

Progress Report
on the Implementation of the Ombudsman's Recommendations
by the Department of Education and Training

November 2007

Parliamentary Commissioner for Administrative Investigations

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Ombudsman's Foreword

During the past year my office has been monitoring the Department of Education and Training's ("the Department") progress in developing a best practice complaints management process in keeping with the commitment made by my predecessor, Ms Deirdre O'Donnell, in her report entitled *Report by the Ombudsman on complaints management processes in the Department of Education and Training* (November 2006).

The development of a best practice complaints management system is a significant project. I am pleased to report that the Department has made positive progress towards improving its complaints management processes during this time and I am satisfied that the Department is committed to implementing the recommendations set out in the November 2006 Report. I will continue to monitor the Department's progress towards that objective with interest.

I would like to thank the Director General and her staff for their cooperation and assistance to my staff and me during this period of review.



Chris Field

OMBUDSMAN

20 November 2007

Progress Report

Implementation of Ombudsman's Recommendations by the Department of Education and Training

1. Background

- 1.1 On 19 November 2003 the former Ombudsman wrote to the then Director General of the Department of Education and Training ("the Department") to advise him that a formal investigation was to be commenced into whether the approach taken by the Department regarding *'complaint investigations is transparent, procedurally fair and deals with risks to school communities'*. The decision to conduct the investigation was based on information contained in nine separate complaints about the Department submitted to this office.
- 1.2 The report of the investigation, titled a *'Report by the Ombudsman on complaints management processes in the Department of Education and Training'* ("the Report"), was released in November 2006. It identified a number of systemic issues in regard to the Department's complaints management processes and five recommendations were included to provide a *'road map'* to assist the Department to address deficiencies in its complaints management system.
- 1.3 The five recommendations were:
 - (i) Develop guidelines for making appropriate initial inquiries in response to complaints, with risk assessment to form part of this process; promulgate these to staff; and make them available to other parties in an accessible manner, including a statement advising complainants what to expect.
 - (ii) Develop guidelines for staff about the types of records required to be made once a complaint has been received, including the importance of adhering to good administration practice by documenting all significant:
 - discussions (this includes telephone and email);
 - decisions (and the basis for those decisions);
 - directions received or given; and
 - action taken.
 - (iii) Develop a Memorandum of Understanding establishing a basis for the formal exchanging of advice and information between the Department and the Western Australian Police Service, Police Child Investigation Unit, which should ensure that appropriate recording and documenting procedures are introduced in respect of information sought and provided.
 - (iv) Develop guidelines for providing complainants with information about inquiry or investigation action taken, with these guidelines to cover:
 - the action taken to investigate their complaint;
 - the conclusion reached about the matter complained of;

- the basis for that conclusion; and
- if disciplinary action is a consideration, whether or not such action was taken (this does not require details of the action taken). This includes external action.

(v) Develop guidelines for District Directors and Principals in relation to teacher transfer to ensure that appropriate information is provided, including allegations or complaints about conduct, to enable proper management of the teacher, the school and the school community and any likely risk associated with the placement of the teacher at that school.

- 1.4 On 7 November 2006 the Director General expressed an intention to '*willingly and fully address the recommendations*'. The former Ombudsman made a commitment to assess the Department's progress in twelve months time.
- 1.5 The Report also included a model for 'best practice' complaints management based on a system that is '*efficient and effective; accountable; accessible; and fair*' and stressed the importance of a system that is anchored in the culture and values of the organisation.

2. Other Reports Regarding the Department's Complaints Management Processes

- 2.1 Two other significant reports were also produced in 2006 which addressed failings with the Department's complaint processes. These were the Department's internal review of its Complaints Management Unit¹ and the Corruption and Crime Commission's (CCC) report regarding the Department's response to allegations of sexual contact with children by Departmental staff². Those reports contained complementary findings that are relevant to the Department in reframing its complaints system.
- 2.2 Following these reports, the Department also commissioned a report, by Professor Lance Twomey³, into complaints management best practice.
- 2.3 As a result of the work undertaken by this Office, the CCC, and the Department itself, the Department has access to a significant amount of information and material upon which to guide it through the process of addressing the identified shortcomings in its complaints management processes.

¹ Complaints Management Review Report, Department of Education and Training, March 2006

² Sexual Contact with Children By Persons in Authority in the Department of Education and Training of Western Australia, Corruption and Crime Commission of Western Australia, 16 October 2006

³ Best Practice in the Management of Complaints and Disputes – Review Report, Professor Lance Twomey, November 2006

3. Developments over the past twelve months

- 3.1 Following the release of both the former Ombudsman's Report, and that of the CCC, the Department clearly had a number of critical issues to address to work towards the development of a complaints management system that is efficient and effective, accountable, accessible, and fair. Over recent months, a number of meetings have taken place between my staff and representatives from the Department to discuss the Department's progress. The Department has also provided my staff with access to certain materials and sought comments on its proposed Misconduct and Complaints Management Framework ("the Framework").
- 3.2 I acknowledge, and accept, that this is a significant project for the Department and that some prioritisation was necessary. It appears that, over the past year, the Department has largely concentrated on addressing two particular areas. The first may be described as foundation activities. These include the establishment of the Professional Standards and Conduct Division; the classification of positions within the Division and recruitment; the development of the proposed Complaints Management Framework; and the establishment of the Professional Standards and Conduct Governance Committee. The second area is the management of misconduct complaints and allegations, and in particular, complaints involving child protection issues.
- 3.3 The foundation activities are related to determining and defining the approach the Department intends to adopt towards complaints management by providing the mechanisms for linking strategic direction with the operational aspects of the new system. The Department has determined that there is a need for centralised management, with delegations and accountabilities clearly defined. There will be an emphasis upon risk assessment and review, and comprehensive data collection and analysis at both systemic and local levels.
- 3.4 The Professional Standards and Conduct Division will be responsible for leading the change in complaints management. It will oversight the new system, in addition to investigating complex cases, and have a principal role in developing and maintaining 'a culture of professional integrity and ethical standards'⁴ throughout the Department.
- 3.5 The proposed Framework does reflect the broad principles of the model for a good complaints management system as described in the former Ombudsman's Report.
- 3.6 The Department has also focused on addressing complaints involving child protection, and other serious misconduct issues, over the past year in response to particular matters of concern raised by both the former Ombudsman and the CCC. The Department has concentrated on ensuring that it has the resources to appropriately manage and address misconduct allegations against staff involving children and has recruited experienced child protection investigators. In addition, all Departmental staff are now required to report allegations or suspicions of any form of sexual contact between school staff and students to both the police and the Director General⁵. The proper management of allegations involving misconduct

⁴ Misconduct and Complaints Management Framework (Revised version), Department of Education and Training, 22 June 2007

⁵ Child Protection Policy , Department of Education and Training, 1 January 2005

against children is clearly of importance to parents and the community in general and I support these developments.

- 3.7 The Department has also made an effort to review, and finalise, all outstanding misconduct investigations.
- 3.8 The former Ombudsman recommended that the Department enter into a Memorandum of Understanding (MOU) with the Police Child Investigation Unit of the Western Australia Police for the exchange of advice and information. I note that although the MOU remains in the draft stage, there appears to be a co-operative relationship between the two organisations
- 3.9 The Department has also established a Parent Advocacy and Liaison Officer position. That is a positive initiative which is consistent with the former Ombudsman's recommendations regarding the need to provide complainants with information about the complaints processes effectively and to communicate appropriately with individual complainants about their specific concerns.

4. The Future

- 4.1 The Department has made positive progress towards improving its complaints management processes during the past year. Whilst a significant amount of work has been accomplished in establishing the Framework, recruiting staff, and addressing matters of misconduct, these are the first steps towards the development of a 'best practice' complaints management system. The Department's next challenge will be to develop and disseminate the supporting policies and procedures, ensure that they are available to staff, parents and the wider community and, most importantly, instilled into the culture of the organisation. I understand that a review of existing policies has commenced and that training and support activities are envisaged.
- 4.2 A critical test for the Department will be how the new complaints management system works at all levels of the agency.
- 4.3 While I appreciate that there was a need to concentrate on high-risk complaints over the past year, it is important that this focus does not overshadow the need to address the full spectrum of complaints made to the Department. I therefore intend to seek regular updates from the Department on its progress towards implementing the recommendations made by the former Ombudsman.