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Fujitsu Legal Workshop

30 November 2023

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Workshop Agenda and Materials

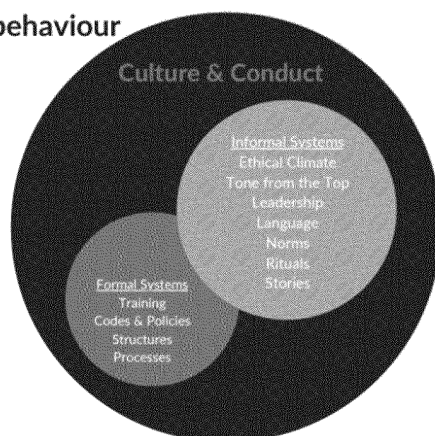## 30 November Morning (9:30 – 12:00)

30 November Afternoon (12:45 – 5:45)

Setting the Stage for Understanding Culture

Power of informal systems on behaviour

INFORMAL SYSTEMS are stronger influencers than FORMAL SYSTEMS when it comes to encouraging conduct and developing culture.

Decision derailers such as PRESSURE, FEAR, ASPIRATION, or perceived FAIRNESS can lead a person to choose an action that is misaligned with their espoused belief in doing the right thing. Many ethics and compliance programmes do not include measures to combat these decision derailers.

Culture & Conduct

Informal Systems
Ethical Climate
Tone from the Top
Leadership
Language
Norms
Rituals
Stories

Formal Systems
Training
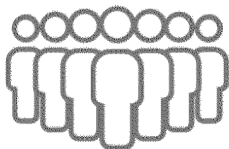Codes & Policies
Structures
Processes

Privileged and Confidential

Ethical Propensities – The Human Factor

<10% have a "criminal tendency" or are what we may call "bad apples"

~20% of people have a tendency toward ethical behaviour and truthfulness in **all circumstances**

The majority of people (around 70%) are influenced by environment, norms, emotions, and other life circumstances

A Human-Centric Approach to Compliance Program Maturity
https://ethisphere.widen.net/s/nzsx5m7csd/a-human-centric-approach-to-compliance-program-maturity-final

Privileged and Confidential

Reality of Speaking Up

93%
willing to report

58%
actually report

Employees often feel empowered to raise their hand, but in the moment fail to do so

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Impressions Govern Actions, Especially Around Retaliation Fears

Is the non-retaliation policy enforced?	I reported the misconduct I observed
Yes	73%
No	34%

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How People Report – They Choose People. Are Yours Ready?

Hotline

HR

Manager

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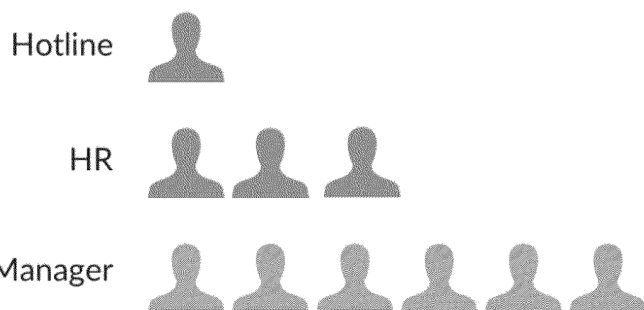
Creating Psychological Safety

A psychologically safe environment is conducive to taking interpersonal risks or engaging in acts of vulnerability

Giving and receiving feedback

Admitting when a mistake was made

Questioning assumptions

Asking a question

Asking for help

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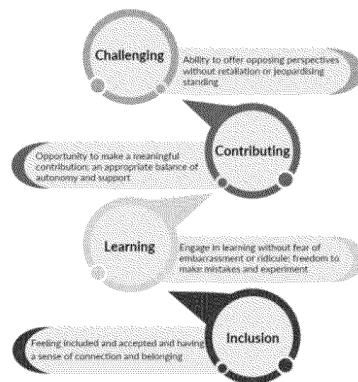
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NOTES:

Introduction to Psychological Safety

What is psychological safety?

In a culture built on psychological safety, there is a shared belief that the environment is conducive to taking interpersonal risks or engaging in acts of vulnerability such as:

Giving and receiving feedback

Admitting when a mistake was made

Questioning assumptions

Asking a question

Asking for help

A healthy culture, a psychologically safe culture, exists where these actions of everyday interpersonal vulnerability are rewarded as opposed to punished. It is a culture that has a learning mindset and embodies the reality that things will go wrong but we will catch them and learn from them.

The costs are real when employees hold back their full participation. Psychologically safe environments illicit a performance response and encourage people to take action. Unsafe environments that place a focus on assigning blame, excluding those who raise concerns, and encourage concealing failures, provoke a fear response, creating distraction and diminishing performance.

An environment where it is safe to speak up can drive innovation in addition to alerting an organisation about problems or concerns. People who may have solutions to problems, have ideas for product improvements, have closest contact with clients or are otherwise in a position to offer insights or spot hazards, may choose to remain quiet in environments in which speaking up is a risky or dangerous activity, or in environments where being silent is rewarded.

Every employee, but most importantly the direct manager, has an influence on an organisation's culture. Culture can be created by design or by default. One way that managers can transform culture, is to model and reward acts of vulnerability, which creates an environment where people feel comfortable speaking up.

4 Stages of Psychological Safety*

Challenging — Ability to offer opposing perspectives without retaliation or jeopardising standing

Contributing — Opportunity to make a meaningful contribution; an appropriate balance of autonomy and support

Learning — Engage in learning without fear of embarrassment or ridicule; freedom to make mistakes and experiment

Inclusion — Feeling included and accepted and having a sense of connection and belonging

*Based on the work of Dr. Timothy Clark, Founder of LeaderFactor

> **You can either lead the way or get in the way.**
>
> Dr. Timothy Clark
> CEO and Founder of LeaderFactor
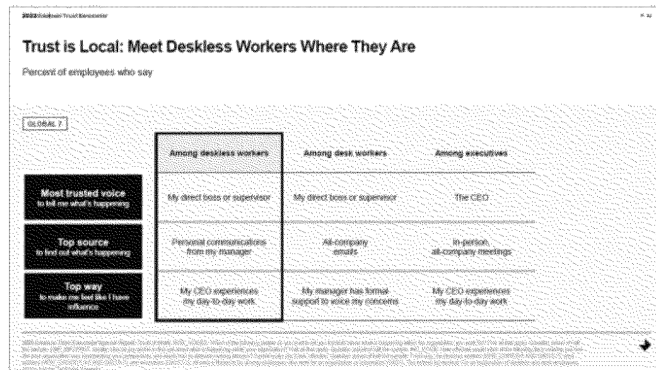
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Managers Matter

Opportunities to Reduce Risks and Forge Solutions
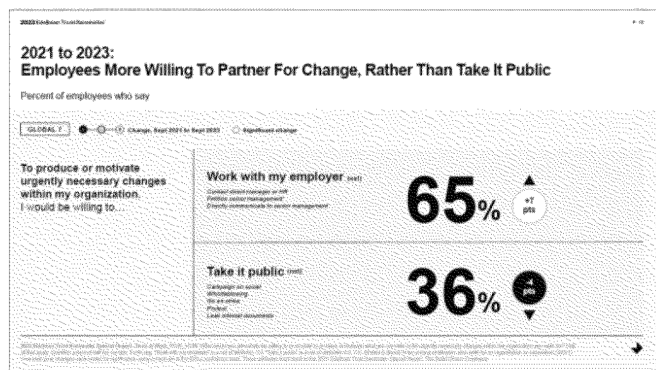
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Gen Z More Willing to Go Public
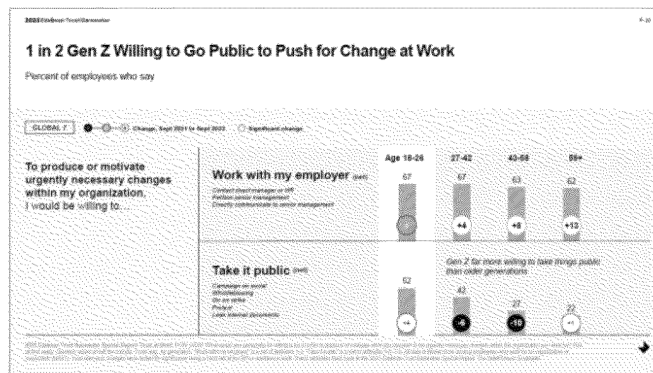
Four Levers to Influence Culture

WHO YOU HIRE
- What does it look like to hire to a fit with values?
- How is hiring happening across your organization?

WHO YOU PRAISE
- Do you recognize employees for asking questions?
- Do you reward employees for reaching goals without considering how they reached them?

WHO YOU FIRE
- What are the consequences for misconduct?

WHO YOU PROMOTE
- Is this person a role model

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Stakeholder Impact Map and Matrix

Use the Stakeholder Impact Map and Matrix to better understand the risks and opportunities created by any project or product across a range of stakeholders.

Complete the Stakeholder Impact Map by placing the project or activity at the center and then listing internal and external stakeholders that will be impacted by or have impacts on the project. Internal stakeholders might include yourself/your team, the broader company reputation, sales, legal, customer service, finance, leadership, or others. External stakeholders might include the contractual customer, the end user of a product, those that end users interact with, or others.

Stakeholder Impact Map

External Stakeholders (ES)

Internal Stakeholders (IS)

ES1
ES2
ES3
ES4

IS1
IS2
IS3
IS4

Activity / Project

1 2 3 4

1 2 3 4

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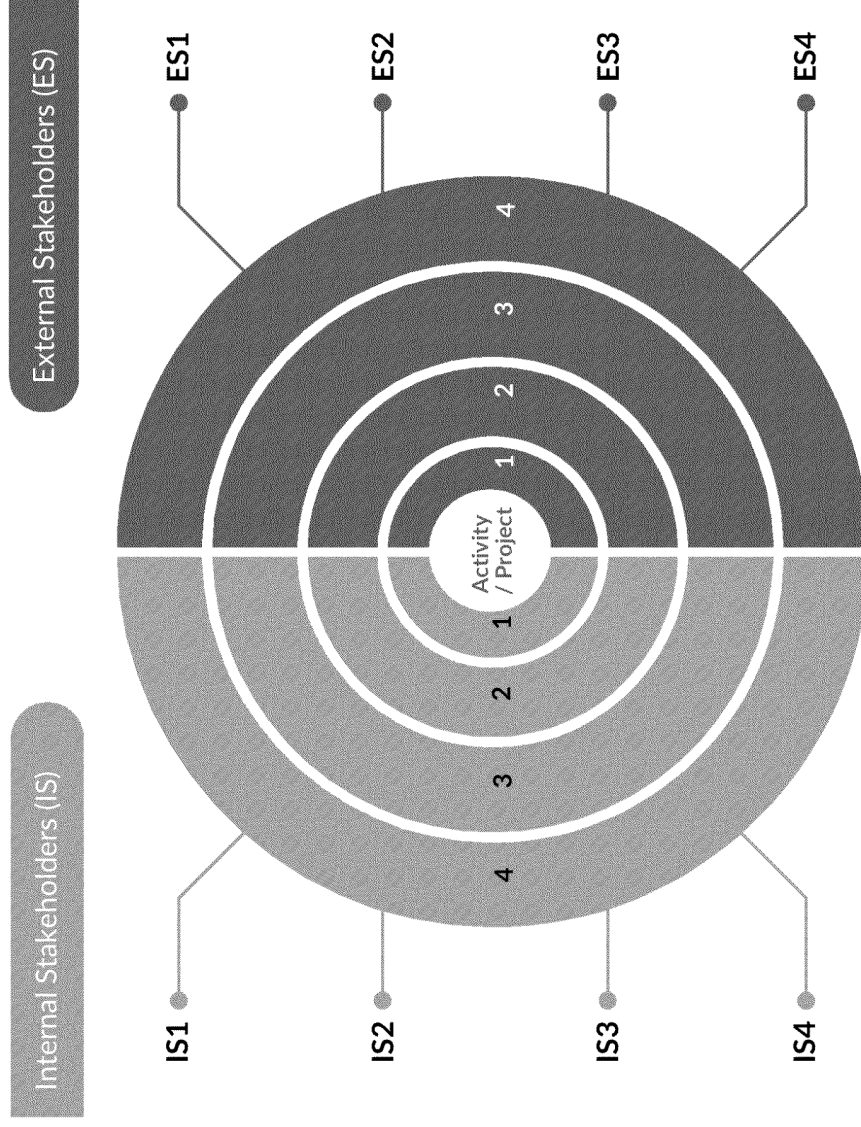# Stakeholder Impact Map and Matrix

Use the Stakeholder Impact Map and Matrix to better understand the risk and opportunities created by any project or product across a range of stakeholders.

For each stakeholder on the impact map, complete the **Stakeholder Impact Matrix.** Think about the positive and negative impacts of the product or project on each stakeholder group and then identify actions to take to amplify positive impacts and mitigate negative impacts. Remember that the greatest risk or opportunity may not be with the stakeholder closest to the product or project.

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Stakeholder Impact Matrix

Project Name: _____

Stakeholder	+ Impacts	- Impacts	Amplifiers for +	Mitigators for -

Example: Stakeholder Impact Map

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Internal Stakeholders (IS)

External Stakeholders (ES)

Myself/my team

Sales / Marketing

Customer Service

Legal / Company Reputation

Tech for Healthcare

Hospital System Administration (buyer)

Health providers / staff (end users)

Patients

Patient network (family, friends, employers, etc.)

Stakeholder Impact Matrix

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Project Name: Tech platform for healthcare / patient records system

Stakeholder	+ Impacts	- Impacts	Amplifiers for +	Mitigators for -
My self/my team	New skills/tech, meet goals	Deadlines push other projects behind	Document new/improved processes for re-use	Handoff pieces of non-priority projects to second dev team
Sales / Marketing	First to market with this tech; untapped market demand	Failure to bring in marketing early will delay launch or compromise quality of sales tools	Focus on MMP; provide clear definitions/explanation on features/benefits	Add Marketing Prod Lead to RACI diagram and invite to key meetings
Customer Service				
Legal / Reputation				
Hospital Admin (buyer)				
Health providers (end users)				
Patients				
Patient network				

Remember: The biggest risk or greatest opportunity may not be with the closest stakeholder

Breakout Exercise: Using the Stakeholder Map & Matrix

Select a project current underway or recently completed. As a group, complete the stakeholder map and matrix for that project.

Project Name:_____

Project Description:_____

_____

_____

Identify Stakeholders

Internal Stakeholders (IS)	External Stakeholders (ES)

IS 1_____   ES 1_____

IS 2_____   ES 2_____

IS 3_____   ES 3_____

IS 4_____   ES 4_____

IS 5_____   ES 5_____

Identify Impacts, Amplifiers, & Mitigators

IS 1_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

IS 2_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

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Identify Impacts, Amplifiers, & Mitigators

IS 3_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

IS 4_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

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Identify Impacts, Amplifiers, & Mitigators

IS 5_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

ES 1_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

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Identify Impacts, Amplifiers, & Mitigators

ES 2_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

ES 3_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

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Identify Impacts, Amplifiers, & Mitigators

ES 4_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

ES 5_____

+ Impacts	Amplifiers for +

- Impacts	Mitigators for -

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Professional Standards and the SRA

NOTES:

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Professional Standards and the SRA

FUJITSU

PRESENTED BY
ALISTAIR MAUGHAN

30 NOVEMBER 2023

Contacts

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(COLP)

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Solicitors Regulation Authority

Role of the SRA

Doing More with Less

* Moving from a book to a set of principles
* SRA wants to provide shorter, more user-friendly rules

Reach for the STaRs

* SRA Standards and Regulations 2019
* The SRA Principles
* Two Codes of Conduct
  * SRA regulated entities
  * Individuals

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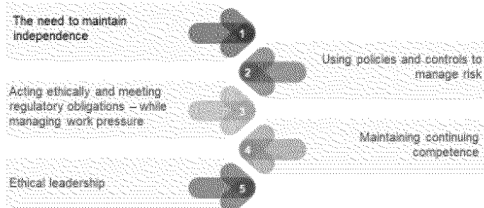## SRA and the In-house Sector

The SRA is historically more focussed at law firms...
... but has been playing catch-up with the in-house sector

Why?

- 34,500 in-house solicitors
- 6,000 organisations
- 8,000 more in-house lawyers than a decade ago
- 20% of all practising solicitors are in-house

March 2023 – In-house Solicitors Thematic Review
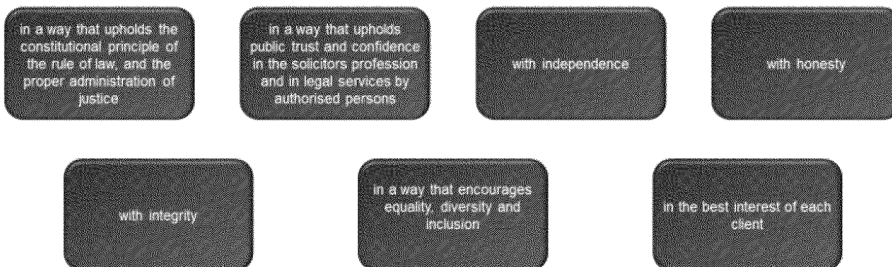
5 key findings:

1. The need to maintain independence
2. Using policies and controls to manage risk
3. Acting ethically and meeting regulatory obligations – while managing work pressure
4. Maintaining continuing competence
5. Ethical leadership

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SRA Principles

7 SRA Principles... " fundamental tenets of ethical behaviour that we expect all those that we regulate to uphold"
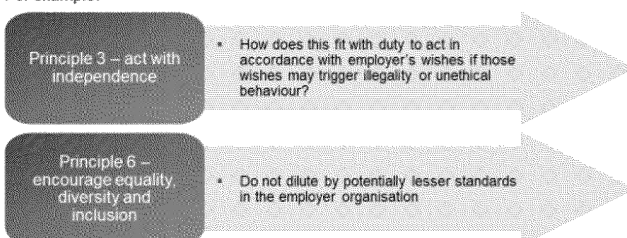
You are required to act:

- in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice
- in a way that upholds public trust and confidence in the solicitors profession and in legal services by authorised persons
- with independence
- with honesty
- with integrity
- in a way that encourages equality, diversity and inclusion
- in the best interest of each client

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A Solicitor's Duty to the Court

"Those Principles which safeguard the public interest (such as the rule of law, and public confidence in a trustworthy solicitors' profession) take precedence over an individual client's interests"

"You should, where relevant, inform your client of the circumstances in which your duty to the Court and other professional obligations will outweigh your duty to them"
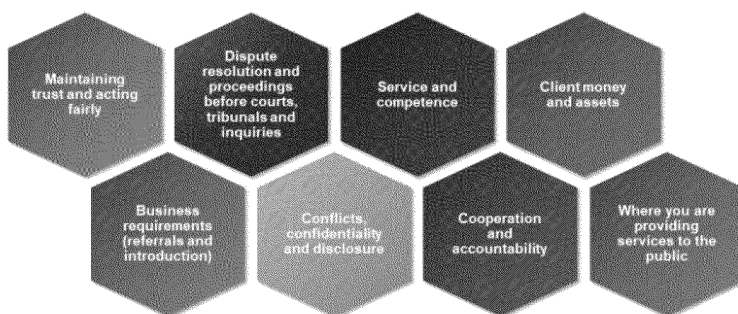
For example:

Principle 3 – act with independence
- How does this fit with duty to act in accordance with employer's wishes if those wishes may trigger illegality or unethical behaviour?

Principle 6 – encourage equality, diversity and inclusion
- Do not dilute by potentially lesser standards in the employer organisation

The SRA expects in-house solicitors to ensure that employers' instructions do not undermine adherence to the Principles

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SRA Code for Individuals

SRA Code of Conduct for Solicitors, RELs and RFLs
Designed to show that regulated solicitors put the law and ethics first

- Maintaining trust and acting fairly
- Dispute resolution and proceedings before courts, tribunals and inquiries
- Service and competence
- Client money and assets
- Business requirements (referrals and introduction)
- Conflicts, confidentiality and disclosure
- Cooperation and accountability
- Where you are providing services to the public

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NOTES:

Specific Regulatory Obligations

1. The need for professional indemnity insurance?
2. Undertakings
3. Covering all skillsets demanded by the client
4. Practising certificates are a personal responsibility
5. Employer support for continuing competence
6. Climate Change

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Enforcement Strategy

- Understanding the SRA Enforcement Strategy
- NDAs / SLAPPs
- Serious breaches
  - abuse of trust
  - taking unfair advantage of clients or others
  - misuse of client money
  - sexual and violent misconduct
  - dishonesty
  - criminal behaviour

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What Don't You Have To Do?

SRA considers that certain aspects are less / not applicable to the in-house sector

- SRA Codes of Conduct for Firms – private practice entities only

- SRA Accounts Rules mostly irrelevant

- Conflict **WRONG WAY** rules?

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NOTES:

Other SRA Focus Areas

Behavioural fair treatment requirements - a new addition in SRA Code of Conduct 1.5

"You treat colleagues fairly and with respect. You do not bully or harass them or discriminate unfairly against them"
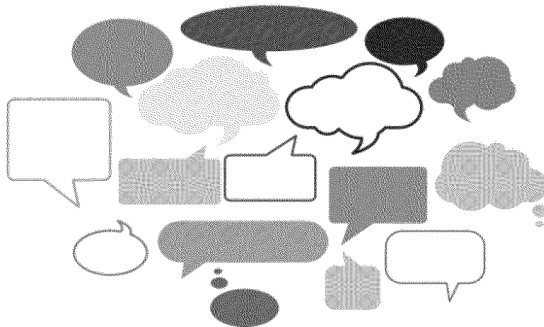
"If you are a manager, you challenge behaviour that does not meet this standard"

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Questions

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