

COMPLIANCE POLICE

DEMYSTIFYING THE CONCEPT OR PERCEPTION OF FAULT FINDING (POLICING) IN COMPLIANCE PROGRAMME IMPLEMENTATION



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Introduction

The name "Police" has been used in many firms as a negative name tag for compliance professionals. In some organisations staff are afraid or careful of what they say when a compliance professional is present. In my earlier career in compliance, a branch manager verbally queried an officer for talking about an issue at office kitchenette while I was present. Some conversations literally come to a halt once a compliance officer appears. This may reflect some lack of trust or the feeling of alas being caught inadvertently for some unknown breach.

This Compliance Bulletin seeks to provide solutions to building trust and strong relationships in seeing compliance professionals as value-add business partners with a common goal of achieving firm objectives.

Compliance simply means "to adhere" and/or "to obey". The compliance function could be summarised into two key areas being **External** and **Internal Compliance**.

External Compliance

External Compliance activities focus on ensuring laws, regulations and any enactment from governments or quasi government authorities (e.g. industry regulators like Bank of Ghana, Insurance Commission, National Communication Authority) that impact the activities of a firm are adhered to.

A method of ensuring completeness of compliance requirements would be to have a catalogue or register of requirements and parameters made, backed by evidence of compliance with a proactive monitoring process. Compliance areas include taxation, environmental laws, Company Act provisions, District Assembly laws, Bribery Acts (UK), FCPA (US), Data Protection Laws (e.g. Act 843 (Ghana) or the GDPR (EU)) and can include a host of laws depending on the industry and jurisdiction of operations.

In recent times, there had been some international laws or country laws with extra territorial arms. These laws, although for specific countries, may apply to companies with operations outside borders of a single country. This means breach of such laws in another country may be traced and sanctioned. The UK (Bribery Act) and the FCPA (US), both laws require that, crimes under the law committed by their native companies anywhere in the world are punishable using the extra territorial arm of the law. This is the reason Airbus could be fined by SFO for £ 3.5 billion for bribery infractions outside the UK.

Breach of external compliance regulations may have significant negative impact both financially and reputationally on firms. It must be noted that corporate legal or regulatory functions are critical stakeholders in the management of these external requirements from governments and other bodies.

Internal Compliance

Following from external compliance requirements, corporate bodies have been searching for best fit solutions to embed these external requirements into their ways of working to deliver automatic adherence to rules. This quest resulted in the formation of company policies, standards and processes which simplify complex laws into company policies like human rights/resources, anti-bribery, anti-money laundering, data privacy, Code of Conduct and others.

The work of the compliance professional therefore is a herculean task which requires protecting the corporate reputation and resources of a firm by collaborating with other persons (all staff) to deliver a compliant and ethical company, thus doing the right thing always. When the right thing is not done, then enforcement (sanctions) of the breached policies must be applied after a thorough investigation and hearing.

The Case

This makes the work of the compliance professional akin to that of the police officer with the power to investigate, hold staff or people accountable and enforce the laws and policies of a state. Compliance work involves extensive investigation into policy or process breaches and monitoring disciplinary processes even until the application of sanctions to offending staff. This is only a small part of the work, even though in some cases the most visible one.

It is therefore no surprise that through my professional career in compliance I have been referred to as Pro-Police (Procredit Compliance), Diageo Police and now Contracta Police. Colleagues in other industries also have similar tags on them. This name tagging is generically

not bad as it instills some form of discipline. When a police officer stands at the traffic light, it is difficult for a driver to jump the traffic hence adherence is achieved.

But when a compliance officer behaves or is perceived as a police officer who hides at the corner of the traffic and is lurking for offending drivers then the compliance role turns into the negative form of policing.

As compliance professionals we need to have excellent stakeholder management skills that allow us to engage with our stakeholders to understand their challenges and work together to find the best fit solution that effectively manages or eliminates identified risk.

The following form an eight-point approach to building effective compliance stakeholder engagement to rebrand compliance function when it is seen as punitive:

- **Include compliance objectives in performance goals and appraisal**

Compliance embedding is a shared responsibility and is only effective when all employees understand and see themselves as compliance ambassadors in their various functions and roles. Turning staff to a compliance person is best achieved when compliance goals are included in annual performance goals of all/some employees (risk-based) and they are appraised on them. It must be noted that the compliance team is only a conduit through which guidance and advisory flow to staff as they go about the day's job.

- **Set periodic meetings with stakeholders/functions**

At the heart of any compliance programme is communication. Professionals will need to have good communication skills that allow them to train and explain all compliance issues with precision and clarity to their stakeholders in a tailored way. This communication includes having regular scheduled meetings with various functions to understand issues and activities happening and using such opportunities to tease out policy and process risks and proactively supporting the team to get it right the first time. This eliminates breaches and projects the compliance professional as a business partner rather than the "Police" waiting to arrest wrongdoers.

- **Continuous risk-based training and communication of policies**

The first step of embedding stakeholder engagement is the continuous delivering of training to staff to aid understanding of all relevant laws and policies. These trainings are supported by regular communication to staff through emails, intranet and other fora (e.g. Integrity Moments) that refresh staff compliance knowledge in a simplified and practical way. Integrity Moments are brief time slots that precede meetings but are dedicated to preaching compliance and ethical ways of working.

The use of innovative ways like fun games or animation stories for compliance help in leaving a lasting embedded compliance concept. In the delivery of these communications, the compliance professional must be approachable and willing to listen. Excellent collaboration with communications and HR departments may help significantly. Trainings and communications must not be generic but be tailored to address specific functional issues and pit holes with best practices that enable compliance.

- **Practice the open door policy/ advisory**

The doors of the compliance function or professionals must be opened to all. Open Door Policy means having time, listening to concerns from staff and helping to address them. Staff should feel comfortable in entering the compliance office to have a chat or send an email on critical concerns they need quick advice on.

This practice encourages real time identification of compliance risk and self-reporting of possible breaches. The compliance officer must therefore be approachable and a good listener. It fosters both functional and personal relationship and engagements.

- **Be solution-oriented and not fault-finding**

All compliance professionals must be solution-oriented to aid the commercial goals of the company while preserving the value and reputation at same time. This involves the proactive identification of compliance risks, developing effective mitigations, monitoring and reporting on the effectiveness and developing corrective actions where a breach has occurred to ensure a non-repeat.

- **Use innovative approaches and events to embed compliance**

One of the most lasting ways of embedding policies, standards and process is the use of annual compliance fun game events meant to train, refresh and encourage knowledge sharing on compliance in a competitive manner. Games like Pilolo (Hide & Seek), hop, skip and jump are played as staff answer compliance scenario questions. Groups discuss questions and align before answering. Both the game and answers are marks awarded. Such games also create good relationships between staff and the compliance functions which is essential in implementing compliance programmes.

- **Having a human face to breach management**

In my opinion it is crucial to ensure fairness and objectivity during investigations and interviews, to treat all persons with dignity and respect, and to assure persons undergoing breach process of confidentiality of personal information. It must be noted that, mostly culprits in alleged breaches become apprehensive. It is rather at this time that compliance officers need to calm such persons down and reassure them of seeking means to prevent future occurrence. Being human during breach process is extremely important and goes beyond the documented standards or manuals on breach management and investigations.

- **Reward good and ethical behaviours**

Compliance function must ensure that exemplary, ethical and compliant staff are awarded or given recognition to encourage others. The practice where communications of wrongdoing and sanctions are prioritised over exceptionally good, ethical and compliant behaviours must be a thing of the past. The introduction of compliance awards based on evidential facts must be implemented. Rewards could take the form of paid holidays, dinners with Managing Director, a citation on official intranet and a factor in performance appraisals. Reward based compliance sets into motion an ethical and compliant way of working that infectiously impacts corporate culture rightly. This will encourage and increase good behaviours and ensure every staff member gets it right the first time.

Conclusion

The compliance function must manage its engagement activities in a manner that projects it as a critical business partner that adds value to all functions and the company as a whole through proactive management of compliance risks. Effective engagement can be achieved by using the eight points above to promote the image and acceptance of compliance “positive policing” and not as a function that is into fault finding like a police officer who hides behind the traffic light waiting for an offending driver to arrest.

The heartbeat of any compliance programme is effective stakeholder engagement and being trusted.

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