

Leading By Example: Lessons In Role Modelling And Good Governance

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Workplace behaviour is probably one of the most difficult aspects of the whole Corporate Governance movement to control and monitor. Agencies such as the Equal Opportunity Commissions and Corruption Crime Commissions, deliver the Corporate Governance legislative message through educative information assisting people in workplace situations. This paper is a personal ethnology and will include a compilation of scenarios and situations with observations of leadership behaviours that support and defeat the principles of Corporate Governance across a broad cross-section of our society. Whether Board Members, CEOs and Executive Teams like it or not, Corporate Governance - behaving with integrity and making sound ethical decisions - starts at the top, with our appointed leaders. Unless our leaders live values like honesty, truth and transparency as a natural part of day to day activity, Corporate Governance will be defeated. Leaders need to begin to take seriously their obligations to deal effectively with actual and perceived inappropriate and corrupt behaviour if they are to avoid the potential impact and repercussions of legal, industrial, community and judicial backlash.

Introduction

In this paper I intend taking the readers through a personal journey that spans a timeframe of the last twenty years, exploring the underlying values and ethics that are the foundation stones of Corporate Governance as experienced and understood by myself. My focus is with the public sector. I share my observations through case examples of breaches of Corporate Governance as I experienced them in workplace situations and as a consultant working closely with organisations to manage inappropriate and even corrupt behaviour. I work to demonstrate how public institutions and their leaders are having a direct impact on the state of Corporate Governance in our workplaces and our society in general.

Just in the last 4 months in Western Australia, we have experienced inappropriate behaviour by three of its most senior people. Moira Rayner former Acting Commissioner of the Corruption Crime Commission; Tim Atherton former Deputy Police Commissioner and Alan Piper former Director General of the Department of Justice.

Ms Rayner was investigated for misconduct. According to the CORRUPTION AND CRIME COMMISSION: *In simple terms, misconduct occurs when a public officer abuses his or her authority for personal gain or generally acts contrary to the public interest (CORRUPTION AND CRIME COMMISSION website)*. Indymedia provided this brief report:

Moira Rayner is a disgraced former corruption commissioner. She disgraced herself when she tipped off a friend about an investigation into his illegal activities. Now she is being investigated as to whether the tip-off was criminal, according to The Australian of September 6.

Ms Rayner, who was the acting commissioner of the Corruption and Crime Commission in Western Australia, resigned on August 16 after admitting the tip-off.

The tip off to her friend, Mr Marquet (formerly one of WA's top public servants) came when he was facing charges on 55 counts of corruption, drug possession and the theft of \$227,000.

http://sydney.indymedia.org/front.php3?article_id=58872

This was a situation where the second in charge of the CORRUPTION AND CRIME COMMISSION, Ms Rayner admitted to inappropriate use of confidential information. She has worked as a strong advocate of human rights over many number of years and produced some wonderful results in the social justice field however, this has unfortunately tainted much of her good work. At the end of the day, Ms Rayner to date has been perceived as a good leadership role model yet, this situation has left a bitter taste in many a mouth.

The Industrial Relations Commission of Western Australia gave the following in their findings of the former Director General of the Justice Department, Alan Piper. The decision stated:

I conclude that Mr Piper's action in becoming involved in the selection process for the Level 7 position was not a valid exercise of his powers and as a result it is my view that Mr Piper's intervention in the Level 7 position's selection process should be nullified and declared void. It follows and I find that the subsequent review of Mr Jones' appointment to the Level 7 position by Mr Harvey should not have taken place as Mr Harvey only became involved in a review of the Level 7 selection process as a result of Mr Piper's intervention.

In this situation, it could be said that Mr Piper abused his position of power and inappropriately interfered in a selection process. Given his position as Director General, one has to wonder what spurred him to become involved?

Tim Atherton Deputy Commissioner of Police has recently been investigated for inappropriate activity of a sexual nature. The following is part of a transcript from the ABC News Bulletin, Monday September 26, 2005:

The Western Australian Police Commissioner has revealed that sexually explicit emails and disloyalty led to the shock resignation of his deputy.

Rumours have been circulating for more than a week about why the state's second highest ranked officer was forced to quit.

Today Commissioner Karl O'Callaghan finally revealed that inappropriate emails were behind Tim Atherton's departure.

"Emails which have sexually suggestive language in them and they are between Mr Atherton and junior officers," he said.

Commissioner O'Callaghan says other emails were highly critical of himself and the executive team and revealed details of confidential conversations.

"You cannot have a deputy commissioner who's got access to the most sensitive information in Australia breaching confidences," he said.

The police service will advertise for a new deputy commissioner next month.

Mr Atherton has demonstrated indiscretion in his dealings with female junior officers of the WA Police. We have to ask ourselves is it appropriate for a senior officer to engage in sexual conversations with junior officers? Mr Atherton also criticised his peers and the Commissioner. As the second most senior officer in WA Police this sends a very negative message not only to junior Police Officers and to WA Police but to all youth and the community at large. Mr Atherton is a married man with two young children. He held a position of trust within the community of Western Australia. He has breached that trust. If it was in work hours this misdemeanour used taxpayers money. What caused Mr Atherton to engage in such an indiscretion?

These incidents must be viewed as serious breaches of trust to the community of Western Australia. We can understand that to err is human however, these errors of judgement cross the line of mere human error. These people accepted positions of the highest level of responsibility and protection of the community of Western Australians. Unfortunately, they have abrogated their responsibilities. It is a very sad state of affairs indeed.

What seriously concerns me and others like me is what kind of leaders are we growing? What kind of leadership is being modelled in our public sector? And what kind of leadership are we modelling to our youth? I am concerned with society's changing values and the effects this will have on tomorrow's leaders. I believe these are just some of the questions at the core of what we need to ask ourselves if we are serious about supporting the principles of Corporate Governance.

In the following section I will present a series of case scenarios collected in my role as a consultant since 1989. My work has been in the main with the public sector and therefore my examples and analysis will be focused on this sector. I will describe the scenarios and then identify how these breaches could have been prevented by the appointed leaders taking "right" action.

Workplace Case Scenarios

My journey since my early years at university has been to understand how human behaviour works from political, sociological, anthropological, psychological and even evolutionary perspectives¹. Human behaviour is influenced by a multiplicity of factors. Because of this very fact, it is often the last aspect of any program that most organisations address. And let's face it Corporate Governance is no different. Legislations like Equal Opportunity and Crime Corruption are implemented at a policy, process and even structural level before they hit the ground running with an education program for the people of that organisation. More often than not, it is not until an incident of inappropriate or corrupt behaviour occurs before an educative program is introduced and delivered.

In the case studies below I draw on my work for the EO Commission in Western Australia and since then work I have conducted in the field of equity and diversity for a broad cross-section of public and private sector clients.

Before I introduce the cases, I want to briefly run through the kind of behaviour that the Equal Opportunity and the Corruption and Crime Commission legislations identify as breaches under the Act. These bodies oversee these legislations and see evidence of inappropriate and corrupt workplace behaviour at all levels of organisations – from the CEO to on the ground service deliverers. Equal Opportunity addresses inappropriate behaviour in the form of discrimination and harassment that occurs in the workplace². Examples of this inappropriate behaviour include taunting and using derogatory language to describe someone of a different race or gender or treating someone unfairly by refusing to give them a job because they are of a different race or gender, basically not providing a fair and equitable opportunity for everyone in our community. The Corruption and Crime Commission investigates cases misconduct including instances of a corrupt or criminal nature. The behaviours investigated by the CORRUPTION AND CRIME COMMISSION are expansive and can range from unauthorised release of information, misuse of government property, petty theft to more serious matters including fraud stealing, dealing in illicit drugs, child pornography, aggravated sexual activity towards adults and children. In

¹ I am drawing here from studies I have completed in these disciplines. My latest thesis work, *Constructing Masculinities Under Abusive Conditions*, integrated these disciplines to bring a holistic understanding to understanding human behaviour along the continuum of the life cycle.

² Appendix 1 provides an outline of the grounds and area covered in the legislation

many cases it appears that in order to avoid being caught those who breach these legislations will cover up or deny their behaviour, claim that they are not aware they are breaching the legislation or use bullying tactics to deter and subvert rigorous investigation.

Case Number 1: Managing Sexual Harassment

Organisation Mildew³ was a public sector agency employing over 1,000 people. Mildew had recently employed an EO officer and as a first initiative put in place an EO policy. However, it seemed reluctant to train any of its staff as to the interpretation of the legislation as it related to their workplace. They had been warned that they were exposing themselves without training. The Chief Executive Officer, Harold Strong had been advised that under Vicarious Liability, he and the Chair of his Board would be responsible should any breach of the act take place among any of his staff. Unfortunately, as predicted one of his senior staff members, Mal Handle made unwanted, unreciprocated advances to one of his female staff members, Rosy Black. Rosy had only been with Mildew for seven months. She was the Manager for the Occupational Health and Safety division. She had worked hard for the position and did not want to cause any waves as it may interfere with her future career development. She had been putting up with Mal's advances for over six months and was at the point of resigning. Mal had a reputation in Mildew for having making sexual advances to the women in the organisation. He had the highest turnover of female staff of any other Executive Director in Mildew. However, when questioned about these statistics, he merely stated that he could not find female staff who were committed to their careers at Mildew and labelled them as fickle and flighty.

Rosy had become aware of the EO policy through Mildew's intranet and made enquires. She was encouraged by the EO officer at Mildew, Jim Right to lodge a formal complaint. Jim had been advising his Director, George Easy, that all staff at Mildew should be provided EO training. However, the request had fallen on deaf ears. George didn't understand the implications that Mildew was exposing itself to potential problems unless a sound ongoing EO education program and strategy was implemented. George believed that Jim had been over-reacting. In fact, when approached by Jim, George told him that Rosy must be a trouble maker and to get rid of her. Jim explained that that was impossible and if they did not take her complaint seriously, they could find themselves seriously hauled over the coals by the EO Commission, responding to the EO Tribunal and worse the media coverage should it go public would seriously damage the reputation of the company. Unfortunately, George didn't take Jim's advice and within a few weeks Harold Strong was served with a letter from the EO Commission. George almost lost his job over the scenario. George kept his position as HR Director only because Rosy had accepted a payout and received the apology she requested. Needless to say, George gave Jim the all clear to put in place whatever he felt necessary in order to ensure a similar situation never occurred again. Harold remained as CEO with strict directions by his board that this was not to happen again under any circumstances. Mal left Mildew voluntarily.

Analysis: This is not an unusual situation. Any of us who have worked even a short time in the EO area are too well acquainted with this type of scenario. All too often organisational leaders do not understand the importance of this type of Corporate Governance program. They are reactive and not proactive. They put into place the bare minimum, hoping that it will satisfy the legislative bodies, without any serious reflection of the implications should a breach of the legislation be uncovered and lodged as a complaint. The Equal Opportunity Commission will in every case whether the organisation took "reasonable steps" to assist the prevention of a breach of legislation. "Reasonable steps" include:

- Preparation and regular circulation of a written policy prohibiting discrimination or harassment

³ To protect individual identities, all names are fictitious.

- Ensuring that all staff are properly trained about harassment and discrimination
- Establishing effective complaint procedures
- Treating all complaints seriously and investigating them promptly
- Ensuring that appropriate action is taken to address and resolve complaints and
- Monitoring the workplace environment and culture

However by no means are these exhaustive. It would seem reasonable that if legislation requires a particular type of behaviour among people in the workplace, the ascribed leaders would do everything in their power to ensure that such behaviour is demonstrated on a day to day basis. Basic human courtesy and respect appear to be little to ask of anyone – or is it?

Case Number 2: Contracting and Race

Taint was a major public sector organisation that employed approximately 2,000 employees across the state of Western Australia. Staff came from a broad cross section of nationalities and backgrounds. Taint had a good reputation among its peers as looking after its employees and in fact, very generous with remuneration packages.

My colleague and I were called in to run a Sexual Harassment program as there had been some issues with one of the senior managers, Bill Force and one of his assistants, Mary Watt. Taint wanted to nip this incident in the bud and hoped that with training they could change Bill's behaviour and keep Mary who was considered a valuable employee. In fact, she had been earmarked for Taint's leadership program. This was now in jeopardy as she stated she would leave if the situation was not addressed immediately.

While delivering the sexual harassment program my colleague and I uncovered cases of racial discrimination and racial harassment. Taint had started employing South Americans in its rural locations. Many of Taints Australian workers and managers did not like the South American employees and called them derogatory names. Either to their face or referred to them as stupid and sleezy and told them to return to their home country. In fact, certain divisional managers stated that they refused to employ them based on nothing more than that they just didn't like them as they found them to be non-conformist to the organisations culture.

We advised Taint they should insist that this was unlawful practice under the EO Act. The scenario became more complicated when it was explained that it was the clients working with Taints divisions who did not want South Americans to be employed in its operations. We then had to explain that as contractors they were still liable under the Act. Taint realised it was badly exposed and could face serious repercussions. They finally decided to take the necessary steps to ameliorate the situation. They took on board advice to review and update their EO policies; provided training for their contractors and in fact, rolled out training for all their operations. They employed a further five staff in the EO branch to cope with the increased workload and to provided advice to management to ensure that it complied with the EO Act 1981. Bill Force eventually left Taint and Mary was given a higher level position after completing her leadership training program.

Analysis: This is not an unusual scenario. Discrimination and harassment where workforces have a broad cross section of people from different nationalities is common, unless people are explained their rights and responsibilities and are put through an education process. Organisations can often focus on the one issue that has been brought to light as causing a breach of the EO Act. However, it is important that leaders in these organisations take a holistic approach and leave no stone unturned. They must investigate every aspect of the legislation and put the correct process, procedure and program in place to ensure a breach does not occur under any other ground of the Act. Programs including ethical and integrity decision making are important as foundation stones to sound Corporate Governance behaviour.

Case Number 3: How long has corrupt behaviour been tolerated?

Fragile was a public sector service delivery agency with a strong community interface. It had over 15,000 people it relied on to carry out its delivery of services to the WA Community. A case of sexual harassment whereby a female staff member, Jill Lost lodged a complaint regarding women being brought into offices late in the evening, led to further investigation by the Corruption and Crime Commission. It was uncovered that not only had women been brought onto the premises but that stealing of government property and illicit dealing in drugs was also in practice. The culture of this organisation had been male dominated for many years. Women were not easily accepted nor tolerated. The CEO, John Front immediately called for a training program to be run across the whole of the organisation. This corrupt and criminal behaviour would not be tolerated. This same organisation uncovered paedophilia activities by at least one of its people and inappropriate use of the internet for viewing sexually explicit material.

This negative behaviour had been going on for a number of years and it was only now that it had been uncovered. Unfortunately, many of the “old guard” blamed Jill for being caught. They insisted there was nothing wrong with their actions and that “everybody does it”. Jill was moved to another office location. Those found of criminal activities were dismissed and convicted of their crimes. John Font went through a very difficult time. He felt that somehow he had let down his Minister and the community of Western Australia. He decided that he would do his absolute utmost to cleanse the organisation of every negative element using whatever means he needed to achieve this. His commitment was unwavering.

Analysis: This is a serious consequence of inappropriate behaviour being allowed to continue far too long. It is difficult to break or change behaviours when they have become ingrained in one’s psyche⁴. At the end of the day, the ascribed leaders must take all reasonable steps to prevent inappropriate and corrupt behaviour taking place in their organisation. Ethical decision-making can be a dilemma if it is not included in the norm of day to day operations. Some staff members in the scenario above made bad decisions and did not exhibit appropriate behaviour or ethical decision making.

Conclusion

The following are some points that need to be considered in the overall scenario if we are to assist our people and our leaders to demonstrate and model behaviour applying integrity and ethics and therefore sound Corporate Governance principles.

1. The challenge for organisations and their leaders is to translate legislation and policy into tangible actions and behaviours
2. Formalised programs in themselves will not deliver the outcome, particularly a sheep dip approach and it is naive for managers to believe this will achieve the desired results.
3. Legislations need to be translated into enduring evident organisational change programs e.g. raising the profile of women and others who belong to *Social Category or Demographic Diversity - Visible demographic characteristics - gender, race, age, disability etcetera as per the Equal Opportunity Legislation through targeted programs.*
4. Existing people within the organisation need to be given unequivocal signals that explain inappropriate and corrupt behaviour is not acceptable.
5. A stumbling block in the public sector is that people are walking an ethical tight rope. This sector’s institutional setting makes it almost impossible for them to retain a strong sense of ethics and therefore behaviour that aligns to good Corporate Governance

⁴ Claudia Strauss and Naomi Quinn, *A Cognitive Theory of Cultural Meaning*, 1997 and ed. Roy D’Andrade and Claudia Strauss, *Human Motives and Cultural Models* 1995.

6. There is a need to deal with managerial malaise to managing performance. This translates to passive acceptance of such behaviour and leads to lack of respect for management and leadership. A case in point is where a person known to have an alcohol problem and a history of sexual harassment was never dealt with appropriately and when he retired with a payout from the organisation, left a bitter taste in many a mouth. In this scenario, it's not about a criminal act but instead about someone who was on the margin. On the continuum of performance management there needs to be a message of no tolerance from start to finish.
7. Public sector does not invest and support people management skills – people do not feel equipped to address behaviour that is inappropriate and unacceptable.
8. Highly prescriptive procedures and policies can lead people going underground.
9. Education is a key ingredient to any Corporate Governance program.
10. Corporate Governance should not be seen as punitive
11. Employers cannot wait until an incident occurs before taking action
12. Corporate Governance is part of every organisations core business
13. Lack of action and follow through defeats Corporate Governance
14. Complaints do not “go away” – don't ignore them.

Overall, it is the congruence of legislation with workplace behaviour that in the long run will achieve success for Corporate Governance as a world wide initiative. This is when all sectors of our society live values like honesty, truth and transparency as a natural part of day to day activity – live with integrity and ethics.

Acknowledgements

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References

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Appendix 1

The following lists the types or grounds unlawful under the Equal Opportunity legislation. Further explanation can be found at
<http://www.equalopportunity.wa.gov.au/discrimination.html>

Gender; Gender History; Age; Race; Racial Harassment; Religious Conviction;
Disability; Family Responsibility; Family Status; Marital Status; Pregnancy; Political Conviction; Sex; Sexual Harassment; Sexual Orientation.