

Business Ethics -Your Way to Success

An Information Kit for Business Organisations

商界誠信管理資料冊



Legend to Your Roadmap of Business Ethics



Leading a company to success is like steering a vehicle to your destination. Roadmaps are being created and constantly updated in many business sectors in order to encompass the broadening aspects of the modern business world. As corporate leaders steering your crew to your destination, you must watch out for any new signposts along the road, detailing changes or challenges in the external environment, e.g. the globalisation of market, the advancement of technology, etc. By mastering these changes well, successful leaders can transform challenges into opportunities and enhance competitive edge of their companies. However, moving along the business highways, strong leadership is very important to avoid enticing short cuts and to stay steadily on the right route to reach the ultimate destination of their companies.

In today's modern business world, the road to success requires more than merely technical skills, practical knowledge and a good product. Business ethics, above all, are the guiding forces to achieve and sustain success. The public of today has high demands of those behind the steering wheel of modern business. Greater accountability and transparency, up-to-the-minute market information, reliable financial and market data, etc. are essential gauges for investment decisions. Business ethics become the fundamental building blocks that link up all these expectations. As leaders of today and tomorrow, you should hold on to such beliefs and strive to put ethics into practice in your corporation.

Commitment and determination to put ethics into practice is the prerequisite in your roadmap to business ethics. Yet, you are not alone. The Independent Commission Against Corruption (ICAC) is your partner as you drive along the highways of business. This Information Kit has been specially produced for corporate leaders who wish to embody business ethics into their corporate management. Included in this Information Kit are:

- Snapshots of upcoming management challenges with scenario discussions;
- Legal requirements and standards of behaviour expected from corporate leaders;
- Practical advice on ethical management;
- Organisation health checklists; and
- Directory of assistance and services provided by the ICAC.

While business ethics may still be a question to some, it has been an answer to many which have achieved effective management and business success. Let's gear up to meet the challenges of the modern business world, and be committed to achieving success via the road of business ethics.

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Note from Editor

This Information Kit aims to provide general guidance only and does not purport to deal with all possible issues that may arise in any given situation. Explanations of legal requirements under Ordinances are necessarily general and abbreviated and are not substitutes for the need to review relevant Ordinances in detail and where appropriate to obtain specific legal advice on any issue arising there from. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this Information Kit can therefore be accepted by the Independent Commission Against Corruption.

The scenarios given in this Information Kit are based on a mixture of past prosecutions and hypothetical cases for illustration only.

Throughout this Information Kit, the male pronoun is used to cover references to both the male and female. No gender preference is intended or implied.

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Executive Summary

As corporate leaders steering your crew to your company's destination, you must watch out for any new signposts along the road, detailing changes or challenges in the external environment, and respond to them quickly. Successful leaders can keep themselves alert in order to identify new challenges in their business operations and transform them into opportunities to enhance the competitive edge of their companies.

However, in today's modern business world, the road to success requires more than merely technical skills, practical knowledge and a good product. Business ethics, above all, is the guiding force to achieve and sustain success. Moving along the business highways, strong leadership is very important to avoid enticing short cuts and to stay steadily on the right route to reach the ultimate destination of their company. As leaders of today and tomorrow, you should hold on to such beliefs and strive to put ethics into practice in your corporation.

Four pressing management challenges faced by all corporate leaders are discussed in this Information Kit. The gists of each challenge are summarised in the following. You may also refer to the illustrative scenarios for each management challenge in Part I.

The Urge for Ethical Leadership

Following the spate of corporate failures in some parts of the world, the quest for ethical leaders has become a global concern. Investors are increasingly in search for leaders with high integrity standard on whom they can put their trust and investments. Apart from the regulations and guidelines issued by the regulators, corporate governance, which embraces ethical principles and practices, serves as a useful reference for leaders to put ethics into practice. However, good governance goes beyond all these but requires your commitment as the top management to perform in the best interests of the shareholders.

The values and attitudes held by senior management are important determinants of staff's behaviour. Business leaders should lead by example and act as a role model in exhibiting appropriate ethical behaviour. "Walking the talk" is the most vital step in creating an ethical culture within your organisation. Your staff will take this as a guiding force for them to make the right choice when confronted with ethical dilemmas.

Boom in Information Technology

The adoption of information technology (IT) has not only transformed the business world, but also increased the scope for various forms of malpractice or corruption. IT is undoubtedly a useful tool to promote business and enhance corporate transparency. However, IT is also a double-edged sword which creates new means by which malpractice can thrive. The effects depend on how people use it and on whose hands it lays.

The protection of sensitive information and the procurement function have always been the vulnerable areas in a business operation. In an IT working environment, the storage of a large amount of digital data and the substantial purchase of an IT system open a wider door to under-the-table deals. Besides, dishonest IT experts may make use of their technological know-how to manipulate the systems. To protect your company from these risks, adequate security measures and a high level of integrity standards among staff are needed.

Dealing with Conflicts of Interest

A conflict of interest is a situation in which a director's or a staff member's personal interests interfere with the proper discharge of his official duties. These kind of situations arise more frequently than before, along with the increasing complexity of transactions in the business world. Such conflicts may lead to split loyalty, which is conducive to corruption and can undermine your company's interests. Ignoring such conflicts can lead to complaints, grievances or even corruption.

There are two types of conflict of interest situations, actual and perceived. Whether the actions or decisions are actually influenced by, or perceived as influenced by the personal interests, the results could affect the reputation of the company and undermine investors' confidence. The fundamental rule is therefore to avoid any conflict of interest situations as far as possible; or in cases where such conflicts cannot be avoided, a declaration should be made to enhance transparency and gaining public confidence. Whenever in doubt, the one involved in a conflict of interest should declare the interest to demonstrate his impartiality. Management should be vigilant and give clear guidelines on which kinds of conflicts need to be declared and set proper procedures on dealing with the declarations.

Business Across the Boundary

Cross-boundary transactions have grown rapidly in the last decade. Following China's accession to the World Trade Organisation, vast business opportunities are emerging and cross-boundary transactions are racing to a new height. Under the "one country two systems" principle, Hong Kong business people need to be acquainted with the legal provisions and economic policies of both Hong Kong and the Mainland in order to avoid disputes, litigation and contravention of laws and regulations.

Both the Prevention of Bribery Ordinance (PBO) in Hong Kong and the Criminal Law of the People's Republic of China (PRC) prohibit offering and accepting bribes in connection with commercial transactions. In Hong Kong, an agent abuses his official position by soliciting or accepting an advantage in relation to his principal's business without obtaining his principal's permission will breach the PBO. Any person who offers an advantage to an agent for the latter's showing favours in his official capacity will also be guilty. In the Mainland, "corruption" and "bribery" are different offences under the Criminal Law of the PRC. "Corruption" refers to any act whereby a person takes advantage of his office to appropriate, steal, swindle or use other illegal means to acquire public money or property; whereas accepting a bribe is the act of taking advantage of one's office to solicit or accept money or property from another person illegally so as to seek benefits for such a person.

While it has become a trend for Hong Kong companies to base their operations in the Mainland to tap the advantages of cost and market potential, managers are facing the challenges of monitoring operations from afar. The integrity and experience of outpost staff are of vast importance. Management should monitor staff working across the boundary to detect any indication of wrongdoing. Conducting random checks and constantly collecting feedback from the suppliers will definitely be useful in detecting fraud or corruption.

What Management Should Do

To drive along the business highways successfully, business leaders should abide by the laws and regulations when doing business, including the PBO and specific codes laid down by relevant professional bodies and regulators. As those holding on the wheel, directors should also assume the responsibilities to lead with integrity and put business ethics into practice.

A comprehensive ethics programme that can plug hidden threats and minimize corruption risks comprises three main components. A summary of these three components is given below.

Set up a Code of Conduct

A well-established company code of conduct can help prevent corruption and fraud, as well as build a company's reputation. Under the PBO, the principal of a commercial firm has the right to decide whether a director or a staff member is allowed to accept an advantage in relation to the company's business. The company's policy on the acceptance of advantages serves as legitimate authority for a principal's approval. It is therefore your responsibility to lay down clear policies regarding the scope and circumstances in which directors and employees are allowed to accept advantages in relation to their official capacity.

As a responsible manager, you should ensure that the code adopted by your company is enforceable, practical, up-to-date and set in accordance with the fair competition principle. A sample code of conduct is enclosed in the Information Kit for your easy reference (p.35-46). If you would like to review or improve your company code, you are welcome to contact any ICAC regional offices for assistance (p.63-64).

Strengthen System of Controls

Prudent system controls not only allow business to be conducted in an orderly and controlled manner, but also help detect and deter irregularities, thereby allowing the management to take swift remedial measures at an early stage. Corruption loopholes in procurement, sales and marketing, accounting, personnel and staff administration, inventory and stock control, and their corresponding preventive measures are provided in this Information Kit for easy reference (p.49-54). Apart from that, ten general principles that can be used by a company to evaluate the adequacy of its internal control measures are :

1. Clear company policies
2. Clear work procedures
3. Clear job responsibilities
4. Segregation of duties and functions
5. Adequate safeguards against tampering with sensitive information

6. Effective staff supervision
7. Independent and active audit function
8. Channels for complaints and views
9. Continuous monitoring and review
10. Promoting a company-wide ethical culture

The Advisory Services Group of the ICAC provides free consultancy service to help you put up adequate corruption prevention measures in your company's operations. Interested parties are welcome to contact us.

Foster Ethical Culture

If an ethical culture forms the basis upon which everyone of a company makes business decisions, the company's profitability can be enhanced and overall operational efficiency improved. To develop an ethical corporate culture, a well planned ethics training programme for staff at all levels should be launched. The purpose is to strengthen staff's knowledge on the basic legal requirements, equip staff with the skills to handle ethical dilemmas that they may come across in the workplace and develop a sense of ethics throughout the company. Management's awareness and attention to early warning signals of malpractice can also be enhanced.

A wide range of tailor-made training courses for various levels of staff is available from the ICAC to suit your needs. Topics covered include anti-corruption legislation, ethical decision making, managing staff integrity, corruption prevention measures and professional ethics, etc. Interested parties may approach any ICAC regional offices for assistance (p.63-64).

To ensure that a company is heading in the right direction, managers should know how well their companies have done in terms of ethical management. Three organisation health checklists are provided in this Information Kit to help you assess the risk level of corruption and fraud confronting your company and whether your company is well prepared to move ahead (p.59-62).

Fostering Ethical Culture — *Organise Training and Ethics Programmes*

An ethical culture is a set of widely shared values and beliefs accepted by everyone working within an organisation. It involves a common understanding of what is right and wrong in the course of business dealings and outlines the methods of resolving ethical problems encountered at work.

If an ethical culture forms the basis upon which everyone of a company makes business decisions, the company's profitability can be enhanced and overall operational efficiency improved.

Why Training is Necessary

For a company to develop an ethical culture, a long-term commitment from top management is required. This can be achieved by launching a well planned ethics training programme for staff at all levels. Even though a comprehensive company code of conduct and an elaborate system of controls are in place, appropriate training is also essential to the effective ethical development of staff because it helps in:

- Increasing all directors' and employees' understanding of the relevant legal requirements;
- Enabling them to understand the company's ethical standards and the management's determination to include ethics as an integral part of the business practice to guard against corruption and fraud;
- Enhancing their awareness of the ethical dilemmas that they may come across in the workplace;
- Equipping them with the necessary analytical skills to handle the dilemmas properly; and
- Drawing the management's attention to early warning signals of malpractice and relevant preventive measures.

What a Training Programme should include

The management of a company should at all times ensure a sense of ethics is developed throughout the company. A comprehensive training programme should include the following areas:

- Legal requirements regarding the legislation governing corruption and fraud;
- Conduct requirements as expected by the company of its staff;
- Skills in handling situations of ethical dilemmas at work; and
- Preventive measures for unethical practices, e.g. how to strengthen a system of controls and develop skills in managing staff integrity.

What ICAC can offer

- *ICAC offers tailor-made free of charge training courses for various levels of staff. A wide range of training videos is available to help participants develop the skills for dealing with possible ethical dilemmas in the workplace.*
- *Training topics available:*
 - ◆ *Anti-corruption legislation in Hong Kong*
 - ◆ *Corporate system controls*
 - ◆ *Managing staff integrity*
 - ◆ *Ethical decision making*
 - ◆ *Corruption prevention and professional ethics*