

## **LIFE AFTER A COMMISSION INVESTIGATION: MANAGING THE IMPACT**

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In late 2006, three key reports were released into the Western Australian Department of Education and Training's handling of complaints and allegations of misconduct, particularly those relating to allegations of sexual impropriety by Departmental employees toward children in their care. Perhaps the most significant of these reports, with respect to the generation of fall out and public interest, was the *Corruption and Crime Commission's report, Sexual Contact With Children By Persons in Authority in the Department of Education and Training* (hereafter to be referred to as the Commission Report).

To fully understand the events which culminated in the Commission Report of 2006, consideration must be given to the context in which they occurred.

Management and oversight of the operations of the Department occur in a unique and challenging context. The complex operations of the Department span significant geographic distances and take in some of the most isolated areas of Western Australia. Our learning and teaching environments vary widely from traditional classrooms, to agricultural farms or schools of the air. Our workforce, in addition to being the largest in WA, is diverse in its make-up. The Department employs a variety of staff including gardeners and cleaners, public servants and administrators, as well as teachers and principals.

Coupled with these complexities, the Department has arguably one of the biggest responsibilities to get it right. Community expectations for education and training environments which are safe, secure, supportive, stimulating and inclusive are high

and the community places in the Department's care and protection some of its most vulnerable and valuable citizens; namely children and young people.

To give you a better idea of the operational environment of the agency:

- 27% Budget
- The Department is responsible for the operation of over 750 public schools and the funding of 10 autonomous TAFEWA colleges and other training providers.
- Of the 750 public schools, 311 are in the regional and remote areas of WA.
- There are some 257 000 pre-compulsory, primary and secondary students across WA and in the Christmas and Cocos Islands.
- The individual needs of a diverse range of students include 7 145 students with identified disabilities, over 21 000 Aboriginal students and students from language backgrounds other than English.
- In the education sector alone, the Department employs approximately 31 500 full-time equivalent staff making us the largest public sector employer in Western Australia.

With these challenges, achieving an appropriate and sustainable level of central oversight and management of operations occurring at the local level is problematic.

At the time of the Commission Report the misconduct management portfolio operated out of a Complaints Management Unit. The Unit itself was part of the then Human Resource Division and consisted of an FTE of just 7.5. At that time, a strongly mandated requirement for the centralised reporting of misconduct matters was lacking and without an internal investigative capacity, disciplinary investigations were outsourced to private investigators. In part due to the culture of the organisation, but also the legislative context of the day, significant authority and

responsibility for the management of such matters had been delegated to the school principal level. At the executive level there was little visibility with respect to serious misconduct, the affect of which was that the executive did not know what they did not know.

In late 2006 the Commission Report and others also released at that time made a number of high level recommendations for reform broadly including:

- Finding of mismanagement of misconduct and sexual impropriety
- The establishment of a dedicated Professional Standards and Conduct Division;
- The introduction of an internal investigations function with specialist child protection capabilities;
- The development of an internal case management system allowing for greater transparency, visibility and accountability;
- The establishment of a Memorandum of Understanding with WA Police; and
- The establishment of a Parent Advocacy and Liaison Officer position and a dedicated prevention and education function.

In the immediate aftermath of the tabling of the Commission Report and in response to its findings, the focus was on rapid implementation of the recommendations and the driving imperative was to be seen to achieving symbols of rapid reform. With the benefit of hindsight it is fair to say that there was perhaps too narrow a focus at that time on the operational rather than strategic level and our response to the recommendations was too heavily directed at those more operational levels. That said, these decisions were taken at the time in a very specific environment

Happily, two and a half years from the initial tabling of the Commission Report the Commission has recently been quoted describing the Department's Professional

Standards and Conduct Division as a “Rolls Royce of Integrity Models”. Despite this glowing endorsement it is fair to say that much of what I can offer this forum by way of lessons learnt in the establishment of a professional standards portfolio are lessons in how not to do it.

Broadly speaking, the lessons learnt fall into four general areas; recruitment and staffing, misunderstanding, mis-labelling and strategy.

- \* overarching leadership
- \* Symbols/manage/action

In the wake of the release of the Commission Report the Department needed to rapidly implement its recommendations, most particularly with respect to establishing an internal investigative capacity with specialist child protection knowledge and expertise. However recruitment and staffing of the new Professional Standards and Conduct Division occurred largely from the ground up and with little alternative, fairly logically the recruitment and selection of investigators drew heavily from Police. This ‘recruitment strategy’ or perhaps ‘reality of recruitment’ brought with it issues and highlighted the cultural divide between Police-culture and the culture of educators. Investigators with child protection experience were recruited with an expectation of child protection related work. In reality, the vast majority of the work is non-sexual in nature and at the lesser end of seriousness. This led to retention issues in a newly established work unit with a high case load.

Partly related to the recruitment and selection strategy taken at that time, there was a level of misunderstanding about the management strategies available to the Department with respect to complaints and allegations of misconduct. By their very nature investigators want to investigate and there was in those early days insufficient consideration of alternative ways of managing matters without automatically or

necessarily moving to a formalised disciplinary process. In its infancy there was a misunderstanding and a belief within the Division that every matter required a formalised, disciplinary investigation and that appropriate resolution could not be accorded by any other means. With hindsight we can see that this approach was in the long-term unsustainable and misdirected.

Coupled with and linked to these issues associated with misunderstanding, there was in the earlier days, post-Commission Report, a degree of mis-labelling. By this I mean that both within the Division and at the school level, there was a lack of understanding of what constituted misconduct and many behavioural or performance issues were mis-labelled as being disciplinary in nature. Everything had to be invested with an inch of its life, I mean everything. The high level and public fall-out from the release of the Commission Report generated a climate of fear at all levels of the organisation. This fear partly revealed itself through mis-labelling. Schools were fearful of not reporting matters and therefore over-reported behavioural matters as misconduct. The Division was fearful of management strategies other than formal, legislated, disciplinary investigation and therefore managed behavioural matters through disciplinary action. I mean everything.

The fourth area where lessons were learnt relates to strategy. In responding to the recommendations of the Commission Report and its aftermath, the focus was necessarily and perhaps with no real alternative, on the immediate day-to-day workload and operational matters. The corresponding consequence of this was that for a time, there was a degree of higher strategic direction wanting and key strategic documents such as internal standard operating procedures and reporting and management guidelines for those external to the Division, were less of a focus.

Although now largely overcome, in the infancy of the Division the interplay and intersection between issues of recruitment and staffing, clashes of cultures, misunderstanding and mis-labelling of misconduct and discipline, and the fear generated with the enormity of what had occurred with the release of the Commission Report, it is fair to say that the challenges ahead were large. In implementing the reform program articulated and recommended by the Commission Report, one of the biggest challenges was and remains, to affect and execute effective change management and genuine cultural change in the organisation. In bringing about cultural change, resistance manifested and, to a lesser extent continues to manifest itself, at two levels of the organisation; firstly internal to the business area, and secondly external to the business area.

Within sections of the agency there was a very real belief that the Professional Standards and Conduct portfolio with its 32 FTE and seemingly extensive pool of funding was an expensive luxury. In a climate of budgetary cutbacks and efficiencies, its existence provoked strong response. As such the challenge was to integrate the operations of the Division into the general business of the Department and to convince staff that far from being the domain of the secret police, issues of integrity, ethics, professionalism and accountability is everybody's business. The prevention, detection and management of misconduct matters, far from being a necessary evil and bolt on to the agency, are at the core of the organisation.

Within the Division the cultural changes which were necessarily being progressed, generated internal issues and tensions to overcome. A key feature of the Professional Standards and Conduct portfolio and a direct recommendation of the Commission was the establishment of a prevention and education function. However in a climate of significant case loads, where internal and external scrutiny of operations was high and the demand for a reduction in case numbers was

paramount, many within the Division questioned the rationale of appointing FTE to the prevention and education function. Why not direct those resources to the 'core business' of investigating?

The issues associated with bringing about and managing cultural change were particularly evident with the work undertaken internally within the business area in response to the recommendation to develop and implement a system for the recording and management of cases of misconduct within the organisation. Although a sophisticated and capable case management system was successfully developed and implemented, the work undertaken to get there was very much an exercise in successful cultural change and change management strategies. The process to develop and implement what would later be known as the On-line System for Complaints Assessment and Response; OSCAR, asked investigators in particular, people with a justifiably held expectation of being 'here to investigate', to step outside of that role and think more strategically. The process literally required investigators to distract themselves from operations and what they perceived to be 'core business', and to think about, and perhaps critically evaluate, business processes and procedures and fundamental ways of doing business. The challenge of convincing investigators of the long-term and strategic merit of data collection, as opposed to 'being out there on the streets', was considerable, but in the end, achievable.

If at this point we return to consider the original premise of this presentation; life after a commission investigation, I can assure this forum that with a lot of hard work and commitment from all levels of an organisation, there is indeed life on the other side.

Some two and half years on from the initial tabling of the Commission Report much has been achieved.

- An effective and functioning Memorandum of Understanding exists with the Western Australian Police with respect to the sharing of information relating to child protection.
- A sophisticated, on-line case management system has been implemented allowing for greater visibility, accountability and oversight of the management of complaints and misconduct matters. Further to this, the capacity for more proactive and strategic undertakings has been enhanced with the implementation of this system.
- Early this year the Department was able to report to the Commission on having reached full implementation of all of the 2006 report recommendations.
- When compared with the figures of early 2007, the current number of outstanding misconduct cases has been approximately halved.
- The prevention and education team, in addition to producing a number of publications for staff, District Education Offices and community members, continues to deliver training and professional development programs face-to-face, via video conferencing and soon, on-line, via an e-learning platform.
- The business area has recently been engaged in a comprehensive strategic planning process, the outcome of which will include a series of Directorate, operational, business and individual plans designed to further refine and direct the operations of the area. These will complement the comprehensive Standard Operating Procedures that have been recently developed.

It should be noted that the time at which this work was occurring a number of other sector wide initiatives such as the introduction of legislation relating to mandatory reporting and Working With Children, and changes to the role of Western Australian College of Teaching, were occurring. These changes necessitated integration of business processes across distinct and differing legislative frameworks.

Upon reflection of the progress that has been made since the events that culminated in the release of the Commission Report, it is clear that within the agency that there is a greater awareness at every level of issues of child protection, integrity, ethics and the standards of behaviour expected of employees. It is also fair to say that through the process of reform ignited by the recommendations and release of the Commission Report, both organisations have matured and have recognised an important commonality; that is, the genuine desire for the protection of all children and the provision of safe and secure environments in which they can learn.