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An ethical decision-making framework for South African retirement funds

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Agenda

- Why an ethical decision-making framework is a risk-management tool
 - Normative ethics
 - Duties of trustees
 - Duties of actuaries
- An ethical decision-making framework



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Ethics and risk?



Normative ethics

- Normative ethics: what should be
- The term “right” is used repeatedly in ethical theory



Theory of right action

- There is a right thing to do
 - Consequentialist theories
 - There are right and wrong outcomes and the end justifies the means.
 - Non-consequentialist theories (Deontology)
 - There are right and wrong ways of doing things and the process is more important than the outcome.



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Virtue ethics and the ethics of care

- Virtue ethics
 - There is a right way to be
 - A virtuous person would always behave ethically so we need to work on developing the right virtues
 - “What would Mother Teresa do?”
- Ethics of care
 - There is a right way to treat people
 - To what extent are needs met in relationships?



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Justice in ethics

- Justice underpins ethical theory
- Fairness and equality
- Balancing individual rights and needs of the collective
- Ethics = morality (individuals) + regulation (society)



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Trustee duties

| | SA | UK ¹ | Ethical theory |
|---|---------------|------------------|----------------|
| Act in line with Fund Rules | ✓ and purpose | ✓ and trust deed | |
| Duty of care (Prudence, diligence, protect beneficiaries' rights) | ✓ | ✓ | |
| Impartiality | ✓ | ✓ | |
| Avoid and manage conflicts of interest | ✓ | Not explicitly | |
| Accountability | ✓ | Not explicitly | |

¹ Pension Fund Regulator: Roles and responsibilities



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When things go wrong

- In both countries, trustees can be held jointly and severally liable.
- In the UK, Statutory exoneration: If trustees act honestly and reasonably and ought fairly to be excused...
- In South Africa, “prudence is process, not performance”



Are ethics important to actuaries?

- Code of Professional Conduct
 - “an ability to **avoid conflicts of interest** and **comply with legislation and professional guidance** as well as the values of **integrity, objectivity, confidentiality, due care, independence, scepticism, accountability, courage, reflection and a commitment to the public interest, social responsibility, ethical business, whistle-blowing** and **ethical judgement**”
- UK actuaries code is a bit different but still gives a rules-based approach with a heavy emphasis on virtues



Part 2: Getting better



Right or?

- Right versus wrong dilemmas
- Right versus right dilemmas (Kidder)
 - Truth versus loyalty
 - Long-term versus short-term
 - Justice versus mercy
 - Collective versus the individual



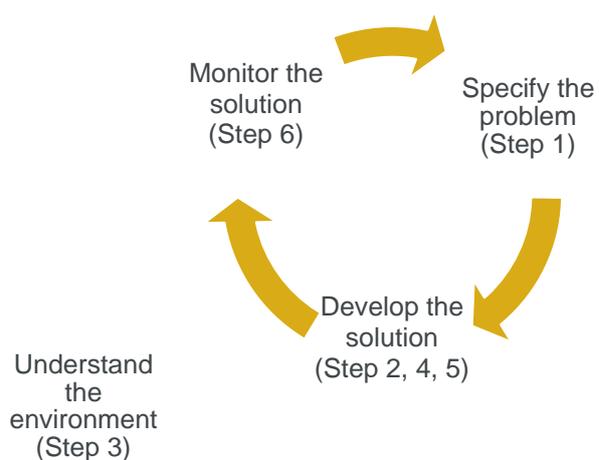
Getting better at ethical choosing

- Identification is a real problem
 - 29.2% of surveyed actuaries thought this was our weakest area when dealing with ethical problems.
- Because of actuarial codes of conduct, everything you do at work is “ethical”.
- Once an ethical issue is identified, how do you deal with it given different approaches to ethics?
- Various possible approaches, but I'll focus on only one



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Modified ACC



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Step 1: Recognise the ethical issue

- If you are carrying out any duty on a fund, there are by definition ethical issues. Similarly any aspect of actuarial work.
- Even doing nothing presents an ethical issue
- Once the issue is identified, consider magnitude (intensity and number affected)



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Step 2: Gather information

- Be diligent
 - Apply mind to all relevant facts
 - “Duty to know”
- May be helpful to explicitly agree on facts



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Step 3: Consider the “rules”

- Legislation, regulation and professional guidance
- Recognise that morality becomes more important where there are few or no rules.



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Step 4: Evaluate all options

- 1st test: Does it comply with “the rules”? 
- 2nd test: Is it consistent with the purpose of the fund?  
- 3rd test: What is just? 
- 4th test: How are the relationships between stakeholders affected? 
- 5th test: Does it reflect the right virtues? 



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Step 5: Make a decision

- Make the decision
- Action the decision
- Communicate the decision which raises ethical issues again!

Step 6: Monitor the decision

- Both in terms of the outcome and the process
- Decide when and how to review the decision

Now what next?



ERM and pension funds

- ERM is not a concept applied directly to SA pension funds even though they represent significant entities by asset size.
- Ethical decision-making is a key mitigating factor in governance risk.
- Should we be looking at ways to model these and other risks better?



Questions



Comments

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