

## A. ORGANISATIONAL COMMITMENT

Organisational commitment refers to the acceptance that an organisation has an obligation to promote reporting of wrongdoing and to protect employees who come forward with reports.

Legislative provisions and black-letter procedures can go only so far in creating an effective whistleblower reporting and protection regime. The research has shown that an essential ingredient in any whistleblowing program is the commitment from each organisation to encourage reporting, act on the reports where appropriate and to protect reporters from any adverse consequences.

Organisational commitment also has a specific meaning in organisational psychology. In the range of attitudes studied in organisational behaviour, organisational commitment sits beside job satisfaction and job involvement as 'a state in which an employee identifies with a particular organisation and its goals, and wishes to maintain membership in the organisation' (Robbins et al. 2008:80).

Organisational commitment, in the context of whistleblowing, comprehends the degree to which the organisation as an entity deals with whistleblowing. Achieving strong commitment involves

- **policies and procedures** that signify the formal acceptance by the organisation of the principles of encouragement of reporting and protection of whistleblowers
- **leadership**—energy and commitment exhibited by senior management towards ensuring that there is no mismatch between the commitment outlined in the procedures and actual practice within the organisation, including allocation of financial and human resources
- **line managers** are usually the first point where reports are received, and they have the immediate responsibility for the wellbeing of employees; thus line managers warrant being looked at separately
- **reporters** need to trust that the procedures are adequate and that the commitment from those above them is such that their reports will be acted upon and they will be protected. A particular element of organisational commitment for reporters is their trust in management.

There is a strong link between the ethical climate of an organisation (part of the organisational culture) and effective whistleblowing policies and procedures. Where there is a good ethical climate and leadership support for whistleblowing, the experience of the case-study agencies is that good results will follow (see Wortley et al. 2008:71, Table 3.12).

Underpinning the elements below, strong organisational commitment was indicated by

- a culture of integrity in the organisation, and commitment to whistleblowing and the protection of reporters as a key component of that culture, manifested in a code of conduct
- involvement in the whistleblowing procedures at all levels of management, since line managers are the most likely recipients of staff concerns and need to fully understand the organisation's attitudes, policies and procedures in relationship to whistleblowing.

In many organisations, senior executives clearly recognise arguments in support of whistleblowing that

- stress the value of compliance with government policies and legislation
- demonstrate efficiency, including the benefits to the organisation of identifying fraud or defective practices, and of investing in awareness raising, training and internal witness support as a means of reducing the number of whistleblowing cases that become difficult, complex, time-consuming and costly.

If, however, senior managers in an organisation do not act ethically themselves, the effort being put into whistleblowing policies and procedures can also be largely

wasted. The phrase 'walk the talk' was used frequently in interviews and workshops. A disturbing criticism made about leadership in the area of whistleblowing was that many managers publicly supported the process but privately acted against it. Put another way, words and actions do not reconcile.

A number of factors can indicate the absence of an organisational commitment to whistleblowing, including

- a culture of secretiveness and cover-ups ('butt covering') when staff make disclosures
- a 'shoot the messenger' culture when unpleasant issues are raised
- disregarding a staff member's report as merely being that person's personal perception
- gossip as the major channel of communication about wrongdoing
- the use of derogatory language (even privately) in referring to staff members who make disclosures
- damage to the careers of staff members who make disclosures.

## TRUST

Trust is an essential part of a successful whistleblowing policy, and a key indicator of organisational commitment. While trust can be looked at as an issue primarily for employees contemplating reporting wrongdoing, it is also an issue for line managers. If managers accept that the organisation is genuinely committed to the principles of wrongdoing then their belief will enhance the trust of employees at lower levels in the organisation.

The empirical research demonstrated the importance of trust in building effective whistleblowing programs.

- 1** High levels of trust in the organisation are associated with decisions to report wrongdoing—a very important finding, given that most reporting is internal to organisations (Wortley et al. 2008:60, Table 3.4).
- 2** At an individual level, trust in the recipient of the report is an important factor in the decision about reporting pathways, in particular the selection of internal reporting pathways over external reporting pathways (Donkin et al. 2008:103).
- 3** Building trust can be expected to maximise the amount of wrongdoing that is reported and encourage issues to be reported quickly rather than festering and developing into more serious problems (Donkin et al. 2008:106).
- 4** Where employees formed a view that they would be protected and supported by management if they reported wrongdoing, they were more likely to do so (Donkin et al. 2008:106).
- 5** Knowledge of legislation is associated with higher levels of trust, as are knowledge of agency whistleblowing procedures and the comprehensiveness of those procedures (Roberts 2008:243, Table 10.7).

Achieving trust is nevertheless not a simple issue. All reporters showed a decline in trust of their organisation, even those reporters who were not treated badly by the reporting experience (Donkin et al. 2008:102). Lower levels of trust in management were also found where the wrongdoing was aimed at the reporter (Wortley et al. 2008:69, Table 3.9).

While the interviews of managers and case-handlers confirmed the important part that trust played in a successful whistleblower protection policy, the 58 reporter interviews also indicated that many who go through a reporting process can develop a deep-seated distrust of their organisation. Issues likely to lessen, or even destroy, trust in the organisation were

- a perception of differential treatment of junior staff from senior staff when it came to dealing with reports of wrongdoing (associated with this was inconsistency in decision making)
- excessive loyalty to the organisation's reputation by senior managers that led to a hostile attitude to reporters
- a lack of communication or secretiveness—in particular, reporters not being allowed to talk about their report
- reporters feeling 'fobbed off' when a report was made
- reporters not being informed of procedures and their rights
- managers not standing up for the whistleblower
- issues being personalised by management
- line managers covering up for senior managers
- line managers perceived as being too frightened to take on the issues that have been raised in the reporting of wrongdoing.

These issues give some indication of the areas that organisations need to address if they wish to enhance their employees' trust that they take reporting of wrongdoing seriously and will act to protect reporters. While organisations might have reasonable whistleblowing procedures, in many organisations there is a common perception that those procedures are not followed. While managers might 'talk up' the procedures, when it came to action, some were prepared to ignore the policies and procedures. All these issues provide important reminders of the types of judgment that organisations can and should aim to avoid in addressing the following elements.

The issue of trust relates not only to the organisation itself but to the totality of what is known as the integrity system. This notion recognises that a number of government organisations like Ombudsman Offices, Anticorruption Commissions, Auditors General and Public Service Commissions form a complex interlocking network that promotes integrity in government. Annakin (2011, pp. 31-49) describes the evolution of this notion and its relevance to whistleblowing. She makes the observation that, in general, those organisations play an important role promoting trust among whistleblowers but that many organisations do not meet the expectations of whistleblowers. In particular Annakin found that many integrity agencies displayed shortcomings in the quality and amount of information published about their whistleblower protection processes (2011, p. 140).

## A1. MANAGEMENT COMMITMENT

### Checklist items

- Clear statements by senior management of the organisation's support for the reporting of wrongdoing through appropriate channels ('if in doubt, report'), including commitments to
  - take credible and appropriate action upon receipt of a whistleblowing report
  - remedy any confirmed wrongdoing
  - support whistleblowers.
- Commitment to the principles of whistleblowing among first and second-level managers, including
  - understanding of the benefits and importance of whistleblowing mechanisms
  - knowledge of and confidence in whistleblowing policies.
- Broad staff confidence in management responsiveness to whistleblowing.

For virtually all aspects of organisational activity, effective leadership leads to improvement of performance. This extends to encouraging employees to come forward with reports of wrongdoing and ensuring that the organisation protects them.

Leadership in the context of reporting wrongdoing comprehends

- actively engendering a culture supportive of whistleblowing and a culture of consistency, openness and transparency
- an emphasis on 'sorting out' bullying and harassment
- drawing the connection between whistleblowing, ethics and integrity
- resisting the temptation for leaders to simply look after their own position when under political pressure.

In the language of management theorists, these challenges expose the difference between transactional leadership and transformational leadership. Transactional leadership is where leaders guide or motivate their followers in the pursuit of established goals by clarifying role and task requirements. Transformational leaders go a step beyond this by inspiring individuals within the organisation to transcend their own self-interest for the greater good of the organisation (Robbins et al. 2008:432).

When considering a complex issue such as whistleblowing, the leadership style required is one that encourages line managers to put aside their personal concerns and to nurture, encourage and protect those employees who come forward with reports of wrongdoing.

In addition to the quantitative research, there was near unanimity among interviewees and the workshop participants that leadership or the 'tone at the top' was a crucial component of an effective reporting system. Many participants nominated leadership as being the most important factor in a successful whistleblowing system.

*[T]he cut-and-dry cases are managed quite clearly very well, very efficiently. It's the grey matters, the less clear cases that are difficult to manage because the managers who are trying to manage those situations are often subject to allegations themselves and bullying and stress associated with that. And so people avoid trying to manage situations.*

**Manager**

The 34 manager and case-handler interviewees were evenly divided in their opinions as to whether their organisation took a proactive approach to the reporting of wrongdoing (that is, actively encouraging reporting and having systems and procedures in place to handle reports and support reporters) or a reactive approach (that is, waiting until a report is made or adverse action occurs and then dealing with it).

The issue of leading by example was mentioned frequently. Many managers made the connection between acting promptly and properly with disclosures and encouragement to employees in making disclosures.

Managers need to consider that, not only does management provide a leadership role with regard to whistleblowing, but individual managers themselves could be the subject of investigations. The interviews revealed that this places quite a burden upon managers and those in the organisation who undertook the investigations.

Leadership on the issue of whistleblowing can also (potentially) come from the external accountability agencies. However, according to Annakin (2011, p 271), those external accountability agencies are not achieving the aims and objectives of the whistleblower protection legislation in their jurisdiction, she says that in the final analysis, it appears that accountability agencies failed to recognise the

opportunities provided by whistleblowing cases for promoting organisational cultures that recognise the contribution of whistleblowers to the accountability. In this way, she says, they also failed to achieve the fundamental purpose of whistleblower legislation.

## BACKING UP THE COMMITMENT WITH OBJECTIVES

A key finding of the research was that many employees reporting wrongdoing were sceptical about their organisation's commitment to the issue of protecting whistleblowers. An element of that scepticism was often the belief that nothing would be done in response to their report. This was consistent with the evidence that the most common reason for *not* reporting observed wrongdoing was the belief that the organisation would not do anything, even if a report was made (Wortley et al. 2008:72, Table 3.13).

Looking in more detail at issues of commitment.

- In their procedures, not all organisations committed themselves to encouraging reporting and protecting those employees who came forward with reports of wrongdoing, and practical elements to support those who had already reported occurred only sporadically in organisational whistleblower procedures (Roberts 2008:243, Table 10.8)
- The broader population of employees in a random sample was generally more positive about how their reports were handled than those participants who had been identified as reporters or internal witnesses. It should be noted that many of the former had reported informally whereas the latter group of participants included those for whom the matter was handled with some formality (Smith and Brown 2008:124)
- Where reports were made about wrongdoing undertaken by a specific person, the 58 reporter interviews suggested that reporters' assessments of commitment were likely to be dependent on whether wrongdoers were actually subject to some form of censure, as opposed to simply administrative improvements in the organisation.

From the examination of organisational procedures (see later in this section), it is clear that organisations are often better at setting up administrative mechanisms for the receipt of reports than following through and dealing with the issues that have been raised. That follow-through is a key factor in the credibility of an organisation's system for dealing with whistleblowing.

The setting of clear objectives can assist in improving an organisation's performance in this key area. At the level of individual report handling, organisations can improve their performance through the following.

- **Ensuring that a credible exploration of the report is made.** Reporters have an expectation that when they bring wrongdoing to notice, action will be taken to assess the accuracy of their claims. In some circumstances, this might involve a formal investigation (see Section C2), but even at an initial, more informal level (see Section B), or if no investigation is warranted, it is crucial that basic fact-finding and other management action short of formal investigation is professional, credible and accountable
- Having fully explored the background to the wrongdoing, **making a decision based upon the evidence to hand**
- Following through on that decision to **remedy any wrongdoing** that the reporter has brought to the attention of the organisation.

Managers' obligations vary with the many organisational structures that occur in the public sector. Organisations can range from very large departments of state with more than 100 000 employees to small local government or statutory bodies of less than 100 employees. It is important to be flexible and think in terms of not only the direct supervisor of the reporter but also—particularly in large organisations—perhaps two or three supervisory levels above the reporter.

Line managers wield a significant amount of authority over their employees. Most public sector organisations are hierarchically structured, making all employees largely dependent on their supervisors for career advancement and the day-to-day quality of their working environment. Public sector managers exercise wide employment discretions: they approve their subordinates' leave, they approve employees' transfer to other areas of the organisation, they make judgments about employees' competence and present (or misrepresent) those judgments to more senior managers. Because of these power relationships, employees who report wrongdoing often place themselves in a vulnerable situation when it comes to management.

Of employees surveyed who reported public interest wrongdoing, in 66 per cent of cases, the initial report was directly to their supervisor or their supervisor's immediate superior (Donkin et al. 2008:88, Table 4.1). Managers therefore play a very significant role in the whistleblowing process. It is up to those line managers, as the immediate recipient of most reports

- how they react to the report from their subordinate
- how they make initial judgments about the validity of the claims that are being presented to them
- how supportive (or non-supportive) they are of the reporter
- how knowledgeable they are about the organisational policies and processes
- how knowledgeable they are about the general principles of investigation and the need to determine the truth of the matter in a disinterested manner
- how committed they are to remedying any wrongdoing that is proven.

Managers themselves can be whistleblowers. Not only low-level employees report wrongdoing; employees of various levels or seniority may report (Wortley et al. 2008:58, Table 3.2). Consequently, someone who is a line manager to a junior employee can potentially be a reporter reporting to another level of line management.

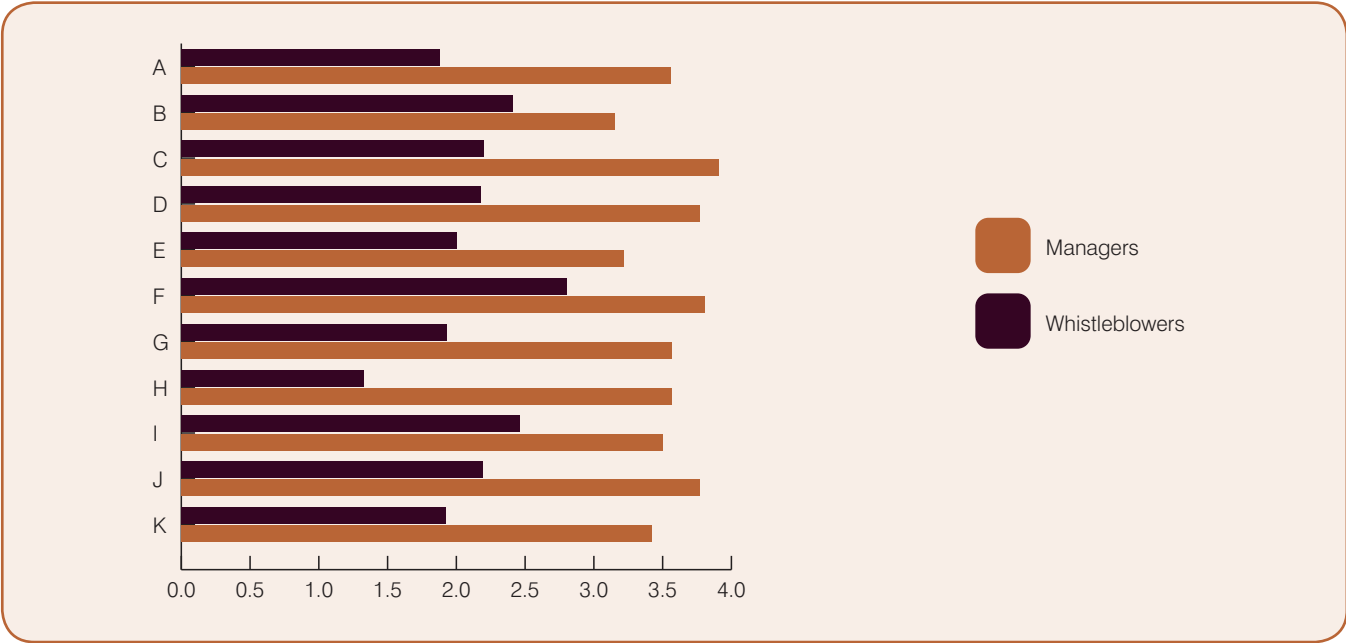
Whistleblowing, like many other organisational activities, is affected by the attitudes that key players have towards the organisation. Managers tend to be much more positive about their organisation than the totality of employees (Mazerolle and Brown 2008:170, Table 7.1). In particular, they were more positive about the capacity of the organisations to properly deal with reports of wrongdoing and the protection of reporters. That difference is of such a degree that there could be some degree of overconfidence in managers' perceptions of the effectiveness of their own organisation's whistleblowing policies and procedures (Roberts 2008:254).

Figure 1.1 demonstrates the contrast between the attitudes of the reporters and those of the managers (and case-handlers) surveyed in the case-study agencies. While significant differences existed between the perceptions of managers and reporters in all organisations surveyed, the level of commitment shown by managers was largely consistent across these organisations.



Figure 1.1

**Comparison of the perceptions of managers and internal witnesses of how committed their organisation is to ‘dealing respectfully and properly with reporters’**



Note: As agencies were excluded if  $n < 5$ , only 11 of the 15 case-study agencies have been included.  
Sources: Question 59 of the Case-Handler and Manager Survey; Question 61 of the Internal Witness Survey.

Nevertheless, the positive attitudes exhibited by managers provide a firm basis for organisations to move forward to meet the challenges discussed in this section. A key component of a successful approach to whistleblowing is the variety of attitudes that line managers themselves hold about those who come forward with reports of wrongdoing.

On balance, most managers and case-handlers recognise the value, importance and reliability of the organisational information that most whistleblowing provides (Brown et al. 2008b:45, Tables 2.12 and 2.13). In any organisation, however, there will remain a range of opinions about the issue.

In the case-study agencies, the 32 interviewed managers and case-handlers who expressed general opinions about whistleblowers broke down into roughly three groups: those who were positive towards reporters; those who were presumptively negative towards reporters, contrary to the overall weight of opinion (see box); and those who appeared to have a more balanced view, which was generally positive but included the need to balance reporters' needs with the interests of persons against whom allegations had been made. This analysis was based on unprompted expressions of opinion, rather than responses to specific questions.

Of the six case-handlers (either investigators or support staff) who expressed an opinion, five were positive towards reporters and one was negative towards reporters.

As a number of interviewees acknowledged, logic dictates that it is not a contradictory position for a line manager to be supportive of whistleblowers generally, yet to understand that persons against whom allegations are made also need support and protection.

*We deal with so much stuff that's just nasty and vexatious and you know who the people are and they are able to hide behind the protected disclosure legislation. Because often, sadly, the complainant may be a person who is not performing terribly well in their job and they've got some overworked manager who is trying very hard to deal with their conduct and performance.*

*So then they make a whole lot of quite serious and largely unfounded allegations, they get protected disclosant status and then you're left with someone where everyone is terrified to put a performance program or whatever is needed in place.*

**Manager, Case-Study Agency**



Particular issues for line managers are the following

- Reports are frequently about colleagues and superiors with whom the reporters have a close working relationship. For the line manager, those reports might well be about their own peers and colleagues. There is a temptation for the line manager to downplay the importance of the report so as to protect their own, or their colleagues', self-interest and credibility
- In large, complex organisations it is easy for line managers to shift the burden of responsibility onto some other part of the organisation. This could be the internal audit section, investigation unit or counselling staff engaged by the organisation
- Line managers have a capacity to influence more senior management levels of the organisation in a direct way and could exercise considerable discretion, potentially adverse or in favour of, the reporting subordinate
- Line managers also have the capacity to be passive in the reporting process in order to 'stay out of the firing line'. In larger, complex hierarchies, the line manager who fulfils organisational responsibilities is also placed in a difficult situation. This might not make the line manager as vulnerable as a reporter, but it is vulnerability nevertheless. Consequently, when organisations express commitment to supporting the reporters of wrongdoing, that support should extend to the direct recipient of the report.

It is not an easy task for organisations to ensure their line managers take risks in supporting reporters of wrongdoing. That is, however, what is being suggested here. Line managers should be encouraged to take on reports of wrongdoing as if they were their own, up to the point that it is clear, on the balance of probabilities, that the report has no substance and no further action is warranted. It is certainly within the power of individual organisations to create an organisational culture in which supporting reporters of wrongdoing is seen as an indication of superior management skills rather than a high-risk enterprise.

## PRACTICAL ACTION

At the strategic level, there are a number of things that an organisation can do to demonstrate its commitment to encouraging reporting and the protection of those who report. These include

- clearly committing to protecting and respecting people who come forward with reports of whistleblowing and following that up with the sorts of action described below
- taking whistleblowing seriously at senior management level
- explicitly aiming for consistency in the application of policies and procedures
- setting targets within the organisation for increasing reporting rates, reducing inaction rates and increasing the proportion of reporters being actively managed by support staff
- committing to ensuring consistent responses from all management levels of the organisation (middle managers are the front line of the reporting process and they will need to exhibit management skills in assessing the validity of reports and understanding the formal recording processes of the organisation)
- where the responses to the reports are elevated to a formal investigation, committing to conducting such investigations in the most professional way (that is, resource costs for employing skilled investigators or, more likely, contracting in persons with those skills)
- at all levels in the organisation, taking the opportunity to learn from the unpleasant reports rather than papering over the cracks
- clearly stating and emphasising the difference between bullying and legitimate management action

- addressing problems rather than blaming people
- treating whistleblower complaints from staff with the same level of understanding as whistleblower complaints from outside the organisation by explicitly rejecting the approach of encouraging customer complaints but deeming whistleblower complaints from staff too hard
- where the investigation process, however formal or informal, results in a finding that action needs to be taken, decision makers within the organisation taking responsibility for ensuring that the action occurs.

Additionally, organisations should provide training and guidance for line managers in how they deal with their multiplicity of roles in the whistleblowing process, taking the following issues into account

- Line managers not only need to be familiar with the detail of the organisational procedures, they need to have some understanding of the importance of supporting and protecting reporters on a day-to-day basis. Such support and protection should be additional to, and not instead of, any dedicated resources that the organisation has in these areas
- Efforts are needed to ensure that line managers are more fully aware of the reality of their policies and procedures, notwithstanding that there might inevitably be a degree of scepticism among staff about those very policies and procedures and their implementation. Sensitivity to this issue should assist line managers in dealing effectively with reports of wrongdoing
- In dealing with their line managers, organisations need to be sensitive that reporting wrongdoing can place individual line managers in a potentially conflicting situation
- Organisations also need to be aware that individual line managers have the potential to cover up reports of wrongdoing that they might find embarrassing and might exhibit a human tendency to look after their own interests
- The biggest challenge in changing organisational culture towards whistleblowing will be getting line managers to accept that dealing effectively with reports of wrongdoing is an important part of their managerial responsibilities. Adopting a low profile should not be seen as an option.

## A2. WHISTLEBLOWING POLICY

### Checklist items

- Easy-to-comprehend whistleblowing policy, including guidance on procedures, relationship with other procedures, and legal obligations.
- Broad staff awareness of the whistleblowing program and policy, including their responsibility to report possible wrongdoing.

## COMPREHENSIVE WHISTLEBLOWING POLICY

The research (Roberts 2008:245–60) confirmed that when it comes to whistleblowing, procedures in Australian public sector organisations

- are often not comprehensive, with only five of 175 agencies whose procedures were assessed in the project ranking as 'reasonably strong' against the requirements of the Australian Standard AS 8004-2003, *Whistleblower Protection Programs for Entities*
- vary considerably within and between jurisdictions
- the type of organisation appears to have little relevance to the comprehensiveness of standards
- issues related to the protection of internal witnesses are not well covered

*[A]nd then they refer you to some other document and you're sitting there going, bloody hell, can't anybody just tell me what I'm supposed to do there in three simple sentences? So I'm sure it's there, but as a rule I don't know where to find it half of the time, and so then you're relying on others to find stuff for you and then once you get it, you go, well I don't actually know what that means because it's too bloody complex.*

**Manager**

- many are poorly designed, and difficult to navigate and comprehend.

With regard to the ease of comprehension of the procedures, the following issues came to light.

- Many organisations provide their reporting procedures in too many places. A common pattern is for organisations to have one set of procedures outlining responsibilities for reporting in the code of conduct, another set of procedures for the process of reporting, and a further set of procedures dealing with investigation processes.
- There is a tendency to develop separate procedures closely aligned to different pieces of legislation rather than an integrated approach. Consequently, some procedures also read like an explanatory memorandum for a statute, with the legalistic nature of the language making comprehension difficult.
- A number of organisations demonstrated that it was possible to write procedures that were logical, user-friendly and used simply expressed language. These procedures stood out from the rest as being easy to read and understand.

Reporting procedures should be prepared for different audiences. Line managers, investigators and support personnel might need to have material that is more detailed and procedurally oriented. Potential reporters are going to want something that is simple and easy to read and which gives them confidence that they can proceed with their report.

An approach that some organisations adopted, and clearly found effective, was to have a 'user-friendly' guide for all staff with separate procedures specifically designed for line managers, investigators and support personnel. In Queensland, the Crime and Misconduct Commission, Ombudsman and Public Service Commission have promulgated separate guides for potential reporters and managers and for organisations (Crime and Misconduct Commission et al. 2009).

## STAFF AWARENESS OF THE WHISTLEBLOWING PROGRAM

To be effective, whistleblowing policies and procedures need to be widely promulgated throughout the organisation. As shown in Table 1.1, across the 118 agencies that participated in the largest survey, reporters were significantly more likely to be aware of their organisation's procedures than non-reporters. The higher level of ignorance about whistleblowing procedures among those who did not report is a clear warning to organisations.

TABLE 1.1

### *Knowledge of procedures among employees who did or did not report*

Category	Aware of procedures (%)	Stated that agency did not have procedures (%)	Did not know (%)
Reported observed wrongdoing (n = 2155)	82.3	3.0	14.7
Did not report (n = 3318)	71.4	4.2	24.4

Note: Significant at  $p < 0.001$  level using Chi-square test.

Source: Questions 13 and 26 of the Employee Survey.

A key element of effective reporting procedures is the transmission to employees of knowledge and understanding of available legislative protections. This relationship is indicated by

- a strong correlation between employees' belief that they are covered by relevant legislation and the likelihood that they will blow the whistle
- the fact that employees who believe they are covered by legislation are also likely to believe that management's response to whistleblowing will be positive, including protection of their rights if they suffer reprisals
- a statistically significant relationship between employees' confidence in legislation and low employee inaction in response to observing wrongdoing (Roberts 2008:237–43, Tables 10.1, 10.2 and 10.7).

The challenges are, however, indicated by great variations in knowledge of legislation at the agency level, and the fact that managers often tend to be overly confident about the effectiveness of legislation alone to provide protection. These findings indicate that some organisations still have a long way to go in terms of making their employees aware of their legislative protection, and that this awareness is an important factor in promoting reporting and assuring employees that they will be protected.

For these reasons, staff awareness is a vital element of organisational commitment to whistleblowing. This was confirmed in the surveys of case-handlers (n = 253) and managers (n = 394) in the case-study agencies. When asked what were the most important things that could be changed within their organisation 'to ensure that wrongdoing in your organisation is reported more often and dealt with more effectively', the most commonly mentioned issues were training and education (15.4 per cent of case-handlers and 16 per cent of managers). 'Communication' was the second most commonly mentioned issue.

On the ground, there are a number of practical problems with the communication of reporting procedures.

- Whistleblowing procedures can get lost in the welter of policies and procedures that every public sector organisation must have in place to meet its governance obligations.
- The procedures are often not communicated within the organisation. Organisations frequently put their policies and procedures about reporting on their intranet, where staff find them very difficult to locate. This problem is aggravated when there are a large number of people within the organisation who do not have regular access to an organisational computer. One investigator made the observation that when employees are considering reporting wrongdoing, they are frequently under stress and highly emotional and this state of mind should be taken into account when thinking about communication strategies.
- Procedures are often not understood. A number of whistleblowers made the claim that they had accessed the agency procedures about which their immediate supervisors were not familiar, and guided them through the process.
- A comment made by some managers and many reporters was that their organisation's procedures were adequate on their face, but that in the handling of particular cases those procedures were not followed. One manager observed that comprehensive procedures on reporting wrongdoing encouraged reporters to trustingly come forward, only to find that the practical application of those procedures did not live up to their expectations.

A key issue that emerged from interviews was whether procedures for the reporting of wrongdoing should be simple and clear to read or comprehensive and sophisticated enough to deal with the multiplicity of situations that can arise in

organisations in regards to the reporting of wrongdoing. The desirability of clarity in the procedures was a theme running through many of the interviews and many of the survey responses by managers and case-handlers.

A number of managers and case-handlers were of the view that agency procedures were too generic to deal with the complexity of the events that occurred. One manager described them as 'skeleton procedures'.

STAFF CONFIDENCE IN MANAGEMENT RESPONSIVENESS TO WHISTLEBLOWING

One of the key reasons employees do not report observed wrongdoing is a lack of confidence in the management response (Wortley et al. 2008:72, Table 3.13). As shown in Table 1.2, amongst employees the propensity to blow the whistle, confidence in whistleblowing legislation, awareness of agency whistleblowing procedures and trust in management are all closely associated.

TABLE 1.2

Comparison of awareness of procedures with whistleblowing propensity, confidence in legislation and trust in management's response to whistleblowing

	Whistleblowing propensity	Confidence in legislation	Attitude on how management would respond to report of wrongdoing
Aware of procedures (n = 5747)	3.88	3.21	3.37
Stated agency did not have procedures (n = 250)	3.44	2.78	2.90
Did not know (n = 1665)	3.38	2.82	3.10

Note: All significant at p < 0.001 level using Kruskal-Wallis H test.  
Source: Questions 15, 17 and 18 of the Employee Survey.

*The written policies and procedures could be improved. I don't think they adequately cover all of the scenarios that managers are presented with. How well they're implemented, I think, varies depending on the skill level of the manager involved in receiving a complaint or a notification and how well the investigation process is dealt with.*  
**Manager**

As well, employee awareness of organisational whistleblowing procedures and confidence in legislation are associated with the objectives of such procedures, such as encouraging reporting and protecting reporters (Roberts 2008:253, Tables 10.10 and 10.11).

EMPLOYEE ACCEPTANCE OF THEIR RESPONSIBILITY TO REPORT

The level of organisational commitment to a whistleblowing program can also be measured in terms of the level of staff acceptance that it is their responsibility to report public interest wrongdoing, rather than simply an exercise of a right. In many organisations—on their own account, at least 59 per cent of the 304 agencies who supplied information to the project—public sector employees are formally obliged to report wrongdoing. In parallel, a sense of ethical responsibility to report is the strongest reason provided by individuals for reporting wrongdoing (Wortley et al. 2008:71, Table 3.12).

On the best current evidence, a majority of employees (57 per cent of surveyed employees) feel they have had direct evidence of wrongdoing, but did not report it (Brown et al. 2008b:38, Figure 2.2). Even among organisations where there is a clear and publicised legal requirement to report (for example, in police services), managers are often aware of incidences where obvious wrongdoing has not been reported. While it is clear that having a legal obligation to report does not solve the issue of non-reporting, generating a more general sense of responsibility to report is central to the type of organisational climate—if supported by the ‘tone at the top’—in which a whistleblowing program is likely to be effective.

## PRACTICAL ACTION

To meet these challenges, organisations should

- develop comprehensive procedures that meet the requirements outlined in this guide
- clearly demonstrate their commitment to the reporting process in their procedures
- ensure their procedures devote sufficient coverage to the protection of internal witnesses
- ensure all procedures relating to reporting of wrongdoing are consistent and linked
- develop user-friendly procedures in plain language that are tailored to their specific audience (for example, investigators, line managers or reporters).

Additionally, in order to raise staff awareness of their whistleblowing program, increase staff confidence in management responsiveness to whistleblowing and ensure employees accept their responsibility to report wrongdoing, organisations need to

- think clearly about their communication strategy when developing their reporting procedures
- consult on their procedures with internal and external stakeholders—including staff, management and unions—to encourage all parties to consider the issues and provide constructive input to the reporting system
- have a multiplicity of media for communicating procedures
- have a range of levels of information, from very simple to comprehensive
- publicly acknowledge those staff members who have made valid disclosures as acting in the organisational interest
- find constructive ways, at the conclusion of major incidents, to ensure that any wrongdoing that has occurred in the organisation is acknowledged and openly discussed.

## A3. RESOURCES

### Checklist items

- Staffing and financial resources dedicated to implementation and maintenance of the program, commensurate with organisational size and needs.
- Specialised training for key personnel, including whistleblowing management issues as part of general induction and management training.



There is no fixed formula as to what resources organisations should devote to whistleblowing programs. Realistically, the resourcing of a whistleblowing function within an organisation has to compete with a range of other governance priorities.

Nevertheless, those responsible for whistleblowing programs can often make good efficiency arguments for their programs. In the experience of some agencies, this includes quantifying the benefits of resources allocated to awareness raising and the training of managers, in comparison with the falling cost of investigations and other resource-intensive consequences flowing from wrongdoing uncovered too late, or failures in proactive support of reporters or management of workplace conflicts.

Many managers interviewed considered that the whistleblowing function within their organisation was adequately resourced. As with any other resourcing issue, there will be divided opinions, with some arguing that the resources dedicated to investigating and supporting reports of wrongdoing are misplaced.

A key question confronting all agencies is what scale of investment in a whistleblowing program—and particularly dedicated to whistleblower protection and support—is commensurate with the size and need of the agency. The questions of an appropriate model and the scale of a program depend on each organisation making a clear choice based on its own needs. This choice is discussed further in Section E1.

As will be discussed later in this guide, many employees come forward with reports of wrongdoing that are not handled by the formal whistleblowing functions within their organisation, and therefore might not be formally 'counted' for the purpose of determining agency case loads. Organisations should therefore avoid resourcing only to the known number of reports. A proactive approach to whistleblowing issues is also likely to encourage more people to seek the formal processes and support mechanisms. Many organisations need to make the shift from resourcing what they know is occurring to resourcing for what they think might be occurring, or is likely to occur.

## SPECIALIST AND GENERAL TRAINING

Many managers and case-handlers nominate training and education in respect of dealing with whistleblowing as areas where organisations need improvement. Issues with training that were identified include

- while managers saw the need for training in respect of dealing with reports, it competed with other training requirements and there was a degree of management training fatigue
- training in regional areas of large organisations is more problematic than in central offices
- in many organisations, training is improving
- training in whistleblowing issues should be a part of a suite of general management competencies
- counselling skills were recognised as particularly important in managing whistleblowing.

In regards to the training of specialists, further issues were identified

- there exists a dearth of resources dedicated to specialised training in handling whistleblower reports (Brown and Wheeler 2008:306–8)



- the overall level of training in respect of investigation skills is not very high
- there is inconsistency in the level and type of training of investigators, with little training provided in circumstances where a much higher level could reasonably be expected (Mitchell 2008:191–7).

## PRACTICAL ACTION

In considering training relating to whistleblowing, organisations can give attention to

- the current adequacy of skills within the organisation in respect of investigations and support
- including training on whistleblowing policies and procedures in general management training
- specific training for the investigation of reprisals.

## A4. EVALUATION AND ENGAGEMENT

### Checklist items

- Regular evaluation and continual improvement in the program.
- Positive engagement on whistleblowing issues with external integrity agencies, staff associations and client groups.

## EVALUATION AND CONTINUAL IMPROVEMENT

As with any program within an organisation, it is necessary to regularly evaluate its effectiveness. While noting that most public sector organisations have standardised procedures for the evaluation of programs, the following would be desirable

- a formalised system for recording all reports of wrongdoing, their outcome, and details of any support provided to the reporter or a person who is the subject of allegations
- an estimate of the resources allocated to particularly difficult and complex cases
- a regular survey of the attitude of managers towards their organisation's whistleblowing policy and process
- a regular survey of employee awareness of the whistleblowing policies and procedures, and trust in these procedures.

It is also suggested that organisations ensure their whistleblowing program is included in the organisation's governance structure, and embedded in other organisational systems (see Section E4). This will also ensure that evaluation of the effectiveness of the program would be subject to regular scrutiny by an audit committee or its equivalent.

## EXTERNAL ENGAGEMENT ON WHISTLEBLOWING ISSUES

A final important indicator of organisational commitment is external engagement with key stakeholders on whistleblowing issues, including for the purposes of evaluating the program (as discussed above). A good relationship with all relevant integrity agencies is an important element of organisational commitment to reporting of wrongdoing.

Many managers and case-handlers interviewed were strongly in favour of a greater role for external oversight agencies, considering that

- external agencies could take an independent perspective on issues

*So how would you describe the relationship between your organisation and the integrity agencies?*

*I think it's good but I think we've worked fairly hard to make it good.*

*I have certainly developed good working relationships with the [integrity agency] in terms of making sure that we follow our procedures and respond to everything that they put to us in a timely way. We disagree on stuff but I think the fact that we've got a reasonably good working relationship works well. We try very hard not to be defensive.*

**Manager**

*[T]hey come in and don't know any of the people [they] are talking to, so they'll be getting a different view of the situation, without being part of the culture. I don't believe that always means they're going to do a good job. It's just that they come in and they do have a different view.*

**Manager**

- most external agencies have investigative resources not available to organisations, including stronger statutory powers; consequently, it was recognised that the quality of investigations undertaken by those external agencies was far higher
- associated with the above issue, when matters are reported externally and investigated by an external organisation, internal witnesses might be more likely to provide useful information so as to make the investigation more comprehensive.

When taking these responses into consideration, however, the following qualifications should be considered. First, as has been noted elsewhere, most reporters prefer to do so internally and only the minority will make an external report. Consequently, many of the managers interviewed did not have much experience of cases that had been handled by an external agency.

Second, every jurisdiction studied had a multiplicity of external agencies and some organisations working in specific areas could have quite a number that they were answerable to. Their functions were quite distinct, although there is inevitably some overlap.

Consequently, when managers were making comments about external agencies they could be referring to

- ombudsman's offices or anti-corruption agencies, which have significant powers and investigative resources
- public sector management agencies, which performed more of an oversight than an investigative role
- other external agencies, which acted more like regulators for a specific sector, looking at issues and making recommendations as to how the organisation could improve its administration.

Attitudes towards the involvement of external agencies in reporting programs were mixed. Managers acknowledge the efficacy of having a skilled, detached authority overseeing the process. This is tempered by views that some reporters can go 'forum shopping', looking for a recipient authority that will take a more sympathetic view than their own organisation.

When reports are received by or referred to an external agency, they are often referred back to the organisation for handling, with the external agency to be informed of the outcome at some stage for monitoring purposes. Most interviewees accepted the efficacy of this approach with some resentment that the organisation is taking the burden of responsibility. This acceptance was not reflected in reporter interviews, where referral back to their own organisation was frequently characterised by reporters as the external agency not fulfilling its proper role.

It is clear that governments should have at least one coordinating integrity agency with the statutory authority and capacity to oversee and respond readily to the range of issues that the reporting of wrongdoing raises for agencies (Brown and Wheeler 2008:310). This is an important principle for any best-practice public interest disclosure regime (Brown et al. 2008a:282–7), and is a recommendation recently accepted by many governments, included in amendments to the *NSW Public Interest Disclosure Act 2010* and foreshadowed by the Commonwealth Government (Australian Government 2010).

While this is a vital element, it will, however, most often remain the case that responsibility for dealing with the matter, as well as supporting and protecting reporters, **does** lie with the organisation in which the wrongdoing occurred. As noted

in Section A1, managers and supervisors—often more than external agencies—are well placed to identify the risks that contribute to the misconduct occurring, take the opportunity to learn from the complaint, and subsequently improve the ethical climate of their workplace. Often, the role of external agencies can be best fulfilled by supporting organisations in meeting this challenge, closely monitoring whether minor reports of wrongdoing are dealt with appropriately by organisations, and investigating only the most serious cases.

An organisation can demonstrate its commitment to whistleblowing most effectively by demonstrating openly to outside agencies that it is taking responsibility for dealing with wrongdoing by its own employees, as well as supporting and protecting its own reporters.

## PRACTICAL ACTION

Organisations can take a number of steps to ensure the continual improvement of their whistleblowing program and relationship with external agencies.

- Evaluation of the effectiveness of a whistleblowing program should be conducted with the same rigour and detail that organisations use to evaluate other programs. This should include the setting of key performance indicators, such as the number of reports received or the proportion of investigations that result in substantiation/action being taken/support provided to reporters or subject officers.
- As has been indicated by the research, there is some disjunction between management perceptions of the success of their programs and the attitudes of reporters. Organisations are urged to go beyond normal evaluation practices and to survey staff about their reporting experience, and their trust in management to handle their reports sympathetically and effectively.
- Organisations should liaise with external agencies dealing with whistleblowing reports professionally and sympathetically. Those agencies, in the course of fulfilling their functions, frequently develop useful insights into how the organisation is operating, which can be of benefit to management. Where possible, organisations should meet regularly with those external agencies and, where practicable, encourage them to participate in awareness-raising programs related to the reporting process.

## SAMPLE POLICIES AND PROCEDURES

*The policy should be an integral part of the organisation's commitment to developing and supporting a culture in which the reporting of wrongdoing and systemic failure is considered to be a positive action to promote integrity, accountability and good management.*

*No particular form of words is provided because an essential part of committing to certain values and developing a statement of such values is that it is meaningful and relevant to each agency and not just adopting a pro forma approach.*

*The principal audience for the policy is the agency's staff and the language should reflect this. Managers at all levels should also be made aware of the policy, not only as potential reporters, but as potential recipients of reports.*

### **The policy should be**

- a manifestation of the commitment of the organisation to high standards of ethical and accountable conduct and confirmation that the organisation does not tolerate corrupt conduct, maladministration or waste of public money
- in accordance with relevant codes of ethics/conduct that have been promulgated within the jurisdiction/organisation

- specifically addressing the obligations under the relevant public interest disclosure legislation
- specifically and formally endorsed by the CEO
- explicitly expressing the belief that staff who come forward and report wrongdoing are acting as exemplary organisational citizens and assisting in promoting integrity, accountability and good management.

#### **The policy should make specific commitments to**

- engender an organisational climate in which staff will feel comfortable and confident about reporting wrongdoing
- encourage any staff member to come forward if they have witnessed what they consider to be wrongdoing within the organisation
- respond to reports in a way that will protect the identity of the staff member reporting wrongdoing, wherever possible and appropriate
- protect the staff member who made the report from any adverse action taken as a result
- protect the dignity, wellbeing, career interests and good name of all persons involved
- deal with the report thoroughly and impartially and, where some form of wrongdoing has been found, take appropriate action to rectify it
- keep the staff member informed of progress and the outcome
- while encouraging staff members to report within the organisation, respect any decision to report wrongdoing outside the organisation, provided that reporting outside the organisation is legal and valid
- ensure that managers at all levels in the organisation understand the benefits to the organisation of whistleblowing, are familiar with the policies and sensitive to the needs of those who report wrongdoing
- provide adequate resources, both financial and human, are made available to
  - protect and support those who make reports
  - provide relevant training for key personnel
  - effectively investigate reports
  - properly manage any workplace issues that the reports identify or create
  - remedy any wrongdoing that has been established.