

MISCONDUCT **RESISTANCE**

AN INTEGRATED GOVERNANCE APPROACH TO PROTECTING AGENCY INTEGRITY

2009

Practitioner Forum III Book of Proceedings



CORRUPTION
AND CRIME
COMMISSION

Misconduct **Resistance** Forum

Hosted by The Corruption & Crime Commission

Presentation

TOPIC

Presentation and discussion on Ernst and Young's "Misconduct and Leakage Diagnostic Tool". **To download a copy of the full power point presentation, please visit our website.**

Open Space Marketplace

HOW IT WORKS

- Inviting people to take responsibility for what they care about, open space establishes a marketplace of inquiry, reflection and learning, bringing out the best in individuals and the whole.
- We invited individual members of the audience to chose a topic surrounding the main theme which was important to them - then asked them to announce their topic to the group.
- All topics are written on a board called the "Marketplace" correlating to a letter of the alphabet and designated area for that group discussion (A), (B) etc
- We invited everyone to attend the group(s) which will be discussing the topic which most interests them - by the law of two feet - ie. walking over to their preferred discussion point.
- The law of two feet, means you can take responsibility for what you care about and move to whatever place(s) you can best contribute to and/or learn from.
- People participate in the discussions with a note taker assigned to each group making relevant notes on the large sheets of butchers paper

Closing Circle

All reconvene in a closing circle an hour before closing. Sharing of highlights, "aha's" and key learning's in a dialogue format by passing around the microphone.

To view transcripts or listen to the audio of the transcripts, please visit our website

Misconduct **Resistance** Forum

Open Space Marketplace

MARKETPLACE TOPICS

- A.** Professionals and detection. Supposed to be above fraud?
- B.** Effective gift registers across government?
- C.** Whistle blowing systems?
- D.** Having open and clear mechanisms/processes of reporting—What does that look like?
- E.** What are the foundation opportunities for establishing a culture of trust as a foundation risk management strength?
- F.** How do we engage employees in a discussion to explore risks and maintain their trust?
- G.** How do we get ethical behaviour higher up the priority ladder when competing with other organisational priorities (e.g. Core Business)?
- H.** Are there racial/cultural considerations we need to take account of when creating a misconduct resistant workplace?
- I.** What strategies are most effective to create buy-in to the decision-makers and upper level management?

Marketplace

A

TOPIC QUESTION

Professionals and detection. Supposed to be above fraud?

NOTES FROM CONVERSATION

- Above professional to think about misconduct – ‘we don’t do that’
- Staff become part of problem
- Issues with pecking order. Junior staff not confident in raising Issues
- Solutions
 - Present evidence to professional eg. Survey results
 - Ongoing
 - Education, training resources
 - Don’t be scared of ‘scaremongering’
- Present outcomes of investigations. De-identified way.
- Feedback to organisation
- Include in induction
- Identify risks with professional staff – get buy in
- Create perception of detection in area of risk – spot audits
- Need to have courage to act
- Organisation needs to be committed to action.
- Minimise ability to close ranks.

Marketplace

B

TOPIC QUESTION

Effective gift registers across government?

NOTES FROM CONVERSATION

- 99.9% of gifts are bribes
- 'No such thing as a free lunch' – movies, wine = something in return
- Breakfasts
- Promotional items
- What qualifies?
- Carton of beer from contractors as a thank you – expectations
- Maintained workers get Xmas invites
- Landgate – everything goes on
 - Expected to
 - Do I accept? Y/N – why
- Paper based but will on online
- Purpose? COI, transparency
- As public officers we get paid so why gifts?
- Ministers Xmas function v's public/private interface.
- What's the benefit?
- What about govt to govt?
- Building relationships?
- Disparity – x government
- Tell all clients 'you invite me and I'll come'..... therefore no COI?
- 1. Policy is very important
- 2. Education and awareness of staff
- Policies = guidelines....interpretation
- Need the 'smell test'
 - Offered Why?
 - Accepted....why?
- Risk based solutions:
 - Identify risks you're exposed to by offers.
 - Circumstances to never accept/ok to accept
- Coffee? Not okay for some
- Starting point for misconduct
 - Bribe
 - Fraud
 - Crime
- Slippery slope of corruption
- Doctors – seminars by drug companies and ski trips!!
 - Influence to use particular goods

Marketplace

B

NOTES FROM CONVERSATION CONT

- V difficult If I went back and say yes/no to some things there'd be WW III
 - AMA, organisation oppose
- Agency must be strong and clear
- Issues around specialist employees
- Code of conduct, ethics
 - Sets standards
 - Double situation...we know right from wrong
 - Even if you know it's wrong you might think it's okay
 - Behaviours that are 'acceptable'
- Culture change... consider the end point, not just the incremental change.
- Leadership from top – inconsistencies
 - State, federal and Local Govt
- Gift management plan and register as part of it
- Identify risks to department
 - Is everything recorded? \$20?
- Could it be misconstrued?
- Difference between custom and acceptance?
 - Flowers for thank you, chocs...ok?
- How do you say 'no'?
 - Tools to say no nicely/without upsetting
- IPods as gifts/training tools.
- How do you audit? Checks?
- Have a policy to refer to that explains reasons for acceptance/refusal.
- Audit
- Created culture of gifts in Landgate... break it down, how?
- Whistleblowers – difficult if high level of non compliance...endemic issues
- What if management is a party to it?
- Smell test – not definitive. Who's nose?
- Answer – pre-written responses, consistency of response is vital to organisation integrity.
- Give me the answers, the words
- Difficult for statutory authority dealing in private world.
- Recruitment from private sector brings in new element of culture
 - Expenses, lunches, gifts etc
- If offered something that does not affect your judgement that's ok?

Marketplace

B

NOTES FROM CONVERSATION CONT

- In tender process you need to talk to everyone...so if it's over lunch then that's okay.
 - PERCEPTION
 - How can you say you weren't influenced
 - Openness and accountability
 - What is company who didn't get tender checked or complained.
 - RPH – very hard to control
 - System – not sure on register
 - Need clear guidelines/policy
 - If you're not clear ... refer to management
 - Big variation in existing gift registers
 - Need to tailor to agency
 - Keep under a certain amount
 - Problem in estimating
 - At least a guidelines....\$20. \$30?
 - Implications of putting something on register that you don't accept
 - You can accept yourself.. .justify
 - What about management oversight/audit?
 - Guidelines for clients/customers

Marketplace

C

TOPIC QUESTION

Whistle blowing systems?

NOTES FROM CONVERSATION

- Blueline system in police
- Phone system – given id number = anonymous
- Issue is = no one uses out of 8,000 officers
- As acting manager – critical issue – is it a cultural/mechanical issue
- Other agencies dealing with whistleblowing
- PID Officer (OAG) available as internal WB mechanism
- Officers aware of PID Officer.
- Concern/risk that allegation of corruption is made to individual officers in line of work – need to know how to deal with it.
- Experience is reading re: WB – people feel that if they speak out they will be hung out to dry.
- Questions of whether to reply on system of trust = person rather than mechanical.
- Solution suggested – an independent body/consultant to undertake to be the go-to body.
- Where identity can be compromised due to nature of complaint – person being investigate usually know where allegation came from.
- Whole of agency issue – anticipation that will be uncovered
- If in doubt – call blueline and obtain advice
- Marking for blue-line – need to establish themselves as not only reporting phonenumber but also as avenue to obtain advise and talk to entity outside agency.
- Keeping records of what comes through to identify trends
- Culture not to use available mechanisms and fear that nothing will ever happen
- What is easiest way to market reporting system without flooding with information?
- Issues can be perception
- Issues with time to investigate and also outcome not being made public.
- If supervisor does not have faith in system or trust in – nothing will come through.
- Middle management. Need awareness of MR risks and reporting responsibilities – pathways to report it.
- PID officer – HR – staff are told about process at induction stage.

Marketplace

C

NOTES FROM CONVERSATION CONT

- Some inductions tell of what misconduct behaviours are not acceptable – however, not advising on what to do in response to witnessing such activity.
- Blueline – undervalued system and trying to utilise it to its best ability
- Lots of trust is required for reporting on colleagues.
- Look at under-reporting issues in other areas – try to move away from blame and how to prevent from happening again
- WAPOL have significant task to deal with misconduct very strictly
- Possibility of different reporting mechanisms – email/phone.
- Often information comes through after events such as demotion etc
- External agency support – OAG, CCC, OPSSC.
- PID officer - training in correct appropriation of referral – what matters referred to correct agencies.
- X agency not aware of PID
- Culture of non-reporting
- Culture is not necessarily agency specific – can be Australian culture
- Due to confidentiality of investigation/lack of timeliness of process – people feel why bother.

Marketplace

D

TOPIC QUESTION

Having open and clear mechanisms/processes of reporting—What does that look like?

NOTES FROM CONVERSATION

- Gift register (advantages)
 - Vetting by management
 - Protocols for acceptance and refusals (weekly review)
 - Please explain sought if not declared
- Register's (of conflicts) etc are quite important. Private sector perception of what is 'conflict' might be quite different to what is defined in the public sector.
- Annual reporting
- Members of public can defer to the CEO or Chair if they have concerns of a conflict
- Standard forms for staff to use in declaring/identifying a potential conflict that is easy to use/understand.
- Whistleblowers framework – affording protection or avenues to people in organisations that have information on misconduct.
- Informing/educating all staff within the organisation of the procedure/protocols in place (if developed)
- Ensure that there are in simple language
- Make them part of the organisation culture (employee obligations??)
- Should be part of induction into the organisation
- How claims of breaches are investigated.
- How claims of breaches are reported.
- The restrictions on reporting (e.g. PID)
- How do you control the 'misinformation' that may arise by a perceived lack of action (outcome).
- Incentives/disincentives to reporting misconduct. (What is in it for me?)

Marketplace

E

TOPIC QUESTION

What are the foundation opportunities for establishing a culture of trust as a foundation risk management strength?

NOTES FROM CONVERSATION

Elements of Trust

-Attitude

- Implementation of an integrity programs (Employee Based)
- Need to have a culture with acceptance of mistakes
- Need to have a belief in organisations function
- Need to have trust and faith in people that you work with
- Stated code of conduct
- Confidentiality
- Walk the talk—Leadership
- Have good management and leadership—need to work together
- Need to educate staff about what policies and procedures are in place to protect the staff (from high level staff to low level staff)
E.G. Formal Induction process
- Need to have consistency with building trust within the organisation
- Need to have a code of conduct as an agreed focus
- Need to inform and engage individuals/employees to contribute to the stated code of conduct.
- Trust and controls work better when there is an 'Open Door Policy'
- There needs to be an element of care/wellbeing of the employees present to develop trust
E.G. Have access to welfare system
- In most organisations there is a lack of trust between different levels of staff (low level staff and higher level staff) therefore this trust needs to be encouraged to develop positively.
- Management awareness and training is critical
E.G. Needs to target front line managers
- Professional development is a journey therefore education workshops need to be made available to staff.
- Transfer of information
- Arm staff to manage bullying
- Contract an independent mediator when there is a dispute
- Culture of praise and feedback between staff
- Open door management

Marketplace

F

TOPIC QUESTION

How do we engage employees in a discussion to explore risks and maintain their trust?

NOTES FROM CONVERSATION

- Ask them to discuss risks in terms of a briefing you would give to someone taking over in your job whilst you are on long service leave.
- Focus on the organisation, not just them as an individual.
- Context – most people act with integrity
- Rolling out workshops – sometimes there are barriers to people discussing the issues
 - Staff fear
 - If issues are raised you have to deal with them
- How to create a safe environment?
 - CEO led is vital
- How to help people who are new and inexperienced?
- Making a commitment by the organisation to integrity allows the organisation to ask the individual to make that commitment. Integrity framework is about values – eg. Commitment to communication needs top down commitment.
- Chicken and egg – continually reinforce the issues
- When to introduce discussion about values, codes, conflict of interest?
 - Induction
 - Workshops
 - Skilling the line managers to deal with these issues.
- When things have gone badly in the past, people will distrust the system.
- How does misconduct come to light?
 - Audit
 - Reports
 - Management
- Line managers are key – need to be upskilled and the message needs to be consistent
- Barriers to reporting – internal investigation unit sees as very ‘police’ scary.
- People need to be aware of the process for reporting (done at induction but there is a lot covered at induction) needs to be reinforced over time.
- How do we assist managers to deal with these issues? Often there is limited training given to managers.

Marketplace

F

NOTES FROM CONVERSATION CONT

- Other resources such as 'employee assistance officers' – general staff who are trained to deal with these issues. Peer support officers – can be effective precisely because they are not managers. Offers neutral ground. Might still need to report any misconduct. Helps with building a cultures of trust – 'the organisation' is prepared to deal with these issues.
- Important to properly maintain systems and processes e.g. Grievance officers, so they are able to work effectively.
- Arguments about being time poor needs to be balanced against the damage which can result if misconduct occurs – damage, time etc
- Possible solution is to schedule regular short items e.g. regular agenda item of a team meeting.
- Important to remember this is part of work, not an unnecessary investment in time.

Marketplace

G

TOPIC QUESTION

How do we get ethical behaviour higher up the priority ladder when competing with other organisational priorities (e.g. Core Business)?

NOTES FROM CONVERSATION

- Reputation and financial loss risks
- Being proactive
- Commitment from the top of the agency
- Ongoing notification
- Importance of performance indicators
- Permanent employees and potential issues from this
- Embed ethics from the start and need to maintain update it
- Where are limits to gifts? Scale and effects this can have—sliding scale of ethics?
- Encouraging involvement and trust from across the agency
- especially mid level and upper managers
- Limits of responsibility at different levels
- Importance of risk assessments and continued updating of policies
- Responsible managers and supervisors who are trained and pass this information on to staff
- Perception is vital

Marketplace

H

TOPIC QUESTION

Are there racial/cultural considerations we need to take account of when creating a misconduct resistant workplace?

NOTES FROM CONVERSATION

- Mismatch of cultures esp. Aboriginal v's European
- Codes etc need to identify and recognise the cultural differences
- Aboriginal ties to family/community strong
- People need to declare their interest with managers
- Acceptance of existing policies re: conflicts of interest difficult
- Discussion to resolve conflicts important
- Oral v written communication (re: Aboriginal)
- Sensitivities of different ethnic groups in investigation process. Recognise what the investigation might represent to someone from a different ethnic background.
- Need to establish trust relationships to enable open discussions of these issues
- Don't assume that we all hold the same values as the dominant culture.
- Actions taken to address misconduct can be perceived as racially motivated.
- Some cultures speak up less than others.
- Understanding race/culture issues is the missing bit.
- If people experience racism, and don't have confidence in the management culture – they just leave rather than trying to raise it or address it.

Chaired by:

Marketplace

I

TOPIC QUESTION

What strategies are most effective to create buy-in to the decision-makers and upper level management?

NOTES FROM CONVERSATION

- Risk senior management not understanding
- “just normal practice”
- “ostrich syndrome”
- Managing upwards/instilling upwards solutions
 - media promotion/“inside cover”
 - perception of being caught
 - protection of staff/issue of “closing rank”
- Whistle blow—dob
- Make management take ownership of ethical behaviour
- Use a survey to high-light gaps—areas for further development
- Reward ethical behaviour
- Apply typical change management process
- Highlight misconduct examples
 - reporting
 - impact on organisation
- Training and development for senior management
- Develop and implement policies
- “systems that look after management of whist blower”
- Advertising and promotion of ombudsman's office's role

Marketplace Discussion

Chaired by:

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Upcoming Forums

- 🕒 Wednesday 2nd September
- 🕒 Thursday 3rd December
- 🕒

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