

DUTY OF CARE

By Tim J. Leech, CA, MBA

Are You Meeting Your Duty of Care?

Welcome to a new department for *The Human Resource* - Duty of Care. This expression has two meanings: 1) legalistic - the term describing an aspect of an officer's or director's responsibility towards the organization; 2) moralistic - the ethical obligation an organization has to its employees.

This column will explore the duty of care that human resource practitioners and their companies owe their staff. A duty to establish the right tone, to clearly communicate standards. A duty to ensure that systems don't invite abuse. A duty to protect whistleblowers, and provide forums to discuss temptations and problem areas. A duty to keep honest people honest, and to punish those who aren't. Closely associated with this duty of care is the public's evolving expectations of officers and directors. I will be advocating new responsibilities and accountabilities for human resource practitioners.

My name is Tim Leech and I'm a control risk consultant. More years ago than I like to admit, I started in a co-operative M.B.A. program majoring in human resource management. After studying compensation theory, personnel management, organization design and behaviour, legislative trends, labour dispute settlement and more, I opted for the thrills and excitement of public accounting - or at least the security of a dual designation.

However, my interest and involvement in human resource management continued. In my new career, I performed operational reviews of pension funds and savings plans,

audits of performance appraisal and job-rating systems, administrative services contract reviews, and HRD effectiveness and efficiency reviews. I introduced ethics workshops into a major Canadian corporation, and eventually, became a forensic accountant.

A what ?? you say? A forensic accountant - an accountant who investigates suspected or known wrongdoings that involve the books or records in anticipation that the matter may go to court.

Things like employee expense report frauds, conflicts of interest, secret commissions, pollution violations, abuse of trust, thefts, breach of fiduciary duty, forgeries, regulatory non-compliance, fraudulent financial reporting - the list goes on.

What quickly became apparent to me was that in many cases, the blame did not lie solely with the suspected or guilty employee(s). In many cases, policy had not been communicated, supervisors had been careless or uncaring in their overseer role, senior management engaged in minor and/or major legal infractions with a wink and a nod. Systems invited abuse. Expense reporting abuse was tolerated until it crossed some undefined line. Dual standards existed for white-and-blue-collar workers. Dishonesty was handled with fat severances to avoid publicity. Etcetera.

In this column, my objective is to cause you to reflect on your company's policies and procedures, and to consider your role in establishing, monitoring, and influencing your company's duty of care. You do owe

your company's employees a duty of care. How do you measure up? Find out in the issues ahead.

Some of the topics I will be talking about include:

- Monitoring compliance with codes of conduct - Whose job is it?
- Codes of conduct - How to make them effective, useful, and enforceable.
- Ethics workshops - Should you include them on your course offering list?
- Hotlines and whistleblowing - Does your company shoot messengers?
- Conflict of interest policies and compliance declarations - Do you need them?
- Exit interviews - Are they part of your routine? Are you asking the right questions?
- Systems that invite abuse - Are you corrupting your staff?
- Joe's manager suspects he's "on the take". What now?
- Dishonest employees: To pay or not to pay? Police or no police? Court or severance?

I hope these columns will be informative and thought-provoking, and will help you to structure and prepare your organization to minimize or avoid some of the human tragedies associated with employees and companies who cross the line of acceptable behaviour. Please feel free to send me questions or cases for comment, care of The Human Resource.

Welcome to Duty of Care.

At the time this article was written in 1988 Tim Leech was Director Control and Risk Management Services at Coopers & Lybrand. Tim Leech is now Principal Consultant and Chief Methodology Officer at Paisley Consulting, a world leader in business accountability software solutions. He can be reached by phone at 905 823 5518 or by email at tim.leech@paisleyconsulting.com

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