

By Joseph M Fernandez

Article for Asia Pacific Media Educator

Author: Dr Joseph M Fernandez.

Title: *You have my word: confronting critical questions involving journalists' promises to confidential sources*

Bio: Associate Professor Fernandez heads Curtin University's journalism department. He teaches media law and is the author of *Media Law in Australia: Principles, Pitfalls and Potentials* 2014. He is the former chief editor of an overseas daily newspaper and has been active in the Australian shield law crusade for more than a decade. His research interests focus on the areas in which the law and journalism intersect. His PhD in defamation law proposed a loosening of the defence of truth for media defendants in defined circumstances.

Contact: Address:
Department of Journalism, School of Media, Culture and Creative Arts, Curtin University, GPO Box U 1989, Perth, Western Australia 6845.

Affiliation: Curtin University, Western Australia.

Twitter: DrJM_Fernandez

Email: j.fernandez@curtin.edu.au

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Abstract

Journalists' reliance on confidential sources for their articles is a lynchpin of journalistic practice. If journalists are unable to provide certain sources anonymity "it is likely that critical information benefiting the public will not be passed on" (Wade, 2014, p. 555). Public debate is thereby damaged as it "hides corruption, it undermines accountability and it fundamentally undermines the capacity for society to provide a safer, nurturing environment in which citizens can participate (ibid). This article focuses on three important aspects of journalist source confidentiality: journalists' authority to give confidentiality undertakings; the entry into such undertakings; and the types of sources, including the related question of who instigates such undertakings. This study draws on the results of an Australian survey conducted in 2014.

Introduction

The question of stronger protections for journalists' confidential sources was widely thought to have been somewhat addressed through the introduction of statutory protections generally referred to as shield laws. More recent legislation, however, some enacted in the name of national security, has raised serious questions as to whether real progress has been achieved for journalist source protection. Statutory initiatives that undermine shield laws were unfolding at the time of this study whose primary focus was on the effectiveness of shield laws as they stood. The study's purpose was to better understand how Australian journalists operate when stories entail reliance on confidential sources; the impact of legal and ethical rules on such relationships; and to apply the understanding gained to address the issues identified.

Methodology and research questions

The 42-question survey drew 154 valid responses, comprising 93 completions and 61 partial completions – explaining why the response rates varied across questions. The sample error was calculated at 7.8 percent based on a 95 percent confidence interval (Fernandez and Pearson, 2015, p. 66). Thirty follow up interviews were conducted with participants who agreed to follow-up interviews and with senior editors and journalists. These senior parties were provided the full survey findings to facilitate their commentary. An earlier work involving this survey considered other aspects of this study (Fernandez and Pearson, 2015). This article examines the following areas: (a) journalists' authority to promise confidentiality; (b) when such promises are made; and (c) the types of sources given such promises. Where percentages should total 100 percent, some totals arrive at 99 percent or 101 percent, due to rounding off.

The findings, discussion and analysis

This heading comprises three limbs that roughly capture the concerns under the headings concerned.

Journalist's authority to give confidentiality undertakings

One question for participants was: "Who makes the decision whether to honour the undertaking and proceed with publication without identifying the source, when you produce content that relies on a confidential source?" Participants had to choose one of the following responses and the results from the 134 participants who responded are in brackets: "You alone" (22 percent); "Your superiors (editor/supervisor/line manager) alone" (16 percent); "It is a collective decision between you and your superiors" (56 percent); and "Other" (6 percent). Those who chose "Other" as their response were given the opportunity to provide details and some of the responses were: "Typically I make the decision using authority delegated from my editor"; "The issue has not come up in my workplace and I doubt there is a set process"; "It's a decision I would choose to run by my superiors for approval". It is significant, given the potential liability that impacts on others in an organisation, that a large number (22 percent) indicated that they *alone* made the decision whether to honour the promise of

confidentiality and to proceed with publication. The indications from interviews with senior editors, however, was that the unilateral making of promises by journalists – if there is such a thing – was only sparingly permitted and reserved for journalists with a strong track record of credible output based on their work with confidential sources. *The Age* editor-in-chief Andrew Holden said in response to a question during an interview to discuss the survey results – “Why shouldn’t you (editor) be entitled to know who the source is?”:

It depends on who the reporter is. If we are talking about Richard Baker and Nick McKenzie who are our key investigative reporters here at *The Age*...or Adele Ferguson also at *The Age*, I will trust their judgment about the need to protect a particular source and I am less likely to push them on who the source is, than I will be with a reporter who is a lot more junior.

That, however, does not mean the newspaper foregoes testing of the claims being made by such sources because, in fact, the newspaper’s lawyers put the stories concerned “through the grinder” (Holden, 2015). If the story passes muster at that stage “I don’t need them to tell me exactly who that source is” (ibid). Editor of *The Australian*, Clive Mathieson, in answer to a question during an interview to discuss the survey results – “Do you as editor need to know who the source is?”:

Yes, I need to know. I don’t necessarily need to know their name, just that they are sufficiently close to events that they can be trusted. I will also need to have an understanding of the source’s motives. If there are things I am going to put on the front page of the newspaper, I need to know whether I can rely on that information. The next question being, if we get into trouble with this, will they hang us out to dry? Or will they identify themselves, and will they eventually stand in the courtroom and back up the story? There are varying levels of how much you trust your sources.

The next question asked participants to indicate from a list of five choices – “Who in your view, is best placed to make a determination as to whether a confidential source should be protected?” An overwhelming majority, 66 percent, said “You” (the survey participant). The remaining responses were: “Your line manager/supervisor” (15 percent); “The courts” (2 percent); “The party seeking disclosure” (3 per cent); and “Other” (14 percent). These responses, perhaps not surprisingly, clearly indicate that the participants do not have much faith in “The courts” and “The party seeking disclosure” as arbiters of whether a source should be protected. It is noteworthy that two thirds of the participants would prefer that they alone made the determination although such a preference ignores the publisher’s legitimate interest in regard to questions of potential liability arising from reliance on confidential sources. Those who selected “Other” for their answer were allowed to describe their reason for this selection. Some of the text entry responses indicated a strong preference for including the source in the deliberations: “As well as myself, my manager, my lawyer, I would also include the source themselves, their opinion is central”; “Journalist, superiors and source”; “Me in conjunction

with the company – and the source”; “The source themselves – only they know what’s at stake for them if they provide information”; “The confidential source”; “You and your source”; and “Me and the source together”. While it may be argued that revealing the source identity to any journalist in an organisation should be immaterial, since all journalists profess a resolute commitment to maintaining source confidentiality, the more the number of those who know the source identity, the more the potential for seepage, especially if any of these parties is not necessarily bound by a professional practice code on source confidentiality.

Participants were asked: “When you give your source a confidentiality undertaking, who else in your organisation has the right to know the source identity before the matter concerned is published?” The 134 responses were as follows: “No one else” (32 percent); “Sub-editor/editor/managing editor” (46 percent); “Publisher, if other than one of the above” (5 percent); “Legal advisors” (24 percent); and “Other” (15 percent). Participants strongly indicated that no one else in the organisation had a right to know. Given that the question was framed as a “right” it could have been expected that line managers, as those who potentially carry legal liability, could *all* be presumed to have such a “right”. The same point may be made in respect of the sub-editors, editors and managing editors participants identified as having the right (46 percent). The figure in response to whether legal advisors have a right to know, at 24 percent, is also surprising although the low figure may be attributable to the absence in the organisation of specially-appointed and qualified “legal advisors” or even to a mere lack of referrals to legal advisors where they may have been appointed. The comments from participants who provided text entry responses to “Other” shed more light as to the range of other members of the organisation who might be consulted and included “Bureau chief, chief of staff, whoever is in charge and available”. Other comments included: “On rare occasions the editor and lawyer will be told”; “Editor, managing editor, sub-editors have nothing to do with it”; “Only the editor on very rare occasions, usually just me”; “I don’t know about ‘right’ – if the editor asked, I’d probably tell him”; “It has never been discussed”; and “I’m not sure anyone has an automatic right to know the source identity and it depends very much on the source.” These comments further illustrate the strong reservations journalists have about sharing the source identity with others in the organisation who may have a legitimate interest in having that knowledge.

Participants were asked: “Are there circumstances in which you feel that you cannot comply with the requirement for another person in your organisation to know the source identity?” The responses from the 134 participants who answered this question, where they had to choose one answer were: “Never” (25 percent); “Sometimes” (44 percent); Neutral (20 percent); Often (7 percent); and “Always” (4 percent). Thus, in three quarters of situations where another person in the organisation had a right to know the identity of the confidential source, the journalist was not prepared to select the answer indicating that they could *always* comply with the requirement. This reveals that notwithstanding the apparent iron clad commitment journalists profess towards source confidentiality,

journalists who themselves work with confidential sources are not prepared to place their utmost faith in others in the organisation to fully honour that commitment. An example of a non-journalist member of the organisation with a legitimate right to be let in on the source identity is the organisation's lawyer with responsibility for screening the material concerned for potential liability. In an interview to discuss the survey findings, the Australian Broadcasting Corporation's senior lawyer, Grant McAvaney said:

What underpins my reaction is, *it is different being the lawyer dealing with this rather than a journalist*, because I'm not thinking in purely editorial terms other than acknowledging what the client needs to actually achieve (italics added).

On occasion, someone else in the organisation, may have the power to be let in on the confidential source identity or may otherwise have such access but may not be as committed to the ideals of source confidentiality that the journalist in question or the source demands. They may include those who wield influence over the editorial process, for example, as stakeholders, shareholders, owners, political persons or other persons or organisations of influence, and the "connections" to them or to even other journalists in the organisation. Interviews with participants shed anecdotal light on such situations. One participant, with the role "mostly engaged in editing/processing stories for publication (e.g. sub-editor, editor)" who agreed to a follow-up interview said: "I find that the way people deal with sources is very careless and scrappy." Another participant who was mostly engaged in interviewing sources, researching and writing stories, said in a follow up interview: "I was being forced by my employer to reveal my source so that the third party party could know who the source was".

Entering into confidentiality undertakings

In response to the question "Does the organisation that you are employed in set out rules/guides dealing specifically with reliance on confidential sources for your stories?" 57 percent of the 134 participants answered "No" while the remaining 43 percent answered "Yes". It is worth noting here that in response to another question 60 percent of 154 participants said they worked in an organisation with 41 or more employees engaged in journalism duties – that is, they worked in organisations that could be expected to have its own professional code of practice. Follow-up participant interviews, however, indicated that some journalists were unaware of their own organisation's practice rules governing confidential sources. The responses showed that many journalists readily identified with the Media Alliance's code even when their organisation may have a confidential sources provision. In response to the question "Do you consider yourself bound by a professional or other code of ethics that lays down specific rules concerning reliance on confidential sources?" 90 percent of the 134 participants answered "Yes", while 10 percent answered "No". In the text entry section for this question of the 74 participants who provided a text entry, 85 percent said the MEAA Ethics Code was the source of their obligation. Other sources of the obligation of confidentiality cited were: "ABC

Editorial Guidelines”; “Personal ethics and strict ethical standards of the organisation I work for”; “Internal code of conduct”; “News Corp policy guidelines”; “Age code”; and “International Federation of Journalists code”.

The question “How often did you provide an undertaking of confidentiality to a source in order to obtain information in the last 12 months?” allowed participants to choose from seven options (responses in brackets): “Never” (19 percent); “Less than once a month” (47 percent); “Once a month” (8 percent); “2–3 times a month” (16 percent); “Once a week” (3 percent); “2–3 times a week” (6 percent); and “Daily” (1 percent). Excluding those who gave a confidentiality undertaking less than once a month and those who answered “Never”, the total remaining was 33 percent comprising those who were active in the area of source confidentiality obligations. The number who claim to have not given a confidentiality undertaking (19 percent) may appear to be high but should be seen in the context of other responses indicating some participants’ reluctance to enter into confidentiality undertakings, or who claim to work in mundane areas not requiring reliance on source confidentiality (Fernandez, 2015b, p. 31), or those who may not realise that the “circumstances” in which the information was provided to them could impliedly impose a confidentiality obligation.

The “terms of the obligation” of confidentiality is critical but is often underestimated. The survey question was: “In your own experience which of the following best describes how the terms of the obligation of confidentiality came into existence?” The 108 participants who answered this question said the terms: “Are not clearly defined but implied from the circumstances” 19 percent); “Are clearly defined but done orally” (61 percent); “Are clearly defined and captured on the record” (12 percent); and “Other” (7 percent). That only 12 percent clearly defined the terms and captured it on the record is telling, given that a great deal could turn on this in the event of a dispute as to the terms of the obligation. Also notable is the reliance on terms that are “implied from the circumstances” and the perception among participants that it is sufficient to rely on oral accounts of the so-called “clearly defined” terms. A challenge may, however, arise in attaining certainty in the terms of the obligation in circumstances that impose limitations on record-keeping. MEAA’s Communications Manager Mike Dobbie observed in an interview to discuss the survey findings:

It comes back to Question 9 of the survey where only 36 per cent said they had an “excellent understanding” of what is meant by “on the record”, “off the record” and “background information”. If journalists and their sources are uncertain about what those terms mean, how then can they explain the obligation to protect the identity of a confidential source?

In the text entry responses to the answer choice “Other” some participants answered that the present question was “Not applicable”; “Not relevant”; or that they were “Not sure”. Another wrote:

There are occasions every day where people will tell me stuff knowing I’m not going to quote them because it’s not necessary for what they’ve said to be “on the record” and because both

parties understand that. In those situations, the confidentiality is implied. If I am talking to someone I don't know, or someone I know, for something out of the ordinary, and they require anonymity, they'll usually say so before we go too far. And during or after the interview, I would clarify with them that what we talked about was off the record, what's background, and what, if anything, they'd be okay with us using.

The above response reveals that the dynamics of the interactions and implied terms can vary between a journalist and a source with whom the journalist has no prior relationship, and a source with whom the journalist has a strong relationship of trust and confidence.

Participants were asked: "In deciding whether to provide an undertaking of confidentiality to your source how relevant is it to know whether the same information is available from an alternative attributable source?" The 107 participants who responded answered as follows: "Always relevant" (58 percent); "Mostly relevant" (19 percent); "Sometimes relevant" (18 percent); and "Mostly irrelevant" (6 percent). Notably, less than two thirds thought it was "Always relevant" when this is the answer that militates for support as the overwhelming choice for the obvious reason – why promise source confidentiality when the same end can be reached without a promise? One participant who selected "Mostly irrelevant" in a follow-up interview said:

If I knew in advance of speaking to the source that I could get the information from elsewhere, of course, I would use the alternative source. However, I won't know this until I have obtained the information itself from the source who is seeking confidentiality. And once I know that information and am able to get it from somewhere else, I can rely on the *second* source and still be able to uphold the confidentiality given to the first source and still maintain that source's trust (italics added).

In reality, in this circumstance, the journalist is no longer relying on the first source to whom confidentiality was promised. Another participant who chose "Mostly irrelevant" changed the answer to "It is probably always relevant" during a follow-up interview. In another follow-up interview, a participant who selected "Sometimes relevant" explained as follows:

A lot of the time confidentiality is the beginning of a conversation. I offer the first conversation as confidential and I build rapport, and then in the second conversation I re-negotiate the terms so that both sides are clear about what exactly the confidentiality undertaking covers.

Mathieson, referred to above, expressed his exasperation at the tendency of journalists to elevate the status of sources:

One of my biggest bugbears is reports that say it is a well-placed source, which is a complete tautology, because if it is not a well-placed source, why are you using them? I take it out of every copy. It is just a source. Otherwise don't use them.

It goes without saying that journalists' first priority is to attribute information to the source as far as possible. For example, industry practice codes provide that sources of information must be identified wherever possible (News Limited Editorial Code, July 2012, Clause 6.1; ABC Code, 2014, Clause 5.4; MEAA Code, Clause 3). Stories based on unidentified sources are afflicted by a credibility gap. Although reliance on confidential sources goes against the grain of these imperatives, the same codes also allow for reliance on confidential sources in limited circumstances. The Australian Press Council Privacy Principles, for example, provide: "All persons who provide information to media organisations are entitled to seek anonymity" (Australian Press Council, *Privacy Principle 5*). The present survey question was: "Which of the following best describes the factors that generally influence the creation of an obligation of confidentiality?" The 108 participants who responded chose as follows: "Source makes it a condition of release of information" (72 percent); "You offer the undertaking without the source requesting it, as a means of encouraging the source to speak" (43 percent); "Source claims they will face adverse consequences if the confidentiality obligation is not given and their identity is revealed" (73 percent); "You are unable to access the information concerned through alternative means" (55 percent); "The magnitude of the story from a 'public concern/interest' perspective is big enough to warrant an undertaking of confidentiality" (69 percent); and "Other" (6 percent). Among the text entry responses from those who chose "Other" were: "Sometimes it is obvious that the source would be jeopardised if they were identified...sometimes they are actually unaware of the risk themselves and you have to protect them"; and "Sometimes I offer it because I'm simply seeking corroboration of an on-the-record view I'm not convinced is accurate or not self-seeking, or to support my own opinion". These results are roughly consistent with the general journalistic preference for attributed material, but they also indicate the utility of being able to promise confidentiality, especially as a conversation starter, or to put a source at ease, or as a means of verifying the material in hand.

Clarity in the terms and conditions governing confidentiality promises is critical. This study suggests that serious questions arise as to whether, when and how these terms and conditions are established. One question for participants was: "In obtaining information from sources who request confidentiality do *you* generally set any conditions e.g. in relation to the right to revoke the confidentiality undertaking?" Of the two possible answers: 80 percent of the 95 participants who responded said "No"; and the remaining 20 percent said "Yes". It is telling that such a large number of journalists said they did not set any conditions. The text entry responses included the following conditions that participants would impose on their sources: "If the information proved bogus (the promise would not be upheld)"; "that they (sources) do not speak to any other media"; "If they identify themselves as the source to another party, the obligation ceases"; "Will the person testify in court if we are sued, will they cooperate with authorities if they have lied"; "Sometimes confidentiality isn't warranted"; "If it seems likely they have misled me, or their actions on which the

information is based have been illegal”. Former Media Watch host Jonathan Holmes in an interview to discuss the survey findings referred to a well-known controversy in which a senior ABC journalist considered himself released from his undertaking of confidentiality (ABC TV, *Media Watch*, 2012):

There was a substantial internal ABC report on confidential sources written in 2008, largely as a result of the Michael Brissenden/Peter Costello affair, and it covers the circumstances in which you could go back on such an undertaking (referring to ABC Editorial Policies, Sources and Conflicts, Final Report, 2008).

That “affair”, in a nutshell, involved the disclosure by three senior press gallery reporters, including Brissenden, of details of their conversation with former Treasurer Peter Costello that they had agreed to keep “off the record”. They subsequently revealed the details of the conversation because issues were raised that went “to the matters of credibility of the man [Costello] who still holds hopes of one day leading the nation” (ABC TV, *Media Watch*, 2012).

The second, related, question was: “In obtaining information from sources who request confidentiality does *your source* generally set any conditions e.g. in relation to the right to revoke the confidentiality undertaking?” Once again the overwhelming response (87 percent of the 95 who responded) was “No”. The remaining 13 percent said “Yes”. Some examples of the conditions sources set, as provided in the text entries to this question, were: “Source may lose job/threat to possible or further unblemished employment”; “Protect them always”; “[No] improper use of information”; and “Sources have sometimes asked to view quotes before I use them [in case] the quotes may inadvertently include identifying details”.

The above examples of conditions journalists set potentially negate the obligation to honour the promise of confidentiality to the source. From the responses to the earlier question, however, as to “How the terms of the obligation of confidentiality came into existence” (as seen above, the terms are largely implied or done orally) both sides are doing far too little to attain clarity and certainty on the content of the promise. In respect of the question as to conditions that sources may impose, this study suggests that – according to the journalist participants – most sources do not set any conditions. Some explanations for this are: it may indicate the high level of trust such sources place on their journalist confidants; that the journalist is not particularly sensitive to the conditions that the source assumes are in place; or, if the journalist was mindful of conditions that due diligence would demand consideration of, that the journalist actually draws out these conditions and puts them explicitly before the source. The text entry responses seen above illustrate what some of these conditions might be. It is extremely unlikely, however, that a source speaking on condition of confidentiality would have no conditions whatsoever as suggested in one text entry response to the question whether the source requesting confidentiality set any conditions – “not really applicable in this instance”.

Types of sources and the confidentiality instigators

In this bracket of questions the objective was to find out what types of sources featured in journalists' confidentiality undertakings and who, whether the source or the journalist, generally initiated the promise. The question was: "What types of individual have you given a confidentiality undertaking to in the last 5 years (please choose as applicable)?" The responses from the 95 participants were: Federal Ministers (9 percent); State/Territory Ministers (11 percent); Elected representatives other than Ministers (21 percent); Senior public servants (33 percent); Junior public servants (24 percent); Private individuals (52 percent); Law enforcement officials (22 percent); Union officials, officials of NGOs, lobby groups (24 percent); Legal counsel, solicitors, barristers, public prosecutors etc (23 percent); Anti-corruption bodies, royal commissions and bodies involved in inquiries and investigations other than police (6 percent); Corporate communications/public relations personnel (21 percent); and "I prefer not to answer this question" (36 percent). First, given that this study was done in the context of shield law reform it is notable that politicians and legislators – those with a strong interest in source protection and the capacity to effect reform – feature prominently in this list. Second, the types of sources and their seniority indicate that those in possession of official information are prepared to reveal information provided their identity can be protected. Third, the range of sources is diverse and comprises confiders who come from both the public and private sectors.

The foregoing finding read with the responses to the present question – "Who generally initiates a confidentiality undertaking?" – is consistent with the journalist's preference for attributable sources. The responses were: "Always the source" (15 percent); "Generally the source" (64 percent); "Always you" (6 percent); and "Generally you" (15 percent). Thus, in almost four fifths of instances it was the source that generally or always initiated the confidentiality undertaking.

Lessons to draw ••• CONTINUE TIGHTENING HERE

The above findings support some broad propositions. The following, in random order, is a summary of these propositions.

First, confidential sources are critical to the communication of information even though the media would prefer their sources to be identified and for material to be attributed to these sources. The responses above indicate that the journalist's ability to promise confidentiality serves many useful purposes beyond merely publishing the confider's material. These purposes include the role of confidentiality undertakings during the research stage of a story, to start conversations, to put sources at ease and to corroborate information in hand. The benefits of entrenching source protection under the law has been amply illustrated by the introduction of statutory protection in six of Australia's nine jurisdictions (Fernandez and Pearson, 2015, p. 64). Recent legislative measures have, however, cast a pall on existing shield law protections (Fernandez and Pearson, 2015, pp. 71-73; Pearson and

Fernandez, 2015, pp. 44-45; Fernandez, 2015a). The recent legislative incursions into existing shield law protections call for the reinforcement of the protections already in place and for the protections to have nationwide application.

Second, there is a glaring lack of appreciation among journalists of the importance of what constitutes the terms of an obligation of confidentiality with a source. The reliance on “implied” terms, or terms agreed upon “orally” potentially leave the door to trouble wide open. While journalists may be entitled to assume that some bases upon which they may consider themselves released from the obligation (for example, the information is otherwise available in the public domain or the source has revealed the same information to a professional rival) it is always desirable to expressly identify these conditions prior to publication.

Third, journalists dealing with confidential sources need clarity as to who else in the organisation they must be prepared to reveal their confidential sources to. Those involved in processing a story for publication and those who share responsibility for any liability that arises have a legitimate interest in knowing who the source is. The potential for source identity betrayal within the organisation has, however, been raised as a concern in this study. To the extent that internal processes can address these concerns relevant steps should be taken, for example, by limiting the number of parties entitled to be notified of the source identity and by enforcing strict internal compliance rules.

Fourth, the high number of survey responses suggesting that the employer organisation does not have rules dealing specifically with reliance on confidential sources needs closer examination. Consideration needs to be given to establishing such rules – if such rules are indeed absent. If the survey response merely indicates a lack of awareness of the rules that are already in place, as some participants indicated in follow-up interviews, it calls for more active training, education and refresher measures. As the ABC’s senior lawyer Grant McAvaney observed in an interview to discuss the survey findings:

Certainly more than ever, media law training must increasingly try to focus more on the practical realities that go along with using confidential sources. It has always been part of media law education but such training is even more important these days.

A recent international study also proposes that if confidential sources are to confidently make contact with journalists one of the four conditions to meet is the “training of journalistic actors in digital safety and security tactics” (Posetti, 2015). Fifth, while most journalists appear comfortable with stating that they are bound by the MEAA Code on source protection, their first obligation by virtue of their employment is to their organisational code, if one exists. In any event, it is questionable whether any weight will attach to a journalist’s claim to be bound by the MEAA Code if that journalist is not a MEAA member. As MEAA’s Media Section communications manager Mike Dobbie said:

MEAA's Journalist Code of Ethics only applies to MEAA's Media section members. MEAA members have made a conscious decision to be bound by the code and to be subject to complaints from the public that may be investigated by MEAA's National Ethics Panel. The same cannot be said for non-MEAA members who are not bound by the Code but who say: "I'm aware of the MEAA Code", or "I observe the MEAA Code" or "my employer acknowledges the existence of the MEAA Code". They are not subject to investigation and there is not that same recognition and acceptance of individual responsibility that a MEAA member has acknowledged.

Sixth, the confidential sources profile revealed by this survey shows that a significant portion comprise official sources – among them politicians and legislators who have resisted, or continue to resist, the push for stronger journalist source protection. The sources profile also indicates that a substantial portion of confiders do not fall into the traditional whistleblower category where sources reveal official information on the basis of the information having a strong public concern character and by sources motivated by a sense of public duty in making the disclosure. The context in which such communications are sometimes made to journalists has been described as "skulduggery" (ABC TV, *Media Watch*, 2013).

Seventh, notwithstanding current source protection afflictions the survey findings suggest that journalists and media organisations can do more to ameliorate the present inadequacies by more clearly defining the scope of the confidentiality obligation and reducing the unnecessary creation of such obligations. As the ABC's head of editorial policy Alan Sunderland said in an interview to discuss the survey results:

Do we all know the kind of things we should be doing before we rely on an anonymous source, testing whether the information is available elsewhere, not tying your arms before you feel you have to, because you are getting something in return, and about ways in which we go about protecting sources?

That question highlights a recurrent theme in the survey findings – the scope for increased attention to enhanced training and education covering journalists' awareness of rules and principles covering dealings with confidential sources and the protection of journalists themselves and their confidential sources.

Conclusion

As one senior editorial manager has noted of the survey findings: "There are some big messages out of this...the more you can overtly confront and examine these issues in the workplace the better" (Sunderland cited in Fernandez, 2015, p. 31). The above findings indicate that there is considerable

room to alleviate the present inadequacies in statutory protection of confidential sources – alongside the crusade for effective statutory protection. The editor-in-chief of *The Sydney Morning Herald* and *The Sun Herald*, Darren Goodsir, in an interview to discuss the survey results observed that there was no “overwhelming motivation for lawmakers to extend protections to journalists”. He added:

There has been a lot of rivalry between media organisations over the last five to six years and this perhaps contributed to a breaking down of some of the traditional unifying elements.

The media must resuscitate its determination to arrest any further decline in the information flow framework and to return to a healthy state the imperatives that go towards building a robust democracy sustained by a free flow of information that informs and enhances the quality of public debate and improves governance accountability.

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