



BOARDSHORTS

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Welcome to the second Edition of Board Shorts for 2010. Our quarterly publication is now published online at: www.aisq.qld.edu.au. Each edition will include a short article and, where relevant, reference to legislation affecting schools in much the same format as previous Board Shorts; however, we will also be including links to relevant websites and videos which we hope you will find interesting and useful.

Taking the bias out of strategic decision making

School boards and school leaders make dozens of decisions in the course of a school year, yet very few decision-makers take into account their 'systematic tendencies to deviate from rational calculations' (Lovallo and Sibony, 2010). A recent issue of the McKinsey Quarterly (2010, No 2), provides useful advice in relation to decision making, and particularly how to ensure that boards and school leaders do not allow their biases to undermine strategic decisions.

When schools and businesses have important decisions to make they generally follow a three step process: (1) fact gathering and analysis; (2) consulting and relying on the insights and judgments of a small number of executives (sometimes only one); and (3) turning the data and judgment into a decision.

In order to analyse this process, McKinsey researchers (ibid), examined 1,048 major decisions made by businesses over the past five years. The researchers asked managers to report on the extent to which they had applied seventeen practices in making a decision; eight of these related to the quantity and detail of steps 1 and 2, above; and eleven described the decision making process.

They found that, 'contrary to what one might assume, good analysis in the hands of managers who have good judgment won't naturally yield good decisions'. In fact, they found that process mattered more than analysis by a factor of six. The reason for this was that good process ferreted out biased decision making, while superb analysis did not.

In order, therefore, to improve the chances that a decision will be a 'good' one, boards and school leaders need to understand bias and the processes needed to address it. Five simple subsets of bias are commonly seen in decision making:

1. Pattern-recognition biases - these occur when decision-makers rely on analogies, comparisons or salient examples (which lead to the overweight of recent or highly memorable events) from previous experience.

Simply asking people to articulate the experiences which influence them is valuable in countering bias; changing the angle of vision to make it wider by creating a reasonably large set of similar endeavours for comparative analysis is also helpful.

2. Action-oriented biases - most leaders are biased towards action; that is, they feel under pressure to take action when what appears to be a good idea presents itself. However, actions are often prompted by 'excessive optimism about the future and especially about our own ability to influence it' (think enrolment projections!). This is particularly so in cultures which suppress uncertainty and reward behaviour that ignores it. For example, a leader who expresses and projects great confidence is more likely to have a decision approved than one who lays out all the risks and uncertainties surrounding it, even though the second decision may be better than the first. Boards and principals seldom see confidence as a warning sign

and, therefore, may not recognise the bias towards overconfidence and over-optimism.

Superior decision making processes counteract action-oriented biases by promoting the recognition of uncertainty. One way to do this is to make a clear and explicit distinction between decision meetings, where leaders embrace uncertainty and encourage dissent, and implementation meetings, where it's time to move forward. Another way is to use decision making tools, such as scenarios and decision trees that force consideration of many potential outcomes, as a regular part of the process.

3. Stability biases - in contrast to action biases, stability biases make organisations prone to stay with the status quo. This might be seen in the reluctance to change school timetables, the tendency to hold onto programs that should be divested, the unwillingness to try something new because it might fail. One way to review whether or not your school is 'stability biased' is to compare decisions over time to see how many fall back to the status quo.

A strategy to overcome this bias is to set 'stretch targets' that are impossible to achieve through 'business as usual', thus forcing staff to try new ideas and look at new ways of doing things.

4. Interest biases - perhaps, the most common and difficult biases to overcome, interest biases manifests themselves in 'silo

thinking' where subject departments, for example, defend their own interests instead of those of the organisation as a whole.

Strong decision making processes are the simplest way to counter interest biases. For example, before the decision meeting, leaders need to formulate precisely the criteria that will be used to evaluate the decision so there is less chance for vocal participants to make their own preferred action more attractive. Populating meetings with participants whose interests clash is also a strategy to reduce the chances of one set of interests undermining thoughtful decision making.

5. Social biases - these biases occur because of deep rooted human tendencies to conform to the dominant view of the group or to fit in with the perceived view of the ultimate decision-maker (while making the assumption that he/she is not open to argument and a change of mind).

While there are tools and techniques available to stimulate debate amongst teams, the commonly accepted behaviour and the culture of the organisation is the main determiner of social bias. Genuine debate requires diversity of backgrounds and personalities in decision-makers, a culture of trust and an acceptance of risk taking and mistake making. Most critically, it requires leadership that genuinely believes in the 'collective intelligence of a high-calibre management team' and is prepared to encourage self-confidence and trust without damaging personal relationships (op cit).

To further examine the issue of effective and unbiased strategic decision making, the McKinsey researchers asked three chief executive officers of large companies to reflect on how they manage decision making in their organisations. The first respondent was Sir Martin Sorrell, CEO of WPP a leading advertising and marketing-services group.

His advice was 'the best process to reduce the risk of bad decisions... should be quick, flexible and largely informal. It's important to experiment, to be open to intuition, and to listen to flashes of inspiration. This is not to say the process shouldn't be rigorous...but don't ask hundreds of people. Carefully sound out the relevant constituencies...and try to find someone you trust who has no agenda about the issue at hand' (Sorrell, 2010).

Sorrell says also to not be afraid of making mistakes as 'the only way to avoid making mistakes is to avoid making decisions' (ibid).

Randy Komisar, a partner with Kleiner Perkins Caulfield and Byers, a large venture capital company, suggests that it is impossible to tune out bias from decision making so companies should focus on recognising, encouraging and balancing bias by assembling a diverse group of people and using a balance sheet process that involves withholding judgment. The CEO puts forward an idea/opportunity and asks participants in the process to list points on both sides of

the opportunity; that is, what's good about this opportunity? What is bad about it?

The important thing is that no-one is allowed to make a judgment on the opportunity at this stage and, because they don't have to start the process of justification, participants give their best insights and consider the ideas of others without 'freezing their opinions' (Komisar, 2010). No one is asked to give an opinion until everyone has spoken and the full 'balance sheet' is revealed. The process overcomes the problem of people marshalling the facts to support their case while ignoring those that don't and allows the discussion to focus on biases and assumptions rather than conclusions. It is only after everyone has had their say that a decision is made.

Komisar goes further and argues that the first decision (Plan A) is likely to be based upon flawed assumptions and that companies need a process to get to plan B. The process involves an assumption right from the time the Plan A decision is made that it will need to be tested, measured and refined. Decision-makers then go from the acceptance of Plan A to identifying all of the assumptions upon which it is based and constantly testing these assumptions.

In this way the company is able to change and refine the decision on an ongoing basis rather than executing it, assuming it will work and then finding out after months of hard work that it is, in fact, flawed. Comfort with uncertainty and ambiguity is, according to Komisar, an important trait of leadership because 'when somebody's shutting down conversations because he or she is uncomfortable with the points of view in the room or with where the decision may be going, it usually leads to a culture where the best ideas no longer come to the top' (Komisar & Mullins, 2009).

When Ann Mulcahy became CEO of Xerox 2001, and saved the company from bankruptcy, she was criticised by employees as having a leadership style that was 'too decisive' (Mulcahy, 2010). As a result of this she examined how to ensure high-quality decision making and to listen before 'jumping in'. She makes five suggestions for leaders to assist them in their decision making.

The first of these is to make sure you, as leader, build a team around you that compensates for your weaknesses and is empowered and has the courage to give you feedback, good and bad, on your decisions. To do this, leaders must show by their actions that are comfortable with dissent and demonstrate that employees can 'take them on' and change their minds. According to Mulcahy, the decisions that come out of allowing people to have different views – and treasuring diversity of those views – are often harder to implement than what comes out of consensus decision making, but they're also better'.

The second suggestion is that in order to get good decisions you need to get the right group of people around the table. This means you never compromise on people or, as Jim Collins puts it, 'First get the right people on the bus, the wrong people off the bus and the right people in the right seats –

Legislation Update

Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010

The State and Federal Governments recently agreed on one national law, the *Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010*, to provide protection to consumers under contracts for the supply of goods and services. The first part of the reform, in relation to 'unfair contract terms', comes into effect on 1 July 2010. A second part, yet to be enacted, deals with such things as product safety, consumer guarantees, unconscionable conduct and unfair practices.

then... figure where to drive it' (Collins, 2001). Mulcahy and Collins both suggest that it is better to have no-one on the bus (or at the table) than to compromise.

By the 'right people' Mulcahy is referring to people 'who can strike the hard balance between courage and learning – people who have audacity in their convictions and know when to be unyielding but who are good listeners and capable of adapting' (Mulcahy, 2010).

In order to get such people Xerox established a disciplined process for forcing discussions about a set of candidates, and a position which helped management to avoid lazy people decisions and countered biases against confrontation.

Thirdly, Mulcahy suggests that when a new program or initiative is suggested it should be considered as part of the whole 'portfolio' of new programs, not in isolation. It should not be evaluated individually but should be part of a 'is this better than that?' conversation. By involving all portfolios that may be impacted upon by the decision, the full resourcing needs are considered and the choice about the new initiative is in context.

Mulcahy's fourth suggestion is that leaders need to know 'when to let go' of something that's always been done a particular way, what Mulcahy calls 'legacy decisions'. Sometimes, she says, organisations are unable to fund a new project because making a decision to take out an historical program is too hard. To overcome the problems of legacy decisions, she suggests the establishment of a decision making framework that says there's no preconceived commitment to a legacy activity. In this way, the activity will be discussed on equal terms with all other change initiatives. To make the process work, however, there needs to be a balance of people who can champion and advocate the future and those who own and are invested in the past in the decision making group.

Finally, Mulcahy says that good decision making strikes the right risk balance. She argues that 'Decisiveness is about timeliness. And timeliness trumps perfection. The most damaging decisions are the missed opportunities, the decisions that didn't get made in time'.

People, however, tend to be risk averse even though taking risk is critical to decision making effectiveness and company growth. In order to ensure that opportunities are not lost, organisations need to put timelines on decision making processes. Sometimes this requires flying in the face of good process and going with instinct. This means 'when trying to take bias out of decision making, you need to be really cautious not to take instinct, courage and gut out as well'.

Bibliography

Collins, J. (2001), *Good to Great: Why Some Companies Make the Leap... And Others Don't*, New York: HarperBusiness

Komisar, R. & Mullins, J. (2009), *Getting to Plan B: Breaking Through to a Better Business Model*, Watertown, MA: Harvard Business Press

Lovallo, D & Sibony, O. (2010), *The Case for Behavioral Strategy*, McKinsey Quarterly, 2010 Number 2

Mulcahy, A. (2010), *Timeliness Trumps Perfection*, McKinsey Quarterly, 2010 Number 2

Sorrell, M. (2010), *Learn from Mistakes and Listen to Feedback*, McKinsey Quarterly, 2010 Number 2

The new law impacts on schools via enrolment contracts entered into after 1 July and on pre-existing contracts which may be renewed or varied after 1 July.

The following advice on the new law is supplied by Robert Cunningham, Flower and Hart, solicitors. Robert is currently working on a template enrolment policy for Independent Schools that takes into account the impact of the Act on future enrolment contracts.

This will be available to schools in the near future.

The *Australian Consumer Law* provisions about unfair contract terms apply to "consumer contracts". A consumer contract (for present purposes) is a contract for a supply of services to an individual whose acquisition of the services is wholly or predominantly for personal, domestic or household use or consumption. An enrolment agreement with a school is a "consumer contract".

To be 'unfair' a term in a contract must:

- create a significant imbalance between the right of the parties;
- not be reasonably necessary to protect the legitimate interests of the supplier;
- actually cause detriment if enforced.

Clauses commonly found in an enrolment agreement for independent schools which are likely to run into trouble under the new legislation include:

1. Any clauses requiring somebody to comply with rules or policies when they have no sensible way of knowing what the rules and policies are at any particular time. Some schools say that parents will be alerted by simple announcements at school assembly. This will be manifestly inadequate.
2. Consumer contracts which allow one party to increase the price paid under the contract will fall foul of the ACCC unless there are extraordinary circumstances. These enrolment contracts may apply for

the whole of the period of the student's enrolment at the school and can apply up to 13 years. In normal circumstances, there will be one fee rise each year determined by the school board without reference to the consumers of their services – the parents. These clauses should be drafted carefully to meet the requirements of fairness.

3. Provisions of enrolment agreements which require parents to forfeit a term's fees where the child is withdrawn from the school or is expelled from the school also need to be considered carefully.
4. Powers for the school to terminate the contract without a corresponding right to terminate for the consumer will be potentially void.

5. A clause in an enrolment contract which entitles the school to make any substantial change to the curriculum or to co-curricular activities may be void.
6. Powers of discipline which have tended to be expressed as an absolute discretion with the head master are likely also to come under scrutiny.

Any clause that favours the school, and is likely to cause detriment to the consumer if enforced, and is not reasonably necessary to protect the legitimate interests of the school will be void under the legislation.

In addition, under the unfair contract terms provision, the terms of the contract must be 'transparent'. A term is 'transparent' if it is:

- expressed in reasonably plain language; and
- legible; and
- is entered clearly; and
- readily available to any party affected by the term.

Finally, it should be noted that the legislation gives additional powers to the ACCC in relation to enforcement, including:

- a power for the ACCC to take action on behalf of all consumer under a particular standard form contract to obtain a declaration of unfairness; and
- a power for the ACCC to seek recompense from the supplier where a term has been declared unfair on behalf of all those who have been subjected to the unfair term previously.

Request for Information - School Camp Waivers

A number of schools have recently informed ISQ that some outside providers of school camps now require extensive liability waivers and indemnities to be signed by parents before they accept children on camps. At the same time insurance companies are warning schools against getting parents to sign such waivers, as they may deny insurance cover to students in such circumstances.

It is our belief that parents should not be signing such waivers as they are not only giving away rights but taking on liabilities which they should not be responsible for. However, without the waivers, students may be denied school camps.

While the issues are still under consideration, it has been suggested that (1) parents should have explained to them by the school what they are signing; (2) the school's insurance company should be notified; and (3) schools

should consider camps that do not require a waiver or require more moderate and reasonable waivers (it should be noted, of course, that the School's duty of care for children continues while on camp despite the waivers and indemnities and the obligations of the camp operators).

We would be interested to hear from schools experiencing similar problems to the one outlined above and to receive any suggestions about how this problem might be approached. Any responses can be sent to Robyn Collins: rcollins@aisq.qld.edu.au for publication in the next Board Shorts.

Useful Websites

<http://www.mckinsey.com/>

This is the website of McKinsey and Company, perhaps best known in Australia for its education research paper on 'Top Performing Skills'. The site also provides a link to the McKinsey Quarterly and free downloads of various articles on leadership, business, governance and innovation.

Useful Viewing

From Strategic Thinking to Planning - Steven Bowman
(3.27 minutes)

www.youtube.com/watch?v=3rsF6dOAt-h4&feature=related

Steven Bowman defines strategic planning and what having a strategic focus means for board meetings and agendas.

Better Decision Making: Outlining an Effective Decision Process - Dr Paul Schoemaker (3.37 minutes)

www.youtube.com/watch?v=Q3Ymb4w-FvU&feature=related

The first step in good decision making is solving the right problem and to do this we need to use strong critical thinking and a good decision making process. Dr. Paul Schoemaker describes a decision process for personal and business decision making.



INDEPENDENT SCHOOLS QUEENSLAND

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