

# Reputation and Communication: Formulating crisis management communications for employers

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## **Summary**

Crisis generating situations can become absolutely critical for organisations if their business impact results in exposure to financial and reputational risk. It should be imperative for organisations to develop and establish clear communication protocols and strategies to deal with such situations. Constituting a core group of trusted individuals / agencies, an effective public relations strategy and most importantly the manner and timing of initial response can prove to be superior ways for organisations to mitigate risks associated with loss of goodwill, attrition and social and print media backlash.

## **Keywords**

Communication, Reputation, Crisis, Strategy, Core Group, Preparedness, Response

## **Introduction**

Crisis situations have become part and parcel of running a business. Employers are often expected to handle difficulties when addressing these concerns. Such situations manifest in various forms, including among others employee or third-party lawsuits that receive media coverage or unexpected government inspections for fraud or corruption.

The key to preventing these situations from becoming catastrophes and severely affecting an organisation's business and reputation is active planning and preparation. Organisations with an efficient crisis management plan and strategy can handle such situations effectively. In this article the authors seek to examine various mitigation steps available to employers.

## **Preparedness and initial response**

Instead of waiting for a crisis to besiege them, organisations should have a crisis management plan in place, with an identified protocol in line with the organisation's code of ethics.

When a crisis strikes, organisations must first reassess their affairs to ensure that all documents and records pertaining to the crisis are in place. This includes the paper trail of documents, emails, telephone calls and other correspondence concerning the crisis, which must be well documented, to assist or co-operate with investigative agencies when required to do so. Organisations should ensure

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that people are clear about the legal implications of securing, destroying or moving documents and data.

An unwelcome outcome of a raid by the investigative authorities will be questioning of organisation's employees about their knowledge of the crisis. Employees must be instructed not to make statements to the investigative agencies without prior intimation to the organisation. They should also be adequately briefed against answering any questions or making statements to the media or on social media platforms, or to third parties.

Insofar as possible, well reputed local public relations agencies can be engaged to handle communication with the domestic media. Such local PR Agencies would be well versed with local media houses, and better equipped to handle communications with the national media. Keeping in mind the geographical spread of the organisation's business and possible reputational ramifications, it is advisable that the organisation also engage international PR organisations.

### **Constitution of core group**

It is essential that not everybody in the organisation is involved in handling the matter. Whom to involve? The organisation should form a core group to cooperate and communicate with employees, investigative agencies and the media, as required. The core group should consist of trusted individuals from the organisation (preferably at a reasonably senior level), external legal counsels, and PR Agencies.<sup>1</sup> Core group members must maintain high vigilance and refrain from making any incriminating or inappropriate statements in the media without consultation with the PR Agencies.

This core group should be solely responsible for all forms of communication with the media and investigative agencies. If an investigation has been initiated against the organisation, then pending the investigation it is advisable for the core group not to make any media statements affirming or denying allegations. On the other hand, the core group might consider issuing a statement to the organisation's concerned stakeholders, as open channels of communication enhance the organisation's image in good times as well as bad.

Where issuing a public statement concerning the crisis would be unfavourable for organisations, they can approach media houses, seeking to clarify their stand and avoid any kind of negative coverage of the organisation in the media. Further, the organisations should maintain strict vigilance over their continuing investigations and respective media coverage.

The core group can only enjoy legal privilege regarding communications with legal counsel. Communication and information shared with public relations advisors are not protected by attorney-client privilege. The core group must thus also exercise caution in dealings with PR Agencies.

It is imperative that the core group respond in quick and timely manner to any queries from the investigative authorities. They should have the necessary protocol and machinery in place to respond to requisitions of records or information. Although prompt acknowledgment is necessary, it is equally important that specific details be reserved for the next step of the response, when the company has a better understanding of what has really happened. Its spokesperson should limit early comments to describing how the problem is being investigated, and executives should show that the organisation is doing what it can to prevent further harm as the facts unfold.

### **PR strategies**

There are a variety of public relations strategies an organisation can adopt to minimize and mitigate a crisis. One strategy would be for the core group to make no comments in the media regarding allegations or continuing investigations. They should continue to cooperate with the investigative authorities. Once the investigation is completed, should the outcome be unfavourable, the core group

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may make a statement denying reports about the investigation.<sup>ii</sup> However, the core group must ensure that such a denial is backed by sufficient corroborative evidence.

If the need arises, a heartfelt public apology can go a long way to healing an organisation's bruised reputation,<sup>iii</sup> but a stiff, legalese-filled statement might just make things worse. In today's day and age, social media often inflate a crisis. It is important for the organisation to monitor social media and relevant blogs to ensure the company responds to significant factual allegations.

Organisations often find themselves at a disadvantage when responding to allegations by a whistle-blower, as an organisation might be branded as trying to pick on the 'small man'.<sup>iv</sup> Organisations must exercise caution when deploying aggressive tactics to discredit such whistle-blowers. A full-frontal assault by the organisation might backfire and introduce a perception that the organisation is a bully whose instinctive reaction is to lash out, rather than accept the possibility that there has been a legitimate exposure of internal failures or wrongdoing.

The organisation may also get in touch with its contacts in the media before they publish or air any news against the organisation. This may serve as a useful and effective tool for conveying internally approved (non-privileged) contextual information and trying to ensure that prejudicial or inaccurate material does not make its way into reporting or, if it does, that it is corrected before it gains currency.

Additionally, the core group must be mindful of disgruntled employees or third parties attempting to cash in on the situation and seek publicity. The core group should identify such employees or third parties and ensure that such persons do not make adverse or false statements before the media and / or investigative authorities.

### **Conclusion**

A crisis is a challenging time for an employer or organisation. The organisation's leadership and employees must devote significant attention to responding to investigative inquiries and developing the company's defence, which diverts resources and detracts attention from day-to-day business management. Investigations also impact on employee morale. Employees at all levels may become uncertain about their future at the company, as well as the future of the organisation itself, particularly where the investigation is public and the organisation is under intense media scrutiny. Moreover, investigations inquiring into employees' work, emails and conduct, and often involving employee interviews, have the potential to disclose not only corrupt conduct, but also non-corrupt yet nevertheless problematic employee conduct.

Investigations involving authorities from multiple countries can often stretch a company's management and resources, because management must deal with varying demands and interests in multiple jurisdictions. The risks may be exacerbated if the different jurisdictions do not coordinate their investigations.

Challenging business prospects and the threat of fines due to an investigation can create liquidity constraints and even lead companies to become unable to pay debts as they are due, obtain new credit when needed, or assure shareholders of the health of the business. In some cases, companies may file for bankruptcy. The penalties that can arise from corruption convictions include fines, imprisonment, invalidation of essential permits, licenses, or agreements entered into through corruption, and even forced dissolution of the company.

Therefore, notwithstanding the uncertainty of the effects, outcome and demands of a crisis, having a pre-determined protocol or sound plan in place, with a strong core team may help an employer mitigate these troubles and bounce back to normalcy.

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<sup>i</sup> Kevin Bailey and Charlie Potter, *Protecting Corporate Reputation in a Government Investigation*, Global Investigations Review, available at <https://globalinvestigationsreview.com/benchmarking/the-practitioner%E2%80%99s-guide-to-global-investigations-third-edition/1179190/protecting-corporate-reputation-in-a-government-investigation> (January 15, 2019).

<sup>ii</sup> Alice Tybout and Michelle Roehm, *Let the Response Fit the Scandal*, Harvard Business Review, available at <https://hbr.org/2009/12/let-the-response-fit-the-scandal> (December 2009).

<sup>iii</sup> Ronn Torossian, *The Biggest PR Crises of 2017*, Forbes Agency Council, available at <https://www.forbes.com/sites/forbesagencycouncil/2017/05/23/the-biggest-pr-crises-of-2017/#906d57350a87> (May 23, 2017).

<sup>iv</sup> Kevin Bailey and Charlie Potter, *Protecting Corporate Reputation in a Government Investigation* (endnote i).