

Ethical.
behaviour
is the
best defence
against
fraud

It's all about choices

Ethical behaviour is rooted in individual choices but that's not the whole story. Government, business and media supply inspirations and incentives that help set the tone of our society. Some of these are making an inadvertent but powerful contribution to the growth of fraud.

The Fraud Advisory Panel is an independent body with members from both the public and private sectors. Its role is to raise awareness of the immense human, social and economic damage caused by fraud and to develop effective remedies.

The Panel works to:

- originate proposals to reform the law and public policy, with a particular focus on fraud investigations and prosecutions.
- Advise business and the public on prevention, detection and reporting.
- Assist in improving education and training in business and the professions.
- Establish a more accurate picture of the extent, causes and nature of fraud.

The Panel has a truly multi-disciplinary perspective. No other organisation has such a range and depth of knowledge, both of the problem and of ways to combat it.

The Panel was established in 1998 through a public spirited initiative by the Institute of Chartered Accountants in England and Wales. It is now a registered charity and company limited by guarantee, funded by subscription, donation and sponsorship.

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Chairman's Overview

The Best Defence

The Panel has dedicated its 2007 annual review to the theme of promoting ethical behaviour. We feel that high standards in personal, as well as organisational, life are the best defence against fraud and that a climate of corner-cutting and indifference to others allows it to grow.

Experience tells us that too many bad examples are being set and excused in business and the public sector, sometimes at the very top. When lip service is paid to ethical behaviour without attempts to instil an ethical culture, organisations become more and more vulnerable to fraud from within (already the source of the great majority of financial crime hitting the corporate sector).

More law and regulation is not the answer. Setting high standards of behaviour, not least towards customers and employees, should be a priority for every governing body, from the smallest enterprise to the largest conglomerate. In this way, boards of directors will give a clear signal that not only is good behaviour expected but that it will be rewarded and low standards, let alone downright dishonesty, will not be tolerated.

Of course very many people in business and public bodies care deeply about standards. The Fraud Advisory Panel exists only through the support of individuals and organisations who see fraud as a human and social issue as well as a financial one.

My fellow Trustees and I are grateful to them all, and for the support of our Senior Executive Mia Campbell and her colleague Tamaryn Thorburn; Martin Robinson our consultant on Education, Events and Training; and Simon Pearce, who prepared this Review. A particular word of thanks goes to the Institute of Chartered Accountants in England and Wales (which helped found the Panel and has remained its strongest supporter) and the Association of Certified Fraud Examiners.

Rosalind Wright CB QC
October 2007

About The Panel

The Panel is governed by a Board of Trustees and chaired by Ros Wright, a former Director of the Serious Fraud Office (see biographies on pages 4-5).

Programme

2006-2007 has been the Fraud Advisory Panel's most productive year to date.

Highlights included:

- playing a leading role in debate on the Fraud Review by setting out detailed proposals on the law, policing, the courts and the machinery of government.
- Making expert responses to government consultations on judicial powers and action against organised and financial crime, as well as submitting evidence to the House of Common's Home Affairs Select Committee enquiry into police funding.
- Highlighting new issues such as the legal loopholes exposing web-based virtual communities to fraud.
- Staging more events, with bigger audiences, and on a wider range of issues, than ever before. These included regional workshops on the role of the accountant in fraud risk management; seminars on consumer bankruptcy, corporate identity fraud, tax, cybercrime and retail fraud.

- A special conference focused on fraud and misconduct in research. Speakers included experts from the scientific, biomedical, academic and regulatory fields in Britain and America, as well as the scientific press.

Further information on the Panel's activities is available at www.fraudadvisorypanel.org

Joining

People and organisations join the Panel because they care about fraud, want to do something about it, and exchange intelligence, information and insights in the process.

As of October 2007 there were 175 individual and 47 corporate members (see below) plus 26 observer organisations, mostly public sector bodies. All members are required to conform to a Code of Conduct.

Benefits of membership include:

- influencing public policy via the Panel's research and proposals.
- Participation in multi-disciplinary working groups (Investigation, Prosecution and Law Reform, Cybercrime and Education, Events and Training) and ad hoc groups on topical issues.

- Networking and opportunities to exchange information with experts from the public sector, policing, accountancy, the law, business, financial institutions, IT, security and academia.

- Preferential rates and early notification of all conferences and seminars (some events are free to members).

- Access to the members' website with reports of internal meetings and an online searchable database.

Corporate membership includes up to 20 named employees entitled to all the above benefits. The Panel also offers a free one-hour training session on a fraud-related subject of your choice. Corporate members are listed on the Panel's website and in its annual review. Individual membership costs £53 a year; corporate membership costs £1,060. For more information contact the Panel on 020 7920 8721 or membership@fraudadvisorypanel.org.

Corporate Members

192.com Business Services, Accountants' Joint Disciplinary Scheme, Alix Partners Ltd, Association of British Insurers, Association of Certified Fraud Examiners, Association of Certified Fraud Examiners (UK Chapter), Association of Chartered Certified Accountants, AVIVA plc, Baker Tilly, BDO Stoy Hayward LLP, Bishop International Ltd, BSKYB Ltd, Cadbury Schweppes plc, Calyon, Capcon plc, Chantrey Vellacott DFK LLP, CIFAS - the UK's Fraud Prevention Service, Control Risks Group, Daylight Forensic & Advisory, Deloitte & Touche LLP, Denton Wilde Sapte, Ernst & Young, Experian Decision Analytics, Finance & Leasing Association, Financial Services Authority, Grant Thornton UK LLP, HBOS plc, Institute of Chartered Accountants in England & Wales, Institute of Chartered Accountants of Scotland, KPMG LLP, Law Society of Scotland, Legal & General Group plc, Lloyds TSB Bank plc, McGrigors LLP, Merrill Lynch Europe plc, MHA Consulting, National Audit Office, NHS Counter Fraud & Security Management Service, OVAG Limited, PKF (UK) LLP, PricewaterhouseCoopers LLP, Protiviti Ltd, Prudential plc, Royal & SunAlliance plc, RSM Bentley Jennison, Solicitors Regulation Authority, UBS AG

Trustees

Ros Wright CB QC



Chairman of the Panel since May 2003. Chairman, Supervisory Committee, OLAF (the European Union's Anti-fraud Office); independent member, DBERR (formerly DTI) Legal Services Group and Insolvency Service Steering Board; Vice-Chairman, Jewish Association for Business Ethics; Bencher of the Middle Temple; Director, Serious Fraud Office 1997-2003; General Counsel and Executive Director, Investor Protection, Policy & Legal Division at the Securities and Futures Authority 1987-1997; Non-executive Director, OFT 2003-2007; Head of the DPP's Fraud Investigation Group for the City and Metropolitan Police areas 1983-1987; recipient of the Association of Certified Fraud Examiners' Cressey Award 2007 for lifetime achievement in the detection and deterrence of fraud.

Dr Stephen Hill



e-Crime & Fraud Manager, Chantrey Vellacott DFK LLP; adviser to SMEs and charities; trains police forces, private sector fraud units and major banks; lecturer on fraud awareness; steering committee member, London Fraud Forum; Associate of the Association of Certified Fraud Examiners.

Steven Philippsohn



Deputy Chairman of the Panel and Chairman, Cybercrime Working Group; founder and Senior Partner, PCB Litigation LLP, conducting fraud and asset recovery civil litigation; Co-Editor of the UK Manual of the Association of Certified Fraud Examiners; member, editorial boards of *E-Commerce Law & Policy* and *Inside Fraud Bulletin*; UK representative member of the Fraud Network of the International Chambers of Commerce; member, Home Office panel on the future of internet crime.

Will Kenyon



Partner in PricewaterhouseCoopers' Forensic Services Group; founding head of Forensic Investigations, PricewaterhouseCoopers GmbH, Germany 1998-2001; specialises in the prevention, detection and investigation of fraud and financial crime; involved in investigations and recovery actions for some of the most significant fraud cases of the last 20 years.

Felicity Banks



Head of Business Law at the Institute of Chartered Accountants in England and Wales; represents the Institute on economic crime issues; represents the accounting profession on HM Treasury's Money Laundering Advisory Committee.

Bill Cleghorn



Partner, Financial Crime Investigations, Forensic Services and Corporate Recovery at Kinetic Partners LLP; Insolvency Licence Holder; Fellow of the Association of Business Recovery Professionals; former Partner, UK Fraud Investigation Group, PricewaterhouseCoopers; lecturer on fraud related issues and money laundering.

James Perry

Former Detective Chief Superintendent with the Metropolitan Police and Commander in Charge of its Economic and Specialist Crime Unit; former Chair of the Association of Chief Police Officers' National Financial Investigation Working Group; represented the police in the studies which led to the Proceeds of Crime Act 2002 and Money Laundering Regulations 2003.

Ken Farrow



Director of Fraud Services, Control Risks Group, providing fraud and anti-money laundering preventative and investigative services. Formerly Head of the City of London Police Economic Crime Department and Chair of the Association of Chief Police Officers' National Working Group on Fraud.

Jonathan Fisher QC



Specialising in white collar crime, regulatory and disciplinary cases at 23 Essex Street Chambers; former Standing Counsel (Criminal) to the Inland Revenue at the Central Criminal and London Crown courts; legal panel member of the Accountancy & Actuarial Discipline Board; member of the International Bar Association's Anti-Money Laundering 3rd Directive Implementation Group and Working Group on Industrial Espionage; co-author of *The Law of Investor Protection* (Sweet and Maxwell); Visiting Professor in Corporate and Financial Crime at the London School of Economics; steering committee member, London Fraud Forum.

Neil Griffiths



Chairman of the Panel's Investigation, Prosecution and Law Reform Working Group; Partner in the Reconstruction and Insolvency Group at Denton Wilde Sapte, specialising in contentious and fraud related cases; former Vice-Chairman of the Creditors' Rights Committee of the International Bar Association.

Alex Plavsic



Head of Financial and Fraud Investigation at KPMG Forensic; conducted independent reviews for regulators including the Bank of England, the Financial Services Authority and government departments; investigated major fraud cases including Polly Peck and Group Torras.

Monty Raphael



Head of Fraud and Regulatory Practice, Peters & Peters (Senior Partner until April 2005); conducted fraud enquiries for regulators, Inland Revenue and HM Customs & Excise; Director, Transparency International (UK); Visiting Professor in Law at Kingston University; former President, London Criminal Courts Solicitors Association; founder of the Business Crime Committee of the International Bar Association and Chair of its Anti-Corruption Working Group; Honorary Solicitor to the Howard League for Penal Reform.

Martin Robinson



The Panel's Education and Training Consultant and Chairman, Education, Events and Training Working Group; independent risk and audit consultant; Training Development Adviser to the Institute of Internal Auditors UK and Ireland; Audit Adviser to the Institute of Chartered Secretaries and Administrators.

Public Policy: “A Once in a Generation Chance”

“It used to be said ‘no one walks down the street in fear of being embezzled’. Well, increasingly they do. Whereas once the average Briton dreaded being burgled or having their car broken into, they are now worried about identity fraud, mass marketing scams and other forms of financial crime that have a serious impact on their lives.”

Mike Bowron, City of London Police Commissioner and Lead for Economic Crime, Association of Chief Police Officer’s (ACPO), February 2007.

Speaking a month later about the Government’s response to the Fraud Review, Commissioner Bowron said “it may be another ten years until this area is revisited in the same depth... this is a once in a generation chance to make a difference”.

The Panel agrees with the Commissioner’s assessment. Whitehall is often compared to a supertanker which can only be re-routed after a prolonged effort. Wrong decisions now may set a defective course for years to come.

At Least £20 Billion a Year

In March ACPO published *The Nature, Extent and Economic Impact of Fraud in the UK*. Drawing on a wide range of published sources the report showed that financial crime now costs a bare minimum of £13.9 billion a year, increasing to £20 billion when income tax and EU-related fraud are taken into account.

This amounts to £330 for every man, woman and child in the country. Individuals lost a minimum £2.75 billion and business £3.7 billion in 2005. The public sector was defrauded to the tune of at least £6.8 billion in 2005-2006.

One of the drivers of fraud, and perhaps its most dangerous feature, is the extensive and growing role of organised crime with its methods of intimidation and violence. KPMG reports that over 40% of all fraud cases worth over £100,000 brought to court in the second half of 2006 were carried out by professional criminals.

Aspirations and Realities

“Recent research shows that in monetary terms the harm it causes is on a par with Class A drugs... Fraud is a serious threat to the UK.” *Lord Goldsmith, then Attorney General, February 2007.*

“Our work on fraud recognises that, if it is left unchecked, it damages not just the financial services sector but the wider economy and the reputation of the UK as a whole.” *Ed Balls, then Economic Secretary to the Treasury, February 2007.*

There is “a lack of willingness by police forces to accept reports of fraud outright” because of “a lack of capacity... even when reports are taken, little is done with them... The chance of a low or medium value fraud against the private sector being investigated is very small.” *Government Fraud Review, Interim Report, March 2006.*

The present government has done more to combat financial crime than any of its predecessors. But the contrasting quotations show the gap between aspirations and reality. This is largely because Whitehall has for many years failed to provide adequate

funding for police fraud investigations. Professor Alan Doig points out that “fraud is reckoned to be responsible for almost half the estimated value of all criminal activity investigated by the police but the police devote less than 3% of their staff to its investigation”.

The number of police officers in fraud squads (apart from the special case of the City of London) fell from 869 in 1995 to only 404 in 2004. The Review warned that “a continued decline in fraud squad resources would inevitably affect the service police provide to victims, and the capacity of the UK to protect itself from fraudsters”.

Pledges to establish a National Fraud Strategic Authority, National Fraud Reporting Centre and National Lead Force in 2008 are important steps forward but they will make little difference to the situation on the ground for some time. In the absence of a more comprehensive approach they will have little impact even in the long-term on the huge, and hugely damaging, number of frauds worth up to £100,000.

Yet the Review calculated that doubling the number of officers dedicated to fraud would cost no more than £14.5 million a year. Attacking fraud is excellent value for taxpayers' money. In 2004-2005 the NHS Counter Fraud Security Management Service spent less than £18 million and saved £189 million. The police-private sector Dedicated Cheque and Plastic Card Unit, which fights card fraud, cost £3.7 million and saved £10 million.

Six Cheap and Simple Steps

Much can be done even within present spending limits. The Panel recommends that ministers take the following steps to complement the planned three new institutions.

Saving Fraud Squads

Fraud investigations suffer because they do not feature on the Home Office's list of police priorities. But even without new money existing squads could be saved by 'mainstreaming' fraud as a Key Performance Indicator within the National Community Safety and Policing Plan. This would send a powerful signal to chief constables that financial crime must not be marginalised.

Putting Fraud on Local Agendas

The Panel has long urged the establishment of local Police and Community Fraud Liaison Groups, with members drawn from chambers of commerce, professional associations, local authorities, victims support groups and other interested parties. These would feed reports and concerns to local police command units, allowing senior officers to take more informed decisions about resource allocation.

Unshackling Investigations and Prosecutions

The CPIA (Criminal Procedure and Investigation Act 1996) Code of Practice denies an investigating authority the right to close down unpromising lines of enquiry. Investigators are therefore obliged to collect huge volumes of material.

The Fraud Review noted that up to 80% of investigators' and prosecutors' time in serious fraud cases can now be spent dealing with unused evidence. Inadvertent non-disclosure of unused material can also lead to a conviction being overturned even after a guilty plea.

Two reforms are essential. Investigating authorities should have the right to seek court approval for a preferred line of enquiry. Defence counsel should have to satisfy a court that unused material held by the prosecution is relevant to a case.

Coherent Research and Policy Development

The Panel strongly supports the Government's plan for a National Fraud Strategic Authority (NFSA). A key to its success is the creation of an internal multi-disciplinary advisory unit, a 'think tank' researching and developing recommendations for improved anti-fraud measures, whether legislative, administrative or operational. There is an urgent need for a standing body dedicated to a coherent overview of the issues. The unit would provide support and advice to the NFSA's Board and stimulate public interest via publication of its reports.

Focussing Political Interest

The scale and growth of fraud makes it a major national issue but one that still lacks adequate political engagement by the nation's representatives. A Cabinet Committee is needed to drive and co-ordinate cross-departmental initiatives.

The NFSA should make an annual progress report to Parliament. Its work, and fraud policy across the board, would benefit from scrutiny by a Joint Committee of both Houses, MPs being supplemented by peers with professional experience of law enforcement, the courts and business.

Helping Victims, Improving Reporting

The Government has proposed that police stations should no longer take reports from fraud victims, who would instead be directed to a new national reporting centre. This will inconvenience and distress people. It will also send a message that financial crime is unimportant and therefore reduce reporting. Though the Panel supports plans for a National Fraud Reporting Centre it urges the Government to reconsider this particular proposal.

A roundtable convened by the Panel in 2006 confirmed that little help is provided to victims of fraud, largely because their needs are little understood. Whitehall should commission research to ascertain what services are required and appropriate methods of delivery. A proactive approach would encourage reporting and improve intelligence about fraudsters and their methods.

Ethics and fraud

Ethical behaviour is our best defence against fraud. The laws and systems we look to for protection are themselves dependent on most people acting with integrity everyday of their lives. We usually take this for granted but it is the result of human choices, personal and collective, conscious and unconscious. An ethical society is not an inevitable state of affairs, it has to be worked for.

Discussing fraud without reference to ethical behaviour makes as little sense as talking about the economy without mentioning money. Yet we are often reluctant to highlight the connection. We worry about sounding 'preachy'; we are aware of our own failings; we know the issues can be complex and the solutions difficult.

There is a place for such reservations but they can be taken too far. Undue silence on ethics can help us forget them, and nowhere more so than with money.

The Social Context

Inspirations and Incentives

Being ethical is ultimately a matter of individual choice. Yet it would be absurd to suggest that individual choices are uninfluenced by environment even though they are not determined by it.

There is a school of thought that we get the society we deserve. It sounds harsh, yet it is the concepts we prioritise, not those we heed from time to time, that in practice shape our lives. The level of ethical behaviour varies between times and places because they offer different inspirations and incentives.

Some of the inspirations and incentives offered in Britain today are inadvertently weakening our ethical defences and thus our protection against fraud. We need to consider the cumulative impact, not least on the young, those under intense financial pressure and those who have received little or no ethical grounding.

Of course unethical behaviour can have more immediate effects. The Chairman of the US Federal Reserve has referred to “outright fraud” in the selling of sub-prime mortgages. Our economic security has already been shaken by the sub-prime phenomenon. Could the practical link between ethics, fraud and national well-being be clearer?

A Zone of Tolerance

A large number of opinion surveys reveal considerable tolerance for dishonest behaviour that embraces low-level fraud.

- A 1999 MORI poll found that 20% of the population made a distinction between personal and corporate property. They saw taking office materials or buying a stolen CD player as ‘fair game’.
- The Centre for Crime and Justice Studies (CCJS) at King’s College discovered in 2002 that 22% of those aged 25-65 would consider padding an insurance claim; 16% would be willing to cheat in a second-hand sale; 10% would claim for refunds they knew they were not entitled to. Many of those concerned had good incomes, making want an unlikely motive.
- In 2003 a survey for the Association of British Insurers (ABI) found that 7% of adults admitted having made a fraudulent claim, while 47% had been tempted to do so. Most insurance frauds were opportunistic. The ABI said the culprits tended to be “university-educated homeowners.”
- The Home Office’s 2004 *Offending, Crime and Justice Survey* reported that claiming false work expenses (16%) and committing insurance fraud (10%) were “relatively common” amongst 18-25 year olds.

- A 2005 MORI poll for the Institute of Business Ethics (IBE) showed that more than half the workforce thought a “bit of fiddling on expenses” was not as bad as fraud. Only two-thirds of public sector managers disagreed that “petty fiddling is OK if I meet my targets”. The figure for private sector managers was 45%. The survey also found that under-35s are less likely to be strict about ethical conduct than older employees.
- BDO Stoy Hayward’s 2006 survey of employee attitudes found that 16% thought it acceptable for a colleague to regularly add a few pounds to their expenses. 13% found it acceptable for a manager to award a lucrative contract to a company secretly owned by a close relative.
- A 2006 *Fraud Track* report, based on all reported cases worth over £50,000, noted that the value of employee fraud had increased by 200% since 2003.

These findings do not support claims that there is no such thing as a ‘law abiding majority’. Indeed, many of the respondents would no doubt be shocked to learn they are committing, contemplating or approving fraud. But the attitudes quoted above cannot be dismissed as those of a small minority, even if we make the highly unlikely assumption that no one concealed their true behaviour or opinions.

Marginalising Ethical Criteria

“You’d have to be a saint to give time and money to charity if there was nothing in it for you” proclaimed a recent newspaper headline. It encapsulated a widespread reluctance, even embarrassment, about using moral criteria for financial decisions.

The result is an impoverished moral vocabulary, encouraging us - and particularly the young, untutored and financially pressured - to put purely personal convenience before the just claims of others. And sheer convenience (usually dressed up as ‘need’) is the criteria fraudsters of all kinds use to excuse their crimes.

Ethical criteria are marginalised in other ways too. Consider how morally dubious actions by well-known figures are reported. For some years these have tended to be judged more by material factors - impact on votes, sales, job prospects - than by ethical criteria. We are familiar too with the carefully worded ‘non-apologetic apology’ whereby celebrities expresses ‘sadness’ for ‘hurt’ caused rather than admitting wrong doing.

The Committee on Standards in Public Life (CSPL) said in 1995 that it frequently “heard the expression ‘grey area’ as a rationalisation of morally dubious behaviour”. Many media responses to recent television scandals took a similar tack, despite their involving deception and financial loss to the public. OFCOM reported that “some broadcasters appeared to be in denial about their responsibilities to ensure programmes delivered on the transactions they offered to viewers”.

It should be no surprise that the public have come to hold those running our institutions in less regard. A 2007 CSPL survey found that only 23% of voters trusted government ministers to tell the truth. The then Chairman of the Committee, Sir Alistair Graham, said “people do not believe they are dealt with in a straightforward, honest and open manner”. An IBE poll of the previous year showed business leaders, politicians and journalists to be trusted by only 31%, 20% and 19% respectively.

It is interesting to note that other much criticised professions received higher approval – judges and the clergy both scored 75% and the police 61%. Taken as a whole, these findings suggest that public attitudes are shaped by observing the behaviour of specific groups rather than by the indiscriminate cynicism so often suggested by the media.

Getting Away With It

Fraud has become an easy crime to get away with. Government is incentivising fraudsters by allowing standards of justice that we used to take for granted to break down.

The Panel once more draws attention to the Fraud Review Interim Report which found “a lack of willingness by police forces to accept reports of fraud outright” because of “a lack of capacity...even when reports are taken, little is done with them... Whether a fraud gets investigated can depend on whether the victim can organise and finance the investigation...The chance of a low or medium value fraud against the private sector being investigated is very small”. The final report added that “many” uninvestigated serious frauds include “cases involving organised crime”.

The Review also found that “the penalty for fraud is relatively low” compared to those for other acquisitive crimes. “Current fraud sentences...are not viewed as a deterrent.” Over a period of five years the average custodial sentence in cases brought by the Serious Fraud Office (which handles those worth over £1 million) was only 31.7 months. The average custodial sentence for fraud in a magistrates’ court was three months and just over 15 months in the Crown Court.

Crime inevitably grows when the balance of risk tilts in favour of the lawbreaker. The Government is taking huge risks for our future by letting it seem that fraud pays.

The Business Context

Business ethics exert immense influence on society. Most of us spend a large part of our time at work and the attitudes that prevail there inevitably influence us in other parts of life. We also encounter corporate ethics as customers and gain impressions of them via advertising and the media (both major industries in their own right).

An excessive distinction is often made between personal and business ethics. Different factors and dilemmas apply in different environments and more complex moral criteria must sometimes be applied. But we must be careful about allowing too many exceptions. The marketplace is not a separate moral universe.

The Role of Corporate Culture

The Institute of Business Ethics has warned that “ethical failures in companies with codes are becoming all too common to treat as aberrations”. In fact many corporate codes are littered with generalisations such as ‘trust’, ‘fairness’, ‘openness’, ‘acting for the long-term interest of society’, or ‘passionate’ - concepts so vague as to baffle all attempt at holding their expounders to account. ‘Integrity’ is often cited as a corporate value but is usually earthed in too few specifics to be seen as any more than an attempt at image building.

Workers pay more attention to what their bosses do rather than what they say. This year’s Deloitte & Touche USA’s *Ethics & Workplace* survey showed employees ranking the behaviour of management (42%) and direct supervisors (36%) as the top two factors contributing to the promotion of an ethical workplace. It is unlikely that British results would be very different.

Double standards do great damage. Trainers report that professional staff often dismiss minor workplace dishonesty on the grounds that ‘they can afford it’ and ‘they’ve never been loyal to me’. If executives lie about expenses or sack minor fraudsters whilst slapping senior ones on the wrist (a situation often complained of by police officers, lawyers and accountants) they are effectively inviting worse problems.

Too many practices are considered acceptable as long as they generate profits or meet other corporate objectives.

Unethical behaviour can be encouraged by awarding salary increases, bonuses and share options with little or no regard for the methods by which targets are attained.

Many businesses disguise fraud losses as ‘overheads’. This deprives shareholders, lenders, suppliers and customers of information; inhibits awareness of fraud risks; reduces pressure on government to address the problem; and makes it easier for fraudsters to move on to fresh crimes.

Fraud flourishes when staff fear to speak their minds. ‘Shooting the messenger’ and a climate where people feel obliged to be relentlessly, if fatuously, ‘positive’ blocks bad news. A 2006 BDO Stoy Hayward survey found that only 53% of workers would report fraud to a senior colleague.

Over a third of these feared some sort of recrimination - losing their job, being cold-shouldered or having their career prospects harmed. This atmosphere influences senior executives too and makes some afraid to report, or even count, fraud losses.

Public Concern At Work points out that “the approach many organisations now take to information from workers is similar to the attitude taken toward consumers thirty years ago (that they were troublesome, untrustworthy complainants)”.

Creating an Impression

The CCJS survey already cited found that 82% of consumers in England and Wales saw themselves as victims of crime or shady practices in the marketplace. 14% had experienced nine or more incidents. Complaints included being sold poor quality prepacked food (50%); being offered too little by an insurer when making a claim (31%); continual failure by banks to rectify errors (22%).

Some of these complaints are minor, involve very small firms or are subjective in nature. But the cumulative effect of such impressions is surely significant and ethical businesses are paying the price along with the guilty. Eight people out of ten disagreed that “directors of large companies can be trusted to tell the truth” according to a MORI poll for the Financial Times in June 2003. 65% of those in full-time employment did not believe that “companies can be trusted to honour their pension commitments to employees”.

Making excuses for business leaders does nothing to improve matters. It has been said that “there can...be a disconnect between the good intentions of senior management and the behaviour of their customer-facing people”. Yet is it really plausible that top executives are unaware of bad sales practises and other disreputable business methods? Jeremy Paxman has said of one recent television scandal that “I know people who worked on [the programme concerned] who told me the best part of a year before the scandal how bothered they were by what was happening”.

Patricia Barker of Dublin City University has said of unethical businesses that “rationalisation leads to arguments such as ‘everyone is doing it’, ‘If I don’t do it, our competitors will’, ‘The insurance company will pay’... In an organisation where people, especially managers and leaders, are behaving unethically and rationalising their behaviour, they will be indignant if challenged with unethical behaviour.”

A Case Study

Give-Us-A-Loan Plc (GUAL) is a financial services company set up primarily to cater for customers who find it difficult to obtain credit elsewhere. Most of its business consists of unsecured consolidation loans.

The Chief Executive is a strong believer in effective ethical guidance and an open and transparent culture. To that end he has personally written the organisations' ethical policy which is placed on the corporate intranet for staff to read at their leisure. He insists that all Directors 'walk the talk' even if they are not fully convinced of all aspects of the Code.

The Sales and Marketing Director has been with GUAL since it was established and is credited with growing the business virtually single-handed. It was recently discovered that he had over-claimed his home relocation expenses by about £5,000. He apologised and repaid the money. Nothing more was said on the matter.

Like many other financial services businesses GUAL has a strong performance driven culture. Customer-facing staff are encouraged by attractive bonuses to deliver results in all areas, including new and repeat business, collection and bad debt performance.

Annual objectives for staff are performance-driven and little mention is made of risk management and control.

Particular types of lending attract premium bonus rates and there has been a marked increase in the sales of such business in the past six months. This has pleased the Board of Directors.

GUAL has a whistle-blowing hotline which is rarely used. The Chief Executive is delighted with this as it implies that the firm has no obvious problems and staff are very happy. He believes he has established a strong 'no blame' culture in GUAL.

The Chief Executive is also pleased that through strong negotiation his senior management have agreed excellent terms with many suppliers, especially in IT where the contractor is now dependent on GUAL for its future livelihood.

There is little evidence of fraud in the organisation. The fraud policy document, personally prepared by the Legal Services Director, is also available on the intranet and staff are expected to read it on joining. Any identified fraud must be reported to a Board Director. Although fraud is not clearly defined in GUAL's policies, not one report has been made to a Board Director this year.

GUAL is an entirely fictional company; the issues are real ones.

Lessons for the Rising Generation

Successive seasons of the popular television documentary series *The Apprentice* have provided a fascinating insight into changing social mores. Some contestants treated viewers to displays of egocentricity unrestrained by anything other than tactical considerations, together with a hunger to 'get results' at almost any cost. Such behaviour is untypical of business as a whole (and has been widely denounced) but one must ask why a number of talented and well-informed young people see it as the way to get ahead.

Many of the ideas and incentives gaining ground in Britain today risk doing their worst damage in the generation to come.

The Jewish Association for Business Ethics (JABE) runs roadshows and provides material on ethical issues for 12-18 year olds in a wide range of state and private schools. Regardless of background pupils tend to express views founded on expediency and self-interest. The following comments are typical: "my dad says you can afford to be ethical once you've made your first million"; "you've got to be ruthless to get on in business"; "it's all right to steal from big stores, they won't notice, and anyway they're covered by insurance".

JABE's Executive Director, Lorraine Spector, says that "there is a lack of an ethical framework which hits those under 25 hardest. Teenagers are bombarded with mixed messages, leaving little room for clear direction concerning basic values."

“Young people hear lots about rain forests and other global issues but the key is to help them understand that their own ethical decisions will have consequences for them and the people around them”. JABE addresses this deficit by exploring everyday ethical scenarios (such as petty theft or lying on an application form), illustrated by sketches and role play, to help pupils develop a stronger sense of personal responsibility. “The goal is to sensitise students to real life dilemmas and to show them that anyone can choose an ethical path.”

Ms Spector’s experience makes her hopeful. Many teenagers begin by expressing unethical perspectives because basic morality is seen as unfashionable. Attitudes begin to change, however, after pupils have discussed the issues in more detail. She points out that “most people want to live and work in an ethical way and in ethical environments. In our experience young people are looking for a framework”. Six hundred schools now teach JABE’s *Money & Morals* programme.

Strengthening the Ethical Framework

Some Building Blocks

Despite the often impressive debate about social and business ethics in recent years some vital issues remain little expressed, and perhaps little understood. These are less about ethics per se, more about the framework within which they are applied.

We All Need Help to be Ethical. Much ethical training assumes that saying ‘no’ to dishonest behaviour is easy. Those who find it so have usually enjoyed benefits of upbringing and circumstances of which they may be unaware. Most of us come under pressure to cut corners. Ignoring human weakness and taking ethical behaviour for granted deprives people of the support they need in times of stress. We should admit our vulnerabilities and recognise that all of us need help to stay ethical.

More Than Self-Interest. There are clear advantages in being ethical (such as good reputation) but attempts to ‘sell’ decency on the grounds of self-interest are likely to end in disillusion. Morality often involves doing things contrary to our own material interests. Teaching ethics requires a focus on our duty to others as well as to ourselves.

Professor Christopher Cowton of Huddersfield University has analysed the argument from self-interest as it applies to listed companies and his general point may be applied to individuals too. “You might look for an impact on share prices, but if the financial benefits of an ethical action are recognised by the market, they will be impounded in share prices at the point of recognition, not over the years that the action is actually carried out. It is not clear that ethics pays – nor that it never pays.”

Avoid Narrow Interpretations. Honesty is a necessary but not a sufficient condition for ethical behaviour. Executives who tell the truth yet treat their staff badly, or who are too soft on minor thefts, are creating a climate where fraud becomes a more attractive proposition. Treating others as we would like to be treated ourselves is the essence of morality.

Opposing Double Standards. It is too often presumed that there should be one set of rules for ordinary people and another for their leaders. Such attitudes breed cynicism and resentment. Though there will be some valid exceptions leaders must almost always live by the rules they impose on others. Amongst other things this means taking a firm line on fraud by senior executives.

Champion Objectivity. It is easy to lose our moral compass by seeing issues entirely through our own eyes, or by uncritically accepting the values of an organisation. We all need a moral yardstick outwith the standards of our immediate environment.

Objectivity – respect for the factual and moral basis of a situation - is a defence against undue self-interest as well as external pressure. It needs to be firmly emphasised and carefully taught in business and professional training. In its recently revised Code the Institute of Chartered Accountants in England and Wales (ICAEW) stresses the necessity for “self-review” of professional judgements. It is right to do so: objectivity requires a healthy scepticism about our own righteousness.

Cultivate Courage. Courage has been described as a ‘behaviour’ rather than an ethical quality. Yet it underpins all ethics and is particularly relevant to fighting fraud. We discover a fraud but fear for our job if we report it. We ought to sack a fraudster but are afraid of the repercussions. Our colleagues are pressuring us to lie or obscure the facts about corporate revenues. Our audit uncovers false accounting but we don’t want to lose a client. These are frightening situations for people to find themselves in.

Ethical training can help us know the right thing to do but it is often up to a lonely individual to actually do it. Courage cannot be taught but it must be talked about, praised, illustrated by relevant examples and held up as the indispensable ally of morality. “Where courage is not no other virtue survives, save by accident.”

Ethics in Organisations

Ethical organisations are a reality. Thousands of them reconcile morality, targets and profitability every day. The key is personal commitment but large structures also need rules and systems. The ICAEW has referred to the “drivers of organisational integrity” needed to build an ethical culture. It emphasises that these need to be “interconnected with each other [and] mutually reinforcing.” Several bodies (notably the IBE and JABE) have published detailed guidance so the Panel here focuses on some issues of general importance.

Defining Honest Behaviour. It should not be assumed that every employee has identical notions of right and wrong. Senior executives should set and communicate clear minimum standards. Drawing lines on matters such as expenses and internal reporting will be respected by the honest majority, warn off others and make it easier to identify problems at an early stage.

Reviewing Rewards. Pay and bonus policies can incentivise staff to disregard or take account of ethical considerations. Patricia Barker has written that “people do what is rewarded...If ethical behaviours are not rewarded, they simply will not be adopted.” Leaders must identify the impacts of different remuneration methods and use the information to recalibrate the targets they set. Rewarding staff for building customer loyalty (and the further sales which flow from an emphasis on customer service) is one way in which pay and bonuses can be used to encourage ethical behaviour.

No Blame Policies. Ethical behaviour thrives when people are unafraid to voice their concerns. No news may not be good news. A ‘no blame’ culture allows staff to admit mistakes without fear of retribution. This non-punitive system of reporting was pioneered by the airline industry in the late

1960s. The Civil Aviation Authority explains that “as in all safety reporting systems involving people’s shortfalls or errors, it is difficult to overcome the natural human tendency to cover up mistakes. It is therefore essential to do away with the stigma attached to owning up”.

Promoting Fairness. The Financial Services Authority (FSA) has broken new ground by encouraging regulated firms to adopt a systematic approach to “treating customers fairly”. This involves reviews of product design and governance; marketing and product promotion; remuneration; sales and advice processes; after sales information; and complaints handling. Regulated firms are expected to “ensure that they have the right management information and other data to enable them to satisfy themselves that they are treating their customers fairly”.

The Authority makes clear that “this is not about customer satisfaction...firms cannot be blamed for movements in the market...but they are responsible for the expectations which they create”. Nor does the FSA impose a definition of fairness, rather it hopes to encourage senior executives to explore the issues for themselves. The Panel commends the programme to trade and professional associations and hopes they will consider any lessons for their own fields.

Codes of Ethics should emphasise the need for personal responsibility. They require clarity, brevity and unambiguous principles. Codes published by professional bodies tend to be more specific than those promulgated by businesses. They stress that members must not be guided solely by self-interest. The Institution of Civil Engineers says that its members have a “duty to behave honourably; in modern words, ‘to do the right thing’. At its most basic, it means that members should be truthful and honest”.

Detailed guidance spells out the implications of particular precepts. For instance, the General Council of the Bar says that a barrister “must not undertake any task which...he knows or ought to know he is not competent to handle [or] he does not have adequate time and opportunity to prepare for or perform”.

One of the greatest benefits of devising a code is that it can raise awareness and stimulate fresh thinking about how both individuals and organisation should work. The final product will be more effective if staff are genuinely involved in the process.

Training. Ethical issues arise in almost every aspect of organisational life and should therefore be common to most training modules, however ‘technical’ they may appear. This will combat the widespread assumption that ethics are a kind of ‘specialist subject’ rather than an essential part of every employee’s toolbox.

Time must also be set aside for staff to discuss how lessons may be applied in their own roles. Principles will be better understood if illustrated with relevant real life cases. Regular and prominent internal publicity promoting the provisions of a code are vital.

Reporting Fraud. Regulated financial services companies are now legally obliged to report financial crime and larger businesses need to make clear that they will not sweep it under the carpet. It is possible to exaggerate the risks involved in reporting fraud. Aid to the Church in Need UK suffered a high-tech website attack in November 2005 which led to hundreds of its benefactors being defrauded. “The press were surprised by how we went public and that we admitted what had happened — but as a Christian charity we decided we had to be honest and we hope that others will learn from this case about the ‘conspiracy of silence’ over internet fraud. 98% of people have been very understanding.”

Protecting Whistleblowers. The legal protection provided by the Public Interest Disclosure Act 1998 has not prevented many whistleblowers suffering for their actions. Government, trade and professional bodies have a role to play in monitoring how these courageous people are treated, and in providing financial assistance to those disadvantaged by speaking out.

A Sense of Honour. Some of the most effective organisations are motivated by more than a desire to hit targets. Executives and employers want to feel proud of what they do because they judge themselves by more than material criteria. How they get results is as important as the results they get.

This is partly about reputation, partly about self-esteem but always about a recognition that moral behaviour is a vital part of life. The old-fashioned term for this motivation is ‘honour’. Most people want to work for organisations they can take pride in and wise leaders will go with the grain of that desire.

Common Sense v Red Tape

Policies, training and systems have important roles to play in promoting ethical behaviour but an over-zealous and bureaucratic approach will prove deeply counterproductive.

Professor Alan Doig notes that “a comprehensive control environment often abrogates individual responsibility...with potential offenders claiming that...breaches of the rules, or perceptions of misconduct must be determined externally...all conduct is acceptable unless specifically forbidden”.

The FSA adopted a principles based approach to its *Treating Customers Fairly* programme because “extensive detailed rules were not working well..in too many parts of the retail markets, all serious thought...was delegated to the compliance department, who in turn thought about it only in terms of...the letter of underlying rules”.

The Panel pleads for a sense of proportion. It is firmly opposed to new laws and regulation in this area, to the growth of an ‘ethics industry’, and to interference in the private lives of employees. It also rejects the idea that there is a single template for every organisation. It believes strongly in proper consideration for the special requirements of small businesses. Some may benefit from a Code of Ethics or an Ethics Committee but others may find them superfluous.

Britain is a country with a deep-rooted ethical heritage. Discussion, education and publicity are the best tools for promoting moral principles. There is work to be done in highlighting where we fall below decent standards, in praising those who live up to them, and in asserting the centrality of ethics in every field.

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