**£10.5 million**

The fine Ofgem gave to SSE, the largest ever given to an energy supplier, for management and governance failures.

**Source: Ofgem**

# Is regulation the answer to restoring public trust?


In light of the recent scandals that have emerged within the UK, and globally, and the subsequent barrage of new regulation being enforced, **Pooja Kondhia** examines whether additional, tighter and stricter regulations are the answer to restoring public trust in business.

Looking back to the scandals that have been steadily emerging since the financial crisis, such as Libor manipulation, rogue trading and money laundering activities, banking collapses and bailouts, as well as Mid-Staffordshire NHS Foundation Trust failures, it seems that the onslaught of negative behaviour and failures occurring is non-stop.

Most of the scandals mentioned have resulted in a steady stream of new regulations being enforced as part of what the regulators call their stance against unethical and illegal behaviour by those in power, and their actions to combat non-compliance.

Something else which regulators and the Government state these new regulations will do is to restore public trust, in business, organisations and the economy as a whole.

However, this raises the question: how can one hope to instil trust in those that have wronged, when the very nature of setting rules implies a lack of trust in the other party to behave and govern themselves appropriately?

When speaking to Roger Steare, Corporate Philosopher at Cass Business School, he said, 'the more regulation you introduce, the less trust there is, as by nature, rules are imposed on those you don't trust.'

He added that telling people what to do and introducing rules and regulations created moral corruption as it took away people's need and ability to think rationally, as well as their sense of dutiful behaviour. This leaves them open to veering off the moral path because a disconnect forms between ethics and their environment, whether we think in terms of society, organisations or their individual business leaders.

Roger also raised an interesting point about where this churning out of new rules and regulations would end – there are far too many variables in life for a defined set of rules to cover all instances and scenarios in which bad behaviour would occur, therefore leading to the idea that there will never be enough rules.

This leads to the question of how this scenario makes any sense – one in which society and organisations carry on in the same direction, and when mistakes are made, new rules are imposed. Where would this end? Regulation does not seem to be a long-term fix, a solution of the root problem. In fact, it looks a lot like applying a band-aid to a leak, rather than looking at what's causing the leak, and fixing that.

Roger believes that organisational ethics, or the lack thereof, are the root cause of the current wave of problems, failures and scandals that are emerging.

'Ethics and moral business values need to be at the heart of organisations and their core, the leadership, who set the tone for governance. Leaders, i.e. chief executives, directors and chairmen, need to be instilling the organisation's values and making sure they filter down into every area of the organisation,' explained Roger.

### Personal accountability

He added that it is personal accountability, rather than rules and regulations, that will curb misbehaviour.

However, personal accountability seems to be completely absent, for the most part, from a lot of the failures mentioned. For example, in the case of RBS' bailout and subsequent involvement in the Libor scandal, what course of action did the regulator choose to take as a form of punishment?

RBS' chief executive at the time, Fred Goodwin, had his knighthood cancelled and annulled. With regards to its involvement in the Libor scandal, the *bank* was fined £390 million for breaching the law, and acting unethically for profit, subsequently destroying public trust.

However, apart from cancelling and annulling Fred Goodwin's knighthood, what form of punishment was given out to the leader of RBS? None, as far as I can see. Goodwin walked away with a pension package of £342,500 a year, as well as a lump sum of £2.8 million tax free.

Was he personally fined, sanctioned or officially held responsible and made to serve jail time? No. As an individual who cost the UK £24.1 billion, the most he suffered was a smaller pension package and a revoked knighthood. In comparison, Prudential's Group Chief Executive Tidjane Thiam was fined and censured by the FSA. Prudential's crime was to wait two weeks before informing the regulator of its acquisition plans out of fears of a media leak. Hardly in the same league as the largest ever corporate loss suffered by the UK.

What's more, who owns RBS? – The Treasury, making the taxpayer a significant stakeholder in the bank. With the Libor scandal fine, the state-owned bank was forced to pay out hundreds of millions of pounds of public money to meet the fine. Yet it was the bank's leaders who turned a blind eye to the actions and mistakes that led to its involvement in the Libor manipulation; poor governance and a toxic corporate culture led to the illegal activity. As such, where is the personal accountability? It seems that the institution paid for the mistakes of its leaders.

'A corporation is a legal device designed to avoid responsibility,' commented Roger.

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Following the collapse of RBS and others, new regulations have been enforced to tackle aggressive risk-taking, regulate trader activity and supervise Libor submissions. However, going back to the original question; does this really go about restoring public trust?

### Still a long way to go

According to Roger Steare, and also Leo Martin, Director and Co-Founder of GoodCorporation, this does hardly anything to inspire public trust. Rather than reassuring the public that the root causes will be tackled, the public is being told that the regulators are readying themselves for when mistakes occur again, which apparently they will be better equipped to handle this time around, armed with a whole stack of new rules and guides.

Isn't the aim meant to be prevention rather than cure?

Speaking to Leo Martin, a similar sort of ideology as Roger Steare came across, in that constantly imposing new rules, applying pressure to 'stay in line or else', and what could be seen as 'waiting for the other shoe to drop', does not inspire confidence or trust in the system. 'It is not enough to set out rules and expect them to stay in line; the mindset and culture must be changed.'

Leo also said that in his experience, in recent years, he has seen a number of large corporations opening up to the idea of cultivating a new culture of ethical business behaviour.

'It is, however, a result of fear of the regulator that is driving organisations to consider ethics, with large corporations, especially banks, becoming open to conversation of this as a solution,' explained Leo.

It seems to be a case of these organisations taking or thinking of taking the right course of action in terms of establishing an ethical culture, but with the wrong mental approach.

So whilst it is great to hear that large organisations such as banks are considering addressing their internal behaviour, it is unfortunately still at the talking stage. Who knows when and if the changes will ever be translated into definitive action. As Leo said, there is still a long way to go.

Which means that there is still a long way to go until the public's trust is restored, the suspicion is that the current methods being employed by the regulators and organisations, in introducing new rules and regulations are not doing much to inspire confidence and trust.

Let's hope a change in corporate culture takes hold and gains momentum very soon.

**» About the author**

Pooja Kondhia is the Assistant Editor of *Governance & Compliance* magazine.