

Internal reporter support strategy

1. Objectives

- To emphasise the importance of organisations providing proactive support to internal reporters.
- To outline how organisations can establish and coordinate a support strategy appropriate to each internal reporter.

2. Why is this important?

The practical support of people who report wrongdoing is the foundation on which the success of the *Public Interest Disclosures Act 1994* (PID Act) sits. Reporting wrongdoing is rarely an easy experience and active support – both informal and professional – for an internal reporter is essential and should be part of any organisational response.

The *Whistling While They Work* research found that almost half of internal reporters (43%) report negative impacts, including:

- less trust in their organisation
- disempowerment or frustration
- increased stress, anxiety or mood swings.¹

However, many reporters do not seek formal support from their organisation. This may be because they are unaware support is available – or because they don't want to become known as a 'whistleblower' or as someone unable to deal with the situation.

While providing organisational support to staff who report wrongdoing is vital to preventing or minimising the intra-organisational conflicts that can easily accompany reporting, it is currently the single weakest area of most organisation's responses.²

If internal reporters are treated with respect, properly supported and perceive the procedures used as fair, they are more likely to accept the organisation's decision – even if their allegations are unsubstantiated. Matters tend to escalate when internal reporters believe:

- they have been ignored or not taken seriously
- their report is not being dealt with properly and appropriately or within reasonable periods of time
- they have not been appropriately informed about the progress of their report or the outcome of any action taken in relation to it.

These beliefs may be due to the internal reporter having unrealistically high expectations or, more commonly in our experience, because of failures by the organisation concerned to properly deal with the report and the person who made it.

Potential internal reporters need to believe that they will be adequately supported. This belief will primarily be based on their understanding of the nature and level of support available to them, and their knowledge as to whether other internal reporters have been appropriately supported.

Principal officers and senior public officials are responsible for ensuring that the culture of their agency is supportive of staff who report wrongdoing. This support is vital for organisational integrity and part of the organisation's duty of care to staff.

The Wood Royal Commission into police corruption noted that 'the most conspicuous needs' of internal reporters were for:

- more personal contact at an early stage
- greater support from supervisors
- appreciation for their action by the organisation.³

3. Legal and management obligations

3.1 Occupational health and safety and duty of care requirements

Reporting wrongdoing can be a difficult process and, if not properly managed, can result in stressful interactions with colleagues and managers. Stress is a legitimate and serious workplace concern and may result in a staff member sustaining a serious injury.

Organisations have obligations under occupational health and safety legislation to ensure their staff have a safe and healthy working environment. Section 8 of the *Occupational Health and Safety Act 2000* states that this duty extends to ensuring that systems of work and the working environment are safe and without risks to health, providing staff with information to ensure their health and safety, and providing adequate facilities for the welfare of staff. Contravening occupational health and safety obligations is a serious offence that attracts significant penalties for the individuals or corporations involved (s.12, 27).

Organisations also have a duty of care under common law to provide a safe workplace for their staff. This means that managers and supervisors are responsible for taking all reasonable steps to prevent inappropriate behaviour at work – which includes harassment, bullying, discrimination and victimisation. Organisations have been successfully sued for compensation for breaching this duty of care where the staff member has become ill or suffered injury – physically or psychologically – as a result.

In 2001, the New South Wales District Court awarded a police officer \$664,270 in damages.⁴ The police officer made a report to internal affairs alleging corruption on the part of a senior officer. The officer claimed that, because of his disclosure, over the following decade he was subject to harassment and victimisation and was denied welfare assistance, leading to psychiatric illness.

The court found that the State of NSW was liable for the Police Service's breaches of its duty of care to the officer by failing to:

- properly investigate the allegations
- provide a proactive system of protection
- give proactive support and guidance
- prevent ostracism of the officer by colleagues
- assure the officer that he had done the right thing by reporting.

Another matter in 2011 saw an electorate officer being awarded \$429,166 in damages following a breach of duty of care by the Speaker of the Legislative Assembly. The Court found the Speaker was vicariously liable for his office's failure to take all reasonable steps to ensure that the officer's psychiatric illness was not exacerbated.⁵ The officer's illness was triggered in part when she made criminal allegations to the police against the Member of Parliament that she worked for.

4. What does this mean for your organisation?

4.1 Principles for providing support

Organisations should ensure that their systems and procedures for providing support for internal reporters are based on the principles in Table 1.⁶

This guideline will discuss various internal reporter support strategies such as:

- working with management to foster a supportive work environment
- appointing a mentor, peer support officer or confidante
- referring the internal reporter to professional support services
- facilitating conciliation of personality or workplace issues
- encouraging the internal reporter to draw on their personal support networks.

Other important aspects of providing support will be dealt with in the following guidelines:

- assessing and mitigating the risks of reprisals to the internal reporter – [Guideline C4](#)
- maintaining confidentiality, where practical and appropriate – [Guideline C7](#)
- providing the internal reporter with information, advice and feedback – [Guideline D2](#)
- preventing and dealing with reprisals and workplace conflict – [Guidelines D4, D5 and D6](#)
- implementing the appropriate organisational model of internal reporter support – [Guideline E1](#).

Table 1. Principles for internal reporter support

Systematic	Establishing systems and procedures for identifying internal reporters in need of support helps prevent or minimise negative outcomes for internal reporters, their workplace and their organisation.
Proactive	Support should be initiated by your organisation, rather than in response to a complaint or conflict or when reporters self-identify. This depends on disclosures coordinators being notified of all reports so they can ensure appropriate support strategies are implemented and monitored.
Informed	The internal reporter should be involved in discussions and decisions about who can provide them with assistance, and consent to their identity being divulged so that this support can be arranged.
Tailored	Support strategies should be designed to address the actual risks faced by the internal reporter that are identified through a risk assessment process.
Collaborative	A wide range of potential sources of support with the authority, skills and capacities needed to respond to identified risks should be available to create a network of support around the internal reporter.
Accountable	Although in most organisations the disclosures coordinator will be responsible for establishing and coordinating a support strategy appropriate to each internal reporter, the roles of identified support people – including line managers – should be agreed in each matter.

4.2 Support from management

Management are ideally placed to ensure that the internal reporter is supported in their workplace. They should monitor the workplace for signs of harassment or victimisation, anticipate problems before they arise, and intervene when necessary. This role applies even if someone else – such as the disclosures coordinator or an investigator – is responsible for dealing with the report or coordinating support for the internal reporter.

Managers and supervisors responsible for supporting the internal reporter can do this by:

- acknowledging that reporting the wrongdoing was the right thing to do and is appreciated by your organisation
- making a clear statement of support to the internal reporter – 'I will help you with this'
- assuring the internal reporter that management will take all reasonable steps to minimise any risks of reprisals that they face
- undertaking to keep the internal reporter informed of progress in dealing with the report, and then meeting this commitment.

More generally, managers should provide information to all staff about the importance of reporting wrongdoing, management's commitment to supporting internal reporters, the relevant provisions of the PID Act, and why it is in the interests of staff, management, your organisation and the public to support staff who report wrongdoing.

4.3 Support people

In consultation with the internal reporter, your organisation should nominate a senior officer that the internal reporter trusts to act as their support person in the workplace and help them throughout the process. This support person should be independent of the investigation and resulting decision-making process.

Some organisations have networks in place where staff can contact nominated officers to discuss workplace concerns. Internal reporters can be directed to suitably trained and experienced officers in these networks. These support people include:

- *Mentors or confidantes*: Experienced officers who volunteer and are approved to provide informal support to internal reporters on an ad hoc but formally recognised basis (especially from outside the reporter's workplace and reporting line).
- *Peer support officers*: Officers from within or close to the internal reporter's own workplace – for example, a trusted and capable friend – who are confirmed by the disclosures coordinator as appropriate to be trusted with potentially confidential information.

You may also choose to nominate and train 'disclosures support people' to provide formally recognised support. This network may include managers and supervisors, staff from your personnel or human resources area, and union or professional association representatives.

The responsibilities of support people complement those formally responsible for the welfare of staff – such as line managers, disclosures coordinators and principal officers.

The support person should be briefed on their role and responsibilities. These may include:

- keeping the identity of the internal reporter confidential, where practical and appropriate
- initiating and coordinating appropriate action to support internal reporters, particularly those who are suffering any form of reprisal
- advising internal reporters of the avenues available within your organisation to handle any concerns they may have arising out of the report
- telling internal reporters about the external organisations and services they can access for support – such as stress management, counselling services, legal or career advice
- ensuring the internal reporter has access to any necessary professional support
- attending interviews or meetings with the internal reporter or providing an alternative avenue of communication between the internal reporter and investigators or managers
- monitoring the workplace situation for reprisals or conflict
- notifying the disclosures coordinator or principal officer immediately of any suspicions they have that detrimental action to an internal reporter is occurring or has been threatened
- providing a balanced and independent view of what, if anything, is occurring in their workplace
- assisting the internal reporter to manage their own expectations and mentally prepare for a situation where the outcome does not fully confirm their allegations
- helping the internal reporter to understand that – even if their allegations are not fully substantiated – they have still done the right thing
- assisting the internal reporter to make a practical plan to handle this situation – for example, to request a change in the workplace if they feel they can no longer work with the subject of the report.

4.4 Professional support services

Internal reporters should be advised how to access relevant professional support services provided by the organisation, including:

- employee assistance programs (EAPs) providing free, confidential and professional counselling services
- independent career counselling support provided by career development officers
- legal assistance – for example, state government public officials may apply to the Attorney General for ex gratia legal assistance in certain circumstances – see [Premier's Memorandum 99-11: Guidelines for the provision of ex gratia legal assistance for ministers, public officials and crown employees](#).

Research found that counsellors were rated quite highly as a source of support by internal reporters and that their use increased markedly if the reporter experienced adverse treatment or harm. However, many casehandlers and managers noted the limited capacity of counsellors to involve themselves in the institutional resolution of issues, and were critical of their organisation using such services to avoid taking direct responsibility for supporting reporters.⁷

4.5 Support through conciliation

In some instances, conciliation may be an appropriate way to address ongoing concerns that are held by the internal reporter – for example, when a report results in workplace conflict or where no wrongdoing has been established.

Conciliation requires both parties to have a genuine interest in reaching a resolution, and is most appropriate when an ongoing working relationship between the internal reporter, colleagues, supervisors or the subject of the report needs to be preserved. Conciliation should only be undertaken by an appropriately skilled and trained person.

4.6 Personal sources of support

Internal reporters should also be encouraged to use their own support networks. These may include:

- *Co-workers* – collegial support is one of the greatest assets internal reporters can have when reporting wrongdoing.
- *Family and friends* – outside support is especially important if the internal reporter thinks they might be treated badly inside their workplace for reporting.
- *Unions or professional associations* – these are very useful sources of support and information for members. Unions may be able to advise on reporting options, help internal reporters if they are being treated poorly as a result of reporting, or provide referrals to legal advisory services.

The most common sources of support for internal reporters are:

- work colleagues
- family
- union/professional association
- supervisor
- counsellors.⁸

4.7 Ongoing support

Support for the internal reporter may need to be ongoing. Those responsible for supporting internal reporters should meet with them periodically or whenever something significant occurs – such as the start or completion of an investigation, when any decisions are made or outcomes released, or a person who is the subject of the report returns to the workplace having been temporarily placed on leave. This ongoing support should include:

- advising the internal reporter of progress
- making sure that they are not suffering any reprisals
- giving them practical support and advice on how to respond to or handle any difficulties (including stress) they are experiencing in doing their work from day-to-day.

5. Your questions answered

What about providing support to people who are the subjects of a report?

The person about whom the report was made is likely to find the experience most stressful. Once it is appropriate to tell them that a report has been made against them, they should be:

- reassured that the allegations against them will be assessed impartially, objectively and reasonably – and are only allegations until evidence collected shows otherwise
- given information about their rights and the progress and outcomes of any investigations
- referred to an employee assistance program to ensure they receive appropriate support
- accorded procedural fairness and have a reasonable opportunity to respond to allegations if a decision is going to be made about their conduct.

If the allegations in a report are found to be clearly wrong, the person who is the subject of the report is entitled to the support of the organisation and senior management.

For more information, see [Guideline C8: People subject to internal reports](#).

6. Additional resources

- [Guideline C4: Assessing risk of reprisals and conflict](#)
- [Guideline C7: Confidentiality](#)
- [Guideline C8: People subject to internal reports](#)
- [Guideline D2: Information, advice and feedback to internal reporters](#)
- [Guideline D4: Preventing and containing reprisals and conflict](#)
- [Guideline D5: Managing the workplace](#)
- [Guideline D6: Reprisals – investigating, acknowledging, remedying](#)
- [Guideline E1: Organisational model for internal reporter support](#)
- [Occupational Health and Safety Act 2000](#)
- [Public Interest Disclosures Act 1994](#)
- [Premier's Memorandum 99-11: Guidelines for the provision of ex gratia legal assistance for ministers, public officials and crown employees](#)
- [Whistleblowing in the Australian public sector: Enhancing the theory and practice of internal witness management in public sector organisations](#)
- [Whistling while they work: A good practice guide for managing internal reporting of wrongdoing in public sector organisations](#)

7. Last updated

November 2011

8. Endnotes

- 1 Brown, AJ (ed.) 2008, *Whistleblowing in the Australian public sector: Enhancing the theory and practice of internal witness management in public sector organisations*, ANU E Press, Canberra, p. 133.
- 2 Roberts, P, Brown, AJ & Olsen, J 2011, *Whistling while they work: A good practice guide for managing internal reporting of wrongdoing in public sector organisations*, ANU E Press, Canberra, p. 74, 77.
- 3 Wood, JRT 1997, *Final report of the Royal Commission into the New South Wales Police Service Volume II: reform*, Government of New South Wales, Sydney, p. 375.
- 4 *Wheadon v State of NSW*, unreported, District Court of New South Wales, No. 7322 of 1998 [2 February 2001] per Cooper J.
- 5 *Sneddon v The Speaker of the Legislative Assembly* [2011] NSWSC 508 per Price J.
- 6 Roberts et al., pp. 74–83.
- 7 Roberts et al., p. 87.
- 8 Brown, p. 215.

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