

Purpose of this Presentation

- To describe what a values-based organization is and why it is so important and powerful;
- To explain how understanding and managing ethical risk contribute to an organization being values-based.
- To briefly describe the steps taken to create an Ethical Risk Profile; and,
- To discuss what our organization learned and continues to learn from this process of ethical risk management.

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Overall Message



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And to quote Ronnie Kahn, Executive Vice President, Ethics and Compliance Initiative (2016):

“Conducting regular risk assessments is a best practice in any ethics and compliance program, not only in the eyes of government and regulators but in running a high quality business.”

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The Canadian Food Inspection Agency is...

- Canada's largest science-based regulatory federal agency:

Approximately 6500 employees (medium in size)
4 Areas + NCR (National Capital Region) (nation wide)
18 regional offices
185 field offices
485 offices in non govt. establishments
13 laboratories

- Committed to safeguarding food, animals and plants, which contributes to enhancing the health and well-being of Canada's people, environment and economy.
- Responsible for 13 federal statutes and 38 sets of regulations.

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“Building on past performance, the Agency’s vision is to establish itself as a values-based organization that fosters continued public confidence in its ability to deliver its mandate.”*

* CFIA's Values and Ethics Strategy: A Framework for Ethical Decision Making (2008, updated 2010 and 2015)

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What is ethical organizational culture?



An organizational culture is a group of people who have been trained, or who simply have learned by those around them, how to act in any given situation.

"It is the extent to which an organization regards its values. Strong ethical cultures make doing what is right a priority."*

*Ethical Culture Building: A Modern Business Imperative," Research Report, ERC 2009

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What Makes a Values-Based/Ethical Organization (VBO)?

- ✓ In a VBO, values are conscious, shared and lived; not just a "frame on the wall," in other words, values and ethics are embodied behaviours in employees.
- ✓ In a VBO, values govern all decision making and are embedded in the organization.
- ✓ In a VBO, values are the foundation of the organization's policies.

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The Benefits of Being a Values-Based Organization

- Promotes strong public image and better relations with stakeholders, partners and others;
- Results in better decision making;
- Stronger organizational culture;
- Helps staff act in a consistent manner in difficult situations;
- Keeps morale high during periods of change;
- Cultivates strong teamwork and productivity;
- Ensures the continuity and sustainability of efforts in values and ethics;
- Increases awareness and understanding of ethical problems; and,
- Ensures that policies and procedures adhere to high moral standards.

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Consequences of Not Focussing on Values and Ethics / Ethical Culture

- Loss of internal (employee) and public trust in the organization and its leaders
- Loss of employee loyalty in, and commitment to, the organization
- Lack of, or low, employee engagement
- Inability to achieve high performing organization
- Low creativity/lack of innovation
- Lack of discretionary efforts
- High turnover
- Low productivity
- Low performance levels (physical and mental health deterioration, high anxiety and depression, high sickness absence)
- Financial consequences
- Low morale

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A case study of an ethical failure:



Volkswagen – Tolerance for breaking the rules?

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Volkswagen: Tolerance for breaking the rules?



Volkswagen Posts Deep Loss After Emissions Scandal*

- Loss of **16.2 billion euros or \$18.28 billion US dollars** in fiscal year 2015 due to diesel issue
- Total of **\$14.7 billion** to be paid in the US to settle claims Volkswagen deceived customers and cheated pollution tests with its diesel engines
- **\$2.1 billion** Canadian settlement
- Pleaded guilty in US (**\$2.1 billion** criminal fines/**\$1.6 billion** civil fines/6 executives arrested and charged!)

*Source: <https://www.wsj.com/articles/volkswagen-posts-deep-loss-after-taking-18-28-billion-hit-on-emissions-scandal-1461333307>¹²

Source: <http://eourse.org/dokumente/09-ist-in-existenz-bedroht/no-fair>



- “The decision by employees to cheat on emissions tests was made more than a decade ago.”
- “The cheating took place in a climate of lax ethical standards. There was a tolerance for breaking the rules.”

- “We don’t need yes men but managers and engineers who make good arguments.”*

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1. Values and Ethics (V&E) Strategy
2. Statement of Values and appropriate Codes/Policies
3. V&E Training/Awareness Building
4. Ongoing Ethical Dialogue
5. Conflict of Interest (COI) Program
6. Ethical Wellness Report
7. Ethical Climate Survey
8. Values and Ethics Leadership Team (VELT)
9. Ethical Risk Profiles (ERP)
10. Process for Internal Disclosure of Wrongdoing

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CFIA's Vision, Mission and Values Provide the Ethical Foundation

Vision

To excel as a science-based regulator, trusted and respected by Canadians and the international community

Mission

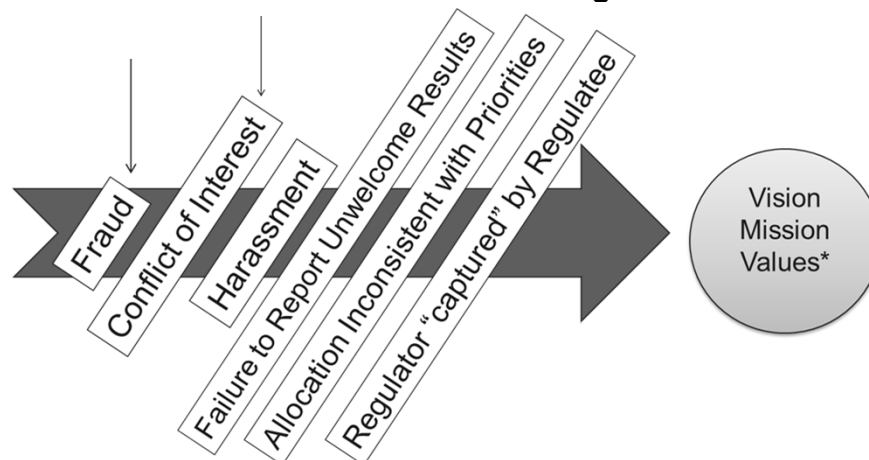
Dedicated to safeguarding food, animals and plants, which enhances the health and well-being of Canada's people, environment and economy

Values

- We value scientific rigour and professional and technical competence. These play a crucial role in our decision making. We do not manipulate science to achieve a desired outcome but acknowledge that other factors must be taken into account in this decision making.
- The reputation and credibility of the Agency are vital to our ability to deliver our mandate. As such, we behave, internally and externally, in a way that trust is preserved.
- We are proud of the contributions we make to the quality of life of Canadians. We value dedication and responsiveness from all employees day to day and, particularly, during an emergency.
- We value competent, qualified and motivated personnel, whose efforts drive the results of the Agency.
- To develop effective policies and strategies, we value the perspectives of the stakeholders who are affected by our decisions.
- We maintain our regulatory independence from all external stakeholders. We have the courage to make difficult and potentially unpopular decisions and recommendations, free from personal bias.
- We are committed to our physical and psychological well-being.

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Ethical Risks May Limit the Achievement of the Vision, Mission and Values of the Organization



*These provide the ethical foundation of the organization.

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“The key is to proactively determine where risks lie and either eliminate the source or mitigate the risk before it reaches headline proportions.”*

* Anne Frederwisch, “Ethical Risk Assessment: Crisis-prone or Crisis-prepared” (2006), University of Santa Clara

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Ethical Risk Profiling Provides Long Term Benefits

Ethical Weaknesses Provide Early Warnings, Leadership Sets the Tone

Studies on Operational Risk in the corporate sector have identified that the absence of a strong ethical framework is a common factor for many very large scale enterprise wide failures. Identification of ethical risks where staff feel that “it doesn’t matter” or “nobody cares” provides indications of organizational weakness. Actions and decisions that have been interpreted by staff as “non compliant” or “unethical” need to be identified and addressed.

“Tone at the top” and the evidence of tolerance or intolerance of unethical behavior are communicated almost instantly across organizations regardless of their size. It is critical for senior managers to know how best to communicate their commitment to corporate values

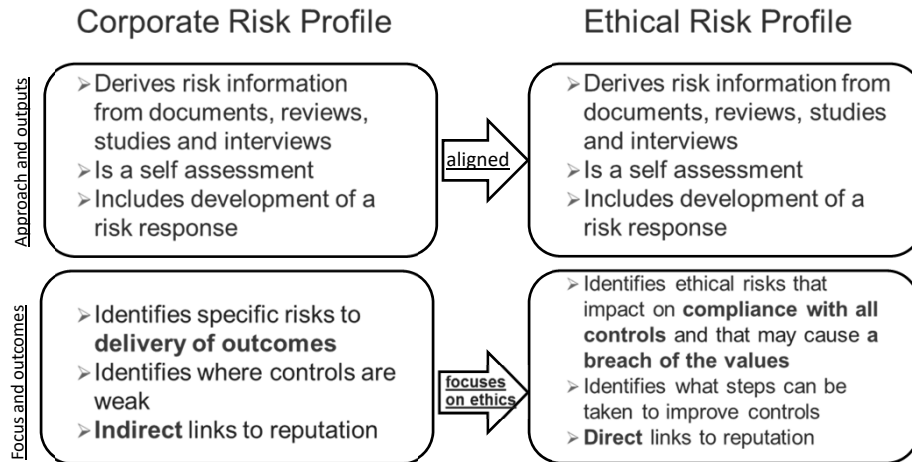
Regulatory Agencies Face Unique Ethical Challenges

There is evidence that regulatory staff can become intellectually “captured” by the organizations and industries which they regulate. This can be exacerbated where there is “churn” between the regulated organizations and the regulating agency. This may occur when employees of regulated industries join the regulators and are seen as overly sympathetic of the pressures facing regulated parties.

Often when the workload on regulating agencies is greater than their capacity, the absence of a clearly communicated and well understood ethical framework can result in operational staff cutting back in ways that are inconsistent with the organization’s mission and values.

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An Ethical Risk Profile Builds on the Familiar Corporate Risk Profile Approach



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But what exactly is “ethical risk”?

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What are Ethics?

Ethics are a reflection of how values are applied in decision making. They involve determining what is right or wrong, and then doing the right thing.

In terms of the organization, ethics are the organization's values put into action; a reflection of how these values are applied in actual decision making and in how employees behave.



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Ethical Decision Making

Ethical decision making is more nuanced than just choosing between right and wrong.

- For example, it may be about choosing between right and right (i.e., choosing the better of two right options).
- Or, it may be about making a good decision or an even better decision.
- Most decisions are, in fact, ethical decisions or have ethical components to them.

For the CFIA, ethical decision making is about making the best decision for the Agency, given its values and codes, other policies and guidelines.

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So Ethical Risk is...

Commonly defined as...

A particular type of uncertainty that leads to a situation where the values and ethics of the organization may be breached.

CFIA's Description of Ethical Risk:

Ethical risk is a combination of factors that might unduly impact or influence staff behavior and decision making and where mitigation strategies, if they are not already in place, might be necessary. We identified potential ethical "hot spots" based on, or because of:

- ✓ What we do (e.g. inspections, sampling, testing, test development, research, policy development etc.) and/or
- ✓ How we do it (e.g. the degree of controls in place, such as codes of conduct, policies and training; leadership quality) and/or
- ✓ Where we do it (e.g. remote locations, borders) and/or
- ✓ With whom we do it (e.g. the nature of our relationships).

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Methodology

In accordance with Global Standards - CAN/CSA ISO 31000 and ISO 31010

ETHICAL RISK IDENTIFICATION

Documents review and interviews with Branch employees

ETHICAL RISK VALUDATION & ASSESSMENT

Four workshops to assess and validate risk drivers, consequences, current and potential ethical risks impinging on organization objectives

ETHICAL RISK TOLERANCE

Presentation of Risk Assessment and Validation results to VP of Branch for identification of organization risk tolerance

ETHICAL RISK MITIGATION PLANNING

Identifying attainable steps that can reduce intolerable risks

ETHICAL RISK PROFILE

Developing a profile for the Branch

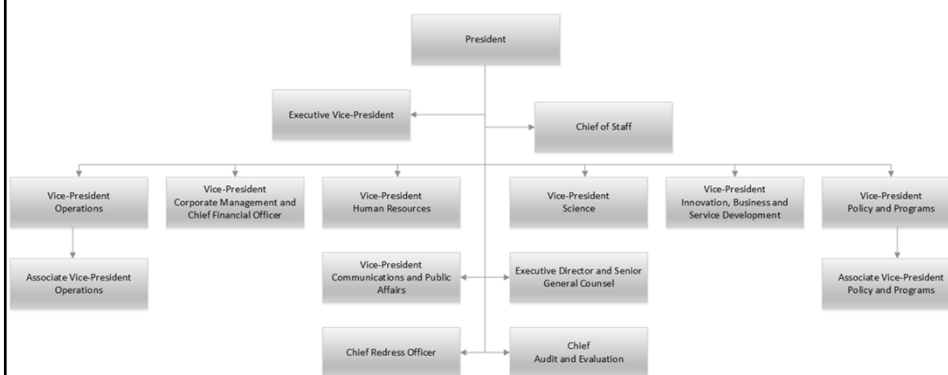
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“What works for a purebred Great Dane is not going to be right for a Labrador puppy...”*

* Scott Killingsworth, “Some realism about risk assessments” (2015), Compliance and Ethics Professional, Society of Corporate Compliance and Ethics.

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CFIA Organizational Structure



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Overview of Interview (estimated at 45 to 60 minutes)
This list of questions touches on the full span of areas we want to cover. Based on responses, some questions may not be asked and other follow up questions may be added.

- 1) Your role, responsibilities and the functions of your team.
- 2) Have you seen any of the following best practices with respect to mitigating ethical risks in action at CFA?
- a. Open discussions between staff and between staff and managers and supervisors of areas requiring attention?
- b. Easy access to mechanisms to report unethical behavior? A comfort level among staff to bring issue forward?
- c. Strong leadership which clearly demonstrates their commitment to the Agency's values by their actions and communications?
- d. Mechanisms that protect you from threats and intimidation (internal and external)?
- e. The presence of testing and controls that can identify when an ethical breach has occurred?
- f. Strong and effective action to correct and respond to situations where unethical behavior occurred?
- g. Positive commendations or notices for ethics and values leaders?
- h. Periodic reassessment of practices and relationships to ensure that they achieve/support the Agency's commitments and values?
- i. Clear communication of the Agency's values in a way that is effective for you, and processes which periodically revisit the values in the context of the tasks you and your group conduct?
- j. Clear understanding of the rules (eg. Code of Conduct, Conflict of Interest and Post Employment Code as two examples) that should guide behaviours and knowing where to go get the information?
- 3) The internal environment:
 - a. How does the Agency's internal work environment support or impair operating/working in line with Agency values and ethics?
 - b. Where in the Agency is the support for ethics and values the strongest?
 - c. What factors have contributed to this being the case?
 - d. What factors or conditions limit or inhibit unethical behavior at the Agency?
 - e. What factors or conditions limit or inhibit ethical behavior at the Agency?
 - f. Are you aware of any ethical issues involving staff at CFA who previously were employed at a regulated industry or sector?

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Examples of Ethical Risks

Common to All Branches:

- **People management practices**
- **Conflicts of Interest**
- **Staffing practices**
- **Harassment**

Unique to Particular Branches:

- **Silos within Branch**
- **Intimidation from regulated parties**
- **Regulatory capture**
- **Undue pressure**
- **Inducements**
- **Regulatory independence**

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ETHICAL RISK VALIDATION AND ASSESSMENT

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Ethical Risk Validation

What follows are a series of potential ethical risks which employees at CFIA may face.

The information presented is based on a series of interviews with employees in all Areas.

Risk Slide Example

1 Risk (effect of uncertainty on objectives)

There is a risk that ...		
Risk Drivers <ul style="list-style-type: none">• Various things that contribute to the above risk	Current Consequences <ul style="list-style-type: none">• Outcome of an event affecting objectives	Current Risk Mitigation <ul style="list-style-type: none">• Existing process to modify risk Potential Additional Risk Mitigation <ul style="list-style-type: none">• Potential new process to modify risk

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Ethical Risk Assessment

1. Creation of "most likely worst case" scenario for each risk

2. Determination of impact of "most likely worst case" scenario

3. Determination of likelihood of impact occurring

4. Assessment of actual ability to resolve the situation (factors into risk mitigation discussions).

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Risks were plotted on the "heat map" according to Impact and Likelihood to produce a "Risk Level"— Red (highest risk), Orange, Yellow, Green (lowest risk)

Impact

Risk Impact was rated on a 5-point scale (5="Critical" or highest impact to the Agency, 1="Low", lowest impact)

Risk Likelihood was also rated on a 5-point scale looking at the next 12 months (5="Almost Certain", 1="Very Unlikely")

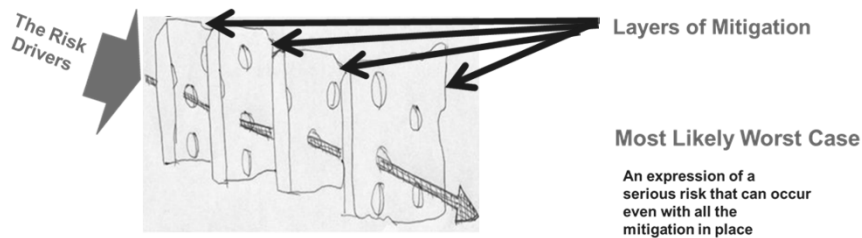
Likelihood

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Creating a Most Likely Worst Case Scenario

In developing a “most likely worst case scenario” participants were asked to think about their Area/Branch of the Agency using their experience and knowledge of the Agency

- There are many layers of control (current mitigation) in place
- Even with all of these controls, something serious could happen



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CFIA Impact Criteria

Impact Level	Definition
5 Critical	Widespread and devastating impact on food safety/ plant health/ animal health. Extreme economic impact. Loss of public confidence. Serious stakeholder concern with potential severing of relationship. Serious breach of a law or regulation with charges laid against the Agency. Financial impact on the Agency of over \$10 million. Severe ethical breach resulting in a federal inquiry and direction to the Agency to make corrective change.
4 Major	Significant impact on food safety/ plant health/ animal health. Major economic impact. Longer-term damage to reputation. Significant stakeholder concern. Breach of law or regulation that is considered minor. Financial impacts on the Agency of between \$5 million and \$10 million. Significant ethical breach resulting in an internal inquiry and a remedial action plan.
3 Moderate	Moderate impact on food safety/ plant health/ animal health. Moderate economic impact. Medium-term damage to reputation. Stakeholders request information/follow-up. Financial impacts on the Agency of over \$1 million but less than \$5 million. A major ethical breach requiring involvement of senior management.
2 Minor	Minor impact on food safety/ plant health/ animal health. Minor economic impact. Short term damage to reputation. Low stakeholder concern. Financial impact on the Agency of over \$500,000 but less than \$1 million.
1 Low	Negligible impact on food safety/ plant health/ animal health. Negligible economic impact. Service delivery and reputation unaffected. Stakeholders unaffected. Financial impact on the Agency of less than \$500,000.

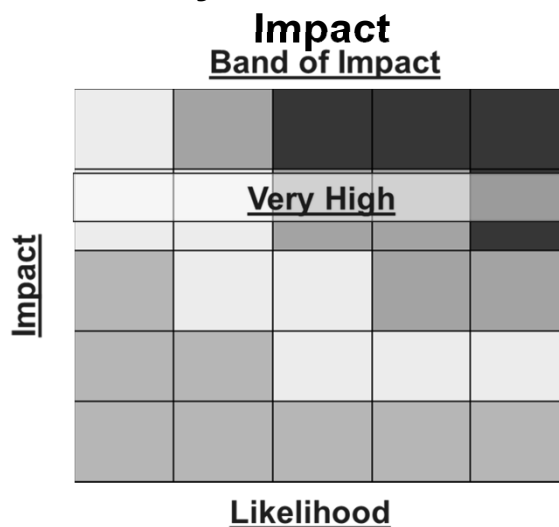
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Critical Impacts

Impact	Legal	Socio-Economic	Environmental/Biological	People/Operations	Reputation/Strategic
5. Critical: Widespread and devastating impact on food safety/ plant health/ animal health. Extreme economic impact , Loss of public confidence , Serious stakeholder concern with potential severing of relationship. Serious breach of a law or regulation with charges laid against the Agency, Financial impact on the Agency of over \$10 million. Severe ethical breach resulting in a federal inquiry and direction to the Agency to make corrective change.	Serious breach of a law or regulation with charges laid against the Agency	Widespread socio-economic damage Extreme economic impact An extreme event causing harm to human health whose impact cannot be mitigated and will be permanent Permanent loss of access to key markets	Widespread and devastating impact on food safety/ plant health/ animal health	Deaths of 5 or more people attributable to the action or inaction of CFIA Disruption of operations, requiring permanent reallocation of internal resources between Regions for more than 24 months Loss or disclosure of highly sensitive data where such loss or disclosure results in one of the foregoing Financial consequences on the Agency of over \$10 million	Widespread, sustained public criticism of the Department, the Minister or the Crown Minister steps down An Inquiry under the Inquiries Act is launched Serious public outcry Serious stakeholder concern with potential severing of relationship Demonstrations or adverse international attention or media coverage

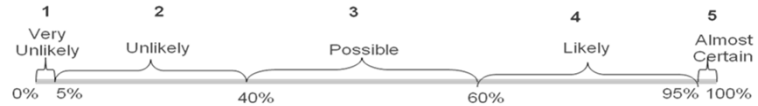
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“Most Likely Worst Case Scenario”



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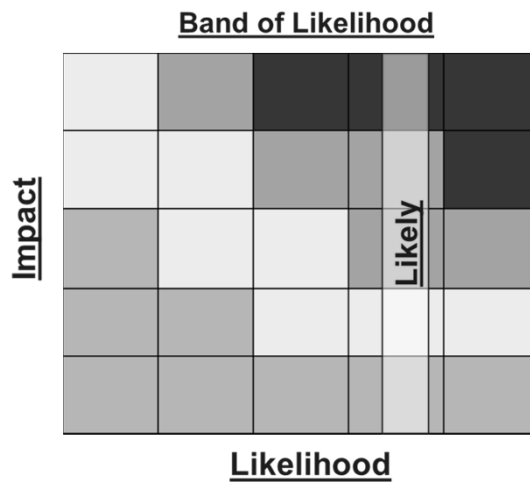
CFIA Likelihood Criteria



The likelihood of the Impact occurring in the next 12 months given current controls	Descriptive
5 Almost Certain	Happens often, may be occurring now
4 Likely	Could easily happen, has happened more than once in the past 5 years
3 Possible	Could happen and has happened elsewhere
2 Unlikely	Hasn't happened yet but could
1 Very Unlikely	Conceivable, but only in extreme circumstances

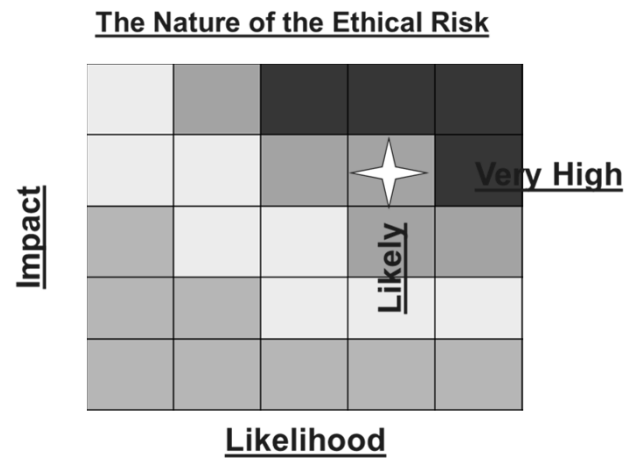
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Likelihood Identification



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Example of an Ethical Risk Profile



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ETHICAL RISK TOLERANCE

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Determination of the Degree of Tolerance



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ETHICAL RISK MITIGATION/PROFILE

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Themes for Mitigation Action Plan (Ops)

Training

- Training to manage staff more effectively (People Management for Supervisors)
- Mandatory Foundations of Inspection and Legislation, and Tactical Communications, PREP
- Ethical Leadership and Dialogue course for all RDs/IMs
- V&E and Code of Conduct/Conflict of Interest courses for all staff

Communications

- Regular face-to-face meetings where feasible
- Communication on requirements for the reporting of conflict of interest, inducements, harassment

New/enhanced strategies, processes or tools

- New OPS business practice for explaining changes to front line decisions.
- Communication process to ensure OPS involvement in, and awareness of, new or revised policies and in decisions concerning regulated parties.

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Themes for Mitigation Action Plan (Science)

Training

- Training & workshops for managers & staff (eg. harassment, selection processes)
- V&E and Code of Conduct/Conflict of Interest courses for all staff

Communications

- HR policies & processes; requirements for the reporting of conflict of interest, harassment; National Strategies for laboratories available for staff
- Encourage dialogue and discussions between staff and management
- Improve understanding of scientific rigor/methodology in the Agency (lab work can take time!)

Enhanced strategies, processes or tools

- Perform internal audits on Scientific methodology
- Establish service standards where needed
- Use Performance Management Program (PMP) to highlight areas to address (eg. sharing information, etc.)

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Themes for Mitigation Action Plan (PPB)

Training

- Update orientation materials to include information on decision-making processes and the meaning of regulatory independence in the CFIA context
- Training on how to communicate difficult decisions/assessments
- Development of e-learning course on harassment prevention

Communication

- Provide staff with clear direction on how to manage direct communications and/or requests made directly to them by external stakeholders
- Communications tool kit for managers on Agency Transformation
- Develop an informal forum for staff to communicate what they are working on

Enhanced strategies, processes or tools

- Revise and update the CFIA Risk Analysis Framework to include values and ethics and how science-based decision-making is supported by other considerations
- Policy and guidelines on transparency and sharing of business-related files, decisions and information
- Establish a Notice of Decision (or Information) process to widely communicate decisions

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Messages from Ethical Risk Profile Exercises

- Strong cooperation from all employees 😊
- Ethical behaviour is most at risk when there is a “disconnect” between managers and staff
- Overall risk levels were generally moderate
- Weak, inadequate, or incomplete communication was a common theme for discussion (need for managers to be transparent and communicate regarding practices e.g. hiring and staffing of acting positions)
- Single events long in the past stand out for many people, indicating that these were exceptions and that other noteworthy events had not occurred recently
- More training and “real world” (i.e. role playing) examples requested
- Branch employees looking for action after Profile complete

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Overall Message



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