

Whistleblowing: Opportunity or Threat?

Understanding Corporate Governance and Public Sector Reforms

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A Local Government Perspective

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"The powerful laws (Whistleblowers Protection Act 2001) designed to uncover corruption and wrongdoing in public bodies have been exposed as a sham .

...8 (of the 45 organisations contacted) asked for the caller's name, which is a breach of the law .

... Boroondara asked the caller's name and then could not help."

- Sunday Herald-Sun, 15 December 2002.



Some observations

- Boroondara's response was inadequate, but 'breach of the law' is very doubtful
- The report does not raise issues of substance about the administration of the Act by the City of Boroondara
- The report raises questions concerning adequacy of staff training
- Real issues were identified concerning uneven implementation of the Act across the Victorian public sector



Extensive framework of public accountability provisions:

- Ombudsman
- Corporate Plan
- Declaration of Interests
- Courts
- Audit Committee
- Whistleblowers Act
- FOI
- Annual Reporting
- Administrative Appeals
- Audit
- Privacy Legislation



Culture of Public Accountability

- Values
- Behaviour
- Standards
- Learning & Development
- Guidelines



Whistleblower Process

- Publicity
- Ombudsman model guidelines
- Time for review
- Disclosures to public body OR Ombudsman
- Contacted Protected Disclosure Officers
- Public body responsibility



Whistleblower effectiveness

- High expectations
- Nil investigations from most organisations
- Apparent low misuse/abuse
- Preventative effects
- 24 investigations in 2 years



Boroondara Disclosures

1. Improper Influence

- Allegation developer sought to influence Council building inspector
- Officer rejected approach
- Referred to STOP line
- Alleged or suggested improper conduct by officer not a protected disclosure



Boroondara Disclosures

2. Impartiality compromised

- Allegation from an external party via a staff member
- Alleging two technical staff in conflictual outside employment
- Working for a developer who also undertook development within Boroondara
- Staff had sought advice from Council's employee services unit
- Eventually handled as a management issue



Common Case

- Limited understanding of the Whistleblowers Act
- Potentially serious matters
- Whistleblowers Act not relevant to resolution
- Possible prejudice to good management, e.g. counselling, and disciplinary action if found to be warranted
- Good reputations of officers at some risk
- Reputations are hard won but easily lost



Observations

- Some concern regarding lack of fraudulent or illegal practices
- Not sufficient evidence
- Whistleblower provisions reduce chances of undetected fraudulent or illegal activity
- Need for constantly monitored culture of accountability and transparency
- Provisions contribute to sound cultures, responsible management, public accountability, transparency, and higher standards of governance



Future Directions

- Depends greatly on the level of public knowledge and understanding
- Existence and development of ethical organisational cultures
- Continuing marketing, education of staff, high visibility
- Consideration to all disclosures in first instance to Ombudsman
- Whistleblowers Act expected to continue to contribute to high standards of public accountability
- Sunday Herald-Sun report a wake-up call





BOROONDARA
City of Harmony