



CORRUPTION PREVENTION

NEWS FROM THE CORRUPTION AND CRIME COMMISSION

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DEALING

WITH THE MISCONDUCT RISK

The Acting Director of the Department for Child Protection's Integrity and Screening Unit, Ms Sandy Randall, says organisations that claim they don't have misconduct are probably the ones at greatest risk because they're not aware of what's going on.

However, she says that misconduct will be happening and that a lack of integrity has been known to bring organisations down.

To counter this, the Department set up a centralised six-person integrity unit that oversees about 2,000 staff in the Department for Child Protection and the Department for Communities, established a well-developed risk assessment process, a staff education program, and has the ability to analyse trends of misconduct.

"I like to think of the unit as an investment, not a cost, as the failure

to properly address misconduct can have severe costs in terms of reputational damage and the trust of the community," Ms Randall said.

The unit has been developed over

the last two years following the Corruption and Crime Commission report on misconduct handling

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Ms Sandy Randall, Acting Director of Integrity and Screening Unit, Department for Child Protection, presenting an educational training session to staff

MISHANDLING

CONFIDENTIAL INFORMATION

Two court cases resulting from Commission investigations show the serious consequences of unlawfully accessing confidential information on government computers.

In one case, the former associate of a District Court judge received 14 months jail for 23 counts of unlawful use of a government computer and a fraud charge.

Magistrate Libby Woods described the offences as a serious breach of trust.

The Commission's Acting Director of Operations, Trevor Wynn, said the sentence reflected the seriousness of unlawfully accessing personal information and the consequences that can follow from it.

In the other case, following a Commission investigation, a Department of Corrective Services employee was charged with 48 counts of using a computer and one of disclosing official secrets. This case is still before the courts.

It is alleged the employee accessed the personal details of a number of associates on the Department's computer databases.



The Corruption and Crime Commission is a relatively new agency so there can sometimes be a lack of understanding about what it can and cannot do.

To help clarify the situation, Commissioner Len Roberts-Smith QC held a media conference in early October where he said the main purpose of the Commission is to improve the integrity of the public sector.

The Commissioner said the CCC is effectively a permanent Royal Commission and its primary function under *The Corruption and Crime Act 2003* ('The Act') is to maintain the integrity of the public sector and reduce the incidence of misconduct.

This involves limiting behaviour such as:

- public officers acting contrary to the public interest;
- public officers making decisions on the basis of influence which has been exerted on them, whether political or personal;
- public officers dealing with matters on the basis of benefiting themselves or friends, rather than acting in the public interest;
- the disclosure of confidential information which could include personal information or information about planning issues or commercial activities; and

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procedures in the then Department for Community Development.

"Prior to that there wasn't a misconduct resistance agenda," she said.

"Typically what would happen with reports about misconduct is that they would be dealt with by the Human Resources Department through the industrial relations team.

"However, they would only deal with matters that were brought to their attention.

"I suspect a lot of issues were dealt with locally without referral to the HR area. This would have made trend analysis difficult, meaning the department would not have known which issues were emerging and where to focus policy development, training and education."

Ms Randall said it was important to select the right staff for the unit. Having a diverse blend of skills and experiences is important. This means not limiting the field to those from a law enforcement background. Staff with knowledge of the working environment are a great asset too.

Ms Randall said the other lesson in establishing an in-house investigations capability was that the volume of day-to-day work can take precedence over establishing the agency's policies in the area.

"It's very hard to say that an employee has failed to meet certain standards if those standards have not been very well articulated. For example, there's a small but significant risk in terms of workplace drugs and alcohol, but we don't have a specific workplace policy on this. This is now being addressed.

"If you want your staff to be clear about your expectations in terms of behaviour, you've got to let them know what the rules are."

She maintains that getting the culture right is very important.

"It's always better to hear from your staff about what's going wrong

in the organisation rather than reading about it in the newspaper. This means creating a culture where staff feel safe reporting issues and are confident that something will be done to address them.

"It's also important that staff understand what misconduct is and that's why we developed our Misconduct Classification Schedule, to establish a common language around our risks."

From Ms Randall's experience, agencies should be careful when first requiring staff to report misconduct. Staff will tend to report everything when first asked to report misconduct, which can result in a quick swing from under-reporting to significant over-reporting. Child Protection's Reporting and Handling Misconduct policy clearly outlines what matters must be reported and what matters are suitable to resolve under a grievance process or through local management action.

"One of the biggest benefits of the unit is that centralised reporting and oversight has built up a capability that allows us to build a profile of the risks and respond to them appropriately.

"There's a lot of resources in the sector at the moment that are coming from the various oversight bodies, so our job is to take initiatives such as the Code of Conduct template, the Misconduct Resistance Framework, and accountable and ethical decision making and embed them in our organisation in a way which is compatible with our operating environment."

One of the challenges faced by the unit is getting the message about misconduct to staff when they are so busy with day-to-day service delivery. Similarly, face-to-face training is difficult as there are staff working throughout the state.

Child Protection has a three-year plan to embed standards, accountability and ethical decision making across the organisation.

APSAC CONFERENCE 2009:

REFLECTIONS OF CORRUPTION

The Director General of Western Australia's Department of Education and Training, Ms Sharyn O'Neill gave an honest and from the heart account of the difficulties of managing an organisation in the aftermath of a CCC report at this year's Australian Public Sector Anti-Corruption Conference (APSACC), a biennial conference jointly organised by the Corruption and Crime Commission (WA), the Crime and Misconduct Commission (QLD), and the Independent Commission Against Corruption (NSW).

That report, *Sexual Contact With Children By Persons in Authority in the Department of Education and Training, was tabled in Parliament on 16 October, 2006*. Ms O'Neill stressed the need for honest and accountable leadership and emphasised that sometimes hard decisions have to be made. One example of this was acknowledging that the Department had focussed too much on protecting teachers and lost sight of the fact that they also had a duty of care to the children.

Staff from the Corruption and Crime Commission gave a compelling presentation based on their experiences in the health sector titled, *"Drugs in Hospitals: Managing the Misconduct Risk"*. The central point of the presentation was broader than the issue of drugs in hospitals, namely that unless agencies look at their service delivery and business activities with a focus on staff misconduct, they won't be able to identify what their misconduct risks are or where they exist.

Of great interest was the inaugural Tony Fitzgerald Lecture commemorating the 20-year anniversary of the Fitzgerald Report, a watershed in Australia's political history. Mr Fitzgerald provided a no holds barred account of life in Queensland after the inquiry and reflected on whether anything had really changed as a result of the inquiry.

There was also the opportunity to hear from some of our Asian neighbours from Singapore, Hong Kong, and Indonesia. Singapore's Ang Seow Lian (Assistant Director,

Corrupt Practices Investigation Bureau) outlined his belief that the fight against corruption can only be successful through a combination of:

- strong political will;
- an effective anti-corruption agency;
- effective laws and adjudication;
- effective administration and good governance; and
- strong public support.

The conference finished with an entertaining hypothetical: "Queensland — beautiful one day, desperate for the development dollar the next!" which was brilliantly facilitated by well known ABC journalist Kerry O'Brien. This session highlighted the potential for corruption and the obstacles faced by anti-corruption agencies in the area of public/private partnerships.

This was the second conference and took place over four days in Brisbane during July and included a number of presentations by Western Australian public officers.

The next APSAC Conference will be held in Perth in 2011.



Ms Anna Bligh, the Premier of Queensland, opens this year's APSAC Conference in Brisbane

COMMISSION

VISITS THE GREAT SOUTHERN 2009



The Commissioner Len Roberts-Smith QC (centre) meeting the Superintendent of Albany Regional Prison, Mr Bob Reeby (left) and Albany Mayor, Mr Milton Evans (right) during the August 'Regional Outreach' initiative to Albany

Two misconduct issues immediately became key discussion points during the August visit to the Great Southern. Specifically:

- the release of confidential information – Several people said that it's sometimes difficult to know what confidential information can and cannot be released. The Commission stressed the importance of individual agency policies that clearly establish what information can be released and under what circumstances. Complementary training programs from induction to refresher training are also critical; and
- conflicts of interests in planning processes – A number of people believed conflicts of interest are not being declared during the

planning approval process. This can create the perception that misconduct is occurring. The Commission again highlighted the importance of policies and training to ensure agencies operate transparently. The main message is that it's okay to have a conflict of interest, but it is important to deal with the conflict correctly.

A further point was that it's not necessarily a misconduct issue just because a planning decision has not gone an individual's way.

The Outreach Program kicked off with a Leaders Breakfast in Albany, where Commissioner Len Roberts-Smith QC gave participants an overview of the Commission's role, responsibilities and the specific misconduct risks faced by regional

Western Australia.

Regional managers of State Government agencies attended workshops on managing misconduct risks in their organisations and they indicated that the courses were extremely helpful in assisting them develop strategies that identify and manage their misconduct risks. More than 200 people attended events associated with the visit.

A public meeting was also conducted, which gave Albany residents the opportunity to find out more about the Commission and speak to Commission investigators about specific queries.

Katanning and Denmark didn't miss out, with Commission officers presenting sessions in both centres.

• public officers assaulting people. He said that scandals that result from misconduct can destroy community confidence in the public sector, the government and ultimately in the Parliament.

“And if community confidence in those essential instruments of our State is destroyed, then the whole process of the governance of the State is called into question.”

“That’s what we are talking about when we are talking about the ramifications of misconduct.”

To help counter this, over the last five and a half years the Commission has:

- presented hundreds of corruption prevention workshops across the public sector, including Local Government, a number of which have been in regional areas where remoteness brings its own misconduct risks; conducted about 1,000 investigations into allegations of misconduct and dealt with more than 12,000 allegations of misconduct;
- monitored more than 8,000 investigations into misconduct referred to agencies for investigation. As part of this process, the Commission assists agencies to put integrity protocols in place to suit their particular misconduct risks;
- reviewed almost 9,500 investigations into misconduct by agencies;
- dealt with more than 7,000 allegations of misconduct against police and evaluated how every police district in the state investigates allegations of misconduct against officers;
- reviewed the capacity of agencies to conduct investigations into allegations of misconduct; and
- tabled 32 reports in the Parliament on Commission investigations and misconduct handling reviews.

“These activities have had a significant impact on integrity across the public sector,” the Commissioner said.

Commission investigations and reviews can lead to Parliamentary reports which not only detail any misconduct that has occurred and the public officers involved, but also examine the systemic issues that allowed the misconduct to occur, assess how it occurred, what the risks are it could occur again, and what controls were in place to prevent misconduct at the time. These reports also make recommendations to address any short-comings revealed by the investigation. Tabling reports can provide the impetus for the recommendations to be implemented.

Examples of this process can be seen

“The question is does the community want a public sector where officers are not acting in the public interest...”

in the Department of Education and Training and the Department for Child Protection (see story on page 1) which, in both cases, led to the introduction of professional complaints and investigations units that deal with allegations of misconduct and integrity issues.

Commission officers are also working closely with the Department of Health, reviewing the way the Department manages misconduct and making recommendations to improve misconduct prevention, detection and response across WA Health sites. In addition, ongoing reviews of police investigations into allegations of police misconduct have led to a significant improvement in the way that they deal with allegations made against police officers.

The Commissioner also dispelled some myths about the Commission, one of which was that its success can be judged by the number of convictions it achieves. “Convictions are not what the Commission is about. The question we are asking is whether there has been misconduct - criminal offences are incidental.

“We are not a police force. We conduct misconduct investigations which may or may not involve criminal offences, regardless, we still have a responsibility to investigate it. If there is evidence of possible criminal offences we deal with them in the most appropriate way, but it is not the point of the exercise.”

In any case, the Commission has a conviction rate of more than 80 percent. Of the 51 people the Commission has charged with criminal offences whose cases have been completed in court, 42 have resulted in convictions.

ORGANISED CRIME

The Commissioner said the Act does not allow the Commission to actively investigate organised crime.

“Our function in relation to organised crime is to make our exceptional powers available to Western Australian Police upon their application.”

“If the CCC Commissioner is satisfied certain criteria set out in the Act have been met, he can make those exceptional powers available to them to use in the course of their investigations.”

“It is never a Commission investigation. The Commission participates by monitoring the use of these powers and reviewing them on completion to ascertain they have been used responsibly.”

Mr Roberts-Smith said the Commission and police have put a joint proposal to the Government and Parliament that would allow the Commission to investigate serious and organised crime.

THE COMMISSION'S YEAR IN BRIEF (From 2008-09 Annual Report)

Misconduct Function	Assessed 2,838 complaints containing 3,205 allegations (29% of the allegations investigated were sustained)
	Reviewed 1,938 completed investigations into alleged misconduct conducted by public authorities
	Charged 14 persons, including 10 public officers, with 81 criminal offences
	16 persons, including eight public officers, were convicted on 101 Commission investigation related charges at a conviction rate of 80%
Prevention and Education Function	Delivered 34 corruption prevention and education presentations and workshops to 1,716 public officers
	Provided 285 consultations with public authorities
	Delivered 18 community presentations to around 500 community members
	Launched the Misconduct Resistance Framework to assist agencies to integrate misconduct resistance strategies into their existing strategic planning, corporate governance and operational systems
	Continued agency reviews of the misconduct management systems of the Department of Health and the former Department of Planning and Infrastructure

CASE STUDY:

UNCLEAR PROCEDURES CAUSE PROBLEMS FOR SHIRE

At first glance the allegations looked serious. The Department of Local Government ('DLG') told the Commission that a recent audit showed that contractors had provided goods and services to a Shire without quotes or a tendering process taking place. The allegations revolved around the Manager of Technical Services ('Mr X') at the Shire.

Contracts with two companies stood out:

- a landscaping company paid \$352,236 during the period March 2007 to March 2008; and
- a hardware company paid \$137,523 during the period February 2007 to October 2007.

DLG questioned the nature of the relationship between Mr X, who had only recently been appointed to his position, and the two companies. Mr X had previously worked for

a metropolitan council and the landscaping company he hired had been formed by ex-employees of the same council. The notification stated that a number of costs were allocated to other jobs where no expenditure had been incurred and that the job cost misallocations appeared to be deliberate, as opposed to administrative errors. The company also appeared to have been given preferential use of council vehicles and private accommodation.

Local Government policies and legislation require all local government organisations to:

- advertise for tenders for goods and services over \$100,000 and award them through panels consisting of at least three members;
- give preference where applicable to local companies; and

- maintain certain standards in relation to accounts and record-keeping.

None of these requirements were met.

In view of the seriousness of the allegations, the Commission decided to conduct its own investigation.

Mr X's reaction to the allegations was that:

- he was unaware of tendering policies but believed the limit to be over \$100,000 in a financial year;
- he was inexperienced when he arrived and received no guidance from the executive. He was initially given a list of projects to be completed and assured there was sufficient money to cover them;
- he had never worked with a budget or finances before;
- he was unsuccessful in locating local contractors for the projects, due to a lack of interest and/or availability;

- with limited connections and no supervision, he chose two companies he had previously used in the knowledge that the projects would be completed efficiently and cost effectively;
- he obtained quotes for all the work and equipment; and
- he did not receive a benefit, monetary or otherwise, from either of the companies.

As a result of the investigation, the Commission concluded that there was no evidence of misconduct. Mr X did not take advantage of his position to gain a benefit and it was impossible to establish that favouritism had influenced the decision-making process.

The Commission formed the opinion that Mr X was honest and

open in his dealings and that the situation was the result of:

Mr X's inexperience in his role;

- the lack of supervision and guidance he received; and
- poor accountability practices.

While there was no finding of misconduct, the Commission believed some improvement in accountability and governance was required. To address these, Commission officers met the new Chief Executive Officer who agreed to take the following action:

- introduce an electronic requisition system to track delegations, cost centres and provide an audit function;
- introduce a policy that clearly outlines the purchasing limits of


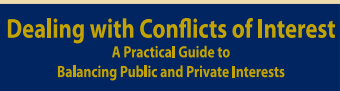


all roles and positions;

- review their current systems and introduce a delegation authority;
- create a records/compliance officer position to review and improve the current record-keeping and audit systems and purchase a complementary electronic management system; and
- create a 'Policy Review Committee' to review all corporate governance policies on an ongoing basis.

Although no misconduct occurred in this instance, a combination of insufficient management, poor communication, lack of training and questionable decision-making created a culture of inadequate financial governance.

FUTURE TRAINING EVENTS AT THE CCC

To register for these events, please visit our website at: www.ccc.wa.gov.au/workshops.php

 <p>26 November 09:00am - 12:00pm</p>	<h3>TAKING THE 'U' OUT OF MISCONDUCT</h3> <p>If you are new to the public sector or returning after time away, this workshop is an essential induction into 'Misconduct'. Through group discussion and activities you will explore the misconduct risks relevant to your work area and agency. Most importantly, the workshop will focus on practical ways to avoid the 'misconduct trap' and how you can prevent, identify and respond to misconduct risk for yourself and others.</p>
 <p>10 November 09:00am - 12:00pm</p>	<h3>DEALING WITH CONFLICTS OF INTEREST</h3> <p>Conflicts of interest are an important issue for all public officers. This workshop provides participants with the skills needed to identify and manage potential conflicts of interest between their public duty and personal lives (or those of staff they supervise). Hypothetical scenarios are used as exercises in learning how to apply management strategies.</p>
 <p>8th December 09:00am - 12:00pm</p>	<h3>DEALING WITH MISCONDUCT – TIPS FOR MANAGERS</h3> <p>This workshop is designed for managers and supervisors who are looking for practical tips about managing misconduct in their workplace. Using exercises and hypothetical scenarios, participants explore how to become the 'unsurprised manager', one who understands their misconduct risks and knows what to do when faced with a misconduct issue.</p>
 <p>9th December 09:00am - 12:30pm</p>	<h3>MISCONDUCT RESISTANCE PRACTITIONER FORUM</h3> <p>Practitioner forums support our Misconduct Resistance Framework. The forums aim to help WA public authorities develop and implement their own misconduct resistance approaches. They provide managers and other staff who have responsibility for implementation of misconduct resistance strategies with information and practical advice.</p>

OUR

CORRUPTION PREVENTION DIRECTOR RETIRES

Dr Irene Froyland was the inaugural Director of Corruption Prevention, Education and Research. Appointed in 2004, she created the prevention and education function of the Commission and diligently built it into a fully operational and successful Directorate. Now ready to enjoy a deserved retirement, the former academic has handed over the reins to the new Director, Mr Roger Watson. Irene was particularly successful in reaching the WA Public Sector with her passionate, informative and entertaining presentations.

What has been the hardest part of your job?

I think it was developing my vision. Remember that I came from outside the public service, so it was about thinking of what corruption prevention is, was and could be, and then getting a team of diverse people all working in the same direction. In terms of the outside world, the biggest task is to get agencies to see that corruption isn't something that someone else in some other organisation does, but it's something that your people, particularly your good, hard working people could do in your organisation. So getting an agency to seriously face up to what its corruption risks are, is the big challenge.

What do you consider the highlight of your time at the Commission?

I would judge my successes by the things that the team that I led achieved. And that's my view of leadership. That people do not say that Irene did a, b, and c, but that I created the situation where these people achieved their potential. That's really my highlight.

What level of corruption is there in the State and Local Government?

That's a very, very tricky one. But I have always said there are three



sorts of villains. There are the real criminals, and I don't think there are many of those. The second type of people is what I call "the Gods of the Universe". These are the people who think they make the world go round, who do the deals in the back rooms and put people in places to achieve what they want. In my view it's inevitable that a high-resource, high-entrepreneurial State like ours will have a higher than normal level of those people, and that is a real concern.

The third type of person, are the really friendly, nice, helpful people who bend the rules to help others and by not respecting the rules and the procedures, little by little they get involved in corruption. This is a serious issue and the worst people are the "Mr Nice Guys" who do a few favours, and before they know it are the "Mr Fix-Its". These people do not do it for personal gain, except for feeling good that they solved someone's problems, but it is still corruption.

Lastly, is there any message that you want to give to public servants you've influenced?

The message has to be threefold.

The first is, know what you are trying to do because it's very easy for us to develop paperwork, 'red tape', rules and procedures, but we rarely re-examine and take them down; we just build more on top of them. So really know what you are trying to achieve and decide whether you actually have to do all these things and have all these rules to achieve it.

The second message is very regularly try to put yourself in the other person's shoes. It really does make a difference if the people making the decisions walk in the shoes of the people they are making decisions about and see the world from their point of view.

The third thing, which I think is the most important of all, is for individuals and agencies to regularly stop and think: "Is doing the job this way what I want to be doing or have I slipped into this?" And I know that's the most important message. Stop, whether it's every month or every six months, have a quiet time and say to yourself, "Hey, is this what I think I'm doing? Is this what I want to be doing? Am I pleased with the way I'm doing it? Do I need to change?"