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ETHICS companion

FOR LEGAL AND REGULATORY FUNCTIONS

Fatima Rawat and Jovita Fazenda



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Ethics Companion for Legal and Regulatory Functions

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This publication is dedicated to Prof. Deon Rossouw

In honour of a remarkable champion of business ethics, whose vision, courage, and unwavering commitment helped shape ethical leadership across organisations, industries, and nations. His work advanced the understanding that business ethics is not merely an ideal, but the foundation of sustainable success, human dignity, and responsible governance.

Through his leadership and scholarship, he inspired countless individuals and institutions to pursue ethical excellence and foster accountability and ethical governance practices.

With deep gratitude and respect, we dedicate this work to Deon's enduring contribution to the global advancement of business ethics.





Foreword by The Ethics Institute

In an era defined by increasing complexity, heightened scrutiny, and evolving ethical risks, the sustainability and trustworthiness of any organisation depend on its ability to foster a robust ethical culture. At The Ethics Institute (TEI), our vision is to build an ethically responsible society, a goal that requires moving beyond mere compliance toward a values-driven approach to governance. This **Ethics Companion for Legal and Regulatory Functions** marks a significant milestone as the first in our new “Companion for Organisational Functions” series.

While the primary mandate of an Ethics Office is to manage an organisation’s ethical performance, it cannot succeed in isolation. It requires strategic partners who act as a support base to enable its mission. Two of the most critical partners in this endeavour are the **Legal and Regulatory Functions**. Traditionally, these roles have been viewed through a narrow lens of protecting interests and ensuring adherence to rules. However, as this Companion illustrates, their daily decisions and advice are the bedrock upon which an ethical culture is built.

Drawing on the principles of King V™ and TEI’s own Governance of Ethics Framework, this guide challenges Legal and Regulatory practitioners to look beyond the question of “Is it legal?” and consider “Is it right, responsible, and aligned with our values?”. By integrating ethical considerations into their core responsibilities—from contract management to regulatory engagement—these functions help ensure that an organisation not only adheres to the letter of the law but also embodies the spirit of responsible corporate citizenship.

We often say that while the Legal and Regulatory Functions set the **guardrails**, Ethics provides the **compass**. When these elements operate in alignment, organisations are best equipped to navigate the “grey areas” of modern business with integrity, legitimacy, and public trust.

It is my hope that this Companion serves as a practical and inspiring resource for Legal and Regulatory practitioners seeking to strengthen their role as ethical stabilisers and trusted advisors. Together, we can create a coherent governance ecosystem that supports sustainable value creation and a more ethical future for all.

Dr Liezl Groenewald

CEO: The Ethics Institute

Foreword by the Authors

Organisations across sectors are operating in environments of increasing complexity, scrutiny, and ethical risk where questions of legality and ethics often intersect. The way this intersection is understood and managed can either strengthen or undermine an organisation's ethical culture.

The Ethics Office Handbook clearly sets out that the primary mandate of the Ethics Office is to manage the ethics performance of the organisation in a manner that enhances its ethical culture. However, even a well-resourced Ethics Office cannot adequately fulfil its mandate without the active support of others. Such support is required from a range of internal functions who contribute special skills and perform highly specialised roles in the process of managing ethics. They act as a support base and are strategic partners who enable the Ethics Office.

Two critical functions who support the Ethics Office are the Legal Function and the Regulatory function. The synergy and collaboration between these functions support transparency, accountability, and trust within the organisation, essential components for building an ethical culture and responsible corporate citizenship. This principle underscores the idea that compliance and ethics are not separate silos but interconnected elements that reinforce the overall governance framework of the organisation.

It has been our privilege to compile this Companion which unpacks how the Legal and Regulatory Functions can support the Ethics Office.

We extend our deepest appreciation to the Legal and Regulatory practitioners who participated in the focus group discussions that informed the development of this Companion. Your valuable perspective and practical expertise played a crucial role in shaping the content and ensuring its relevance.

Our sincere gratitude to our CEO, Dr Liezl Groenewald for her guidance, support and encouragement, our colleagues at TEI for motivating us and Elsie Weich for her design support.

We trust that this Companion will inspire ongoing collaboration between the Ethics, Legal, and Regulatory functions and contribute meaningfully to the growing body of practical knowledge on how various organisational functions can collectively support and enable the effective governance and management of ethics.

Fatima Rawat and Jovita Fazenda



1. Introduction

Drawing on TEI's Governance of Ethics Framework and the principles of King V™, this Ethics Companion reflects on the role of the Legal and Regulatory Functions as enablers or supporters of the Ethics Office.

It aims to clarify the roles and responsibilities of the Ethics Office and the Legal and Regulatory Functions and how these, when properly aligned, can collectively contribute to building an ethical culture and promoting responsible corporate citizenship.

The Legal and Regulatory Functions act as custodians of ensuring that the organisation operates both lawfully and responsibly. Through their daily work, they give practical effect to the organisation's values and standards of conduct.

A central question addressed in this Ethics Companion is how the Legal and Regulatory Functions can meaningfully integrate ethical considerations into their daily practice, thereby contributing to the development of an ethical organisational culture and strengthening the organisation's legitimacy.

As enablers of the Ethics Office, the Legal and Regulatory Functions support the development of organisations that not only comply with the law but also embed ethical standards into governance and organisational practices, thereby fostering a sustainable and ethical organisational culture.

2. Defining key concepts

Before we dive into the Ethics Companion, let us first explore some key concepts to establish a shared understanding of the content.

2.1. Ethics

We will use a very simple definition of ethics, consistent with many of TEI's handbooks: being ethical means considering not only what is good for oneself, but also what is good for others.



Organisational ethics is concerned with the values (the good) an organisation (the self) upholds and how these affect the decision making process when balancing the interests of the organisation with those of its stakeholders (the other), both internal and external (Rossouw & Van Vuuren, Business Ethics, 2017). It is centred on the golden rule, namely do unto others as you would like to be done unto yourself.

King V™ defines organisational ethics as *the ethical values applied to decision making, conduct, and how resources and relationships are used and affected by the organisation*. From this, we gather that ethics has both internal and external dimensions. It is thus about applying organisational values to both internal and external stakeholders.

This definition of organisational ethics is borne out by Principle 2 of King V™, which sets out that with respect to the ethics of the organisation, the role of the governing body is to govern the ethics of the organisation in a way that enables **both** an ethical culture (internal) **and** promotes responsible corporate citizenship (external). This places organisational culture at the centre of effective good governance.

King V™ defines corporate governance as the exercise of **ethical and effective leadership** by the governing body towards the realisation of the following governance outcomes for the organisation within its economic, social and environmental context:

Ethical culture	The shared values, beliefs and practices within the organisation that promote ethical behaviour and decision making.
Performance & Value Creation	The organisation creating value within its economic, social and environmental context in a sustainable manner.
Conformance & Prudent Control	Effectiveness, consistency and discipline with respect to adherence by the organisation to laws, regulations and adopted standards as well as the establishment and monitoring of the system of internal controls.
Legitimacy	The organisation having a good reputation and being trusted as a result of responsible corporate citizenship and strong stakeholder relationships.

These four critical governance outcomes represent the overall value that sound corporate governance should deliver for the organisation within its economic, social, and environmental context. Ethics is central to this definition of corporate governance, both through the requirement for ethical and effective leadership and through the attainment of an ethical organisational culture as a core governance outcome.

2.2. Ethical Culture

King V™ defines culture in an organisational context as the shared values, beliefs and practices within an organisation that drive behaviour and decision making. It is generally described as *the way we do things around here*, even when no one is watching.

An ethical culture exists when employees are intrinsically motivated to live the organisation's values and take responsibility for their decisions and behaviour. In such a culture, employees act ethically because they are guided by their own convictions and a genuine desire to do so, rather than feeling compelled.



By contrast, in highly compliance-based cultures, the emphasis is primarily on rules and their enforcement. Employees are extrinsically motivated to follow the rules, often out of fear of punishment, rather than through internalised values.

The role of the Ethics Office is to manage the ethics program in a way that fosters a culture where employees are intrinsically motivated to live the organisation's values. This distinction is depicted in the table below:

Extrinsic Motivation	Intrinsic Motivation
Preventing unethical behaviour	Promoting ethical behaviour
Zero – tolerance (fear based)	Doing the right thing from conviction
Catching those who do wrong	Celebrating those who do right and live the organisation's values
Focus is on compliance / rules	Focus is on organisational values

Source: Rossouw & Van Vuuren, Business Ethics, 2017

An ethical culture is therefore not created through rules alone, but through consistent leadership behaviour, fair processes, meaningful engagement, and also alignment between values and behaviour.

2.3. Ethics vs Compliance

TEI's [Ethics and Compliance Handbook](#) sets out the differences between ethics and compliance. This has been further enhanced by including Legal and Regulatory in the table below.

Ethics	Legal	Compliance
A system of accepted beliefs that control behaviour, mainly based on morals.	Relates to the system of laws, regulations, and rules established by the government, enforced by external authorities, with potential for legal action or fines if transgressed.	The act of obeying an order, rule, or request (formal).
The study of what is morally right and what is not.		Adherence to established industry, technical and service delivery standards.

Source: Groenewald & Donde, 2017

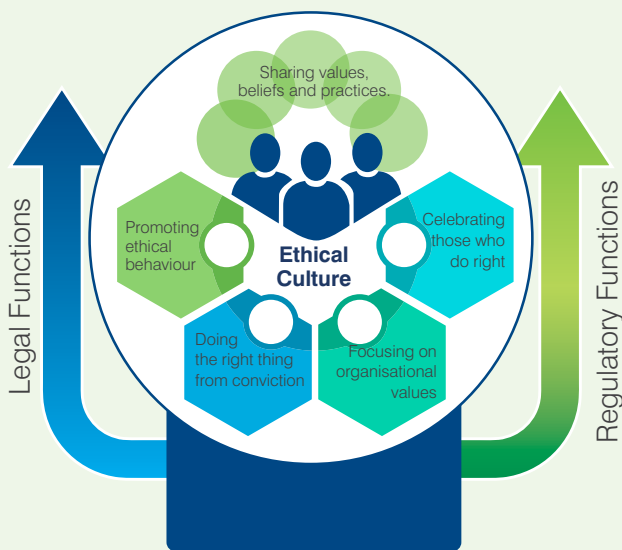
Ethics is about doing what is morally right. The Legal Function focuses on interpreting and applying the law, while Compliance is concerned with adhering to rules and regulations. When aligned, these functions complement one another and collectively support the development of an ethical culture.

3. Role-players

Within organisations, the Ethics, Legal, and Regulatory Functions each play a role in shaping organisational culture as well as influencing the organisation's and employees' behaviour.

3.1. The Ethics Office

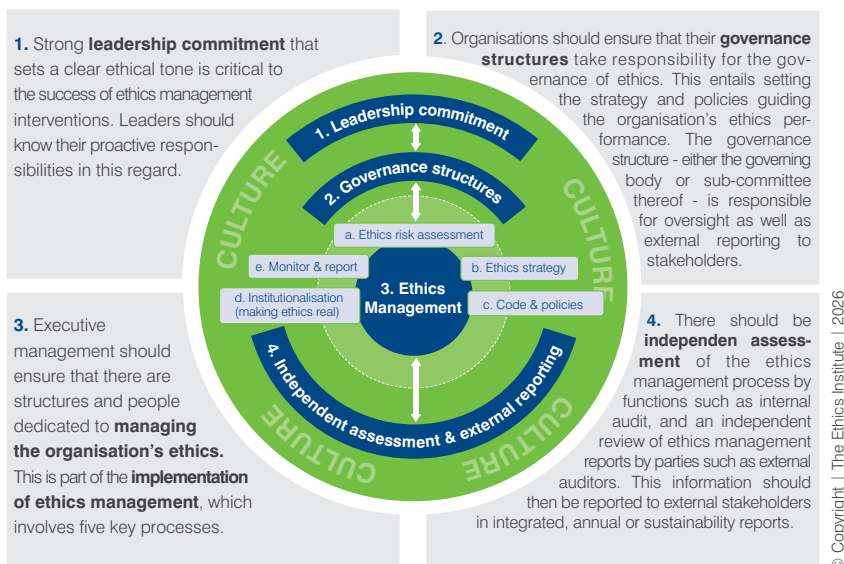
Ethics practitioners, or Ethics Officers focus on shaping organisational culture in alignment with the organisation's core values and on developing employees' ethical decision making capabilities. These practitioners are usually based in the Ethics Office, whose primary mandate is to manage the organisation's ethical performance in a way that strengthens and sustains its ethical culture. However, many organisations either do not have a dedicated Ethics Office or assign ethics management as an additional responsibility to another function, such as Compliance, Human Resources, or Risk Management.



TEI has developed a comprehensive framework for governing and managing ethics, with the aim of cultivating an ethical organisational culture. The framework is depicted below.

Ethics Governance and Management Framework

The framework articulates the structures, reporting lines, and core components underpinning the governance and management of ethics. The Ethics Institute applies this proprietary framework across the majority of its work, including research outputs and ethics-related services delivered to clients. It therefore informs the Institute's approach to training, assessment, advisory work, and ethics awareness initiatives. The framework integrates the guidance of the **King V Code on Corporate Governance** relating to ethics programmes and is applicable across both the private and public sectors.



Source: (Rossouw & Vuuren, 2017, p.226, Fig 17.2) – Adapted to King V TM

This framework informs the work of the Ethics Office and aligns with Principle 2 of King V™ which emphasises that ethics is about the **establishment of an ethical culture as well as being a responsible corporate citizen.**

Based on the above, key ethics governance and management role-players are reflected in the Figure below.



The table below elaborates on the roles and responsibilities of the ethics governance and management role-players.

Role-Player	Role	Responsibility
Governing Body	Sets the ethical tone for the organisation	Governs the ethics of the organisation in a way that supports the establishment of an ethical culture
Social and Ethics Committee	Committee delegated by the governing body to exercise oversight of the ethics programme	Exercises oversight over ethics management and reports to the governing body
Ethics Champion	The executive owner of the organisation's ethics management programme	Takes ownership of, defends, and advocates, the ethics management programme at the executive level of the organisation
Operational Ethics Committee	Chaired by the Ethics Champion and convened by the Ethics Office	Platform for the co-ordination and operationalisation of the ethics strategy
Ethics Office	Manages the ethics performance of the organisation in a manner that cultivates and sustains an ethical culture	

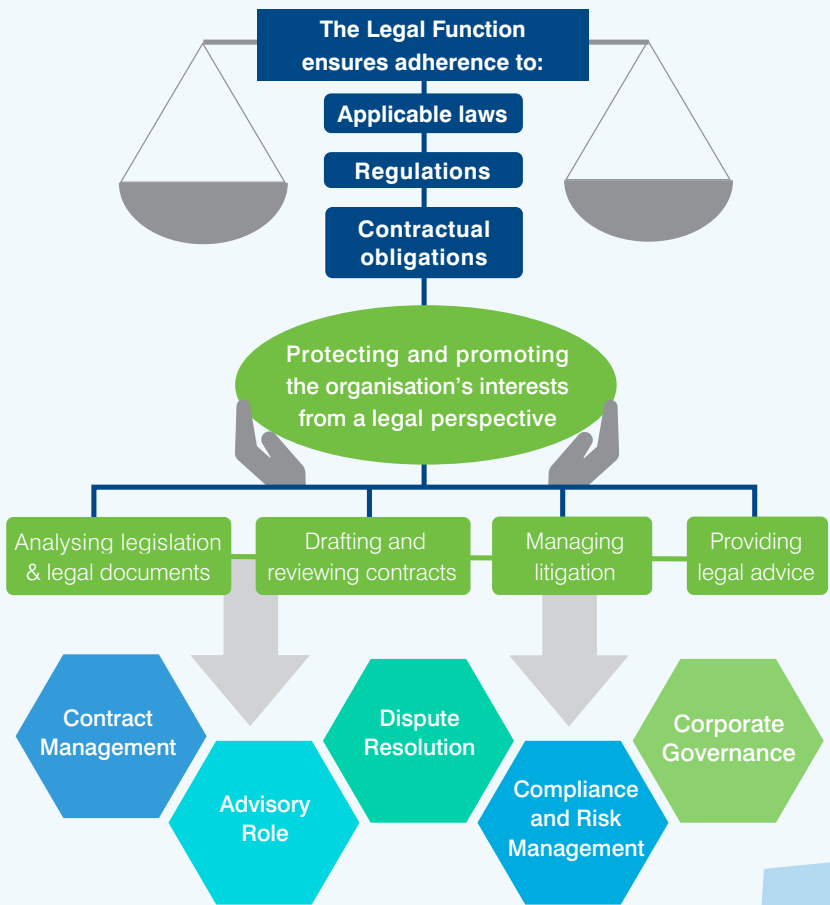
As the custodian of ethics management in the organisation, the Ethics Office is responsible for planning, organising, directing, and overseeing all formal ethics-related activities aimed at achieving an ethical culture. This includes institutionalising ethics, providing ethics training and advice, and supporting ethical decision making. TEI's [Ethics Office Handbook](#) sets out the responsibilities of the Ethics Office:

Leading practice guidelines for the activities of the Ethics Office and its practitioners include:

- i. Actively manages ethics in the organisation in a way that contributes to the establishment of an ethical culture.
- ii. Promotes integrity and ethical behaviour.
- iii. Provides ethical guidance to the governing body, senior management, and staff on ethics-related issues.
- iv. Advises employees on ethical matters.
- v. Coordinates ethics risk and opportunity assessments.
- vi. Ensures that the ethics risk profile is converted to an ethics management strategy and ethics management plan.
- vii. Ensures alignment and consistent application of ethics-related policies, procedures, and practices. As such, the Ethics Office is the 'owner' of the code of ethics and most of the ethics-related standards and policies in the organisation. The Ethics Office coordinates all activities that contribute to providing content to codes and policies.
- viii. Implements codes and policies and ensures that structures, systems and processes are in place to familiarise the governing body, employees and supply chains with the organisation's ethics standards.
- ix. Manages conflicts of interest, including:
 - a. financial disclosures related to employees,
 - b. applications for external remunerative work, and
 - c. departmental gift registers.

3.2. The Legal Function

The Legal Function ensures adherence to applicable laws, regulations, and contractual obligations. Its focus is on protecting and promoting the organisation's interests from a legal perspective. Its responsibilities include analysing legislation and legal documents, drafting and reviewing contracts, managing litigation, and providing legal advice.



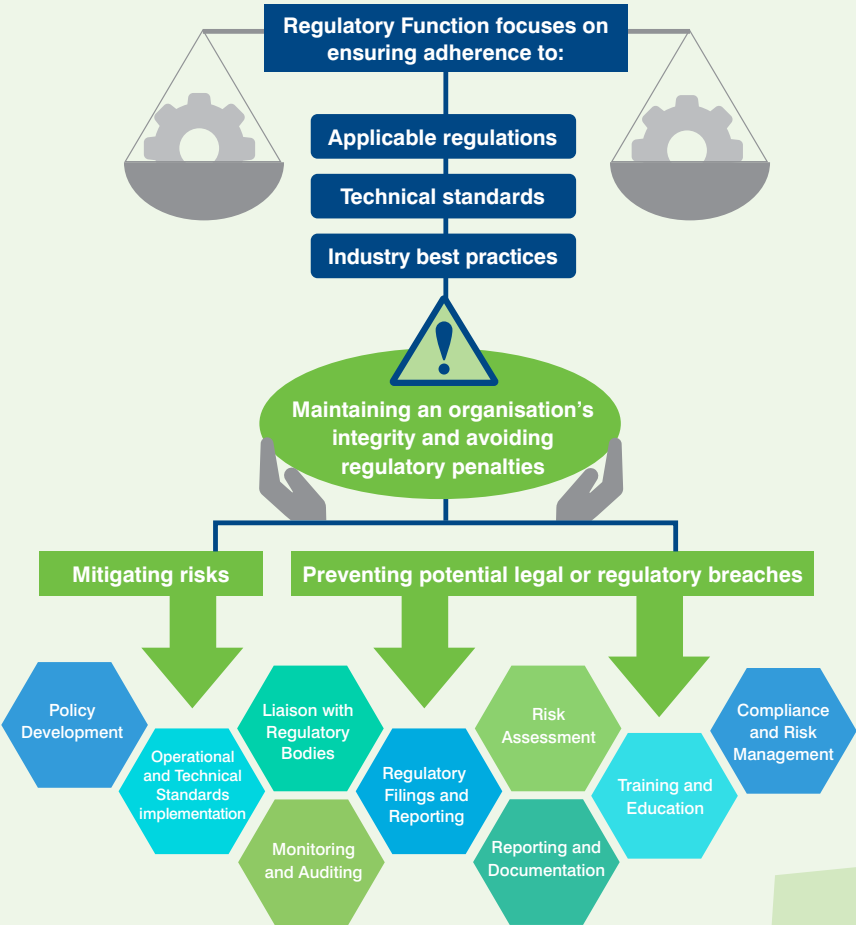
The Legal Function consists of qualified legal professionals who typically undertake the following activities:

Legal Function	
Role	Responsibility
Contract Management	Drafting, reviewing, and negotiating contracts to ensure that the terms are fair, compliant, and protect the organisation's interests. This includes vendor agreements, employment contracts, and partnership arrangements.
Advisory Role	Providing legal advice to various departments within the organisation, helping them understand legal implications related to their operations and decisions. This advisory role encompasses issues such as intellectual property, labour laws, and regulatory requirements.
Dispute Resolution	Handling disputes that may arise within or outside the organisation. This includes negotiating settlements, representing the organisation in litigation, and managing claims and disputes with third parties.
Compliance and Risk Management	Assessing potential legal risks associated with business activities and advising on compliance with laws and regulations. This includes staying updated on relevant legal changes and implementing policies to mitigate risks.
Corporate Governance	Advising on governing body responsibilities, shareholder rights, and regulatory compliance related to governance practices.

Legal practitioners have historically operated as a key support function within organisations, focusing on protecting the organisation from legal risks and ensuring compliance with applicable laws and regulations. They form part of an organisation's second line of defence against risks that could adversely affect the organisation.

3.3. The Regulatory Function

Often closely associated with compliance, the Regulatory Function focuses on ensuring adherence to applicable regulations, technical standards, and industry best practices, thereby mitigating risks and preventing potential legal or regulatory breaches before they arise. This proactive approach is crucial for maintaining an organisation’s integrity and avoiding regulatory penalties.



The Regulatory Function typically encompasses areas like:

Regulatory Function	
Role	Responsibilities
Policy Development	Developing and implementing policies and procedures that align with applicable laws and regulations, ensuring that all organisational activities meet legal standards.
Operational and Technical Standards implementation	Devising and ensuring compliance with the organisation's licensing conditions. Helping the organisation to understand and implement operational standards, quality assurance and industry best practices.
Liaison with Regulatory Bodies	Primary point of contact between the organisation and regulatory authorities. This involves responding to inquiries, coordinating inspections, and managing relationships with regulatory agencies.
Regulatory Filings and Reporting	Managing necessary filings with regulatory bodies, ensuring that the organisation meets its legal obligations for compliance and reporting.
Risk Assessment	Assessing and evaluating compliance risks across business operations, and recommending strategies to mitigate these risks, thereby ensuring the organisation operates within legal and regulatory boundaries.
Training and Education	Conducting training sessions for employees to raise awareness of compliance issues and the importance of adhering to laws and regulations. This helps to foster a culture of compliance within the organisation.
Compliance and Risk Management	Assessing potential legal risks associated with organisational activities and advising on compliance with applicable laws and regulations. This includes keeping abreast of relevant legal and regulatory developments and implementing policies and controls to mitigate associated risks.



Regulatory Function	
Role	Responsibilities
Monitoring and Auditing	Monitoring compliance with established policies and conducting regular audits to assess adherence to legal and regulatory requirements. This includes identifying areas for improvement and potential non-compliance.
Reporting and Documentation	Maintaining comprehensive documentation of compliance activities, including audits, training records, and incident reports, to demonstrate adherence to regulatory requirements and accountability to regulatory authorities.

The Regulatory Function advises the organisation on compliance with applicable regulatory standards. Its role also includes conducting risk assessments, testing controls , monitoring processes, training employees, and conducting internal audits to ensure compliance and mitigate risks. In addition, the function is responsible for developing and maintaining a regulatory compliance risk management matrix and ensuring that instances of non-compliance are identified and addressed in a timely manner.

3.4. Summary

The Ethics Office, Legal Function, and Regulatory Function share the common objective of ensuring that the organisation achieves its governance objectives of cultivating an ethical culture and creating value, promoting conformance, and fostering legitimacy.

The Ethics Office shapes the organisation’s moral compass by focusing on building an ethical culture as its foundation and asking: **“Is this right, responsible, and aligned with our values?”**

The Legal Function ensures the organisation operates within the law, protects it from legal liability and asks: **“Is this lawful and fair?”**

The Regulatory Function ensures compliance with regulatory standards and asks: **“Does this meet regulatory intent and expectations?”**

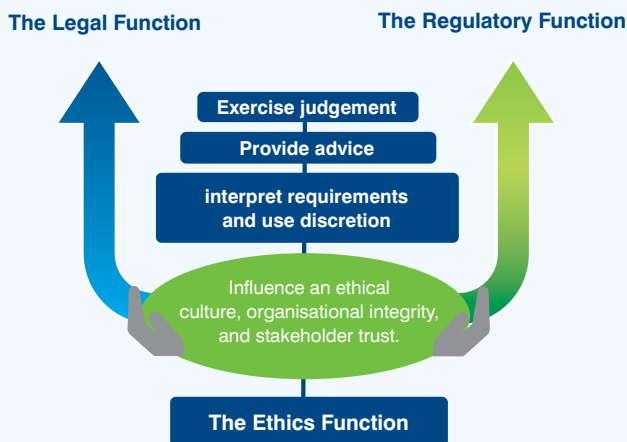
This coordinated collaboration creates a robust foundation for an ethical culture, where ethical principles guide legal interpretation, regulatory compliance reflects the organisation’s values, and governance decisions balance ethics, the law and responsible citizenship.

4. How the Legal and Regulatory Functions enable Ethics

While the mandates of the Legal and Regulatory Functions differ from that of the Ethics Office, their daily decisions, advice, and actions significantly influence an ethical culture, organisational integrity, and stakeholder trust.

Legal and Regulatory practitioners frequently encounter situations that are legally compliant yet ethically ambiguous. Incorporating ethical considerations into legal and regulatory advice enables organisations to prevent reputational harm, regulatory scrutiny, and loss of trust before these risks materialise.

Ethics is not an additional responsibility layered onto legal or regulatory work. Rather, it is embedded in **how legal and regulatory practitioners exercise judgement, provide advice, interpret requirements and use discretion** in fulfilling their core responsibilities.



This section examines how the Legal and Regulatory Functions support ethics through their daily activities, their contributions to internal ethics management processes, and their role in promoting responsible corporate citizenship.

4.1. The Legal Function

Key ways in which the Legal Function supports ethics in its daily work include:

Advising beyond “is it legal”?

- ✓ Explicitly raising ethical considerations when giving legal advice, especially where conduct is lawful but potentially unfair, harmful, reputationally damaging, or vulnerable stakeholders are affected.
- ✓ Framing advice to address legal risk, and ethical, reputational and trust implications.
- ✓ Ethical legal advice asks: “**Can we do this?**” and “**Should we do this?**”

Protecting fairness and due process

- ✓ Ensuring investigations, disciplinary processes, and dispute resolution are procedurally fair, consistent, and respectful of dignity and rights.
- ✓ Resisting pressure to “fast-track” outcomes unfairly, predetermine findings or use legal technicalities to silence legitimate concerns.

Ethical use of discretion and power

- ✓ Applying discretion transparently and consistently.
- ✓ Avoiding selective enforcement or “turning a blind eye” to powerful individuals.
- ✓ Escalating concerns when legal options may undermine ethical integrity.

Supporting safe reporting and non-retaliation

- ✓ Advising on whistleblowing matters in ways that prioritise protection of reporters.
- ✓ Supporting compliance with whistleblowing protection legislation.
- ✓ Discouraging intimidation or victimisation.
- ✓ Working collaboratively with the Ethics Office rather than controlling or suppressing disclosures.



Reviewing contracts to include ethical and compliance clauses

- ✓ Including ethical expectations as contractual clauses, as well as ethical alignment requirements for suppliers and business partners.
- ✓ Conducting due diligence on vendors and partners that extends beyond legal requirements to also assess their ethical standing and reputational risks.

Advising on third-party risks related to corruption, fraud, and human rights

- ✓ Facilitating transparent communication with investors, customers, and the community about the organisation's sustainability initiatives and performance.

Data privacy & confidentiality

- ✓ Ensuring ethical handling of employee and customer data.
- ✓ Advising on compliance with privacy laws such as the Protection of Personal Information Act (POPIA), and the General Data Protection Regulation (GDPR).
- ✓ Supporting policies on cybersecurity and data ethics.

Personal conduct

- ✓ Setting the tone for ethics as legal practitioners through ethical behaviour, consistency in action, ethical decision making and living the organisational values.
- ✓ Declaring conflicts of interest.
- ✓ Maintaining independence and professional integrity.
- ✓ Upholding confidentiality without facilitating or enabling misconduct.

4.2. The Regulatory Function

Key ways in which the Regulatory Function supports ethics in its daily work include:

Interpreting regulations in the spirit, not just the letter

- ✓ Advising management on the intent and purpose of regulations.
- ✓ Avoiding creative compliance that technically meets rules while undermining ethical outcomes.

- 
- ✓ Highlighting regulatory expectations linked to fairness, transparency, sustainability, and public trust.

Ethical engagement with regulators

- ✓ Engaging regulators honestly, transparently, and in good faith.
- ✓ Avoiding misleading disclosures.
- ✓ Avoiding selective information sharing.
- ✓ Avoiding defensive or adversarial positions that erode trust.
- ✓ Promptly disclosing material issues where required.

Early warning and escalation

- ✓ Identifying emerging regulatory and ethical risks early.
- ✓ Escalating concerns where compliance failures signal deeper ethical issues, and behaviour undermines the organisation's license to operate.

Consistent application of standards

- ✓ Ensuring regulatory requirements are applied evenly across the organisation.
- ✓ Resisting pressure to lower standards for commercial or political reasons and delaying compliance unreasonably.

Embedding compliance into culture

- ✓ Supporting training and awareness initiatives that explain the purpose of regulations and the ethical and societal outcomes they are designed to protect.
- ✓ Reinforcing that compliance is a shared responsibility, not a regulatory "burden".
- ✓ Helping the Ethics Office and other departments to understand and navigate legal and regulatory frameworks.
- ✓ Supporting the purposeful translation of legal and regulatory requirements, helping to clarify its intent and alignment with the organisation's values.
- ✓ Facilitating and promoting creative, innovative and responsible solutions that align with compliance requirements, helping to challenge the perception that compliance stifles innovation.

Policy development

- ✓ Ensuring policies are developed in alignment with legal, regulatory and ethical standards to minimise risk, while helping organisations avoid litigation, reputational harm and operational disruptions.

Regulatory advice

- ✓ Advising on emerging legal, regulatory and ethical trends, while collaborating on ethical risk assessments and sharing compliance insights to proactively protect the organisation and strengthen stakeholder trust.

Personal conduct

- ✓ Setting the tone for ethics as regulatory practitioners through ethical behaviour, consistency in action, ethical decision making and living the organisational values.
- ✓ Declaring conflicts of interest.
- ✓ Maintaining independence and professional integrity.
- ✓ Upholding confidentiality without facilitating or enabling misconduct.

4.3. Internal Ethics Management Support

While the Ethics Office is the custodian of ethics management, the Legal and Regulatory Functions are strategic partners in enabling the effective implementation of the ethics programme.

They have the shared objective of ensuring that the organisation is both ethical and compliant, thereby contributing towards the governance outcomes of an ethical culture, conformance and legitimacy.

Using TEI's Governance of Ethics Framework as a guide, we now explore how the Legal and Regulatory Functions enable the Ethics Office to achieve its objective of building an ethical culture.



	The Ethics Office	The Legal Function	The Regulatory Function
Governance	Promotes ethical culture • Embeds ethics into structures (e.g. ethics office, ethics committee, ethics ambassador networks) • Supports ethical leadership • Establishes the tone for integrity by defining values and ethical standards • Fosters a culture of trust, transparency, and accountability	Ensures legal soundness • Provides input on terms of reference for ethics committees and ethics ambassador roles • Ensures the ethics governance structures align with legislation and governance codes (e.g. King VTM), Public Finance Management Act, and sector-specific laws) • Reviews delegation of authority frameworks and decision making protocols from an ethical and legal risk lens • Supports governing body members and leadership in ethical decision making • Advocates for ethical considerations in decision making and strategy setting processes • Reinforces stakeholder trust by embedding legality and due process into operational and strategic decision making	Maintains accountability and transparency • Contributes to the development of industry standards and operational best practices • Provides input into operational quality assurance • Provides transparent reporting and advises the governing body and regulators on compliance performance • Implements compliance management systems that integrate ethics, legal, and governance practices
Operational Ethics Committee	Chairs and co-ordinates the ethics committee to ensure integration and implementation of the ethics strategy and implementation plan	Serves as a key member of the ethics committee, supporting the execution of the ethics strategy and implementation plan	Serves as a key member of the ethics committee, supporting the execution of the ethics strategy and implementation plan

	The Ethics Office	The Legal Function	The Regulatory Function
Risk Assessment	Drives the ethics risk assessment process • Conducts the ethics risk assessment • Identifies and analyses ethical risks and opportunities	Supports the ethics risk assessment process • Provides legal interpretation of risk areas, such as procurement irregularities or regulatory breaches • Participates in ethics risk identification workshops to identify or flag legal risks with ethical dimensions (e.g. data privacy violations and governance failures). • Contributes to a joint risk register reflecting both legal and ethical risks • Participates in the ethics risk assessment process as part of the Governance, Risk and Compliance cluster	Drives the Regulatory and Licensing Risk assessment • Compiles and manages the Regulatory compliance universe of the organisation • Keeps and manages the Compliance Risk Management Register (CRMP) of the organisation • Ensures that ethics risks are included in the CRMP
Ethics Strategy	The custodian of the ethics strategy, drives the process and ensures its implementation	Supports the ethics strategy by identifying legal risks and contributing to its execution in line with the ethics implementation plan	Supports the ethics strategy by identifying regulatory risks and contributing to its execution in line with the ethics implementation plan
Code of Ethics and Policies	• Defines the organisation's values, principles, and expected behaviours • Develops Code of Ethics and ethics related policies based on the identified ethics risks and opportunities • Conducts training and awareness initiatives on the Code and related policies	• Assists with the development of the Code of Ethics and ethics related policies • Communicates the purpose of the policies to stakeholders • Ensures that the Code and policies are aligned with the organisation's values • Ensures that the Code and policies developed by the Ethics Office align with legal requirements • Helps draft, review, and legally vet policies • Ensures policies are legally defensible while reflecting ethical intent	• Contributes to the development of policies that reflect legal, regulatory, and ethical standards to minimise legal, regulatory, and ethical risks



	The Ethics Office	The Legal Function	The Regulatory Function
Institutionalisation (making ethics real)	Builds understanding of organisational values, expected conduct, and cultivates ethical reasoning	- Conducts legal compliance training that reinforces ethical implications (e.g. "Why does compliance with POPIA matters ethically?"). - Collaborates on training scenarios that reflect both legal risks and ethical dilemmas - Clarifies legal consequences of unethical conduct	Conducts regulatory risk management training and assessments, reinforcing the ethical implications of non-compliance (e.g. "Why does maintenance of service delivery quality standards matter ethically?")
Ethics Training and Awareness Raising	- Develops ethics training and awareness raising campaigns and material - Conducts ethics training and awareness initiatives	- Assists the Ethics Office in designing training programmes that emphasise the intersection between legal, regulatory, and ethical standards, ensuring employees understand their responsibilities across all these areas - Aligns compliance training to values-based programmes to promote a broader understanding of compliance requirements among employees - Provides case studies and legal precedents to highlight ethical dilemmas - Clarifies the legal consequences of unethical behaviours	- Clarifies technical standards and their purpose for easy translation into behaviours - Supports the translation of regulatory requirements, helping to clarify their intent and how they align with the organisation's values - Aligns compliance training to values-based programmes to promote a broader understanding of regulatory and technical compliance requirements among employees
Ethical Decision Making	- Assists employees with the development of ethical decision making skills - Provides ethics advice to employees - Supports ethical leadership by guiding decision making aligned with organisational values and stakeholder expectations	Demonstrates that when ethical considerations are prioritised in decision making, a positive reputation among stakeholders is built that serves as a competitive differentiator, enhancing customer loyalty and investor confidence	- Demonstrates how ethical considerations can support the fulfillment of licensing, technical, and regulatory requirements - Contributes to improved operational practices that serve as a competitive differentiator - Enhances customer loyalty and investor confidence - Fosters a culture of integrity, trust and long-term sustainability by incorporating ethical consideration into regulatory opinions and decisions



	The Ethics Office	The Legal Function	The Regulatory Function
Conflict of Interest Management	• Sets out the process for conflict of interest management • Develops conflict of interest policy • Conducts training and awareness initiatives on the policy and disclosure processes • Manages the conflict of interest process • Encourages disclosure and open dialogue about potential conflicts • Provides confidential guidance to employees and executives facing ethical dilemmas related to possible conflicts of interests, ensuring decisions align with the organisation's values rather than focussing solely on compliance	• Ensures that disclosures of interests are aligned with relevant legislation and regulations • Identifies potential conflicts and advises on mitigation strategies • Advises on legal and compliance risks that may arise from conflicts of interest • Provides additional insight into the importance of transparency and conflict of interest records to support legal and compliance inquiries • Helps to establish reporting mechanisms and disclosure procedures • Contributes to ensuring transparency in organisational relationships	• Embeds conflict of interest disclosures into compliance workflows (e.g., annual declarations, and procurement systems) • Ensures conflict of interest policy and procedures are consistently enforced and reported to the relevant committees • Uses compliance monitoring data to inform the ethics and legal teams of recurring or systemic risks related to conflicts of interest

In conclusion, the Legal and Regulatory Functions can support the building of an ethical culture by integrating ethics into their daily activities, partnering proactively with the Ethics Office, advocating for ethical behaviour and decision making, incorporating ethics into their operational and strategic decisions and advising and ensuring that ethical considerations are not overlooked for the sake of expediency.

Practical ways in which this collaboration can be enhanced, over and above meeting at the operational ethics committee, is through regular meetings between the Legal and Regulatory Functions and the Ethics Office to discuss overlapping ethical and legal matters, sharing ethical risk assessment frameworks, jointly developing policies and discussing opportunities for collaboration such as training and awareness creation.

Through this collaboration ethics management is strengthened, ethical risks are identified and timeously mitigated, and ethics is embedded into operational decision making rather than treated as a separate initiative. A strong partnership prevents legal liability while promoting ethical courage. This results in ethics being embedded in daily decisions, systems, and behaviours—moving the organisation beyond compliance towards an ethical culture.

4.4. External Ethics through Corporate Citizenship

Within an organisation, corporate citizenship activities typically include sustainability programmes, community engagement, environmental, social and governance initiatives, and stakeholder partnerships. With the rise of environmental, social and governance considerations and regulations, organisations are facing increasing complexities in navigating rules and regulations aimed at promoting sustainability.

King V™ defines corporate citizenship as *the recognition that the organisation is an integral part of the broader society in which it operates, affording the organisation standing as a juristic person in that society with rights but also responsibilities and obligations. It is also the recognition that the broader society is the licensor of the organisation.*

Principle 2 of King V™ places the governance responsibility for corporate citizenship on the governing body. It requires that the governing body exercises oversight and monitoring of corporate citizenship as set out below:

“Oversight and monitoring

18. The governing body should exercise ongoing oversight and monitoring of how the direct and indirect consequences of the organisation’s activities and outputs affect its standing as a responsible corporate citizen over time. This should include ensuring measures and targets in all of the following areas:

- a. Workplace (including employment equity; fair remuneration; safety, health, dignity and development of employees; and diversity, equity and inclusion in the workplace).*
- b. Economy (including economic transformation; the prevention, detection, and response to fraud and corruption; and responsible and transparent tax policies).*
- c. Society (including public health and safety; consumer protection; community development; safeguarding of human rights; and external stakeholders’ interests).*
- d. Environment (including climate and energy resilience; water stewardship; waste management and circularity; consequences to nature with respect to biodiversity and ecosystem services, land and soil health, and animal rights and welfare).”*

Source: IODSA, King V Report on Corporate Governance for South Africa., 2025

One of the governance outcomes set out in King V™ is that of Legitimacy. This refers to the organisation having a good reputation and being trusted as a result of responsible corporate citizenship and strong stakeholder relationships.

Whilst the governing body retains ultimate responsibility for the governance of corporate citizenship, oversight of this responsibility is frequently delegated to the Social and Ethics Committee

The implementation or management of corporate citizenship is a shared organisational responsibility, guided by ethical leadership and aimed at ensuring the organisation contributes positively to society while remaining sustainable and accountable. No single function holds exclusive responsibility for corporate citizenship; instead it is typically shared across several functions, including the Sustainability, Risk and Compliance, Human Resources, Legal, and Regulatory Functions.

The Legal Function supports responsible corporate citizenship by:

- ✓ Ensuring lawful and fair conduct
- ✓ Protecting stakeholder rights
- ✓ Strengthening governance and accountability
- ✓ Integrating ethical judgement into legal advice
- ✓ Supporting sustainability and responsible business practices
- ✓ Promoting transparency and procedural fairness

In this way, the Legal Function exercises stewardship over both legality and legitimacy, serving as a strategic partner in enabling ethical and responsible organisational conduct.

The Regulatory Function supports responsible corporate citizenship by:

- ✓ Ensuring compliance with both the letter and intent of regulation
- ✓ Aligning compliance systems with the Code of Ethics
- ✓ Protecting stakeholder interests
- ✓ Supporting sustainability and environmental, social and governance oversight
- ✓ Promoting transparency and accountability
- ✓ Applying ethical judgement in regulatory decision making

In this way, the Regulatory Function ensures that the organisation not only complies with laws, but does so in a way that is ethical, transparent, and aligned with broader societal expectations.

The Ethics Office supports responsible corporate citizenship by:

- ✓ Providing the ethical foundation through the Code of Ethics
- ✓ Ensuring alignment between values and external commitments
- ✓ Promoting stakeholder-centered thinking
- ✓ Strengthening transparency and safe reporting mechanisms
- ✓ Guiding ethical decision making in complex trade-offs

In doing so, the Ethics Office acts as the moral compass of the organisation — ensuring that responsible corporate citizenship is anchored in an ethical culture and aligned with the organisation's values.

By working together, along with other internal role-players, the Ethics Office, the Legal Function and the Regulatory Function ensure that the organisation:

- ✓ Meets legal standards and ethical aspirations
- ✓ Operates with integrity, transparency, and fairness
- ✓ Aligns internal conduct with external expectations
- ✓ Treats all stakeholders with respect, dignity, and accountability
- ✓ Manages risk, protecting reputation, promoting values, and increasing legitimacy

This collective effort supports the organisation to achieve the governance outcomes of Ethical Culture, Conformance & Prudent Control as well as Legitimacy. Good corporate citizenship is not achieved by law alone. It is the outcome of lawful, compliant conduct shaped by ethical conviction.

5. Ethical Skills and Competencies for Legal and Regulatory Practitioners

Legal and Regulatory practitioners are increasingly expected to act not only as guardians of compliance, but also as ethical stabilisers, trusted advisors, and contributors to organisational legitimacy and sustainability.

To act as enablers to the Ethics Office and supporting ethics meaningfully, the Legal and Regulatory Functions must move beyond a narrow, rule-focused or overly risk-averse position towards a more ethically informed and values-driven approach.

Whilst their respective technical competence remains essential, enabling an ethical culture requires a broader set of skills and professional capabilities. The core skills and competencies outlined below enable Legal and Regulatory practitioners to support the Ethics Office effectively and strengthen ethical culture across the organisation.



Ethical skills and competencies

- Ethical Awareness and Moral Reasoning
- Understanding Ethics Governance and the Business Case for Ethics
- Values-Based Advisory Skills
- Fairness, Procedural Justice, and Due Process
- Independence, Courage, and Professional Integrity
- Collaboration and Relationship-building
- Whistleblowing and Protected Disclosures Expertise
- Systems Thinking and Ethical Risk Awareness
- Communication and Influence Skills
- Personal Ethical Conduct and Role-Modelling

5.1. Applicability to Legal Practitioners

5.1.1. Ethical Awareness and Moral Reasoning

Legal and Regulatory practitioners must be able to recognise ethical dimensions in decisions that are legally compliant yet ethically ambiguous. This capability enables practitioners to explicitly flag ethical implications in advice and to support values-based decision making.

Key competencies include:

- The ability to distinguish between what is lawful, what is permissible, and what is right and fair;
- Comfort with ambiguity and the ability to navigate “grey areas” where clear rules do not exist; and
- A working understanding of ethical reasoning frameworks and ethical decision making principles.

5.1.2. Understanding Ethics Governance and the Business Case for Ethics

Legal and Regulatory practitioners must understand how ethics is governed and managed within the organisation, and why ethics matters for organisational performance and legitimacy.

Key competencies include:

- Working knowledge of King V™, particularly Principles 1 and 2;
- Familiarity with TEI's Governance of Ethics Framework;
- Understanding the organisation's ethics governance structures, including the Ethics Office, Ethics Champion, and ethics committees; and
- The ability to align legal and regulatory advice with King V™ governance outcomes, namely Ethical Culture, Performance and Value Creation, Conformance and Prudent Control, and Legitimacy.

5.1.3. Values-Based Advisory Skills

Legal and Regulatory advice shapes organisational behaviour. Practitioners therefore require the ability to frame advice in a manner that empowers leaders to act both legally and ethically.

Key competencies include:

- The ability to frame advice using the organisation's values and not only legal or technical terminology;
- Willingness to incorporate ethical risk, reputational risk, and stakeholder impact into advice; and
- Avoidance of "defensive" advisory approaches that enable unethical conduct under the guise of legal compliance.

5.1.4. Fairness, Procedural Justice, and Due Process

Ethical culture is strongly influenced by perceptions of fairness. Legal and Regulatory practitioners play a pivotal role in reinforcing trust through consistent and just processes.

Key competencies include:

- Deep understanding of procedural fairness in investigations, disciplinary processes, grievance handling, and dispute resolution;
- Ability to design, oversee and evaluate processes that protect dignity, impartiality, and consistency; and
- Sensitivity to power imbalances and their impact on fairness and ethical outcomes.

5.1.5. Independence, Courage, and Professional Integrity

Supporting ethics often requires speaking truth to power. Legal and Regulatory practitioners must be willing and able to challenge decisions that are legally permissible but ethically problematic.

Key competencies include:

- Independence of judgement and resistance to undue influence;
- Willingness to challenge management where ethical risks are ignored or minimised;
- Professional courage to escalate concerns when pressure is applied to suppress issues; and
- Strong personal integrity and ethical consistency.

5.1.6. Collaboration and Relationship-building

Ethics governance is relational rather than siloed. Legal and Regulatory practitioners must work collaboratively with the Ethics Office and other functions to strengthen governance outcomes.

Key competencies include:

- Ability to collaborate constructively with Ethics, Risk, Compliance, Human Resources, and leadership;
- Respect for role boundaries and functional independence; and
- Willingness to co-create solutions rather than dominate or control processes.

5.1.7. Whistleblowing and Protected Disclosures Expertise

Mishandling protected disclosures can destroy trust and expose the organisation to legal and ethical harm. Legal and Regulatory practitioners play a central role in protecting reporters and reinforcing confidence in safe reporting systems.

Key competencies include:

- Recognition of whistleblowing as a moral act, not simply a legal event;
- In-depth knowledge of protected disclosure legislation, confidentiality, and non-retaliation requirements; and
- Ethical sensitivity in balancing confidentiality, fairness, transparency, and accountability.

5.1.8. Systems Thinking and Ethical Risk Awareness

Ethical failures often reflect systemic issues rather than isolated misconduct. Legal and Regulatory practitioners should be able to identify patterns and contribute to preventative ethics management.

Key competencies include:

- Ability to identify trends in misconduct, disputes, regulatory breaches, or complaints;
- Understanding how legal and regulatory issues intersect with organisational culture, incentives, and leadership behaviour; and
- Active contribution to ethics risk assessments and mitigation strategies.

5.1.9. Communication and Influence Skills

Ethical and legal advice only adds value if it is understood and acted upon. Legal and Regulatory practitioners must communicate clearly and persuasively with non-specialist audiences.

Key competencies include:

- Ability to explain complex legal, regulatory, and ethical risks in accessible language;
- Constructive engagement with governing bodies and committees; and
- Use of clarity and insight to enable ethical decision making rather than intimidation or technical obscurity.

5.1.10. Personal Ethical Conduct and Role-Modelling

Legal and Regulatory practitioners are highly visible symbols of organisational integrity. Their conduct directly affects the credibility of ethics governance.

Key competencies include:

- Strict adherence to professional ethical standards;
- Transparency in declaring and managing conflicts of interest;
- Consistent modelling of respect, fairness, and accountability; and
- Behaviour that reinforces trust in the Legal and Regulatory Functions as ethics partners.

5.2. Applicability to Regulatory Practitioners

In addition to the competencies described above, regulatory professionals must also be able to:

- Apply standards impartially and consistently;
- Translate regulatory requirements into ethical meaning and practical behaviour;
- Escalate compliance concerns with ethical sensitivity; and
- Collaborate across functions to integrate compliance, ethics, and operational realities.

6. Conclusion

When the Legal and Regulatory Functions operate only from a defensive or rules-based perspective, ethics can be reduced to mere compliance. However, when they intentionally incorporate ethical considerations into their work—considering not only what is legally permissible, but also what is right and responsible—they become powerful enablers in fostering an ethical culture, building trust, and strengthening organisational legitimacy.

This Ethics Companion for Legal and Regulatory Functions has outlined how these functions can support ethics through their daily activities and through close collaboration with the Ethics Office. In doing so, they contribute not only to legal compliance and regulatory assurance, but also to strengthening ethical culture, promoting conformance, enabling responsible corporate citizenship, and supporting sustainable value creation.

Ultimately, ethical culture is not enforced through rules alone. It is enabled through principled judgement, professional courage, and collaborative governance. When the Legal and Regulatory Functions and the Ethics Office operate in alignment, organisations are better equipped to navigate complexity with confidence, act responsibly in the public interest, and sustain their licence to operate in both law and society. Together, they create a coherent governance ecosystem that supports an ethical culture, responsible corporate citizenship, and sustainable value creation.

Together, Legal and Regulatory sets the guardrails; Ethics points the compass.



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About The Ethics Institute

The Ethics Institute is an independent public institute producing original thought leadership and offering a range of services and products related to organisational ethics.

Our vision is: Building an ethically responsible society.

We pursue our vision through thought leadership and ethics-related offerings, including training, advisory services, assessments, products and supporter opportunities. We work with the public and private sectors and with professional associations.

All original research work produced by The Ethics Institute, including the *Ethics Companion for Organisational Functions*, is freely available on our website.

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