

Managing Public Interest Disclosures

– A Problem –

Case study from a presentation on making a protected disclosure, by Professor A J Brown, Griffith University, Queensland, Australia. Wellington, November 2012.

Professor Brown was brought to New Zealand by the State Services Commission. Presentations from Professor Brown's visit are published at www.ssc.govt.nz/whistleblower-tour.

Peter and Michelle work in a public sector unit that lets contracts for and then supervises the delivery of community-based services by private companies and charities.

Michelle has been underperforming at work for some time. Her manager, Peter, finally decides to commence a formal process of managing her unsatisfactory performance. He mentions to Michelle that if her performance does not improve, he intends to have disciplinary action taken against her.

Michelle immediately makes a complaint to their divisional manager, Alberto. She alleges that Peter's actions regarding her unsatisfactory performance are harassment designed to convince her to resign because Peter does not like her, does not regard her as a 'team player', plays 'favourites' and knows that she does not approve of his management style, which for years she has considered unethical.

Michelle also tells Alberto that Peter has awarded four contracts to his brother-in-law's company without declaring the relationship. It is clear that Michelle has been aware of this issue for some time, but has done nothing about it.

Michelle tells Alberto she wants her complaint treated as a public interest disclosure. She says part of her reason for making the disclosure is to damage Peter's credibility because, she says, "he has none," and she wants Alberto to know it. She says the unsatisfactory performance management process and anything else now done to her is just an attempt to discredit her and drive her out of the organisation because of what she knows about Peter.

Alberto contacts HR and has access to Michele's performance reviews from the last three years. The reviews indicate that her performance has been increasingly unsatisfactory. He also calls up the tender evaluation records for the relevant contracts named by Michelle and finds that much of the required documentation is missing.

After lunch, Alberto receives an anonymous typed disclosure, alleging that Michelle once over-estimated her travel expenses by claiming two extra days for a business trip. Alberto suspects, but cannot prove that the disclosure has come from Peter. Until now, Alberto has always had confidence in both Peter and Michelle.

Questions:

1. Has Michelle done the right thing? Has Peter?
 2. What impacts do the possible motives of Michelle and/or Peter have on how any of these issues need to be investigated?
 3. What *are* the issues that need to be investigated, and how?
 4. What are the main risks involved in what Alberto decides to do next? How should he address them?
 5. Assume all allegations are true, and proven. Are any options open to Alberto or management to address the issues relating to Michelle's performance and travel claim – if so, how, and what are the risks involved?
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**Whistleblowing in practice:
Protections, Procedures and Managerial Responsibilities**

**A public presentation in Wellington, New Zealand on protected disclosure legislation,
by Professor A J Brown, Griffith University, Queensland, Australia.**

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Professor Brown was in New Zealand as a guest of the State Services Commission.