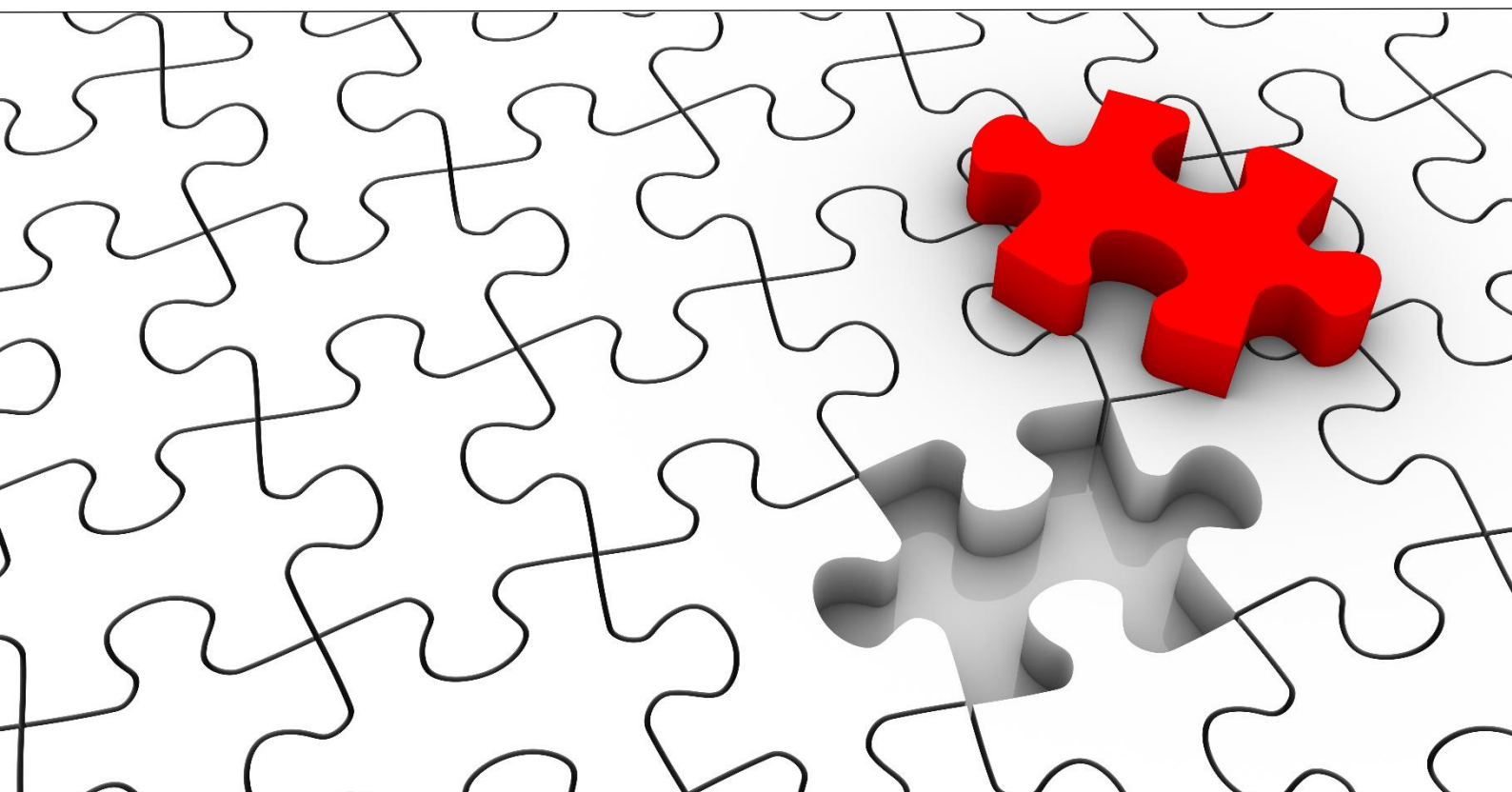




**THE GUIDELINES**  
**ESTABLISHING AND IMPLEMENTING EFFECTIVE**  
**COMPLIANCE PROGRAMS**  
**IN PUBLIC SECTOR ENTITIES**



**The Government Programme for Counteracting Corruption for the Years 2018–2020**





THE CENTRAL ANTI-CORRUPTION BUREAU

26 SEPTEMBER 2020

Dear Sirs,

I present a publication of the Central Anti-Corruption Bureau with the guidelines on establishing and implementing effective compliance programs in the public sector entities.

The document was drawn up in connection with implementation of the task 4.2. of the Government Programme for Counteracting Corruption for the Years 2018–2020 – *Developing guidelines for creation and implementation of effective compliance programs in the public sector.*

The public sector's mission, and especially public administration's mission, is to serve the state and the citizens. This task is not an easy one. One may have an impression that with every successive year of the XXI century the public authorities find it more and more difficult to reach this goal. On the one hand, numerous regulations of bygone era are still binding, and on the other hand, legal offensive at supranational level goes on in the attempt to keep up with technological revolution. And though we cannot forget that the public authorities act in accordance with the law.

The publication presents a general framework that may be used for establishing and implementing effective compliance programs in the public sector entities, that is literally in every public office in Poland. And in consequence, the programs are supposed to let to reach some main goals of the norm-makers of the public sector, including: minimizing risks, threats elimination and solving problems – in any subject configuration.

I am glad that this publication was drawn up in the Central Anti-Corruption Bureau. Especially as the CBA plays significant role as one the market regulators in Poland in scope of complying with the law, in particular in the public sector. I hope that the most important theoretical and practical aspects of compliance presented in this paper are not only useful in everyday public official work but also become a contribution in working out a national integrity program.

Yours faithfully,

## Introduction

The Government Programme for Counteracting Corruption for the Years (RPPK) meets an obligation of strategic approach to counteracting corruption. The long-term objective of the Programme is to set directions of anti-corruption policy in Poland and the operational objective is to reduce corruption crime and raise public awareness in Poland.

Combatting corruption crime includes not only investigative actions but also prevention. Effective fight with this kind of crime first of all demands a diagnosis of circumstances favouring its origin.

The presented document was drawn up in the result of implementation of the task 4.2. of The Government Programme for Counteracting Corruption for the Years 2018–2020 – *Developing guidelines for creation and implementation of effective compliance programs in the public sector.*

The RPPK is a government document. The objectives and tasks set therein envisage introduction of new legal and organizational solutions at strategic level. Execution of the Programme involves whole public administration of the country.

## Definition and objective of compliance

Compliance is a set of behaviour patterns connected with each other, including both law-abiding and ethically-driven that impose an obligation to adapt to them. The goal of compliance is to strive to a situation when an addressee of a norm behaves the way indicated by the norm maker. According to one of dictionary definitions of rule-following or law-abiding behaviour is called integrity.

Compliance includes every sphere of individual's activity in public life. In state authority organs compliance involves not only commonly binding law and internal rules, but also organizational culture and work ethos.

## **Components of a compliance program**

### **I. Management engagement**

Establishing and implementing of effective compliance program begins with an institution's management actions. Giving a good example is the management's responsibility. Lead by example is significant insofar as effective compliance programs unquestionably do not function without engagement, approval and guidelines of the management. In order to establish a new compliance program, the first step is to communicate the message of the organization's top executives on their support for this idea.

The actions of the management driven by the spirit of ethical conduct affect not only the institution itself, but also the entities connected with it. The appropriate impact of tone from the top can be achieved by transforming declarations into actions. Explicit message on lack of tolerance for any misconduct and consequent attitude of the management minimise risk of dishonest behaviour of employees.

It is worth to remember that in principle every employee is responsible for compliance. However, eventually the management bears institutional responsibility for irregularities in an organization. It is also the reason why this paper is addressed to the management in particular.

### **2. Integration of compliance and the mission of organization**

The compliance program should be fully integrated with the organization's mission and supported with adequate resources. The mission does not only answer the question what is the public authority, but also the question what should it be and what is the purpose of its establishing, as well as it indicates whom this body serves and what value it creates in society. The mission consists of all values anticipated by clients and other stakeholders.

Owing to this, the organization can effectively follow the regulations and policies and also minimise future costs connected with potential nonconformity, especially by:

- continuous quality improvement of processes and projects,

- following the rules of organizational culture,
- using new technologies,
- emphasis on training,
- monitoring compliance.

Assets and space are expensive and most of public authorities possess limited funds. Without regard to allocated human resources and funds it is recommended to take into consideration some funds for implementation tasks in scope of compliance in the institution's budget.

### **3. Competences and tasks of compliance officers**

Appointment of a person responsible for putting the compliance program into practice in an organization is necessary for the program's proper work. Such person should be positioned within an organization on a post ensuring independence in his or her activities, should have appropriate professional background and experience letting him or her move smoothly within the institution processes. Moreover, the person should be widely respected for his or her everyday professional attitude and honest work for this institution.

Basic responsibilities of compliance officers:

- creating and implementing effective compliance program (policies, procedures),
- compliance program management,
- promoting behaviours complying with legal and ethical norms,
- forming organizational culture, risk assessment and compliance assessment,
- staff training,
- regular self-assessment,
- self-improvement.

### **4. Monitoring and compliance assessment**

One of the key factors facilitating verification of compliance effectiveness is determination of the top and medium level management and the employees' awareness of the essence of compliance.

For assessment of the compliance program effectiveness various tools may be used, eg. IT, audit or surveys. It is important to keep holistic character of the final compliance effectiveness assessment. The evaluation should not focus on chosen indicators in specific fields but should provide overall view of the whole issue. Even if the particular components are assessed, it should be regarded from perspective of the whole compliance program.

Tools for creating compliance:

- information strategies – communicating information about risk and its factors to some entities concerned and others possibly putting pressure on the entities so as they act in socially responsible manner,
- incentive system – influencing behaviour within and beyond scope of regulations by commendations and bonuses,
- self-control – enabling parties recognized as trustworthy to run and report their own audits and assessment procedures, reserving all rights to review and verification,
- cooperation – engagement of some third parties working to promote compliance.

## **5. Training**

The management and the employees should be aware of binding norms and have sufficient training to perform their duties in accordance with the norms. They also should be conscious of the implemented compliance program and its methods, forms and measures. It can be achieved by regular trainings. Raising awareness enables to minimise risk and provides the employees with confidence that their tasks are properly done.

## **6. The key competences**

The key competences in compliance include: ability to identify essential problems and ability to outline solutions mitigating or eliminating the problems as well as carrying out tasks through team cooperation and collective intelligence.

Components of problem solving process:

- requirement to review issues and problem areas on regular basis,
- focus on the merits,
- classifying incidents,
- critical approach,
- proactive attitude,
- strengthening decision making process and increasing responsibility.

Stages of problem solving process:

- problem identification,
- definition,
- area determination,
- analysis of origin and development,
- solution implementation,
- solving the problem,
- long-term monitoring set up.

Benefits derived from cooperation and collective intelligence:

- collective plan and priorities set up,
- mobilisation of resources for reaching set goals,
- effective resource management,
- up-to-date assessment and planning new processes and mechanisms,
- innovative solutions,
- effective usage of new technologies.

## **7. Risk assessment**

The compliance program should include identified threats and incidents and high-risk areas should be the subject of additional control. In risk analysis process it is reasonable to look for optimum consisting not only in identification of risk, but also in concurrent assessment if it materialises.



Risk management goals:

- identification and risk assessment,
- incidents and problem areas distinguishment,
- indication of nonconformity types,
- suggesting methods of intervention.

## **8. Effective self-assessment**

The management and employees responsible for supervision over the compliance program are obliged to run self-assessment on regular basis and independent and complex review of the system work. The compliance program should be the subject of continuous assessment. It is recommended to undertake actions consisting in loophole and weak points detection.

Self-assessment benefits:

- defect elimination,
- reducing risk of resource loss,
- improvement of efficiency and effectiveness,
- better coordination.

## **9. Sanctions**

Compliance consists of definition of an individual's conduct in given circumstances as well as provision regarding enforceability of such conduct. Determination of negative consequences of behaviour not conforming with pattern is one of the methods of ensuring compliance.

The higher ability to impose sanctions for violating norms, the higher effectiveness of compliance and smaller probability of sanctions execution. Not sanctions themselves should be a main goal of public authorities, but preventive actions taken to encourage to voluntary obedience of binding behaviour patterns.

Recommended preventive measures:

- information and education,
- cooperation and mentoring,
- new technologies,
- commendations and bonuses.

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