Owing regulatory compliance

Jeff Fieldhouse, principal consultant, Baines Simmons, runs an analytical eye over a thorny topic.

In a complex aviation environment it is often unclear who owns regulatory compliance. The widely accepted ‘Three Lines of Defence’ model is a risk-governance framework that can be applied within an aviation organisation. When applied it demands greater ownership for regulatory compliance whilst driving greater operational efficiency. The net result is greater protection against loss of life or injury as well as loss of reputation, customers, assets and so on.

Deciding who owns regulatory compliance should be simple. However, many approved organisations still believe that responsibility sits with ‘the quality department’, ‘compliance monitoring’ or even ‘the regulator’.

In our experience the ownership of regulatory compliance for many organisations is still unclear, suggesting that compliance is not effectively managed. Lack of ownership can only lead to one outcome – increased risk and reduced stakeholder confidence.

The Merriam-Webster dictionary defines compliance as “the act or process of doing what you have been asked or ordered to do”. Arguably this rules out the quality- and compliance-monitoring departments, because their role is to monitor. As for the regulator doing compliance on your behalf – think again. Crucially, compliance must be owned by those who have been nominated.

Baines Simmons believes that an organisation’s protection from harm is best explained and supported through the Three Lines of Defence model. The model is considered best practice for managing and controlling corporate risk and is compelling as a framework for managing compliance.

**ROLE CLARITY**

A Chartered Institute of Internal Auditors policy paper sets out a Three Lines of Defence approach that provides clarity on how “different parts and levels of an organisation play different roles in risk management, and the interplay between them determines how effective the organisation as a whole is in dealing with risk”. It describes the Three Lines of Defence as (1) functions that own and manage risks, (2) functions that oversee or which specialise in compliance or the management of risk, and (3) functions that provide independent assurance.

If we exchange ‘risk’ for ‘compliance’, we have the foundation of a regulatory compliance management system. This provides clear ownership boundaries for compliance and adopts a management system perspective, both of which are EASA regulatory requirements. The diagram shows the Three Lines of Defence model as a compliance protection system that reflects the EASA regulations.

The first line of defence indicates the doing of compliance, the second signifies the measurement and reporting of compliance, while the third represents independent assurance. The first two lines are managed by the compliance owners, the third by compliance monitoring. The accountability for compliance and meeting approval obligations thus rests with the organisation, not the regulator.

Regarding the regulatory basis for the Three Lines, if we consider the EU’s Organisation Requirements for Air Operations (ORO), it is clear who owns and who monitors compliance in operators. ORO.GEN.210 states: “A person or group of persons shall be nominated by the operator, with the responsibility of ensuring that the operator remains in compliance with the applicable requirements” – compliance owner. Meanwhile, AMC1 ORO.GEN.200(a)(6) says: “The role of the compliance-monitoring manager is to ensure that the activities of the operator are monitored for compliance with the applicable regulatory requirements” – compliance monitor.

Operators do not appear to have embraced the benefits that the EASA requirements and the Three Lines model offer. Quality- or compliance-monitoring departments are being burdened with the responsibility for owning compliance and, in so doing, are not fulfilling their intended objectives. This misinterpretation of the intent of the regulations fundamentally erodes confidence in an organisation’s safety protection system.

Resolving or gaining clarity in the ownership of compliance is therefore critical. Only through this can an organisation be confident that regulatory compliance is being effectively managed, enabling an organisation to reduce risk and increase stakeholder confidence.