

# Framework to Developing Codes of Conduct



## Wafa El Garah

Developing an effective good code of conduct helps provide useful guidance to employees about the accepted and prohibited behavior in the workplace. Using a bottom-up approach ensures involvement of all stakeholders and hence promotes its use and adoption.

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Al Akhawayn University

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## **What is a Code of Conduct?**

Code of conduct also known as code of ethics is a statement of the values by which organizations' employees must abide by and adopt in their daily work. It is a formal, separate document which spells out the moral standards used to guide the behavior of all employees including managers. Having a Code of conduct allows employees to test their actions against expected standards. Code of conducts play an important role in an organization's control environment and risk management. It communicates its key values and principles internally to employees and externally to stakeholders.

Adoption of codes of conduct emerged in the 70's following global bribery scandals. As a result in 1977 the Foreign Corrupt Practices Act was passed in the United States. This law prohibits US firms from giving bribes to foreign officials to facilitate or expedite business deals in the foreign country. In recent years, companies are being pressured to develop and adopt a code of conduct by various external forces. For instance, following several corporate standards such as Enron, WorldCom and Qwest, the Sarbanes-Oxley Act (2002) was developed. This act requires publicly traded companies to report whether or not a company has adopted a code of ethics specifically for CEOs, financial and accounting officer in their annual reports. Additionally, several stock exchanges such as New York stock exchange and NASDAQ have made the same requirement.

Today, codes of conducts are becoming more and more a tool for corporate social responsibility that is used to promote and communicate responsible business practices and an ethical organizational culture.

## **Usefulness and Importance of Code of Conduct**

The main role of a code of conduct is to help managers and employees do the right thing when faced with ethical situations. It is a statement that communicates the values of the organization to the stakeholders both inside and outside the organization. The code of conduct is considered as an important part of risk management.

Failure to do the right thing may result in damage to the organization on different levels, social, economic and environmental. That's why companies are adopting code of conduct as part of an internal control system. Code of conduct helps in the protection against lawsuits. Several studies (Orlitzky et al., 2003; Vershoor, 1998) have shown that taking an ethical approach to business contributes to the bottom line of business. Some organizations have

adopted code of conduct to improve legitimacy, reputation and public opinion. Others have used it as a marketing tool to signal to stakeholders about the firm's values and integrity. Furthermore, some organizations have developed code of conduct as a tangible commitment to social responsibility and as a symbol of corporate social responsibility engagement thereby preserving legitimacy and enhancing public image. Concomitantly, formal codes of conduct ensure consistency in how all employees deal with ethical behavior including top management.

Despite the many benefits of adopting a code of conduct, there are several critiques which stem from the fact that several organizations such as Enron who despite a very well written code of conduct ended up violating ethical standards. These critiques argue that codes of conduct (Lawton, 2004):

- Don't have operational value
- Cannot be comprehensive and cover all situations
- Are difficult to enforce
- Are either too general or too detailed that they become cumbersome
- May conflict with rules and regulations
- Are difficult to reach consensus over them

## **Target Audience**

Generally codes of conduct set out standards and guidelines that all employees within an organization are expected to uphold in their daily work. However in recent years and as a result of some ethical scandals (Harrison & Scorse, 2010), some organizations have developed codes of conduct for their suppliers. Adopting a supplier code of conduct help companies avoid brand damage that may result from an environmental, human rights and international labor standards violation by a supplier. Additionally, some organizations, such as the Los Angeles County Metropolitan Transportation Authority ("Metro"), have developed codes of conduct for customers to guide customers behavior when using or dealing with the companies' products, services and employees.

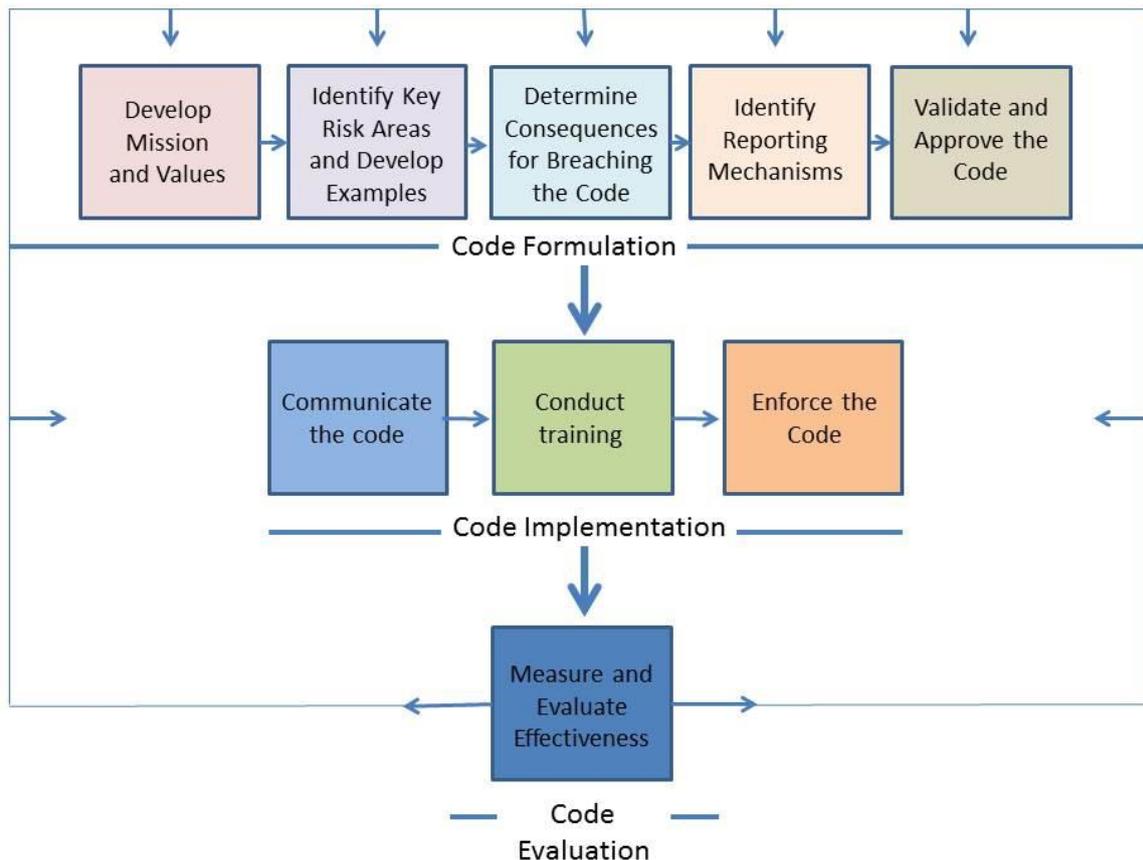
## **Code of Conduct Development Framework**

In this paper we present a framework for developing and implementing a code of business conduct within organizations. The framework illustrated in Figure 1 is proposed as a comprehensive model for the code of conduct development process. The framework consists

of three main stages namely the development, implementation and evaluation stage. In the development stage, the focus is not only on the content but also the process. In order for the code to have meaning and be adopted by users one must take a stakeholders' approach and involve all those that will be affected or have the potential to affect the code. The best approach is a bottom up approach rather than a top down approach. Top management must show support for the code throughout the whole process. The outcome of the development stage is an approved code of conduct. In the implementation stage, organizations must develop an awareness strategy to formally introduce the approved code to all stakeholders. Depending on the size of the organization the strategy could range from a simple adoption strategy since all employees would have been involved in case of a small structure to a full blown communication strategy to promote the code and its benefits to both employees and the organization. Next, training sessions must be organized to ensure that the code is well understood and avoid the risk of misinterpretation of the code. Training is important in setting the tone of the adoption of the code and ensuring that key messages are conveyed properly. Once the code is adopted and implemented monitoring and review mechanisms must be put in place to ensure its effectiveness, continued relevance and most importantly its use. Procedures must be designed and put in place to periodically and systematically review the code. Key performance indicators must be identified to measure the effectiveness of the code.

When an organization decides to develop a code of conduct, it is important to involve all employees with different degrees of participation. By involving employees, they become committed to the code and the organization. Top management should show strong support to the process by announcing its beginning and clearly stating the purpose of the code. Top management should appoint a taskforce to oversee and implement the process.

Figure 1. Code of Conduct Development Framework



### ***Mission and Values of the Organization***

A mission statement is important to effective code of conduct development. It reflects the uniqueness of the organization's purpose compared to competition. It is an essential element in setting strategic direction of the organization. A mission statement is the foundation upon which all activities of an organization are based. It serves as a guide to strategic decision making, a motivator to employees and a base for organizational culture. Despite the many benefits of having a mission statement several companies mainly SMEs still don't have one.

Mission statements communicate the values the organization stands for. These values guide employees into their day to day activities in the workplace. Organizations have embedded their values in their mission statement whereas others chose to have them stated and listed separately to emphasize their importance.

Without a mission statement and a clear set of values one cannot develop a relevant code of conduct. The organization must first know of its purpose, who it serves and what it stands for

before embarking in the adoption of a code of conduct. Both the mission and the values must resonate throughout the code.

**Key Risk Areas**

The next step in the code development stage is the identification of risk areas. Here involvement of all employees at all levels is crucial. At this stage, a code of conduct taskforce is created. The mandate of the taskforce is to oversee the development stage process and ensure an inclusive, participatory approach. The taskforce should consist of employee representatives from each level and category of work. The representatives are then tasked to get input from their colleagues about ethical dilemmas they face or may face while doing their day to day work. These situations are then compiled by the taskforce into general categories. The categories are then shared with the whole organization to identify any omissions or issues with the categorization. This may require a couple reiterations until most key risk areas are identified. Table 1 summarizes some of common topics addressed in code of conducts and which are universal for all organizations regardless of size and industry.

<i>Table 1 Some topics that are universal in codes of conduct</i>
<ul style="list-style-type: none"><li>• <i>Conflict of Interest</i></li><li>• <i>Harassment</i></li><li>• <i>Fraud</i></li><li>• <i>Use of company equipment, resources and property</i></li><li>• <i>Expense reports</i></li><li>• <i>Discrimination</i></li><li>• <i>Privacy</i></li><li>• <i>Confidentiality</i></li><li>• <i>Acceptance of gifts</i></li></ul>

It is important to recognize that it is impossible to identify and include every possible ethical situation an employee may face. Hence, the taskforce should focus on high risk scenarios and call for the use of good judgment to uphold the highest level of integrity. Once key areas are identified examples must be developed to illustrate desirable vs prohibited behaviors. Examples must be carefully drafted and made simple to understand. Exhibit 1 presents some examples included in Coca Cola Company’s code of Conduct. In large organizations this process may seem too cumbersome and time consuming. However the participatory approach is important in ensuring commitment to the code and full adoption.

## Exhibit 1 Coca Cola Code of Conduct Examples

### AREA: Business and Financial Records

#### **Medical Coverage**

An employee attempted to obtain Company medical coverage for her adult children by submitting a form claiming that her children were fulltime students. In fact, her children were no longer students. The employee falsified Company records.

#### **Revenue Recognition**

A sales manager estimated that he would not meet his targets for the month. To make up the difference, he hired an external warehouse to receive product and then recorded shipments to the warehouse as sales. The sales manager falsified financial records.

### AREA: Use of Company Assets

#### **A Personal Favor**

An employee used Company computers and equipment, as well as time at work, to design and print wedding invitations and birth announcements as a favor for other employees. The employee misused Company assets.

#### **Teaching**

**Q:** I am a marketing manager and have volunteered to teach a course on marketing at a local college. I believe that my students would benefit from a discussion of how the Company developed several marketing campaigns. Can I discuss this work in class?

**A:** Only with prior approval from your Local Ethics Officer. The development of marketing campaigns is a Company work product and a Company asset. Much of this work may be proprietary, and may not be appropriate to reveal outside the Company.

#### **Ticket Swap**

A marketing employee had access to Company tickets to sporting events to be used for consumer promotions. The employee sent some of the tickets to an acquaintance working at a hotel chain in exchange for free hotel rooms for the employee's personal use. The employee misused Company assets.

### AREA: Conflict of Interest

#### **Supplier Selection**

**Q:** It is my job to select a supplier for the Company. One of the suppliers being considered is a company owned by my spouse. Do I need to take any precautions?

**A:** In this situation, your interest in your spouse's business conflicts— or at least appears to conflict—with your responsibility to select the best supplier for The Coca-Cola Company. You should consult your manager and Local Ethics Officer. The best course of action is either for you not to be involved in the selection process, or for your spouse's business to be eliminated from consideration.

#### **Special Discounts**

An employee who was managing the Company's relationship with a travel agency accepted from the agency discounted rates for personal travel that were not available to other employees. The employee violated the Code provisions on conflicts of interest by accepting this personal benefit.

*Source: The Coca Cola Company Code of Conduct.*

### **a. Consequence for Breaching the Code**

A well written code of conduct must include information about how the code is enforced. It should have an indication of examples of consequences for breaching the code. The code should provide clear expectations regarding what employees should expect in case of non-compliance with the code. Because this may make the code too lengthy, these may not be spelled out in the code but information should be readily available to employees.

The code does not have to address every situation but an example of possible sanctions must be included to inform employees what may occur in such cases.

Some organizations choose not to include consequences for breaching the code. They want to keep the tone positive so as not to imply that staff cannot be trusted. However, companies should try to find a balance between trust and accountability in the code. Exhibit 2 presents some examples of how companies have addressed violation of the code in their code of conduct.

Exhibit 2 Consequences of Breach of the Code
<p><b>Cenovus Energy, Inc.</b> Actions that violate or appear to violate this Code will be reported in accordance with Cenovus’s Investigations practice. The Investigations Practice outlines how a report will be treated once it is made, protection for complainants and the consequences of violating this Code. Violations may be reported to Cenovus staff, the Investigations Committee, or through the Integrity Helpline. <i>Violation of this Code and its associated guidelines may result in disciplinary action up to and including termination of employment or contract for services. (italics for emphasis)</i></p>
<p><b>University of South Australia</b> Many elements of the Code are aspirational in nature. They have been developed not only to satisfy existing legal requirements, but also to engender behaviour which exceeds the legal minimum. Staff should be familiar with the substance and spirit of the Code and should be aware that breaches <i>may result in sanctions which may include counselling, disciplinary action, performance review, or civil or criminal action, depending on the nature of the breach.(italics for emphasis)</i></p>

Source: University of South Australia <http://w3.unisa.edu.au/policies/codes/ethics/ethics.asp#Consequences>, Cenovus Energy, Inc. Code of Business Conduct and Ethics

**Reporting Mechanism**

The code must explicitly describe how employees can report misconduct (see Exhibit 3 for an example). Speak-up/Whistleblower procedures must be clearly stated. Confidentiality is an important feature here. Some organizations have appointed ethics officers, others have implemented integrity helplines or compliance helpdesks. In smaller size organizations, these mechanisms need not be sophisticated. In small organizational structures, employees might be directed to use external organizations that support whistleblowers.

Whistleblowers protection must be clearly addressed in the code to encourage employees to speak-up and report violations of the code. Exhibit 4 presents an example of how it is addressed in two organizations namely Google and Cenovus Energy, Inc.

### Exhibit 3 Reporting Violations Examples

#### Amazon.com

##### **Questions; Reporting Violations**

Employees should speak with anyone in their management chain or the Legal Department when they have a question about the application of the Code of Conduct or when in doubt about how to properly act in a particular situation.

The Amazon.com Legal Department has developed and maintains reporting guidelines for employees who wish to report violations of the Code of Conduct. These guidelines include information on making reports to the Legal Department and to an independent third party. Please see the reporting guidelines for information and instructions.

Amazon.com will not allow retaliation against an employee for reporting misconduct by others in good faith. Employees must cooperate in internal investigations of potential or alleged misconduct.

Employees who violate the Code of Conduct will be subject to disciplinary action up to and including discharge.

#### Linkedin

##### **Speak Up When You Need To**

To function as one team, we must be able to ask for help when we need it. Whether it's a question about our policies or processes, or a concern over a situation that may not align with our Culture or Values, there are a number of resources available to us to find answers and get help. They include:

- A manager—yours, or another manager you know and trust
- HR Business Partner and/or ER Business Partner
- Global Compliance & Integrity
- Integrity Helpline

It doesn't matter which of these options you choose; what matters is that you have chosen to voice your concerns in a constructive way. By speaking up openly and honestly, you can get the guidance you need to resolve your concern. If you report a potential issue, know that it will be reviewed and investigated. While we promote transparency and open communication throughout LinkedIn, we also value personal privacy, and will protect the confidentiality of those making reports to the extent possible.

Our Integrity Helpline also allows for anonymous reporting, if that's what you feel most comfortable with. Regardless of the outcome of an investigation, voicing your concerns honestly and completely (known as "good faith" reporting) means you're protected from retaliation.

*Source: Amazon Code of Business Conduct and Ethics, LinkedIn Code of Business Conduct and Ethics*

### Exhibit 3 Whistleblower protection clause examples

#### Google

##### **No Retaliation**

Google prohibits retaliation against any worker here at Google who reports or participates in an investigation of a possible violation of our Code. If you believe you are being retaliated against, please contact Ethics & Compliance.

#### Cenovus Energy, Inc.

##### **Whistleblower Protection**

Retaliation against individuals (whether employees, contractors or other third parties) who report violations of this Code will not be tolerated. Every supervisor has the responsibility to create an environment in which staff can raise business conduct concerns or violations under this Code without fear of retaliation.

No adverse action will be taken against individuals making a good faith report of a business conduct concern or violation under this Code, whether or not the report ultimately proves to be well founded. Good faith does not mean that the individual reporting the concern or violation has to be right; but it does mean that the individual believes he/she is providing truthful and accurate information.

On the other hand, we will not tolerate reports that are not made in good faith, such as reports intentionally providing false information or made maliciously to harm the company or another employee or contractor. Disciplinary action, up to and including termination of employment or services, may be taken against an employee or contractor knowingly making false reports.

Individuals are strongly encouraged to report business conduct concerns or violations of this Code to their

supervisor or Human Resources business partner (if an employee or contractor), or to a member of the Investigations Committee or to the Integrity Helpline. Any individual who believes retaliation has occurred should contact the Integrity Helpline immediately.

*Source: Google Code of Conduct, Cenovus Energy, Inc Code of Business Conduct and Ethics.*

### ***Validating and Approving the Code***

Once the code is drafted by the code taskforce, it should be shared with all employees to see final feedback on the code. Relevant comments should be taken into consideration. Usually codes of conducts are approved by top management and/or the board of directors depending on the structure of the organization. The date of approval and the body approving the code must appear on the final document. Once the code is approved then the implementation stage starts.

### ***Communicating the Code***

Once the code is approved, it should be communicated to all employees of the organization. Top management must design a well thought out communication strategy to disseminate the code and ensure that every employee receives a copy of the code or has direct access to a copy of the code. The communication message should convey clearly the importance of the code to the organization and its mission. For global organizations, the code should be translated to the different languages where the organization operates.

The code must also be communicated externally to promote the organization's commitment to integrity and clean business. The code could be a way to attract customers, suppliers, investors, and job applicants. The code should be included in annual reports, clearly posted on the company web site. Relevant parts of the code could be highlighted in brochures, newsletters and other marketing material.

### ***Training***

Training is an essential element in a code of conduct compliance program. Through training employees become more engaged, fully committed to the values of the organization. It increases awareness of the key values and sets standards of acceptable behaviors within the organization.

Companies have adopted different ways to deliver the training. Some have opted for face to face training, others used online training while others chose a hybrid delivery method.

Training should be continuous as employees must be reminded continuously of the values of

the organization. Some organizations have made the Code of Conduct training as part of the annual performance evaluation process.

Training should be relevant and should focus on the identified risk areas. Scenario based training or case base training with examples are effective ways of showcasing the desired vs undesired behaviors.

Training is also an opportunity to refine the code as it gives employees the ability to raise questions, identify ambiguities and uncertainties. Additionally, an effective compliance training program should increase employees' confidence and self-efficacy in doing the right thing when faced with ethical situations.

### ***Enforcing the Code***

A code that is not enforced is worthless. Breaches of the code must be dealt with in a consistent and fair matter. When the code is enforcement then unethical behavior is unlikely to happen. Additionally, employees may lose trust in the management of the organization if breaches of the code are not dealt with effectively.

The process to deal with breaches of the code must be clear. Oftentimes in cases of breaches or violations of the code, a committee is formed to investigate the situation and make final decision. Hearings are usually part of the investigation.

### ***Measuring Effectiveness***

Several key performance indicators could be put in place to ensure a successful and effective implementation of a code of conduct. Examples of KPIs may include training effectiveness, awareness surveys, helpline/helpdesk trends, number of reports, investigation results, and consistency in enforcement. These indicators can help identify major shortcomings in the code. Corrective actions must then be taken to revise the code. The code of conduct must be systematically reviewed to ensure its relevancy. The review process must be clear and well designed. Some organizations opt for audits by external parties to assess the effectiveness of the code.

## **Components of a Code of Conduct**

The content of a code of conduct will vary from one organization to the other. This variation depends on factors such as the type of organization, the industry it operates in and size.

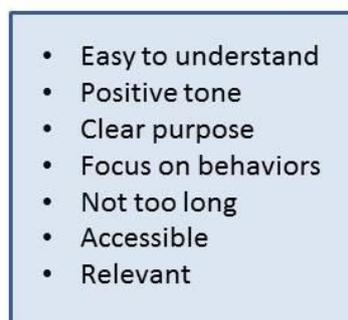
However there are some basic components that should appear in any code of conduct. These components include:

- A letter from the President or CEO of the organization. This letter should detail the importance of the code to the organization and should link it to the organization's values and principles. It should also highlight the benefits of the code to employees and stakeholders.
- Mission of the organization and its values: a mission statement states the purpose that distinguishes one organization from another. It defines the scope of the organization's operations, its products and services. It answers the question "what is our business". A good mission statement should describe the values and the principles of the organization. These values serve as behavioral guidelines.
- Scope of the code of conduct: The code should clearly state who it applies to.
- Body of the code: in addition to the description of relevant challenging situations, the body of the code should include among other things examples of permitted and prohibited behavior. It should clearly state the consequences for violating the code. It should also include reporting requirements as well as ways to report unethical behavior.

## Characteristics of a Good Code of Conduct

Not all codes of conduct are created equal. Some are better than others. Figure 2 lists the characteristics of a good code of conduct.

Figure 2 Characteristics of Good Code of Conduct

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- Easy to understand
  - Positive tone
  - Clear purpose
  - Focus on behaviors
  - Not too long
  - Accessible
  - Relevant

**Easy to understand:** The code of conduct must be written in a language that is easy to understand at all levels of the organizations. It should not include any complex sentence

structures or be ambiguous. Avoid using legalistic language. Use plain language when drafting a code.

***Tone of the language:*** Codes are often critiqued for being negative in tone. The tone used should not be authoritative; rather it should be positive and supportive. It should motivate and inspire employees to do the right thing.

***Purpose:*** The purpose of the code must be clearly stated. A well written purpose will help engage employees and motivate them to comply with it.

***The material used should focus on behaviors:*** the code should describe expected behaviors as well as prohibited behaviors. It should provide examples to help illustrate situations. It should also explicitly describe consequences of violations of the code.

***Not too long:*** Codes differ a lot in length. A general principle in codes of conduct is that it should be as concise as possible and avoid excessive details. It should focus on key messages and when needed refer to detailed policies and procedures outside the code. Codes that are too lengthy may not be properly read and hence its effectiveness is impacted.

***Accessible:*** the code must be made readily available and easily accessible by all employees. Multiple channels should be used to communicate the code to employees. Both printed and digital versions of the code must be available.

***Relevant:*** Codes should address activities that are relevant to the nature of the business and the activities of the employees. Choosing to adopt a generic code for compliance purposes may impact effectiveness.

## **Conclusion**

Developing effective code of conduct is a very challenging task. It is not a walk in the park! It requires commitment from the top management on several levels including time, money and effort. However, the benefits from having and implementing a code of conduct outweigh the costs. A well written code of conduct alone does not guarantee the benefits. A code must be adopted and integrated into the organization culture. It should become an important tool that guides business decisions and actions in the workplace. In today's constantly changing business environment, adopting and implementing an effective code of conduct may be a key factor to an organization's success.

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