THE HAWKAMAH JOURNAL

Peter Montagnon tribute
By Stephen Davis

Leadership and the challenge of embedding values in a global corporation
By Sir Mark Moody-Stuart

Corporate ethics
By Philippa Foster Back, Alison Dillon Kibirige, Sadia Ghauri-Malik, Bisi Adeyemi, Ben Wareing and Ray Flynn.
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FOREWORD

Dear Reader,

I am pleased to offer you the 14th edition of the Hawkamah Journal. This issue focuses on the theme of corporate ethics and it is dedicated to the memory of Peter Montagnon, a Hawkamah board member and longtime editor of this Journal. Peter was a towering figure in the world of corporate governance who recognized the importance of corporate ethics underpinning governance frameworks.

Business ethics is relevant both to the conduct of individuals and to the conduct of the organisation as a whole. It applies to any and all aspects of business conduct, from boardroom strategies and how companies treat their employees and suppliers to sales techniques and accounting practices. Ethics goes beyond the legal requirements for a company and is, therefore, about discretionary decisions and behaviour guided by values.

This issue explores ethics from different perspectives. In this regard, we are pleased to feature an overarching article by Sir Mark Moody-Stuart on leadership and the challenge of embedding values in a global corporation. Other articles included in this issue take a closer look at the role of ethics in the age of artificial intelligence, the role of ethics in external audit as well risk management, and finally on how companies secretaries can drive ethical cultures in the companies and boardrooms.

I wish you a stimulating read.

Dr Ahmad Bin Hassan Al Shaikh
Chairman
Hawkamah Institute for Corporate Governance
ADVISORY BOARD
Frank Dangeard
Stephen Davis
Sophie L’Helias
Mak Yuen Teen
Chris Hodge
Alec Aaltonen
Saeed Bin Shabib
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Peter Montagnon, former journalist, longtime editor of the Hawkamah Journal, and a global leader in corporate governance and business ethics, died in June in Britain at the age of 69. This edition, with its focus on ethics, is dedicated to his memory.

If you had to associate the world of corporate governance and investor stewardship with one person, you’d be right to think of Peter Montagnon. Tall, bespeckled, and outfitted with a graying beard which hinted at a rogue nature, Peter to some appeared intimidating. But you could see in his eyes a rich intellect, endless curiosity, and an addiction to enthusiasms he must have kept reminding himself always to keep under very English check.

But this journalist-turned-governance champion had humility and a gentle nature, even if he was at the same time driven to perfectionism. As Financial Times columnist Edward Luce wrote of Peter as an editor, he “had just the right mix of sternness and warmth...He would sniff out the tiniest solecism and admonish you for it. Then he would take you out for lunch and launch into a debate about Asian savings rates, or return on equity, or inverted yield curves.”
More lately his passions had turned to Brexit, political correctness, the Greek economy, corporate governance and ethics, and his grandchildren.

Peter began his career in journalism at Reuters, holding posts in Europe, North America, and Asia before moving to the FT. There he took on a host of senior roles, winning a reputation—as Tony Tassel wrote in an obituary—"as a kind, patient mentor, shepherding many a young colleague, instilling his enthusiasm for core FT stories in business, finance and markets." Said columnist Gillian Tett: Peter "had a towering intellect but also an ability to roll up his sleeves with a journalist’s passion, and find stories in the geekiest corners of the financial world."

Still, serving as an informed observer wasn’t enough for Peter. In 2000 he pivoted to the Association of British Insurers (ABI) where, as investment committee head, he created a suite of tools that quickly made him a powerful influencer on behalf of a more accountable, fairer, and more efficient capital market. To be sure, Peter was no fan of corporate governance box-ticking on the part of shareholders, nor did he favor over-prescriptive regulation. But he was equally critical of sleepy corporate boards. When he issued a rare ABI ‘red top’ report calling out corporate misbehavior, directors across the UK took notice. “Peter was a giant of the corporate governance world,” Huw Evans, director-general of the ABI, told Tassel.

Peter wound up playing a key role in advising the European Commission on voting rights and disclosure and chaired the International Corporate Governance Network (ICGN), where he pushed for more shareholder engagement on corporate performance. This initiative led to a post at the UK Financial Reporting Council, where he virtually invented the codes and practices of investor stewardship. This might be his most lasting policy legacy, as stewardship is now and is destined to remain a front-and-center issue in capital markets around the world.
Peter also, of course, parented the Hawkamah Journal and was a regular contributor to Hawkamah conferences and the organization’s board. Further, since 2013 he had occupied an advisory perch at the Institute for Business Ethics, engaging in thought leadership, including penning 10 white papers. Peter spoke at countless meetings worldwide and wrote prolifically. He even stood for local office last May as a Liberal Democrat, going to door to door to share visions for his constituency.

Nothing got Peter more energized than tilting at shibboleths and sacred cows. And he did it with impeccable civility, immense humor, an authoritative voice, and twinkling eyes. As ICGN’s Kerrie Waring wrote, Peter was ‘much loved in every corner of the world.’ IBE called him ‘larger than life’. To Luce, Peter “was also one of the kindest people I have known.” Peter showed so many what it is to be a man of ethics, integrity, vision, friendship, and enjoyment.

Peter was intensely proud of his family, including his wife Isabel, daughter Tamsyn, and son Giles, and was much looking forward to a semi-retirement that would have afforded him more time with them. At Peter’s July funeral in East Grinstead, England, Giles, in a eulogy, said that his father had pulled off something quite remarkable. While his sudden death felt to so many as if he had been cut down in his prime, Peter had of course led a long and rich life as a family man, eminent journalist, influential architect of investor stewardship, and fierce defender of fairness, truth, and tolerance. Giles concluded by quoting one of Peter’s signature comments, which he always delivered with a wry smile, and applied it to his father’s life: “I thought it was all rather a lot of fun.”

We are grateful to the Financial Times for the permission to use quotes from the following article: Tassell, Tony. “Peter Montagnon, journalist and corporate governance expert, 1950-2019.” The Financial Times, 28 June 2019.
LEADERSHIP AND THE CHALLENGE OF EMBEDDING VALUES IN A GLOBAL CORPORATION

The untimely death of Peter Montagnon has left a big hole in the interconnected worlds of journalism, corporate governance and ethics, fields in which Peter made major contributions in his career. His leadership of engagement with companies on behalf of the long-term shareholder members of the Association of British Insurers (ABI) had a strong focus on governance, often wrestling with questions of executive pay schemes, which brought him into contact with many businesses. The engagements which he led and his thoughtful approach gained him the respect of business people, but Peter would be the first to admit that as far as pay levels and differentials went the outcome has been far from satisfactory. In his subsequent very important work in the Institute of Business Ethics, Peter distinguished clearly between development of and compliance with governance frameworks on the one hand and the ethics which should underpin such frameworks on the other. Many business people accept that income disparities in business and society have grown unacceptably wide over the last twenty years, but the genie is now out of the bottle and will require time, leadership and a focus on underlying values to rebalance executive remuneration. If this issue is really a matter reflecting the underlying values of an organisation and its relationships with society at large, including its commercial competitors, I will suggest below that the place to start is a very open and widespread discussion within a corporation on what a reasonable or fair outcome might look like, combined with strong ethical leadership. Perhaps it was this need to work on the underlying ethics of various business challenges that led Peter to join the Institute of Business Ethics (IBE).

At the time of Peter’s death, the IBE was just starting a “Summer of Speak-Up” in which Peter would have played a leading part. At the first event of this series, which dealt with “Bringing your whole self to work” with a particular emphasis on LGBT issues, discussion was wide. There was talk of the need to link the achievement of diversity targets to variable pay, to make sure that managers were really committed to meeting targets. Personally, I have some discomfort with this. There was I think broad support in the discussion for bringing together many groups across an organisation, not just of women or LGBT or ethnic minorities, but groups which mixed all of these, who could talk of their own experiences. This is not to suggest that groups of similar background should not also meet, but in my experience mixed groups bring particular insights.

In Shell in the nineties we were faced with a situation in which after working hard for at least twenty-five years at hiring and developing talented people of all nationalities and backgrounds, the equivalent of the executive committee was uniformly white, male and either Dutch or British, with an occasional American. That such a composition represented the most qualified people was statistically implausible given our intake. So we set up a Diversity Committee with men and women from all around the world and of various ages. We discussed the barriers and as chair of the committee I learned a great deal about the many hidden barriers and equally important the emphasis which our promotion methods might put emphasis on aspects which disadvantaged some people – education, technical backgrounds, mobility, expatriation, language, region, family background and so on. I also discovered the sobering fact that when we identified the many groups in the company which might be considered to confer an advantage, I am in every one of them. Open discussion in groups across a company are essential for developing and teasing out what a company’s proclaimed values mean for every individual. What for example does the commonly proclaimed value of “Respect for people” mean not just for different groups in one country, but in multiple countries across the world? The value remains the same, but its expression may differ in different cultures.

A major global company cannot be run simply by reference to a book of rules. Situations vary enormously from country to country and...
furthermore can change very rapidly. No rule book could cover this; any such book would be voluminous and in any case almost certainly would not be read. It is therefore essential to try and embed values and principles in a way that they are absorbed by people in the organisation wherever they are and whatever their background, race or religion. In this way an individual can respond rapidly to situations. However, that does not mean that individuals are on their own. They should be able to refer to other people in the organisation to discuss difficult issues and thus draw on the experience of the whole group. This will only be possible if conditions have been created where real life past problems have been discussed freely and people know that it is not a confession of weakness or failure to discuss a dilemma. To achieve this requires leadership.

There is an analogy with the values to which a family subscribe. At best these encompass all members of a family; parents, grandparent, brothers, sisters and children. There are established patterns of behaviour which are known and accepted by all as part of membership of the family group. They are not codified but established by example and behaviour. They are also subject to adaptation. The situations encountered by children and grandchildren are different from those experienced by their parents and grandparents and inevitably changes in behaviour and response will be needed, but hopefully the underlying values remain the same.

Values should underpin and guide the behaviour which underpins compliance with mere rules. The value underlying health and safety regulations is care for all our colleagues as well as ourselves. Refusing to join corrupt practices is not just a matter of law, but of not trying to distort the market, and an awareness that even small facilitating payments may contribute to the corrosion of societal values. Compensation policies are not just a matter of formulae which may gain shareholder approval, but of a reflection whether we really believe that everyone in an organisation has an essential part to play as a member of a team and whether this is fairly recognised in pay and in other forms of recognition. Money is a form of recognition but there are many others. Each of these topics is worth spending much time in group discussions across the organisation so that the complexities of each can be openly discussed. Leadership is an essential component in enabling such discussion.

Many corporations lay great emphasis on training to instil values. Conventional training has limited effect. What is needed is training which involves a lot of free-flowing discussion and relating of personal experiences – what are sometimes referred to as “war stories”. I recall listening to the Chief Executive of a major financial institution which had suffered from scandals relating to trading in Europe and to other events in Japan. He had put in place a structured training programme delivered around the world through thousands of hours, with care to ensure maximum coverage (and documentation of the coverage). I was impressed by the effort and the systematic approach. But then in my eyes he blew it all by remarking somewhat wistfully of his errant traders that if they had done it to Goldman's or Lehman's it would have been alright. He plainly did not get it. Distorting the market is an abuse whether the victims are Goldman's or Lehman's or a lot of little old ladies. The value is not dependent on the victim, although the severity of the crime may. Given this attitude of the chief executive, I suspect that the entire structured and rather legalistic training was wasted.

How do we check whether the values that a company espouses, and which should have been developed through widespread discussion, are indeed shared and internalised across an organisation?

For the executive team the first check is to establish a programme of town hall type meetings across the organisation with very free and open discussion of events and trends. It is important to be able to discuss examples where the company’s values trumped profit. An example of a contract
lost because of corruption by others or where an operation was shut down, perhaps because of the intervention of a relatively junior employee or contractor on site because it was potentially unsafe, costing the company money but demonstrating its values. Conversely if a well-known bully delivering excellent commercial results is left in place, the entire value system will be exposed to all as superficial, with enormous resulting damage.

The second check is through very well-designed global surveys conducted independently with guaranteed anonymity. Many people are sceptical about the usefulness of such surveys, saying that people do not bother to participate or else they do not put down what they really think. This is not my experience.

It is very important that the results of the survey be independently analysed and fed back to people in organisational groupings which are large enough to protect the anonymity of any individual respondent. In that way people can compare the responses for their unit in relation to those of other units in the same business or region, as well as trends for the corporation as a whole at various levels of aggregation. It is equally important that there be open discussions on what changes in approach are needed to address issues which emerge from the survey and that there are commitments made at different levels in the organisation as to how this is to be addressed. People will only take part in a survey if they think that their views will be listened to and that action will be taken. A very important signal from a global survey is whether participation is rising or falling. In a healthy company with an open environment for communication and where results are discussed and actions taken in response, participation rates can be above ninety percent.

Lastly, one of the biggest dangers in any company, and indeed in any industry sector, is group thinking. The best defence against this is for the leadership to maintain an open dialogue, not just with investors and customers, but with civil society organisations, including labour organisations which may be critical of the behaviours of the company or its industry. This can be done on an ad hoc basis as well as through more formal advisory groups. It is important to understand what drives the views of critics, even if you think that they are wrong. People form their views from impressions of behaviour and it is important to understand and respond to those views, rather than dismissing them as misguided. This too requires open leadership. Organisations such as Hawkamah and the IBE can assist in this process, providing neutral fora. Peter Montagnon’s input to such processes will be sorely missed.
CORPORATE ETHICS IN A DIGITAL AGE

Philippa Foster Back CBE
Director Institute of Business Ethics (IBE)

This article is based on a publication of the same title by our late and much respected colleague Peter Montagnon, who sadly died in June 2019.

The growing reliance on data and the integration of AI into business activity has thrown up some large challenges for governance. Boards not only have to manage a new set of risks and opportunities – they have to do so in a world that is rapidly changing in ways that make it harder for them to exercise control.

The IBE’s view rests on the premise that, while directors have to take account of AI and understand the role it is playing in their business, they do not need to be experts in technology to tackle the relevant questions. Indeed, most of the challenges facing directors are more moral and philosophical than technical.
The corporate journey into the world of AI is only just beginning. Business leaders perceive enormous change on the horizon, but they are uncertain about where AI will take them and how they will cope with something whose dimensions keep changing just when they think they have begun to understand them.

For boards, there is a temptation to prevaricate. Changes may never happen as currently expected. Indeed, past experience of technological advances show that a first wave of excitement is followed by uncertainty as it turns out that change is slower than the enthusiasts expected. However the requirement to manage the consequences of AI cannot be ducked and boards need to put the issue firmly on their agenda.

Ethics matter because an ethical approach inspires trust, and trust is needed to build public confidence in organisations that control data with power over people’s lives.

This is not a reason for seeking to curtail the adoption of new technology. It is instead an opportunity for adopting it in a way that delivers clear benefits within a trusted framework. Companies and economies that can do this will set themselves apart, as well as finding it easier to comply with data protection requirements. That is where competitive advantage lies, and is indeed the real opportunity.

In Corporate Ethics in a Digital Age 9 challenges are highlighted for a board to consider:

**Challenge 1 – Making sure the board remains in charge**

One of the core problems thrown up by AI is information asymmetry. This may exist between a firm and its customers, for example where the firm has used machine learning to tell it things about its customers that even they do not know about themselves. It may exist between a firm and its employees, when monitoring employee behaviour leads the firm to manage differently and often in its own interest, rather than in that of the employees themselves.

In today’s world of algorithms, it is not always easy for boards to understand or monitor what is going on in the company. This means that highly, but narrowly educated data scientists can wield enormous power in the ‘engine’ room. At the extreme, this changes the hierarchy of governance to the detriment of a boards’ ability to deliver understanding and strategic judgement at the apex of the organisation.

**Challenge 2 – Sharing the benefits**

New technology is expected to be disruptive and, for many, constitutes a threat to employment. Dealing with the labour market consequences is, of course, a major task for government, but companies will face a public backlash and the risk of intrusive regulation if they keep the efficiency benefits of AI to themselves.

**Challenge 3 – Ensuring accountability**

Most people would agree that someone at the human level must be responsible for decisions made by machines, but the nature of AI makes this principle of keeping a human in the loop hard to deliver. Corporate boards are at the epicentre of the discussion on accountability and, for them, the issue adds a new dimension to their consideration of risk and risk appetite.

**Challenge 4 – Avoiding bias**

When people make decisions, their choices are consciously or subconsciously affected by their particular view of the world. This is not as obviously apparent as prejudice, but simply that people are influenced by all the emotional baggage that goes with their upbringing, gender identity and so on.

One might assume that machines would be ruthlessly objective and free of bias, but this is not the case. As the AI Now 2017 Report put it:

“AI does not exist in a vacuum. We must also ask how broader phenomena like widening inequality, an intensification of concentrated geopolitical power and populist political movements will shape and be shaped by the development and application of AI technologies.”
**Challenge 5 – Treating customers fairly**
The starting point for any discussion about AI and customers is recognition that, correctly used, AI can add greatly to customer experience and outcomes. In that sense, it should be seen as a significant business opportunity. However, the risk remains that companies trip over into a world where they are using AI to extract value from their customers rather than delivering value to them. This would ultimately lead to loss of trust and damage to the franchise.

**Challenge 6 – Treating employees and contractors fairly**
The introduction of AI seems likely to have a profound effect on the nature of work and the jobs market. Public nervousness of social change, as well as the sense of alienation increasingly expressed by general populations towards the elite, means the introduction of automated intelligence needs to be handled sensitively or it may not be generally accepted. Already, some leaders in the financial
services industry report that fear of technology-related job losses’ is adding to stress at work which could impair the performance of individuals. Well-being at work is rising up the agenda for managers and corporate leaders, and the impact of automation is part of this.

One important conclusion is that AI systems cannot simply be imposed from on high. Companies need to be sensitive to the impact on their workforces and be willing to mitigate this where appropriate through redeployment and retraining. The new UK Corporate Governance Code calls on boards to strengthen engagement with their workforce. Clearly, the introduction of AI, and how it is operated, should be a subject for such engagement.

Challenge 7 – Keeping data secure
Cyber security breaches have become commonplace. Breaches were more often identified among organisations that hold personal data, where staff use personal devices for work or that use cloud computing.

Challenge 8 – Dealing with attacks
All the evidence shows that cyberattacks are now commonplace, but most organisations have yet to learn to deal effectively with them. Dealing with an attack for the first time is probably the hardest part, but companies can already learn from the experience of others and the simple recommendation is the old adage: ‘Be prepared.’

Challenge 9 – Can codes of ethics help?
Most experts agree that codes of ethics can be an important tool in the safe development of AI. There are two levels at which these types of code would work. First, outside bodies could develop overarching industry codes. Second, elements of these could be written into the ethical conduct codes of individual companies.

Expertise and the Boardroom
Dealing with AI and cyber risk raises an important question about board composition. Boards must be ultimately accountable for what happens, but does this mean that companies need to bring formal expertise on to the board and, if so, how much expertise is required?

Most of those who have grappled with this question say that common sense, plus the ability to ask good questions and to obtain high quality advice, are more important than recruiting specific technological expertise.

Conclusion
It is generally accepted that AI offers huge opportunities to companies, the economy and broader society. It will, however, be harder to realise these opportunities if AI is not introduced in a climate of trust. Ethical considerations are thus paramount and, indeed, competitive advantage may well accrue to those that take the trouble to develop their ethical understanding alongside the introduction of new technology itself.

Up till now, many boards have been reluctant to confront the issues or have adopted primarily a defensive approach centred around the need to develop defences against the threat of hacking and loss of data privacy. Yet directors should not be put off by lack of technical expertise. Of course, they need to understand what technology delivers and keep themselves up to date with the way it is changing and developing, but most of the questions they then need to ask themselves are philosophical and ethical. This requires them to draw on the company’s and their own values for answers. These questions may be challenging, but they are not difficult in a technical sense.

Boards need to mainstream their thinking about AI. Many of the questions that boards will have to ask are about where to draw the line, for example in the use of potentially biased algorithms in recruitment or the use of personal data to target advertising. These types of question sit quite naturally within the board’s regular discussions about risk appetite, risk management and oversight. It is better that AI issues are handled in that context, rather than side-lined and dealt with in a separate silo.
Sir Winfried Bischoff, the then Chair of the Financial Reporting Council (FRC), in the foreword to the FRC’s publication ‘Corporate culture and the role of boards’ said ‘A healthy culture both protects and generates value. It is therefore important to have a continuous focus on culture, rather than wait for a crisis.’

The board is the ultimate custodian of corporate culture in an organization and has a responsibility to set the appropriate tone from the top. But the company secretary is often seen as the individual who has responsibility for ensuring that the board acts ethically and does ‘the right thing’ when making decisions not just comply with the legal requirements. This is because the company secretary is often referred to as the ‘conscience of the company’.

**Why is this?**
The company secretary should be in a unique position to fulfill this role as adviser to the board on ethical matters because:
• The company secretary should be a trusted and impartial advisor to the Chair and the board as a whole.
• As the organization’s governance professional, the company secretary should have both the technical and emotional intelligence skills and experience to influence the activities of the board.
• The company secretary as the primary point of contact for the board members and the conduit for information flowing between management and the board, should be aware of the issues that the board, its members and management are struggling with.
• The company secretary should also have information about all areas of the organization through their access to the papers and presentations submitted to the board and board committee. This should make them ideally placed to align the interests of the different parties around the board table and facilitate a dialogue through the provision of the appropriate information to the board.
• Through access to all parts of the organization, the company secretary should have knowledge about the ethical culture of the organization.
• The company secretary should be expected to speak out against bad governance and unethical practices, and remind the board and management of the appropriate course of conduct and principles of good governance that they should apply to protect the reputation of the organization and ensure that the company is sustainable in the long-term.
• The company secretary should be aware of the views of shareholders and other stakeholders relevant to the organization’s operations, as part of their role should be engaging with shareholders and other key stakeholders, listening to their opinions and views, and enlightening the board and management to their legitimate concerns and interests.

Setting ethical values

To enable the company secretary to carry out their role as the ‘conscience of the company’, the board has to set standards of ethical behavior that it expects the board members and all the organization’s employees to follow. This entails creating ethical principles and values for the organization. The company secretary is often asked by the board to work with management to develop these ethical principles and values.

Ethical principles are statements that:
• Provide guidance and direction for behavior
• Relate to issues such as fairness, equity and justice
• Are universal
• Set boundaries that should be respected

Ethical values:
• Shape the context in which ethical principles are implemented
• Guide choices made by the board, management and other employees

![Figure 1: Creating ethical culture](image-url)
• Frame norms of behavior within the organization applied to daily decisions
• Are incorporated into the organizational culture

The company secretary would usually advise the board and senior management to select ethical values for the company that are appropriate to that company not just pick them from the internet. Employees should be asked for their opinions, and the values and standards of behavior should be developed including their input.

Be careful when choosing “integrity” as a value, which many companies do. In itself, integrity does not have a meaning; it needs to be combined with other values. It is an assurance that the values will be lived up to, as integrity means we will do what we say we will do. When choosing integrity as a value, many associate their own values with it and so assume that it means being honest, truthful, and so on. In reality people who are dishonest can be so with integrity if they make it clear it is their intention to be so.

When the values are disseminated to employees, the company secretary should ensure that the reason why the value is so important for the company is also communicated. This will help employees identify with the importance of living up to the value.

**Developing a code of ethics.**

Once an organization has created its ethical principles and values it needs to explain to board members and employees how they should be applied within the organization. This is usually done through the code
of ethics or conduct.

The company secretary is often asked by the board to develop the code of ethics. When drafting the code of ethics, as with the company's values, the company secretary should avoid recommending the adoption of someone else's code. Every organization is different and has different ethical issues to deal with. Time should be taken to develop a code specifically for the organization.

Employees should be consulted on the draft code and feedback shared with the board before the board approves the code. The board may want to pilot the code for a few months to ensure that it is appropriate for the organization before finally approving it.

Once the code of ethics is approved by the board, the company secretary would normally work with the Human Resource function to roll out the code throughout the organization. This will include posters, workshops, and information on the organization’s intranet site (if one exists).

Once the code is operational, the company secretary should work with the internal audit function to monitor compliance with the code. The board should have established a whistleblowing policy and procedure so that any breaches of the code can be reported to the board via the audit committee (if one exists). Breaches may require the code to be revised and the board may ask the company secretary to work on this. Amendments to the code should only be made when absolutely necessary, as constant changes will confuse employees.

Creating an ethical culture

The recognition that ensuring that the right ethical culture is created within an organization is not new. Bob Bauman, the former CEO of SmithKline Beecham said, about ethical cultures in the late 1990’s, ‘Culture is an accepted way of doing things around a company. Every organization has a culture. A culture happens either by design or default, we are going to design ours.’

The Institute of Business Ethics (IBE) has issued a board briefing ‘Culture Indicators: understanding corporate behaviors’ to help boards with this task. The briefing, which was based on a study carried out by IBE into how boards are dealing with culture, includes the top 10 indicators used by respondent boards to monitor culture within their organizations. These are set out in Fig 2: Top ten culture indicators.

The company secretary has a role to play in assisting the board to establish and maintain an ethical culture by:

- Suggesting that discussions about corporate culture are on the board’s agenda

### Figure 2: Top ten culture indicators

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Percentage of boards receiving information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speak up and whistleblowing data</td>
<td>100</td>
</tr>
<tr>
<td>Results of employee surveys</td>
<td>88</td>
</tr>
<tr>
<td>Taxation Policy</td>
<td>85</td>
</tr>
<tr>
<td>Diversity</td>
<td>85</td>
</tr>
<tr>
<td>Regulatory infringements</td>
<td>85</td>
</tr>
<tr>
<td>Health and safety record</td>
<td>77</td>
</tr>
<tr>
<td>Financial indicators</td>
<td>76</td>
</tr>
<tr>
<td>Customer satisfaction data</td>
<td>62</td>
</tr>
<tr>
<td>Engagement with charities</td>
<td>58</td>
</tr>
<tr>
<td>Code of ethics sign off rate</td>
<td>58</td>
</tr>
</tbody>
</table>
• Suggesting that culture indicators are selected based on the expectations of the organisation’s key stakeholders.
• Developing a dashboard for the culture indicators that should be reviewed from time to time by the board
• Ensuring that information is drawn from a variety of sources to support and monitor perceptions of performance for the selected indicators
• Organising site visits so that members of the board can get out and about and meet employees to assess for themselves the culture embedded within the organisation.
• Assist in developing the reporting to stakeholders on the organisation’s culture.

**Ethics in decision-making**

The main decision-making body within an organisation is the board. The company secretary, as we mentioned earlier, has a role in ensuring that the board is making decisions in line with the organisation’s values. They do this by:

• Not just being a post office. The company secretary should review all of the papers and presentations to be submitted to the board or board committees to ensure that they reflect the organisation’s values and do not raise governance issues. If there are ethical and/or governance issues the company secretary should raise these with management first. If management are unresponsive then the company secretary should raise the issues with the Chair and agree how they should be dealt with.
• At the board meeting, the company secretary should not be fearful of advising and reminding the board of the organization’s values and also societal expectations of the organization when matters are discussed. The company secretary is often seen as having a role in managing reputational risk within the board’s decision-making as they are often the only person in the boardroom that have the skills, experience and knowledge to do this.
• By ensuring that when the board is discussing the organization’s policies and procedures that they stay aligned with the values, especially those related to how the organization motivates and remunerates its employees.
• By coordinating with the internal audit function to ensure that the ethical behaviors of the organization are audited and that there are effective whistleblowing and other checks in place to create and maintain the ethical culture envisaged by the board.

In conclusion, the company secretary has a vital role to play in ensuring that an organization has an ethical culture and that the board is making ethical decisions. To be able to do this, the company secretary should be technically up to date but also have the knowledge of how the organization operates and makes money. They also require strong emotional intelligence. The company secretary should also externally be aware of the environment within which the organization operates and what its legitimate expectations of the organization are.
A Company Secretary plays a key role in advancing corporate governance within the Boardroom by ensuring that the board is adhering to corporate governance and that a healthy relationship exists between the board and management.

The aim of the workshop is to develop the essential skills and knowledge required by those carrying out the roles of a company secretary to ensure that they carry out their roles and responsibilities actively and effectively in line with international best practice.

- Regionally relevant, practically applicable and based on international best practice
- Globally recognized methodology
- Highly Interactive, based on case studies, scenarios and role playing

Who should attend?
- Appointed and aspiring company secretaries
- Anyone involved in companies law compliance
- Anyone seeking a better understanding of the role of the Company Secretary who has responsibility for corporate governance practices and interaction with the board
Codes of ethics have long been a feature of corporate life, particularly in regulated entities. However, reported ethical malpractice among some of the companies does not seem to be abating. Recent corporate scandals, such as Wells Fargo’s cross-selling scandal and Volkswagen’s “Dieselgate”, demonstrate disconnect between compelling ethical statements and actual corporate behavior.

Despite companies’ proliferation of codes of ethics, codes oftentimes suffer from weaknesses that undermine their effectiveness and place a company’s reputation for integrity at risk. The purpose of this article is to explore the process of designing a code of ethics in order to improve its effectiveness.

**Code of ethics and its purpose**

The definition of a code of ethics is a collection of principles and practices that a business believes in and aims to live by. It formalizes an ideal of expected behavior patterns to managers and employees of organizations, and as such, it should serve as a central guide to support day-to-day decision making at work. It usually covers behavior that, while not illegal, is nevertheless harmful to the company and/or its clients. Perhaps most fundamentally, a good code of ethics provides guidance to employees when faced with a moral or ethical challenge.

**Codes of ethics are specific to each organization**

It is important to recognize that codes of ethics should be tailored to each company. Codes should be linked to the risks inherent to the individual company, its
markets and its operations. For example, a bank will have different risk areas than a pharmaceutical company.

When developing or reviewing a code of ethics, it is important to set the context. This should include elements such as what has gone wrong in the past, what else could go wrong, what guidance should be offered to employees and what are the grey areas in the business.

The code should also be reflective of the company’s stakeholders and addressed to their needs. For example, should the code of ethics be targeted to employees only, or should it also include other stakeholders such as suppliers (or should there be a separate code of ethics for suppliers).

**Board support is fundamental**

Corporate values, ethics and culture are matters of governance. Without senior leadership endorsement, embedding a code of business ethics is unlikely to be effective.

Boards should specifically oversee the development of the code of ethics, and formally appoint a senior manager to supervise that development.

But board engagement should not stop at merely overseeing the code development. It is fundamental that boards set the right tone at the top and demonstrate their ownership of the code. Boards should also make clear to the rest of the organization that the code not only addresses employee behavior but also the behavior of board members.

**Define values**

The code of ethics should be based on values, and these values and their relative emphasis are likely to differ between organizations. For example, in a government institution, the following principles would be appropriate (based on the Seven Principles of Public Life):

**Selflessness:** Decisions must be taken with due regard for the public interest.

**Integrity:** Those governed by the code must not allow themselves to be placed under any obligation to people or organizations that might try inappropriately to influence them in the performance of their duties.

**Objectivity:** Actions and decisions must be taken impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability:** Those governed by the code are accountable for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness:** Decisions must be taken in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

**Honesty:** Those governed by the code must be truthful.

**Leadership:** All those governed by the code must exhibit these principles in their own behavior. They must actively promote and robustly support the principles and be willing to challenge poor behavior wherever it occurs.

**Consult widely**

A multi-disciplinary and cross-functional group should lead code development. Groups of employees and other key stakeholders can help identify risks to corporate culture and business conduct and consider potential vulnerabilities arising from these risks and can usefully assist in defining and reviewing code content.

If employees are not consulted as part of the code development, it is less likely that it will cover all important areas in which ethical issues can arise. Similarly, if they are not part of the process, the resulting code may feel irrelevant to them and not reflecting their experiences.

It would be equally beneficial for companies
to consult external parties such as customers, regulators, investors, and communities on what ethical risks and opportunities it might face. The consultation process can help better inform the company about its ethical profile.

**Draft the code**

A well-written code of conduct clarifies an organization’s mission, values and principles, linking them with standards of professional conduct. The code should be written in a language and style that is universally comprehensible. When developing a code, the range of users that must be considered might include junior employees, middle management, senior executives, board members and etc.

Another key element is that it should be as practical as possible, as opposed to vague or legalistic. It should clarify how the company’s values translate into everyday decisions, behaviors and actions.

A good practice is that the code of ethics provides practical examples of situations that require decision-making to help employees do the right thing when faced with problems that could result in misconduct.

The code of General Motors, for example, includes a decision-making model that employees can follow when facing ethical dilemmas. Nokia’s code identifies potential red flags for employees in specific situations, while Unilever has included lists of “Musts” and “Must Nots” that employees can refer to for clarification about the company’s expectations.

The code cannot address all of an organization’s ethics needs, nor can it answer every ethical question or issue that may arise. Therefore it would be important that the code includes a section on where employees can go for advice and guidance.

**Test the code**

Before launching the code of ethics, companies should run trials on the code and gain an understanding of how well it works in practice. This testing could be limited to a cross section of departments or operations, and this should be done to assess the code’s usefulness and clarity as well as to identify any major obstacles.
Launch the code
It is not sufficient for companies to send out a code of ethics to all staff and expect them to adhere to its contents. The launching of the code should be communicated widely and it should coincide with training sessions for employees to raise awareness on ethical matters.

It is vital that companies communicate with their employees on the sanctions that will be imposed for violating the code of ethics. Depending on the violation, these sanctions can include a letter of reprimand, dismissal and possible criminal chargers or civil lawsuits.

But rather than just listing the potential penalties for code violations, boards and senior management teams should actively promote the code within their organizations and articulate their commitment to pursue potential violations of the code, to investigate them fairly and promptly, and to impose appropriate discipline for any violations of the code.

A code of ethics is a beginning, not an end
It is important that the establishment of a code of ethics does not lead to complacency, to the idea that the company has now sorted out its ethics. The code is really the beginning of the journey for companies. The real challenge is how to embed core ethical values in a way that affects decision making at all levels throughout the organization, and this requires boards to give high priority to ethical standards and ethically sound strategic goals.

Boards should also review the code annually. This is because ethical challenges faced by businesses vary over time on the basis of the legal context, social trends, practices followed by other companies, and changes in the organizational structure and its leaders.

Conclusion
The above sets out the key steps for developing a code of ethics. It would be naïve to assume that codes on their own will be beneficial for organizations. However, a well-written code, addressing key issues, which is communicated widely and which is actively promoted by business leaders is necessary, while not sufficient, to create ethical business practices.
Over the years and across different regions all over the world, statutory, common-law, regulations, and best practice provisions have evolved towards defining the right mechanism for whistleblowing. Whistleblowing is generally defined as the disclosure by members of an organization (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action. Within the corporate context, whistleblowing is the disclosure of information by an employee or any stakeholder who alleges willful misconduct carried out by an individual or group of individuals within the organization.
Whistleblowing typically has the following elements:

- The whistleblower is a member or former member of an organization and not typically an outsider.
- The information that is revealed by the whistleblower is non-public information.
- The information concerns some significant misconduct by the organization or some of its members.
- The information is revealed outside of the normal channels of corporate communication within an organization.
- The information is revealed voluntarily and not compelled by a legal mandate.
- The information is revealed as a moral protest or with an aim to correcting some perceived wrong.

Whistleblowing took center stage across the world in economies and politics during the early 2000s. As a testament to the significance of whistleblowing, Time Magazine named three whistleblowers as its people of the year: ENRON’s Sherron Watkins, WorldCom’s Cynthia Cooper, and the FBI’s Colleen Rowley. Each in similar circumstances was faced with challenges regarding calling out the detrimental actions of her superiors to their respective organizations. Having experienced the futility of exploring corporate channels within their organizations, they went outside to blow the whistle.

A whistleblowing mechanism is a useful tool for business leaders as it reduces risk by enhancing ethical conduct. A safe reporting system allows free flow of information on organisational wrongdoing. The absence of such a system obliges employees to report wrongdoing through the regular communication channels outside the organization (including law enforcement agents and the press), which could have negative consequences for the organization.

To ensure organizational wrongdoing is exposed, much attention has been paid to processes that support, strengthen and protect the whistleblower. This includes legislative frameworks developed to define the limits within which the whistleblower must operate in order to enjoy legal protection. Generally, international best practice requires the companies to establish whistleblowing guidelines with the objective of calling the attention of internal or external authorities to investigating allegations and rectifying the situation where necessary.

However, it would appear that much more is required to protect whistleblowers and encourage even more people to call out bad behavior. Despite their noble intentions, whistleblowers are still subjected to pejorative, implicit and very often explicit labels pertaining to their “deviant” actions. They are, moreover, often severely traumatised, and suffer huge material and relational losses. There is thus a need to shift towards institutionalizing whistleblowing. This will entail a deliberate adoption of ethical organizational culture that ensures illegal or unethical conduct is dealt with internally by means of established policies, procedures and structures on a routinized basis (Uys and Senekal, 2008).

Disclosures resulting from whistleblowing are to be treated in a confidential manner with the identity of the whistle-blower kept confidential unless otherwise desired. Leadership should ensure the effectiveness of its whistleblowing mechanism and continually affirm publicly, its support for and commitment to the company’s whistle-blower protection mechanism.

The content of a whistle-blowing policy or “speak up policy” may include additional sector-specific legal requirements and unique industry practices. An effective whistleblowing policy should set out the objectives of the policy and emphasize that the organization’s interest in the disclosure of unethical conduct is beyond regulatory compliance. It should clearly state the organization’s intention to encourage and enable stakeholders raise serious concerns within, rather than ignoring a problem or ‘blowing the whistle’ outside especially to the press. The policy must clearly define its scope and those to whom it applies – which typically would be staff, shareholders, customers/clients, suppliers and other stakeholders.
It is also a useful practice to describe the kind of information the company desires to be disclosed. Whilst disclosures often relate to financial information such as fraud, embezzlement and misappropriation, a whistleblower can disclose any information related to a violation or suspected violation of any law or internal policy connected with the business of the company, its employees or stakeholders. The policy should encourage disclosure of concerns that could have a significant impact on the organization - such that it is differentiated from routine feedback and grievance channels available to employees. The whistleblowing policy could be linked to the company’s code of conduct and cover serious code violation. The code of conduct should provide examples of possible breaches of the code of conduct and guide employees on how they should evaluate whether an act (or inaction) constitutes code violation.

A confidential reporting system is a mechanism whereby any member of the organisation can report any perceived wrongdoing within the organisation, without fear of victimisation. Reporting wrongdoing, therefore, becomes legitimate. It is essential that whistleblowers follow the safe reporting procedure of their employers in order to claim protection against victimisation, unless the whistleblower has reason to believe that the safe reporting system is inadequate.

The main objective of a safe reporting system is, therefore, to provide a safe avenue through which suspicions of unethical or illegal conduct can be raised. For such a system to be effective, a number of preconditions should be in place. These include the following:

- The information that is disclosed should be handled confidentially, and the anonymity of employees should be protected as far as possible.
- The reporting system should be complemented by a due process of investigation. Such investigation should be conducted in an inconspicuous manner to avoid suspicion, rumours, and embarrassment to employees and the accused person before hard evidence has been obtained.
- Rewarding employees whose reports of suspicious behaviour turn out to be true should be handled circumspectly. A reward system can easily be perceived as encouragement of employees to spy on one another, and should only be used if it is considered essential to the success of the safe reporting system.

A safe reporting system is only viable if there is a high level of internal trust within the organization. If not, the reporting system is likely to come under suspicion and be abused for malicious purposes. The major benefits of such a system could be the following:

- Ensuring that concerns about wrongdoing in the workplace are properly raised and addressed;
- Promoting the whistleblower as a witness and not as a complainant;
- Reassuring workers with genuine concerns that there is a safe alternative to silence; and
- Helping everyone separate the message from the messenger.

One element of a safe reporting system is usually the outsourcing of the reporting channel to an independent entity that runs an off-premises call center facility. The outsourced entity then gathers the information and provides the organization with anonymous incident reports. These hotlines have become quite sophisticated over the years and have significantly encouraged more employees to blow the whistle. While outsourcing the whistleblowing apparatus typically guarantees anonymity, confidentiality, independence and effectiveness, it should not however substitute the oversight role of the Board.

A whistleblowing policy should provide details of internal and/or external persons to whom disclosure may be made. The team responsible for managing disclosures obtained through the whistleblowing mechanism should provide the Audit Committee or other designated Committee with a summary of reported cases, cases investigated, the process of investigation and the results of the investigations.
The team may comprise internal persons such as line managers, the Managing Director/Chief Executive Officer, Head of Human Resources, internal audit, Company Secretary or Legal Counsel, designated Ethics Officer, Audit Committee Chairman. Line management is generally perceived as less independent and as such the policy team should be composed of only persons who are likely to be more independent of management.

As a complement to the anonymous hotline, email, or mailbox, employees who could act as whistleblowing champions should be identified. These employees should be sufficiently senior to handle disclosures in an appropriate manner and should enjoy sufficient confidence from a large group of employees, so that they will be prepared to raise concerns about organizational wrongdoing with them. It is often beneficial to use retired senior staff as whistleblowing champions.

It is not recommended that the whistleblowing policy prohibits employees from raising concerns to external parties, such as the regulatory bodies but should encourage stakeholders to exhaust internal reporting procedure prior to external communication. The policy should not be an attempt by the organization to circumvent disclosures to regulatory bodies, as such disclosure to the appropriate authorities may be justified in certain cases.

The policy should require giving the company the opportunity to investigate the complaint whilst allowing the use of an external reporting mechanism where the whistle-blower is of the view that the complaint is best handled externally. The report must be made in good faith and not for the purpose of personal gain.

The policy should also be designed to ensure that concerns can be raised about wrongdoing or malpractice within the company without fear of victimization and reprisal in any form. The Board should pay keen attention to the treatment of whistleblowers and ensure that no whistleblower is subject to any detriment on the grounds that he/she has made a disclosure. Where a whistleblower has been subjected to any detriment, he may present a complaint to the Board and/or regulators and may be entitled to compensation and/or reinstatement as appropriate.

The policy should clearly detail sanctions for those found to have taken reprisal actions or victimized the whistleblower. Whilst discouraging malicious allegations by prescribing disciplinary action for such, it should be emphasized that complaints made in good faith and with reasonable belief will not result in disciplinary action.

Acknowledging the receipt of a disclosure of the identity of the whistleblower disclosed provides comfort that the issue is taken seriously internally.
and forestalls escalating the concerns externally. Investigation and confidentiality should be assured and the whistleblower should be informed of the progress and outcome of the investigations.

Anonymous reporting should not be prohibited or disregarded. The policy should state that concerns expressed anonymously will be investigated with consideration given to the seriousness of the issue raised, the credibility of the concern and the likelihood of confirming the allegation from other sources.

The whistleblowing policy should be widely disseminated to relevant persons covered by the policy. This may include posting the policy on notice boards, including the policy in the employee handbook and in particular on the company website. Periodic information sessions should also be used to communicate Management’s commitment to the policy.

Whistleblowing does not only have the capacity to eliminate wrongdoing but can also bring rewarding effects to both the organization and the employee. It plays a critical role in enthroning good corporate governance practices and organizational growth. A whistleblowing policy is a useful tool for a company’s leadership to actualize its top priorities - ensuring transparency and good governance. It engenders a culture that reduces risk and enhances transparency and ethical conduct which in turn is by far the surest way of ensuring the sustainability of the enterprise. Corporate strategy as crucial as it is for corporate success, crumples like a pack of cards in the face of corrosive unethical corporate culture.
A search for “Enron Code of Ethics” on Wikipedia reveals a short entry suggesting that copies of the code, subsequent to the bankruptcy of Enron in 2001, were being sold on Ebay, for over $200 in at least one case. The interest in the code appears to be its comedic value – the idea that a company which behaved so egregiously could even have a code of ethics seemed laughable. Many books and articles on Enron that have since been published are consistent in highlighting a weak culture of ethics as being one of the root causes of the collapse, which of course was also terminal for their auditors.
These issues have not gone away. High-profile corporate failures and scandals in the last few years have placed the audit profession under intense scrutiny. One of the consequences is an increased expectation that auditors should identify – and report on – ethical concerns as part of their work.

**UK Retailer – ethics, governance and the effect on auditors**

A major UK-listed retailer was publicly described in 2007 as “the least ethical big company in the country.” In 2016, it was the subject of a UK Parliamentary report which highlighted numerous problems connected with employment practices at the company’s premises, leading to widespread attacks in the media on its ethics culture. The report specifically linked the issues to corporate governance, with statements such as “Corporate governance... goes to the heart of the issues that have been raised in our inquiry”.

At the date of writing, this company has no external auditor. The one auditor they used since listing in 2007 resigned in August 2019 after management reportedly failed to inform them of a substantial tax demand until the day of issuance of the financial statements. Attempts to appoint new auditors have so far failed, with at least 6 firms already having been approached. The head of audit for one major firm told the Financial Times that “This is not an audit issue, it is a corporate governance issue.”

The Deputy Executive Chairman, founder of, and majority shareholder in, the company was requested by the Parliamentary committee to address the issue of corporate governance. When specifically asked how he was going to improve corporate governance, the Deputy Executive Chairman said, “I can only do my best and my best may not be good enough, as you say, but my best is all you can have”. This demonstration of failure to properly commit to governance improvements is consistent with much of the criticism he has publicly faced in the UK press.

Whether poor corporate governance gives rise to poor ethical culture, or the two weaknesses contribute to each other, is not necessarily a question that needs to be answered. Instead, we need only accept that a link exists between the two. The response of auditors to identified weaknesses in either corporate governance or ethical values of an auditee would be to consider the implications across all areas impacted by both.

**The changing face of external audit**

External auditors have long been required by virtually all standard-setters to consider a wide range of features of an auditee as part of their planning for an audit. International Standard on Auditing 315, for example, requires that auditors assess whether management and those charged with governance have maintained a ‘culture of honesty and ethical behaviour’. An auditor’s conclusion on this would then contribute to other assessments, such as the quality of the overall internal control environment or the risk of management override in financial reporting. How the auditors adjusted their audit strategy to compensate for the widely known issues around ethics at the company described above is unclear, but one would assume that, for example, professional skepticism would have been applied with more rigour to any representations made by management.

In recent years international standards have in addition begun to require the publication by auditors of Key Audit Matters (KAMs) for their listed clients. In the US, a similar requirement will mandate disclosure of Critical Audit Matters (CAMs) from 2019 onwards. Prior to this, audit reports were generally ‘boilerplate’, with additional narrative added by the auditors only in the (relatively rare) situations that they either gave a modified audit opinion or included an ‘emphasis of matter’ drawing attention to a feature of the financial statements. No information was given by auditors of the areas they considered to be highest risk.

KAMs and CAMs are aimed at protecting the public interest by drawing users’ attention to the issues which were of significant focus for the auditors.
KAMs have been mandatory for public companies in most of the Middle East, where International Standards are applicable, for several years now. So what types of issues are they focusing on?

Of the audits of the top 20 largest publicly listed companies in the world today, only 8 currently fall under the remit of KAMs – those subject to International Standards on Auditing or Hong Kong Auditing Standards. Most of the other 12 are subject to US standards and will begin publishing the equivalent CAMs for audits of 2019 financial statements.

**Key audit matters and ethics – what do we see from large audits?**

The number of KAMs in these 8 large company audit reports ranges from 2 to 6, with an average of 3.65. Whilst “ethics” or “ethical” appears (usually 3 times) in all of the audit reports, it is always within the ‘boilerplate’ sections referring to matters such as the auditor’s responsibility. In the more meaningful freely drafted KAMs section, the word “ethics” or “ethical” does not appear once.

So how can the profession claim to be paying proper attention to ethics and ethical culture if it is not reporting ethics as an area of focus to stakeholders?

Predominantly, it is down to the nature and purpose of KAMs. They are not intended to be a means by which the auditor describes all steps they have gone through in their audit, they are intended to identify the areas of audit risk that set this particular audit aside from most others, and as such tend to be relatively specific. Every large audit in today’s world could be expected to have a significant focus on testing of the IT systems, but stating this as a KAM would not provide meaningful information to stakeholders. In the same way, every audit will include consideration of numerous ethical factors.

Also, significant ethical issues are considered by auditors in their ongoing deliberations around accepting the client and continuing to act for them. Any ethical issues of sufficient significance to require reporting as a KAM may arguably require that the audit relationship is discontinued, as is the case with the UK company referred to above.

Finally, a majority of the matters raised as KAMs are anyway significantly impacted by ethical culture, because they relate to accounting estimates. Accounting estimates are a common feature of financial statements, especially those prepared under the more principles-based international standards compared to the more rules-based US standards.

**Accounting estimates**

For auditors, accounting estimates present a problem; it is not possible to simply recalculate a number and be comfortable. Instead, the qualitative inputs to the estimate need to be considered. Understanding the risks that management may manipulate these inputs in order to achieve their own objectives is one reason for the auditor’s assessment of the ethical values of the auditee.
In a company which has demonstrated strong ethical values and has a decent corporate governance framework, an auditor could expect that management decisions in respect of accounting estimates would generally be subject to appropriate review and be challenged, whether by more senior management or by a board committee. Of course, this does not mean that an auditor can drop their professional skepticism and blindly accept what management are telling them. But knowing that the CEO is being rewarded for more than just the bottom line, which we would expect to be the case in a well-governed company, gives an auditor some degree of comfort that accounting estimates are likely to be aiming for the correct, not the most beneficial, number. The risk of collusion between senior management or even the board is significantly reduced and the auditor can potentially shift the focus of their efforts onto other areas which might present a higher risk, such as new or changing accounting standards.

Ethics, governance and audit risk – a no-brainer? Looking back, auditors of failed companies with a demonstrable history of weakness in ethical culture and values must have serious regrets. Enron is the most publicized and amongst the more obvious examples to look at, but there are many, many more. Every such business failure costs the audit profession massively in terms of public trust, even when a high-quality audit has been performed. There is a financial cost to the audit firm’s stakeholders, and potential consequences have historically even included audit firm collapse.

The new era of KAMs and CAMs definitely contributes to the information auditors provide to stakeholders and improves their decision-making ability. Regardless of whether auditors are reporting ethics as key or critical audit matters, it is a no-brainer for them to maintain a razor-sharp focus on ethics throughout both the audit process and in the choosing of which clients to work with.
Ethics in Business Today

The public, and employees, are looking more and more at how ‘ethical’ the businesses they engage with are and organisations, for whatever reason, are taking more and more notice. The start of this process is understanding what ‘business ethics’ is and how it can be incorporated into the day-to-day workings of the organisation.

An ethical business could be considered as one that applies ethical values to their behaviour, and therein lies a multitude of interpretations. In short, ethics is subjective. It has been said that ethics begins where the law ends, so there are plenty of grey areas. For example, is it ethical for a company to use every loophole in tax legislation to pay as little tax as possible? Should action be taken to reduce wage disparity? Should business dealings be avoided with companies recognised as having a highly negative impact on the environment? In fact, these three issues (tax avoidance, executive pay and environmental impact) were voiced as the biggest public concerns in a recent Institute of Business Ethics poll in the UK.

Ordinary people are becoming ever more conscious of the impact their business dealings and private transactions are having on society and the
environment. Witness the growth in investment funds specifically designed to have a positive social impact, at over $500t worldwide. Microfinancing is estimated to have supported over a billion poor entrepreneurs. Employees are often keen to work for an organisation they see as ethical. An ethical lapse by a business in the public eye is likely to damage its reputation. Reputations take years to build and can be destroyed in seconds, as they say.

Ethical Risk Management

So, how can ethics be built into the risk management framework of an organisation? Well, in many ways, embedding ethical business practices into risk management activities is no different to the treatment of any other risk category, with a few words of caution. The starting point is the ethical values chosen by the organisation, usually including integrity (honesty), respect and openness. The next stage is to interpret what these well-intentioned words actually mean and this is where it gets tricky. These values need to be interpreted in sufficient detail to make it clear what behaviour is expected, of individuals and the business internally and externally. A result of this might be a more detailed Code of Business Ethics and then, one of the most vital steps in the process, an ethical risk assessment. These two stages could be interactive, one refining the other.

In addition to identifying specific risks, the risk assessment process should help in deciding the resources needed to support the organisation’s ambitions to operate ethically. It may support the creation of a dedicated ethics function, that can be the custodian of policies and procedures, the go-to for employees with concerns and the conduit to report to management. What the risk assessment should also do is to highlight areas of the business that require special attention, be that a particular sector or location. Resources will always be limited and a ‘boil the ocean’ approach is counter-productive, in more ways than one. Treating all employees the same, regardless of the risk of them behaving unethically, diminishes the organisation’s approach in the eyes of the employees.

Making sure the message is understood

This brings up the issue of how seriously all stakeholders (staff, suppliers, partners etc.) take the organisation’s ethical stance. There is a tendency to assume that the Code of Business Ethics and other declarations of intent are imposed on the organisation, are window dressing and that management is just paying lip service to the issue. This can only be countered by repeated reinforcement by management of the need for this to be taken seriously. In addition, signs that the approach is not working, such as high levels of pilfering or absenteeism, should be viewed as a need for more effort to get everyone on board. An ethics ‘culture’ needs to be developed and encouraged and the remedies in place should be easy to use. For example, stakeholders are naturally slow to come forward and report an ethical concern, so every effort should be made to make this easy to do.

Developing an Ethical Risk Culture

This characteristic of an organisations risk culture is vitally important. Risk culture describes the values, beliefs, knowledge, attitudes and understanding about risk shared by a group of people with a common purpose. An effective risk culture is one that enables and rewards individuals and groups for taking the right risks in an informed manner and this applies as much, if not more, to ethical risk
management as it does to any other category of risk. The Institute of Risk Management has provided thought leadership on risk culture for as long as it has existed, and has produced guidance documents and offers training in the subject, to help professionalise the approach to this key component of good risk management in general, and to ethical risk management in particular.

Ethical risk issues will not be addressed with policies and procedures alone. The engagement of all stakeholders is the true defence of an organisation’s ethics and this culture of ownership needs to be encouraged at every opportunity. The opposite, complacency, which can be defined as “self-satisfaction accompanied by unawareness of actual dangers or deficiencies” is the enemy of risk management, in general, and of ethics, in particular. Arrogance, an extreme form of complacency, has been the downfall of many a household name in the business world, and should be guarded against at all costs. Organisations capable of managing ethical risk internally need to keep up with the latest though leadership on the subject, empower those tasked with managing this category of risk, train them and visibly support their efforts. In addition, it sometimes helps to bring in outside expertise, to review what’s being done with a fresh pair of eyes, to avoid being stuck in ‘group thought’.

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