

# Compliance Training Workshop

## Section 1

### The Need for, and Value of, Training and Education

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## Content

1. Can Training Really Make a Difference to a Compliance Program?
2. Training Expectations from Select Enforcement Agencies
  - US DOJ
  - UK SFO
  - US HHS OIG
3. Getting Buy-In
4. Attendee Activity/Workbook Exercise

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# Can Training Really Make a Difference?



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# Can Training Really Make a Difference?



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## Can Training Really Make a Difference?

*“Morgan Stanley frequently trained its employees on its internal policies, the FCPA, and other anti-corruption laws. Between 2002 and 2008, Morgan Stanley trained various groups of Asia-based personnel on anti-corruption policies 54 times. During the same period, Morgan Stanley trained Peterson on the FCPA seven times and reminded him to comply with the FCPA at least 35 times.”*



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## Can Training Really Make a Difference?

*“Despite years of training, he circumvented those controls for personal enrichment.”*

*“After considering all the available facts and circumstances, including that Morgan Stanley constructed and maintained a system of internal controls, which provided reasonable assurances that its employees were not bribing government officials, **the Department of Justice declined to bring any enforcement action** against Morgan Stanley related to Peterson’s conduct.”*



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# Benefits of Training Programs

*“Training and Development Program and its Benefits to Employee and Organization: A Conceptual Study”*

Jehanzeb, et al., European Journal of Business and Management, Vol.5, No.2, 2013

<https://iiste.org/Journals/index.php/EJBM/article/view/3947>



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# Benefits of Training Programs

## Organizational Benefits\*:

- Market Growth
- Organizational Performance
  - Profitability
  - Efficiency
  - Output
- Employee Retention

## Individual Benefits\*:

- Career Competencies
- Employee Satisfaction
- Employee Performance



\* Jehanzeb, et al. (2013)



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# Benefits of Training Programs

AGUINIS, H., & KRAIGER, K. (2009). Benefits of Training and Development for Individuals and Teams, Organizations, and Society. *Annual Review of Psychology*, 60(1), 451–474.

<https://doi.org/10.1146/annurev.psych.60.110707.163505>



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# Expectations from Enforcement Agencies



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# Elements of an Effective Compliance Program

1. Implementing written policies, procedures, and standards of conduct
2. Designating a compliance officer and compliance committee
3. **Conducting effective training and education**
4. Developing effective lines of communication
5. Conducting internal monitoring and auditing
6. Enforcing standards through well-publicized disciplinary guidelines
7. Responding promptly to detected offenses and undertaking corrective action



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# U.S. Department of Justice

- *Evaluation of Corporate Compliance Programs Guidance Document Updated: June 2020*

<https://www.justice.gov/criminal-fraud/page/file/937501/download>

U.S. Department of Justice



U.S. Department of Justice  
Criminal Division

Evaluation of Corporate Compliance Programs



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# U.S. Department of Justice



## Training and Communications:

- Another hallmark of a well-designed compliance program is appropriately tailored training and communications.
- Ensure that policies and procedures have been integrated into the organization, including through periodic training.
- Relay information in a manner tailored to the audience's size, sophistication, or subject matter expertise.
- Practical advice or case studies to address real-life scenarios.



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# U.S. Department of Justice

- Does training adequately cover prior compliance incidents?
- How does the company measure the effectiveness of its training curriculum?
- How is it understood by employees in practice?
- Has the company provided tailored training for high-risk and control employees, including training that addresses risks in the area where the misconduct occurred?



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# U.S. Department of Justice

## Form/Content/Effectiveness of Training –

- Form and language appropriate for the audience
- Online or in-person (or both), and what is the company's rationale for its choice?
- Testing employees and what's done if they fail?

**Communications about Misconduct** – What communications have there been generally when an employee is terminated or otherwise disciplined for failure to comply?

**Availability of Guidance** – How has the company assessed whether its employees know when to seek advice and whether they would be willing to do so?

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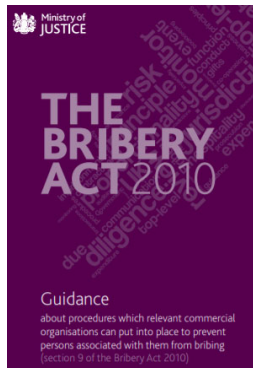


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# U.K. Serious Fraud Office

- *The Bribery Act 2010 Guidance*

<http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>



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## U.K. Serious Fraud Office

*“The commercial organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training, that is proportionate to the risks it faces.”*



## U.K. Serious Fraud Office

- Communication and training deters bribery by enhancing awareness of a commercial organisation’s procedures and commitment to their proper application.
- Making information available assists in more effective monitoring, evaluation and review of prevention procedures.
- Training provides the knowledge and skills needed to employ procedures and deal with any bribery-related problems or issues that may arise.

## U.K. Serious Fraud Office

- The content, language, and tone of communications may vary between internal or external use depending on the relationship the audience has with the organisation.
- The nature of communication will vary according to the different risks faced, the size of the organization, and the scale and nature of its activities.



## U.K. Serious Fraud Office

- Internal communications should convey the “tone from the top”
- Implications for employees of wrong-doing or not following policy
- Awareness of the establishment of a secure, confidential and accessible means for internal or external parties to raise concerns
- Knowledge of adequate protection for those reporting concerns

## U.K. Serious Fraud Office

- Training should be proportionate to risk, but some training is likely to be effective in firmly establishing an anti-bribery culture whatever the level of risk.
- Training may take the form of education and awareness raising about the threats posed by bribery in general and in the sector or areas in which the organisation operates in particular.



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## U.K. Serious Fraud Office

- General training could be mandatory for new employees or for agents (on a weighted risk basis), but it should also be tailored to the specific risks associated with specific posts.
- Tailor training to the special needs of those involved in any “speak up” procedures and higher risk functions such as purchasing, contracting, distribution and marketing, and working in high-risk countries.
- Effective training is continuous and regularly monitored and evaluated.

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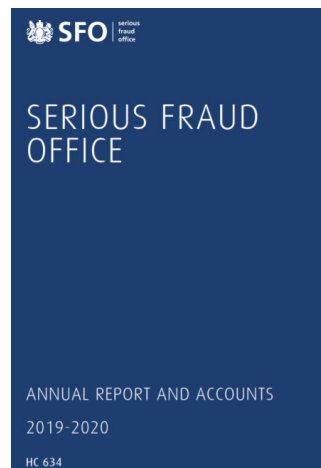
# U.K. Serious Fraud Office

- There are many different training formats available in addition to the traditional classroom or seminar formats, such as e-learning and other web-based tools.
- Whatever the format, the training ought to achieve its objective of ensuring that those participating in it develop a firm understanding of what the relevant policies and procedures mean in practice for them.



# U.K. Serious Fraud Office

- Enforcement goes beyond bribery
- Review the latest annual report  
<https://www.sfo.gov.uk/download/annual-report-2019-2020/?ind=1595424966750&filename=SFO%20Annual%20Report%20and%20Accounts%202019-2020.pdf&wpdmdl=26949&refresh=5fa195a3530a61604425123>



# U.S. HHS OIG

- Compliance Guidance Documents

<https://oig.hhs.gov/compliance/compliance-guidance/index.asp>

The screenshot shows the official website of the U.S. Department of Health and Human Services Office of Inspector General. The header includes the department name and the office title. A navigation menu lists various categories: About OIG, Reports, Fraud, Compliance, Exclusions, Newsroom, Careers, and COVID-19 Por. The main content area is titled 'Compliance Guidance' and features a sidebar with links to Compliance, Compliance Resource Portal, Accountable Care Organizations, Advisory Opinions, Compliance Guidance (highlighted), Corporate Integrity Agreements, Open Letters, and RAT-STATS. The main text explains that the OIG has developed voluntary compliance program guidance documents for various segments of the healthcare industry, such as hospitals, nursing homes, and durable medical equipment suppliers. It also mentions that the compliance program guidance documents are listed below, with a specific link to 'Supplemental Compliance Program Guidance for Nursing Facilities' dated 09-30-2008.



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# U.S. HHS OIG

*“The proper education and training of corporate officers, managers, employees, physicians, and other healthcare professionals, and the continual retraining of current personnel at all levels, are significant elements of an effective compliance program.”*



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## U.S. HHS OIG

These training programs should include:

- Sessions highlighting the organization's compliance program
- Summarizing fraud and abuse laws
- Coding requirements
- Claim development submission processes
- Marketing practices that reflect current legal and program standards

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## U.S. HHS OIG

*“The organization must take steps to communicate effectively its standards and procedures to all affected employees, physicians, independent contractors, and other significant agents, e.g., by requiring participation in training programs and disseminating publications that explain in a practical manner specific requirements.”*



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## U.S. HHS OIG

*“Managers of specific departments or groups can assist in identifying areas that require training and in carrying out such training.”*

*“Training instructors may come from outside or inside the organization.”*

*“New employees should be targeted for training early in their employment.”*

*“Any formal training undertaken as part of the compliance program should be documented by the compliance officer.”*

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## U.S. HHS OIG



*“The OIG recommends that attendance and participation in training programs be made a condition of continued employment and that failure to comply with training requirements should result in disciplinary action, including possible termination, when such failure is serious.”*

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# Getting Buy-In from Management and Learners

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## Management Buy-In

- “An ounce of prevention is worth a pound of cure.”
  - Education is the start of prevention
  - Employees can’t “do” if they don’t “know”
- Scale as appropriate
  - Start small if necessary
  - Prove its effectiveness, then build/”Proof of Concept”
- Elevator sales pitch
  - What’s the benefit?
  - What’s the cost (money, time, human resources)?
  - What’s the standard (competitors, peer organizations, industry associations)?

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## Learners' Buy-In

*“Is a lot of compliance training just ‘informational garbage’? What would happen if we started with the assumption that we needed to create content that people would look forward to receiving?”*



From SCCE's *“CREATING GREAT COMPLIANCE TRAINING IN A DIGITAL WORLD”* by Kirsten Liston



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## Learners' Buy-In

- Competency vs. Time Requirement
  - Do learners feel they have to sit through lengthy training even if they already know the information?
  - Can learners test out of training before?
  - Pre-test
- Ease of Access
  - Online, mobile friendly. Learners can complete the training anywhere/anytime
  - Some training might need to be done in person
    - Smaller groups, sensitive risk areas



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# Learners' Buy-In

- Executive and Supervisor Messaging
  - Prelude to training has a “tone from the top” message, photo, executive/Board Chair signature



- Job applicability
- Current issues/“Ripped from the Headlines”
- Ask for tips to improve the training and make updates as appropriate

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# End of Section Slides

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# Activity Options

1. Organize attendees into groups. Using the material we just covered, the workbook, and/or any other resources available to attendees (personal knowledge, internet resources, etc.); give each group 15 minutes to develop a 1-2 minute elevator pitch to present to leadership/management to try and “sell the importance of compliance training.” Have the groups present to the rest of the workshop attendees.
2. Organize attendees into groups. Using the material we just covered or other available resources, have the groups brainstorm ideas/successes/failures in getting buy-in from either management/leadership or learners. Have the groups present their ideas to the rest of the workshop attendees.

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# Workbook Ideas

- Include the following printed source documents in workbook
  - US DOJ Guidance document from slide 9
  - UK SFO document from slide 13
  - US HHS OIG document from slide 21
- Possible workbook activities, using one or more of the above source documents:
  - Document four principles of training expectations that enforcement agencies have enumerated
  - Describe three real-world training scenarios/examples from your organization that applies a principle described in the document
  - Draft two new training ideas from the recommendations in the source documents that your organization is not currently using

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