

**BUSINESS ETHICS:**  
HOW CAN BUSINESSES  
AND BANKS REGAIN  
PUBLIC TRUST?



# ➤ BUSINESS ETHICS: HOW CAN BUSINESSES AND BANKS REGAIN PUBLIC TRUST?

How can businesses and banks regain public trust? What practical measures would improve their ethical standing? These issues were discussed during a working dinner jointly organised by Clifford Chance and the Legatum Institute's Centre for Character and Values and attended by senior people from the law, business, academia and the Church of England. Here Angela Hobbs, Professor for the Public Understanding of Philosophy at Sheffield University, explores some of the themes arising from that discussion and suggests some ways forward.

Approaches to such questions often diverge at the outset, some parties appealing to the language of obligations and rights – which acts are permissible, which impermissible, which required – and others to the language of consequences, such as which act(s) will lead to the greatest good for the greatest number. But perhaps what is needed is to locate both discourses within a larger framework of an ethics and politics of flourishing: how might businesses best contribute to the flourishing life of the individual and community, the life which allows people most fully to actualise their best potential?

It is simply false to assume that there is an inevitable clash between 'ethical' and 'economic' considerations; more than this, it is false to think that such considerations can be clearly distinguished. Apart from the rare instances where 'flourishing' involves a decision to sacrifice one's life for the greater good, no individual or community can flourish if they do not have enough to eat, whether that is because they cannot afford to buy food, or because food is not available to buy.

*Mutatis mutandis* for shelter and (usually) clothing. The economic life of a community is part of its moral life, whether that morality be admirable or the reverse.

Morality and the law are of course not the same thing, and in particularly corrupt and misgoverned regimes may not even overlap. But even in a generally benign regime, in which the laws are at least intended to promote the general good, obedience to the law is simply the bare moral minimum: a fully moral approach will include much more. Witness, for example, current debates about how to distinguish prudent tax management, which may help one's society as well as oneself, from legal but morally shabby tax avoidance.

“ A company with clear moral values which earns and retains public trust is also likely to have a more contented and longer-serving workforce ”

So: trust. Here, too, there is a vital distinction, namely that between healthy and unhealthy forms of trust. Healthy trust is founded on full, accurate and clearly stated and understood information; unhealthy trust is ill-founded, poorly understood, and, as we found to our cost during and after 2008, can be dangerous in the extreme. How, then, to deserve, gain and keep healthy trust?

In his Art of Rhetoric, Aristotle says that there are three things required for the orator to be capable of inspiring trust:

- His or her argument (Aristotle would not admit a 'her', but he wasn't right about everything!): are its premises true and the moves in the argument justified?
- His/her character: is s/he morally credible?
- His/her understanding of, and sensitivity to, the psychological needs and desires of the audience.

These three features, it seems to me, can be helpfully reformulated for a contemporary business environment:

- Business needs to offer a socially useful good or service, and one which is clearly explained and also delivered in a way which, at the very least, does not do harm.
- Business owners and employees need to be morally credible providers of the good or service: people who do not just pay lipservice to certain ideals but also live by them.

- Business owners and employees need to understand, and be sensitive\* to, the needs of the various stakeholders: other employees, suppliers, consumers, neighbours, the society which permits the business to operate freely. \* 'Sensitive to', we should note, is not the same thing as cultural relativism: it does not require you to throw your core values out of the window and to adopt without questioning whatever moral norms are endorsed by a particular stakeholder.

So generated, healthy trust is not only morally praiseworthy; it is also likely to be cost-effective: fewer legal bills; fewer damage-limiting or image-repairing publicity campaigns (and the advent of social media, of course, means that it is increasingly difficult to hide); fewer reasons for governments to bring in burdensome regulations. A company with clear moral values which earns and retains public trust is also likely to have a more contented and longer-serving workforce, and be more attractive to the brightest and best graduates, who may indeed care about pension plans, but are likely to care more about a positive moral vision.

How, then to bring about this happy state of affairs? Here are five initial suggestions:

- Shame might be one possible route, but a judicious appeal to the human desire to feel valued and honoured would, I think, be far preferable: this would be a productive use of the competitive spirit that energises much of the business world. There can be

many different types of competition, and competition for honours – particularly if there are also monetary awards attached – can be of great social benefit. So very careful thought needs to be given to the criteria for both absolute and relative pay, and to the criteria for bonuses, promotion and recruitment, in order that they all encourage practices and behaviours which serve the greater as well as the individual good. We need to ensure that we reward people who are good at business, or good at banking, rather than simply people who are good at making profits for themselves from these activities.

- Regular, scheduled opportunities for employees to raise moral concerns or even just say that they do not understand something (e.g. a fancy financial package tied up with ribbon). Although some of these concerns would need to be raised privately, many could be raised, orally, in a public space, ideally with the CEO present or, failing that, the most senior people available. Raising of concerns and questions could form part of the honoured and rewarded behaviour that the company is encouraging. There is currently debate about the treatment of whistle-blowers, and this is important; but internal practices such as these open discussions would help reduce the need for whistle-blowing in the first place. They would also help those at the top to find out what is going on throughout the company generally (not just the moral dilemmas) and open debates would in addition reduce the likelihood of sub-cultures forming –

sub-cultures which may have damagingly different attitudes to the company's core values e.g. on environmental pollution.

- The benefit of such meetings, of course, will depend not only on the honesty of the participants and their willingness to speak out, but also on their awareness of the moral issues involved. If the company is enclosed in its own sealed cultural bubble – even if there are no damaging sub-cultures – its notions of honourable and shameful practices may have become badly skewed. This is one of the reasons why the composition of boards, trusts, advisory panels and indeed the workforce as a whole is so important: it is profoundly unhealthy if members and new recruits are appointed solely from the same cultural bubble. Whatever our profession, it is crucial that we open the windows and let in some fresh air and expose ourselves to the questions of people from diverse backgrounds and perspectives who are willing to challenge the status quo.

*This leads us to*

- Moral values cannot simply be imposed on a workforce (or its suppliers): they must be rooted at every level: the open oral discussions recommended above will help employees feel that they are part of the formation and implementation of their company's values. Employees will also feel much more inclined to be part of such processes if they can see their CEO, COO and Board leading on moral issues, in both word and deed.

■ There is much, then, that individual companies can do to improve their moral credibility and reputation. It is also true that, to some extent (not entirely), societies get the businesses and banks they deserve. For example, it is an uncomfortable fact that as a society we mostly only started appealing to the language of fairness and rights over the pay of top executives when we realised that the very high salaries were no longer leading to the beneficial consequences for the rest of us (e.g. higher house prices) that we felt we had been promised. As a society, we had been morally complicit in the state of affairs leading up to 2008. The implication is clear: we all need to have a robust conversation about the role of businesses and banks in our individual and communal lives: we should not just assume that the ‘experts’ know what they are doing, or that, if they do, they are doing it with benign intent. We need to remember that, whatever our job, we do not just work for a particular company, bank, firm, government or university: we are all also citizens, and have an obligation to pay attention, in so far as we are able, to what our own and other institutions are doing.

A company with a clear, rigorously practised and widely known policy of refusing to pay or accept bribes will be far less likely to be asked to pay or accept them (expediting transit through customs amongst other benefits). To keep abreast of moral concerns, companies needed to consider what the moral climate and expectations are likely to be 10 or 15 years hence (at the very least). In addition, it is

important to know not simply what your company values are, but what your suppliers, customers and neighbours think your company values are.

Two problems may prove particularly tricky: how to deal with the spreading of lies and misinformation on social media – one must be swift and precise in correcting such misinformation; and how to persuade middle management of the benefits of formulating and pursuing a clear moral vision - changing the reward structures could help here.

All of the above require the key connecting point made in 4): effective moral cultures need as an absolute *sine qua non* clear and practical moral leadership in both word and deed from CEO, COO and Board. The Centre for Character and Values dinner with Clifford Chance LLP sparked a substantive and valuable discussion in which highly knowledgeable and experienced practitioners of a variety of professions came together in a constructive spirit and showed how, properly and responsibly conducted, business can provide very great social good. To maximise these goods, none of us must pass the buck: we all need to continue to reflect on and openly debate the role of business in the flourishing life of both the individual and community.

“ We all need to have a robust conversation about the role of businesses and banks in our individual and communal lives.”



**Angela Hobbs, Professor for the Public Understanding of Philosophy,  
Sheffield University**

Angela Hobbs gained a First Class Honours Degree in Classics and a PhD in Ancient Philosophy at New Hall, University of Cambridge. After a Research Fellowship at Christ's College, Cambridge, she moved to the Philosophy Department at the University of Warwick; in 2012 she was appointed Professor of the Public Understanding of Philosophy at the University of Sheffield, a position created for her and the first of its kind in the UK (and, as far as can be ascertained, the world). Her chief interests are in ancient philosophy and literature, ethics (both theoretical and applied) and political theory, and she has published widely in these areas and contributes regularly to radio and TV programmes, newspaper articles and philosophy websites. She lectures and gives talks around the world and engages in a variety of public and civic work in the UK and abroad.

### **The Legatum Institute**

The Legatum Institute is an international think tank and educational charity focused on promoting prosperity. Made up of a community of scholars, researchers and supporters, the Institute is committed to promoting prosperity, expanding personal freedom and opportunity, and changing the thinking that keeps people from reaching their full potential in life. Independent and non-partisan, the Institute engages in empirical research, open debate, education and real world demonstration in order to influence public attitudes and public policy and to chart a path towards a just and prosperous world. The Legatum Institute Centre for Character & Values is an extension of the Legatum Institute's broader mission to foster human flourishing

# CLIFFORD CHANCE CONTACTS



**Carlos Conceicao**  
Partner, London  
T: +44 20 7006 8281  
E: carlos.conceicao@cliffordchance.com



**Judith Seddon**  
Partner, London  
T: +44 20 7006 4820  
E: judith.seddon@cliffordchance.com



**Luke Tolaini**  
Partner, London  
T: +44 20 7006 4666  
E: luke.tolaini@cliffordchance.com



**Kate Gibbons**  
Partner, London  
T: +44 20 7006 2544  
E: kate.gibbons@cliffordchance.com

# CLIFFORD CHANCE

© Clifford Chance, October 2016.

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571.

Registered office: 10 Upper Bank Street, London, E14 5JJ.

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications.

[www.cliffordchance.com](http://www.cliffordchance.com)

This publication does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to [nomorecontact@cliffordchance.com](mailto:nomorecontact@cliffordchance.com) or contact our database administrator by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ.

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Jakarta\* ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

\*Linda Widyati and Partners in association with Clifford Chance. Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.