

How to Handle the Effects
of an ICAC Investigation:
A Guide for Public Sector
Managers

June 1999

The logo for the Independent Commission Against Corruption (ICAC) features the letters 'I', 'C', 'A', and 'C' in a large, bold, serif font. Each letter is outlined with a double-line border. Small diamond-shaped symbols are placed between the letters: one between the first and second 'C', one between the 'A' and the final 'C', and one between the 'I' and the first 'C'. The letters 'I' and 'A' have horizontal lines at their base.

INDEPENDENT COMMISSION AGAINST CORRUPTION

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This report and further information about the Independent Commission Against Corruption can be found on the Commission's website at www.icac.nsw.gov.au

CONTENTS

INTRODUCTION	1
About this guide	1
Why is there an ICAC?	2
How does the ICAC expose and minimise corruption?	2
Contact with the ICAC	2
What about investigations?	3
PART 1—THE INVESTIGATION PROCESS	4
How does an investigation start?	4
What is the ICAC's jurisdiction?	4
What is corrupt conduct?	4
What powers to investigate does the ICAC have?	5
Are all these powers used every time?	5
Does the ICAC advise of a decision to investigate?	5
How much does the ICAC tell about the scope of the investigation?	6
Is legal advice necessary?	6
How much should staff be told about an investigation?	6
Would setting up a liaison mechanism assist communication with the ICAC?	7
Should unions be involved in the event of an investigation?	7
Does an investigation always involve hearings?	8
What happens if the ICAC decides to hold hearings?	8
Who is likely to be called as a witness?	9
Are witnesses entitled to a lawyer?	9
What does the ICAC expect of witnesses?	9
How confidential is the investigation process?	10
What about the media?	10
Does the ICAC make its findings public?	10
What happens if a finding of corrupt conduct is made?	11
Does the ICAC prosecute?	11
PART 2—MANAGING THE IMPACT OF BEING INVESTIGATED	12
What is meant by the 'impact' of an investigation on an organisation?	12
How might staff react to an investigation?	13
Tips for managing during an investigation	17
Have a plan of action	17

Communicate	18
Provide support	21
Gain the trust of staff	23
Additional tips for managers	24
The consequences of poor management	25
The benefits of good management	26
PART 3—MANAGING THE POST-INVESTIGATION PHASE	27
Acknowledging the past	27
What sort of changes might need to happen following an investigation?	27
Are planned changes to an organisation always necessary?	28
Planning and managing change	28
Decide what the organisation wants to achieve	29
Know the organisation	29
Develop a plan of action	30
Show leadership	31
Communicate	31
Use values	32
Build in participation	32
What obstacles should be expected?	33
Resistance	33
Grieving	33
Where can managers get more information on managing change?	34
Tips on training	34

INTRODUCTION

ABOUT THIS GUIDE

This guide aims to demystify the Independent Commission Against Corruption's (the ICAC's) investigation function and provide guidance to public sector managers on how to manage the process and impact of an investigation, and properly influence the effects of an investigation to the advantage of the organisation as a whole. It is designed to be useful to managers who want to:

- have more information about the powers and processes of an ICAC investigation
- know the rights and responsibilities of staff who assist an investigation
- lead an organisation responsibly through an investigation
- improve the ethical health of an organisation as a result of the findings of an investigation.

As part of the preparation of this document, ICAC Corruption Prevention and Research officers consulted organisations that the ICAC has investigated. Staff from those organisations were asked to provide comment on what they considered had been done well by their managers and what could have been done better to manage the impact and the outcome of the investigation. The following information takes into account those comments and incorporates the many suggestions made that may assist managers in handling an ICAC investigation.

The quotations are taken directly from comments made by staff with whom we spoke.

I had a lot of people come to me and asking me about the process, how the ICAC works, asking me what's going to happen next, what's going to be the outcome all that kind of thing. There wasn't a lot of information around about the Commission and how it goes about its work, and eventually we did get that and distribute it, but in hindsight it would have been better to have had that ready to go. (Manager in an organisation investigated by the ICAC)

Although the investigation function of the ICAC is often the first that springs to mind, feedback to the ICAC from public sector managers suggests that they know little about what happens during an investigation or the impact it may have on the organisation being investigated.

This lack of knowledge may contribute to unnecessary fear of and resentment towards the ICAC. Not having enough information about what an ICAC

investigation involves makes it difficult for public sector managers to respond adequately to an investigation. For managers, the sense of loss of control over the potential impact of the investigation as well as the inability to properly influence the outcome of the investigation are sources of concern.

WHY IS THERE AN ICAC?

In the 1980s, the public in New South Wales (NSW) was becoming increasingly dissatisfied with the level of corruption which they perceived to exist in the NSW public sector. Experience showed that corruption was difficult, and often impossible, to deal with in the criminal courts because it usually involved secret deal making, resulting in a lack of independent witnesses. There was a growing view that an alternative approach was needed. So the ICAC was established.

The ICAC attempts to minimise corruption by ways other than merely the detection and exposure of individual offenders.

HOW DOES THE ICAC EXPOSE AND MINIMISE CORRUPTION?

The ICAC uses a combination of investigation, corruption prevention and education work to expose and minimise corruption in the N S W public sector. The combination of these functions is an effective formula to promote positive change. Since the ICAC cannot compel an organisation to implement recommendations, it works to motivate organisations to protect the public interest through sound systems and practices that minimise the opportunity for and cultural acceptance of, unethical behaviour. The ICAC believes this approach has a direct effect on the incidence of corrupt conduct.

The exposure of corruption, through investigations and resultant disciplinary action or prosecution, followed up with advice, guidance and information, helps organisations change their operations so that the opportunity for corruption to occur is minimised. Public sector organisations are responsible for preventing corruption in their operations.

The concepts of 'ethical health' and 'public duty' are promoted to the public sector and the community generally through the ICAC's education and communication work and through seminars and training. This work, informed by ICAC research, is essential to enlisting the support of the people of NSW in combating corruption.

CONTACT WITH THE ICAC

Contrary to general perceptions, the most likely contact a public sector organisation will have with the ICAC is through its corruption prevention and education work. This will in most cases be through public officials seeking advice on a range of everyday matters such as procurement of goods and

services, disposal of assets, handling confidential information, secondary employment, or conflicts of interest, to name a few.

Alternatively, contact may occur through the ICAC's seminar programs. Part of the ICAC's corruption prevention and education function is to present seminars to organisations requesting more detailed information on such topics as ethical management, the *Independent Commission Against Corruption Act 1988* (ICAC Act), the obligations of public officials under the Act, and how to identify and manage corruption risks. The ICAC has conducted such seminars across N S W for a wide range of public officials.

In addition, Principal Officers (usually CEOs) of organisations must report to the ICAC any matter that they suspect on reasonable grounds, concerns or may concern corrupt conduct. These reports provide the organisations concerned, as well as the ICAC, with information that may help them to identify corruption risks and system weaknesses in specific areas. The large majority of these matters are handled by the organisations themselves.

WHAT ABOUT INVESTIGATIONS?

The number of matters reported to the ICAC that become the subject of a public hearing is small and in no way indicative of the total number of matters dealt with. Investigation efforts (which can include preliminary enquiries and private and public hearings) are targeted at work that the ICAC assesses will have the greatest effect across the public sector.

The media tend to focus on the ICAC's investigations and the exposure of corruption in public hearings. This has created the perception that the ICAC's main activity is to investigate corrupt individuals. While this work is important, the fact that the ICAC's long-term impact on systemic corruption is achieved through a mix of investigation, prevention and education functions, seldom receives news coverage.

PART 1 – THE INVESTIGATION PROCESS

HOW DOES AN INVESTIGATION START?

An ICAC investigation commences in one of four ways:

- the ICAC's own initiative
- a complaint made by any person
- a report made by the head of a public sector agency
- a reference from both houses of the NSW Parliament.

The ICAC's focus is on systemic corruption, that is, corrupt conduct arising from and facilitated by inadequate or inappropriate policies, procedures and work practices. This focus, and limited resources, means only a small percentage of information received proceeds to a full investigation.

In assessing whether or not to investigate an allegation of corrupt conduct, the ICAC considers, among other things:

- the seriousness of the matter
- whether the matter is best dealt with by another organisation
- whether the conduct concerned occurred at too remote a time to justify investigation, or
- whether the complaint is frivolous, vexatious or not made in good faith.

WHAT IS THE ICAC'S JURISDICTION?

For the ICAC to have jurisdiction over a matter, it must relate to corrupt conduct as defined under the ICAC Act. The ICAC's charter covers all public officials in government departments, statutory authorities and local councils in NSW, as well as Parliamentarians and local councillors, judges and magistrates. The ICAC does not have jurisdiction over police. Those working in the private sector and general community who are not public officials may be investigated if their conduct adversely affects or could adversely affect the honest or impartial exercise of a public official's functions. Thus, consultants and contractors could be covered by the Act, as could any private citizen who deals with the NSW public sector.

WHAT IS CORRUPT CONDUCT?

Put simply, the ICAC Act says that corrupt conduct is the conduct of any person that adversely affects or could adversely effect the honest or impartial exercise of an official function, provided it also constitutes a crime, an internal disciplinary offence or grounds for dismissing a public official. An example of this is bribery.

Bad management, unfairness, laziness, bullying and similar conduct are unlikely, without more, to involve corrupt conduct.

WHAT POWERS TO INVESTIGATE DOES THE ICAC HAVE?

Under its Act, the ICAC is given extensive powers to perform its investigative functions. They include power to:

- require any person to produce specified documents or things
- require a public authority or public official to produce a statement of information
- search premises
- enter and inspect premises occupied by a public authority, inspect documents on the premises and take copies of any documents
- summons witnesses to appear at a hearing to give evidence or produce documents or both, and require them to answer questions
- apply to the Supreme Court for warrants authorising the use of listening devices
- obtain warrants for telephone intercepts from a Federal Court Judge or a Member of the Administrative Appeals Tribunal
- authorise ICAC officers or others to engage in otherwise illegal activities as part of a Controlled Operation, where this does not endanger life or property, for the purpose of obtaining evidence of serious corrupt conduct.

People jump to extraordinary conclusions, like, how many other phones are being tapped, not realising that legally, ICAC have to jump through 20 hoops to tap a phone.

ARE ALL THESE POWERS USED EVERY TIME?

No. The powers used are determined by the information needed by the ICAC to establish the facts, and the degree of difficulty or risk involved in obtaining that information. As an example, if the ICAC were confident a person would produce documents when directed to do so, it would not use a search warrant. However, if it were concerned that the person might destroy or alter documents if served with a notice to produce them, it would apply for a search warrant.

DOES THE ICAC ADVISE OF A DECISION TO INVESTIGATE?

The integrity and success of an investigation will often depend on gathering information without suspects becoming aware that they are under

investigation. Generally, the ICAC will only advise that it is conducting an investigation when it is carrying out overt enquiries.

HOW MUCH DOES THE ICAC TELL ABOUT THE SCOPE OF AN INVESTIGATION?

Everything the ICAC does as part of its investigative function is referred to as 'operational'. The ICAC generally does not discuss or give out any information to the public about operational matters, other than what is revealed in public hearings. Managers of organisations involved in an investigation will be informed, at an appropriate time, of aspects of the investigation. Sometimes this is not possible until the later stages of the investigation. They will not always be told all the details.

IS LEGAL ADVICE NECESSARY?

If an organisation becomes the subject of an ICAC investigation it may be useful to get independent legal advice. Managers should also seek advice on any responsibilities regarding the provision of legal assistance to staff who may be the subject of an investigation.

Premier's Memorandum 99-11 *Guidelines for the provision of ex-gratia legal assistance for Ministers, public officials and Crown employees* provides information on the ex gratia legal assistance scheme administered by the Attorney General's Department.

The ICAC does not give legal advice to the public or to those it investigates.

HOW MUCH SHOULD STAFF BE TOLD ABOUT AN INVESTIGATION?

There is no straightforward answer to this. Any notice served on a public authority or official will include information for the recipient about who they can discuss the notice with. If in doubt at any time, it is best to consult ICAC officers about the extent of confidentiality required. Once an investigation goes to public hearings, it is essential to tell staff about the hearings before they start and provide on-going briefings to staff on the proceedings.

Generally, reports to the ICAC of allegations of corrupt conduct should be made without advising the individual(s) to whom the report relates, and without publicity. Confidential handling of reports helps avoid prejudicing the investigation and unnecessary hurt or embarrassment to individuals.

Where the complaint originates outside the organisation complained of, the ICAC prefers that the complainant not be advised of the referral until the ICAC determines it is appropriate. Where the complaint is made from within the organisation, confidential advice to the complainant that the matter has been referred to the ICAC may be warranted.

In addition, the Premier requires Ministers to apply the following guidelines when referring matters to the ICAC:

-
- (a) *Any public announcements should only indicate that the referral has occurred and should not state, or imply, that the ICAC is investigating/ will investigate the matter.*
- (b) *Ministers should ensure that no announcement is made until after the referral has actually occurred. (Premier's Memorandum No.95-34)*
-

WOULD SETTING UP A LIAISON MECHANISM ASSIST COMMUNICATION WITH THE ICAC?

One way of managing communication between an organisation and the ICAC is to appoint a liaison officer or officers for the duration of the investigation. Nominating officers from the legal, internal audit, policy or corruption prevention area is appropriate, as these areas of an organisation are likely to be important in responding to ICAC contact.

The benefit of this arrangement is that communication is more efficient. In addition, confidentiality about the investigation process is easier to maintain and the potential for overlap, duplication and misunderstandings is reduced.

SHOULD UNIONS BE INVOLVED IN THE EVENT OF AN INVESTIGATION?

Unions do not have a role in representing members who are the subject of an ICAC investigation or who are assisting in an investigation. However, an investigation by the ICAC does not impinge on unions' representative role in relation to the general treatment of a member in the workplace.

There were union people on the floor who felt [the individual's] rights were being compromised. That he should have the right to have either union or legal support right there and then. And so there was a flurry of immediate activity with some union people on the floor rushing up to HR and other union people and they were in a bit of a panic. And I don't know that you could really avoid that.

A well-planned communication strategy developed by management to keep staff informed about an investigation should include relevant unions. Staff who are union members may in any event approach union representatives to ask for information about the investigation, their rights, the treatment of those under investigation, and management decisions. Union representatives have the right to approach management to seek information for their members in the organisation.

By specifically including union representatives at staff briefings, managers are able to send a clear message to both union and non-union members that the management of the investigation aims to be as transparent as possible. In addition, forums held by unions for staff who are members, provide an additional avenue for staff to seek information and discuss any concerns they may have as a result of the investigation.

From a union point of view, looking at my union members, I'd give [management] 9 out of 10 for the way they handled the whole thing, as far as communication is concerned, I mean they bent over backwards letting the staff know. The Director General was continually at meetings, I don't think there was much more they could have done, really, it certainly wasn't a 'behind the door job' that's for sure, they seemed to be utterly open. (Union delegate)

DOES AN INVESTIGATION ALWAYS INVOLVE HEARINGS?

No. In most cases preliminary enquiries are enough to establish whether or not corrupt conduct has occurred. Preliminary enquiries may involve interviews with individuals who are the subject of allegations as well as with people who may have information relevant to the allegation. If such enquiries establish or suggest that serious corruption has occurred, further investigation may be undertaken.

WHAT HAPPENS IF THE ICAC DECIDES TO HOLD HEARINGS?

The ICAC holds hearings to facilitate an investigation. They may be held in private, public or a combination of both. Public hearings are usually preceded by private hearings. The ICAC is obliged to conduct its hearings in public unless there is a good reason, in the public interest, not to. A private hearing may be held, for example, to safeguard witnesses or to protect the integrity of an investigation.

When considering whether to hold hearings, the ICAC takes into account all matters related to the public interest. The ICAC determines who may be present at hearings. Evidence from private hearings is usually suppressed until the Commissioner lifts the non-publication order.

Public hearings are an important tool in exposing corruption. Public exposure itself is a significant deterrent. Additional information, which would not otherwise have been available to the ICAC, is often obtained when public hearings are held. The public hearing process can also have the beneficial effect of increasing the public's confidence in the integrity of investigations.

Public hearings are advertised in major newspapers and relevant local newspapers. The advertisements include information on when the hearing will be held and the scope and purpose of the investigation.

WHO IS LIKELY TO BE CALLED AS A WITNESS?

The range of people who may be called as a witness is wider than that which may be called before a court determining civil or criminal matters. This means that anyone who is the subject of allegations may be called as a witness, as well as anyone who is able to provide relevant information about the matters being investigated. The strict rules of admissibility of evidence that operate in courts do not apply in ICAC hearings. The criterion used for admissibility is relevance to the ICAC's enquiries.

ARE WITNESSES ENTITLED TO A LAWYER?

Witnesses at a hearing are generally permitted legal representation. Any person or group with a substantial and direct interest in the investigation hearing may also seek to be allowed representation.

The Legal Aid Commission can provide free legal advice for witnesses. However, it cannot provide a lawyer for ICAC hearings. A witness can apply to the NSW Attorney General for legal and financial assistance in meeting the costs of legal representation at hearings. The Legal Representation Office can provide a lawyer to represent witnesses at hearings.

Depending on the subject matter of the hearing, the organisation itself may want to seek leave to be represented.

WHAT DOES THE ICAC EXPECT OF WITNESSES?

A witness may be called to appear before an ICAC hearing by way of a summons. A witness who fails, without real excuse, to respond to the summons is committing an offence under the Act, and a warrant for their arrest may be issued.

Witnesses before a hearing are required to give evidence on oath or affirmation. If witnesses object to answering questions or producing evidence they are entitled to make a statutory objection. This means that they must still answer questions but that any information provided during the hearing cannot be used in any civil or criminal court or disciplinary proceedings, except in relation to prosecution of offences against the ICAC Act.

Evidence is tape-recorded and then transcribed. Each witness may be given a copy of the transcript of the evidence they provided in a public hearing.

When a summons is issued to a witness, the ICAC provides brochures on *Information for witnesses*, *Procedures at hearings*, and *The Legal Representation Office*.

The ICAC Act creates a number of offences relating to its investigations and hearings. For example, a person must not:

- give false or misleading evidence
- destroy or damage documents relevant to an investigation
- attempt to influence individuals assisting in an investigation
- bribe a witness
- prevent a witness from answering a summons
- dismiss a witness from employment or cause them injury or loss as a result of their assisting the ICAC.

Some of these provisions are designed to protect witnesses. In addition, the ICAC can make arrangements to physically protect witnesses.

HOW CONFIDENTIAL IS THE INVESTIGATION PROCESS?

If managers are approached by ICAC investigators for information or assistance, they should treat the approach confidentially. If they are in any doubt about whether information about the investigation is confidential, they should contact the ICAC.

In hindsight... if [management] had jumped in and let the cat out of the bag, so to speak, early, that may have jeopardised some of the evidence gathering.

WHAT ABOUT THE MEDIA?

When the ICAC exercises any of its functions in public, such as executing a search warrant, the media sometimes finds out and seeks further details. The usual practice of the ICAC in these circumstances is to neither confirm nor deny that the action was taken.

Similarly, if the media seeks comment on a public statement made by an individual that they have forwarded a matter to the ICAC, the ICAC will not ordinarily confirm or deny that it has received it.

The media are permitted to attend public hearings.

DOES THE ICAC MAKE ITS FINDINGS PUBLIC?

After all public hearings, and sometimes after private hearings, the ICAC reports its findings in writing to the Parliament. The Presiding Officer of a House of Parliament then makes the report public.

The ICAC is required to include in investigation reports statements as to whether or not prosecution or disciplinary action should be considered about all people who have had substantial allegations made against. Equally, the report may contain a statement that someone wrongfully accused of corrupt conduct has been cleared.

WHAT HAPPENS IF A FINDING OF CORRUPT CONDUCT IS MADE?

A finding of corrupt conduct against an individual is a serious matter. It may affect the individual personally, professionally or in employment, as well as in family and social relationships. There is no right of appeal against findings of fact made by the ICAC nor, excluding error of law relating to jurisdiction or procedural fairness, is there any appeal against a determination that a person has engaged in corrupt conduct.

It is important to note that a public official cannot be dismissed by their agency merely on a finding of corrupt conduct by the ICAC. A proper and separate disciplinary process must be conducted which might consider the matters disclosed in an ICAC investigation. Several cases of dismissal, relying merely on the fact of a finding in an ICAC report, have been reversed by courts and tribunals.

DOES THE ICAC PROSECUTE?

No. The ICAC does not have the power to prosecute people. That is the role of the NSW Director of Public Prosecutions (DPP). The ICAC may make recommendations that prosecution be considered by the DPP or that the public official's employer consider disciplinary action.

The ICAC may also refer evidence to the DPP or to a public authority. The DPP or the Principal Officer of the relevant organisation is then responsible for considering whether prosecution or disciplinary action is appropriate.

PART 2— MANAGING THE IMPACT OF BEING INVESTIGATED

Organisations differ, as do the circumstances of each investigation. For this reason it is difficult to provide a 'one-size-fits-all' strategy for managing the impact and outcomes of an investigation. There are, however, some key issues for managers to consider when preparing a strategy to handle an investigation.

Many managers are surprised by the response of staff to the initial news that their colleague or organisation is being investigated. Some managers expect the initial shock, anger and denial that can occur, but are not prepared for these reactions to continue, in some cases, for weeks or months.

The impact of an ICAC investigation on an organisation is difficult to predict. It depends on a range of factors. Some of these may be:

- the nature and extent of the allegations being investigated
- the extent to which the allegations were known by staff
- the people implicated by the allegations and their relationship to the rest of staff
- the nature and breadth of the investigation
- the pre-existing culture of the organisation.

A rule of thumb for managers is not to assume anything, and be prepared to be surprised by how the organisation reacts to an investigation.

WHAT IS MEANT BY THE 'IMPACT' OF AN INVESTIGATION ON AN ORGANISATION?

I saw people from the [office], one lady in particular and I thought she was very very stressed, particularly 'cause all of a sudden they were working and the next minute 'wham', I mean the ICAC came in, [the person] was taken away and there were people at their desks thinking "what's going on?, what's going on?"

Generally, the impact of an investigation is greatest in the areas of an organisation in which the staff who are the subject of the investigation actually work.

The impact may be operational. ICAC officers executing a search warrant at the work site may need to remove evidence such as files, data and other documents and electronic systems that are used on a daily basis. If this happens, it may impede the efficiency of a work area or mean the work process is suspended until the material is returned. In some cases the

investigation permits forewarning of this, so that managers have time to make arrangements for handling the impact.

The ICAC officers to whom the warrant is issued have discretion as to what is seized, provided that it is captured by the terms of the warrant. Managers can discuss with the ICAC officers arrangements for access to material that is essential to day-to-day operations. For example, ICAC officers have discretion to allow photocopying of documents or to allow a backup of a computer's hard disk contents before removal.

A more complex issue to manage is the effect on staff. It is difficult to prescribe strategies as it depends on the individual characters, personalities, and coping mechanisms of each staff member. However, it is predictable that staff will each react differently and the way in which they react initially, will shift and change as the investigation progresses, hearings are held and revelations about the allegations come to light.

Whether or not an investigation progresses beyond preliminary enquiries or private hearings and to public hearings will have an effect. The public exposure associated with public hearings, for example, places more pressure on an organisation and its staff by increasing community, parliamentary and media scrutiny. Additional factors may include:

- the outcome of the investigation. A finding of corrupt conduct and recommendations that consideration be given to prosecuting an individual, for example, may be welcomed by some staff or considered unfair or unjustified by others
- staff perceptions of how management handled the investigation process. This includes issues such as communication, decision making style and leadership
- the expectation that things will change as a result of an investigation, or in fact go on as before
- the diversity of staff responses to combinations of these factors.

HOW MIGHT STAFF REACT TO AN INVESTIGATION?

The reactions of staff will depend very heavily on the organisation – on its history, its culture and the state of management/staff relations. They will also depend on the personal histories of each staff member, whether they have previously experienced corruption investigations, whether they trust management and the organisation, and how close they are to the subject of the investigation.

There was a range of responses. On the one hand there were people who'd worked with him a long time, were very friendly with him both in and out of work who were affected quite personally by it, quite emotional, right through

to people who felt, "what does this mean for me in terms of my reputation as an [organisation] officer, and as a public servant?" I remember going to an industry meeting a couple of days after the media publicity around the hearings and the officer with me afterwards remarked that he felt his reputation, his integrity was being questioned.

To some staff, the news that their organisation is under investigation by the ICAC will not cause any strong response. Generally, however, staff will know enough about the ICAC to be concerned about what an investigation means for them personally and whether they might be implicated in the allegations. They will usually also want to know more about what it means for the subject individual and for the organisation as a whole.

Staff may react to the initial news of an investigation with:

- disbelief that the allegations are true
- anger towards the ICAC for operations such as executing a search warrant on a colleague or manager in the workplace
- anger towards management for not supporting the subject and appearing to be in partnership with the ICAC
- anger towards management for allowing the corrupt activity to occur
- mixed feelings towards management about, on the one hand, not informing staff about the allegations sooner and yet recognising, when this is explained, that the investigation may have been compromised if they had done so
- in cases where the allegations were widely known before ICAC involvement, relief that finally the conduct being investigated is being addressed
- further allegations about corrupt conduct.

They may display the classic stages of grief: denial, anger, bargaining, depression, and finally acceptance. They may be grieving for the loss of a belief that they had in the subject, or for the loss of their image of the organisation as honest and ethical.

Its amazing what sort of stupid fears and anxieties you have, or maybe they're not stupid, but they're real to you.

In addition, it is possible that an atmosphere of distrust may develop in the workplace, in which gossip and innuendo are rife about the subject's and others' involvement in the alleged corrupt conduct. There may also be an increase in stress or sick leave and decreases in productivity.

They saw [the individual] as smart, street-wise and couldn't for the life of them understand why [he] would do such a stupid, foolish thing, with so little financial gain and so much risk – he was highly regarded and respected. There was a lot of concern [on the part of management] about how the organisation as a whole would react, given he had that hero-like status.

As the investigation progresses, factors such as the level and frequency of management communication with staff and the information that comes to light through public hearings will affect staff behaviour. Some of the more common responses may include:

- anger towards the person who has the allegations against him/her proven
- anger towards the person for betraying and manipulating his/her colleagues to facilitate his or her own corrupt interests
- shock at the extent of the person's corrupt behaviour and associated uncertainty about the ability to be able to "pick out the bad apple"
- confusion about how the person could have "been so stupid"
- feelings of vindication over long-held suspicions
- a marked softening in criticism of management's apparent lack of support for the person during the investigation
- a greater willingness to accept the decisions that were or are being taken by management during the investigation, which at first glance appeared harsh or ill informed
- a desire to put the event behind them and get on with work.

In the initial week it was shock, anger, disbelief, all those sort of immediate reactions you get, and then in the period following the public release of [the person's] confession there was more acceptance that this had happened, and over time, then, that team building effect happened.

Union people were also coming to management saying "what are you going to do to support [the person]?" And we had to explain that ICAC were operating within their legal role, they're executing a search warrant and there's nothing we can do... We expected all these reactions, but there wasn't a lot we could do to satisfy them.

Even if [the person had done] wrong, "are his personal rights being protected and maintained?" was a genuine concern people had.

Some staff may, however, feel more strongly for a longer period of time, such as:

- feeling guilty, responsible or complicit in the person's conduct by virtue of not having been aware of it
- fear they too will be investigated
- fear of being identified as a staff member of a corrupt section or organisation. This includes fearing being implicated by association by the community, family and friends
- fear that career prospects will be jeopardised
- dwelling on the event.

Two things were going on – on the one hand it was “what’s the process?, how does it work?, what’s going to happen to him?” and at another level it was the psychological thing about “why would somebody do that?, why does it happen?, why do people do this sort of thing?”

Some people were concerned that [the person] would suffer financially. But others can’t believe that he’s been able to walk away with all his entitlements.

There were a couple of people that were a bit paranoid for a while but we had to sort of give them some positive reinforcement and assurance and then they were OK... There were lots of flippant and off-handed comments about that sort of thing which I think was just a way of dealing with it.

The completion of an ICAC investigation can be a positive turning point for an organisation. In all probability there will be a shared sense of relief that the investigation itself is over and the outcomes are known. For some staff this will include a level of acceptance of the event and a willingness to contribute to developing and implementing corruption prevention initiatives.

There has definitely been a heightening of awareness of corruption issues and about relationships between officers and members of the public and I think that the drama; it’s a bit of that crisis intervention kind of thing. It creates a focus, so while it does have a fall-out it does have benefits as well.

Some of us had to pay a high personal price but for the organisation as a whole this was the biggest positive out of it, really reinforcing the importance of ethics.

TIPS FOR MANAGING DURING AN INVESTIGATION

Have a plan of action

I think the fundamental biggest “Do” you should have on your list is having an action plan in place. It was very detailed, like it was several pages of “this will happen, then this will happen”, it was in chronological order. This was for the [CEO]. It had actions and action people, who will do what in strict chronological order, when meetings would happen, when staff notices needed to go out, it was all there ready. And that made it run as smooth as it could in the circumstances.

- Be fully prepared with as much information and support structures in place before informing staff about the allegations being investigated by the ICAC. This may include developing an action plan during the covert stage of an investigation. An action plan may, for example, set out in chronological order, to the extent possible, what to do when, and strategies for communicating to staff and outside organisations, including the media.

A light bulb went off. As time went on [during the covert stage] it became clear to me that this was going to be a bloody mess when it all happens. But I was 4 months into the covert stage before it occurred to me to develop an action plan to manage it, when it went public.

- Consider setting up an internal group to manage issues arising during the investigation, once the investigation has reached the overt stage. Representation could be considered from legal, operations, audit, investigations, union delegates and any other relevant areas of the organisation. This group could develop strategies to manage and coordinate the organisation’s end of the investigation. Part of this group could, for example, be delegated the task of examining corruption risk areas exposed by the allegations and investigation.

Support from ICAC as well is really important. I became the central contact for the ICAC investigators during [the covert stage]. I was lucky to a degree, in that I had a very supportive ICAC investigator who was my first contact. I think, though that having a clearer understanding of who that first point of contact is and who the ICAC team is, ‘cause there are times when you’re going into Redfern and you’re confronted with all these faces, you know, the lawyers and the solicitors and the investigators, and you never had a clear sense of, well this is the team and this is the team manager and this is the [the organisation’s] point of contact person.

- Designate a person or a team to handle all contact with the ICAC. The team could include representation from areas of the organisation that will be required to respond to ICAC requests for information and evidence. The legal, operations, audit and investigations areas of the organisation, for example, will in most cases be required to be part of the team. The reason for putting together such a team is to streamline contact with the ICAC to avoid poor communication during the investigation. This team should meet with the ICAC investigation team at regular intervals to maximise co-ordination of the requirements of the investigation. It must understand the need for confidentiality. Such a team must be closely managed and directly accountable to a very senior manager, if not the CEO.

It seemed to me that even ICAC didn't really have its act together in terms of in terms of having a strong, collegiate, team approach. It was sort of like, well, we're the investigators, we're the lawyers, we're the prosecutors (sic), and every so often they come together in a room and talk... It didn't strike me that ICAC was strongly internally organised...it did concern me a bit.

- Be aware that the ICAC operates under an internal policy of 'need to know' and it is quite possible that, for instance, the ICAC Corruption Prevention Officer you are consulting or even one of the Investigators, is not fully aware of all the details of the investigation.

Communicate

- Keep a high profile during the investigation. Staff are looking to managers for information, reassurance and leadership. Even if management decisions are not popular, staff are more forgiving if decisions are made and communicated.

It was the subject of conversation through the organisation and that's where if they'd called everyone together the afternoon of the same day and given them something, people most probably would have gone off with a bit of information from the horse's mouth and got on with their job. I think it was pretty disruptive for some time.

- Consult with officers from the ICAC investigation team at any point during the investigations if you are unclear about whether any proposed management strategies might compromise the investigation.

Executive management level were briefed and then middle management were briefed on how to brief our staff.

- Consult with the ICAC about when and how to best provide information to staff about the process of an ICAC investigation, once public hearings are announced. This may include arranging to have sufficient numbers of ICAC information brochures available to staff when they are first briefed or arranging for ICAC officers to brief staff in person about what stages are involved, what powers are available to the ICAC and how staff can assist the investigation.

It took us a couple of weeks to get ICAC brochures on the tea-room tables. We should have done that straight away.

We were up-front with people. We said there were a number of people in the organisation who have known about this for some time and have been assisting the organisation. We explained how those individuals had been sworn to the strictest secrecy both by the ICAC under its Acts and powers and by the Director-General. We didn't try to pretend it was something it wasn't.

- Don't allow rumours to flourish. Communicate with staff about the investigation in a range of ways, including staff notices or bulletins, organisation-wide forums, unit meetings, and by encouraging staff to approach managers. This is because people vary greatly in the way in which they best receive information and the way in which they feel comfortable responding to it. It also acts to reinforce important information if it is disseminated in a range of ways.

In the staff notice we gave particular names of people that staff should contact. We also mentioned that there would be a meeting with unions so that the unions would be briefed on what was happened, and staff were encouraged to speak to any number of management people and/or their union person to find out more information.

- Specifically delegate to unit managers the task of communicating. If managers are unable to provide the information staff need because of the requirements of the investigation, find out from staff what they want to know and communicate as much as possible. Be clear and up-front about what information is currently not available, and when it is likely to be available.

We had staff meetings every other day during [the period of hearings] and we basically had a staff meeting where the [CEO] and [other senior managers] relayed to staff the various confessions that [the person] had made. At that point there was far greater acceptance that he hadn't been stitched up.

- Involve the CEO in consultations with staff wherever possible throughout the investigation. This will not go unnoticed and will add to staff confidence in management's handling of the investigation.

What struck me as exceptional was the involvement of the Director-General, you might have some DGs who might go to the first meeting and then you wouldn't see them again but delegate it to senior management, but he seemed to be there all the time. I heard quite a few people say they'd never seen so much involvement from the DG. They thought it was great. Some were really surprised, we certainly didn't hear any criticism of it, they thought it was great.

- Beat the 6 o'clock news. All staff should be told when public hearings are to be held, before the media report it. In addition, it is a good idea to address staff on the progress of the public hearings so that they do not feel abandoned during the public exposure of the organisation. Some staff may wish to attend public hearings.
- Allow staff to talk about what's happening. Productivity will pick up more quickly if staff feel they have 'got it off their chests' by having had the opportunity to air their feelings of anger, shock or disbelief to their colleagues. Expect staff to be talking about it in the corridors, tea-rooms and at workstations. It is important, however, to also provide formal channels for staff to air their feelings. The combination of both assists in staff feeling their responses are validated both formally and informally and will therefore assist them to get back to work when the initial shock has passed.
- Be aware that effective communication about the matter will also help deter others who might have been contemplating similar conduct. Sometimes it takes the fact of a formal investigation into possible corrupt conduct to crystallise the issues in other peoples' minds and cause them to focus on what they are doing and whether any aspect of that might be questionable.

We didn't try and control [staff needs to talk about the event] at all. We gave lots of different types of opportunities for people to talk about it. Productivity took a nose-dive for a couple of weeks to allow that to happen, but if we hadn't allowed that...

- If the investigation does include public hearings, it is important to brief staff on the possibility of criticism the organisation may get from the media, other agencies with which the organisation has business relationships, and members of the community such as family, friends

or neighbours. Be prepared for media scrutiny or the implication of widespread culpability of staff by developing a public position statement well ahead of the investigation going to public hearings. It may also be useful to include in consultative forums with staff, some discussion about the expected public perception of the allegations under investigation and ask staff to share with others how they handle outside scrutiny.

A number of people outside the organisation, someone in industry that we're meant to be regulating ... casting aspersions about [this organisation] and [its officers] just in that way, I mean seriously casting aspersions. And people had some difficulty with that, like "how do we deal with this, what do we do?" And I think that was missing in management's action plan. Advice about managing your response to that kind of issue.

- Be sure to alert staff to the release of the final ICAC report into the investigation and provide adequate access to a copy (investigation reports can be found on the ICAC web-site at www.icac.nsw.gov.au). In many cases it is not until the report on the investigation is released that staff are convinced of the subject's corrupt conduct, if corrupt conduct is found. It is also a good idea to provide staff with a formal response from management to the key findings and recommendations of any investigation report. This will reassure staff that management take the findings seriously and plan to be open and transparent about any changes that may occur in response to the findings.
- For the organisation as a whole, the impact of an investigation may require specific public relations strategies to be developed. If the investigation included public hearings which revealed serious corrupt conduct, the organisation may need to address potential difficulties in recruiting staff or securing contracts for services.
- Even if these difficulties are not anticipated, it is a good idea for an organisation to make a public statement, at the time the investigation report is made public, that shows both staff and the community that management have addressed the conditions that allowed the corrupt conduct to occur. It is a good idea to consult with the ICAC on the nature and timing of such a statement. In some cases it may be appropriate to consider issuing joint press releases with the ICAC. This approach illustrates to any observer, including staff, that problems are being dealt with collaboratively.

Provide support

- Consider arranging counselling options before briefing all staff. This may include off-site one-to-one and/or on-site group counselling. Some

people will want to talk to an impartial third party with no connections to the organisation. Some people are encouraged to learn that the mixed feelings they have may be entirely appropriate. Others prefer to have consultations between management and staff mediated by a trained professional. Others may want no involvement at all. There is a range of resources available to assist management in helping staff air and manage their feelings appropriately.

We have a permanent contract with a counselling service and we actually brought them on site for a meeting with staff, mainly as an awareness raising meeting, it wasn't a group counselling session, just to say we're here, we're available. And it did become a bit of a group counselling session for a while because people asked, you know, "we don't understand why [the person] would do this, can you explain it to us?"

- Provide appropriate support for staff who become involved in the covert stage of the investigation.
- Provide additional support to staff who become witnesses. Such staff may feel additional strain from being under the spotlight, as well as having complex mixed feelings about their role in the exposure and possible punishment of a colleague.
- Be prepared to offer assistance in relation to a witness's personal security. People in such circumstances often feel, with or without justification, some sense of unease about their own and perhaps their family's personal security. The ICAC has powers and resources available to protect witnesses. If a witness expresses some fear, contact the ICAC in the first instance. The simple expression of genuine support and a clear plan of action in the event of a problem is enough to put most peoples' minds at ease.
- When staff support the suspected person, they may not understand why management appears not to be doing everything possible to help them. Staff may interpret management's lack of action as treating the person as "guilty until proven innocent". If necessary, tell staff what is being done to help, and what is not possible.
- Understand that some staff will be personal friends of the suspected person and will wish to remain so, no matter what the outcome of the investigation.

A lot of people for quite a while said that it was a management set up, quite a lot actually. They were really on [the person's] side, but that changed after a while. Six to eight weeks after it came out. Word just got around more and more that he was guilty and someone said if you saw how many pages of

what he'd done wrong, you see all these rumours had been flying around, but people started to change their opinion...as the transcripts came out of the hearings.

Gain the trust of staff

In some ways management is always going to be compromised because it has to assist the ICAC in its investigation and it's got to do so in a secret way. And so, as soon as the revelation occurs, there is going to be a perception of treachery on the part of staff. The best way to deal with that perception is to be totally up front and just reveal everything straight away as soon as possible to the extent that you legally can.

Managing the impact of an investigation is a lot easier if staff feel they can trust management. Trust, in this context, is not based on agreement, like-mindedness or 'being one of the team'. It is based on having clear, consistent leadership. Some of the factors that contribute to building or maintaining trust from staff include:

- Being honest at all times. Hiding problems will not improve management standing in the long term. It doesn't improve trust. Mistrust happens when staff can't understand those who manage them. If, for example, management does not immediately know the answer to something raised in a staff forum, managers should admit this but indicate when more information will be available. This should never be used, however, to stall communication. Stalling is usually obvious and creates suspicion.
- Not making promises that cannot be kept. Consistency in following through with decisions is fundamental to gaining and keeping trust. If something genuinely gets in the way of being able to carry out a proposed course of action, be honest. Tell staff why and allow for feedback.
- Getting to know what matters to staff and making a commitment to addressing their concerns and interests. It will not always be possible to satisfy all concerns, but staff will have more respect for managers who explain their actions.
- Asking for feedback and acknowledging it. Regard it as valuable information. Regardless of any perceived bias, it will give a realistic picture of staff feelings and concerns.
- Listening to staff carefully and checking with them that they have been understood. Staff will know if consultative processes are genuine or 'just going through the motions'. This does not mean acting on every

view put by staff. However, consultation with staff goes a long way towards making them feel valued.

- Keeping an accurate record of the progress, process and outcomes of consultations. Where formal consultations have been held with staff, minutes should be prepared and distributed promptly.

That's the impression that I got: it seemed...[management] didn't know what to do. They were at a loss [as to] how to approach the whole situation. They didn't know how much to let the people know. They didn't know when to let the people know. They just seemed... "it looks bad on us"... Well it didn't really give you much faith in management because management didn't have enough faith in their staff to tell them what was going on.

- Being trustworthy. Trust must be mutual. Managers cannot expect their staff to trust them more than they trust staff. Where managers' mistrust is even subtly communicated, staff will reciprocate it.

ADDITIONAL TIPS FOR MANAGERS

- Acknowledge the courage demonstrated by members of staff who were witnesses in the hearings. Staff who are called as witnesses are assisting in the exposure and possible punishment of a colleague. Most people would have mixed feelings about playing this role as the possible impact on a person who is the subject of allegations can be very serious, including loss of job and community standing and in some cases a prison term. Some people may be uncomfortable about a public acknowledgement but would appreciate formal private acknowledgement. The decision should be made on a case-by-case basis, in consultation with the staff member who was the witness.
- The greater the trauma to the organisation during the investigation, the harder it is to get people to co-operate with post-investigation changes. Loss of faith in management may mean staff are less open to efforts to 'lead' the organisation into new directions.
- It may happen that the investigation and its findings may not be able to be relegated to the organisation's corporate history because subsequent legal action may stall a real sense of closure on the matter. If this occurs, members of staff who were witnesses during the ICAC investigation may have to go over evidence given, in some cases, years ago. This can place a lot of pressure on individuals who may not wish to relive their experience of having provided evidence.
- Managers need to take care of themselves during and after an ICAC investigation. Managers are just as susceptible to all of the reactions

that staff may feel. They may feel the uncomfortable emotions of betrayal or of grieving for a long-held belief about a person or about the organisation. Managers need to be able to come to terms with their own personal reaction at the same time as they are helping staff with theirs. They may need to seek support from their CEO or, within the constraints of confidentiality, from the organisation's counselling service.

There was a lot of very strong support from the [CEO] during the covert stage. On several occasions he expressed strong support for what we had to do and what we were going through. Recognition of how important this was for the organisation, how difficult it was. You couldn't under-do that because it was incredibly intense and stressful and difficult to be in a situation where you're having to actively lie [to staff] and pretend that this isn't happening.

- The ICAC may call a chief executive or senior officer to give evidence in a public hearing about the reform measures which are being implemented as a result of the investigation. The preparation of this submission ought to be broadly based with input from as many sources within the agency as can be practically incorporated. Approaching the task in this way helps to build shared commitment to the reforms and restores a sense of control to the agency.

THE CONSEQUENCES OF POOR MANAGEMENT

- The grapevine will become the principal source of information for staff, creating conditions ripe for contradictory rumours and smear campaigns.
- Increased mistrust of or loss of faith in management.
- Fear among staff that they too, may be under investigation without knowing it.
- High levels of stress among staff, particularly those in close professional proximity to the subject, which may result in increased absences.
- Lower morale, decreased customer focus.
- Decrease in productivity, particularly in areas and amongst people closely associated professionally and personally with the subject.
- Increased trauma for witnesses who may feel unsupported by the organisation and uncomfortable with the consequent sense of being personally identified with the investigation.

THE BENEFITS OF GOOD MANAGEMENT

- Greater understanding on the part of staff and management of what corruption is and what is meant by a corruption risk.
- Codes of ethics and standards of behaviour are more meaningful to, and taken more seriously by, staff as well as management.
- A sense of the organisation having 'pulled together as a team'.
- Faith in management either maintained, renewed or gained.
- Greater willingness on the part of staff to commit themselves to participating in corporate efforts to change.

PART 3 – MANAGING THE POST- INVESTIGATION PHASE

ACKNOWLEDGING THE PAST

Staff are quizzing [management] regularly about the outcome of the investigation. There are periodical, informal update meetings and so on, but nothing more than that. We've sort of been waiting for two things. Closure from the ICAC end, in terms of their investigation and the public report. We all expect a public report and a little bit more of a run in the media and possibly if its referred to DPP, a bit more after that, and we also need closure on our own internal investigation and what's come out of that.

Arrange a formal 'closure' of the investigation, for the organisation, once the report of the investigation has been released. This is an important tool for separating the events that exposed the organisation to investigation and public scrutiny, and its future direction. There are many ways to mark the end of an investigation. A formal address to staff by the CEO is a good place to start. However, local events such as unit lunches, or an information day can be useful in reinforcing the end of a period of uncertainty.

Communicating with staff as part of closure may include for example:

- stressing management confidence in staff
- thanking staff for their co-operation during the investigation and, perhaps
- telling staff why management was unable to communicate more freely at the outset, if this was required as part of the covert stage of the investigation.

For me personally, once I read the report, that put it to bed for me. Because at the start I would have put money on the fact that he was innocent.

WHAT SORT OF CHANGES MIGHT NEED TO HAPPEN FOLLOWING AN INVESTIGATION?

The changes that might need to happen depend on the nature and outcome of the investigation. The ICAC may make recommendations in its investigation report that relate to remedial action an organisation should take to reduce the opportunity for corruption to recur. Even where it makes no finding of corruption it may still recommend cultural and procedural changes. Besides ICAC recommendations, an organisation may well identify other needs for change.

Necessary changes might include:

- Policy changes – for example, to enhance accountability and openness of procurement, record keeping, secondary employment.
- Procedural changes – for example, to improve objectivity and accountability of internal investigations, contracting for services, disclosing conflicts of interest.
- Structural changes – for example, to ensure integrity of inspectorial and advisory functions, to enhance cross-functional communication.
- Systems changes – for example, to ensure disciplinary systems are not merely punitive but part of an integrated approach to employee management and development.
- Personnel changes - to ensure strong ethical leadership and management, to replace corrupt staff.
- Cultural changes – to change ‘the way we do things round here’ (to raise ethical standards and create an environment that is resistant to corruption).

ARE PLANNED CHANGES TO AN ORGANISATION ALWAYS NECESSARY?

No. Again, the need for change will depend on a number of factors including the nature and outcome of the investigation, particularly recommendations made in the ICAC’s investigation report. However, during an investigation at least, some of an organisation’s operations are likely to be subjected to intense scrutiny both by the ICAC and the organisation itself. Such scrutiny may expose ethical weaknesses or opportunities for corruption that would not have been uncovered in the normal course of events. Also, an investigation is bound to elevate the profile of ethics and probity amongst staff. As a result, the aftermath of an investigation provides an opportunity for an organisation to build positively on the investigation outcome by planning and implementing desired changes.

PLANNING AND MANAGING CHANGE

One of the key reasons that attempts to change organisations fail, is because not enough thought and time is put into planning.

Change takes time, particularly cultural change because it is about changing behaviour. There is no one-size-fits-all method for the successful implementation of change. Dealing with different changes and with different groups and individuals within an organisation – perhaps with different expectations, cultures and norms – means tailoring the change process to their needs.

However, there are key elements that should be common to every change process. The presence of those elements will enhance the prospects of implementing effective change.

Decide what the organisation wants to achieve

Take some time to develop a picture of what the organisation wants to be and what needs to change to achieve it. Following an ICAC investigation, an organisation will be aware of any obvious needs for change – for example, to policies and procedures. But before embarking on a process to implement the obvious, an organisation needs to think more broadly about the implications of change. A change in a policy or procedure is not an end in itself. The aim of any change process should be to change behaviour.

Know the organisation

Knowledge of the organisation is essential in determining what outcomes are achievable and what changes are necessary and feasible to achieve the desired outcome. Such knowledge also enables expectations to be managed effectively during the change process. There are two parts to knowing the organisation – understanding the interdependencies of its components and understanding the existing organisational culture or cultures.

Interdependencies can be structural, procedural or related to practices. But more importantly, interdependencies exist between an organisation's operational components (for example, structure, policies and procedures) and the quality of its leadership, values and communication. By thinking strategically about systems – being aware that changing a part will affect the whole – an organisation can see that to change behaviour it might need to change not only the relevant procedure but also the way staff are managed, trained and supported.

This may involve:

- reviewing the code of conduct for continued relevance
- re-establishing the values of the organisation, and changing the way values are communicated
- revising leadership training, induction, and general ethical awareness programs
- restructuring work groups and functional areas
- revising policies and procedures on conflicts of interest, gifts and benefits, and reporting wrongdoing
- reviewing recruitment, performance management and disciplinary systems
- introducing new technology, or
- updating corruption prevention plans.

The existing organisational culture has a powerful influence on behaviour. Many organisations find they have more than one culture. Different cultures can exist between different levels and different functions. Using interviews, focus groups and surveys (such as the survey *Perceptions of Your Workplace*, in *Ethics: the Key to Good Management* (1998 ICAC)) can help an organisation understand its culture.

The qualities of the existing culture will help to show how much preliminary work needs to be done before effective change can be implemented. For example, if an organisation has strong sub-cultures aligned with its existing hierarchical levels, it may need to put substantial effort into increasing openness and trust in order to motivate staff support for change. With such a culture, it may relegate to the long term any serious attempts to shift the focus from jobs (what rules and procedures do I follow?) to outcomes (what is it that I need to achieve and how?).

Where substantial cultural change is contemplated or where the culture is characterised by poor management/staff relations, consider engaging outside assistance to facilitate the change process, or aspects of the process – for example, an expert in diagnosing the organisational culture, an organisational change consultant, a communication specialist.

Develop a plan of action

Once an organisation knows what it wants to achieve, what is likely to be feasible and how it might get there, it needs a plan of action. A good plan:

- is flexible and strategic. The plan is likely to change as the change process progresses.
- should be developed and endorsed by senior management to ensure it has a strategic focus and adequate resources.
- should identify incremental steps, achievement of which can be acknowledged and celebrated along the way. It is a good idea to schedule some easily achievable changes as early milestones. These help build the momentum for tackling more challenging steps.
- should clearly identify who is responsible for making decisions, achieving particular milestones and carrying out particular functions (including overall co-ordination). Choose people who are genuinely committed to the changes and trusted by staff.
- should consistently reflect corporate values.
- must also include a communication strategy, a strategy for the participation of those who will be affected by the changes (including staff and other stakeholders), a strategy for embedding the changes (including training, rewarding desired behaviours) and a strategy for measuring achievements.

Depending on the scale of proposed changes, the plan may be multi-layered – those with identified responsibilities under the 'big picture' plan may need to develop detailed plans which include the same key strategies – communication, participation, embedding, measurement.

Show leadership

Perhaps the most important element of effective change processes is leadership. Change efforts will fail without strong leadership. Leaders need to create the collective desire for change. Some organisational change models suggest an organisation needs a crisis to motivate the desire for change. For most organisations an ICAC investigation creates a crisis. However, Australian experience suggests a crisis can create paralysing uncertainty. Therefore, it is up to leaders not only to acknowledge the investigation and the uncertainty and discomfort it has caused, but to promote the opportunities it has provided for self examination, for harnessing the heightened awareness of organisational weaknesses and for building on the organisation's existing strengths.

Leaders need to tell staff:

- where the organisation is going – what it is seeking to achieve
- how it hopes to get there – its plan of action and its values
- why the trip is necessary – why the changes?, and
- what's so good about the destination - how the changes will benefit the staff, the organisation and the community.

Leaders need to make an explicit and visible commitment to implementing change. It is no good simply announcing that change is necessary because the ICAC says so. Change won't happen unless leaders genuinely want it to happen. Commitment is reflected in the choice of people who will be responsible for managing the process. They should have the power and expertise to ensure the change process does not fall off the rails. All senior managers should be committed to providing consistent support. Commitment is also reflected in the way leaders and managers communicate.

Communicate

Communication is another essential element of an effective change process. It needs to be planned carefully. Leaders and managers need to continue to communicate honestly and openly with all those likely to be affected by the changes. They need to be accessible and empathetic, to listen to and anticipate and respond to staff's concerns. They need to beat the rumours and manage expectations.

Consider using a range of media for maximum effect – meetings, seminars, regular updates by e-mail or electronic bulletin board, visits by key managers

to regional offices, newsletters, informal chats and so on. Make sure leaders maintain a high profile.

Remember not to communicate just the 'what', but also the 'when, why and how' of change. Communicate the incremental successes along the way rather than waiting till the end to say 'well done'. If people don't get acknowledgement and support, especially when they are exploring new territory, the organisation may never get there.

Leaders and managers send very powerful messages by how they act. Saying one thing and acting in another way can undermine the best-planned change process. Leaders and managers should model desired behaviour at all times.

Use values

An organisation's underlying values determine how it does things – from how it is lead to what its systems, plans, policies and procedures look like. These values may be quite different from the corporate values an organisation advocates. The success of any cultural change process is dependent on an organisation's stated corporate values being converted into action. Therefore:

- Consider reviewing the corporate values early in the change process. Check that they focus on public duty, integrity (openness, honesty, accountability, objectivity and courage) and leadership.
- Make sure agreed values are communicated clearly to staff and other stakeholders and that leaders and managers promote the values by acting in accordance with them and teaching others about their benefits.
- Make sure the code of conduct is up to date and that it reinforces the values by providing a practical guide to acceptable behaviour. Use it as a communication and decision making tool during the change process.
- Make sure the plan of action reflects agreed values. For example, the communication strategy should encourage openness, honesty and participation and particular procedures might be reviewed for accountability and objectivity.

Build in Participation

The last essential element of an effective change process is participation. Participation can be a great motivator – it engages people's interest and gives them a sense of ownership of both the problem and the solution. Staff are much more likely to resist change that is simply imposed on them. There is a much better chance of implementing effective change if the change process encourages participation by those who will be affected. Also, staff (and suppliers and receivers of services) often have good ideas about how things could be done better and what obstacles are preventing that happening.

- Make sure the plan builds in opportunities for formal and informal participation.
- Consider interviews, focus groups, surveys, seminars, suggestion schemes, staff (and possibly other stakeholder) representatives on management committees and working parties.
- Make sure managers and supervisors understand their important role in communicating with, and supporting, staff – for example, providing updates, listening to concerns – at regular meetings and as part of day to day responsibilities.

WHAT OBSTACLES SHOULD BE EXPECTED?

Resistance

It is common for people to resist change. Change creates uncertainty. Even positive change creates stress.

In an organisational context, if staff show resistance it is important to find out the reason for it. It could be that the change process is faulty. It can also be due to 'change fatigue' where previous experiences of change in the organisation have not been good. If the latter is the case, any left over unresolved issues must be acknowledged and addressed to avoid damage to the current process. When individual resistance becomes group resistance, the challenge to successful change becomes greater.

Strategies to overcome resistance to change need to be tailored to its cause. Most resistance comes from lack of knowledge. The obvious strategy in this case is to improve communications. If resistance is due to lack of confidence in the skills needed to move forward, training in new skills and management techniques needs to be provided. For those apparently unwilling to change, the change strategy needs to set clear goals and expectations, measure the extent to which goals are being met, provide coaching and feedback and reward and recognise changed behaviour.

A resister from within senior management can place the whole change process at risk. Their lack of genuine commitment is likely to be evident in the way they behave. This can cause a breakdown in the trust that is essential for successful change. Make sure time and effort is spent converting a senior resister. If they continue to resist, even if resistance is passive rather than active, the organisation may be better off without them.

Grieving

People's experience of change can often mirror the grieving process. In fact, grief is the emotion they experience. This can be intensified where change follows an investigation as they may already be grieving for losses associated

with, for example, a colleague's involvement in corrupt conduct. It is important to acknowledge the stages people go through when they experience grief and not to introduce the change process without paying attention to the more negative stages of denial and anger. Arranging a formal 'closure' of the investigation is a good first step. It will also help to:

- make it clear that it is the investigation that is over, not the organisation
- acknowledge losses
- emphasise that the ongoing strengths of the organisation and its staff are still valued
- indicate that, while problems exist, the organisation will build on its strengths to overcome its weaknesses
- provide staff with all the information they need by continuing to communicate honestly and openly (and by listening as well as telling)
- use the period of heightened awareness to galvanise support for positive renewal and change.

WHERE CAN MANAGERS GET MORE INFORMATION ON MANAGING CHANGE?

There is a vast literature on change management. Many titles give practical help on managing change. Some organisations find it useful to bring in an expert to help them through the change process.

The ICAC's publication *Ethics: The Key to Good Management* has a section on how to improve an organisation's ethical culture.

Other ICAC publications also contain information that can help organisations undergoing change. Check the website at www.icac.nsw.gov.au.

TIPS ON TRAINING

It needs a sense of closure for the staff, but there's also been this sense of, "well was it just contained to [the subject], is it the 'rotten-apple' theory?" Or what else has come out of it in terms of looking at it internally. We still get asked about it constantly.

- If appropriate, arrange to provide ethics training and refresher workshops about the organisation's code of conduct, and related corporate statements. This will assist in reducing staff concerns about what is appropriate and inappropriate behaviour and their possible fear of inadvertent breaches of expected standards of behaviour.

There's been a lot of benefit and improvement in morale. It's had a team building effect. It happened quite quickly. It very much brought ethics issues into sharp focus. When we launched our new ethics package a short time after, it went down really well. People didn't just think, "oh here's another EEO plan or ethics plan". They thought this was really important. If there was one good thing to come out of it all it was that it exemplified why ethics are so important. We had staff meetings where staff were asking quite penetrating questions about the ethics package. Like really wanting to know "how far should I go in documenting my decisions and how far should I go in documenting my activities?"

- It is a good idea to develop a package of material to provide staff with guidelines for ethical decision making and expected standards of conduct. If the organisation's code of conduct, for example, or corporate vision and values statements and ethical guidelines need to be reviewed, seek input from staff. The ICAC's Corruption Prevention Unit can also help.

You've got to be really careful that [reviewing and launching an ethics package, for example] is not seen as a cynical reaction. Don't do it too close to the event.

References

Independent Commission Against Corruption (1998) *Ethics: The Key to Good Management*

Independent Commission Against Corruption (1999) *Tips from the Top: Senior NSW Public Sector Managers Discuss the Challenges of Preventing Corruption*

Independent Commission Against Corruption (forthcoming) *Converting Values into Action – An Ethical Model, Discussion Paper*

Acknowledgements

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