

THE FRAUD CLINIC

By Tim J. Leech, CA, MBA

Whistleblowing Mechanisms: The Ways and Means

In my last column, "Surviving the Diagnosis Phase", I discussed ways that the head of an internal audit function can deal with situations presenting personal and professional dilemmas.

They presumed situations with serious ethical concerns about the integrity of top management.

Extending this theme in this column, I will discuss ways that your organization can encourage staff to come forward when they have knowledge or suspicions that illegal, unethical or generally unacceptable practices are going on in the organization, i.e., to set up a whistleblowing mechanism.

Reasons cited by companies for providing a whistleblowing mechanism vary widely. Some see it very clearly as a moral duty of employees. Other companies are more concerned with the impact on the bottom line and/or the liability of officers and directors. In other situations, parent companies are interested in using staff to monitor activities in their subsidiaries. In the public sector, I understand the auditor general recently raised, without success, the suggestion of establishing a hotline for federal government employees to use to report on fraud, mismanagement and waste in the public sector.

Whatever the motivation, once you have decided to have a whistleblowing mechanism, the next step is to select and implement one.

Whistleblowing options

1. Modifying exit interviews and exit interview procedures. This generally involves building into exit interviews a question which solicits the employee's view on the conduct of the company and staff. Many employees resolve their discomfort with illegal or unethical practices by resigning, but the company never asks the questions that could have disclosed the reason why the employee is really leaving.

Human resources staff may not be adequately

trained in this procedure, or "street smart" enough to detect the signs that indicate an "ethical resignation or termination". Additional training or the use of an outside person experienced in

relevant interviewing techniques can compensate for this. A typical way of phrasing a question that could open the door to a whistleblowing disclosure is:

"Fred, while you were with us,

were there any instances where you were uncomfortable with the conduct of staff or the company as a whole?" or "Mary, since you have been with us for some time, how do you feel about the ethics of the people that you worked with at our company, and the company's approach to doing business?" Investigative firms and some internal audit departments regularly use a "post-employment survey" approach to obtain valuable information on the behaviour of companies, senior executives and individuals. The obvious disadvantage of this approach is that, by the time the exit interview is conducted, it is too late to salvage the situation and prevent a potentially valuable employee from leaving.

2. Establishing an ombudsman position.

Few companies have set up an ombudsperson function at this time. In an accompanying article in this issue, John Sayers looks in detail at the considerations and caveats involved in setting up such a function, independent of line management, that employees can call or write to discuss a wide range of concerns.

3. Identifying a person/position to whom employees can report issues of concern.

This is usually far less specific than the ombudsman option. Typically, companies suggest, in codes of conduct or other policy statements, that if employees have any concerns, they should contact the Human Resources, Law, Internal Audit or another specified department. I do not endorse referring a staff person to a department. I believe it is very difficult to talk to a "department", and the invitation may seem to be

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more of a window dressing than a sincere desire to enlist feedback.

I believe the contact point should be specified by name or, at the least, by position/title. Ideally, a phone number is also provided. The success of this option in encouraging staff to come forward is usually a direct function of how the department identified is perceived by the organization's employees.

Setting up a confidential hotline

This route is being chosen more and more frequently by companies around the world. The cost is not significant, because the phone line can be administered internally by the internal audit department or by an outside independent firm experienced in the field.

The London office of the firm I represent maintains hot lines for two large international corporations which have chosen this option. The existence of the hotline is well publicized, and staff are encouraged to call in and discuss or report any issues where they are uncomfortable with the legal, ethical or business conduct of other staff or the company. The person responsible for manning the phone and following up on concerns raised should be an experienced interviewer familiar with the company's full range of activities.

The existence of the phone should be explained to staff as a mechanism that is designed to assist employees in maintaining the high standards of conduct expected of them as employees and expected of the company as a whole. It should also be explained that the company does not want to see any employees in a position where they have limited options when dealing with difficult legal or ethical dilemmas. Internal audit departments which have been directed to manage a hotline should ensure that staff have taken specialized training in investigative auditing and interviewing skills.

Assessing the options

The four options outlined above are not mutually exclusive. Some companies offer more than one.

Having seen employees who have suffered emotional and physical turmoil in attempting to deal with the knowledge of fraud, theft, self interest, conflicts of interest, rampant waste, pollution violations and other such acts, I believe that companies have an interest in providing a channel to their staff for reporting ethical concerns.

Not all companies agree

Unfortunately, however, many of the companies who have established communication channels for staff are companies that need them least.

Unethical companies generally will not entertain the idea of a whistleblowing mechanism. Is your organization prepared to deal with the disclosures that may flow from a whistleblowing program? And to what extent should your internal audit department take a leading role in encouraging your company to set up such mechanisms?

For larger companies, we suggest the use of all four communications options discussed and one or more for smaller companies. We believe that the use of these mechanisms will assist companies in operating in a more ethical, effective and efficient manner.

At the time this article was written in 1990 Tim Leech was Managing Director of NCM Control & Security Services Limited, the Canadian subsidiary of an international consulting firm based in London, England. Tim Leech is now Principal Consultant and Chief Methodology Officer at Paisley Consulting, a world leader in business accountability software solutions. He can be reached by phone at 905 823 5518 or by email at tim.leech@paisleyconsulting.com