



INTERNATIONAL SOCIETY OF HEALTHCARE ETHICS AND COMPLIANCE PROFESSIONALS

Measuring E&C Programme Effectiveness

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What is E&C Programme Effectiveness?

Following on from the earlier breakout, is it about:

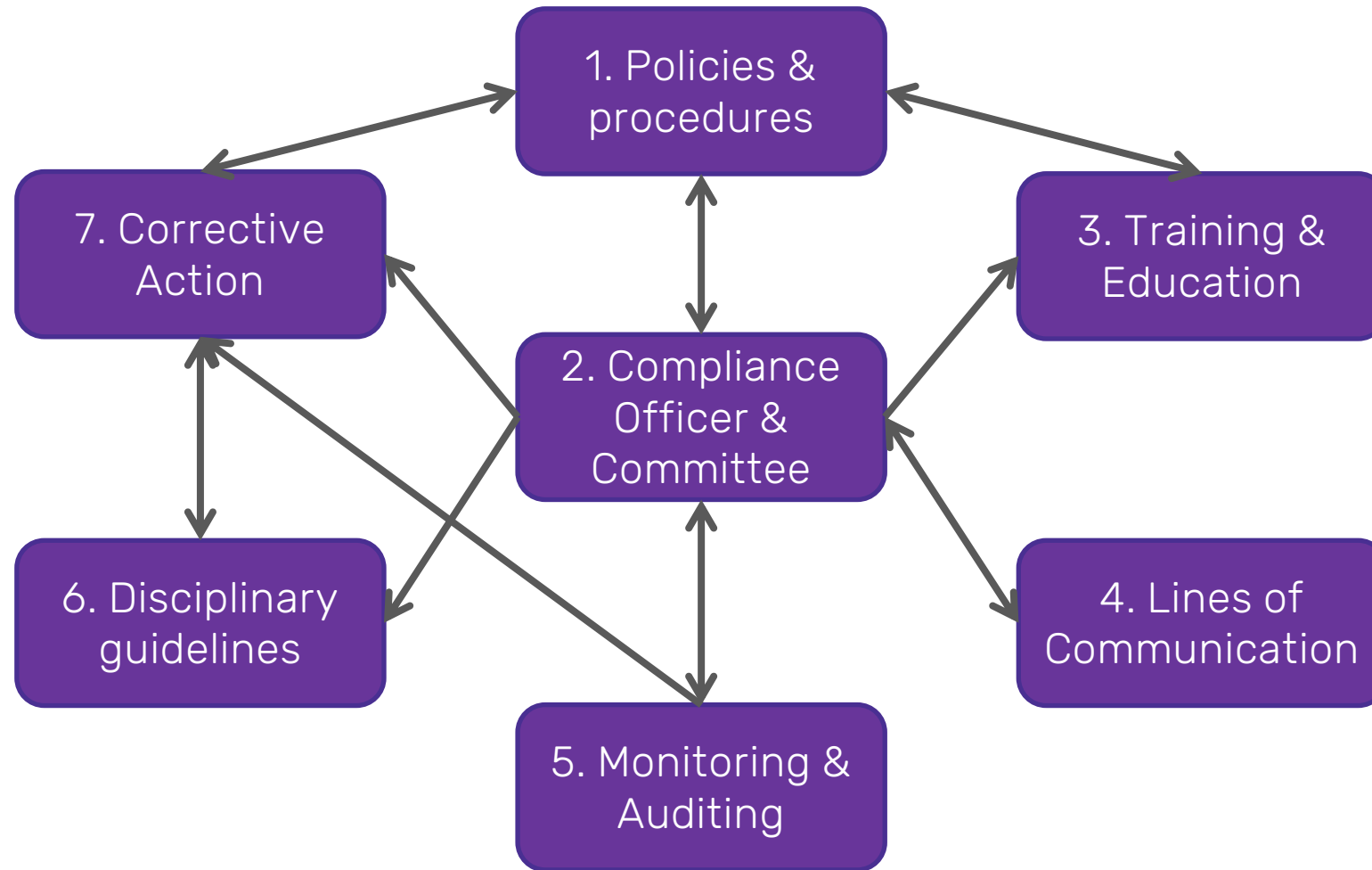
- Helping Board members and senior managers to sleep at night?
- Keeping Board members and senior managers out of prison?
- Reducing sanctions against company for wrongdoing of employees?
- Doing what is right because it is right?
- How does ESG fit with measuring programme effectiveness?
- ...

Seven Elements of an Effective Compliance Programme*

1. Implement written policies and procedures
2. Designate a compliance officer and compliance committee
3. Conduct effective training and education
4. Develop effective lines of communication
5. Conduct internal monitoring and auditing
6. Take disciplinary actions
7. Conduct investigations and take corrective actions

* US Office of Inspector General [Compliance Program Guidance for Pharmaceutical Manufacturers](#) (April 2003)

Iterative Seven Elements



Six Principles (from 2011 Guidance)

- i. Proportionate Procedures
... proportionate to the bribery risks ... and to the nature, scale and complexity of the commercial organisation's activities
... also clear, practical, accessible, effectively implemented and enforced.
- ii. Top Level Commitment
... board of directors ... are committed to preventing bribery ...
... foster a culture within the organisation in which bribery is never acceptable
... includes, among other things, assurance of the risk assessment, specific involvement in high-profile and critical decision-making, and the selection and training of senior managers to lead anti-bribery work
- iii. Risk Assessment
... assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf ...
The assessment is periodic, informed and documented.
- iv. Due Diligence (of Third Parties and potential employees)
... applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.
- v. Communication (including training)
... seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.
- vi. Monitoring and Review
... monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

* UK Serious Fraud Office – [Evaluating a Compliance Programme](#) (January 2020)

Evaluation of Compliance Programme*

- a. Analysis and Remediation of Underlying Misconduct
- b. Senior and Middle Management
- c. Autonomy and Resources
- d. Policies and Procedures
- e. Risk Assessment
- f. Training and Communications
- g. Confidential Reporting and Investigation
- h. Incentives and Disciplinary Measures
- i. Continuous Improvement, Periodic Testing and Review
- j. Third Party Management
- k. Mergers and Acquisitions

* US Department of Justice - [Evaluation of Corporate Compliance Programs](#) (June 2020)

Seven Elements and Evaluation

1. Implement written policies and procedures – UK i. Proportionate Procedures; USA d. Policies and Procedures
2. Designate a compliance officer and compliance committee – UK ii. Top Level Commitment; USA b. Senior; and Middle Management & USA c. Autonomy and Resources
3. Conduct effective training and education – UK v. Communication; USA f. Training and Communications
4. Develop effective lines of communication – UK v. Communication; USA f. Training and Communications
5. Conduct internal monitoring and auditing – UK vi. Monitoring & Review; USA i. Continuous Improvement, Periodic Testing and Review
6. Take disciplinary actions – USA h. Incentives and Disciplinary Measures
7. Conduct investigations and take corrective actions – UK vi. Monitoring & Review; USA a. Analysis and Remediation of Underlying Misconduct; USA g. Confidential Reporting and Investigation & USA h. Incentives and Disciplinary Measures

Note that the following evaluations do not neatly fit into any of the “seven elements” categories:

UK iii. – Risk Assessment; USA e. – Risk Assessment

UK iv. – Due Diligence; USA j. – Third Party Management

USA k. – Mergers and Acquisitions

Beware: this cross-referencing gives a simplistic view that is not necessarily complete

Past Measures of Effectiveness

Example from 2004; spreadsheet with 7 tabs:

- Board Reporting Metrics (22 measures)
- Allegation and Investigation Metrics (39)
- Cultural Indicators (20)
- Risk Management Metrics (10)
- Regulatory Compliance Metrics (63!)
- Training Metrics (13)
- Compliance Function Management (12)

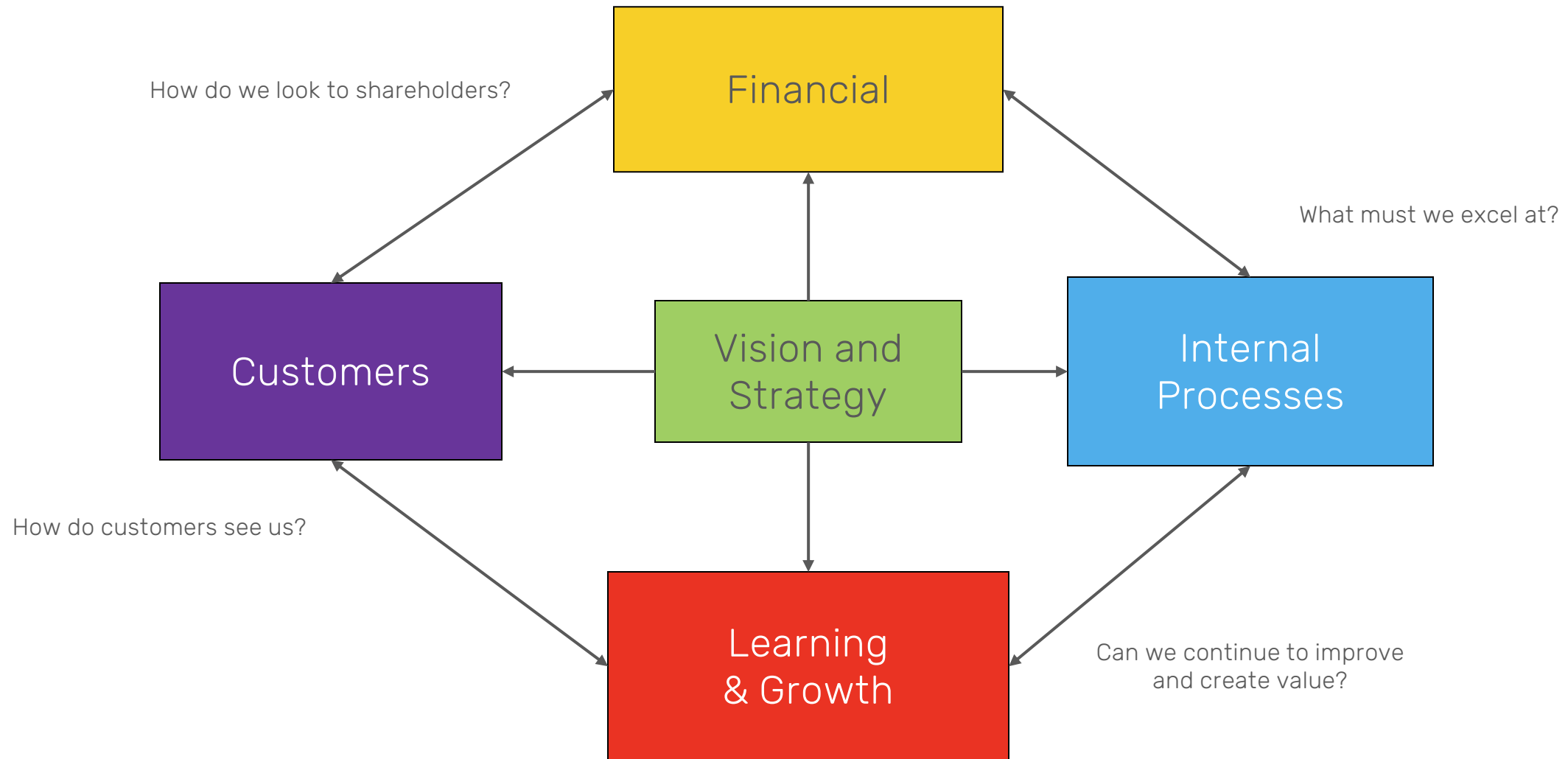
Total: 179 measures!

Board Reporting Metrics							
Metric	Q1	Q2	Q3	Q4	Owner	Interested Party	Action Plan
Program Status Metrics							
Trends in employee perception and beliefs about the culture of compliance and ethics							
Number and type of newly implemented program initiatives							
Percentage of migration plans completed							
Percentage of senior managers that completed compliance certifications							
Number and type of violations committed by senior management							
Number and type of substantiated whistleblower cases							
Program performance against regulatory standards (e.g., Federal Sentencing Guidelines)							
Number, type and degree of exposure to new compliance risks							
Substantiated violations by category, business unit, geography, and severity (legal and financial)							

- Snapshot in time
- Trends
- Show whether or not we're achieving our goal
- Tell us where to take action / put the emphasis
- May tell us what action to take
- Rounded perspective - whole team / department / company / third parties / society

- What gets measured gets done - be careful!
- Start with the behaviour you want to see, then measure something to drive that behaviour
- Just because you *can* measure something doesn't mean you *should*
- Be very careful with proxy measures - is it a true proxy?
- Every measure takes effort - it's better to have a few great measures than lots (179!) of mediocre ones

Balanced Scorecard - An Approach



Adapted from "The Balanced Scorecard – Measures That Drive Performance"; Robert S Kaplan & David P Norton; Harvard Business Review Jan-Feb 1992

Return to your flipchart “teams” and discuss the following questions:

1. What do we currently measure?
2. Do these measures tell us enough about the effectiveness of our programmes?
3. Are we measuring the right things?
4. What should we try to measure in the future to demonstrate effectiveness?