 1980) means ensuring that people are rewarded equitably in comparison with others in the organization and in accordance with their contribution, and that they receive what was promised to them.

Fair dealing

Fair dealing occurs when people are treated according to the principles of social, natural, procedural and distributive justice, and when the decisions or policies that affect them are transparent in the sense that they are known, understood, clear and applied consistently.

The ethical dimension of HRM

Karen Legge (1998: 20–21) commented that: ‘In very general terms I would suggest that the experience of HRM is more likely (but not necessarily) to be viewed positively if its underlying principles are ethical.’ HR professionals have a special responsibility for guarding and promoting core values in the organization on how people should be managed and treated generally. They are particularly concerned with values relating to just and fair treatment. They need to take a deontological stance which emphasizes that some actions are right or wrong irrespective of their consequences and that all people should be respected and treated as ends in themselves, not as the means to an end. This is not easy. Ethical decisions may not be clear cut. Interests conflict. But it is a necessary part of professionalism in HRM.

An important role for HR professionals is to do whatever they can to embed the consistent application of ethical values in the organization so that they can become values in use rather than simply professed values in a code of practice or values statement. As Winstanley and Woodall (2000b: 7) observed: ‘HR professionals have to raise awareness of ethical issues, promote ethical behaviour, disseminate ethical practices widely among line managers, communicate codes of ethical conduct, ensure people learn about what constitutes ethical behaviours, manage compliance and monitor arrangements.’

To do all this, HR professionals may sometimes have to nag away without appearing to nag. But as necessary they need the courage to stand up and be counted. They need determination, persuasive skills and the ability to deal with the ethical dilemmas that they and line managers face in as rational a manner as possible. In the field of organizational ethics, HR

people can lead by example. They can handle ethical issues in ways which become part of the organization's culture – 'the way we do things around here'.

The difficulties that HR professionals face in doing all this have been well-described by Guest and King (2004: 421) as follows:

Much management activity is typically messy and ambiguous. This appears to apply more strongly to people management than to most other activities. By implication, the challenge lies not in removing or resolving the ambiguities in the role but in learning to live with them. To succeed in this requires skills in influencing, negotiating and learning when to compromise. For those with a high tolerance of ambiguity, the role of HR specialist, with its distinctive opportunity to contribute to the management of people in organizations, offers unique challenges; for those only comfortable if they can resolve the ambiguities, the role may become a form of purgatory.

HRM ethical guidelines

The guidelines set out below relate to how employees are treated in general and to the major HRM activities of organization development, recruitment and selection, learning and development, performance management, reward management, employee relations, and employment practices concerning the work environment, employee well-being, equal opportunities, managing diversity, handling disciplinary matters and grievances, job security and redundancy.

General guidelines

- Recognize that the strategic goals of the organization should embrace the rights and needs of employees as well as those of the business. This is in line with the comment made by Boxall et al (2007: 5) that: 'While HRM does need to support commercial outcomes (often called "the business case"), it also exists to serve organizational needs for social legitimacy.'
- Recognize that employees are entitled to be treated as full human beings with personal needs, hopes and anxieties.
- Do not treat employees simply as means to an end or mere factors of production. This accords with the comment made by Osterby and Coster (1992: 31) that: 'The term "human resources" reduces people to the same category of value as materials, money and technology – all resources, and resources are only valuable to the extent they can be exploited or leveraged into economic value.'
- Relate to employees generally in ways which recognize their natural rights to be treated justly, equitably and with respect.

Organization development

- Agree in advance with clients and individuals the goals, content and risks of an OD programme.
- Make explicit any values or assumptions used in the programme.
- Obtain the maximum involvement of all concerned in the programme so that they understand the processes involved and how they can benefit from them.
- Work with clients to plan and implement change to the benefit of all stakeholders.
- Enable individuals to continue with their development on completing the programme.
- Protect confidentiality.

Recruitment and selection

- Treat candidates with consideration – applications should be acknowledged, candidates should be kept informed without undue delay of decisions made about their application and they should not be kept waiting for the interview.
- Avoid intrusive questioning in interviews.
- Do not put candidates under undue stress in interviews.
- Do not criticize any aspect of the candidate's personality or experience.
- Use relevant selection criteria based on a proper analysis of job requirements.
- Give candidates reasonable opportunity to present their case and to ask questions.
- Avoid jumping to conclusions about candidates on inadequate evidence or as a result of prejudice.
- Give accurate and complete information to candidates about the job, prospects, security and terms and conditions of employment.
- Only use properly validated tests administered by trained testers.
- Do not use discriminating or biased tests.
- Monitor tests for impact and unintended bias.
- Ensure that candidates are not unfairly disadvantaged by testing processes.
- Give candidates feedback on test results unless there are compelling reasons why feedback should not be given.
- Ensure that selection decisions are free of discrimination or bias on the grounds of sex, sexual orientation, race, age or disability.
- Give unsuccessful candidates the reason for the decision if they request it.

Learning and development

- Respect individual rights for dignity, self-esteem, privacy and autonomy.
- Recognize that it is necessary and legitimate to provide individuals with learning opportunities which enable them to gain the knowledge and skills required to perform well in their jobs and develop their potential. But note that individuals should still be allowed autonomy to choose the extent to which they pursue learning and development programmes beyond this basic requirement.
- Accept that while the organization has the right to conduct learning and development activities which enhance performance, individuals also have the right to be provided with opportunities to develop their own knowledge, skills and employability.
- Ensure that people taking part in learning events feel ‘psychologically safe’ in accordance with the view expressed by Schein (1993: 91) that: ‘To make people feel safe in learning, they must have a motive, a sense of direction, and the opportunity to try out new things without the fear of punishment.’
- Avoid manipulating people to accept imposed organizational values.

Performance management

Performance management ethical principles have been defined by Winstanley and Stuart-Smith (1996) as follows:

- Respect for the individual – people should be treated as ‘ends in themselves’ and not merely as ‘means to other ends’.
- Mutual respect – the parties involved in performance management should respect each other’s needs and preoccupations.
- Procedural fairness – the procedures incorporated in performance management should be operated fairly in accordance with the principles of procedural justice.
- Transparency – people affected by decisions emerging from performance management processes should be given the opportunity to scrutinize the basis upon which decisions were made.

Reward management

- Generally apply the principles of procedural and distributive justice.
- Ensure that reward policies and practices are fair, equitable and transparent and that they are applied consistently.
- Reward people according to their contribution.

- Ensure that people know in general the basis upon which rewards are provided and in particular how their own reward package is determined.
- Maintain reasonable and defensible pay differentials.
- Ensure that equal pay is provided for work of equal value.
- Base decisions on performance pay or bonuses on fair and equitable criteria.
- Avoid bonus schemes which encourage undesirable behaviour.

Employee relations

- Deliver the deal.
- Be open to employees' input and responsive to justifiable questions and concerns about employment policies and practices.
- Provide genuine opportunities and channels for employees to express their views and influence decisions on matters that affect them.
- Negotiate in good faith.
- Recognize that the interests of management and employees do not necessarily coincide, and develop and implement employee relations policies accordingly.

Employment practices

- Create a healthy, safe and fulfilling work environment.
- Promote the well-being of employees by improving the quality of working life provided for them, exercising concern for work/life balance and developing family-friendly policies.
- Provide equal opportunities for all with regard to recruitment and selection, learning and development, talent management, career progression and promotion.
- Manage diversity by recognizing the differences between people and ensuring that everyone feels valued and that the talents of all employees will be properly utilized.
- Handle disciplinary matters according to the principles of natural justice.
- Recognize that people may have legitimate grievances and respond to them promptly, fully and sympathetically.
- Preserve job security as far as possible and take alternative action to avoid compulsory redundancies.
- If compulsory redundancy is unavoidable, do whatever is possible to alleviate the distress by, for example, helping people to find work.

Ethical dilemmas

‘Ethics will be enacted in situations of ambiguity where dilemmas and problems will be dealt with without the comfort of consensus or certitude’ (Clegg et al, 2007: 109). As Baumann, quoted in Bauman and Tester (2001: 44), remarked: ‘Morality concerns choice first of all – it is the predicament human beings encounter when they must make a selection amongst various possibilities.’ And Derrida (1992) commented that ethical responsibility can exceed rational calculation.

Typical ethical dilemmas, with examples and approaches to dealing with them are examined below.

Ethical dilemma situations

The following is a sample of the sort of HRM situations which might create ethical dilemmas:

- There is tension between the needs of the organization and the needs of individuals, for example when an organization changes working arrangements and prejudices the work–life balance of some but not all employees.
- There is conflicting evidence in a disciplinary case and it is difficult to decide who to believe.
- The pressure to achieve targets creates corner-cutting in achieving results involving contraventions of company rules.
- There are apparently mitigating circumstances in a disciplinary case and the question is whether these justify not taking action.
- An accusation of bullying has been made but it is difficult to ascertain whether this is a clear case of bullying or overreaction on the part of the complainant to the normal pressures of day-to-day work.

Resolving ethical dilemmas

As Adam Smith (1759) wrote in *The Theory of Moral Sentiments* (quoted by Harrison, 2009: 246):

When ethically perplexed, the question we should always ask is: would a disinterested observer, in full possession of the relevant facts, approve or disapprove of our actions?

This guidance is just as compelling and relevant today.

Woodall and Winstanley (2000: 285) pointed out that ‘being ethical is not so much about finding one universal principle to govern all action, but more

about knowing how to recognize and mediate between often unacknowledged differences of view'. By definition, an ethical dilemma is one that will be difficult to resolve. There may be all sorts of issues surrounding the situation, some of which will be unclear or contentious. The extent to which people react or behave rationally may be limited by their capacity to understand the complexities of the situation they are in and affected by their emotional reactions to it (the concept of bounded rationality). Faced with factors such as these, the process of ethical dilemma resolution can be hard going.

There is no 'one right way' to deal with an ethical dilemma, but an approach based on systematic questioning, analysis and diagnosis to get at the facts and establish the issues involved is more likely to produce a reasonably satisfactory outcome than one relying purely on 'gut feeling'. The following checklist – used judiciously and selectively according to the circumstances – can provide a basis for such questioning and analysis:

- What are the known facts about the situation and is it possible that there are facts or circumstances that have not come to light; and if so, what can be done to uncover them?
- In disciplinary or conduct cases, to what extent does the conduct contravene the organization's code of ethical conduct (if one exists) or any other relevant organizational policy guidelines and rules?
- Have different versions or interpretations of the facts and circumstances been offered and if so, what steps can be taken to obtain the true and full picture?
- Is the proposed action in line with both the letter and the spirit of the law?
- Are the proposed action and any investigations leading to it consistent with the principles of natural, procedural or distributive justice?
- Will the proposed action benefit the organization and if so, how?
- Is there any risk of the proposed action doing harm to the organization's reputation for fair dealing?
- Will the proposed action be harmful to the individual affected or to employees generally in any way and if so, how?
- Do the facts as established and confirmed justify the proposed action?
- Are there any mitigating circumstances (in disciplinary cases)?

Managing within the expectations of the law

HR professionals must clearly comply with the requirements of employment law but they also have the important responsibility of ensuring the compliance of managers and individual employees to it.

Providing for compliance means that HR should educate and inform managers and team leaders of their legal obligations and how they can best fulfil them. This can be done formally through guidance notes and training but there is a continuing need to provide advice and guidance on specific issues and to help deal with problems that require a deeper knowledge of employment law than it would be reasonable to expect managers to possess. This is an area of management where HR is expected to take the lead. The HR function will be judged on the extent to which it minimizes references to employment tribunals, but HR professionals should go beyond simple compliance and also be concerned with seeing that the spirit of the law in such areas as discrimination and equal pay is upheld.

KEY LEARNING POINTS

Professionalism

Professionalism can be defined as the conduct exhibited by people who are providing advice and services which require expertise and which meet defined or at least generally accepted standards of behaviour.

HR professionals

HR professionals are required to uphold the standards laid down by their professional body but they must also adhere to their own ethical values.

Codes of professional conduct

Codes of professional conduct define the ethical standards that members of the profession should adhere to. Professional ethics are the moral principles and values governing professional behaviour which may or may not be enshrined in codes of practice.

Organizational codes of practice

Organizational codes of practice provide rules and guidelines on what is considered to be appropriate ethical behaviour. Professionalism in human resource management means acting in accordance with ethical standards. It means recognizing that there is an important ethical dimension to the work of HR professionals. Codes of ethics are desirable but they are not the whole answer.

Ethics and morality defined

Ethics as a system is defined by the *Compact Oxford Dictionary* (1971: 900) as being 'related to morals, treating of moral questions', and 'ethical' is defined as 'relating to morality'. 'Morality' is defined as 'having moral qualities or endowments' and 'moral' is defined as 'of or pertaining to the distinction between right and wrong'. Simplistically, ethics could be described as being about behaviour while morality is about beliefs.

Ethics is concerned with making ethical decisions and judgements. It can be described in terms of an ethical framework which sets out different approaches and can be extended to embrace particular concepts which affect and guide ethical behaviour, namely: equity, justice, and fair dealing. An ethical decision is one that is morally acceptable to the larger community.

Ethical concepts

The ethical concepts of deontology, utilitarianism, stakeholder theory and discourse theory provide frameworks which can be used to evaluate HRM policies and practices.

Fair dealing

Fair dealing occurs when people are treated according to the principles of natural, procedural and distributive justice, and when the decisions or policies that affect them are transparent in the sense that they are known, understood, clear and applied consistently.

The role of HR

HR professionals have a special responsibility for guarding and promoting core values in the organization on how people should be managed and treated generally. They are particularly concerned with values relating to just and fair treatment.

An important role for HR professionals is to do whatever they can to embed the consistent application of ethical values in the organization so that they can become values in use rather than simply professed values in a code of practice or values statement.

Ethical guidelines

Ethical guidelines exist which set out how employees are treated in general and relate to the major HRM activities of organization development, recruitment and selection, learning and development, performance management, reward management, employee relations, and employment practices concerning the work environment, employee well-being, equal opportunities, managing diversity, handling disciplinary matters and grievances, job security and redundancy.

Handling ethical dilemmas

There is no 'one right way' to deal with an ethical dilemma but an approach based on systematic questioning, analysis and diagnosis to get at the facts and establish the issues involved is more likely to produce a reasonably satisfactory outcome than one relying purely on 'gut feeling'. An ethical dilemma is one that will be difficult to resolve. There may be all sorts of issues surrounding the situation, some of which will be unclear or contentious.

Managing within the expectations of the law

HR professionals must clearly comply with the requirements of employment law but they also have the important responsibility of ensuring the compliance of managers and individual employees to it.

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Questions

- 1 What is a profession?
- 2 What is professionalism?
- 3 What are the main elements of a professional ethos? (Name at least three.)
- 4 What is a code of professional conduct?
- 5 What are the key points made in the CIPD code of professional conduct?
- 6 What are professional ethics?
- 7 What is the ethical framework for judging HR practices?
- 8 What is the purpose of organizational codes of ethics?
- 9 What reservations can be made about the effectiveness of organizational codes of ethics?
- 10 What are ethics?
- 11 What is the nature of ethical judgements?
- 12 What is the deontological theory of ethics?

- 13 What is the utilitarian theory of ethics?
- 14 What did Rawls have to say about social justice?
- 15 What is stakeholder theory?
- 16 What is procedural justice?
- 17 What is distributive justice?
- 18 What is the ethical dimension of HRM?
- 19 What are commonly accepted general guidelines on HR ethical behaviour? (Name at least three.)
- 20 How should ethical dilemmas be dealt with? (List at least three approaches.)