



ASIC

Australian Securities & Investments Commission

How having a good culture can mitigate against corruption

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CHECK AGAINST DELIVERY

Introduction

Good afternoon. I'd like to thank the Minister for inviting me here to speak to you today, at what is a significant government and business discussion on anti-corruption.

I will be speaking about culture and why it matters. I will also touch on what I see as the key drivers of culture. Finally, I will discuss ASIC's focus on bribery and corruption, and how having a good culture can mitigate against corruption.

What is culture and why does it matter?

An organisation's culture is its set of shared values or assumptions. It can be described as the underlying mindset of the organisation. It shapes and influences people's attitudes and behaviours towards, for example, customers and compliance. Likewise, an ethical culture can be understood as the shared perception within an organisation of what is perceived as correct behaviour, and how ethical situations should be handled within an organisation.

ASIC is interested in corporate culture, because culture is a driver of conduct. A poor corporate culture can be a driver of misconduct. Conversely, a good corporate culture can be a driver of best practice, or ethical conduct. Ethical conduct can help organisations move beyond minimum standards and 'tick a box' compliance practices, to best practice

standards and compliance practices that protect stakeholders and are commercially valuable.

Drivers of a positive culture

A key starting point for a good corporate culture is developing company values that are implemented in practice. These values need to be aligned with the overall vision and strategy.

By monitoring the key drivers that shape culture, companies can obtain insights into how their culture is aligned with their organisational values. I wanted to briefly touch on what I see as the four drivers of culture.

Tone from the top

The first driver is tone from the top.

The board and senior management should set the values and principles of an organisation's culture. The *OECD foreign bribery report* found that corporate leadership is involved, or at least aware of, the practice of foreign bribery in most cases, rebutting the perceptions of bribery as the act of rogue employees.¹ They should be reflected in the business's strategy, business model and risk appetite, and CEO selection. The leadership team should then lead by example by demonstrating the conduct that supports the organisation's values. In other words, they should not only talk the talk, they should also walk the walk.

Putting the right governance structures in place around board engagement with culture can ensure that the tone from the top is implemented in an effective way. For example, boards may wish to consider the following questions to help gain insights into their organisation's culture:

- Is culture a regular feature on the board and audit committee agenda?
- Is there a board dashboard report that gives updates on key cultural indicators of values alignment?
- How do they gather insights about sub-cultures, for example through pulse survey reports of staff views on value alignment?
- Is there periodic engagement with all stakeholders to get a broad perspective on how well values are aligned with customers, suppliers, regulators, and the community?

Accountability

The second driver is accountability.

¹ OECD, [OECD foreign bribery report: An analysis of the crime of bribery of foreign public officials](#), report, 2 December 2014.

The accountability of staff is extremely important. All staff should understand the organisation's core values, and most importantly, that they will be rewarded or held to account for their conduct in relation to such values.

As such, the leadership team need to make sure the values are understood throughout the organisation. This is important, because quite often the message gets lost in the middle and does not make its way to the front line. Evidence shows that organisational culture exists primarily at the individual business unit level. Leaders need to ensure that organisation values are understood throughout the organisation, and are 'lived' by employees as part of their day-to-day roles.

Measures that touch on accountability might include treatment of whistleblowers, breach reports, and customer complaints.

Effective communication and challenge

The next driver relates to effective communication and challenge.

The organisation should promote a culture of open communication and effective challenge to:

- encourage a diversity of views in decision making processes
- allow current practices to be tested
- encourage a positive, critical attitude among employees, and
- promote an environment of open and constructive engagement, so people don't succumb to groupthink.

Recruitment, training and rewards

The last driver I want to talk about relates to recruitment, training and rewards.

First, this means management should include behaviours and attitudes that align to the organisation's values as part of staff selection.

Second, there should also be training to establish and maintain staff knowledge about the organisation's values and the attitudes and behaviours expected of staff, for example e-learning modules might be used.

Third, rewards, remuneration and incentive structures should be aligned to the values of the organisation. Rewards play a big role in driving conduct for two reasons:

- it affects an organisation's culture because it impacts on priorities and staff, and
- it acts as a motivator and reinforcer of conduct.

So, it is crucial that organisations recognise performance in a way that not only promotes good conduct, but penalises poor conduct as well.

Culture pilot

At ASIC, we are running two pilot projects to implement our approach to culture. One is in relation to the sale of direct life insurance, and the second relates to breach reporting practices.

In both of these projects we will be considering whether the organisation has stated values that focus on delivering good consumer outcomes and supporting strong compliance – for example ‘doing the right’ thing by their customers, as well as accountability, integrity, and honesty. We will then consider how these values are embedded in policies and processes of the organisation and translate into actual behaviour ‘on the ground’.

Corporate culture and bribery and corruption

Let me turn now to how culture and bribery and corruption might be linked. Certainly poor culture within a company can lead to circumstances where bribery and corruption can take hold, potentially endangering the whole company and certainly any senior officers caught up in it.

The economic impact of bribery and corruption

Corruption and foreign bribery can impede economic development by skewing competition and causing inefficient allocation of resources.

They corrode good governance and undermine the rule of law.

Corruption and foreign bribery by Australians and Australian companies can damage our international standing and shrink the global market for Australian exports and investment. Australia relies on international investment to fund domestic businesses.

At ASIC, we are focused on promoting investor and financial consumer trust and confidence and ensuring fair, orderly and transparent markets. Corruption and foreign bribery impede this vision.

ASIC work on foreign bribery

I will talk briefly now about the work ASIC is doing to prevent and uncover foreign bribery related conduct.

ASIC is committed to the whole of government approach to combating corruption and foreign bribery. As part of this commitment, in 2013, ASIC and the AFP entered into an MOU which sets out our cooperation arrangements in relation to foreign bribery matters, and we work closely with the AFP on these matters. For example, we have dedicated senior ASIC staff who liaise with the AFP in relation to foreign bribery on an ongoing basis. Through this close relationship we have been able to develop expertise to deal with foreign bribery related investigations.

ASIC is also a member of the AFP-hosted Fraud and Anti-Corruption (FAC) Centre and has had rotating full-time staff members seconded to the FAC Centre for the last four years. This commitment and participation ensures that the AFP have on hand an experienced ASIC officer to consult in relation to the work that ASIC does and our expertise on corporate behaviour.

ASIC works closely with the AFP and our international counterparts on foreign bribery related investigations, in instances where breaches of the Corporations Act may have occurred (for example, a breach of the directors' duties provisions).

There are also two recent instances where working closely with the AFP on foreign bribery related investigations has led to unrelated breaches of the Acts we administer being identified – with one now before the courts.

The work we do on foreign bribery has also brought ASIC closer together with our international counterparts, which again translates into more effective law enforcement outcomes to ensure the integrity of markets and promote the trust and confidence of investors and consumers.

The role of culture in mitigating bribery and corruption

Directors, as gatekeepers, play a critical role in monitoring the culture of their corporation, and ensuring that the culture in place drives good conduct.

A strong culture of not tolerating corruption and foreign bribery, supported from the top of the organisation, is essential. Having effective policies and procedures in place to prevent corruption, including whistleblower policies, and implementing them is key, together with staff training and raising awareness.

One company we have dealt with, after finding bribery in various countries they operated in, has now pulled out of operating in those countries due to the risks involved. The reputation of the company (and the directors often caught up in corruption scandals) is not worth risking for an improved bottom line.

Government policies can ultimately affect culture by legislation, for example in the United Kingdom, under their Bribery Act, the strict liability offence that can be committed by a corporation of failing to prevent bribery if it does not have adequate procedures in place. As many of you in this room will be aware, especially those who have business operations in the United Kingdom, this provision has far-reaching consequences.

Conclusion

I'd like to conclude by saying that we think culture is vitally important for the organisations we regulate.

We do not want to dictate what kind of culture a company has. Companies must decide what they want to prioritise, and set their own values based on these priorities.

However, I think it is clear that a poor culture puts a company at increased risk of misconduct – including bribery and corruption and the adverse publicity and consequences that entails. Therefore it makes good business sense for companies to work towards having the right values and culture, and ensure this is encompassed throughout all business practices.