



# How to ensure **ethical decision- making and integrity** in your organisation?



### ***The moral costs of moral dilemmas***

*“A moral dilemma is usually a ‘good-versus-good’ issue. With such an issue, the (positively formulated) interests of all stakeholders are considered and the values and norms of the organisation applied. A choice is then made from a number of alternatives. There are good arguments to be made for each of the alternatives. The ultimate choice virtually always leads to moral costs because some arguments are not as easily accepted.”*

*F.M. Rost van Tonningen & S.J.P. Louwers, ‘De Commissie Ethiek bij de Rabobank’, Compliance Yearbook 2019.*

# Ethical decision-making and integrity

**It may sound vague. But it's not.** Ethics is about doing the good things, the right way. Every day. When a bank employee takes a decision, about a company's financing request for example, that decision affects more than just the company submitting the request. It also affects the people who work there, their families, the company's customers and community. Take, for example, the organisations the company sources raw materials from and the climate. The wishes and interests of all those stakeholders will sometimes be incompatible. Neither will they always be in line with what regulatory authorities require. To sum up - it's tough keeping everyone happy. How do you as a bank employee take careful decisions in such complex situations? And how do you judge what is 'the right thing' to do? This document contains background information for banks, a step-by-step plan and lessons from the banking practice.

## What are **ethical dilemmas**?

Any decision or action that affects multiple parties can be called an ethical (or moral) dilemma. These are decisions where it is impossible to honour all rights, interests and wishes. An ethical dilemma always features a clash of divergent values. Ethical dilemmas are unavoidable at a bank.

This is why banks try to structure their organisations to help employees take morally right decisions. They seek to design the organisation to take account of the rights, interests and wishes of the bank's stakeholders. In summary, an ethical organisation that translates laws and regulations and its own values, among other things, into clear codes of conduct and applicable policy, particularly financing policy. Moreover, employees are trained to recognise ethical issues. They are given points of reference to ensure careful decision-making, also in cases where no policy or guidelines are available. Together, these safeguards make up the 'ethical infrastructure'.

## **How to approach** an ethical dilemma?

A step-by-step plan can assist you in analysing ethical dilemmas and arriving at a proper balance. Such a plan offers points of reference for unravelling the dilemma and sorting and weighing up the line of argumentation. While there are various methods and step-by-step plans for analysing an ethical issue, they all share the same core idea. It's about thinking in a structured manner and engaging in a dialogue about the dilemma. A step-by-step plan prevents employees from immediately forming an unsubstantiated opinion about a specific issue.

## Example step-by-step plan



### Step 1 Define the dilemma

Formulate the moral question to which you want an answer at the end of the conversation.

- What is the core of the problem?
- What options do I have?



### Step 2 Gather factual information

Gather as many facts as possible to gain a complete impression of the situation.

- Who will be affected by the decision?
- What are their rights, interests and wishes?
- Which policy, regulations or other parameters are applicable?
- What is the damage associated with the various options?
- What information is still missing?



### Step 3 State and weigh up the arguments

Consider the different arguments. Do this as systematically as possible.

- Counterpose arguments for option 1 and option 2.
- Scrap inappropriate arguments (e.g. 'others do it too', 'I've been doing it this way for years' or 'I have never received a complaint about it').
- Weigh the arguments (for example, if someone is entitled to something, this should weigh more heavily than someone else finding it unpleasant).



### Step 4 Resolve the issue

At the end of the conversation, take a decision and make agreements on its implementation.

- Take the decision and record the consideration that led to it.
- Take where possible measures to limit any (moral) damage.

## What is an **ethical infrastructure**?

The ethical infrastructure is the framework of elements that ensure that bank employees recognise ethical dilemmas and take careful decisions when they do. This means first properly identifying and weighing up the rights, interests and wishes of all stakeholders.

A process like this makes it easier to explain the choices made to stakeholders and thereby create understanding for the consequences. An 'ethical infrastructure' refers to how an organisation – formally or informally – has ensured that employees across the entire organisation and at all levels:

- a act in accordance with laws and regulations and social norms;<sup>\*</sup>
- b act in accordance with the values and norms of the bank and the entire sector;<sup>\*\*</sup>
- c consider the impact of their actions on clients and other stakeholders ('Just because we can, does it mean we should?');
- d can count on support when taking action involving a dilemma, both in terms of gathering information ('Who will be affected by my decision and how?') and weighing up the rights and interests of stakeholders and the eventual decision;
- e can report (as a legal obligation) violations of laws and norms in a safe and accessible manner and are in fact also stimulated to do so. They are taught the right skills to recognise dilemmas and (possible) violations ('dilemma training') and speak up about them ('speak-up training').

## **Ensuring** ethical decision-making

Banks must comply with many laws and regulations watched over by regulatory authorities. The regulatory authorities look critically at how banks make careful decisions on a variety of issues. Banks focus much attention on dealing with moral dilemmas. What is necessary to safeguard ethical decision-making in all layers of the organisation? Both formal agreements and the corporate culture can play a role here. Formal agreements can include codes of conduct, mandatory training courses and the integration of these aspects in the remuneration system. Cultural aspects include role models within the organisation, the company's vision and mission and statements by board members and managers, for example. Other possible building blocks of an ethical infrastructure are:

- an interdisciplinary committee that can advise and/or decide on dilemmas;
- interdisciplinary work groups focused on specific issues (e.g.: application of artificial intelligence);
- an accessible and low-threshold reporting infrastructure (including confidential advisers);
- proactive research into risks of violations or transgressions of norms;
- (reactive) research into (near) violations or transgressions of norms.

These building blocks can be deployed in different combinations and in a variety of ways. Moreover, the various Dutch banks take different approaches: sometimes responsibility is placed with the compliance team and sometimes it is spread across different divisions. Some banks also have specialised teams for stimulating and supporting ethical decision-making in the organisation.

<sup>\*</sup> Ideally, laws and regulations are aligned with social norms, but that is not always the case.

<sup>\*\*</sup> Recorded in internal codes of conduct and in the Banking Code, the Rules of Conduct (linked to the bankers' oath), the General Banking Conditions and the Code of Conduct for lending to small businesses.

# Best practices **What works?**

**Some lessons based on current practice.** It is not possible to see which combination and deployment of elements works best. No comparative study has been undertaken and it is quite possible that differences in corporate culture mean that different approaches are required. Nevertheless, there are some lessons to be shared based on the practice of the members of the Ethics Working Group at the Dutch Banking Association. These *best practices* relate to cultivating and maintaining ethical decision-making.

- **Place responsibility at the highest level**

Because ethics affects all activities of the bank, it is important to place responsibility at the highest level. For example, the CEO or the board as a whole.

- **Deploy broadly**

Anyone working at a bank can find themselves faced with an ethical dilemma. It is therefore important to teach employees at all levels the required knowledge and skills and to offer widely available support for those dealing with major dilemmas.

- **Organise dilemma dialogues or training courses**

Dilemma dialogues or training courses are a good way to transfer knowledge and skills to employees on careful decision-making. In a dilemma dialogue, employees practise acknowledging and recognising ethical dilemmas and from a broader stakeholder perspective. Many banks regularly organise such dialogues, which may or may not be combined with taking the bankers' oath.

- **Practice with ethical dilemmas**

It is important that employees can practice with ethical dilemmas that they could easily come across in their day-to-day activities.

- **Effective decision recording**

This will better facilitate the teaching of moral conduct at your own organisation. It will also guarantee that decisions (taken earlier) can also be explained properly in the long term.

- **A dedicated ethics committee is not a must-have**

Some banks have established a committee to assess and advise on dilemmas. These banks maintain this has added value. At the same time, a dedicated ethics committee does not seem to be a must-have. There are alternative ways of getting people to speak about dilemmas, but they require close involvement at the highest administrative level.

- **Identify the rights and interests of stakeholders**

When dealing with ethical dilemmas, we recommend using a fixed step-by-step plan. This will allow for the rights and interests of stakeholders to be identified and weighed up in a structured manner. This reduces the chance of consequences or parties concerned being overlooked.

- **Detect ethical dilemmas early**

It pays to think about possible ethical dilemmas already in the design phase or during modification of banking products and services, for example by making a dilemma dialogue a fixed component of the design process. Detecting and addressing ethical dilemmas early is a worthwhile investment. For example, this can assist in the formulation of suitable conditions and offers a safeguard against reputational damage or unnecessary damage control.

- **Use a careful decision-making process**

Under different conditions, the same dilemma can result in different outcomes. As circumstances can change, a careful decision process will not result in one and the same outcome for always. However, the structured approach should ensure that the outcome is identical if conditions are the same. And that you are able to explain it should you come to another conclusion following a review.

- **There are always 'moral costs'**

A careful decision-making process is not a guarantee that all parties concerned will be satisfied with the outcome. The fact that there are often conflicting interests at stake means that one party will always be disappointed with the outcome. In other words: there are always 'moral costs'. Satisfaction with (or respect for) the outcome is attainable with the structured and reproducible approach and effective communication.

## Getting busy with ethical decision-making?

Would you like to start integrating ethics in your work at your bank? While there is no blueprint, there are a number of consultancy firms that can support you in developing and perfecting an ethical infrastructure. There are also a variety of tools and

training courses available. Furthermore, the members of the Ethics Working Group are willing and able to provide advice to large banks.

> [Bank!World Online](#) features a series of articles (in Dutch) on ethical dilemmas and decision-making within the banking sector.

### **Ethics Working Group**

This white paper is an initiative of the Ethics Working Group of the Dutch Banking Association (NVB), consisting of members from ABN AMRO, ING, Rabobank and Volksbank.

This working group wants to help facilitate a beneficial banking sector by promoting ethical decision-making and placing integrity risks on the sector's joint agenda.

They are doing so by:

- expanding knowledge and skills related to ethical decision-making in the sector;
- stimulating dialogue in the sector on sector-wide ethical dilemmas;
- informing the general public on (the promotion of) integrity in the sector.

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