

A&O Consulting

Business integrity by

ALLEN & OVERY

Common cultural failings and how to prevent them

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Introduction

Welcome to this second edition of A&O's Consulting's research into cultural failings and their causes.

In 2019, we published a comprehensive report into key culture breaches in three industry sectors, following a number of high-profile incidents. By researching conduct failings that had occurred in elite sport, car manufacturing and financial services, we were able to highlight some common cultural themes that were contributing factors to these wrongdoings. These included the tone from the top, the normalisation of poor behaviours, issues going unchecked for long periods of time and a lack of consequences for rule breaches.

Fast forward to 2022 and while workplace culture, conduct and governance have risen inexorably up the agenda and leaders are being challenged to confront these issues proactively, there are no fewer incidents to investigate. In this follow-up article we have chosen 11 high-profile breaches from around the globe for study, covering a range of organisations that encompass horse racing, the National Football League, aviation, manufacturing, payments and banking.

Again, we have compared and contrasted the cultural drivers surrounding these cases to see whether locker room incidents can really have the same underlying cultural and behavioural drivers that cause bankers to ignore anti money laundering red flags, and indeed whether the same actions can be taken to prevent such failings from occurring.

There are some clear lessons that emerge, around the need for appropriate training and education, better role modelling from leadership, honest and open communications and empowerment of middle management. While some themes are familiar from three years ago, other new learnings have arisen this time around, including signs of more escalation and public scrutiny, the importance of the tone from the middle, and a greater focus on inclusion and equity, beyond diversity.

If there is one key takeaway it is that an organisation's culture deserves senior leadership's full attention: internal changes, generational shifts and short-term crises cause a culture to move and change direction, and those shifts are not always in the best direction for the organisation or its people.

Culture is nuanced and unique to every region, industry, company, department and team. It requires constant review and maintenance and needs to take into account wider societal issues that are simultaneously rising up the agenda, such as sustainability and diversity, equity and inclusion.

In times of rapid change, the focus is on strategic and operational imperatives: cultural impact must not be overlooked given its potential for much longer-term impact on an organisation's people and broader performance.

Should you wish to discuss any of our findings, please get in touch: Sally.Dewar@AllenOvery.com

Executive summary

Common issues

The wrong tone from the top

Cultural failings often occur because leaders are not taking ownership of the company culture and role modelling appropriate behaviour.

Many conduct breaches can be tied to a focus on profit at the expense of ethics.

Poor policies and procedures

Organisations that lack robust governance and have not taken the necessary steps to instil effective oversight and challenge are the most at risk of breaches.

Flawed performance management frameworks also play a key role in failing to discourage inappropriate actions.

Lack of transparency

Often a general lack of open and honest communication, both internally and in discussions with regulators, creates a fear of speaking up and prevents issues being escalated and addressed.

Failure to act

Cultural failings often occur where there is little consequence for inappropriate behaviours, leading to the normalisation of wrongdoing.

Issues are left unaddressed and there is a failure to learn lessons.

Lessons to be learned

The power of role modelling

Leaders must take personal responsibility for role modelling a clear culture programme and making sure corporate values translate into behaviours.

Encourage diversity and inclusion and model its importance to the organisations.

Embed clear expectations

Training and education has a key role to play in embedding strong and robust governance.

All employees should be aware of an enhanced focus on non-financial risk and risk escalation processes, with recognition and reward for appropriate behaviours.

Empower middle management

Even if leadership set the right tone, this is not enough. Middle managers must be empowered to encourage speaking up and build trust at all levels of the organisation.

Acknowledge and address incidents

It is vital that concerns are acknowledged and addressed promptly, that lessons are learned from both internal and external incidents, and that there are clear and fair disciplinary procedures.



Insight: Financial services

Key takeaways

- Having the right tone from the top is insufficient if there is no ownership of company culture and values are not translating into behaviours.
- Strong and robust governance requires processes that are regularly reviewed and optimised, with staff training and education ongoing and embedded.
- If there is a lack of openness and a fear of speaking up, concerns cannot be recognised and promptly addressed.
- Too often there was a failure to learn lessons or to adequately respond to persistent issues and make sure they were addressed.

Following a number of systemic failures across the banking sector globally in the past decade, there has been universal acknowledgement that deep cultural issues prevail across the industry. Incidents over the last two years demonstrate that there is still some way to go.

Common failings

The wrong tone from the middle

In these cases, tone from the top was positive but the culture and values were either not replicated or were not sufficiently displayed throughout the organisation.

Lessons were not learnt

These financial institutions failed to learn or address issues from past mistakes.

Values did not translate to behaviours

Strong values and cultural expectations were in place but these were not reflected in day-to-day behaviours and in business decision-making.

Poor risk and compliance culture

Compensation and performance management objectives were present but they failed to consistently and effectively incentivise proper risk management.

Ineffective risk governance, reporting and oversight

The board and senior management governance and oversight was not fit for purpose. There were unnecessary delays in reporting unsafe or unsound practices, which prevented timely and appropriate corrective action.

Issues were left unaddressed

The failure to address persistent issues allowed for unacceptable practices to go unchecked and potentially created speak-up apathy for those raising concerns and seeing no subsequent action.

Lack of openness and collaboration

There was a general lack of openness and communication, both internally and when in discussion with regulators.

Focus areas for improvement

Empower middle management

Leaders should ensure that messages and expectations cascade throughout the organisation in a consistent way, using communication standards and frameworks and setting clear expectations.

Learn from internal and external incidents

Near-misses and incidents should generate lessons-learned exercises, with areas for improvement identified and actions taken to ensure learnings are embedded through training, inductions and communications.

Develop a clear culture programme

Organisations should bring to life the expected values across the employee lifecycle, through induction programmes, regular scenario-based training and ongoing communications, making it clear how values translate to behaviours.

Incentives and compensation should foster a risk mind-set

Incentive structures should take into account non-financial performance indicators, incorporating risk management objectives and measurement standards into performance targets.

Evaluate risk escalation processes

The risk escalation process should be regularly reviewed and optimised, so board members and senior managers have timely visibility of appropriate management information in order to identify vulnerabilities, drive cultural change and approve mitigation of risks.

Concerns must be recognised and promptly addressed

Ongoing issues and poor processes and procedures should be addressed with a comprehensive mitigation strategy that is regularly reviewed and approved. Progress should be tracked until completion and owned by an appropriately senior individual.

Build open and honest communication channels

Firms must interact with regulators in an open and cooperative way. The same approach should be adopted when dealing with internal stakeholders to embed trust and collaboration. Senior management should emphasise the importance of transparency.



Insight: Major corporates

Key takeaways

- Leaders should act as role models and take responsibility for corporate culture.
- Without effective oversight and challenge, companies are essentially allowed to self-regulate and red flags are ignored.
- Companies must build trust across all levels of an organisation and establish formal escalation channels to make sure issues are dealt with.
- There must be clear and transparent disciplinary procedures to avoid the normalisation of poor behaviours.

A number of major corporates across a wide range of industries have suffered from well-publicised conduct scandals in recent years. The behaviours of these organisations have significant implications for those involved and for those who trusted them.

Common failings

Prioritising profit

Concerns were overlooked as profits became the primary focus, with internal pressure to serve the company's interests rather than those of the public.

Lack of transparency

Key stakeholders, including employees, regulators and customers, were kept in the dark regarding the true state of the business.

Lack of robust governance

Unsuitable internal governance structures negatively influenced the organisational culture, fostering decentralised decision-making and causing unnecessary delays in action taking.

Poor ownership of company culture

Senior managers did not lead or take responsibility for tackling misconduct, and in some cases were aware and even complicit.

Fear of speaking up

Hierarchical pressures, workplace politics and a perceived risk of career damage discouraged people from speaking up. Employees openly discussed problems, but these were neither escalated nor resolved.

Lack of independent oversight and challenge

There was a lack of independence that essentially allowed companies to self-regulate, so areas of concern were not detected and red flags were not reported.

Little consequence

Penalties for poor behaviour were not sufficient to act as a deterrent, either to individuals or to organisations. Individuals were encouraged to take risks and rarely challenged on how they hit their revenue targets.

Focus areas for improvement

Embed an enhanced focus on non-financial risk

Leaders need to re-think their approach to non-financial risk and ensure that is incorporated and embedded within the overall risk management process and business strategy.

Build trust

Leadership needs to encourage and promote transparent and open two-way communication, to help build trust and encourage openness and collaboration. Training should be provided on ways to encourage openness, and the consequences of not being open, especially with authorities.

Put in place appropriate governance

Organisations should regularly review their governance arrangements, ensuring efficient information flows and escalation procedures are in place to enable better access to information and more effective decision-making.

Establish effective role modelling

Boards and senior management need to establish the right tone for culture within the organisation, through employee engagement, training and communications and by ensuring business strategy is aligned to stated values.

Promote speaking up

Organisations should recognise and address communication barriers. A speak-up culture where people feel safe to raise opinions should be nurtured and transparency should be rewarded. Public praise can be used to normalise the open communication of good and bad news.

Create a strong and robust culture

Senior leadership should provide a framework to encourage a culture of accountability and ownership, and processes and procedures should be in place to ensure that it is adhered to.

Recognition and reward programmes must promote the right behaviours

Incentive structures should take into account non-financial performance indicators, including risk management objectives. A recognition programme should be introduced to identify and reward individuals who uphold the established values and culture of the organisation.



Insight: Sport

Key takeaways

- Encourage diversity, equity and inclusion and make sure everyone knows it is important to the organisation, and why.
- Implement training and education to help individuals identify and address inappropriate behaviours, and discuss the impact of unchecked inappropriate behaviour.
- If bad behaviours are normalised and leaders pay little attention, the result is a dangerous level of speak-up apathy.
- Make it clear that inappropriate behaviours will result in consequences and that concerns will be acknowledged and addressed promptly.

Elite sport is big business, with more pressure than ever before on individuals and teams to perform well and to win. There have been some significant conduct breaches by individuals, teams and sports associations in recent years, resulting in widespread disrepute.

Common failings

Normalisation of bad behaviours

Behaviours including bullying, racism and inappropriate workplace conduct occurred over a number of years with little consequence, giving the impression misconduct was acceptable.

Poor tone from the Top

Owners and Chairs paid little or no attention to the workplace culture, and in some cases failed themselves to role model expected behaviours.

Not speaking up

Fears of repercussions for speaking up were commonplace and often bystanders failed to intervene and raise concerns. When individuals did speak up there was inadequate follow up or action, leading to speak-up apathy.

Lack of internal action

Internal disciplinary procedures failed to regulate and control individual behaviours. It was stakeholders, including sponsors, media and fans who provided the necessary impetus for clubs to take appropriate and commensurate action.

Lack of cultural ambassadors

A lack of senior team members and experienced professionals within the sport who were prepared to provide day-to-day role modelling and act as cultural ambassadors meant poor behaviour was able to continue unchecked.

Lack of inclusive behaviour

Far from welcoming diversity, team members were often targeted because of their differences, with an environment that was far from inclusive and physiologically safe, even in highly diverse teams.

No formal escalation channels

A consistent lack of formal and independent speak-up channels meant individuals were unlikely to raise concerns.

Focus areas for improvement

Implement appropriate training and education

Organisations should consider education and training to help individuals identify and address inappropriate behaviours, highlight the escalation channels available, and discuss the impact that widespread unchecked inappropriate behaviours can have on individuals and team culture.

Role modelling good behaviours

Leadership must display the team's stated values and be aware of the impact their actions and behaviours have on the organisation.

Encourage speaking up

Leaders should welcome and encourage speaking up through ongoing communication, providing evidence that positive change results from speaking up and making clear that there will be no reprisals for raising concerns.

Embed clear and fair disciplinary procedures

There should be clear guidelines and policies outlining the consequences for inappropriate behaviour and these should be applied consistently and bad behaviour should attract sanctions.

Senior leaders must take responsibility

Senior team members should be provided with the necessary training and accompanying formal expectations to ensure that they feel accountable for culture and actively role model the values expected.

Encourage diversity, equity and inclusivity

There should be a clear DE&I framework that covers speaking up, education and engagement, including messaging around the importance of DE&I. The consequences of failing to actively address issues should be communicated frequently.

Implement formal escalation channels

There should be a formal escalation channel and procedures for reporting allegations of misconduct, allowing individuals to report issues anonymously and without fear of retaliation. This should be communicated to all individuals on a regular basis.



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