

B.

FACILITATING REPORTING

I think, in general, people in my organisation don't want to report. They're afraid of reporting, they are afraid of victimisation and I think that those fears are valid. I think there's a lot of evidence when somebody makes a complaint that they then get victimised by that. So I think for that reason, if anyone decides to make a complaint they tend to go straight to [the integrity agency]...They tend to go outside because they feel that they might actually be a bit more protected than going internally.

Manager

Encouraging the reporting of wrongdoing is the first major objective of any whistleblowing program. Although a considerable amount of reporting of possible wrongdoing by public employees occurs, there is considerable evidence of the reticence of employees to report, or to do so in a timely fashion. Some of this reticence might relate to deficiencies in formal systems, including the complexity and lack of comprehensiveness of formal whistleblowing legislation. These factors are barriers to the establishment of an ‘if in doubt, report’ culture within organisations and the general public sector (Brown et al. 2008a:261–8).

More pervasive problems relate to the reporting climate within organisations, where the bulk of evidence of wrongdoing is identified but where employees and organisation members can face natural disincentives to speak up. Disincentives to reporting can range from a desire to protect one’s career and avoid workplace conflict to uncertainty over the seriousness of the problem, fear of reprisal, and unwillingness to ‘rock the boat’ or challenge friends and colleagues.

TABLE 2.1

Managers’ and case-handlers’ views on how well their organisation encourages reporting

Item	Case-handlers (n = 340)		Managers (n = 535)	
	Mean	SD	Mean	SD
Success of organisation in encouraging reporting of wrongdoing (1 = not at all, 5 = extremely)	3.03	0.97	3.20	0.87

Source: Question 61 of the Case-Handler and Manager Survey.

Table 2.1 is one indication that managers and case-handlers in the case-study agencies were ambivalent about their organisations’ success in encouraging the reporting of wrongdoing. Also indicative was a disturbingly high rate of respondents (28.6 per cent) who witnessed wrongdoing that they considered serious but did not report it (Brown et al. 2008b:48).

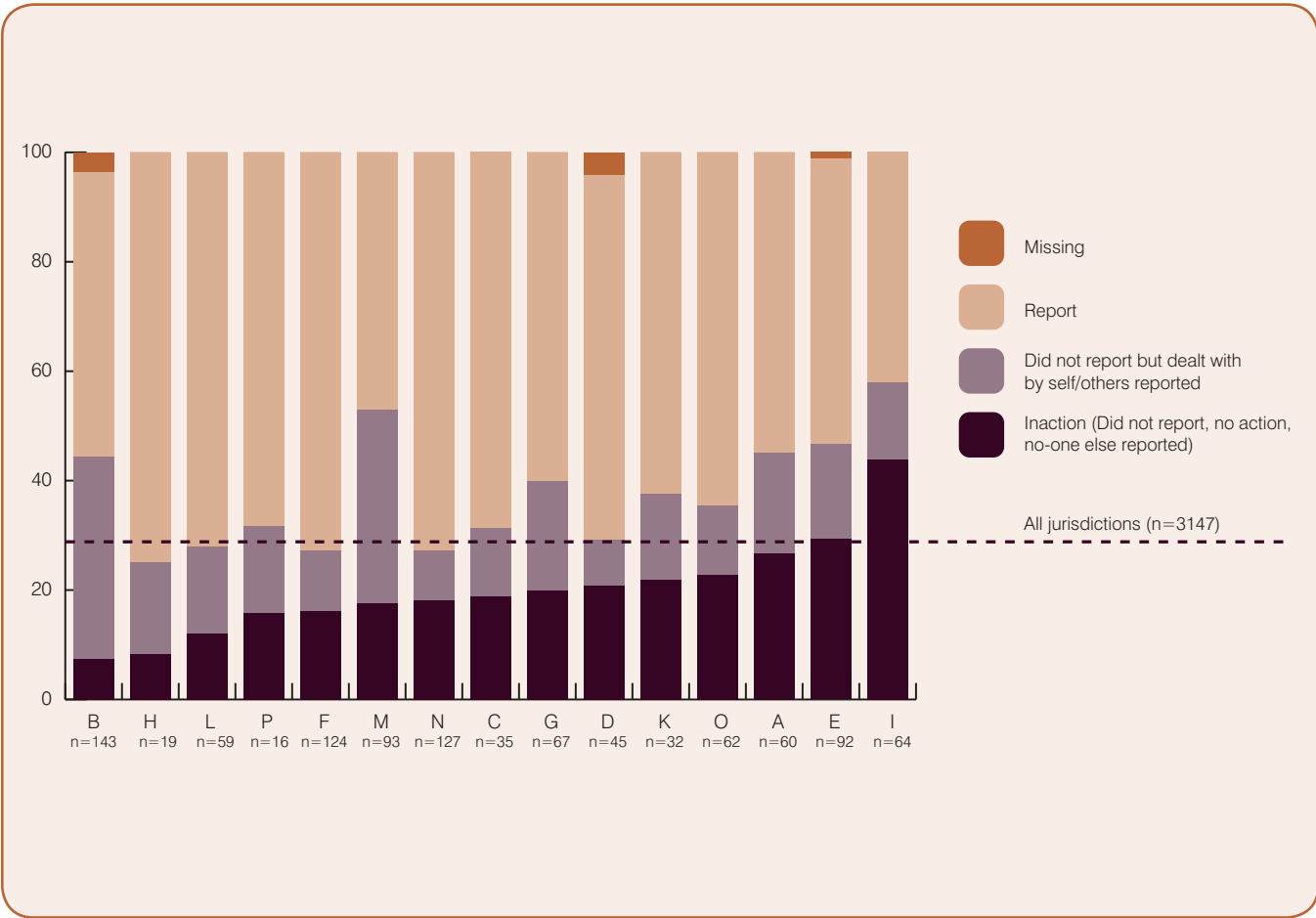
The final indication of these problems is illustrated in Figure 2.1, which shows the case-study agencies ranked by inaction rate (that is, the proportion of respondents who saw very or extremely serious wrongdoing that they did not report or deal with themselves and they did not know of others reporting). While a majority of the agencies were at, or below, the national mean, one-third were above it, confirming the varying degrees of success of the case-study agencies in establishing a successful whistleblowing program at the time of the research.

The most basic and practical element in an effective reporting system is clarity, including the need to precisely identify who is covered, what is covered, and how the organisation should coordinate its handling of different types of reports. More complex elements include ensuring the availability of multiple reporting pathways, whereby employees may bring forward reports of wrongdoing either to their line managers—currently the recipients of the overwhelming majority of whistleblowing disclosures—or to alternative reporting points within the organisation such as an

integrity or ethical standards unit or externally to agencies such as ombudsman's offices and anti-corruption bodies (Donkin et al. 2008:88, 89, Table 4.1 and Table 4.2).

FIGURE 2.1

Inaction rates across the case-study agencies



Source: Question 26, Questions 35a, 35b and 35c of the Employee Survey.

Organisations are urged to advise employees that these bodies are alternative recipients of reports of wrongdoing. The need for organisations to maintain close and positive working relations with these organisations has already been discussed. A final key component in encouraging reporting is for the organisation to have credible mechanisms for offering anonymity, backed up by realistic undertakings of confidentiality, for reporters.

The awareness and accessibility of these alternative pathways might be vital to not only maximising the likelihood of employees reporting but also to ensuring that disclosures are properly handled, and the whistleblower is effectively supported. Where employees believe that making a report of wrongdoing will immediately spread through the informal gossip grapevine within the organisation, it is unlikely that they will come forward to report wrongdoing.

A final key component in encouraging reporting is for the organisation to have credible mechanisms for allowing anonymous reporting, backed up by realistic undertakings of confidentiality. While this raises the first of many complex issues in the management of disclosures, the research suggests it is a worthy objective that every organisation should aim for.

B1. WHO MAY REPORT WRONGDOING?

Checklist item

- Clear and comprehensive approach to including all key categories of organisation members (for example, employees, contractors, employees of contractors, volunteers) in the program.

IDENTIFYING WHO NEEDS TO BE INCLUDED IN THE

WHISTLEBLOWING PROGRAM

While the coverage of whistleblowing policies and procedures might be shaped by the legislative system in which the organisation is operating (Donkin et al. 2008:83–108), it is also open to agencies to set many of their own parameters for those organisation members that the whistleblowing program is intended to encourage and attract.

Some whistleblowing legislation recognises that ‘any person’, including members of the public, may make a public interest disclosure. For example, the *Public Interest Disclosure Act 2010* (Qld) provides that *any person* may make a disclosure in relation to reprisal or dangers to the health or safety of a person with a disability or the environment, but that only *public officers* may disclose official misconduct, maladministration, waste of public funds or danger to public health or safety. In fact, this approach is not consistent with accepted definitions of a whistleblower as an ‘organisation member’. Nevertheless, it is important for organisations to identify those classes of complainant crucial to the agency for whom the risk of detrimental action represents a major barrier to disclosure of wrongdoing.

Most organisations focus upon serving employees in terms of their whistleblowing policies and procedures. Some organisations, where there is a significant amount of work undertaken by contractors and subcontractors, should focus upon their needs as well. Similarly, a range of volunteers and particular types of ‘at risk’ clients might need to be able to qualify for an equivalent type of protection and support as employees.

Most policies that were examined as a part of this research project (Roberts 2008) adequately defined the coverage of their whistleblowing policies and procedures. Interviews with managers and case-handlers, however, revealed an overwhelming focus upon current employees. Training of managers should therefore emphasise that they might receive reports from other sources and the implications of this.

PRACTICAL ACTION

It is usual for the definition of coverage in whistleblowing policies and procedures to follow the relevant legislation. Organisations are encouraged to look beyond the generic categorisation in the legislation and attempt to identify if they have any stakeholders or clients who might be in a position to identify wrongdoing and need protection were they to do so. Care should be taken to clearly identify the degree of protection that can be given in these circumstances.

This issue is dealt with in the sample procedures set out below.

B2. WHAT SHOULD BE REPORTED?

Checklist items

- Clear procedures and advice to staff on
 - the types of wrongdoing that should be reported
 - appropriate reporting points for all different types of wrongdoing (including grievances as opposed to public interest disclosures)
 - the level of information required/desired in a report.
- Clear advice that staff
 - are not protected from the consequences of their own wrongdoing by reporting it, nor for deliberately providing false or misleading information
 - may nevertheless seek and be granted immunity from consequences from their own less serious wrongdoing, when reporting other more serious wrongdoing.

DEFINING REPORTABLE WRONGDOING

Legislation might help define or limit the degree of discretion that agencies have in defining the types of wrongdoing that should be reported. In drafting policies and procedures, organisations should have a mix of defined issues that may be reported upon, but also a broader 'catch-all' provision, in keeping with the 'if in doubt, report' message.

The sample procedures also contain a suggestion on how organisations can deal with this issue.

One benefit to organisations having a broad 'catch-all' provision relating to the types of wrongdoing that may be reported is the collection of valuable intelligence about issues that might, on a case-by-case basis, appear to be minor but indicate a serious pattern when looked upon in aggregate. For example, where an organisation receives a large number of reports about minor fraud, this could indicate a more serious, systemic problem.

It is undesirable for any type of wrongdoing to be so closely defined that line managers and reporters believe that an issue falls outside the policies and procedures on a technicality. The bottom line is that organisations are better positioned if they make decisions on a day-to-day basis about whether or not a particular issue should be dealt with as a whistleblowing report rather than having it set out in some form of formal procedure.

One of the implications of this approach is the added responsibility upon line managers to give feedback to reporters if an issue is determined not to be worthy of further action. Ideally, that feedback, along with the reasons for the determination, should be provided to the reporter as soon as possible after the decision.

REPORTING POINTS FOR ALL WRONGDOING TYPES

There is considerable complexity in unravelling employment-related grievances and public interest wrongdoing (Brown et al. 2008b:49–51). In the research, the list of issues that could be reported was long and ranged from serious public interest matters, such as corruption and perverting the course of justice, through to workplace grievances, including personnel actions and bullying. Some workplace grievances, particularly those involving management, can become so endemic and destructive that they also become a public interest issue.

The category of personnel and workplace grievances was the largest of the seven categories of wrongdoing nominated by employees, five of which were clearly public interest issues. As outlined in Table 2.2 in the first report, 48.7 per cent of respondents to the Employee Survey (n = 7663) reported that they had observed wrongdoing that could be categorised as personnel or workplace grievances, and 22.2 per cent (n = 1702) indicated that the wrongdoing was somewhat, very or extremely serious. (It should be noted that respondents were able to nominate more than one type of wrongdoing that they had observed.)

Distinguishing between employment-related grievances and public interest wrongdoing is vital for organisations given the significant proportion of reporters who experience an employment-related grievance at the same time that they report wrongdoing. Of the 214 respondents to Question 23 of the Internal Witness Survey (including those who reported a workplace grievance), 41.6 per cent indicated that at the time they reported wrongdoing they were experiencing conflict or serious disagreement with their managers or supervisors. Conversely, 21.6 per cent (n = 74) of respondents who reported only public interest wrongdoing stated that they had a disagreement with their managers or supervisors at the same time. Interviews with reporters indicated that not only were public interest issues coexisting with personnel issues but also many reporters did not distinguish between the two.

The coincidence of different issues has the potential to complicate the way in which an organisation responds to disclosures. Figure 2.2 provides a good example of the type of advice that can be given to employees to help them understand that different types of wrongdoing might have different reporting points, and be handled in different ways. The crucial thing confirmed by the quantitative research and the workshops is the need for agencies to provide for all wrongdoing types, whether through coordinated advice about the relevant internal reporting points or through a 'one-stop shop' approach, such as a general, all-purpose complaints and disclosure line, as employed by some case-study agencies.

Irrespective of where disclosures are received, careful assessment is desirable to ensure that the different elements of a disclosure are all dealt with appropriately. The problems raised by this issue—especially in light of the fact that the bulk of disclosures is received by supervisors and line managers—are discussed in detail in Section C1.

FIGURE 2.2

Sample advice to public employees regarding reporting points



Source: Crime and Misconduct Commission et al. (2009).

LEVEL OF INFORMATION REQUIRED/DESIRED BEFORE REPORTING

Organisational policies as well as their practical implementation have to steer the difficult path between encouraging employees to bring forward genuine concerns and avoiding setting such a low threshold of reporting that line managers are swamped with unfounded suspicions.

Setting the bar too high means that reports are discouraged because the reporter believes that a high level of proof is required before making a report. It might also jeopardise a proper investigation, or increase the risk of reprisal or other conflict, by causing the employee to try to investigate the matter themselves in order to gather 'harder' evidence before coming forward. A suggestion for how this issue can be dealt with is covered in the suggested procedures.

INVOLVEMENT OF REPORTERS IN WRONGDOING

The credibility of the whistleblowing program depends on it not being used by employees as a self-protective strategy in relation to their own wrongdoing or workplace failures. This is important not only for organisational justice, but also because misinterpretation of the motives of reporters can undermine the scheme. Analysis of the interviews indicated that most managers in the agencies studied were not influenced by negative stereotypes of whistleblowers and did not think that whistleblowers were overwhelmingly vexatious, or simply seeking to protect themselves by making to damage others. The interviews also confirmed, however, that some do hold this view and that where such a negative view is prevalent, it is likely that there will be discord and reprisal as a result of the report.

It should be clearly stated and understood in the whistleblowing policy of the organisation that the act of reporting does not necessarily protect the reporter from the consequences of their own wrongdoing. This is also usually the legislative position.

The separate but related issue of a reporter providing deliberately false or misleading information is one that is often mentioned in legislation. If this is the case then organisational policies need to reflect the intent of the legislation. If it is not covered in legislation, this issue needs to be dealt with along the lines suggested in the sample procedures below.

IMMUNITY FOR REPORTERS

There might be situations where a reporter comes forward with a report of serious wrongdoing in which they have some minor involvement. There might also be situations where an employee is aware that if they disclose wrongdoing by others, or about the organisation, they can anticipate a likely 'payback' complaint against them by other employees or managers—which might have some basis—and therefore be deterred from reporting.

Such payback complaints (and even 'pre-emptive strike' complaints) against whistleblowers or possible whistleblowers do arise. Examination of the reporter interview transcripts (n = 58) indicated that 'payback' reporting occurred with seven reporters—five initiated by the reporter and two against reporters by other parties. In these circumstances, agencies must be especially careful not to send a message through the organisation regarding its treatment of whistleblowers that submitting a report makes the reporter 'fair game' for payback complaints. This will risk creating an environment in which reporting becomes a tit-for-tat retaliatory battleground.

To address payback complaints, organisations could provide in their procedures that, in **some** circumstances, they may exercise discretion not to proceed with action against the reporter as a result of their own action. Again, a suggested form of words is provided in the sample procedures below.

PRACTICAL ACTION

Organisations are encouraged to ascertain whether any functions particular to their organisation need to be added to their list of defined reportable wrongdoing, with the proviso that caution needs to be taken with noting the limitations on protection (that is, that it is not provided for in legislation).

Organisations are urged to be as flexible as possible in their practices and procedures when it comes to determining the level of information required prior to making a report of wrongdoing.

Most public sector organisations in Australia have restrictions on the unauthorised disclosure of information. While employees should be made aware of their obligations, care should be taken to distinguish between unauthorised disclosure and reporting of wrongdoing. It should not be assumed that employees can easily make this distinction.

B3. MULTIPLE REPORTING PATHWAYS

Checklist items

- Clear advice on **to whom** and **how** whistleblowing reports should be made, including
 - **internal** reporting paths
 - **alternatives** to direct line reporting (that is, guidance on when staff should consider reporting outside the normal management chain)
 - **external** reporting paths, including external (contracted) hotlines and relevant regulatory or integrity agencies, and when these should be approached in the first instance.
- Clear advice regarding disclosures to the media.

When employees report wrongdoing, they overwhelmingly do it to a limited category of participants (primarily immediate supervisors or other senior managers). Of public interest reporters, 87 per cent indicated that their initial reports went to four categories of recipients: supervisors (65.7 per cent), senior managers (15 per cent), peer support officers (3.5 per cent) and CEOs (3.4 per cent). Another 10 categories of recipients received lesser proportions of reports (n = 835) (Donkin et al. 2008:88, Table 4.1). The range of **potential** recipients for reports nominated by organisations is quite broad, with CEOs nominated as authorised recipients of reports by 85.5 per cent of agencies (n = 304), any manager more senior than the reporter by 37.5 per cent, any senior person the reporter has confidence in by 29.3 per cent, and internal ethical standards/investigation unit or officer by 23.6 per cent. Another 12 categories of recipients were mentioned in Question 14 of the Agency Survey, and agencies could nominate more than one category of recipients.

Superficially, this pattern would appear to indicate that a wide range of potential recipients is unnecessary. Logically, however, even if reports are going to a very small number of recipients, the wide variety of circumstances of reporting would indicate that a multiplicity of reporting pathways is needed. In practice, it is most

desirable that a high degree of redundancy be built in to reporting systems. The big challenge for agencies is that the most common reporting pathway—the line manager—is probably the most difficult to manage in terms of ensuring consistency and adherence to agency procedures and policies.

One indicator that suggests some agencies do not take a sufficiently flexible approach is the response to Question 20 of the Agency Survey; organisations (n = 304) were asked whether they would accept oral reports from staff: 72.7 per cent said ‘yes’, but 22.7 per cent said ‘no’ (with 4.3 per cent not responding). Of those agencies that accepted oral reports, the estimated percentage of reports that were oral was 10.3. Internal pathways not only need to be clearly identified by organisations, the recipients of reports need to be able to deal with the reporting event in a nuanced and flexible way.

INTERNAL PATHWAYS: HOW REPORTS ARE MADE

Knowing that the overwhelming majority of reporters currently choose to go to a line manager as their first point of contact, internal agency procedures ideally should be structured in a way that recognises that reality. In looking at best practice in reporting, it is useful to focus upon some of the more administrative and technical issues on how reports are made, including who receives reports.

A commonly mentioned pathway for whistleblowing reports is anonymous hotlines. Internal hotlines were seen by managers to have particular benefits even though only a few reporters appear to use that avenue of reporting (Donkin et al. 2008:88, Table 4.1).

Recipients of reports face a difficult task, needing to stand above personal interest and look to the long-term benefit for the organisation while at the same time dealing responsibly and professionally with a reporter who is likely to be under considerable stress. Again, a major issue for organisations is that so many of their staff, sometimes at relatively junior levels, might not have the skills to conduct careful assessment of reports.

EXTERNAL REPORTING PATHWAYS

Yeah, I think the hotline's important because I think the hotline can take the emotion out of it. Because I think a line manager gets the report of wrongdoing and, because of things that have happened in the last five or six years, they tend to think, how can I support myself in this? How can I make sure I don't get burned by all of this, rather than thinking of, well, what am I really hearing here? Whereas the hotline tends to be—they're looking at the issue only of what's been reported. They haven't got an emotional bank in this or anything.

Manager

Only a small proportion of reporters of wrongdoing utilise external pathways for reporting (Donkin et al. 2008:90). Overall, agency procedures do not define external pathways as comprehensively as internal pathways (Roberts 2008:246). For the reasons discussed above, however, organisations are urged to clearly define external pathways and make them available to staff.

Reporters might fear retribution if they report internally (Wortley et al. 2008:72, Table 3.13). The decision to go to an external authority takes the report to another level of formality and can be a source of considerable confusion, tension and anxiety. In relation to making reports external to the organisation

- even though the overwhelming majority of respondents to the Employee Survey had access to external reporting pathways, many reporters were not aware of their rights to seek review by an external party
- some reporters are reluctant to refer matters to an external authority for fear of being penalised
- there is frequent misunderstanding about the niceties of the different roles of external reporting agencies, with reporters being unaware that integrity agencies perform different functions, even though many of them overlap

- some reporters do not seek to report externally because of preconceptions about particular integrity agencies, however, these preconceptions (usually, that nothing will be done) appear to be based upon gossip and rumour
- there was frustration that some external organisations do not accept reports because they do not meet the formal requirements of the organisations and thus appear to be uncaring and unnecessarily legalistic and bureaucratic. This finding is in accordance with the observations made by Annakin (2011, p 269).

There is an assumption that when reporters approach external agencies they do so on a formal basis. When it comes to communication with external agencies, however, reporters do use informal channels of communication in order to get some indication of how their report will be accepted. This use of the 'grapevine' can have a clear advantage for reporters, but there are considerable disadvantages in that informal oral approaches are subject to misinterpretation.

WHICH PATH: UP THE LINE, INTERNAL OR EXTERNAL?

From the perspective of managers (and case-handlers), the involvement of external agencies in the reporting of whistleblowers can be seen in a positive light. External agencies have the resources, skills, powers and an independent perspective, which, overall, can be of benefit in the handling of the report.

External reporting agencies often, however, refer matters back to the reporter's home organisation for detailed investigation and/or to be dealt with in other ways, and this can cause the perception of problems. While managers and case-handlers recognised the administrative efficacy of this process, the downsides were frequently commented upon. One particular downside was that where a case had been referred back to the home organisation that organisation then had to approach the reporter to obtain more information about the report. This situation is difficult because the reporter has already taken a quite deliberate decision to report externally and sometimes resents that the report has ended up in a home organisation rather than being taken and dealt with by the external agency.

Another source of frustration with the process of referral back of reporting cases is the difference that it frequently highlights between the priorities of the external agency and of the referring organisation. That difference of opinion over priority will often be a source of frustration to the reporter, who will have clear views about the priorities that the report should be afforded.

The findings above are confirmed by Annakin (2011). She found that:

- whistleblowers chose to report to an external agency not so much out of any explicit trust but because the external agency represented the 'last resort' for their reporting process (p. 179);
- the fact that those external agencies tended to rely upon departmental investigations rather than conducting an independent investigation was a matter of annoyance to the whistleblowers. As Annakin says (p. 268), 'whistleblowers were surprised, and in some cases horrified, to find that accountability agencies did not conduct independent investigations of their disclosures, even when the likelihood of wrongdoing was confirmed'; and
- many whistleblowers were of the view that those external agencies were more interested in finding ways to refuse disclosures than investigating them. Following on from this, she found that it was unusual for an outcome that was different or better achieved through a reporting to an external agency (p. 269).

I think, in general, people in my organisation don't want to report. They're afraid of reporting, they are afraid of victimisation and I think that those fears are valid. I think there's a lot of evidence when somebody makes a complaint that they then get victimised by that. So I think for that reason, if anyone decides to make a complaint they tend to go straight to [the integrity agency]... They tend to go outside because they feel that they might actually be a bit more protected than going internally.

Manager

Many of the legislative protections available to whistleblowers are predicated on the risks that can arise when information about wrongdoing becomes public—such as the threat of defamation action, or disciplinary or criminal action for breaching secrets.

Recognition of the importance of public whistleblowing—as a last resort or in exceptional circumstances—is an important principle of public interest disclosure legislation (Brown 2006:45; Brown et al. 2008a:261–8). Although most public employees currently report wrongdoing internally, it is in the public interest that employees are able to make public interest disclosures to journalists and Members of Parliament where no adequate reporting avenue exists, in any situation where it is simply not feasible for employees to report internally, or where existing reporting channels have failed to deal with issues effectively.

This principle is now recognised in legislation in a number of jurisdictions, including

- *Public Interest Disclosure Act 1998* (United Kingdom)
- *Public Interest Disclosure Act 1994* (NSW), s. 19
- *Public Interest Disclosure Act 2010* (Qld), s. 20
- by the Australian Government (2010; House of Representatives Standing Committee on Legal and Constitutional Affairs 2009).

Further, in 2011 the *Evidence Act* (Cwlth) was amended to exempt journalists from obligations to answer questions in court proceedings that would involve identifying their confidential sources.

In these jurisdictions, the fact that a public employee may legitimately take their disclosure public if it is not dealt with properly by agencies in the first instance provides a powerful incentive for agencies to take their whistleblowing responsibilities seriously.

Organisations have an obligation to advise their employees of their rights and obligations when it comes to reporting outside the organisation. All jurisdictions have confidentiality provisions that apply to public sector employees, as do most employment agreements with contractors. Organisations also have the task of encouraging employees to report wrongdoing but to do so realistically and to be clear on both practical and legal protections.

Even where legislative protection is yet to expressly extend to public whistleblowing, organisations should be wary of overemphasising confidentiality provisions, as rather than encouraging internal disclosures, this can discourage reporters from coming forward at all. It can be counterproductive to insist on enforcing confidentiality in circumstances where there is genuine public interest in disclosure.

PRACTICAL ACTION

Some approaches that organisations might find useful are

- multiple internal reporting pathways have implications for coordination and resourcing
- describing the role of organisations involved in external reporting pathways is necessary, but care will need to be taken not to make the explanation overly technical
- line managers need to be made aware that advising employees of external reporting pathways need not be threatening

- accentuating how the organisational culture welcomes transparency and external review is likely to have a positive influence on line managers so that when staff do exercise their rights to report externally, they do not suffer any adverse reaction
- both line managers and reporters need to be made aware that some external agencies who are the recipients of reports of wrongdoing are likely to refer the matter back to the organisation for action.

B4. ANONYMITY

Checklist item

- Clear advice that anonymous reports will be acted upon wherever possible, and about how anonymous reports/approaches may be made.

ANONYMOUS REPORTS

Organisations should accept anonymous reports, and give a commitment that they will be acted upon. Flexibility in reporting options will facilitate the reporting of wrongdoing. Assurances of anonymity might encourage risk-averse complainants to approach a disclosure point such as a hotline, even though most anonymous complainants do ultimately reveal their identity once they understand the likely investigation process and opportunities for confidentiality, discussed further in Section C3. Even though it is common to use the terms anonymity and confidentiality interchangeably, they are quite distinct concepts. The link between the two issues is clearly seen in Figure 3.1 in Section C3.

In some jurisdictions, organisations are required by legislation to receive anonymous and oral whistleblowing reports and in others protection is available only to those reporters who make a formal written report. While most agencies are flexible in terms of the form a report of wrongdoing may take, a significant proportion is not. When agencies ($n = 304$) were asked in Question 19 of the Agency Survey whether they would accept anonymous reports, while 68.1 per cent said 'yes', 28 per cent said 'no', with a 39 per cent non-response rate. Of those agencies that accepted anonymous reports, the estimated proportion of anonymous reports was 5.64 per cent.

Organisations are encouraged to note in their procedures that only those anonymous reports that contain enough information to support a proper response or investigation can support a commitment to take action. The recommended procedures below suggest how this issue might be addressed.

SAMPLE POLICIES AND PROCEDURES

Facilitating reporting

Who may report

These procedures apply to all staff of (name of organisation)

- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- contractors working for the organisation, including persons employed by the company or other organisation who has a contract with the public authority.

Note 1: In some jurisdictions, protection for reporters under the relevant legislation may extend beyond current employees to former employees or others.

What should be reported

Types of activities that may be reported

It is in the interests of (name of organisation) that staff report any kind of wrongdoing that they observe. This could include

- corrupt conduct
- fraud or theft
- official misconduct
- maladministration
- harassment or unlawful discrimination
- serious and substantial waste of public resources
- practices endangering the health or safety of the staff or community
- practices endangering the environment
- any other matter the reporter considers to be wrongdoing.

Note 2: The relevant public interest disclosure legislation may define activities that are protected, in which case, the list above might need to be adjusted. Organisations have the discretion to cite other matters beyond those described in the relevant legislation. If this is done, care should be taken to make it clear that any protection offered is internal organisational protection as distinct from that provided under the relevant public interest disclosure legislation.

Appropriate reporting points

Staff need to be advised of reporting processes for different categories of reports—for example, where and how to make reports about

- bullying and harassment
- public interest matters
- wrongdoing in another organisation
- reprisal action against a person who has reported wrongdoing
- occupational health and safety
- breaches of professional practice.

Level of information required

Potential reporters should be aware that they may be asked why they have come to the view that the activity or incident warrants reporting. Potential reporters do not need to demonstrate a legal level of proof, but should be prepared to demonstrate that they have reasonable grounds for their suspicions.

Reports may be made either in writing or verbally. Staff are encouraged to put the report in writing as soon as possible so that concerns can be communicated clearly in the reporter's own words. This will help to avoid any confusion or misinterpretation.

Should a disclosure be made verbally, this should be done in person through one of the internal reporting pathways described below. When this occurs, the recipient should make a comprehensive record of the report and provide it to the reporter to check, sign and date.

Where the reporter might be involved in wrongdoing

Reporting wrongdoing does not protect the reporter from any management, disciplinary or criminal action if the reporter has been involved in the wrongdoing or

the reporter's performance is unsatisfactory. If, however, the reporter's involvement has been of a minor nature and the matter reported is serious, the organisation may choose not to take any action against the reporter because the reporter has brought forward the report.

The reporter is not protected if the reporter has deliberately provided false or misleading information.

Multiple reporting pathways

Internal reporting pathways

Staff wishing to report wrongdoing are encouraged to report the matter internally.

Potential reporters should consider who would be the best person to receive the report. If it is a matter that can be resolved by a line manager then the reporter should report it to them. Managers can be one of the best sources of support when reporting wrongdoing. If, however, it is a matter where the reporter is of the view that the line manager or senior people might be involved in the wrongdoing, the reporter should consider reporting it to the CEO or an external body.

(The following is a list of potential sources for the acceptance of reports of wrongdoing. These might need to be adjusted to take into account relevant legislative provisions or internal organisational policies.)

Reports of wrongdoing in the organisation may be made internally to

- a line manager
- any other person in a management position within the organisation
- the CEO (name, location and contact details provided)
- the Chair of the Audit Committee (name, location and contact details provided)
- specific officers designated to accept reports of wrongdoing; designated peer support officer or confidant (names, locations and contact details provided)
- specialist areas (such as an internal investigation unit or ethical standards unit—contact details will need to be included).

Note 3: It is recommended that the organisation formally nominate an officer in each work unit or location as a 'nominated whistleblowing officer' or some other more appropriate title. Also, it is recommended that, in medium to large organisations, a person is tasked with coordinating the whistleblower function. 'Whistleblower Report Coordinator' (or some other designation in accordance with organisational nomenclature) might be an appropriate title for such a function. Where such a position is designated, name, position title, location and contact details should be included in references to that position contained in the procedures.

External reporting pathways

Staff may choose to report wrongdoing to someone external to the organisation. This may be done as a first step, or if the reporter is not satisfied with the organisation's response to a report that was previously made.

While staff are urged to report to someone in the organisation, the organisation will respect and support a reporter in the event of a report to an appropriate external body.

(The following is a list of potential sources for the acceptance of reports of wrongdoing. These might need to be adjusted to take into account relevant legislative provisions or jurisdictional structure.)

- Anti-corruption body (Independent Commission Against Corruption, Crime and Misconduct Commission, Corruption and Crime Commission).
- Public Service/Merit Protection Commissioner.
- Auditor-General.
- Ombudsman.
- Police.

Reporters should be aware that when a report is made to an external body, it is very likely that the body will discuss their case with this organisation. This organisation will make every effort to assist and cooperate with that body to work towards a satisfactory outcome

Disclosure to the media

Reporters need to be aware that if they report matters to a person or an organisation that is not mentioned in these procedures, they will not be able to rely upon the protections afforded by the relevant legislation and may be in breach of the statutes dealing with the unauthorised release of information

Note 4: In New South Wales and Queensland, in limited circumstances, a report of wrongdoing may be made to a Member of Parliament or a journalist. Procedures in these jurisdictions need to provide precise advice of the conditions and limitations contained in the legislation.

Anonymity

The likelihood of a successful outcome is increased greatly if, when suspected wrongdoing is reported, the reporter makes their identity known. Nevertheless, reports of wrongdoing may be made anonymously, either in writing or by telephone. If a report is anonymous, the reporter will need to provide sufficient information for the matter to be investigated, as it will not be possible to go back to the reporter for clarification or more detail.

Provided enough detail has been provided, the organisation is committed to acting upon the report.

Reporters should note that in the event an anonymous report is made

- it will not be possible for the organisation to keep the reporter informed of the progress in handling the report
- the reporter could experience difficulties in relying upon the protections afforded by the relevant legislation
- the support mechanisms normally available to reporters will not be available
- an anonymous report is no guarantee that another employee might not identify the reporter as the source of the report.

Whether or not a report has been made anonymously, the fewer people who know about the disclosure—both before and after it has been made—the more likely it is that the organisation will be able to protect the reporter from any detrimental action in reprisal. Potential (or actual) reporters should be encouraged not to talk about the matter to work colleagues or any other unauthorised person.