



# Recovering from ethical failure

By Cynthia Schoeman

There is hardly an issue of a newspaper or business magazine which does not include at least one story about a new or brewing ethical scandal. Sometimes, regrettably not always, the perpetrators have to face the costs and consequences for their misconduct - whether the loss of their position, fines, or even jail sentences.

However, once that price has been paid, those individuals or organisations face the challenge of how to recover from ethical failure. And, in this instance, the damage can't be corrected by simply cutting costs before the next set of results.

The misconduct may be so serious that recovery appears impossible, whether because of the severity of the ethical breach or because it is a repeated offence. However, mostly, one incident will not render the person or company unethical for the rest of time. Allowing someone a second chance is also reasonable given that no one is perfect: everyone is likely to do something wrong at some stage, even if it is something minor.

Martha Stewart is a good example of a successful recovery. Having built her business, Martha Stewart Living Omnimedia, to become America's first self-made female billionaire, she was convicted of lying to investigators about a stock sale and served five months in prison in 2004.

While the company suffered some losses in 2004, it returned to profitability the following year, and continues to go from strength to strength - and still under her name.

Her response to how she did it was a well-designed PR plan, a new board, and a strong measure of resilience. To that needs to be added a tough attitude, captured on

the cover of the November 2005 issue of *Fortune*: "I cannot be destroyed".

In South Africa this attitude of being indestructible is also evident, often coupled to an apparent lack of any sense of embarrassment or shame at having been caught out. This exceeds the typical ostrich approach of merely pretending nothing has happened, to trying to also convince others of that too. Attacking the media for inaccurate reporting or passing the buck are other familiar tactics.

However, what these approaches neglect to do is to re-establish a measure of confidence in that person or organisation. This is a critical step to getting back to a situation of some trust, which is an essential ingredient for a successful - or even for a functional - relationship with all stakeholders, whether employees, customers, unions, lobby groups, followers, voters or citizens.

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There is an approach which does build confidence and re-establish trust, the A<sup>4</sup> approach, which entails four steps, namely: admit; apologise; make amends; and don't do it again.

Admitting as a first step is crucial. This may well cause damage, but when the



facts are surfaced by someone else, such as the press, it is almost certain to cause more damage. If a business leader admits to the problem as soon as it comes to his/her attention, the admission can even be positioned as being transparent.

A very good example of this, which is still used as a best practice case study, is the 1982 Johnson & Johnson Tylenol case when Tylenol capsules laced with cyanide led to seven deaths in the Chicago area of the USA. Johnson & Johnson's admission

extended to action to recall 31 million bottles of Tylenol capsules and offer free replacements in the safer tablet form. After reintroducing their tamper-proof product, in just a year they had regained a 30% market share of their original 37%.

The role their Credo (values or code of ethics) played was pivotal. It shaped, informed and kept aligned the myriad decisions which needed to be made and the priorities which underpinned them.

Apologising is a critical step, ideally done in conjunction with admitting. It will not right the wrong, but, to the extent that it reflects the guilty party's acknowledgement of the wrongdoing, it can create a platform for moving forward. An apology has a moral value as well as an economic or business value if it, for example, reduces the damage of an ethical failure.

This is one of the things Rupert Murdoch got wrong in his handling of the *News of the World* scandal. His apology to the family of Milly Dowler, followed the next day by two full-page public apologies in many of Britain's national newspapers should have been impactful. But, its delay, coming more than 10 days after the accusations first surfaced and a week after the *News of the World* was closed (echoing his delay to agree to attend the Parliamentary hearing) eroded the benefit.

Make amends is a crucial next step. Clearly this should not be a token gesture, but should recompense those negatively affected appropriately.

This was evident in the resolution of the scandal about the stripping of surpluses from retirement funds. In the 1990s many individuals and organisations were guilty of this, but only in 2011 was this resolved and the money paid back, largely as a result of the action of Alexander Forbes. Edward Kieswetter, their CEO appointed in 2010, is credited with driving the decision because, as he

says, "Alexander Forbes is committed to doing the right thing".

Ensuring that the ethical failure does not happen again is the final step. However, this is easier said than done. It entails not only ensuring that the specific incident does not occur again, but also avoiding another ethical failure. For example, the company found guilty of collusion will suffer as much damage if found guilty thereafter of fraud or a repeat charge of collusion.

To achieve this necessitates taking on the task of improving the ethics in the whole organisation. This entails that ethics is managed proactively, rather than reactively, and that it is managed regularly, rather than on an ad hoc basis.

Taking action to either maintain or improve the organisation's ethical status is not an optional extra. It is imperative. And, it is a great solution to improving or rebuilding trust and confidence with internal and external stakeholders.

This also meets the ethics requirements of the new Companies Act in terms of which most companies need to form a Social and Ethics Committee to manage and report on ethics and stakeholder relationships.

Ideally, the legislation will not simply result in a tick box approach. Optimally, organisations should pursue the effective management of workplace ethics as the best strategy to realise a sound ethical culture and to avoid having to deal with the recovery from ethical failure.

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