

ICQ

IRISH COMPLIANCE QUARTERLY

WINTER 2022

Compliance Institute's
2022 Annual Conference

IAF Survey
Results

Early Career
Awards 2022

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CEO Update



It certainly has been a busy Q4 with the annual conference, the IFCA Congress, a bumper packed CPD programme, media coverage of Institute events, taking a lead role in Climate Finance Week, presenting at job Expos and various other external conferences, as well as many more initiatives some of which are detailed below.

Annual Conference

The highlight of the period was the annual conference, and it was fantastic to have it in-person again with almost 200 in the room and over 100 online. Networking was a key element, and it was clear from talking to members that many had not met each other in over 3 years - the buzz in the room was palpable! We were delighted to have assembled a fantastic line up of speakers consisting of experts, thought leaders and senior practitioners who discussed and shared their knowledge on a variety of topics. We were grateful to Michael McGrath, Minister for Public Expenditure and Reform, for delivering one of the keynote speeches and for his warm words about the Institute, in this our 20th anniversary year -

“With over 3,250 members, I understand you are the largest global association of compliance professionals and that you offer the largest suite of compliance programmes anywhere in the world. That is a truly remarkable Irish success story and one for which you can rightly be proud.”

It was also great to see the content of speeches at the conference, and the conference itself, receive coverage in the Irish Times during 4 days in one week - the profession has certainly made its voice heard at a national level.

Promoting the Compliance Profession

One of the key strategic objectives of the Institute is to raise the awareness of the profession and promote compliance as a career. With that in mind, in the past month, or so, we have:

- presented 3 awards at the Early Career Awards which received widespread social media coverage;
- attended and gave presentations at the Dublin and Cork Jobs Expos which are Ireland's leading jobs and employment fairs;
- attended the Finance Leadership Summit where the results of the pulse survey which was a collaboration between the Institute, Sia Partners and CPA were presented;
- had a number of speakers present at the IFCA (International Federation of Compliance Associations) annual congress; and
- actively participated in Climate Finance Week (as detailed below).

Climate Finance Week

We were delighted to be a recognised Knowledge Partner of Sustainable Finance Ireland for Climate Finance Week which obtained widespread coverage. The Professional Diploma in Sustainable Finance for Compliance Professionals programme was launched during the week which included presentations from Institute speakers and a photocall with Minister Simon Harris to promote the launch. We hosted a free hybrid CPD event which was the final event of the week, and all members were invited to attend and network.

CPD and CPD on Demand

During this Quarter we have held 12 live CPD events. We will have provided over 50 hours CPD during the year with over 15 of these free to members. Separate to this, our CPD on Demand offering has also increased over the past number of months and there are currently 10 short programmes available. They can be found on the Professional Development section of our website.



Education

A reminder that the Professional Certificate in Data Protection and the Professional Certificate in Financial Crime Prevention programmes leading to the CDPO and CFCP designations are open for registration. The semester commences in February 2022 and the closing dated for registration is 27 January 2023.

The Professional Diploma in Sustainable Finance for Compliance Professionals, an introductory session will be held on 12th December with classes commencing in early February.

The Certificate in Leadership Skills for Compliance Professionals commences on Monday 27th February 2023 and will run one evening over 8 weeks from 6:30pm to 9:30pm subject a minimum number of students.

For further details on these programmes, please see page 60.

Conferring Ceremony

Our second conferring ceremony this year will take place in the Shelbourne hotel on the evening of the 13th December. Congratulations to the over 650 graduates who successfully completed one of the programmes in the suite of Compliance Institute educational offerings.

Almost 200 graduates will gather with their guests to celebrate their achievements and we look forward to welcoming those eligible as designate members of the Institute.

Concluding Remarks

On behalf of the Executive, I would like to thank you all for your continued membership, your participation in various events or your participation on committees and working groups. We wish you and your families a very happy Christmas and look forward to continuing to work with you in 2023.

Michael Kavanagh
CEO

President's Page



Valued Members,

Where has the year gone? Honestly, I cannot believe that the year is almost out. I am delighted to welcome you to the Winter edition of the ICQ. At the time of writing, I am finally seeing the turn in the weather bringing cool crisp mornings which I make a point to enjoy. I find it is a refreshing way of clearing your head.

The last period has been very busy. October brought with it significant developments not only for the industry but the country, and most importantly the environment. It saw the establishment of the International Sustainable Finance Centre of Excellence in Ireland launched on the opening day of Climate Finance Week Ireland. The same week brought with it the launch of the Professional Diploma in Sustainable Finance for Compliance Professionals developed in conjunction with SFS, IFS Skillnet and the IOB. This programme is truly for the benefit of all and is definitely available at a key time not least for the Compliance professional but all those impacted by the regulatory

developments. You will see in the background to this picture a quote that resonated given the specific topic "Without innovation we cannot advance". There has never been more accurate words and without the parties in the pictures drive to create and innovate the programme would not be available.

The period also saw the return of our in-person conference on 10th November. I want to reiterate again how great it was to have so many of our membership base in the room. All in we had just over 300 in attendance which certainly brought with it a great buzz and it was a brilliant opportunity for everybody to network.

I want to say a huge thank you again to all our speakers and panellists. I know I thoroughly enjoyed it. Some of you may have noticed that Daniel Craig has somehow made the cut for this month's ICQ. This is a nod to Paul O'Loughlin whose speech on the Compliance Officer really went down a treat.



The conference brought with it open discussion and challenge with a number of probing questions from the audience. None more so than the Individual Accountability Framework which has received a lot of further media coverage. I believe it means firms and individuals are getting to grips with what it means for them.

As with any regulatory change two words, readiness and resistance are always to the front of my mind with early adopters and the coordination across all those impacted key in bringing with it parties that are not comfortable.

In my experience the resistance decreases over time and in the medium to longer term these changes will be for the benefit of the customer, the industry and those individuals in these positions bringing clarity on responsibilities, delegation frameworks and clear focus. As I noted at the conference it is a further evolution of the Fitness and Probity regime and what we should be doing already. Nonetheless, we have an opportunity to define and set the bar.

We had our second graduation evening of the year on 13th December. It is important that we recognise your achievements but also it allows for a significant networking opportunity for those that have completed similar qualifications. The graduation early on in the year brought with it good attendance, and it is something that was missed badly during the past two years and I look forward to seeing you all there.

As we approach the year end it is important we recognise the contributions over the last year including:

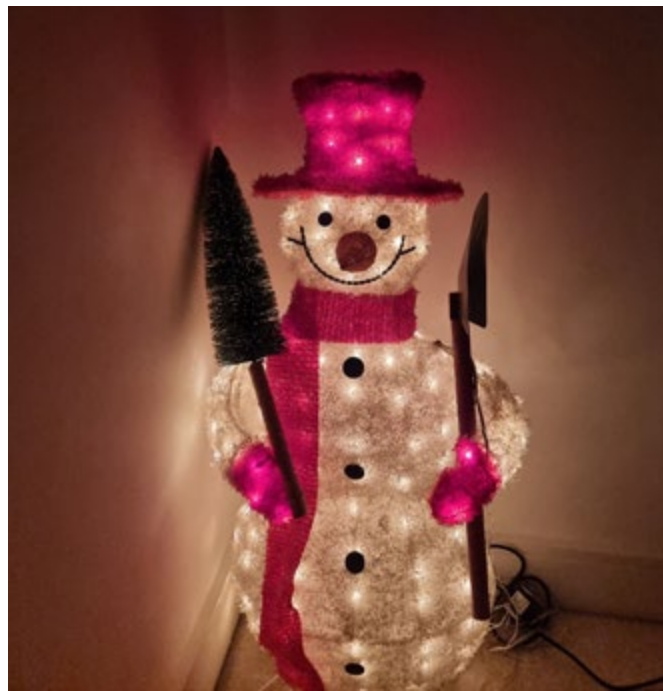
- The Executive who has been key to all the Compliance Institute activities in the last year - your contributions have been key;
- Our membership base that gives so much in a voluntary and unpaid capacity please always remember the Compliance Institute collective would not be where it is without you; and
- My fellow council members who set the strategic direction of the Compliance Institute, you represent the members interest and drive the standard.

I also want to say a big thank you to Kathy Jacobs who steps down from the Council following the AGM in January. The contributions you have made as a Council member and the stewardship and direction you have brought as president has been fantastic.

At the time of writing seasonal festivities are beginning to ramp up so I want to wish everybody a Merry Christmas. Remember to take the time to switch off and recharge the batteries. I hope I can follow my own suggestion.

I look forward to continue working with you all into 2023 and I am excited to see what next year will bring.

Diarmuid Whyte



Compliance Institute's 2022 Annual Conference

Compliance Institute's 2022 annual conference took place on 10th November as a hybrid event, with the 'in-person' venue being the Shelbourne Hotel. This year's theme was "Compliance - Setting the Standard" and we were delighted to be joined by just over 300 delegates.

We assembled a fantastic line up of speakers consisting of experts, thought leaders and senior practitioners. Our keynote speaker on the day was Michael McGrath, Minister for Public Expenditure and Reform who was joined by Colm Kincaid, Director of Consumer Protection, Central Bank of Ireland and Paul O'Loughlin, Head of Financial Services Compliance at An Post. Our speakers were followed by 3 panel discussions with panelists sharing key insights and their expertise on IAF, Ethics and ESG.



IAF Panel



Following the recent Institute membership survey, *The Individual Accountability Framework - planning and preparing for increased accountability in financial services*, our IAF panel discussion focused on the objectives of the IAF Bill, practical actions firms are taking now and lessons learned by the Financial Conduct Authority (FCA) on its implementation of the Senior Managers and Certification Regime (SMCR) in the UK.

IAF Panel - chaired by Kian Caulwell, Partner and Head of Financial Services Consulting, Mazars

Davinia Conlan - Associate General Counsel for Citibank Europe Plc and Interim Country Head for Citi Ireland

David Blunt - Culture and Governance specialist; previously Head of Conduct Specialists in Supervision at the UK's Financial Conduct Authority and the FCA's Accountable Executive for the Senior Managers and Certification Regime

Oliver Gilvarry - Assistant Secretary in the Banking & Financial Stability Division of the Department of Finance

Liam Flynn - Partner, Co Head of the Financial Regulatory team, Mayson Hayes & Curran LLP



Ethics Panel



Our Ethics Panel shared their thoughts on the IAF regime, good corporate culture - what will it look like, and discussed ESG measures becoming an authentic narrative and not a regulatory tick box followed by assessing the E, S and/or G.

Ethics Panel - chaired by Coleman Hudson, Head of Legal and Compliance, Aon

Dr Elaine Byrne BL - Sunday Business Post Columnist, Barrister and Member of the Policing Authority

Nadia Chiarina - Director Sustainable Finance EY Ireland

Rosie Donachie - SVP & Head of Sustainability, Crypto.com

ESG Panel



In the afternoon, we were joined by the ESG Panel who provided an overview of the new regulations coming down the track while examining practical case studies to date, closing out with how firms are embedding best practice and the expected role of the compliance professional.

ESG Panel - chaired by Carina Myles, Partner Governance, Risk & Compliance, EisnerAmper

Aidan Horan - Director at the Institute of Public Administration (IPA) with overall responsibility for governance and assurance services

Brian O'Kennedy - Managing Director, Clearstream Solutions



Diarmuid Whyte – President, Compliance Institute – Opening Remarks

Good morning all and welcome to the Compliance Institute's annual conference.

I have the great pleasure to open today's conference. As I am sure by now everybody is aware this year is and has been an extremely significant one for the Compliance Institute in its 20th Anniversary.

This year has seen over 500 graduates from our 11 Compliance educational programmes, with six professional designations and a further to come next year. The Compliance Institute now has over 3,300 members and we have continued ambitions to grow and provide much needed educational offerings to the industry. The Compliance Institute was also delighted to recently launch the Professional Diploma in Sustainable Finance for Compliance Professionals, a level 8 programme on the NFQ provided by the IOB and awarded by UCD. These educational programmes form a critical part of our financial services industry, and their importance will continue to grow with the evolving regulatory landscape.

The past twenty years have seen continuous evolution of the significance of Compliance as a profession from an individual being responsible for Compliance as a small part of their day to day role to dedicated roles forming an integral part of firms' leadership teams.

Compliance is now not only the responsibility of the Compliance profession and our membership base occupying Compliance positions. Arguably, this perception should never have existed and rightly Compliance now sits at the heart of our organisations including areas such as product creation governance and target market distribution. Compliance must be embedded within our organisations culture to ensure that customer/client focused outcomes are key to our operations.

As part of this cultural change, we know, Compliance is here to stay but the form can and will continue to change. Today we will hear from outstanding speakers and panellists, as they discuss a number of fundamental developments for our regulatory

environment and two specific focus areas for today the Individual Accountability Framework (IAF) and Environmental, Social and Governance (ESG) both neatly condensed into three letter acronyms. Both these areas of regulatory development have been a long time coming but certainly were needed post the Financial Crisis and will be positive developments. Credit must be given to both the Central Bank of Ireland and the government in delivering this legislation.

Firstly, the Individual Accountability Framework, commonly known as IAF. We believe, the IAF legislation will bring a continued evolution of the Fitness and Probity regime. The Bill published in July creates Ireland's comprehensive Senior Executive Accountability Regime (SEAR). This legislation will embed further positive cultural change across the financial services sector by introducing tiered accountability for managers charged with completing vital roles.

We would caution that the application of these new rules needs to be both workable and proportionate. The imbalance of information between a customer buying a financial product versus the organisation selling is a well known comparison. While it is imperative to protect consumers and the Financial Services Sector, employees regardless of seniority, are also entitled to the same level of protection, something which can sometimes be forgotten when this topic is debated.

There is clearly a need to hold directors and officials to a higher standard and ensure customer outcome focus is key, it is also a necessity that we do not lose high calibre individuals for fear of the personal liability associated with a senior executive position. This would not only be a detriment to the financial services sector but also those customers who we all strive to protect.

There are concerns that the implementation of the IAF regime will make it difficult for firms to recruit individuals into PCF roles. The recent Compliance Institute membership survey, *The Individual Accountability Framework - planning and preparing*



for increased accountability in financial services has highlighted that 84% of respondents believed that this indeed would be the case. One of the key areas of concern perhaps is the reasonable steps requirement to take account of all relevant circumstances in undertaking demonstrable steps.

I personally am of the belief that any concerns should be mitigated with IAF governance frameworks that firms will implement and the clear documentation of responsibilities of those occupying positions within the scope of the regime. Finally, and importantly through appropriate stakeholder engagement as to the expectations of these rules. I look forward to our panellists' thoughts on the IAF framework and how organisations can manage these challenges.

Another of our core themes today and for the financial services sector as a whole is the area of ESG. At a time when climate change and social injustice are headline news every day ESG remains in focus and certainly shows no signs of losing importance.

United Nations Secretary General Antonio Guterres made a number of significant remarks at the start of the COP27 summit in Egypt noting "Greenhouse gas emissions keep growing. Global temperatures keep rising. And our planet is fast approaching tipping points that will make climate chaos irreversible" and "today's crises cannot be an excuse for backsliding or greenwashing. If anything, they are a reason for greater urgency, stronger action, and effective accountability".

These comments, the changing regulatory environment, the ongoing focus by regulators, the expectation and intention for presidents, prime ministers, and CEOs to be held to account means it will remain a key focus for the financial services industry.

ESG like IAF is not limited to a focus area for just the Compliance Professionals but requires focus and ownership across our entire organisations. Our ESG panel discussion will include an overview of the future legislative changes, practical case studies to date, how firms are embedding best practice and the expected role of the Compliance Professional.

Today's speakers and panellists will share their views and perspectives on the themes of IAF, ESG, progression of a career in compliance and the ongoing need for Ethical decision making across these areas.

Please do enjoy the Compliance Institute's 2022 Conference, I know I will.

I will now hand over to Michael Kavanagh the CEO of the Compliance Institute who will be our MC for the day.

Thank you
Diarmuid Whyte

Remarks by Colm Kincaid – Director of Consumer Protection, Central Bank of Ireland

Good morning.

I wish to begin by congratulating the Compliance Institute on its 20th Anniversary and the contribution that the Institute and its members have made in that time to financial services in Ireland. I am honoured and grateful to have the opportunity to speak to you this morning.

I also want to commend the Compliance Institute for its choice of emphasis for today's event - 'setting the standard'. This topic is all the more important when we look at the changing environment in which consumers find themselves, and the special responsibility that places on financial service providers to support consumers to navigate that environment. We have moved from the swift and sudden impact of COVID-19, to energy cost driven inflation, rising prices and interest rates and market volatility, and all set of course against the backdrop of an already rapid (and increasing) pace of change through digitalisation and financial innovation.

It is against this backdrop that our annual assessment of the main risks facing financial service consumers is underway. Earlier this year, in our Consumer Protection Outlook Report, we set out our view of the key risks facing consumers and the actions we expect firms to take to identify, mitigate and manage these risks in their firms. Distilling down from over 145 risks identified in a sectoral risk assessment exercise, we identified five key cross-sectoral drivers of risk to consumers at this time:

- Poor business practices and weak business processes
- Ineffective disclosures to consumers
- The changing operational landscape
- Technology-driven risks to consumer protection
- The impact of shifting business models.

However, we were also conscious that in this changing environment, it was important to engage with a range of stakeholders to hear their perspectives and insights - and to be open to their views. We have therefore

undertaken an extensive engagement programme since we published the report, talking to a variety of organisations in both industry and civic society, including a session with the Compliance Institute. This has been a hugely valuable process, with significant new insights and views gathered in this fast-moving environment. We are now using the feedback provided to inform the risk assessment on which we will base our supervisory plan for the years ahead. It also informed our recently published Discussion Paper on the Review of the Consumer Protection Code, on which I will say more later.

What has come through loud and clear from every engagement is that having a strong, clear and appropriately calibrated framework of financial regulation is essential to ensuring the protection of the best interests of consumers and the stability of the financial system. Time and again we have had to resort to that framework to drive out the results that consumers (and the system) deserve, from the Tracker Mortgage Examination to removing harmful practices of differential pricing in the insurance market, to raising standards on structured retail investment products and ensuring the proper treatment of consumers facing the challenges presented by matters beyond their control, from Brexit to COVID-19 to the ongoing departure of two retail banks. We have also seen the contribution of the Central Bank's macroprudential mortgage measures to ensuring sustainable lending standards in the mortgage market as well as the importance of recalibrating those measures where necessary and appropriate to do so, as we did recently.

It is also clear to us in our daily supervisory work the extent to which the regulatory framework, while not perfect by any means, supports people in financial services to get things right for consumers; and here not least in the Trojan work that is done day-in-day-out by compliance staff and other individuals working in the industry. The framework we have introduced in Ireland has set high standards for people providing financial services, right through to the minimum competency requirements of individuals dealing with customers on



a day-to-day basis, and the benefits of those standards are there to be seen.

But for this framework of rules, and the interventions under that framework by the Central Bank such as those I have referred to, I do not believe financial services would have delivered as it has for consumers and the welfare of the people as a whole.

Arrears and Debt

To illustrate the importance of strong consumer protection frameworks, I want to say a few words on mortgage arrears - as it is an aspect of our work that is pertinent looking both backwards to lessons learned and forwards to the relevance of those lessons for the future.

Today we are publishing new information and data analysis looking specifically at long-term mortgage arrears¹, as we work to bring consumers out of the long shadow cast by the global financial crisis in 2008. For well over a decade now, this work has involved:

- designing a specific Code of Conduct on Mortgage Arrears over and above the minimum requirements of EU law, as well as recalibrating and enhancing that Code over time as the arrears situation evolved;
- interventions in our supervisory work to ensure that lenders² put the correct resources and processes in place to deal with the scale of mortgage arrears we faced in line with that Code; and
- working with government and other stakeholders to bring into existence a new insolvency regime overseen by the Insolvency Service of Ireland.

Through this work, from a peak of almost 143,000 arrears cases in June 2013³ we have seen this reduce over the years to approximately 46,000 in June 2022. This reduction was achieved during a period of economic recovery that facilitated borrowers in exiting arrears, supported by a range of sustainable solutions including agreed alternative repayment arrangements, mortgage to rent and personal insolvency arrangements.

Our data shows that the number of accounts in long term mortgage arrears (LTMA) continues to decline.⁴ In the twelve months to June 2022 we saw a further decrease of 12 per cent. For the first time since the Central Bank started its data collection on mortgage arrears, long term mortgage arrears have fallen below 25,000 accounts. This is the result of hard work by borrowers and firms to reduce this number, particularly over the last twelve months. It shows that by working together within a defined regulatory framework there can be solutions that work for both borrowers and firms, even in cases of borrowers with low affordability and arrears that have lasted for a number of years. The data also shows that there are borrowers who are making considerable efforts to engage with their firm, and make payments towards their mortgage. For these borrowers, we have seen a significant number move out of LTMA, either through implementation of an Alternative Repayment.

Arrangement (ARA), a settlement with their firm, or a repayment of some or all outstanding arrears which is reflected in the 12 per cent decrease I have mentioned.

But this progress is also the result of concerted and dogged supervisory engagement with lenders across the system. We should not believe that this progress would have been made without the regulatory framework we put in place or the level of supervisory focus we applied.

In a speech in 2021⁵, Deputy Governor Ed Sibley noted the progress that needed to (and could) be made by lenders to resolve long term mortgage arrears. He also remarked that full resolution of long term mortgage arrears cannot be delivered solely within the financial system, with lenders taking decisions on a commercial basis. Here too there has been improving engagement and increasing evidence of innovation in the type of insolvency solutions that are being agreed with creditors according to the Insolvency Service of Ireland (ISI)⁶. But it is also clear that more is needed to deal with those cases where a solution cannot be found through the engagement of lender and borrower (be that under the CCMA or the auspices of the ISI). The data we are publishing today shows that over half of

all LTMA accounts (53 per cent) made no repayment towards their mortgage over 2021 and 57 per cent of remaining LTMA accounts are classified by their lender as not cooperating⁷. Others have commented extensively on the necessity for improvements to the system of realising security in appropriate cases and the impact the current position is having on the cost and availability of credit in Ireland⁸. I will not repeat their commentary here. However, it would be foolhardy to think that mortgage arrears is simply an issue from the crisis of the past and fail to anticipate that we will need these frameworks in place also for the challenges of the future.

And there is still more that firms themselves can do to continue to enhance how they engage with borrowers and to go deeper into the suite of options available to reach an agreed resolution with a borrower⁹. We will continue to scrutinise lenders' progress against their plans and targets in the months and years to come.

Finally, to borrowers in or facing arrears on their mortgage (or indeed any loan), the message remains to engage with your lender (who has a regulatory obligation to support you in finding a solution, where possible) - and to seek out the support and advice of organisations such as MABS where you want help or independent advice to support you. This remains the case even if you are in deep arrears or have been in arrears for a prolonged period - lenders' regulatory obligations to engage constructively with you are not subject to any time constraints. Firms have sought to adapt their processes and approaches to seek to encourage borrower engagement. This has included offering video calls to discuss borrower circumstances, targeted engagement campaigns at particular groups of borrowers with similar characteristics, improvements to websites to assist borrowers find the information they may need, letters advising borrowers of potential solutions based on the repayments being made, and including testimonials and case studies in key letters to encourage borrower engagement.

This past decade or more, we have learned a lot about the impact arrears can have on borrowers and our society. This has included lessons about the importance of lenders having both responsible lending practices and effective arrangements in place to anticipate arrears cases and support borrowers seeking to resolve their arrears. I would say we have also learned about the role of regulation and the importance of having the right framework of rules in place to ensure the right outcomes. Properly learned, these lessons should stand us in good stead as we now head into a more challenging economic environment.

Review of the Consumer Protection Code

It is in recognition of the importance regulation plays in a time of change and the need for high standards in financial services that we decided to launch a review of the Consumer Protection Code. In choosing to do so by way of an open public Discussion Paper, we also recognise the complexity of this subject and the fact

that the Central Bank does not have all the answers. Nor is the Central Bank the authority on all aspects of protecting consumers of financial services.

We believe it is important to start the review with just such an open discussion, which will cover what can be described as three key strands of engagement. The first is Consumers' Best Interests and the role that regulation plays in finding the right balance between reducing risks to consumers and ensuring regulatory requirements do not restrict their freedom to choose the most appropriate provider or product for them or impose unnecessary costs. The second strand is Change and Innovation, and in particular how we balance the real benefits and risks it brings for consumers. As regulator, we want to enable the benefits of change and innovation for consumers and the economy as a whole, while ensuring the risks are managed and mitigated. The third strand is Availability and Choice, where we want to discuss the role of high quality regulation within an effectively functioning market - one where innovation benefits consumers, there is a transparency on the part of the firms and competition between product providers. This combined, we believe, best supports consumers to access and choose the financial products that best suit their needs.

The Discussion Paper is open for views until March 2023 and I would encourage you to share what views you have either through our online facility or our engagement programme. I hope many of you will make a submission to us, whether through your associations, your firms or on your own behalf. As the example of mortgage arrears illustrates, the rules we put in place for financial services are critical to achieving the society and economy that we want to have - to achieving the welfare of the people as a whole.

Concluding Remarks

My thanks once again to the Compliance Institute for the opportunity to speak to you today, and congratulations once again on 20 years of serving your members and our society. When we consider the extent to which our regulatory framework had to step in to deal with the fallout from the global financial crisis (the impact of which is still being felt by consumers to this day) alongside the challenges that lie ahead, I think the need to protect high standards in financial services has perhaps never been greater. And the role that you play as compliance officers has perhaps never been more important. The Central Bank will continue to support you in this work.

Thank you for your attention and all of the work you are doing as compliance officers in the financial services industry.



REFERENCES

- 1 Over one year in arrears
- 2 Includes banks, retail credit firms and credit servicing firms
- 3 Based on number of principal dwelling house (PDH) in mortgage arrears
- 4 For this to happen, arrears must be cleared or reduced to less than one year, which generally happens following the implementation of an ARA. In addition to ARAs, during 2021, arrears were cleared also through repayment by borrowers to bring them out of long term arrears, and through an agreed full and final settlement of the mortgage. Borrowers and firms also agreed wider system solutions, such as Mortgage-to-rent (MTR) and Personal Insolvency Arrangements (PIAs). These solutions are realistic alternatives available for those borrowers that are in negative equity or have significantly reduced income levels.
- 5 <https://www.centralbank.ie/news/article/speech-the-need-for-continued-focus-on-resolving-long-term-mortgage-arrears-ed-sibley-13-july-2021>
- 6 https://www.isi.gov.ie/en/ISI/ISI%20Strategic%20Plan%202022-2024_Final.pdf/Files/ISI%20Strategic%20Plan%202022-2024_Final.pdf
- 7 While the numbers of accounts that have been classified as not cooperating remains high, we know that there are accounts within this classification at various stages of engagement with their firm. There is a significant number in, or facing the legal process for potential repossession, but many in that process have commenced meaningful engagement with firms, or third parties to enable an assessment of their circumstances and a potential resolution to their arrears to be offered.
- 8 The IMF has stated that, “The issue of long-term mortgage arrears is complex and will require further development of an overall strategy, with multiple government bodies playing a role. While mortgage arrears are largely a legacy issue from the 2008 crisis, the failure to fully resolve these arrears has the potential to undermine credit growth and affordability, given the impact on credit risk of higher uncertainty of realizing collateral. A key hindrance to creditors’ rights remains the inability of financial institutions to predictably and efficiently enforce mortgage security on primary dwelling homes (PDH). While repossession is not the optimal solution for many borrowers, and resolution of the long-term mortgage arrears issues necessitates further engagement from both borrowers and lenders, a more efficient enforcement regime is also crucial to an effective creditors’ rights system. In that regard, enforcement should be streamlined and simplified. Recommendations to improve the process include clear rules and guidelines for judges with respect to proceedings and ensuring hearings take place in a timely manner (e.g., through more frequent court sessions). The courts should strengthen data collection and publication on repossession cases to allow policy makers to better understand and address bottlenecks, where they exist. More broadly, the Government should adopt a coordinated, multi-agency strategy for resolving mortgage arrears, informed by the granular data available on the financial situation and debt servicing capacity of borrowers. Published guidance on expected solutions based on financial indicators, and broader social support would be critical to this approach and possible strategy.” “While LTMA are largely a legacy issue from the crisis, failure to create a predictable, efficient system for mortgage resolution creates negative externalities for the financial system. The cost of mortgage credit in Ireland is significantly higher than that of its peers.” IMF Technical Note on Insolvency and Creditor Rights
- 9 Our data shows that at the end of 2021, 85 per cent of LTMA accounts were not restructured.

Paul O'Loughlin - Head of Financial Services Compliance at An Post

President White, Minister McGrath, Mr Kincaid, Ladies and Gentlemen, fellow Compliance Officers, Good Morning. My name is Paul O'Loughlin. I am the Head of Financial Services Compliance and Money Laundering Reporting Officer for An Post. I am honoured to be invited to speak with you today and to share my thoughts on the topic of Compliance - Setting the Standard. I'm going to approach this topic through the roles of the Compliance Officer and Compliance Function while considering what we can do to set the standard.

Some background to start. I have worked in the Financial Services industry for my entire career across both the public and private sector. I have experience in the first and second lines of defence. I have held regulatory roles in the Irish Stock Exchange and the Central Bank of Ireland. I have worked in the funds and payments industries. As I mentioned, I currently work for An Post where we provide a broad mix of financial

services products. I have worked with and encountered a colourful assortment of characters throughout my career. I have completed a number of complementary educational courses including the Professional Diploma in Compliance which I know many of you have also completed. My thoughts, which I share with you today, have been influenced by and evolved over time through these combined experiences.

As a Compliance Officer myself, as I have no doubt you will appreciate, I was keen to put some structure into today, so I will explore the theme of Compliance - Setting the standard by breaking it into three parts:

- The first part will focus on the role of the Compliance Officer and the key attributes and skills required,
- The second part will focus on the role and key attributes of the Compliance team and function.
- Finally I'll try to bring my thoughts together to address the central question of how or what role we can play in setting the standards and I'll try to look ahead also to some challenges and opportunities I see.

I am conscious that it is early in the morning, and we have a lot of material to engage with throughout the day so I will do my best to keep this light. To that end, I will try to include a couple of jokes, on the understanding that I'm speaking to an audience of eager Compliance officers, so I've every confidence you'll be able to identify them.

PART ONE - The Role of the Compliance Officer

There are many areas one could focus on here, but I'd like to start with the key characteristics and attributes of a Compliance Officer. I have always been fascinated with the array of skills required of a Compliance Officer. When you undertake any study in this area there is always an extensive list of skills and characteristics where the compliance officer is expected, at a minimum, to be competent in I have put together my own list over the years based on the different skills I have needed to draw on or have seen others draw on in order to be effective in their role.



As I was thinking ahead to today and to satisfy my own curiosity, I decided to break down my list into four parts and to see how some of the characteristics might cross over with people in other professions.

1. My initial search was for people with the following characteristics

- good listener and good communicator
- somebody who can absorb feedback and criticism AND learn from the experiences
- practical and pragmatic
- methodical and disciplined approach to make a decision
- crises management or emergency leadership; and
- charismatic and humble

My google search highlighted Barack Obama and Nelson Mandela as close matches.



2. My second search narrowed in on the following characteristics

- Focused,
- Resilient,
- Persistent,
- Bold,
- Determined; and
- Goal-focused.

Oprah Winfrey and Steve Jobs were the closest match for these attributes.



3. My third search was against the following

- Fearless
- Strategic

- Patient
- Attention to detail

This search highlighted a number of current and former US Supreme Court Justices.



4. My final search looked for people who are

- Resourceful
- Independent
- Motivated; and
- Perceptive

Interestingly, this was a match for James Bond.



The point I am trying to make here, and am perhaps labouring, is that the role of the Compliance Officer has really evolved and the sheer quantum of soft skills and characteristics expected is pitched very ambitiously.

By my reading we are expected to possess a skillset which is on a par with overall business leaders. A senior Compliance professional now is expected to have the attributes of a psychologist, a lecturer or educator, a police officer, a judge and a project manager all while having unquestionable integrity, leadership and communication skills, being comfortable challenging others even when unpopular and to be able to influence and negotiate as required.

And let's not forget, you must also be a subject matter expert across a broad array of rules and regulations.

Of course to be really successful and by successful i mean effective you also need to be an independent thinker with the ability to act and remain objective and possess the ability to react and respond to material new information.

When you have a person who is:

- part world leader,
- part supreme court justice,
- part media tycoon
- part tech visionary; and
- part secret agent you,

You really do have somebody very special indeed. This got me thinking of a couple of elements.

The First, does anybody really have all these characteristics and if they did would their chosen field be Compliance? It's an interesting question. The reality is that, as with all things in life, there is a balance to be found. Some people will have more of certain aspects and less of others. This is all perfectly fine, and even more so if it is coupled with self-awareness where you understand your strengths and weaknesses.

I've often wondered would it be easier to just hire an actor and ask them to play the part of a compliance officer rather than having to find somebody who naturally has all of these characteristics. [joke]

The Second point that came to mind is, do businesses really appreciate the level of talent they have at their disposal? and within their ranks throughout their Compliance functions? And if not, what can we do about that? I'm not sure all businesses do to be honest but I'll explore the point about what we can do about it later on.

What I will say however is that it was no surprise to me when the payments company Wirecard faced difficulties in 2020, that the board turned to their newly appointed Chief Compliance Officer to act as CEO to lead the business through the unfolding crises.

In my experience, Boards and Senior Management regularly turn to their Compliance Officer for their leadership during times of crises. As touched on above with the skillset we possess, why wouldn't they?

Part TWO - The Compliance Team

I'd like to touch on elements which I think are really important for individual roles and teams and important considerations when building a team! Assuming we have passed the first hurdle of having sufficient knowledge and relevant experience for the role the first thing I will look to try to understand is a person's temperament and to see how they will fit into the overall team.

Yes, individuals can achieve high performance but for me the essence of high performance is team work. Professionals, working together, to clear objectives,

supporting each other, empowering each other and focussed on constructive output for the benefit of their employer. This point stands also for collaboration with teams across the First, Second and Third Lines of Defence. As an added bonus, this also helps to drive and influence culture in organisations.

High performance is ultimately measured in output. By the quality, the effectiveness and the quantum of output. For a Compliance officer it's not enough for example to sit back and point out issues after the fact. The Central Bank already carries a credible threat of enforcement. The Compliance function can do so much more than simply mimicking this approach internally.

We don't have to wait until something goes wrong to get involved. We can, and I believe should, work with the business, from day one, to help guide them towards workable and practical solutions. We can do this while maintaining our independence. This can be a real value add and differentiating factor. Compliance teams have the expertise and knowledge of the business. We can be a very effective sounding board and through review and challenge for example can really help the business to put robust solutions and processes in place and help to drive and influence the overall culture of the business.

For me there are a number of key traits which bind all of this together and these are really important attributes to have in a Compliance Officer

- Humility
- Self-Awareness
- Resilience

When putting a team together these traits really stand out in people.

I think it is very healthy to have different types of characters in a team and people need to be empowered to challenge each other. Robust debate and respectful challenge should be a key part of any highly functioning team. For me I always enjoy debating an issue and I will be the first person to admit when I need to change my mind [OR ONE OF THE FIRST PEOPLE ANYWAY!]. Rather than see this as a weakness, I consider it a key strength. There is a famous quote which I can really relate to which goes something like - "*When The Facts Change, I Change My Mind. What Do You Do?*". I have always liked this line.

For the Compliance Officer, leading a team, I think it's critical to demonstrate authentic leadership through self-awareness and openness. You need to put trust in your team and you need to listen to your team. If you expect people to perform at a high standard in their roles you must provide them with clear objectives, you must empower them to meet those objectives and you must demonstrate trust throughout. Self-awareness allows a person to understand their strengths and weaknesses and to call on the right skills and attributes at the appropriate time and crucially to call for support for those weaker areas when needed.

I am a big believer in people having transferable skillsets. It has worked to my advantage in my career as I have moved from the regulatory side to the funds industry, to the payments industry and currently to payments and retail banking. What I have noticed with each move is that you bring the best bits with you from your former roles and you will always learn and pick up some new skills in your new role. Having experience in different teams, areas and companies can be of tremendous benefit in Compliance, as not only have you more experience but it definitely means you have a broader context and mental framework from which you can approach tasks and problems. And believe me, there will always be problems.

Having an awareness of the bigger picture is almost like a superpower, because not everybody does but when you do you'll have a greater understanding of the context in which you operate and as a consequence you will find decisions more informed and easier to make. This is particularly true in a crisis as you'll be able to identify which skills and attributes to draw on to navigate the best direction of travel.

Asking questions is key. Compliance officers need to ask questions, all the time, of ourselves, of our teams, of our colleagues, of our business leaders and of our industry peers. This should start in the initial job interview and should never stop. It is our job to understand what is going on and the only way to do this is to look under the hood, to challenge what we see, to ask questions and to reflect over these points using OUR experience and expertise to arrive at our conclusions and recommendations. This is but another example of how we can influence and drive culture in an organisation.

Part 3 - The Compliance Function – Setting the Standard

You really do need to look at the bigger picture. For any function within a company to set standards, FIRST they must understand the business in which they operate and they must understand the role that they play. If there are any barriers in place to success these should be identified and addressed.

I believe strongly that Compliance functions are starting to, and indeed are really required to, evolve their approach to be more strategically aligned with the goals of the business. It's not enough to simply demonstrate that you are across all of your obligations and that you have ticked off the items from the annual compliance plan. You need to really drill down into your understanding of the business, asking questions all the time, until you understand deeply the compliance risks facing the business and then to produce output which the business can leverage to improve existing processes or to implement new processes. If you look on the Central Bank's website or the FCA's website you will find a long list of enforcement cases where firms did not meet their regulatory obligations. Compliance has a key role to play in the future to reduce the

number of such instances. Understanding the business in which you operate is a prerequisite to being effective in this context.

But how do you ensure that the Compliance function is relevant to the business and how do we maintain this relevance? There is no easy answer here. In short you need to earn it. You have to start by asking or considering what does Compliance bring to the table? And why is that important? What value does it add? Compliance is able to bring lots of perspectives to any conversation.

But to be relevant you can't allow yourself to be limited by Compliance, particularly if you want Compliance to be at the leadership table and to maintain your seat there. That table is increasingly crowded these days. There is a natural way in for the Compliance Officer as a subject matter expert on important matters but you need to demonstrate a leadership ability beyond your traditional compliance world in order to be valued. Compliance professionals can bring objectivity and independence to the table and complement this with a challenge mind-set. ASKING questions of other areas of the business, drawing on our natural first principals approach to discussions, problem solving and decision making. We are uniquely placed to do this as we have a deep understanding of the businesses we represent and of the regulatory environment in which we operate.

As I draw to a conclusion, I'll try to address the question - what can we do to achieve such relevance and influence? And I'll make some suggestions [seven to be precise] about how compliance can set the standard.

1. Business Strategy

I believe, Compliance should seek to be involved in business strategy sessions and use our influence and expertise to ensure the strategy lines up to the companies vision, mission and values and is attainable within the confines of the organisations structures and behaviours. If there is no alignment here or if it is somewhat misaligned then we have a role to play to call this out and to seek to influence and change it.

2. By Demonstrating Leadership and Setting the Tone from the Top

Tone from the top or walking the talk is of crucial importance as messages make their way through each manager down through the heart of companies. If the Board, CEO and Senior Leadership team are not leading by the values of the company or are not "DOING AS THEY SAY" it can have a very negative cascading effect throughout the company.

The most influential person in your behaviour in a Company is your immediate line manager. That's the first place to look when culture goes wrong. It takes a wrong turn as it works its way through an organisation.

To play this out - when somebody does deviate from what they say it sends out a very bad example, even more so if it's not dealt with or seen to be addressed. What is the lesson here? Does this mean other people

can act in the same way? Ultimately this will have a negative impact on employees and customers.

We have a big responsibility to influence tone from the top and to play a leadership role here. Anybody at any level of a Compliance Function or organisation can show and demonstrate leadership.

3. Regulatory Engagement

In my opinion you can't have a conversation about Compliance setting the standard without talking about regulatory engagement. What is our role here? Should firms rely on legal teams to set their strategy when dealing with their regulator. We, as Compliance Officers, know our business and we have a very good understanding of and working relationship with the regulator. Where is our voice when setting regulatory engagement strategy in good times and in times of crises? It needs to be heard. But we can't sit back and politely wait to be asked either. We must find a way to add value here and to back ourselves and use our expertise. One of the ways to do this is to focus on building a proactive and positive working relationship with your Regulators. This does not have to be a one-way relationship either as both parties would enjoy and benefit from a no surprises open line of communication.

4. Embrace Technology

Always try to think ahead. Compliance roles will evolve too. Compliance functions should think about the expertise needed in the future to support technology driven solutions in business. Compliance functions should leverage technology also which will ultimately free up capacity and allow us to focus on our key mandate.

5. The Compliance Plan

The Annual Compliance plan can be utilised to support each of these points. Through this process the Compliance function allocates resources for the coming year. No Compliance Function has unlimited resources so this process must be very carefully managed and balanced. The output should be risk based but strategic also to ensure a balance between key operational aspects and delivering on a strategic vision for compliance management.

6. Environmental Social and Governance (ESG)

This is really interesting to me. we have a panel discussing this topic later this afternoon but who should support this area within a business? Is there a role for compliance here? Is there a danger that Compliance will be left to one side if we don't put our hands up? Is this one of the ways to stay relevant? What happens to the compliance voice if companies start to stand up second line ESG functions? Will this dilute our voice and role? Can we perhaps take on this responsibility? We know we have the skillset to do so. We need to think carefully on this as it is becoming such an important area for companies and will continue to be so.

And finally

7. Be Brave

Compliance professionals really should adopt the mentality of coming to work

- willing to challenge,
- willing to be challenged
- willing to have uncomfortable conversations,
- or if it comes to it to be prepared to make the ultimate sacrifice and resign their position.

This doesn't always mean looking for a fight but it does mean having a line in the sand which you will not cross. When something feels wrong, or uncomfortable, or unprincipled - Walk towards it, Not away from it. There are some principles which absolutely cannot be broken, and no job is valuable enough to justify breaking them. Compliance professionals should be willing to risk their position, Title and even work friendships for the sake of defending ethical decision making and values, for the sake of leading the right culture in an organisation.

Derville Rowland from the central bank has spoken in the past about the need to speak truth to power and not to be afraid to express the unpopular opinion. I'll add to this, and say how can you influence an ethical corporate culture, how can you set high standards, if you don't live the values yourself? Yes it is a very high standard but that is our job; it is what we signed up to do.

Thank you
Paul O'Loughlin

Thank you to Compliance Institute's 2022 Annual Conference Sponsors



Compliance Institute In the Media

Compliance Institute received media coverage and featured in the Irish Times both online and in print media articles, on the results of *The Individual Accountability Framework - planning and preparing for increased accountability in financial services* readiness survey report in conjunction with Mazars.

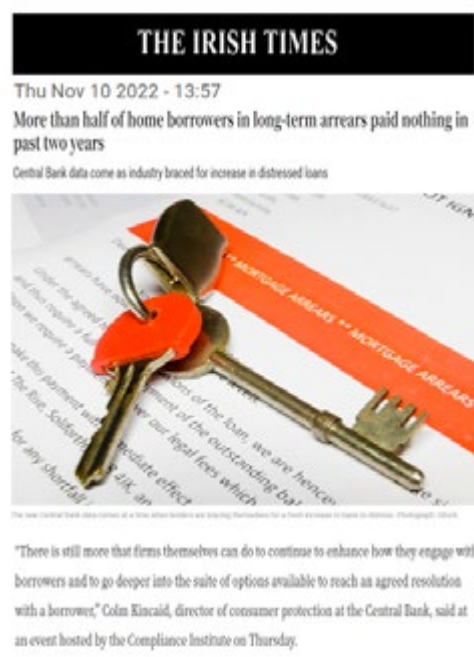
President of the Compliance Institute Diarmuid Whyte said at the annual conference that the “application of these new rules needs to be both workable and proportionate. The imbalance of information between a customer buying a financial product versus the organisation selling it is a well-known dichotomy. While it is imperative to protect consumers and the financial services sector, employees, regardless of seniority, are also entitled to the same level of protection - something which can sometimes be forgotten when this topic is debated.”

He added: “There is a clear need to hold directors and officials to a higher standard and ensure customer outcome focus is key. It is also a necessity that we do not lose high-calibre individuals for fear of the personal liability associated with a senior executive position. This would not only be a detriment to the financial services sector, but also those customers who we all strive to protect.”

84% of 160 compliance officers that took part in the Compliance Institute/Mazars survey said the incoming regime would make it hard for regulated firms to hire people into senior roles that fall under the scope of the rules.

Sharon Donnery, Central Bank Deputy Governor said: “We apply a risk-based approach to supervision, recognising that resources are finite, and our attention and supervisory effort must be focused on the greatest risks.”

89% of respondents said the introduction of the senior executive accountability regime would “bring about meaningful change” in the culture and behaviour of financial firms, and 76 per cent said it would result in “better outcomes” for consumers.



Further highlights from the Compliance Institute survey, *The Individual Accountability Framework - planning and preparing for increased accountability in financial services* revealed:

49% of respondents now have in place a formal IAF implementation project plan, a significant improvement on the equivalent percentage in March 2022 of 32%

76% noted that they believe IAF will result in financial services customers experiencing better customer outcomes.

Discussing the newly published Central Bank data at Compliance Institute’s Annual Conference, Colm Kincaid, Director of Consumer Protection at the Central Bank said “There is still more that firms themselves can do to continue to enhance how they engage with borrowers and to go deeper into the suite of options available to reach an agreed resolution with a borrower, it would be foolhardy to think that mortgage arrears is simply an issue from the crisis of the past and fail to anticipate that we will need these frameworks in place also for the challenges of the future.”

Details of all the Institute’s media coverage can be found on [compliance.ie](https://www.compliance.ie)

THE IRISH TIMES

Wed Nov 16 2022 - 19:15

Central Bank's Donnelly defends plans to hold individual executives accountable

Deputy governor says criticism of new rules misses the point of the proposals



Sharon Donnelly, Deputy Central Bank governor in charge of financial regulation, said that she plans to "transform" the bank's approach to regulation at the Financial Services and Markets Act 2019 (FSMA) Review.

Some 84 per cent of 160 compliance officers that took part in a recent Compliance Institute/Mazars survey said the incoming regime would make it hard for regulated firms to hire people into senior roles that fall under the scope of the rules.

However, 89 per cent of respondents to the survey, reported in The Irish Times on Monday, said the introduction of the senior executive accountability regime would "bring about meaningful change" in the culture and behaviour of financial firms, and 76 per cent said it would result in "better outcomes" for consumers.

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THE IRISH TIMES

Donnelly defends plans to hold individual executives accountable

JOE BRENNAN

Central Bank deputy governor Sharon Donnelly told finance executives yesterday that "concernation" in the industry about incoming rules to make it easier to hold senior executives to account for wrongdoing "misses the point", as the regime is designed to improve standards.

Speaking at Financial Services Ireland's annual dinner in Dublin, Ms Donnelly said the standards of conduct prescribed in the Central Bank (Individual Accountability Framework) Bill are "reasonable - for your customers, for your investors, for the Central Bank, and for society as a whole".

She continued: "Standards like acting honestly, fairly and professionally. Standards like

acting with skill, care and diligence. Not misleading a customer as to the advantage [or] disadvantage of a financial service and managing your business in a sound and prudent manner. These are not unreasonable standards to expect.

"Indeed, we believe they are standards to which most firms and individuals already hold themselves."

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However, 89 per cent of respondents to the survey, reported in The Irish Times on Monday, said the introduction of the

senior executive accountability regime would "bring about meaningful change" in the culture and behaviour of financial firms, and 76 per cent said it would result in "better outcomes" for consumers.

Ms Donnelly said the Central Bank would "engage widely" on the planned regime before it comes into operation. The Bill is currently going through the Oireachtas.

Ms Donnelly, who took over as the deputy governor in charge of financial regulation at the bank in July, said that one of her key priorities was to "transform" the bank's approach to regulation and supervision.

The bank would need to use "new and enhanced tools and approaches" to continue to supervise effectively, she added.

THE IRISH TIMES

Bankers need to embrace responsibility

There's a lot of doublespeak going on over the long-awaited introduction of a new personal responsibility regime for senior staff in financial services.

A survey of senior compliance officers operating in the Irish market yesterday warned proposed rules to make it easier for regulators to hold senior managers in banks and other financial firms accountable for failings under their watch would make it difficult for companies to recruit senior executives.

This view was held by more than half of respondents even though even bigger majorities agreed the introduction of the Central Bank (Individual Accountability Framework) Bill would bring about "meaningful change" and "better outcomes" for consumers.

A week earlier the president of the Compliance Institute said executives were entitled to the "same level of protection" as consumers and the financial services sector, warning that while there was "a clear need" to hold directors and officials to a higher standard "it is also a necessity that we do not lose high-calibre individuals for fear of the personal liability associated with a senior executive position".

Caution can only imagine that consumers would relish the same level of protection as senior bankers who have proven untouchable despite the recklessness of Celtic Tiger-era lending

that dragged the entire State into a period of unrivalled austerity and the subsequent tracker mortgage scandal when banks and their leaders had to be dragged very reluctantly to a reckoning.

Derville Rowland, the director general of financial conduct at the regulator, the Central Bank, put it very well some time ago, referring to a "very long list of global [financial service] misconduct scandals" that had eroded what was historically a very high level of trusts in banks.

Key cultural driver

"Internationally it is recognised that a lack of individual accountability is a key cultural driver of misconduct, prompting the [Swiss-based] Financial Stability Board to recommend that national authorities hold individuals accountable," she told an audience of financial professionals.

In moving to a regime of individual accountability, Ireland is simply following the example established in the UK, Australia and further afield.

It will be late next year before the new regime is up and running. Serving to ensnare only the reckless, the irresponsible and the criminal, it should be welcomed by bankers, not feared. It is long past due and it will, in any case, be a prerequisite to any lifting of restrictions on banker pay.

THE IRISH TIMES

Banker warn about accountability rules

JOE BRENNAN

Planned Irish laws to make it easier for regulators to hold senior managers in banks and other financial firms accountable for failings under their watch will make it difficult for companies to recruit senior executives, according to a survey of compliance officers.

Some 84 per cent of 160 compliance officers that took part in the Compliance Institute/Mazars survey said the incoming regime would make it hard for regulated firms to hire people into senior roles.

The rules are coming in at a time when the remaining three domestic banks in the market remain subject to crisis-era pay caps and bonus restrictions, which industry representatives say make it difficult for the banks to attract and retain staff.

However, 89 per cent of respondents to the survey said the introduction of the senior executive accountability regime would "bring about meaningful change" in the culture and behaviour of financial firms and 76 per cent it would result in "better outcomes" for consumers. The so-called Central Bank (Individual Accountability Framework) Bill to give rise to the regime was published in July and is currently in committee stage in the Oireachtas. The Bill proposes that executives "shall take any step that is reasonable in the circumstances" to avoid breaches of financial services rules in their areas of responsibility.

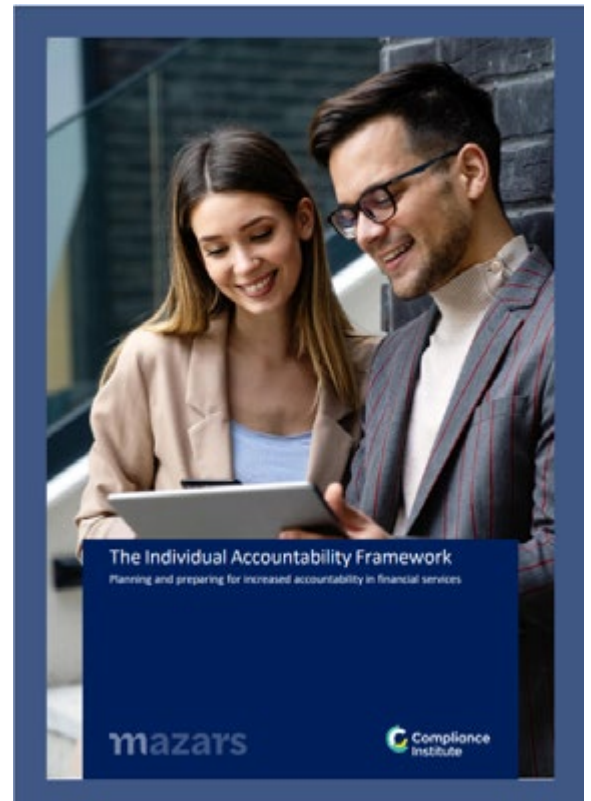
"Reasonable steps" This marks a tightening of language from the original outline of the planned laws, published in July last year, which stated individuals should "take reasonable steps". However, it does not go as far as a Central Bank proposal four years ago that executives should be required to take "all reasonable steps".

The Bill also gives greater clarity on how firms should engage with customers and how they must be able to demonstrate that customers are being provided with products and services that reflect their "needs and circumstances".

"Among the tsunami of forthcoming regulations that the compliance professional will have to deal with, the proposed [individual accountability framework] regime is one of the most significant," said Kian Caulwell, a partner in Mazars.

IAF Survey Results

In November 2022, we were delighted to publish, in conjunction with Mazars, a follow-up to our first Individual Accountability Framework (IAF) readiness survey report which was issued in March 2022. Our November 2022 report *The Individual Accountability Framework - planning and preparing for increased accountability in financial services*, is based on a survey of 160 Compliance Institute members with responsibility for compliance in a wide range of financial services organisations throughout the country. As borne out by the results, the Compliance function will be primarily tasked with implementing the regime within affected firms.



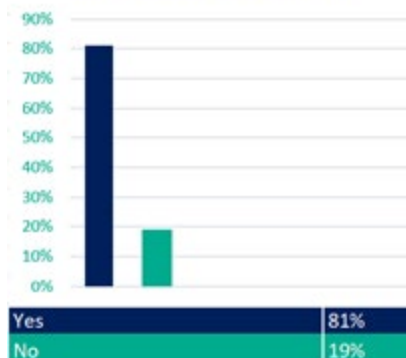
“ Among the tsunami of forthcoming regulations that the compliance professional will have to deal with, the proposed IAF regime is one of the most significant.

It remains an area of key focus for the Compliance Institute as we continue to assess and report on the challenges and impacts that implementing the new regime will have for our members. It was with this in mind that we felt it would be beneficial to follow up on our initial survey and indeed expand on it as new challenges become known”

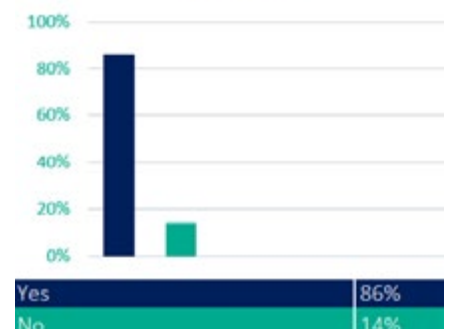
Where you noted above that your Firm HAS established an IAF implementation plan, do you have knowledge of the contents and actions documented in the IAF implementation plan?



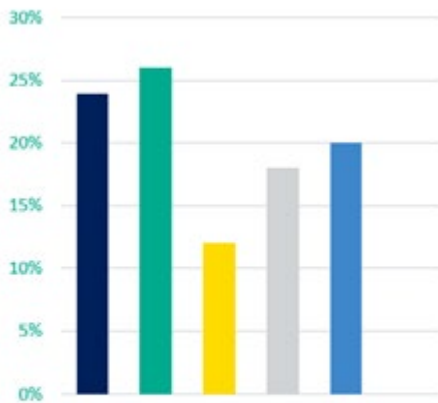
Do you think the IAF requirements will lead to financial services professionals becoming more risk averse in their decision making?



Do you think that there is an increased personal risk for individuals taking a PCF (or Senior Executive Function) role in the future as a direct consequences of the IAF requirements?

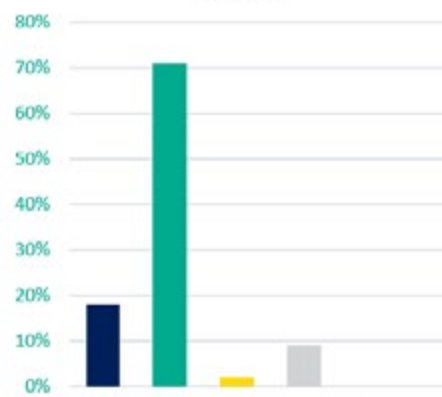


What type of firm do you work in?



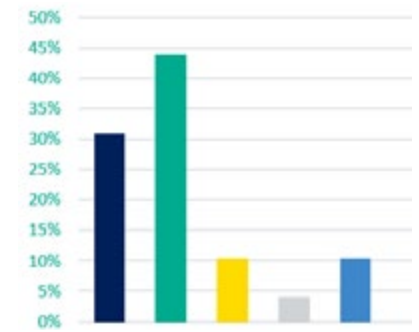
Credit Institution	24%
Insurance Firm	26%
Intermediary	12%
Investment Firm	18%
Other	20%

What section of your firm do you work in?



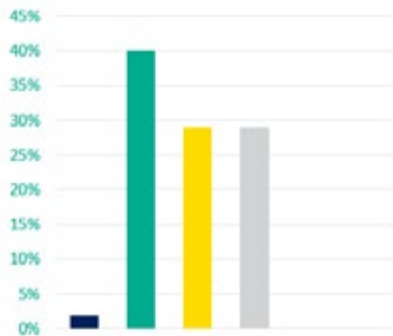
1st Line of Defense	18%
2nd Line of Defense	71%
Board Member (i.e. Non-Executive Director)	2%
Other	9%

Where your firm has established a formal project, who is the sponsor of the project?



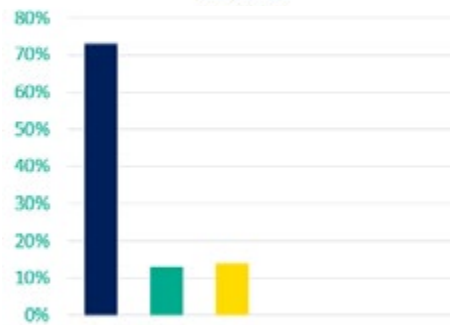
Chief Executive Officer	31%
Chief Compliance Officer	44%
Chief Risk Officer	10.5%
Chief Operating Officer	4%
Head of Human Resources	10.5%

What best describes your role in your firm?



Non Executive Director	2%
Executive Senior Manager, Pre-Approval Controlled Functions (PCF)	40%
Manager, Controlled Function (CF)	29%
Other	29%

Has your Board and/or Executive Committee considered the impact of SEAR/IAF in the past 12 months?



Yes	73%
No	13%
Do Not Know	14%

Do you think the IAF requirements will impact overall business performance?



Yes, it will have a negative impact on business performance	20%
Yes, it will have a positive impact on business performance	40%
No, I don't believe that it will impact business performance	40%

Do you think the implementation of the IAF requirements will make it more difficult for impacted firms to recruit individuals into PCF (or Senior Executive Function) roles?



A lot more difficult	50%
A little more difficult	34%
No	16%

Do you think the implementation of the IAF requirements will result in financial services customers (i.e. corporate and retail) experiencing better customer outcomes?



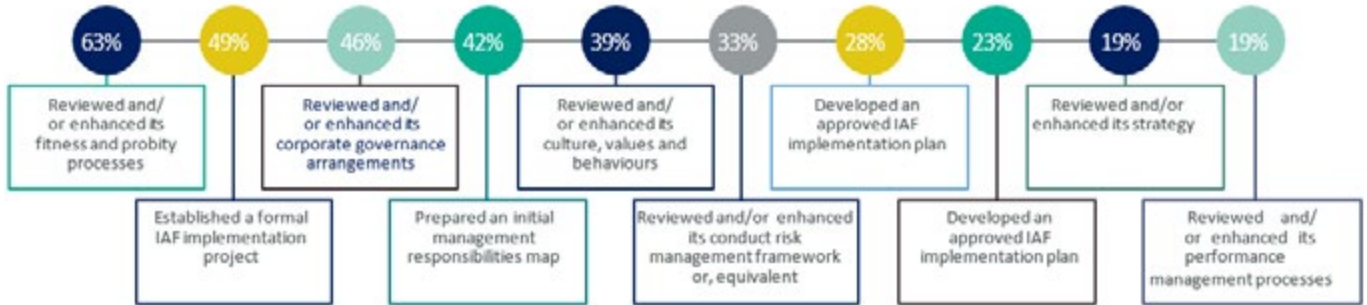
Yes, significant improvement in customer outcomes	26%
Yes, minor improvement in customer outcomes	50%
No	24%

Do you think the IAF requirements will bring about meaningful positive change in culture and behaviours in the financial services industry?

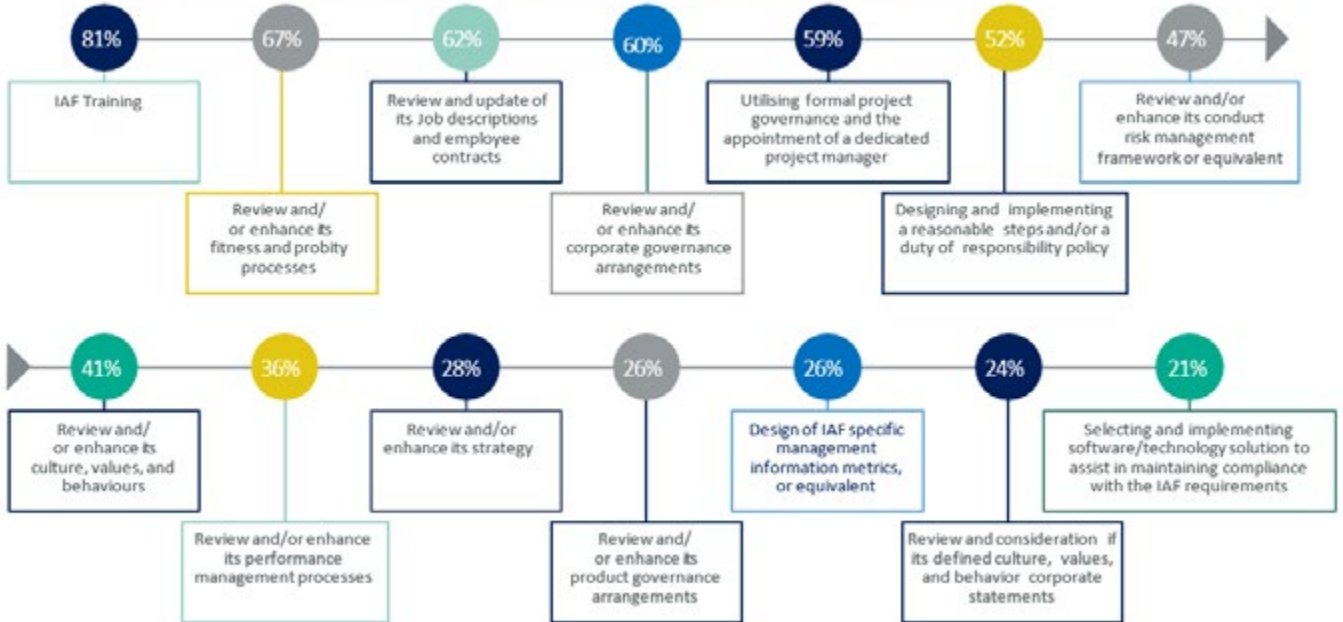


Yes, significant change	39%
Yes, minor change	50%
No	11%

What steps/actions has your firm taken in preparation for the IAF?



What are the key activities/actions documented in your IAF implementation plan?



What aspects of the IAF requirements would you value greater clarity with respect to regulatory expectations and/or what good practice looks like?



The Individual Accountability Framework (“IAF”) and the role of the Independent Non-Executive Director (“INED”)

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Partner & Head of Consulting, KPMG.



With the publication of the Central Bank (Individual Accountability Framework) Bill 2022 in July this year (“the 2022 Bill”), and the increased focus of the Central Bank on institutional culture, the role of INEDs in providing oversight and challenge of firms and their boards will become even more critical, as the IAF seeks to drive cultural change in Regulated Financial Services Providers (“RFSPs”).

INEDs are Pre-Approval Control Functions (“PCFs”) under the current Fitness and Probity Regime and will be brought into scope of the Senior Executive Accountability Regime (“SEAR”) as Senior Executive Functions (“SEFs”). This enhanced role brings both challenges and opportunities for INEDs. First, they will be individually accountable for discharging a legal “duty of responsibility” to comply with the Conduct Standards under the IAF. Second, INEDs will need to consider how they oversee and challenge RFSPs both during IAF implementation and in the business-as-usual environment.

The key points for INEDs to consider in the context of the IAF are described below.

1. Culture

The implementation of the Senior Manager and Certification Regime (“SMCR”) in the UK succeeded in driving cultural change in financial services institutions. Both the Prudential Regulation Authority¹ and the Financial Conduct Authority² conducted surveys and reviews which stated that financial institutions had noted positive changes in behaviours and a cultural shift because of the SMCR.

The role of INEDs and Boards in driving a culture of integrity and openness is already captured in the UK Corporate Governance Code. In addition, The Institute of Directors has also developed a Director Competency Framework which includes the high expectations of leaders to develop an organisational culture that is

value based and aligned to the overall strategy of the organisation.

INEDs should now be prepared to focus on fostering and encouraging a positive cultural agenda. This includes driving the right “Tone from the Top”, promoting, and setting an example for diverse thinking and inclusive behaviours within the organisation and challenging those aspects that are not currently best practice. This will then support successful implementation of the IAF, including the behavioural shift required.

2. Collective Versus Individual Decision Making

INEDs occupying the SEF roles under the SEAR will be individually accountable for the decisions that they make and therefore subject to the applicable sanction in the event of any regulatory breach. However, the Central Bank has reinforced that the IAF does not seek to remove the framework of collective decision making. The 2022 Bill clearly notes that, under the Common Conduct Standards (which will also apply to INEDs), in-scope individuals must act *“with due skill, care and diligence, including [...] acting appropriately in any decision-making, including collective decision making, ensuring decisions are properly informed and exercising sound judgement”*.

Within the UK, the FCA has been explicit that an INED is neither required or expected to assume executive responsibilities and views the application of the SMCR as consistent with the principle of collective decision making. The PRA has also spoken directly to these concerns noting that the expectations of firms and individual requirements should be viewed as being “complementary”.³

The INED response will evolve as the legislation comes into effect, INEDs must be mindful of the potential consequences and the need for a robust “reasonable



steps” framework to evidence how decisions are made and that the relevant Conduct Standards are being implemented.

3. Role of Chairs

INEDs occupying Chair roles on both Boards and Committees will face increased responsibilities and therefore will need to consider how this will affect the execution of the Chair role and running of the committees.

Key considerations for such INEDs therefore will include:

- Ensuring that the Board or Committee meets with sufficient frequency
- Ensuring that the Terms of Reference accurately reflect the functions of the Committee
- Fostering open and inclusive discussion which challenges executives
- Facilitating participation and contribution from all Board or Committee members
- Ensuring that the forums and their members have the information necessary for their tasks
- Reporting to the main Board on the Committees activities
- Assessing the collective performance of the forum and/or the individual performance of its members
- Safeguarding the independence of the committee, where appropriate
- Facilitating the running of the Board or Committee, to assist it in providing oversight of the executive
- Ensuring that the Board or Committee devotes sufficient time and attention on the matters within its remit

4. Role of the Board

IAF will require RFSPs to have a robust and clear Internal Control Framework (“ICF”) with accountabilities and responsibilities clearly defined. Boards must ensure that the ICF is robust by

challenging the executive appropriately. They are likely to require a clear combined assurance statement on the effectiveness of the ICF to satisfy themselves that internal controls are operating effectively, and ensuring that firms have established appropriate structures and resources to support this.

There is also a requirement for INEDs to challenge executives on the implementation of the IAF, ensuring that it both leverages the existing ICF and also incorporates any enhancements that may be required.

5. Director & Officers (“D&O”) Insurance & Indemnities

INEDs must consider how an ‘Insured Person’ is defined within current Directors’ and Officers’ (“D&O”) insurance policies to confirm their coverage. Additionally, the indemnities, financial thresholds and aggregate limits under the current D&O policies should also be reviewed as they may need to be revised. It is crucial that INEDs have a full understanding of what exactly is covered by the relevant policies and what is excluded in the event a claim is made.

Employment contracts may also need to be reviewed to include a personal indemnity for breach of conduct standards and this should dovetail with cover in the D&O policy to ensure there are no gaps in cover should a breach arise.

Finally, INEDs must determine whether there are any gaps in cover between professional indemnity (“PI”) and D&O policies. To the extent that an investigation of those in SEF roles concerns the provision of professional services, this may be outside the scope of D&O and will need to be considered under Professional Indemnity policies.

6. Remuneration

The impact of the SEAR on remuneration has yet to be fully determined. In other jurisdictions, regulators



have adjusted remuneration regimes to align to the individual accountability provisions to incentivise and encourage the required behaviours.

- The UK approach to remuneration is codified in the FCA’s Remuneration Code which operates deferral and clawback mechanisms for Senior Managers and Certified functions under the SMCR
- The Australian regulator has also focussed on remuneration when implementing its accountability provisions under the Banking Executive Accountability Regime (“BEAR”)

Therefore, in addition to any pre-existing regulatory requirements on remuneration, INEDs and firms should also be mindful of the potential impact of the IAF on remuneration.

How can INEDs Challenge Firms Effectively?

INEDs must critically appraise their role as independent advisors in the context of the IAF implementation. Outlined below are the high-level themes on which INEDs should challenge their boards and senior executives to ensure effective implementation:

- Driving the required cultural agenda
- Ensuring that Governance Structures are appropriate and support SEFs under the SEAR
- Defining responsibilities and accountabilities of Senior Executive Functions as well as associated Management Information and Reporting

- Legal considerations such as indemnities, insurance and legal support for Senior Executive Functions and review of contracts to ensure compliance with the Conduct Standards.
- Establishing a Certification Regime to annually assess the in-scope population as fit and proper and at certain trigger events and ensuring Human Resources engagement throughout
- Aligning Performance, remuneration and breaches of Conduct Standards with the Certification Regime
- Technology changes required to support ongoing compliance with the IAF
- communication between all three line of defence functions throughout IAF implementation and beyond
- Operating model changes and associated costs arising from the introduction of the legislation to ensure effective implementation in BAU

The IAF provides both challenges and opportunities for INEDs, both in respect of their individual accountabilities under the SEAR and their oversight and challenge of RFSPs. INEDs should prepare now and consider the key themes identified above, to drive the required cultural changes and ensure successful transition of the IAF from implementation into the business-as-usual environment.

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- 2 Financial Conduct Authority, “Senior Managers and Certification Regime Banking Stocktake Report”, August 2019
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Early Career Awards

The 2022 Lincoln Irish Early Career Awards took place on the 28th September 2022 in the Guinness Storehouse.

The Lincoln Irish Early Career Awards celebrates excellence and recognises the achievements of young professionals in Ireland, and ultimately, rewards innovation, best practice and outstanding achievement across a broad range of sectors.

The awards night provides an important opportunity to recognise and showcase young professional stars as they progress on their career journey. This year's awards had 15 individual and 1 employer category up for nomination.



Following on from the night we interviewed the winner of the Compliance & Risk Professional of the year category, Seanan Ryan, Whitehorse Insurance and nominees, Niamh Hall, Matheson and Peter Carberry, Huawei. This is an award to recognise a professional working in Risk or Compliance who has demonstrated key professional achievements, abilities and aptitude in this arena.

Seanan Ryan, Head of Compliance, White Horse Insurance Winner of Compliance & Risk Professional of the Year



1. Please give a brief overview of your career to date

I've always worked in some shape or form of regulatory compliance with experience as a regulator in the CBI, a regulatory advisory capacity in Deloitte and in practice in Industry - thankfully I've had the opportunity to progress professionally and personally in my career across these areas!

2. What do you love about your job?

There is always an answer to find!

3. What is the best career decision you have ever made?

Taking on a Head of Compliance PCF position, it gives you the opportunity to lead and shape the approach to compliance within an organisation! I have a lot of autonomy, but also a lot of responsibility - which is challenging but definitely the best career decision I have made!

4. What motivates you and/or incentivises you when you have a goal?

The end line - in compliance generally it means figuring something out to support the business or navigating the regulatory framework and finding that path (and hopefully showing others the way!) is in the incentive

5. What has helped you get to where you are?

Putting myself into positions where I am out of my comfort zone and learning to accept imposter syndrome! I've also been fortunate enough to be part of great teams and have had strong leadership and support throughout my career

6. What are some things that you currently do that contribute to your productivity, happiness and success?

It's simple, but I write a list every evening when I finish work to maintain productivity, crossing off what I've done and prioritising what I need to do! It helps keep

me focused and gets me back on track when something urgent comes up! As for happiness and success, I don't quite know yet - but I keep it simple and (try!) to stay as relaxed and methodical as possible in most things I do!

7. What is the biggest factor that has helped you be successful?

I'm not sure I am - just yet, but we'll keep on trying!

8. Who is your career role model and why?

I don't think I have one role model; I have learned from many successful people around me and have constantly paid attention to their style and habits! I've tried to adapt and build on those characteristics that mean the most to me and shape them into my own style and approach!

9. How do you continue to grow and develop?

Constantly learning, reading and throwing myself in at the deep end - In my day-to-day role or more formally through webinars and formal education as a member of the compliance institute!

10. Where do you see yourself in 5 years' time?

Who knows - maybe on the cover of the ICQ!

Niamh Hall, Senior Business Acceptance Manager, Matheson



1. Please give a brief overview of your career to date

I began my career working as a Bank Official in AIB. I was also starting The Honorable Society of Kings Inns' two year Barrister-at-Law degree course. I found myself increasingly interested in financial crime and after graduating from the Inns I moved to the AML/KYC team in Deutsche Bank in Dublin. This is where I gained exposure to financial crime and compliance on a global scale. I was surrounded by so many experts in their field who, in addition to being fantastic leaders, helped me to develop my knowledge of risk, compliance and operational management. In 2019 I joined Matheson, specialising in AML compliance. I now lead Matheson's Business Acceptance Team while also advising the firm on updates to financial crime related legislation as part of the in-house counsel's legal team.

2. What do you love about your job?

My days are varied and challenging which adds an element of excitement to every day. I work with professionals that I learn so much from and that give me opportunities to grow. I work for a company who values their employees and invests in their continuous development. The flexibility offered is another great perk of the job. I'm currently working from Spain this week with my family including my two daughters who are on their mid-term break.

3. What is the best career decision you have ever made?

The best career decision I made was moving back into legal services. I'm now involved in reviewing the legislative developments behind our policies and advising the firm as to the changes on the horizon. I've also had exposure to the legal work required in other areas of risk and compliance and seeing how all of the pieces fit together to ensure overall compliance with the various regulatory obligations of a law firm.

4. What motivates you and/or incentivises you when you have a goal?

I like to leave something in a better position than it was in when I started. That being said, I generally end up with many goals and projects. Nothing motivates me like a tight deadline so I generally break my larger tasks up into much smaller sprints, each with their own tight deadline, to keep me on my toes.

5. What has helped you get to where you are?

I'm constantly looking at what the people around me are doing and, more importantly, why they're doing it. The level of understanding why something is being done a particular way might not be relevant right at that moment but that bit of context is, more often than not, incredibly helpful months down the line when looking for innovative ideas to mitigate a particular risk. Being strategically minded is something that, I believe, everyone should learn.

6. What are some things that you currently do that contribute to your productivity, happiness and success?

In our wider team, we like to celebrate the small wins. Sometimes this means a celebratory lunch and other times it means 30 minutes eating pastries together discussing An Cailín Ciúin and/or various conspiracy theories that we find amusing. On a personal level, I really enjoy doing the morning school run. Seeing my girls off at the school gate helps me feel like I can have both a family and a career.

7. What is the biggest factor that has helped you be successful?

An inquisitive mind-set. I touched on this earlier but there is a lot to be said for strategic thinking. The team I work in also has great leaders that encourage me to bring my ideas to fruition and take ownership of my projects. I also never shy away from a challenge. I always tell my girls that feeling nervous is your body's way of letting you know you're being really brave. I hope

I never get to a point in my career where nothing makes me nervous!

8. Who is your career role model and why?

I'm probably right in thinking that my career role model wouldn't like to be identified in this piece, although they are probably very easily identifiable to those who know me. They are a fantastic lawyer, not afraid to ask the difficult questions, never settle for less than perfection, gives 110% and expects the same in return but also never fails to jump in to provide support when needed and makes a point to provide a stage for others to show off their successes.

9. How do you continue to grow and develop?

I look for opportunities to learn. Compliance at the minute, especially financial crime compliance, is constantly progressing. Staying on top of what is coming down the line and foreseeing how we will adapt to various changes, challenges and world events is critical to my role and my development. I ensure I make time in my schedule to read articles and updates and I encourage my team to do the same.

10. Where do you see yourself in 5 years' time?

In a couple of months, 2019 will be four years ago so, to me, five years isn't a long time. In five years I would like to still be surrounded by a fantastic team that "get" me and any reference I may or may not make to "Pinky and the Brain" in response to this particular question. I will still be celebrating the small wins, debating whether birds are real (look it up if you don't know, you won't be disappointed) and growing my career in the process. The quote "strive not to be a success, but rather to be of value" was on the wall of a communal space I worked in and I think of it often. In five years' time I hope I'm still adding value to my career and I hope that value is the key to my success



Peter Carberry, Compliance Specialist, Huawei



1. Please give a brief overview of your career to date

I entered the compliance world in a roundabout way. At the beginning of 2020 I was studying for a Master's at Peking University. While visiting home for a two week period, the pandemic broke out and I found myself back in Ireland permanently and in need of a new direction. Not long after, I joined Huawei Ireland as a Graduate Compliance specialist. From early on I found my niche in personal data protection and pursued the IAPP certifications. One year after joining the company, I became responsible for implementing the privacy programmes of the company's operations in five countries in Western Europe.

2. What do you love about your job?

In a large organisation with multiple business lines as well as a major R&D set-up, the nature of the risks we encounter are broad and constantly changing. The most rewarding part of this is getting to touch all of the different parts of the business and tailoring solutions to their various needs. Supporting the cloud business one day and giving advice on AI R&D project the next keeps me on my toes.

3. What is the best career decision you have ever made?

Knocking on the door and asking for the opportunity. In performing your role, it is important to reflect, deliberate, and consider all consequences. But, when an opportunity arises, there may not be time to hesitate. Seeing an opportunity in the company and making my own case for taking it landed me in a role which I was otherwise not being considered for.

4. What motivates you and/or incentivises you when you have a goal?

I get great satisfaction from achieving something for the team. In the same way that I am regularly impressed by or grateful for the shifts I see my colleagues putting in, I really appreciate the recognition that I have done the same and contributed to something bigger.

5. What has helped you get to where you are?

I have found that skills that are not necessarily part of the job description have served me well. I found an opportunity in compliance through having learned a new language. Then, while compliance was the name of the game, the nature of the role quickly exposed me to the broad scope of a multinational like Huawei, both on the business and technology sides.

Even when the conversation drifts away from compliance, the rabbit holes you go down learning about how other business departments operate, you always gain a new insight into policies and processes which allows you to better support the business in a compliance capacity. While we are usually looking at things through the lens of compliance, looking at compliance itself through another lens can be equally valuable.

6. What are some things that you currently do that contribute to your productivity, happiness and success?

Exercise is important to me and the periods when I'm most active are typically the times when I am the most productive. Accepting that I am not an elite athlete, nor do I need to be has given me a new sense of motivation to get moving and there's no better way to clear my head. Sometimes lifting heavy can take some weight off your shoulders.

7. What is the biggest factor that has helped you be successful?

I always strive to communicate effectively and when I accomplish that the effects are obvious. In large and complex organisations, roles are often incredibly specialised and as a compliance professional it can be a challenge to get on the same page with your colleagues. Communicating your requirements in a way that is digestible to someone specialised in an area of an entirely different nature requires a skillset entirely separate from what you may consider your 'professional'. Recognising this has a compounding

benefit the more you engage with colleagues on different projects.

8. Who is your career role model and why?

My career role model is a colleague called Rupa Pattni, the privacy lead for Huawei UK. Rupa and I joined the company at the same time, but at different stages in our careers. While she has sharpened my knowledge on both privacy law and privacy operations, the biggest influence she has had on me is what she has taught me about communication. In any compliance role, obtaining buy-in both from leadership and your frontline colleagues is one of the greatest challenges and once achieved one of your greatest assets. From working with her I have learned how to better sell compliance to stakeholders as something which adds value to them, rather than seeming like an administrative chore.

9. How do you continue to grow and develop?

Within my company, a lot of resources are geared towards learning and professional development. At the same time, I am always keeping an eye on external opportunities to expand my knowledge, whether through courses, events, or engaging with the privacy and compliance communities here in Ireland. Overall, I find interpersonal engagements to be the most useful. I can open a book or article any time and gain some knowledge, but I find talking to the right people with the right experience allows you not only to gain knowledge, but to actually develop your own vision.

10. Where do you see yourself in 5 years' time?

As part of the conversation. We are lucky that in Ireland we are involved in EU regulation, which in many areas is leading the way globally. At the moment, the spheres of compliance and technology are becoming more and more intertwined with machine learning, IoT, blockchain, and cloud computing all expanding rapidly. Of course, as we saw with the GDPR, sweeping regulations are often open to broad interpretation and as I have learned from several of my colleagues in the Compliance Institute there is not always a single solution. I would love to be involved in embedding principles such as transparency and fairness into the development lifecycle of technologies, going beyond satisfying the wording of legal obligations to actually produce better material impacts for people. As almost all of us are now online every day, I hope that in five years the world will have moved past technologies which tick the right boxes in terms of appearing to offer choice and transparency but implement dark patterns to achieve their intended outcome regardless.



Quo Vadis Transparency Principle?



Author: Gonzalo Caro, Associate DPO at Meta Platforms Ireland Limited and member of the Data Protection & Information Security Working Group.

The views expressed in this article do not reflect the views of Meta – these are my own personal views as a professional in the area of data protection.

Transparency. One of the key principles of contemporary data protection and privacy. Enshrined in the GDPR’s Article 5¹ and likewise present across several other regulations and frameworks across the globe. Historically speaking, one of the first references to the principle, within the context of information technology, appeared in the OECD privacy guidelines² from 1980, although it was called the *openness principle* back then. Either way, the principle of Transparency is certainly one of the pillars which modern data protection and privacy rests upon, particularly in a European context.

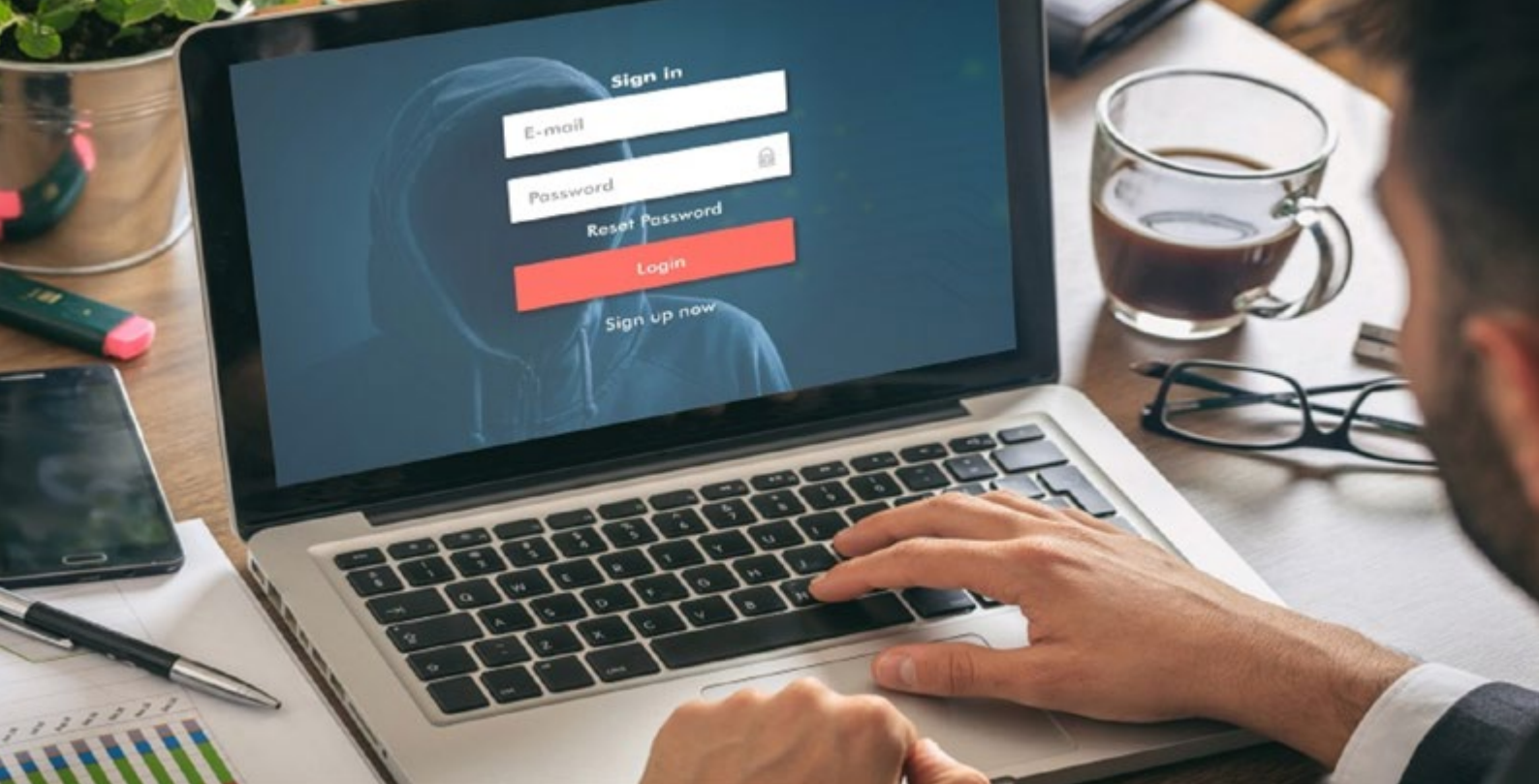
Do we really know how we should think about the principle of Transparency when embedding it in products and services?

From a GDPR standpoint, it is worth noting that the principle of Transparency is not explicitly defined in the text, leaving aside some references on Recital 58³. On the other hand, we did obtain a series of guidelines⁴ from the Working Party 29 (the historical predecessor to the European Data Protection Board “WP29”) on the interpretation of Transparency, paying close attention to Article 12. These guidelines were originally issued in 2017 and revised in 2018. Please allow me to share a quote from this text which I believe is very relevant as we aim to come to terms with the ultimate purpose of the principle in question:

“ Transparency, when adhered to by data controllers, empowers data subjects to hold data controllers and processors accountable and to exercise control over their personal data by, for example, providing or withdrawing informed consent and actioning their data subject rights. The concept of transparency in the GDPR is user-centric rather than legalistic and is realised by way of specific practical requirements on data controllers and processors in a number of articles.”

While the spirit of the guidelines seems to indicate that Transparency experiences should be user-centric; as a professional in the field of data protection, I would struggle to affirm that users of products and services feel at the centre of Transparency-related experiences, for example, when reading Privacy Notices.

No discussion, however brief, about the principle of Transparency would be complete without reference to the GDPR’s Article 12⁵, itself subject to a detailed breakdown in the aforementioned WP29 guidelines. Let’s remember that Article 12 sets out the rules applicable to the provision of information such as *“it must be concise, transparent, intelligible and easily accessible [...] clear and plain language must be used [...]”*.



We could spend time further dissecting these guidelines and what the GDPR outlines on Transparency; however, I suggest we look more into the practicalities of Transparency-related experiences today.

Privacy Notices, Privacy Notices Everywhere

Looking into the practicalities of how Transparency is translated into data subject or users' experiences, we first come across the Privacy Notices or Statements. In some cases, it would appear that the Notices are everything some controllers offer in terms of Transparency. However, Privacy Notices are tools. Useful for some purposes but not for all. Several companies have learned through research that users and many data subjects have mixed levels of interaction with Privacy Notices. Indeed, there are users across different products and services openly admitting to the fact they never read them. In fact, many of us surely know that cases of these *anti-notices-readers* within our friends and family circles.

One might argue that notices are not necessarily designed with the data subjects in mind but instead, they are created to appeal to regulatory requirements. As static pieces of information, they are undoubtedly fit for regulatory analysis. Yet they often struggle in being relevant to the data subjects they claim to serve.

It has been extensively discussed how difficult understanding privacy statements and policies can be. The 2019 Privacy Project⁶, commissioned by the New York Times, concluded that there are privacy policies that exceed college reading level and some organisations come close to the readability level required to understand Immanuel Kant's *Critique of Pure Reason*. I am not sure how many of you have read this book; I had the pleasure of doing so back in my days as a student in philosophy and intelligibility or conciseness are not terms that would come to mind when describing it. Certainly, I do not know whether

Immanuel Kant himself considered his readers *average members of the intended audience* as the WP29 guidelines state.

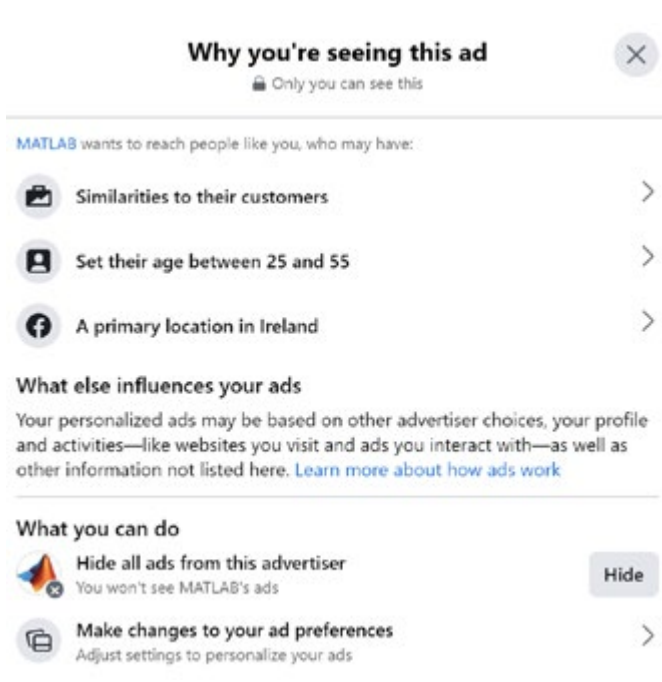
Beyond Privacy Notices

Switching gears on Transparency-related experiences and moving away from Notices for now, we should acknowledge there are many other more or less innovative approaches such as the now ubiquitous layered notices, audio visuals and even cartoon-like stories explaining the processing of the data. This information is presented along with controls on how users can determine in a more sophisticated manner how they wish their experience to be when using the product or service in question. This seems to be improving the overall experience of the users and closer to the idea of user-centricity the WP29 suggested.

The journey of Transparency is one that needs to balance regulatory requirements with understanding users' experiences and design methods. This is an area where the Privacy professional meets the User Experience (UX) designer and together, they can build innovative operational compliance solutions.

For example, the Privacy Center⁷ launched by Meta presents contents in plain language for users to educate themselves and understand the mechanisms behind data processing. I encourage those of you using Meta products to visit this Center and navigate through the different sections.

Another good Meta example of a somewhat new way to provide transparency is via a functionality called *Why Am I Seeing This Ad?* which is available on Facebook and Instagram once users are presented with an ad on their accounts. It explains the factors that contribute to seeing the ad; for example, location, age, and the ad provider. Likewise, it provides controls for users to update their preferences.



Example of Why Am I Seeing This Ad? Functionality on facebook.com - screenshot for illustration purposes only.

What do Users Say?

Going back to the users, the true centre of the world of Transparency experiences. What are they saying about some of these new ways of presenting information? Again, this is based on personal experiences dealing with users of different technologies across the industry, not only Meta technologies. Following experiences observing users’ focus groups and reviewing related studies, I have noticed that while users appreciate the investments made by organisations in presenting the information clearly and making it easier to navigate, I also sensed what we could call *self-help fatigue*. The onus placed on users is significant and GDPR itself is an exercise of user empowerment in a way unseen before. I appreciate this goes beyond Transparency itself; however, I believe there are important lessons to learn. We could apply these lessons to the notices and users’ experiences. Likewise, I have observed very positive feedback from users in relation to getting personalised experiences when it comes to controlling their privacy settings although they also want to get those very efficiently and quickly. It is a challenging balance to presenting valuable and relevant information, written clearly and that also gives users the controls to personalise their

experiences. You may agree this is not an easy task indeed.

Next Generation Transparency

One does not need a crystal ball to conclude that Transparency is a core principle of data privacy that will only increase in importance as technologies become more sophisticated.

Let me offer a good example on how this is being addressed by Meta in relation to an increasingly sophisticated technology such as Artificial Intelligence (AI). Understanding how AI operates can be difficult for everyday users. A good practical example of how to help users understand AI is the AI System Card tool⁸. This tool has been publicly available since earlier this year. There is a particular case on how the Instagram feed ranking operates, explaining it step by step and the rationale behind why users see certain posts and share the controls available. This is but one example and again, a step toward user-centric Transparency experiences.

With the arrival of new technologies, new challenges and also opportunities are arising. It is our job as professionals to maximise those opportunities to our benefit and, for instance, use those technologies to improve Transparency practices. It is very early days on Virtual Reality (VR) experiences; however, one can start thinking about the uses of VR in the future to enable clear, concise, and transparent communications.

One day, as we walk down the Metaverse, who knows, we could be presented there and then with the choices and controls that today appear somewhat statically in front of us on a flat screen. Perhaps, AI models will be smarter to help us guide our experiences more seamlessly. This is nothing but speculation right now but in relatively near future, we could have the opportunities and the technology to embed Transparency into the users’ experiences in ways we can only imagine about today.

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Product Governance and Sustainability

Author: Consumer Protection Working Group.

With new regulations around sustainable finance measures now in force, credit institutions, investment firms, and insurance undertakings who manufacture, and distribute, financial products have to integrate new sustainability factors into their suitability assessments and product governance arrangements. The purpose of product governance is to ensure that firms that manufacture financial instruments and distribute financial instruments or services act in the clients' best interests during the life-cycle of the product or service.

Product Governance Requirements for Manufacturers Credit Institutions and Investment Firms

Under the previous iteration of the Markets in Financial Instruments Directive II (MIFID II) credit institutions and investment firms were required while designing financial instrument products to consider factors such as; client type, client objectives, client knowledge, product innovation, product complexity, risk reward profile, and liquidity profile of the potential target market. There was however, no requirement to give consideration to sustainability preferences of the target market. Under the new Environmental Social & Governance (ESG) amendments to MIFID II, firms are required, from 22 November 2022, to determine that the product's sustainability factors are consistent with the target market's needs, characteristics, and objectives. Firms should ensure that sustainability is integrated into their overall strategy as this will increase the likelihood that products meet customers' preferences.

Firms should regularly conduct reviews of the financial instruments' sustainability factors so as to ensure they continue to remain consistent with the needs, characteristics and objectives, and sustainability preferences of the target market. This can be achieved by illustrating in suitability reports how services provided meet clients' expressed sustainability preference.

The ESG amendments to sustainability preferences fall into three categories:

1. Environmentally sustainable investments allow customers to purchase a product where a set proportion of the investment is allocated to investments that are environmentally sustainable. This type of investment would need to qualify as an environmentally sustainable product under the requirements set out in Article III Taxonomy Regulation.
2. Sustainable investments are products which pursue a minimum proportion of sustainable investments.
3. The customer in this instance determines the minimum proportion that is allocated to the sustainable investment. Investments that consider sustainability factors are products that are designed to consider principal adverse impacts on sustainability factors, where elements which demonstrate that consideration are determined by the customer.

When selecting a distribution channel, firms who manufacture products must take appropriate measures to ensure that the financial product is distributed to the target market. The distribution strategy must take steps to choose a distributor whose customer base and services are aligned with the target market. Firms must provide their distribution partners with relevant and transparent information which considers any sustainability-related objectives of the target market. Manufacturers should also communicate the preferred distribution method to distributors, e.g. the manufacturer has designed a product that is best suited to being sold face to face.

Insurance Undertakings

The ESG changes to the Insurance Distribution Directive (IDD) are very similar to the MIFID II changes outlined above. Both life insurers and non-life insurers are required to embed sustainability objectives and factors while identifying target markets. Sustainability objectives must be integrated into the product approval process and staff who are involved in product design and development must have the requisite skills knowledge and experience.

With regards to insurance-based investment products, IDD has been amended in such a way that requires manufacturers to follow the same three sustainability categories noted above i.e. environmentally sustainable investments, sustainable investments, and investments that consider sustainability factors.

For non-life insurers the requirements of the investment element is not included given the nature of non-life products.

Product Governance Requirements for Distributors

Distributors must complete a similar target market assessment to that outlined above to ensure that the product or service is compatible with the needs, characteristics, and objectives of their clients. Since August 2022, distributors have been subject to an obligation to gather the sustainability preferences of clients, either at onboarding or on an ongoing basis, and to consider these as part of the suitability assessment process. At this point, firms will have:

- Completed updates to their processes and procedural documentation to include sustainability related objectives in the target market assessment and annual reviews.
- No longer identify a negative target market for financial instruments that consider sustainability factors, these will be positive or neutral.
- Updated the product review process to include sustainability related objectives of the target market.

- Familiarised themselves with the revised product information and target market data, including sustainability related objectives and sustainability factors, received from manufacturers. Manufacturers will provide this information to distributors via the European ESG template (EET).

“Sustainability related objectives” is not defined in the new regulation. As such, firms will need to complete their own interpretation of what this means in practice. Distributors may have instructions from clients that they wish to have a minimum proportion of their portfolios invested in sustainable investments, or they may have specific ESG goals that they wish to focus on, e.g. invest in funds that have express objectives regarding climate change mitigation. The firm will need to review the client portfolio periodically to ensure that the client’s objectives are being met and proactively manage situations where changes to product ESG credentials lead to the portfolio no longer meeting the client’s expressed sustainability related objectives.

In addition to the Delegated Act, the European Securities and Markets Authority (ESMA) issued a consultation relating to their existing Guidelines on Product Governance, which closed on 07 October. They plan to publish the final report and guidelines in Q1 2023. The proposed changes take into account the sustainability related amendments to the MiFID II Delegated Directive, along with the findings of ESMA’s Common Supervisory Action on product governance and recommendations on product governance issued by ESMA’s Advisory Committee on Proportionality.



The International Federation of Compliance Associations 3rd International Compliance Congress

IFCA's third International Compliance Congress 'Compliance in an Era of Global Complexity' ran over 3 days from 4th to 6th October addressing the challenges facing Compliance Professionals with the changing approaches to regulation, business, technology and the compliance management systems to support the execution of strategy whilst also meeting the expectations for conduct from regulators, government and customers.

Compliance Institute would like to thank our speakers who participated in panel discussions and contributed to this year's Congress, over 30 hours CPD Credits were available to holders of Professional designations.

Eilís Griffin,

Compliance & Governance Coach (Consultant, Lecturer, Trainer), joined the conversation on the ESG Panel, 'Keeping your foot on the gas of Global Compliance and ESG programs - Don't get distracted by complexity'.



Paul Coady,

Global Head of Financial Crime Risk (FCR) Education & Culture at Deutsche Bank and member of Compliance Institute Ethics Committee, presented on Conduct Risk & Ethics.

Kian Caulwell,

Partner, Head of Financial Services Consulting at Mazars Ireland joined the panel discussion 'Compliance Approach - The Ever-Changing Profession'.



Michael Kavanagh,

CEO of Compliance Institute, moderated the panel discussion 'A global view: Compliance return on investment - how do we measure compliance and value proposition?'

Flavien Corolleur,

Senior Legal Counsel and Data Protection Officer at SS&C Technologies and member of the Compliance Institute DP&IS Working Group presented on GDPR updates and challenges - 'Is GDPR the global gold standard? and Practical implementation of data privacy law(s).'



Andrew Quinn,

Director at PAT Fintech, moderated the panel discussion on 'Cybersecurity, Blockchain, Crypto Currency & Metaverse - What does this mean for Compliance?'

On behalf of our members, the Compliance Institute would like to congratulate IFCA on the success of their 2022 Congress and we are excited to see what is in store for the 2023 Congress.

Compliance Institute's Fintech and Payments Working Group

The Compliance Institute is delighted to announce the launch of its new Fintech and Payments Working Group. This group has come together to provide members of the Compliance Institute with the latest insights on current and pending Fintech and Payments issues. The landscape of regulated financial services is changing rapidly, both through the globalisation of financial services but also through deployment of more advanced technologies to allow easier and wider access to financial services and products. With the use of more advanced technologies comes greater regulatory scrutiny and requests for compliance advice and guidance from key business partners.

The new Working Group's objectives are:

- Identify Fintech and payments issues which may impact on Institute members in their day-to-day functions and outputs to benefit members.
- Provide practical insights and updates on current Fintech and payments legislation, regulation and guidance on current interpretation of relevant issues.
- Provide Institute members with a forum for discussion on Fintech and payments issues and an outlet to share views on Fintech and payment matters.

The Fintech and Payments space offers exciting career opportunities for compliance professionals and the new Working Group hopes to be able to host some events or podcasts in the coming year, focused on launching and developing a compliance career in this dynamic industry. While the Working Group is named Fintech and Payments, the Compliance Institute hopes that the Working Group will be able to serve the needs of members working in compliance in Insurtech, Regtech, Investech and other emerging Fintech specialised areas. In that regard, the Working Group welcomes interest from members of the Compliance Institute who may be interested in participating in the Working Group. The Working Group also welcomes interest from compliance professionals operating in the wider technology sector who are members of the Compliance Institute and have an interest in the objectives of the group.

The Working Group currently has representation from payments, consultancy, e-commerce, financial crime compliance and education which ensures a wide variety of views and industry experience are represented but as noted above, we welcome expressions of interest in participating in this new and exciting Working Group!





Working Group Chair

Member:
Siobhain Ivers

Position:
Director, Global Compliance, Etsy

BA (Trinity College Dublin, M.DEVt (UCD), Diploma in Compliance (UCD), QFA, Certified Anti Money Laundering Specialist (Cams), LCI.

Siobhain has recently joined Etsy (www.etsy.com) as their Global Compliance Director. Etsy is a global marketplace for unique and creative goods with a mission to keep commerce human. Prior to working at Etsy, Siobhain held a number of senior compliance roles at Facebook Payments (now Meta Fintech), including PCF roles for its Facebook Payments International entity. Siobhain's most recent role at Facebook was Director of Compliance Oversight responsible for multiple global compliance programs for Facebook's regulated entities. Siobhain has worked for a number of large US financial services companies in compliance roles over her career including US Bank, State Street and Cantor Fitzgerald. Siobhain has recently spoken at the ACAMS Fintech and Crypto San Francisco Summit on the topic of 'Making Bank/Fintech Partnerships Work'.

Siobhain has recently completed the MA in Ethics (Corporate Responsibility) at Dublin City University (DCU). Siobhain has been a member of the Compliance Institute for many years and is very much looking forward to chairing the Compliance Institute's new FinTech and Payments Working Group.



Working Group Vice Chair

Member:
Ciara O'Grady

Position:
Director, Risk Advisory, Deloitte

Bachelor of Laws & European Studies from University of Limerick, Master of Laws from Trinity College, Dublin, Diploma in Regulatory Compliance (Compliance Institute), Attorney at Law (New York)

Ciara is a Director in the Risk Advisory department of Deloitte where she provides risk and regulatory advisory services to payment firms, E-money firms, insurance, and reinsurance companies, investment firms, credit institutions and other financial institutions. Ciara has extensive knowledge of the domestic and European regulatory environment obtained through the Compliance Institute, risk and compliance roles in industry and professional practice.

Most recently Ciara held the positions of Chief Risk Officer and Head of Compliance & MLRO with Revolut Securities Europe Limited (pending authorisation) where she supported the Group in establishing their European stock trading arm in Dublin seeking authorisation with the Central Bank of Ireland and establishing the European Risk and Compliance functions for the stock trading business.

Ciara re-joined Deloitte in early 2022 where she has spent 6 years as a consultant in the regulatory and risk Leadership Team. Ciara is a lecturer and Examiner in Regulatory Compliance & Risk Management for FinTechs and Traditional Financial Institutions with the Law Society of Ireland and the Compliance Institute.

Members



Member:
Andrew Quinn

Position:
**Director of Fintech
& Financial Services, PAT**

BBS (WIT), MSc Finance (TCD)

As head of PAT Fintech, Andrew actively collaborates with the diverse Fintech ecosystem to deliver a range of industry focused educational/ training courses.

Andrew is the former Course Director of Accountancy (including ACCA), Finance, Fintech, and Business Analytics programmes at Dublin Business School. During his 8 years at DBS, as Course Director, Andrew lectured extensively and was responsible design, development, and management of numerous programmes.

During this time, and continuing into his current role, Andrew established the active involvement of industry in all of his programme's design, development and delivery, and he collaborates closely with several industry/professional bodies. Prior to his move into education, Andrew had a broad experience of the financial services industry, including working for banks, hedge funds, an investment consultancy, and co-founding two Fintech related start-ups.



Member:
Annemarie O'Beirne

Position:
**Payments Compliance International
Oversight Manager, Meta Fintech**

Certified Information Privacy Professional Europe (CIPP/E), IAPP Professional Diploma in Financial Advice (QFA), Institute Of Bankers Masters In Management, UCD Michael Smurfit School Of Business.

Annemarie joined Meta in September 2021 and has responsibility for leading out on Policy and Program Governance for Meta Financial Technologies. Annemarie has responsibility for formalising the governance processes and developing and implementing Global Policies and Programs, with a particular focus on the licensed payments entities in Europe, the US and Brazil.

Prior to joining Meta, Annemarie was a Senior Manager within Deloitte's Regulatory Risk team where she provided risk and regulatory services to several financial services organisations, including Payment and FinTech organisations.

Annemarie has gained significant experience in the financial services industry where she has been involved in a multiplicity of compliance related assignments, particularly from a Governance, Consumer Protection, Risk Management and Data Protection perspective. Annemarie has consistently supported financial services organisations with developing strong regulatory programs and conducting reviews, which has enabled the organisations to demonstrate compliance with regulatory requirements.



Member:
Claire Ledwith

Position:
**Global Compliance Director
Senior Manager AML and Financial
Crime, Elavon Financial Services DAC**
LLB, BL, ATTORNEY at LAW, LCI

Claire has worked for Elavon Financial Services DAC (“EFS”) since 2014, currently holding the position of Senior Manager on their Enterprise Financial Crime Compliance Team, which forms part of EFS’s wider Risk and Compliance Team.

Claire is responsible for; inter alia, Anti Money Laundering (AML) and Economic Sanctions (ES) policy and governance, regulatory change management and regulatory reporting. Claire also previously had oversight of the company’s investigation and reporting of suspicious transactions.

Within Elavon, Claire has also worked on the Conduct of Business Team and in the business, managing the European Complaints function. A qualified Barrister and Attorney-at-Law, prior to working in Elavon, Claire worked in the legal industry for over a decade before transitioning to a consultancy role with Sedgwick Ireland (formerly OSG), a leading specialist service provider to the insurance, financial services and corporate market in Ireland.

Claire also holds an Advanced Diploma in Corporate, White Collar and Regulatory Crime from the Honorable Society of Kings Inns and an International Diploma in Anti Money Laundering from the International Compliance Association.



Member:
Greg James, FCI

Position:
Senior Manager, FSCOM
MSc in Compliance, FCI, CDPO, CFCP

Greg has over a decade of experience in the financial services industry, with roles ranging from; regulatory compliance, AML/CTF (crypto), operational and security risk, and data protection. Over the past five years he has provided governance, risk, and compliance consultancy services to the fintech market, specialising in payments and e-money.

Currently, Greg is a Senior Manager at fscom, an award-winning specialist consulting firm providing governance, risk and compliance solutions to financial services firms. Since joining fscom, Greg has assisted fintech’s in Ireland and the UK navigate an increasingly complicated regulatory landscape by providing advisory and assurance services.

Greg holds a Masters Diploma in Compliance from University College Dublin and a Diploma in Governance, Risk, Compliance from Manchester Business School. Along with these qualifications, he is a Fellow of the Compliance Institute and is certified as a data protection officer and financial crime professional.



Member:
Simon McFeely

Position:
**Chief Risk and Compliance Officer,
Transfermate**

MSc in Compliance, FCI, CDPO, CFCP

TransferMate is an Irish Fintech, reaching Unicorn status in 2022. It operates all over the world, providing B2B / B2C payment-as-a service solutions to financial institutions, software companies and large enterprises. Simon McFeely is the Global Chief Risk & Compliance Officer responsible for compliance program strategic development and execution of TransferMate's enterprise risk, compliance, regulatory and licencing expansion programs. He leads a team of over 50 risk and compliance professionals located across 9 different countries. Simon joined TransferMate in January 2021 and has been critical in implementing a globally standardized compliance framework across the business, focused on achieving best customer outcomes and deterring potential threat scenarios. Highly experienced in payments compliance and risk management, Simon has spent more than 12 years in risk focused roles working across both the second and third line of defence. For the last 9 years, Simon has focused purely in the global payment space and has a deep knowledge of the global threat and regulatory landscape. Simon is a Chartered Accountant and a Big4 trained Auditor.



Ethics & Culture

Authors: Alan J. Kearns,
Assistant Professor
of Ethics at DCU.



Kathy Jacobs,
former President of Compliance
Institute.



The following is a slight adaptation of a podcast recording of Kathy Jacobs (former President of the Compliance Institute) in conversation with Dr Alan J. Kearns (Assistant Professor of Ethics at Dublin City University) on the topic of 'Ethics and Culture'.

Kathy Jacobs: Today, I am speaking to Dr Alan Kearns from DCU about the topic of 'ethics and culture'. To start with some basics, Alan, what is ethics and what part does it play in our lives?

Alan Kearns: What a great question to start with, Kathy. If we take the first part of your question: 'what is ethics?' That is a question that has been reflected on and debated about for a very long time stretching as far back at least to the great Greek philosophers in the 5th century BCE. And I am happy to report that even up to today, it is still being discussed by those studying ethics in academic settings such as in my own University - DCU - and around the world, and I am sure that, as we speak, it is being asked in a classroom or lecture hall somewhere.

Whenever I ask the question - 'what is ethics?' - in a context of a classroom or lecture hall, the answers I normally receive can be quite varied: Some people often associate ethics with codes of behaviour and some often associate ethics with personal views, beliefs, and opinions about moral issues. I am sure that readers of the *ICQ* will also have their own insights and considered views about what ethics is.

From the perspective of an academic study, ethics is generally understood to be a reflection on, and analysis of, morality, moral issues and the moral life that is done in a systematic way.ⁱ When we think about the word 'ethics' we generally think about deliberations on choices and actions from the perspective of right and wrong, good and bad. We may think about key ethical terms such as 'justice' and 'rights', what is 'permissible', what ought to be 'forbidden'.

If we take the second part of your question - 'what part does ethics play in our lives?' - it can be said that ethics has various functions, as it were, such

as providing guidance on, and assessing, our moral decision-making, our choices and our actions. Broadly speaking, there are two major frameworks in ethical thinking, i.e., 'good-based' and 'right-based' approaches. On the one hand, 'good-based' approaches ask questions such as 'will this action bring about good in the world?' The focus of this approach can be on the benefits and harms of a proposed, considered action. On the other hand, the 'right-based' approaches ask questions such as 'is the action, right?' The focus of this approach can be on whether a proposed, considered action is in keeping with a moral directive.ⁱⁱ There is a considerable depth and extensive thinking to these two broad approaches but that is for another day.

Another function of ethics is more existential, as it were, as it touches on major issues of living. To put it another way, whenever we are confronted with a tragedy or dramatic change in life, we tend to begin to think about some of the big, existential questions such as 'Is there any meaning to life?' 'Why is there so much suffering in the world?' I think we can all agree that the COVID-19 pandemic has thrown up many existential questions. I often hear people saying that the pandemic has made them reflect more critically on their own lives and on the direction of their lives and that it has compelled them to realise what is really important and what is not so. Ethics can help us to reflect on great existential questions about how we should relate to each other, how we should interact with each other and how we ought to conduct ourselves, which can be formulated as: 'how *should* people live their lives?' For one great, and well-known, philosopher called Socrates, this was not something insignificant.ⁱⁱⁱ If we were to translate that question - 'how *should* people live their lives' - within the context of an organisation today, the question could be framed as: 'how *should* the organisation live/exist/function/be?'

So, if we are thinking about the word 'ethics' and the context of an organisation, we could see it in terms of 'think local', not in a negative or restrictive sense, but rather in terms of ethics helping an organisation address particular moral challenges and issues and

what ought to be done. In addition to that, we could ‘think big’, in terms of ethics helping an organisation to address more fundamental, existential questions about the legitimacy of its very existence, how it operates/ functions - how it *should* live.

Kathy Jacobs: Now that we have an understanding of ethics, what part does ethics play in culture?

Alan Kearns: If the word ‘ethics’ has sparked much debate and reflection, the same can be said about the term ‘culture’. I think it can be said that culture is generally taken to be the living expression, operation of an association of people’s values and beliefs.^{iv} If we think about the meaning of an organisation’s culture, one possible way at looking at this is to take the image of a building: The foundation of a building is the organisation’s values, the walls are its principles, which help to order how people should interact within the organisation, and the culture is how those values and principles are expressed and lived - the atmosphere within the building. That is realised through the people who work in the organisation. So, if we are talking about the culture of an organisation, we are talking, as it is sometimes said, about the character of the organisation^v and ultimately that is expressed through how the people, who belong to the organisation, conduct themselves and interact with each other and live the organisation’s values and principles.

When we think about the culture of an organisation, we may think about an organisation having a very positive culture in the sense that it really embodies and lives out its professed ethical values and principles. But we may also think about other organisations, which may have a culture that is not very affirming of its workforce; a culture that may be not foster people’s development and growth but a culture that is closed and rather cold.

The existential function, so to speak, of ethics, can focus on the living culture of the organisation. How *should* the organisation be/live/exist, brings us to the question of what kind of culture do we want for our organisation. So, thinking about culture helps us to think about the bigger, existential question of what an ethical organisation *should* look like.

I mentioned to you the great philosopher Socrates. Of course, another great philosopher is Aristotle, who is often associated with virtue ethics^{vi}, which is quite popular as an ethical theory in business ethics. In that great masterpiece on virtue ethics called *After Virtue*, Alasdair MacIntyre - and I am paraphrasing him here - says that you have people as they are now and what they could be, and that ethics is there to enable them move from A to B, as it were.^{vii} I think that is an interesting way of looking at the role of ethics in the culture of an organisation, i.e. we have the organisation’s culture - as it is now; we have a view of the organisation’s culture - as it could be and the work of ethics is to enable us to move from what is the case now to what could be the case.

Kathy Jacobs: What is the difference between ethics and culture? And do we need both ethics and culture?

Alan Kearns: I think that there is a clear distinction between ethics and culture. Ethics has a number of functions such as to critique moral beliefs and practices. Such beliefs and practices contribute to, and make up, a culture. So, I would see ethics as a tool that can be used to critique a culture and that can help in shaping and reforming a culture. Sometimes, we might hear the phrase that a change in the culture of an organisation is necessary. That may include a re-examination of the values and practices that underline that culture, and that is where the work of ethics can come into play. So, *do we need both ethics and culture?* Well, we need ethics to critique values and practices. *Do we need culture?* I think that culture, as a phenomenon, is in some way inescapable: we are born into a culture, we are brought up in a culture, we work in organisations imbued by a culture. But the question is *what kind of culture do we want to have for our organisation; what kind of culture do we want to work within?* Those kinds of questions are not inescapable. The possible movement from what is the case (i.e. what is the present culture of the organisation) to what could be (i.e. what could be a [‘good’] culture), is not inescapable. So, the question is: *do we want a ‘good’ culture and how do we realise that.* What do we envisage as being a ‘good’ culture will, of course, need further teasing out by the organisation.

Kathy Jacobs: What is business ethics?

Alan Kearns: ‘Business ethics’ is also a term that has received many definitions and explanations. For example, Andrew Crane and Dirk Matten define business ethics as “the study of business situations, activities, and decisions where issues of right and wrong are addressed.”^{viii} Business ethics is both a term and a discipline within ethics. Given the complexity and often overlapping aspects of ethics, if I want, for example, to claim that it is ethically right to have good working conditions, I need to be able to explain what do I mean by “good working conditions” and what makes one action, as opposed to another, “right” in the realisation of those very conditions. So, ethics needs to have a certain ordering to it and therefore we split it up into various disciplines or departments, as it were. One department looks at theories of ethics to help us to make choices or to decide what is right or wrong. Another department looks at the language used in ethical discourse, e.g., what do we mean by the word ‘justice’?^{ix} And another department applies the theories of ethics to practical, real-life situations. Sometimes this department is called applied ethics.^x Business ethics is an example of applied ethics, i.e., it is applying ethical theories and principles to the context of business. But that is not all. It looks at how ethics can shape organisational practices and behaviour and decision-making processes.

One thing to note about these departments is that although they all play an important role, just like in an

organisation, all departments exist not independently - in self-isolation - but with one central goal, i.e., to make the organisation operate effectively and efficiently. All departments, so to speak, of ethics are ultimately connected to the goal of ethics, which always results in practical action.

Kathy Jacobs: What are the advantages of business ethics?

Alan Kearns: You will find that this question is often answered from the point of view of the reputation of an organisation, i.e., that if an organisation is ethical, this will have a positive impact on its reputation and therefore have a positive impact on its commercial success. This could be understood as a kind of consequential way of looking at the advantage of business ethics. Consumers may make a conscious decision that they want to buy an ethical product and/or buy from an ethical business that is respectful towards its workforce, towards society with which it interacts, and towards the environment in which it operates. Sometimes, we may hear pessimistic responses that ethics and business do not easily sit well together or a bit of an “odd couple”. But given the reality of the negative impact of scandals can have on an organisation and the demand from people for organisations to be responsible, accountable, sustainable, business ethics cannot be ignored. In addition, I think that if we take a broader view of what the organisation is about and what it wants to achieve, then we are back to a fundamental question of its goal, and whether this goal is ethical or not.

In terms of an academic discipline, business ethics provides a space for critical and creative thinking on how organisations and leaders ought to act. It provides great opportunities to provide a necessary space and time for considered thought about ethical questions, challenges and dilemmas faced by organisations and leaders in areas such as social responsibility, rights, the organisation’s responsibility towards the environment and climate, and so on.

Kathy Jacobs: How do you recognise an ethical business?

Alan Kearns: I think you can approach this by a number of ways. First, we can look at the product made, or the service offered by an organisation: does it cause benefit or harm to people? It may bring some benefits to one group but some harms to another. All of that will need to be teased out and analysed further in more depth. We will need to consider the type and extend of the benefit and the type and extend of the harm. Second, even if the product is considered to be ‘good’, we can look at how the product is made. With this, we can consider how the organisation treats its staff, its suppliers, its resources, and the environment. Third, we can recognise ethical behaviour within organisations that is honest, truthful, and respectful. But it can be the case that we only recognise the need

for this kind of behaviour when the opposite happens. In other words, it is only when we witness unethical behaviour that we begin to name the behaviour that we appreciate as ‘ethical’ and that we want to encourage, promote and foster in our organisations.

Kathy Jacobs: What are ethical dilemmas?

Alan Kearns: This is really a question of definition of terms. Not every ethical issue is an ethical dilemma. When you have a clash between two really and equally important ethical values, you have a dilemma.^{xi} For example, you should tell the truth to a person who needs to know something of material consequence but you should also not hurt the same person. In some situations, by telling the truth to a person, you may hurt them. The question of what constitutes an ethical dilemma has received much discussion and reflection. We can debate the importance of various obligations, if any, in each situation. I might want to argue that truth takes priority over harm or the other way round. In terms of an organisation, in the case of whistleblowing for example, how should I deal with the issue of the value of loyalty and the value of not doing harm and their accompanying obligations, if any?^{xii} Nevertheless, without getting into the ethical permissibility of whistleblowing, the main thing here is that not all ethical issues are dilemmas. Once we are confronted with acts and choices that can bring benefits and harms, then we are in the space of the ethical and recognising this, is a positive first step for any individual or organisation.

Kathy Jacobs: How is it possible to balance cultural differences and different approaches to ethics?

Alan Kearns: I think it is important to recognise the richness that can come to ethical reflection and debate with various approaches and cultural differences. What often advances ethical thinking is the fact that people can come to an issue with a new perspective. But there is another kind of - what can be called - meta-ethical question here: If I say that bribery is wrong, for example, does that mean that it is wrong at all times in all situations? Is there any objectivity to the norm against bribery that goes beyond cultures? Is there any objectivity to ethical norms or are they relative to the culture and to the time? I do think that it is important for ethics to question cultures and practices and not to just accept a type of behaviour simply because it is part of a culture. For example, it might be said that excessive drinking is part of a particular culture but that doesn’t mean that it cannot be ethically questioned.

Kathy Jacobs: Who should be held responsible for ethics within an organisation? Is it a matter for the board and leaders in an organisation only?

Alan Kearns: Probably it has to do with human nature, and our natural defence mechanisms, but generally whenever a mistake is made and it is

recognised as a mistake, the first reaction, normally, is to defend oneself and blame someone else or something else. I think it is the same with ethical mishaps. Indeed, sometimes we might blame 'systems'. On the one hand, this may be somewhat limiting as it can be that no one ends up being responsible for the mistake. And yet 'systems' cannot be ethically responsible in the strict sense because only human actions that are free and deliberate are open to ethical analysis in the real sense. On the other hand, this idea of blaming 'systems', perhaps, may have a link to the idea that we can separate people from their mistaken actions. In other words, I might give out about the mistake made by a person but continue to uphold the character of the same person: Good people can make ethical mistakes.

No doubt in terms of who should be responsible for ethics within an organisation, those in leadership positions have a hugely important role in terms of setting the tone of the organisation and its culture. If the leader or manager doesn't care much about ethics and doesn't care much about how they treat their staff and how staff treat each other, well that certainly can have a negative tonality for everyone. At the same time, I think that employees also have an important role to play in the ethics culture of the organisation. If a particular employee isn't respectful to others, well it is going to be difficult for any leader or manager to promote the importance of treating people with dignity.

An organisation may have a particular person to look after the ethics profile of the organisation, e.g., setting up a CSR forum, etc. Yet, I don't think you can compartmentalise all ethics within an organisation. In other words, having a CSR policy doesn't mean that ethics has been taken care of. We have done the ethics training; we can move on now. The ethical life of

any person or any organisation is a life-long journey. There will be ups and downs, bumps in the road, dead-ends, cul-de-sacs; it is a journey that cannot be compartmentalised completely but can be stirred in the right direction by leaders and others in various ethics roles. It is ultimately a journey that will define who people are (how they live their lives) and will define what kind of organisation it is (how it lives its life).

Kathy Jacobs: As we bring this discussion to a conclusion, what are your final thoughts on 'Ethics and Culture'?

Alan Kearns: Subjects such as 'ethics', 'business ethics', 'culture' are really central as they touch on values that are important for our humanity, for how we interact with each other and for how we conduct exchanges of goods and services. So to conclude, could I make a suggestion to the readers of this *ICQ*? May I suggest that you consider reaching out to some of the classical, philosophical and ethical texts of the great philosophers in the past who have reflected profoundly on issues relating to 'ethics' and 'culture'. Although they may seem worlds apart from organisations and corporate environments today, that is exactly the point, i.e., they may get us to think differently regarding our day to day ways of understanding 'ethics' and 'culture'. As an academic, this is where I see one of the roles, as it were, of education coming into play: Education is not always there to give us answers that we expect but to give us new and different ways of looking at the world whereby we can find unexpected answers in unexpected places.

Dr Alan J. Kearns is the academic coordinator of the MA in Ethics (Corporate Responsibility) programme at DCU, which is part of a professional development framework for Compliance Institute Members.

REFERENCES:

- i For example, see B. MacKinnon. (2012). *Ethics: theory and contemporary issues*. Wadsworth Cengage Learning, pp. 2-3; K. Gibson. (2014). *An introduction to ethics*. Pearson, pp. 6-8.
- ii For more information on various approaches such as consequentialist and non-consequentialist, see J. P. Thiroux. (2004). *Ethics: theory and practice*, 8th edition. Pearson. Chapters 2 & 3.
- iii See Plato. (1987). *The republic*, 2nd edition. Translated by D. Lee. Penguin.
- iv See, for example, B. T. Gregory, S. G. Harris, A. A. Armenakis, & C. L. Shook. (2009). Organizational culture and effectiveness: a study of values, attitudes, and organizational outcomes. *Journal of Business Research*, 62(7), 673-679; E. H. Schein. (2004). *Organizational culture and leadership*. 3rd edition. Jossey-Bass.
- v For example, see R. Goffee, & G. Jones. (2003). *The character of a corporation: how your company's culture can make or break your business*, 2nd edition. Profile.
- vi See Aristotle. (1980). *The Nicomachean ethics*. Translated by D. Ross. Oxford University Press.
- vii A. MacIntyre. (1985). *After virtue: a study in moral theory*, 2nd edition. Duckworth, p. 52.
- viii A. Crane, & D. Matten (2010). *Business ethics: managing corporate citizenship and sustainability in the age of globalization*, 3rd edition. Oxford University Press, p. 5.
- ix For example, see B. MacKinnon. (2015). *Ethics: theory and contemporary issues*, 7th edition. Wadsworth, p. 2.
- x For example, see K. Gibson. (2014). *An introduction to ethics*. Pearson, p. 20.
- xi For example, see D. O. Brink (1994). Moral conflict and its structure. *The Philosophical Review*, 103(2), 215-247; C. E. Johnson. (2018). *Meeting the ethical challenges of leadership: casting light or shadow*, 6th edition. SAGE. See chapter on 'Ethical Decision Making and Behavior'.
- xii See, for example, one perspective on this by J. Varelus. (2009). Is whistle-blowing compatible with employee loyalty? *Journal of Business Ethics*, 85, 263-275.

If you would like to listen to this Podcast with Alan Kearns please go to the Podcasts section of our website on compliance.ie

Making What's 'Right' Count



Author: Prof. Kevin Sludds, Owner of Ethics Consultancy & Training International.

Ethics & Business

Despite the fact that references to *ethics* abound in the literature produced by businesses and organisations of all hues, the concept itself remains stubbornly misunderstood and poorly applied. Underpinning the important and often pressurised work carried out in the business arena are key value terms such as trust, respect, care, honesty and integrity. Yet, all too often these terms are bandied about in a way that offers no clarity to consumers or regulators as to how precisely these values are used to mould an authentic culture of *doing the right thing*.

There is something fundamentally missing from within the world of business - professional ethicists! What's bizarre about the present situation is, though it's inconceivable to imagine a financial audit being signed-off if it were performed by, let's say, a HR or Sales' manager (i.e., someone without the requisite accountancy qualifications), non-professional ethicists are routinely encouraged to take on roles with titles such as *Head of Ethics, CSR Manager, Ethics Officer, ESG Manager, Ethics Board Member* etc. without ever having formally studied the discipline.

There is a bogus belief espoused by some that ethics is somehow just a private matter, something we either pick up, almost through a process of osmosis, or we do not along life's journey. And because of this obtuse notion *applying ethics in business* is thought reducible to mere adherence to regulations, legal statutes, or compliance guidelines. As a result of such thinking, the business world has over the years found itself in various highly damaging ethical scandals. It should be stated unambiguously - *being law abiding does not of itself constitute being wholly ethical*.

To change matters, we must remember that the word *ethics* simply means custom, practice or character. That is, a consistent mode of behaviour or a characteristic manner of acting. It is for this reason that actions and

attitudes we would now consider grossly unethical, such as apartheid, were for centuries both legal and ethical as they directly reflected the prevailing *customs*. At the end of the day, what is construed as ethical depends first and foremost on who is defining the terms and how many supporters they have. Regulation alone is a blunt, outmoded and impotent instrument to secure ethical behaviour - *culture drives ethics and ethics drives culture, not laws*.

Manual Handling Training - The Forerunner

Leaders within business must appreciate that ethics is mutable and, as such, can and should be updated and utilised to enhance levels of trust and build sustainable reputational capital. By understanding this they will also come to recognise the distinct competitive advantages to be had by those companies who can clearly demonstrate how their ethics are managed, monitored and developed over time.

Unfortunately, *Ethics Training* today is exactly where *Manual Handling* training was 40 years ago. Scepticism abounded then from employees with many years of experience who were suddenly being told how to correctly lift and load boxes or how to carry heavy suitcases. Staff who had worked as baggage handlers for decades were now being instructed to look again at the very basics of *how they worked*. Custom and practice had to be overhauled and cries of 'leave well enough alone' fell on deaf ears.

Of course, *Manual Handling* training has, fortunately, become accepted as an essential legal and ethical tool to help guarantee the safety of staff and customers. *Ethics Training* is also about *what we do and how we do it* and over the coming years it too will be embraced by progressive companies keen to reap the tangible rewards of promoting themselves as sincerely ethical. Merely reactively responding to regulations will be considered backward and unprofessional. In the

future companies will have to show how their ethical pronouncements are made-up of more than saccharine sounding terms but are, in fact, conduits for protecting behaviour through defined core values, meaningful codes of conduct and concrete mission statements.

Lessons from the Covid-19 Crisis

The Covid-19 pandemic placed a welcome spotlight on ethics. Questions were asked on an on-going basis of frontline staff in relation to *who should receive priority treatment and why?* Ancillary workers had to respond to queries about *how to protect the essential food, medicine and PPE supply chains?* And more broadly, there was a genuine spirit of solidarity which came to the fore across many of our communities (including the business community) which should not be lost from what we hope will be a 'post-coronavirus' world. From a commercial perspective, what the Covid-19 crisis has illustrated is that it is not only prudent but profitable to make your values both concrete and visible.

It has been long understood in areas of business which are most firmly ethical, that *the way* you make profits is more important than philanthropic giving itself. In a similar vein, the sudden and universal trumpeting of virtues such as cooperation, courage and generosity though laudable, is so only when these virtues are mirrored in the cultures of those businesses now promoting them. Placing a newfound emphasis on engaged values such as *respect*, will only be considered sincere once it can be shown there are structures in place to certify this re-focusing is sustained in the long-term. In time, if organisations do not facilitate *Ethics Training*, their ways of working are almost certainly doomed to return to old patterns, 'established culture,' to paraphrase Peter Drucker, will eat strategy (and *nouvelle practices*) for breakfast!

Professionals in business must have the foresight to recognise that our changed focus during the Covid-19 crisis was an opportune moment to distill the core values of their often stale *codes of conduct* and transform them into dynamic cultural change. To achieve this, they must make certain that verifiable practices are in place which allow ethics to be taken out of the realm of just 'compliance' and 'governance' concerns and be put front-and-centre within their organisations by working through processes such as: a) the 5 Stages of an *Ethics Review*; b) designing an individual *Organisational Ethics Pyramid*; and c) guaranteeing *Measurability Matrixes* exist so as to monitor critical ethical data. Initiating these processes will help reinforce the fact when it comes to ethics, not only can the leaders of these businesses talk the talk, they can also walk the walk.

The Covid-19 pandemic epitomised the need to understand ethics as active and changeable. Integrity we should recall requires no rules; in fact, the more corrupt an organisation is the more regulations they are likely to have: *Laws (attempt) to control what we do, ideals (culture) organise who we are*. Trust, integrity and respect are critical values within business and meaningful only when companies grasp the significance they play in building loyalty, increasing reputational capital and enhancing goodwill from customers, the media and regulators alike. Ensuring a genuinely ethical culture within your organisation helps to guide business professionals' actions, distinguishes them from competitors and creates authentic buy-in from all. It is also, the *right* thing to do.



Table Quiz

In September, as part of our 20th anniversary celebrations, Compliance Institute held a Table Quiz in aid of LauraLynn, it was a fun filled evening and we would like to thank all those who attended and we hope to see you all again next year.

Thank you to everyone who purchased raffle tickets both online and on the night in aid of our chosen charity LauraLynn¹, Ireland's Children's Hospice.

Congratulations to the winners on the night. We are delighted to say we raised €900.

Photographed at the handing over of the cheque are Diarmuid Whyte, President of the Compliance Institute and Ronan Murphy of Laura Lynn.

LauraLynn is a hospice for children with life-limiting conditions and residential care for children and young adults with disabilities. LauraLynn's mission is to provide a Community of Care that delivers evidence-based, personalised services to children with palliative care needs, complex care needs and complex disabilities, while also providing family support services and a home to their residents where quality-of-life is paramount.





A Different Perspective on Three Lines of Defence for the Compliance Officer



Author: Paul Coady, Global Head of Financial Crime Risk (FCR) Education & Culture, Deutsche Bank & Member of the Ethics Committee.

The three lines of defence framework ('3LoD') provides an essential foundation for firms to define, assign, and manage risk-related accountabilities and responsibilities. A strong understanding and appreciation of 3LoD is generally assumed amongst compliance officers. If asked *"What is the three lines of defence framework?"* most of us will quickly reference each line of defence and describe, perhaps with a little hesitation, who sits in each line (e.g., Business Divisions, Compliance, Internal Audit). This understanding provides a necessary basis for 3LoD but many of us, and our related stakeholders, can often struggle to explain *"How do the three lines of defence actually work in practice?"* A clear understanding and ability to articulate the answer can be invaluable for many reasons and can allow us to leverage the 3LoD when engaging, influencing, and managing our compliance stakeholders, particularly the often more challenging business stakeholders.

The related training provided by firms often only references the different lines and who sits within each of them and this can lead to limited practical understanding of 3LoD. An analogy for enhancing such understanding is how we learn to drive a car for the first time. A driving instructor wouldn't focus only on the component parts e.g., *"...there's the steering wheel, the pedals and the handbrake, now off you go"*. Learning to drive, or learning the 3LoD, does start with understanding the component parts. However, we must also be helped to see, experience, and practice how to make the parts best work together and what to do when something isn't working. A different perspective on 3LoD can support a more practical understanding of compliance and the business, as outlined below. This starts with asking ourselves a simple question and considering some of the most common responses.

Who owns compliance risk for the firm?

We all do

This is often the most common response. But, but how can a firm share the actual ownership of compliance risk across multiple businesses, functions, locations and potentially tens of thousands of employees? While we all undoubtedly have compliance responsibilities and some personal ownership (e.g., information security), we cannot all own the risks of the firm. Many of us have become desensitised to the difference between risk 'accountability' and 'responsibility' as these are terms often used interchangeably in firm-wide training, and culture and conduct campaigns. It is essential that we appreciate how risk ownership, accountability, and responsibility differs across our firm's stakeholders.

The Business

We must all appreciate, understand why, and be able to articulate how the business divisions own compliance risk for the firm.

Business stakeholders may not understand or accept this and may assume that all related accountability and responsibility sits with their compliance function. They may also find it difficult to understand why significant resources and investment should be provided to a function that doesn't generate revenue and could actually restrict or impede revenue generation. Our response to such views should be that the business owns compliance risk because we cannot separate the accountability from decision-making. The business makes decisions every day that create compliance risk e.g., how it sells its products, who it sells them to, and what advice they give clients. If those businesses and their employees were able to receive all of the rewards, benefits, and bonuses arising from the risks they take but were not also held accountable for the issues, breaches, damage or consequences arising from the same risk taking, what would be their incentive for avoiding unnecessary risks or doing the



right thing? This would create a moral hazard as their decision-making and risk-taking would be influenced only by reward and not by consideration or fear of the related consequences. A key reason the first line of defence exists is to ring-fence and ensure appropriate placement of ownership with the creators of the risk. This ownership requires the business to determine, manage, and own their business-level risks, controls, and issues on which we can advise, support, and guide. However, regardless of business pressures, resources, workload or their unwillingness or inability to get things done, we cannot 'decide' or 'do it' for them.

The Compliance Function

We must all understand and accept that we don't own compliance risk for the firm. We use our expertise to partner and advise the business in identifying, assessing, and managing their compliance risks. We must also set risk appetite, provide risk-type control and support a second line assurance of first line controls e.g., risk assessment, and controls testing. Such activity will often lead to the identification of gaps, issues, and weaknesses which, although identified by the compliance function, will be owned by the business. A key reason the second line of defence exists is to ring-fence and ensure our appropriate independence from the business. It is also critical that

we do not deliberately or inadvertently stray into the first line of defence. We must know how and where to draw the line in business partnership. The business is in the first line of defence because it is the creator of the risk. But what if someone else was to deliberately, or inadvertently, make their decisions for them? What if we told them how to do the deal, directed the way they did business, or decided and managed their business level controls for them? This could, even with the best of intentions, mean that we have actually made the decisions that have created the risk. As a result, we may lose our independence and become the owners of the risk and the related consequences.

As compliance officers, it is essential that we all practically understand the 3LoD and further our basis understanding beyond the component parts. We should all receive and provide more training on 3LoD throughout our firms and this is best achieved through relevant, relatable, and engaging cases, examples, and scenarios. Where more advanced training is required, we must focus on learning that helps us to better control the car and to avoid the pot-holes ahead rather than having to read every detail in the car's entire user manual.

Practical Ways to Broaden the Compliance Talent Pool



Author: Joseph Anwana, FCA, FCCA, FCTI, CAMS, CISA, CISM, CCFC, PMP
 Financial Crime Compliance Professional.

The rising profile of the compliance function is a desirable development. However, with greater visibility comes a heightened expectation to deliver quality outcomes for firms and clients. To sustain growth in a sustainable manner and meet those expectations, the supply of talent must match demand to a reasonable extent.

New Perspective

The situation calls for a radical change in the way compliance teams manage talent. The good news is that the talent pool exists within the population. It might just be a matter of where and how to look. At the risk of over-promising, it's easy to say that the solution lies in attitude change. At the core of it is the need to completely change the way firms, recruiters, and hiring managers evaluate job applicants. The industry can unlock a hidden talent pool by switching from talent acquisition posture to a talent development mindset. This will certainly require reengineering recruitment processes to accommodate the new behaviour and mindset.

Rethinking Skills and Experience

There is now a clear need for recalibration of the way the industry evaluates candidates for qualifications, skills, and experience. To achieve this, we need to first deal with any unconscious propensity to hire "like for like". Great talents can come from anywhere in the world, and they arrive in diverse packages. We must recognise and eliminate any bias that is associated with where an academic credential or experience was acquired. We must be able to evaluate candidates objectively without subconsciously defaulting to irrelevant demographic or other factors that have no bearing on ability to perform on the job.

Foreign-Trained Locals

Recent waves of immigration have brought in a considerable number of highly skilled people. According to the Economic & Social Research Institute's Annual Report on Migration and Asylum 2020: Ireland, 40,867

residence permits were issued for remunerated reasons (e.g., work permit holders), while another 33,221 residence permits were issued for family reasons as of 31 December 2020.

Within this group include spousal work permit holders who though permitted to live and work in Ireland often struggle to find meaningful work despite their education and prior work experience.

In March 2019, the Department of Enterprise, Trade and Employment announced changes to the Critical Skills Work Permit (CSEP) regime to provide direct access to the labour market for spouses and de-facto partners of CSEP holders. Spousal work permit holders are issued Stamp 1G (different from the post graduate Stamp 1G) and no longer need an employment permit. As of March 2022, spouses of non-EEA doctors on the newly created Stamp 1H can apply for Stamp 1G which enables them to live and work in Ireland without needing a work permit.

These are mostly foreign trained professionals with significant work experience. Irish employers should embrace these recent changes and tap into the new talent pool through targeted 'return to work' programmes considering that these are individuals who may have been on the fringes of the labour market since arriving in Ireland.

Migrant workers from less developed countries are marginalised in the Irish labour market according to studies conducted by Economic & Social Research Institute (ESRI) based on the 2016 Irish Census. According to the ESRI report published June 2020, the attitude of Irish employers to foreign educational qualifications and work experiences are posing harm to the integration prospects of migrants.

Anecdotal evidence and media reports have also sufficiently highlighted these challenges. As a result of the challenging labour market conditions, migrants from less-developed countries are prone to re-skilling for lower skilled jobs. Others resort to endless pursuit



of post graduate qualifications and could end up being over-qualified for most jobs. This is a huge loss of well-educated and skilled workforce.

Compliance risk management requires a global perspective. This is one area where a diverse workforce could be a huge advantage. The compliance talent gap presents a huge opportunity to prevent the so-called “brain waste” and ensure education and work experience acquired elsewhere are well deployed where they are most needed.

Future-Proof

To future-proof the compliance profession will require developing talent pipelines. The compliance profession must become more intentional about attracting new talent. This could include young college graduates or post-graduates, including post graduate work visa holders. The ESRI’s 2020 annual report cited above indicates that there were 33,831 residence permit issued for reason of study. This group would progress to post graduate study visa category (Stamp 1G - the post graduate version of 1G) upon completion of their studies and represents a source of readily available workforce for Irish businesses.

The profession must also invest in work-in-progress. This requires ‘hiring for potentials’ in the absence of relevant experience. One way to identify a candidate with potential and motivation is an interest in professional development. Individuals working towards obtaining a relevant recognised compliance qualification like the those offered by the Compliance Institute could be a credible source of new talent for firms willing to invest in a talent development.

What’s in the Pipeline?

Talent gaps occur when the talent pool dries up, the pipeline becomes dormant, and the pipes begin to recycle resources. The compliance profession should open to a wider source of talent to widen the pool. The best way to guarantee a steady flow of talent is to provide entry points for a variety of people who can grow in skills and experience over time. The compliance function within firms must develop succession plans, not just for senior managers but for all key roles to ensure their talent pipelines remain active and ready to supply, at any time.

REFERENCE:

- 1 McGinnity, F., Privalko, I., Fahey, E., Enright, S., and O’Brien, D. (2020). Origin and integration: a study of migrants in the 2016 Irish Census, Books and Monographs published by Other Agencies 392, Dublin: ESRI and Department of Justice and Equality, <https://doi.org/10.26504/bkmnext392.pdf> (Assessed: 9 June 2022)
- 2 Sheridan, A., E. Cunniffe and E. McCullough (2022). Annual Report on Migration and Asylum 2020: Ireland, ESRI Survey and Statistical Report Series 114, Dublin: ESRI/EMN, <https://doi.org/10.26504/sustat114> (Assessed: 18 October 2022)

Compliance Institute's Educational Programmes



Compliance Institute has effectively built its reputation as the leading authority on compliance for professionals in Ireland from our evolving professional development training and accreditation programmes which have helped set the standard for compliance in Ireland, advancing businesses and developing careers.

In conjunction with our education providers, IOB (a recognised college of UCD), DCU, Professional Accountancy Training (PAT), Chartered Accountants Ireland and Griffith College, our members can avail of accredited graduate and post graduate education in the various fields of compliance and business ethics.

With compliance regulations and technologies constantly changing and in an increasingly competitive environment in which regulators are putting additional pressure on firms to ensure their compliance professionals are competent, it has never been more important to ensure your knowledge, skills and competencies are up to date.

Professional Certificate in Data Protection

The Professional Certificate in Data Protection is provided by the IOB and awarded by UCD.

EU's General Data Protection Regulation (GDPR) in force since May 2018 has significantly changed what data protection law is and how it applies. GDPR imposes new penalties and liabilities on data controllers and processors who fail to comply with its provisions.

The Professional Certificate in Data Protection, a 10 ECTS award at level 9 on the National Framework of Qualifications was designed in consultation with the office of the Data Protection Commissioner. It provides Data Protection Officers, Compliance Officers and those working in data related roles with the expert knowledge of data protection and is the only accredited qualification at this level. Participants will learn through an applied approach and develop specialist skills and competence to support and advise their organisation in managing and mitigating data protection related reputational, compliance and financial risks.

The programme is delivered on a part-time basis across one semester. It comprises of one module, Data Protection Policy and Procedures and forms part of the MSc in Compliance. Students who successfully complete the certificate are exempt from this module if they subsequently decide to apply for the MSc in Compliance.

How you will benefit:

On successful completion of the Professional Certificate in Data Protection, graduates will be able to:

- Critically assess best practice in data protection and the objectives, and challenges, of applying data protection legislation.
- Design a robust and appropriate data compliance and governance programme for an organisation processing a variety of personal data.
- Appraise the risks associated with the technological advances in managing data and recommend appropriate risk management processes.
- Critically evaluate the regulatory and practical implications of transferring data to the Cloud and/or outside the European Economic Area.
- Consider the role of the compliance professional in the managing the organisations data protection obligations.

Award

On successful completion of the programme, you will be awarded the Professional Certificate in Data Protection from UCD.

Graduates who complete the Professional Certificate in Data Protection, will be invited to apply for the designation 'Certified Data Protection Officer' and use the designatory letters CDPO. Continued use of this designation is subject to meeting Compliance Institute's CPD requirements.

Key Dates

Registration closing date: 27 January 2023

Start date: 07 February 2023



Professional Certificate in Financial Crime Prevention

The Professional Certificate in Financial Crime Prevention is provided by the IOB and awarded by UCD.

There has been a significant increase in the complexity and volume of regulation underpinning compliance in the area of anti-money laundering and countering financing of terrorism, financial crime prevention. Consequently, practitioners operating in this complex environment have to fulfil their fiduciary responsibilities of ensuring ethical and legal compliance within this regulatory environment while contributing to wider organisational objectives.

The Professional Certificate in Financial Crime Prevention, a 10 ECTS award at level 9 on the National Framework of Qualifications was designed in consultation with the Garda Bureau of Fraud Investigation and the Suspicious Transactions Unit in the Office of the Revenue Commissioners. It was designed to equip Money Laundering Reporting Officers (MLROs) and others who specialise in this area with the specialist skills and competence to address these reputational and compliance risks and is the only accredited qualification at this level. Participants will learn through an applied approach, utilising both case studies and experienced guest speakers.

The programme is delivered on a part-time basis across one semester. It comprises of one module, Financial/ White Collar Crime prevention and forms part of the MSc in Compliance. Students who successfully complete the certificate are exempt from this module if they subsequently decide to apply for the MSc in Compliance.

How you will benefit:

On successful completion of the Professional Certificate in Financial Crime Prevention, graduates will be able to:

- Appraise the various types of money laundering activities and financial crime perpetrated against financial services providers.
- Examine relevant domestic legislation (particularly the Criminal Justice Acts) and how other jurisdictions tackle financial crime.
- Discuss the key anti money laundering controls an organisation must implement to manage its obligations.
- Critically evaluate techniques in the management and controls of risks arising from money laundering and financial crime, particularly the use of forensic IT to combat cyber-crime.
- Analyse the different methods and behaviours used to investigate a suspected financial crime.
- Consider the role of the compliance professional in the prevention of financial crime in an organisation.

Award

On successful completion of the programme, you will be awarded the Professional Certificate in Financial Crime Prevention from UCD.

Graduates who complete the Professional Certificate in Financial Crime Prevention will be invited to apply for the designation 'Certified Financial Crime Professional' and use the designatory letters CFCP. Continued use of this designation is subject to meeting Compliance Institute's CPD requirements.

Key Dates

Registration closing date: 27 January 2023

Start date: 07 February 2023



Professional Diploma in Sustainable Finance for Compliance Professionals

The Professional Diploma in Sustainable Finance for Compliance Professionals is the first programme of its kind globally and is the result of an enterprise-driven collaboration between Compliance Institute, Sustainable Finance Skillnet (SFS) and IFS Skillnet. The Diploma forms part of the continuing effort to address the talent gap in sustainable finance and build Ireland's capacity as a global leader in sustainable finance.

The aim of the programme is to equip compliance professionals or those entering compliance roles with the critical knowledge and compliance skills to advise on and advance the sustainability agenda within the financial services industry. The curriculum will support those in compliance roles in control and assurance functions, enabling them to lead authoritatively on the legal, regulatory, policy, monitoring and risk management activities, which will not only provide Board and Regulator assurance but also be a key input into organisation strategy with respect to sustainability

This is a level 8 qualification on the National Framework of Qualifications.

How you will benefit:

On successful completion of the Professional Certificate in Financial Crime Prevention, graduates will be able to:

- Explain to peers, customers, and other key stakeholders the relevance of sustainability to the economy, business and the financial sector, and the role of financial services within the sustainability agenda.
- Identify the key current and emerging issues and drivers from a sustainable finance and regulatory perspective in particular the EU Taxonomy, SFDR and mandatory and voluntary sustainable finance and standards.
- Explain to peers and the Board, corporate sustainability reporting and sustainable finance disclosure requirements.

- Analyse the role of culture and ethics in a sustainable finance compliance framework and advocate for the sustainability agenda within their organisation.
- Recognise the regulatory requirements on sustainability factors and risks relevant to the FS sector and organisation in which they work and assess the impact on how the organisation manages sustainable finance compliance risk.
- Establish compliance frameworks to translate the mandatory rules, regulations and policy into operational requirements and the tools to assess sustainable compliance risks and monitor and report on them.
- Communicate effectively key sustainable finance messages to all stakeholders, internal and external.
- Equip themselves with resources and market information to be alert for and stay up to date with sustainable finance developments.

Award

On successful completion of the programme, you will be awarded the Professional Diploma in Sustainable Finance for Compliance Professionals from UCD.

Graduates who complete the Diploma in Sustainable Finance for Compliance Professionals will be invited to apply for a professional designation. Continued use of this designation is subject to meeting Compliance Institute's CPD requirements.

How to Apply

For further information on this programme and to apply please contact skills@sustainablefinance.ie

Key Dates

Registration closing date: 27 January 2023

Start date: Spring Trimester 2023



Certificate in Leadership Skills

The Compliance Institute and its education partner, Griffith College have collaborated to develop the Certificate in Leadership. It is aimed at new or experienced managers, supervisors and team leaders or aspiring leaders in the workplace who want to learn how to improve their leadership and influencing skills.

The programme aims to provide participants with an in-depth exploration of the leadership role in organisations. It enables participants to appreciate what employees expect and want from their leader and, in turn, helps them to build more successful relationships with their colleagues. The programme highlights the important skills that a leader needs to successfully juggle the demands of team, task and the individual.

Participants are taught self-awareness in terms of their own behavioural style and the impact it has on peers, employees, clients and their own managers. They are encouraged to build on their strengths and produce action plans for addressing their areas of development. Participants are taught to network, build a profile and be persuasive in their presentations to others. They explore nature and how it relates to leadership as they develop their own path to becoming a skilled and effective leader.

The programme is delivered online over 8 weeks, with a 3-hour session each week. Learners will be provided with current empirical evidence, critical analysis and further research requirements for each concept introduced during the class. These strategies include discussions, brainstorming, case studies, exercises and workshop-type activities allowing participants to learn through discovery.

How you will benefit

On successful completion of the Certificate in Leadership, graduates will be able to

- Develop leaders who communicate and influence effectively.
- Promote stress resilience through the effective use of emotional intelligence.
- Implement effective change management to drive organisations forward.
- Use leadership skills to optimise performance through difficult times.

Award

The course is approved by Griffith College in association with Compliance Institute and participants will receive a Professional Certificate in Leadership Skills on successful passing of the assessment.

Key Dates

Registration closing date: 13 February 2023

Start date: 27 February 2023

2022 CPD Codes - Log your CPD

DATE	WEBINAR TITLE	CPD Hours	CPD CODE
January 20, 2022	Ethics at Work: 2021 International Survey Findings	1 hour Ethics for all designations 22503 - 1 hour for CU Ops/Gov	2022-0001
January 25, 2022	The Role of Technology & Public Private Partnerships in Fighting Financial Crime	0.5 hours LCI, FCI (Compliance), CF CPP 22507 - 1 hour for CU Ops/Gov	2022-0012
January 27, 2022	Data Breaches and Data Subject Access Requests	1 hour LCI, FCI (Compliance), CDPO 22508 - 1 hour for CU Ops/Gov	2022-0013
February 9, 2022	Doing the Right Thing: Embedding Business Ethics	1 hour Ethics for all designations 22510 - 1 hour for CU Ops/Gov	2022-0333
February 21, 2022	Central Bank of Ireland: Speaking Engagement	1 hour LCI, FCI (Compliance) 22511 - 1 hour for CU Ops/Gov	2022-0332
March 8, 2022	International Women's Day 2022	1 hour LCI, FCI (Compliance), FCI (Ethics), CECA 22512 - 1 hour for CU Gov	2022-0905
March 9-10, 2022	QUBE 10TH NextGen Payments & RegTech Forum (Day 1)	4 hours LCI, FCI (Compliance) 1 hour CF CP 22513 - 4 hours for CU Ops/Gov	2022-0697
March 9-10, 2022	QUBE 10TH NextGen Payments & RegTech Forum (Day 2)	3 hours LCI, FCI (Compliance)	2022-0698
March 15, 2022	Solving the Communications Compliance Chasm in a Hybrid Working Role	0.5 hours LCI, FCI (Compliance), CDPO 22514 - 1 hour for CU Gov	2022-0410
March 24, 2022	GDPR: Compliance, Concerns & Covid	1 hour LCI, FCI (Compliance), CDPO 22515 - 1 hour for CU Ops/Gov	2022-0661
March 30, 2022	Navigating the Sanctions Landscape in 2022	1 hour LCI, FCI (Compliance), CF CP 22516 - 1 hour for CU Ops/Gov	2022-0416
April 21, 2022	A Practitioners Guide to Compliance and Financial Crime Culture & Conduct	1 hour Ethics for all designations 22519 - 1 hour for CU Ops/Gov	2022-1035
May 5, 2022	Data Protection Operations: Planning a Programme	1 Hour LCI, FCI (Compliance), CDPO 22521 - 1 hour for CU Ops/Gov	2022-1195
May 11, 2022	DPC – SME Conference	4 Hours LCI, 1 hour QFA, CPD Member, RS CPD Member, CDPO	2022-1529
May 12, 2022	Preparing for the Senior Accountability Regime	1 hour LCI, FCI (Compliance), Professional Banker, Chartered Banker, Certified Bank Director, Certified Investment Fund Director, Accredited Funds Professional 22522 - 1 hour for CU Ops/Gov	2022-1036
May 19, 2022	Financial Crime Compliance – Breakfast Briefing	1.5 Hours LCI, FCI (Compliance) CF CP, Certified Bank Director, Certified Fund Director 22523 - 1.5 hours for CU Ops/Gov	2022-1190
July 19, 2022	Anti- Money Laundering	0.5 Hours LCI, FCI (Compliance), CF CP	2022-1733
Aug 24, 2022	Integration of ESG into Investment Decisions – Where are we now?	1 hour QFA, LCI, FCI, Certified Bank Director, Certified Investment Fund Director, Accredited Funds Professional, CPD Member, RS CPD Member	2022-2060
September 13, 2022	The Outsourcing Lifecycle – RFSP Obligations under the CBI's Cross Industry Guidance on Outsourcing	1 hour LCI, FCI (Compliance), Professional Banker, Chartered Banker Certified Bank Director, Certified Investment Fund Director, Personal Insolvency Practitioner	2022-2129
September 21, 2022	Risk Maturity Model - How to Improve Risk Embeddedness	2022 - 2195 1 hour LCI, FCI (Compliance), Professional Banker, Chartered Banker, Certified Bank Director	2022-2195
September 28, 2022	Compliance Risks in Embedded Finance	1 hour, LCI, FCI (Compliance), Chartered Banker, Professional Banker	2022-2094
September 30, 2022	Ethics: The missing E in ESG Investing	1 hour LCI, FCI (Compliance), FCI (Ethics), CECA	2022-2146

2022 CPD Codes - Log your CPD

October 4th - 6th , 2022	IFCA - Compliance in an Era of Global Complexity - Day 1 - Day 3	*each section of IFCA was accredited CPD, all codes available on compliance.ie	
October 21, 2022	Sustainable Finance - What Role will the Compliance Professional Play?	1 hour LCI, FCI (Compliance), FCI (Ethics), CECA	2022-2379
October 24, 2022	AML Training Session	2022-2380 1.5 hours LCI, FCI (Compliance), CFCP, Certified Bank Director, QFA, CPD Members, RS CPD Members, Certified Bank Director, Certified Investment Fund Director, Wealth Management Professional, Retirement Planning Professional, MCI Board Member or Equivalent, Accredited Funds Professional	2022-2380
November 3, 2022	Leading the conversation in Crypto Compliance	1 hour LCI, Professional Banker, Chartered Banker, FCI (Compliance), CFCP	2022-2378
November 10, 2022	Compliance Institute Annual Conference Setting the Standard	4 hours LCI, FCI (Compliance), 2 hours FCI (Ethics), CECA, 3 hours PB, CB, CBD, AFP, CIFD, 1 hour APA, QFA (relative to Savings and Investment Category)	2022-2646
November 18, 2022	Regulation, Ethics and the Impact on Stakeholders	1 hour LCI, FCI (Ethics), LCI (Compliance), CFCP, CDPO, CECA, QFA, CPD Member, RS CPD Member, Professional Banker, Chartered Banker, Certified Bank Director, Certified Inv Fund Director, Personal Solvency Practitioner, Retirement Planning Professional, MCI Board Member or Equivalent, Accredited Funds Professional, Regulatory Reporting Professional, 1 hours of Ethics for all designations	2022-2645
November 24, 2022	Digital Markets Act - Implications for Compliance Professionals	1 hour LCI, FCI (Compliance), CDPO	2022-2750
November 30, 2022	Anticorruption across Europe	1 hour LCI, FCI (Ethics), FCI (Compliance), CFCP, CDPO, CECA, QFA, CPD Member, RS CPD Member, Professional Banker, Chartered Banker, Certified Bank Director, Certified Inv Fund Director, Personal Insolvency Practitioner, Wealth Mgt Professional, Retirement Planning Professional, MCI Board Member of Equivalent, Accredited Funds Professional, Regulatory Reporting Professional, 1 hour of Ethics for all designations	2022-2866
December 6, 2022	Data Protection Update	1 hour LCI, FCI (Compliance), CDPO	2022-3008
December 8, 2022	How to perform an Ethics Review	1 hour LCI, FCI (Ethics), LCI (Compliance), CFCP, CDPO, CECA, QFA, CPD Member, Professional Banker, Chartered Banker, Certified Bank Director, Certified Inv Fund Director, Personal Solvency Practitioner, RS CPD Member, Wealth Mgt Professional, Retirement Planning Professional, MCI Board Member or Equivalent, Accredited Funds Professional, Regulatory Reporting Professional, 1 hours of Ethics for all designations	2022 - 2643

ANNUAL RETURNS

Every Designate is obliged to make an annual return by 31 January 2023 declaring:

The approved events that make up their CPD hours for 2022 and that the hours completed conform to the requirements and the CPD criteria for IOB and 'The Compliance Institute Criteria in Relation to Awarding CPD Credit'.

Designates are required to record all approved CPD events in their Online CPD Record in IOB Learn. An Online CPD Record will then form the basis of their Annual Return. The online Annual Return process usually opens towards the end of the year until 31 January of the following year.

Thereafter, anyone who has not made an Annual Return will be considered not to have complied with the CPD requirements and will be subject to the procedure outlined below under 'Failure to Comply'.

CPD hours must be completed by 31 December each year. Hours completed in January will count for that CPD year and cannot be counted for the previous CPD year.

Compliance Institute's 2022 Annual Conferring Ceremony

Compliance Institute's 2022 Annual Conferring Ceremony took place on 13th December at the Shelbourne Hotel.

Congratulations to the over 650 graduates who successfully completed one of the programmes in the suite of Compliance Institute educational offerings.

We would like to say a huge thank you to all the graduates and guests who attended on the evening. We hope that you all enjoyed the ceremony.

Our Annual Conferring Ceremony is a very important event in the Compliance Institute calendar, and it was great to see graduates come together to celebrate their achievements.







Compliance Institute

BETTER BUSINESS ETHICS

From all of us here at Compliance Institute, we'd like to wish you all a very Happy Christmas and a wonderful New Year.

Thank you for all the support you have provided to your Institute.