'Not knowing' is no longer an option

A number of recent examples from the corporate arena illustrate that being oblivious to unethical or illegal behaviour happening within an organization is not an acceptable excuse for allowing it to occur. Leaders will be held responsible - even when they claim to have no knowledge of the situation, one of their responsibilities is to ensure they receive the information they need to manage and govern at the right time.

A number of judgements issued by the Federal court of Australia over the last couple of years have confirmed that 'not knowing' about significant issues, unethical and/or illegal behaviour within an organisation is no excuse - Directors are in breach of their legal duties if they fail to implement effective assurance systems[1], fail to make appropriate enquires and/or fail to keep the 'market' properly informed.

In one example, a major engineering company settled a claim from shareholders a couple of years back for an undisclosed sum (probably in the region of $100 million) because they failed to keep the market properly informed about issues occurring on a major transport project. The fact that in the 6 years since the issues surfaced the project has recovered and is now seen as a success, and subsequent to the issues emerging, the company had implemented rigorous reporting systems to avoid similar occurrences in the future did not help – 'the market' was not informed at the time the problems were occurring and it appears rumours of the issues reached some investors before the Directors were made aware of the facts! No one was prepared to pass what was known up the chain of management, at least one excuse being the overall scope of the problem was not precisely known.

In a different case a very senior director was found to be in breach of his duties by the Federal Court because he did not make appropriate enquiries when alerted to the possibility of illegal actions within his organisation. These two examples are far from unique – the people governing your organisation are coming under increasing pressure to know what is occurring in 'real time' and to take appropriate actions.

In more recent times, this liability was extended to officers and employees, when the *Corporations Act* was amended to create new civil penalties for corporate officers and employees who mislead the board by providing incorrect information, or by omitting information. This applies to any employee who '*makes available or gives information, or authorizes or permits the making available or giving of information*' to a director that relates to company affairs. This provision applies to information in any form, all that is required is for the information to be materially misleading, which includes 'half-truths'. If the information has been provided without the person taking reasonable steps to ensure that the information is not misleading, they have contravened section 1309 (12) of the Act[2].

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[1] For more on **effective surveillance** see:
    https://www.mosaicprojects.com.au/WhitePapers/WP1080_Project_Reviews.pdf

[2] This 2019 extension to the *Corporations act* is discussed in **Organizational Governance and Project Controls**, see:
    https://mosaicprojects.wordpress.com/2023/08/04/organizational-governance-and-project-controls/

What this means for you!

What does this mean to the average person in a PMO or a project team? Because projects and programs are becoming increasingly important in the development and growth of organisations, information on the performance of project and programs is becoming increasingly important in the governance of the organisation. Which means you are responsible in your part of the organisation for ensuring the information needed by the executives is *accurate*.

Achieving this needs a team effort!

The overall process of ensuring the right information reaches the right levels of the origination involves creating the right systems and structures, CPOs, PMOs, etc. These systems operate best in a culture of openness and accountability. The concept of 'governmentality' encompasses these aspects and requires leadership from the highest levels of the organisation. We can support this aspect but cannot do a lot to create the necessary culture[3].

Making your information ACCURATE

Where project professionals can have a major influence is in creating and disseminating the information used in the governance system. The key aspects are interlinked and interdependent, and are summed up in the acronym ACCURATE:

Available: the project information has to be accessible in various appropriate formats to all levels of management.

Complete: the 'picture' conveyed by the project information needs to provide a full picture of the current and forecast situation.

Concise: executives are busy people – excessive detail does not help! They need to understand the 'bottom line'.

Understandable: project management is full of technical jargon; we may understand the difference between EAC and VAC the executives will not! Communicate in business language[4].

Relevant: just because it is important to the project team does not mean it is important to the overall organisation, communication information in a way that is relevant to the achievement of business objectives.

Auditable: if asked you need to be able to demonstrate the source of the information and the processing steps taken to consolidate and communicate the information.

Timely: the 'markets' operate in a 24-hour news cycle – important information needs to be communicated immediately (you cannot wait for the monthly report).

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3 For more on **governance and governmentality** see:
   https://www.mosaicprojects.com.au/WhitePapers/WP1096_Six_Functions_Governance.pdf

4 For more on **communicating technical information** see:
   https://www.mosaicprojects.com.au/PDF_Papers/P186-Understanding_Design.pdf

Explainable: project professionals need to be available to explain the information and help executives understand the consequences (typically this is a key role of an effective PMO).

Just as witnesses in court promise to tell the truth, the whole truth and nothing but the truth, project professionals have an ethical responsibility to make sure the information that are communicating meets this standard and is also **ACCURATE**.

Practical Requirements

ACCURATE information needs appropriate tools. One of the major challenges is predicting the likely completion date for both 'Agile' and 'distributed' projects where traditional CPM simply does not work! And without knowing the overall timeframe needed to complete the work, any cost predictions are questionable. Some useful resources include:

1. Using EVM and ES is of course one solution that's ideal for larger projects[5]

2. Work Performance Management (WPM) is a more pragmatic option for most normal projects is to use to calculate the current status and projected end date[6]

3. Make use of Mosaic's free information on Governing the organization's Projects, Programs and Portfolios[7]

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First Published 21 August 2017 – Augmented and Updated

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[5] For more on *Earned Value Management (EVM) and Earned Schedule (ES)* see:
https://mosaicprojects.com.au/PMKI-SCH-040.php

[6] For more on *WPM* see: https://mosaicprojects.com.au/PMKI-SCH-041.php#WPM

[7] Make use of the free information on *Governing the organization's Projects, Programs and Portfolios* at:
https://mosaicprojects.com.au/PMKI-ORG-005.php#Process3