

Cobalt Solutions  
For Business Owners



## VALUE-BASED DECISION-MAKING IN EMPLOYMENT

What impact does management's actions and employment-related decisions have on the organisation's value system? Are management's actions and decisions aligned with the organisation's values, or is their divergence between what the organisation professes to believe in and what its managers actually do? Are the organisation's employment relations practices aligned with its corporate governance objectives? Do managers advance the interests of the organization (and therefore of the shareholders) or their own interests only?

Take this all too common scenario: suppose that a senior employee is suspected of dishonesty. Given the potential consequences for the organisation's public or market reputation and maybe out of concern for the future of their colleague, senior management decide to give the wrongdoer an ultimatum: resign or face disciplinary action. Fortunately for both, he decides to resign rather than face the consequences. (Fortunately for him because his reputation remains intact; fortunately for the company because it is able to avoid the reputational fall-out of the senior's conduct). A month or so later a more junior employee commits a similar transgression. This time, however, management decide to show its disapproval and 'zero tolerance' of this type of behaviour and forthwith suspend the employee pending a hearing that eventually results in the employee's dismissal. Upon receipt of a letter from the employee's lawyer or union complaining about inconsistent treatment of the employee (for by now news about the senior's lucky escape has become known), HR's advice is urgently sought. Typically, in this situation, management would ask two questions: have we created some kind of precedent? If so, what's the worst case scenario, legally speaking? Upon being informed that the risk of a finding at the CCMA or bargaining council that management had acted inconsistently, but that the risk possibly can be limited with an early settlement offer at conciliation, management heave a sigh of relief at the fact that the risk is under control.

Or perhaps this example: a manager insists that a particular employee, who is perceived to be an under-performer (but whose performance ratings are average, at worst) should form part of a group of employees targeted for retrenchment. Despite HR's protestations that the individual falls outside of the ambit of the company's selection criteria, the manager is adamant that the employee must somehow be brought into the net. While this might make the manager's life easier, it poses legal risks for the company. Fortunately, with good advice, the risk could possibly be limited.

In both examples there is one question that management failed to ask, namely: how do we justify our actions in terms of the company's values? Is what we did (by letting the senior go off virtually scot-free) reconcilable with our values of 'transparency', 'integrity' and such like? The longer term damage done by the not adhering to the company's values far exceeds the price of a risk-limiting settlement at the CCMA.

What does this mean in practice? For HR professionals in organisations, it is imperative to start promoting compliance with labour law as a matter of good governance and not merely as a business risk that needs managing. For the line manager or business owner, it means that one would need to consider not only the legal risks involved in employment-related decisions, but also how the decisions we take affect the organisation's value system and the interests of shareholders.