

## Part II: Navigating the New Compliance Landscape



As a result of COVID-19, more than ever businesses need to ensure that their compliance programmes are robust, resilient, and adaptable to new and/or heightened risks resulting from new market conditions. This includes taking into consideration not only legal and regulatory requirements, but also ethical demands in an increasingly scrutinised climate, where stakeholders and the general public expect businesses to act ethically and responsibly according to what is considered 'adequate behavior'.

In parallel, new challenges posed during current and future lockdown periods (for example, budgetary and travel restrictions) may present additional hurdles to the implementation of compliance initiatives, making it harder for businesses to mitigate new risks by adequate internal processes, policies and controls in the context of increasing pressures and scrutiny by governments, regulators and the public alike.

### How can businesses ensure that ethics underscores their corporate governance?

It is important that businesses are aware of the importance of ethics and integrity as they navigate a changing regulatory landscape and are fully committed to continuing with their compliance agendas, despite current and future challenges (for example, lockdown constraints and travel restrictions).

Whilst company values that underscore a well-developed compliance programme are an important starting point for businesses, it is crucial that due attention is paid to what employees, customers, stakeholders, and the general public consider to be 'appropriate corporate behaviour'.

We have seen the public critical of companies reported to be adopting unethical business practices during the pandemic (for example, requiring employees to work in environments without adequate social distancing or PPE; and furloughing staff whilst paying out executive bonuses). In contrast, favourable comments have been posted in regard to companies that have demonstrated ethical conduct during the crisis (for example, providing time and resources to support community projects; and repurposing their businesses to manufacture products to support the emergency services).

The public's scrutiny of companies' behaviour has increased throughout the crisis and companies must be mindful that they act with integrity and ethically to enhance their business reputation (both internally and externally). In doing so, it is advisable that companies pay close attention to what is considered 'appropriate corporate behaviour' and how the company's conduct will be viewed by employees, customers, investors, stakeholders, and the general public. This may also have a positive impact in attracting responsible or ethical investment towards companies that adopt high ethical standards.

Whilst the importance of compliance has not shifted as a result of the pandemic, the attention and priorities of employees may well have done. Management teams and compliance officers must ensure that they maintain commitment to advancing their compliance initiatives, particularly whilst physically 'out of sight' owing to lockdown restrictions. In this challenging environment, underscoring compliance initiatives within the business will be imperative to business success. Companies should therefore be mindful of the following:

**Communication** - It may be necessary to adjust communications so that instead of focusing upon the specifics of policies, communications underscore the general importance of conducting business with integrity at all times. This will enable companies to ensure that compliance initiatives stay relevant and at the top of the business practices, whilst avoiding accusations that they are pushing an out-of-date, pre-coronavirus agenda, which does not accord with the challenges currently faced by the business.

**Training** - A key way of communicating these messages is through training. The successful use of video-conferencing technology as individuals work remotely, means that training can continue, albeit in a digital format, and can now reach a much larger audience than 'in person' training methods.

**Senior management** - The involvement of senior management, both in terms of communicating business messages, and as part of company training, will help reinforce the importance of compliance messaging, and demonstrate a clear and supportive tone from the top.

## Conclusion

A robust, resilient and adaptable compliance programme which underscores the company's ethical principles will support business survival through the crisis. It will demonstrate to the public, stakeholders, potential investors and competitors, the company's preparedness to respond to potential new risks and regulatory changes, giving firm assurance that the business is operating safely, whilst maintaining business ethics and corporate integrity throughout business operations.

Communication initiatives, training, and a clear tone from the top will be key to ensuring that the right messages are passed on to employees at all business levels, underscoring the importance to act ethically and responsibly at all times.

## About Fulcrum

Fulcrum is a highly specialised legal advisory and consultancy business comprising barristers, solicitors, investigators, and other high calibre professionals.

We have established ourselves as a market leading firm providing strategic legal advice, consultancy, and representation for governments, public bodies, corporates, and private individuals in the fields of financial crime, corporate governance, and risk and reputation protection.

Our work ranges from assisting with structural compliance tools, such as policies, procedures, training, compliance audit, through to conducting internal investigations, where there is a particular concern.

We have been involved in, and continue to be involved in, the most significant and high-profile international corporate criminal investigations and prosecutions of the past decade, whilst acting as the trusted advisers to many corporates and other organisations in related areas.

[www.fulcrumchambers.com](http://www.fulcrumchambers.com)