# 31. Develop the Code of Conduct from within the organization

**Challenge**

We often recognize the situation in which you, as a compliance professional or department, are asked to develop a code of conduct for your own organization. Writing a code is step 1, but how do you ensure that the code is also used within the organization, conveyed and really internalized by the employees? And how does the development phase of the code affect the success of the code? How do you prevent a code of conduct from becoming a dead document that is published on the website or intranet 'for decoration only'? And how can the core values best be incorporated into the code?

A code of conduct is an explicit description of the values and norms for the behavior of employees in the actions of organizations, based on the core values that the organization has formulated and wants to prominently convey. It is recorded which behavior is and is not desired. In a code of conduct, the objective of the document is usually described first. In addition to providing clarity and creating a pleasant and collegial working atmosphere, you can include the general objectives of your company. Subsequently, the desired and undesirable behavior is described in general terms, followed by specific situations that are relevant to the company. You could divide this into internal behavior and behavior towards external parties. You can think of:

- Internal: sexual harassment, drugs and alcohol, private use of the internet during working hours, private use of the business phone and laptop, refusal to work, handling confidential information, etc.
- External: conflicts of interest, environment, sustainability, political independence, bribes, customer information, etc.

The code of conduct should also include what happens in the event of a violation of the code. A code of conduct that is not enforced will  be taken less seriously.

*Presentation code of conduct*

As with house rules, a code of conduct may not be discriminatory and may not conflict with laws and regulations and social norms and values. Furthermore, you do not want to create an atmosphere of 'employee bullying'.  Therefore also reflect on the presentation of the code of conduct. Clearly explain to your employees that your starting point is a pleasant working atmosphere and a productive working environment; we do the right things the right way.

**Solution**

**Nb:** the process described below is described in great detail. Depending on the nature and size of the organization, elements of this process will not be useful or possible to be implemented. Each tool serves as inspiration for your own process, including this one. It remains tailor-made, so research in advance what options you have and what suits your organization. This tool is just an (extensive) example.

A. Creation of the code

Already in the development phase of the code, the success of the code is inherent. You can involve employees from various sections in the development at an early stage. By sharing/showing this, it is ensured that everyone in the organization feels involved and recognize themselves in the code of conduct.

*Support from management/Executive Board/Supervisory Board*

It is essential that the creation of a code of conduct is fully supported by management, the Executive Board and, if possible, the Supervisory Board. They must give the go-ahead within the organization for the creation process, but also kick off the publication and implementation of the code. And they determine who will be the 'trigger' of the code, who will lead the development team (if possible, this is not the compliance professional, but chances are that no alternative is present, e.g. in smaller organizations).

*Find a sponsor*

Determine who will be the sponsor for this project at board level. Enter into a conversation with him/her to formulate and sharpen content, tone, measures but also expectations back and forth. Also agree with that person that he/she introduces the code, preferably during a general meeting of the staff, and that he/she continues to promote the (compliance with the) code: 'embraces' the code.

*Build a team*

Before you start writing, it is advisable to first create a good team. Find out who is suitable to contribute and who is available for it. Preferably do this in a small team with two, maximum three people. Make sure that the 'writers' are able to analyze texts, formulate them well, but also know the organization (departments) well and are able to use their sensors within the organization, and to ask good test questions. Also ensure affinity with legal aspects and the procedural side of the process within the team. For example, one of the writers may be a lawyer. In addition, a communication specialist should preferably be present in the team. It is also important that experience and affinity with the company procedures and processes is present in the team (how do we usually work now, how should it go, what do you encounter as an employee or department, etc.).

*Collecting information*

Then gather information, both inside and outside the organization. Examples:

- What codes of conduct do you know from other organizations? Does the industry have a model code of conduct? What attracts you to those codes, and what doesn't? Analyze why something does or does not attract you in the descriptions.
- Make an analysis of the legal side of a code of conduct. Implementing a code of conduct also creates the obligation to comply. If an organization has a code, the outside world may derive expectations from it. Non-compliance with the code as an organization therefore has possible (external legal) consequences.
- Investigate/determine what consequences non-compliance with a code of conduct has for an employee and for the department where he/she works and/or the entire organization. After all, the severity of the sanctions will (partly) depend on this.
- Enter into a conversation with the Human Resources department, IT, and also with the Works Council and management. What do they run into? What do they expect from the code of conduct? What do they want to include in the code? What not? What consequences do they want to attach to possible non-compliance with the code by an employee? Also relate these wishes and expectations to the legal framework of a code of conduct.
- Ask for for 5 minutes at a department meeting, division meeting, and the like. For example, you can draw attention to the process and ask for input, whether anonymously or not (the reaction in the group also says something about other cultural aspects in the organization – the colleagues do or do not respond enthusiastically or rather cynically, etc.).

*Interviews*

Interview colleagues at any level within the organization (or in any division or department). Don't forget the Executive/Supervisory Board, but also the employees of the catering, in the warehouse, the management assistant, executive driver or the receptionist. Possible questions:

- What is the purpose of a code of conduct for you?
- What should a code of conduct help solve?
- What would you like to see in a code of conduct, and why?
- What would you not necessarily want to include in a code of conduct? Why not?
- What situations have you encountered, for which you would like to see good guidance within the entire organization?
- What agreements would you like to make with your colleagues and/or the management and board if the code of conduct is not complied with?

Interviewing employees creates awareness among those colleagues, but also in their immediate environment. Make good use of this opportunity to start a conversation about the code. It is important to indicate that the results are processed anonymously. That benefits these results in terms of honesty of the answers.

*Call for input*

Place a call to colleagues on the intranet and invite them to give input for the code of conduct. What are their experiences? This can also be done on billboards in the hallway or in the bicycle shed, or with other means that are used within the organization, perhaps an app. Also think of actions in the company restaurant, a message on your computer screen before you log in, etc.

*Code of conduct in the making*

- Determine at an early stage with whom you want to consult on a regular basis during the creation process. Appoint one or more critical counter-readers, per part but also for the whole.
- The success of a code of conduct depends mainly on the support among staff. If you involve the Works Council in the process of drawing up the code (e.g. by creating multiple coordination moments, and having the Works Council write an advice to the management), you will reach a large part of the staff at an early stage. If possible, also involve the sponsor within the management/Board in the discussion with the Works Council.
- Investigate the role of the Works Council in relation to the code of conduct. A code of conduct is usually accompanied by an assessment scheme that must ensure that people comply with the code. And that arrangement is subject to consent. The role of HR is also important in this context.
- Also agree at an early stage which decision-making or consent processes apply at the level of management/Board/Supervisory Board, etc.
- Keep the management/Board and possibly Supervisory Board informed of the progress in the process; this not only helps address possible issues in time but also to increase awareness.

*Implementation of the Code of Conduct – some suggestions*

After the Code of Conduct has been approved by management, the general introduction can take place. To emphasize the commitment of the management within the organization, a general kick-off meeting for all employees can be chosen, announced for example via a message on intranet, an e-mail message or by management during a work meeting of the department concerned. At that meeting, one or more of the members of the highest management discuss the importance and purpose of the awareness program, for example with the help of a presentation and possibly a video. The Code of Conduct Group can also be presented during this meeting. In this way, it can be made clear that management really considers the Code of Conduct important, and the people 'behind' the code become easily accessible and approachable; the code ‘gets a face’.

In a large(er) organization, it is of course possible to work with a number of starting meetings for groups of employees from the various business units. Information can also be provided during the work consultation. These meetings are preferably planned as close to each other as possible.

During the kick-off meeting(s), employees should be informed about:

- Management's decision to bring the Code of Conduct into effect;
- The importance of an honest business for the organization;
- The objectives, the process and the (global) content of the code
- The composition of the group and where one can go with questions, etc.;
- A clear statement that the code is not motivated by distrust of the employees, but rather serves to support what we have built up as an organization and where we want to go.

Those who have read and written the code may be appointed as ambassadors of the code within the organization. These can then be the colleagues who can also answer questions from practice.

Furthermore, one can also think of the use of questions, situations from practice, whether or not enlivened with videos to get to know the code. Something more creative but more difficult is the use of a game with dilemmas/questions. This can best be achieved during smaller meetings.

B. The Code of Conduct itself

Use a language that is close to the employees. It should be a code of conduct from the employees themselves, so do not formulate 'top-down'. How do you/the employees actually want to be treated yourself? What do you find acceptable or not acceptable, and why? Also consider at what level you want to develop the code of conduct. For example, consideration may be given to publishing a 'popular' version of the code (a concise version, with visualisations, etc.), in which reference can be made to the 'real', legally conclusive code with underlying policies and associated policy documents (and where it is indicated that from a legal point of view only the conclusive code is legally valid). If desired, elements of the code, which require more (legal) explanation, can be further elaborated in underlying policies and policy documents.

A possibility:

1. Describe how you want to be treated yourself;
2. Describe how you want to deal with your direct colleague and be treated by him;
3. Describe how you want to be treated in a team, and how you want to deal with your colleagues;
4. Describe how you want to deal with your suppliers and be treated by them;
5. Describe how you want to deal with the other stakeholders and be treated by them.

Another suggestion: Incorporate the elements from the soft control model of Muel Kaptein, namely

- Clarity
- Role modeling
- Commitment
- Achievability
- Transparency
- Openness to discuss
- Accountability
- Enforcement

Another suggestion: work with values rather than with rules. It is advisable to then explain which steps employees can take if they are faced with a dilemma. See also tool 21: "Organize dilemmaworkshops". And make sure that a reference is included to the Ethics Committee, if there is one (see also tool 5: "Set up an Ethics Committee")."

**Nb:** there is 'policy management software' for sale that can greatly facilitate the creation process and change process.

**Actors**

See the elaboration under 'Solution'

**Techniques**

See the elaboration under 'Solution'

**Role Compliance Professional**

Co-writes the code, is a supporter in the process, but is not ultimately responsible (due to role within the three lines of defense). Also plays a role in the implementation (communication, training) of the code.