Codes of Conduct – constitutional chains or a living breathing document?

Bandini Chhichhia – Principal, Policy and Ethics

Contextualizing Codes of Conduct

- Codes of conduct/ethics are an integral part of company accountability framework – they communicate expected values and standards of behaviour to all stakeholders (employees, consultants, suppliers etc.)
- Need to be part of the company’s compliance program and based on individual risk profiles e.g. different sectors, geography will play a role
- Need to be linked to other company elements: company values, business strategy and the overall compliance and risk programmes.
- Codes need to allow the company to achieve at least two goals: (1) encourage ethical behaviour and (2) sanction breaches/ethical failures
  ➔ Codes are the written moral compass of an organization!

Is your Code of Conduct fit-for-purpose?

1. Ensuring strong culture and values – “living” breathing document
2. Risk assessment – is it assisting mitigation? And, ultimately prevention of ethical failures?
3. Designing ethical incentives – is it rules based or principles based?
4. Embedding ethical incentives – what are the business processes?
5. Monitoring and evaluation – review cycle (mandatory.discretionary)
   (Incentivating Ethics, Aligning Incentives to encourage good and deter bad behaviour. Transparency International. October 2016)
  ➔ This is a continuous process, as ultimately the company’s own institutional experience will be the driving force for successful change.
Codes of Conduct – constitutional chains or a living breathing document?

- Embedding Codes of conduct internally
  - “Creating an environment where people can comfortably discuss any concerns and actively encouraging teams to discuss ethical dilemmas in a safe environment are considered the two most effective ways of fostering ethical behaviour” ACCA Survey, 2014
  - Setting the “tone from the top” – is your senior management engaged? Are they part of the continuous messaging loop? Are they prepared to set an example through their personal behaviour?
  - Continuous messaging, on relevant ethical topics is an essential part of internal dialogue – how are ethical issues identified, assessed and actioned internally? And, how are they reported?
    - Using ‘Nudges’ – positive reinforcement and indirect suggestions work better than forced compliance

- Consult, consult, consult … then communicate!
  - Key stakeholders should feel they “own” the document; senior management buy-in is essential
  - Build-in time for meaningful discussion and feedback
  - Is it being seen as an important internal policy document? Why?
  - Communicate the code of conduct in the way most appropriate for the company. For example, online blog posts, forums, publications, town halls etc., and ensure effective (case-based) training
    - Stakeholders should realise that codes of conduct are one of the most important internal policy instruments and treat them as such

- How are “ethical failures” captured?
  - Does everybody understand the consequences of a Code breach?
  - Are the obligations contained in the Code of Conduct actionable?
  - Does the Code apply consistently across the organization, including senior management? More importantly, is it seen to apply equally?
  - Is the company’s risk management system capturing “ethical failures”? And, if so any lessons learnt from such failures?
  - Is the company’s whistleblower protection programme in place and, if so, is it robust?
    - Perception is stronger than reality, so it is important that the code of conduct is “seen” to be working by all levels of the organisation.
| Codes of Conduct – constitutional chains  
or a living breathing document? |
|-----------------------------|

Questions?

?