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KASALANA

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How do we promote ethical behaviour in the workplace?

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Introduction

In Kasalana's last White Paper (February 2015), we discussed why 'good people do bad things': the psychology, external pressures and process of rationalisation that an individual might go through before launching themselves into criminal activity or unethical behaviour. This paper seeks to redress the balance somewhat. What can an organisation and its leadership do to prevent staff from acting unethically?

Codes of conduct, compliance handbooks and ethical statements, although a very important aspect of fraud prevention, are not the only answer. The danger is that, once a handbook has been given out to each member of staff, or annual code-of-conduct training has been ticked off the list, then it is back to 'business as usual' as if the actual content of that material is no longer relevant. This paper discusses appropriate and effective compliance techniques.

The wider question is how to ensure that a culture of ethical practice is instilled in an organisation such that an 'Enron' would be less likely to occur. Drawing on academic research and corporate experience, some suggestions are given below and involve more subtle changes to the way a business and its staff could be managed.

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Codes of conduct

Today, nearly every large organisation has a code of conduct; some have several. In the past, many of these codes were handed out to new arrivals and then put on a shelf and all too frequently ignored. Over time, the impact of corporate malfeasance, reflected in increased regulation, has led to the rise of compliance departments. They in turn have generally improved the substance and delivery of internal guidance and provided regular, electronic (and therefore traceable) training. This is undeniably necessary, particularly in certain industries (the finance and pharmaceutical sectors for instance) where corporate compliance is regularly assessed by external government agencies.

It is generally accepted that for compliance and codes of conduct to be effective they need to be:

- Clear and consistent;
- Regularly updated and made relevant to the user;
- Accessible;
- Used as a basis for internal training which should be regular and which must be monitored;
- Appropriate across national and international divisions within the organisation;
- Overtly regarded as important by the leaders within the organisation;
- Resultant in significant and consistent consequences for failure to abide by the rules.

It is helpful if these codes of conduct can be concise – the more digestible such material is, the easier it can be understood and applied.

Whistleblowing Mechanisms

A mechanism must also exist for employees, and other stakeholders, to report suspected wrongdoing. Thus many companies institute an anonymous reporting hotline or other whistleblower facility. To work effectively, these need to be well advertised internally, and to be credible. Those contemplating using such a reporting line must be confident that their report will be taken seriously; will be dealt with confidentially and independently; and that

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there will not be any adverse impact on the whistleblower. While an organisation might claim that this is the case, there are many high-profile instances where this has not occurred.

As the satirical British magazine *Private Eye* has long publicised, some doctors in the UK's *National Health Service (NHS)* who have 'blown the whistle' on a series of scandals across British hospitals have faced professional difficulties as a result. Many such whistleblowers have paid "a heavy professional price for speaking up and refusing to be bought off or gagged".¹ Despite the *NHS*'s efforts to create a secure whistle-blowing hotline, according to a September 2014 report by *Patients First*, "in 79% of cases, the whistleblower had experienced bullying" while all whistleblowers had "suffered some loss either professionally, personally or financially".²

Corporate Governance

The Institute of Directors argues that one of the roles of non-executive directors is to ensure that systems of risk management are robust and defensible. However, time and again in recent corporate scandals, the actions – or inaction – of non-executive directors (NED) have drawn criticism. In an article for the *Institute of Chartered Accountants in England and Wales (ICAEW)* about the history of the NED, Professor Laura Spira wryly notes that Agatha Christie described the activity of an NED in her 1929 novel, *The Seven Dials Mystery*, as involving: "sit[ting] around a table where they have some very nice new blotting paper. Then Coote or some clever Johnny makes a speech simply bristling with figures, but fortunately you needn't listen to it – and I can tell you, you often get a jolly good lunch out of it". *The Economist* in 2002 observed that the role had not changed materially since that time. Professor Spira contends that, despite the scandals of recent decades and an enhanced role recommended for the NED, they are still regarded as weak monitors.³

¹ *Private Eye*, *Medicine Balls*, No. 1380, 28 November 2014. Also see a Special Report published by *Private Eye*, *Shoot the Messenger. How NHS whistleblowers are silenced and sacked*.

² *BBC News*, *NHS whistleblowing 'problems persist'*, 22 September 2014.

³ *ICAEW*, *Who invented the non-executive director?* Laura F Spira, Professor of Corporate Governance, Oxford Brookes University & Non-Executive Directors Group, November 2013.

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Do we expect too much of an NED, or should we expect more? Should the role become more challenging and take on greater accountability and responsibility, particularly with regard to improving compliance?

Culture change goes beyond compliance

According to the *University of Leicester's School of Management* "over the past few decades we've brought in so many new rules and policies that we are falling over ourselves to comply with them".⁴ This had already led *Muel Kaptein* to point out that, although rules are necessary and useful because "they ensure clarity and consistency... the more rules, the greater the chance that one will be forgotten and the greater the chance of doing something wrong. People become obsessed; the rules become a goal in themselves".⁵

As discussed in our previous White Paper, an excessive amount of rules perversely can create both free-riders and offenders. Research studies suggest that where rules either appear pedantic and apparently pointless, or come with an implied threat or sanction, the chance is that some people will respond negatively. Where they might feel that their sense of freedom and control over their own choices and behaviour are restricted, they push back in an attempt to regain control and restore their freedom.

Another danger is that people cease to think about the underlying reasons for complying in the first place and become mere box-tickers. The key is to find a way for staff to have a sense of personal responsibility and ownership, and to make that compatible with the legal, moral and ethical expectations the company espouses. In order to create a culture where this is possible, five areas ought be considered: role models and leadership; achievability; communication and commitment; transparency and openness; and finally, enforcement.

⁴ *University of Leicester Press Office*, 6 November 2014

⁵ Muel Kaptein, *Why good people sometimes do bad things: 52 reflections on ethics at work*.

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Role-models & leadership

People take their behavioural cues from those whom they respect: children and their parents; maybe sports personalities and celebrities, mentors, and so on. Management needs to set clear, ethical guidelines and then live up to them. An oft repeated example of a company executive living up to high moral standards is that of *Aaron Feuerstein*. He was the third-generation owner of a textile factory in Massachusetts (USA) that burned down in 1995. Instead of claiming on the fire insurance and retiring, or moving the business to a more tax- and business-friendly state, he rebuilt the factory in a more environmentally-friendly way at considerable extra cost to himself, and continued to pay the workers during the rebuilding. Mr Feuerstein stated: *"I have a responsibility to the worker, both blue-collar and white-collar. I have an equal responsibility to the community. It would have been unconscionable to put 3,000 people on the streets"*.

With authority goes responsibility. Psychologists have repeatedly demonstrated that individuals will carry out orders given by those in authority even when those orders have clearly damaging effects. Relatively few of us have the strength of mind to resist authority. In the most famous variation of this experiment⁶ – a man in a white coat and a clipboard instructing an individual to administer increasingly powerful electric shocks to a 'patient' (actually an actor) showing increasing levels of pain – nearly all those obeying the orders carried on administering shocks well into the danger zone. However, they also exhibited signs of extreme discomfort at doing so (such as sweating or hesitancy) and most of them questioned the orders, even if they did subsequently carry them out.

Two lessons to draw from this are, first, that it is preferable for a company to create and foster an environment where authority can be questioned, and decisions made by managers have to be justified and open to criticism. Secondly, that those in authority need to be aware of the power that they have over their subordinates, and to understand why it is that their teams respond to requests and how heavily they might be influenced by a leader. It is important for a team leader to appreciate that his or her team members are not always obedient in order to reap tangible rewards (bonuses and promotions) but so that they can

⁶ Conducted in 1963 by *Stanley Milgram*, a psychologist at *Yale University*. In 1975, Milgram wrote about his experiment: *"Stark authority was pitted against the subjects' [participants'] strongest moral imperatives against hurting others, and, with the subjects' [participants'] ears ringing with the screams of the victims, authority won more often than not."*

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wield more subtle influences that might institute a regime of unthinking obedience or disobedience.

Some psychologists argue that the more power someone has, the more they expect of others and less of themselves. They often set the bar higher for others. Not everyone is a 'servant-leader' like *Mr. Feuerstein*. *Kaptein* writes: *"It is known that Bernie Ebbers, the CEO of WorldCom, the telecoms company that fell in 2000 due to one of the greatest cases of accounting fraud in history, was aggressive. He specialized in confrontational politics and publicly belittled employees. Dick Fuld, former CEO of Lehman Brothers, was also known for his aggression. His nickname was 'the gorilla', because of his machismo and intimidating conduct."*⁷

The environment those in authority create can extend also to architecture and interior design. These, argue some sociologists, can make a visitor or staff member react in certain ways⁸. Research suggests that a visitor to an office where a manager has a punch bag in his room, or a director has a fruit machine in the corner of his office, will make certain unconscious judgements about those people and their corporate culture (that the manager might be aggressive; the director has a tendency to gamble). A tidy office or a cluttered desk might suggest something about a person's organisation skills; trophies on a shelf might suggest the importance that person attaches to winning or meeting targets. The uniforms or dress code a company has, the decoration and even maintenance of an office, all influence an environment and the behaviour of those within it, intentionally or not.

Achievability

Modern business leaders are encouraged to set their employees targets that are S.M.A.R.T., or Specific, Measurable, Achievable (or Assignable), Realistic and Timely. As *Kaptein* writes, *"Management is about realising goals. Leadership, in contrast, is primarily about setting the right goals."* Achieving targets and goals is rewarding – both psychologically and often financially. The belief is instilled in us that Goals are Good. Or are they? There is a growing

⁷ Muel Kaptein, *Why good people sometimes do bad things: 52 reflections on ethics at work*.

⁸ Leonard Berkowitz and Anthony LePage conducted research in which a weapon or a badminton racket was present in a room. They were able to analyse the unconscious reactions of visitors to the room that indicated that they behaved more aggressively when a weapon was present. *"Weapons as Aggressions Eliciting Stimuli"*, *Journal of Personality and Social Psychology*, 1969.

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body of evidence that an overwhelming focus on attaining goals can be detrimental. As economists *Christiane Schwieren* and *Doris Weichselbaumer* identified, “*specific side-effects associated with goal setting, including a narrow focus that neglects non-goal areas, a rise in unethical behaviour, distorted risk preferences, corrosion of organisational culture and reduced intrinsic motivation.*”⁹

Management needs to be mindful that goals do not become all-consuming to the detriment of other office behaviours. Targets should not dominate minds of management and staff to the extent that other responsibilities become subordinate to them. This ‘tunnel vision’, where the end justifies the means, arguably leads to employees cutting corners or sacrificing other necessary tasks in their single-minded focus to meet a target. As *Kaptein* noted, “*Tunnel Vision also occurred at Enron. The employees received large bonuses for the trade they brought in. This made them so focused on their sales that they no longer looked at whether these were profitable. The enterprise, with its good sales figures (and large bonuses), headed into the financial abyss*”.

It is a leader’s responsibility to set the tone for junior management when deciding on team or personal targets. Just as it is important to ensure that a team is not blinded by its attempt to achieve a specific goal. It is also crucial not to set too many goals. Target overload pulls people in too many directions and might lead them to think there is a lack of clarity or focus from their management, or to focus only on the ‘easier’ targets.

A positive corporate culture can be created by obvious appreciation from management when goals have been met or exceeded. Reaching targets gives staff a positive sense of achievement and satisfaction, and it can also a useful exercise to encourage staff to set future targets for themselves. This encourages the culture of ownership and responsibility among staff. It might also limit the danger that when goals are reached, staff stop working or making an effort; and equally do not use as their starting-point for goal-setting, targets which are too challenging and thereby unachievable.

When it comes to setting goals, think also of the impact of competition among staff or departments. Does competition lead people to cheat? Or, if you’re falling just short of your

⁹ Max H. Bazerman et. Al, *Goals Gone Wild: The systematic side effects of over-prescribing goal setting*, Harvard Business School, 2009

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goal, are you most likely to cheat? An experiment devised by *Schwieren* and *Weichselbaumer* discovered that competition can actually encourage participants to compete more and that by doing so, the level of performance actually deteriorates.¹⁰

Commitment & communication

As discussed above and in our previous White Paper, creating an ethical corporate culture involves treating all staff (and clients) with respect. It also means making them feel involved in aspects of decision-making so that they feel that they have an investment, that is not purely financial, in their company. My colleague Mr Crooker and I worked previously at a company where an unhealthy tension existed between client-facing employees and those responsible for the so-called back office functions. The effect on productivity was palpable.

In 2012, the *Cass Business School* found that employee-owned businesses recorded a higher rate of sales growth and job creation during the global downturn than “companies in conventional ownership”. *The Guardian* also noted that companies such as *John Lewis* were among the few “UK companies where bumper bonuses do not provoke a public outcry”. This was attributed to the way the group was structured – “*the ownership model means that it is in the interests of John Lewis and Waitrose staff to work hard as they are the direct beneficiaries*” being ‘partners’ in the firm.

Changing the ownership structure of a company is clearly not always possible. But managers can put in strategies to help towards making an employee feel like a valued individual instead of being one of a crowd. While modern technology (skype and email as well as hot-desking) provides wonderful opportunities for flexible working, ‘social bond theory’ suggests that people need to feel a bond with their community in order to follow the rules of that community and to participate positively. Conversely, if people feel detached from their community, they are more likely to break rules.

Psychologists and sociologists believe that giving a ‘face’ to the organisation encourages solidarity, commitment and allows staff (and clients) to identify more strongly with their leaders and their colleagues. Technology provides as many opportunities to do this as it

¹⁰ C. Schwieren and D. Weichselbaumer, ‘Does competition enhance performance or cheating?’, *Journal of Economic Psychology*, 2010.

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seemingly takes away — team tweets, staff blogs, Facebook pages and so on can help create a greater awareness of corporate strategies and staff cohesion.

It is also important for managers to reciprocate the faith and pride that their staff are encouraged to feel in their department and wider organisation, not only by open communication and rewarding praise but also by setting clear boundaries and confronting unacceptable behaviour.

Transparency & openness

“It is the norm in many organizations to confront undesirable behaviour, at least in theory. Anyone who sees a transgression should raise the alarm and challenge the offender or tip off the management.” Enron had this expressly set out in its code of conduct. The company even handed out notepads with a quote by *Martin Luther King*: *“Our lives begin to end the day we become silent about things that matter.”*

Setting out measures to encourage transparency and openness is, as shown by this example, not as easy as it sounds. Part of this is also down to human psychology and something known as ‘bystander inertia’ or ‘pluralistic ignorance’. This is the phenomenon whereby one person witnessing a crime is more likely to act; a crowd witnessing the same crime is more likely to stand and watch. This is because the bigger the group, the greater the uncertainty as to whose responsibility it is to act; the more likely an individual is to hide behind others in the group. Moreover, as long as no-one acts, the more afraid an individual in the group feels of being condemned or misunderstood by the rest of the group.

As discussed above, this is where an anonymous hotline can be effective. For lesser misdemeanours or general staff dissatisfaction, creating forums where employees can let off steam or raise questions is optimal.¹¹ This might be through a mentoring scheme or a ‘buddy’ in a different department if the corporation is large enough, or again by using technology to create a shared space where workers can discuss their dilemmas.

¹¹ Researchers show that people in groups will still behave ‘like sheep’ and tend to conform to group opinion. When asked to write down issues or concerns anonymously, that group conformity tends to dissipate.

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There are also numerous management tools whereby staff members provide 360-degree feedback in order that their colleagues gain a truer awareness of their management style and impact. However, the use of these tools is limited if, once aware of any deficiency, no training is supplied, or no ongoing assessment is delivered to amend deficient behaviours.

It is also worth pointing out that just because something is transparent – salary scales, promotions or bonuses – does not mean that it is acceptable. Transparency does not automatically lead to a satisfied workforce! Indeed, there is research to indicate that individuals will tend to gravitate towards the average. For example, if a company provides its staff with statistics showing the numbers of days off due to sickness, those who have taken fewer days off in the past tend to be ‘pulled’ towards that average since unconsciously, human beings tend to feel that the average is what is expected from them. The trick is to raise the bar of ‘the average’ and to do so with the buy-in of your staff.

Enforcement

The corollary to rewarding ‘good’ behaviour, surely, is to punish ‘bad’ behaviour. However, harsher punishment can, counter-intuitively, lead to greater tolerance of what might be perceived as minor transgressions. Writer *Malcolm Gladwell* in *David & Goliath* argues that, “past a certain point, cracking down on crime stopped having any effect on criminals and maybe even started to make crime worse”.¹²

The argument is that some punishment – consistent, swift and explicable – can work well as a deterrent. It sets a standard. However, ‘zero tolerance’ can lead to unforeseen consequences. Perceptibly harsh punishments may make whistleblowers less likely to report offences when they feel that the punishment might not fit the crime. This in turn, leads to greater tolerance of minor misdemeanours.

Punishments can wipe out ‘intrinsic’ motives for rationalising behaviour. Instead of asking what is permissible and appropriate, an employee might instead weigh up the risks and costs of acting contrary to the rule – thereby rationalising their behaviour as discussed in our previous White Paper when looking at components of the ‘fraud triangle’. Take, for example,

¹² Malcolm Gladwell, 2013, *David & Goliath: Underdogs, Misfits and the Art of Battling Giants*.

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finer imposed by local government in the UK on parents for taking their children out of schools during term-time. Previously, school attendance and punctuality has been encouraged as critical to a child's learning; school attendance is intrinsically valuable. Now, parents look at the costs of a family holiday versus the likely cost of a fine (should they be reported to the local authority) – the extrinsic value – and make a judgement about the value of school attendance based on a new economic motive. A study in Israel looking at similar parental motivations based on financial penalties reveal that parents were more likely to pay the fine than abide by the rule.¹³ Worse, when the fines were removed after it became obvious that they did not achieve the desired results, the parents did not behave any better: *“economic motives had permanently replaced moral and social motives”*.

From this research, management teams have to tread a careful tightrope between providing staff with achievable targets, giving them a sense of worth and value, and encouraging self-motivation (or intrinsic behaviours) – whilst firmly setting clear boundaries, applicable to staff at all levels and hierarchies.

Conclusion

It would be hubristic to assert that corporate frauds can be exorcised by successfully following some of the suggestions supplied. However, using these techniques to challenge the corporate culture and environment in which we work is critical. *Susan Silbey*, in *Rotten Apples or a Rotting Barrel*, emphasised that fraud was not the result of a *“few weak, uninformed or misguided individuals making poor choices”* but that it derives, at least in part, from *“features of the organisations and social settings in which they take place. Those situations and setting provide both the opportunities and incentives for misconduct”*.¹⁴ Challenge your culture and your leadership and reduce the number of rotten apples in your barrel.

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¹³ Uri Gneezy and Aldo Rustichini, 2000, ‘A fine is a price’, *Journal of Legal Studies*.

¹⁴ Susan S. Silbey, 2008, *Rotten Apples or a Rotting Barrel*, *Massachusetts Institute of Technology*.

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Further reading

- Muel Kaptein, *Why good people sometimes do bad things: 52 reflections on ethics at work*.
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