

23 May 2022

Public examinations into the Department of Communities

Transcript - Opening Address by Counsel Assisting, Mr Anthony Willinge

These examinations continue the Commission's investigation into serious misconduct, including misuse and misappropriation of funds, at what was then the Housing Authority and is now part of the Department of Communities.

Government Departments provide important services for the benefit of the community.

They do so with public funds.

The Department of Communities provides many important services including affordable housing.

The Director General and other leaders in Government Departments have an important role to play. They help set and maintain the culture of the Departments they lead. They are stewards of public funds. They are ultimately responsible for integrity and governance frameworks - and they have obligations to report and act on alleged misconduct.

On 16 November 2021, the Commission released a report entitled *Exposing corruption in the Department of Communities*.

That report outlined the Commission's investigation into Paul Ronald Whyte who, in 2017, was acting Chief Executive Officer of the Housing Authority when it became part of the Department of Communities.

Mr Whyte became an Assistant Director General at the Department and was part of its corporate executive.

As discussed in the Commission's 2021 report, Mr Whyte was an inveterate gambler who stole a very significant amount of money from the State.

From around 2009 until 2019, Mr Whyte used his corporate credit card and electronic fund transfers to make payments to companies which were not providing services to the Department.

In all, Mr Whyte stole more than \$22 million from the State.

The Commission briefed the WA Police Force and, following a WA Police operation, Mr Whyte was charged with 564 counts of corruption and property laundering. He pleaded guilty and was sentenced in November 2021 to 12 years imprisonment.

However, the Commission's work did not end there.

The Commission has a number of operations that have revealed historical instances of corruption, and fraud in procurement practices, within the Department. During the course of 2020 and 2021 the Commission has undertaken public and private examinations in relation to other allegations of serious misconduct concerning flawed systems and poor oversight at the Department of Housing.

Some of these allegations have resulted in criminal charges that are still to be dealt with by the courts.

Other allegations will be, or have been, the subject of parliamentary report. The Commission has recently released a parliamentary report addressing allegations of serious misconduct in the provision of regional social housing and building projects.

The Commission has received further information and continues to investigate.

Areas of interest include:

- how it was that a person in a senior position was able to systematically defraud the State to such an extent over such an extensive period; and
- other matters relating to the operation of the Department and its governance.

These examinations are part of the Commission's ongoing investigation.

In accordance with s7A of the *Corruption, Crime and Misconduct Act* one of the main purposes of the Act is to improve continuously the integrity of the public sector and reduce the incidence of misconduct in the public sector.

In accordance with s7B of the Act, the Commission is able to investigate cases of serious misconduct.

Misconduct is defined in s4 of the Act to include where:

“a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person...”.

Serious misconduct is defined in s4 of the Act to include conduct of that kind by a public officer.

A public officer includes a public service officer or employee within the meaning of the *Public Sector Management Act*.

A number of matters will be explored in these examinations including:

- Financial oversight;
- The creation of the Department's corporate executive including the recruitment process;

- The use of corporate credit cards and the acquittal process;
- Certain payments made to individuals in the Department
- The approach taken in the Department to identifying, disclosing and managing conflicts of interest;
- The approach taken in the Department in relation to the investigation and reporting of alleged serious misconduct;
- Steps taken in relation to Departmental employees who were the subject of those allegations;
- Whether a failure to follow or enforce good governance practices created an environment or culture which enabled serious misconduct to occur;
- Whether a failure to follow Department policies enabled Mr Whyte to receive a financial benefit from the misuse of his corporate credit card; and
- Whether certain alleged misconduct by Departmental employees was minimised or not acted upon appropriately.

During the course of this week there will be some private and public examinations.

In accordance with s137 of the Act, the Commission may conduct examinations and in accordance with ss139 and 140 of the Act, examinations may be private; or public if, having weighed the benefits of public exposure and public awareness against the potential for prejudice or privacy infringements, the Commission considers that it is in the public interest to do so.

Factors that the Commission may consider are relevant to the decision to hold a public examination include:

- (a) Whether the conduct being investigated was an isolated incident or systemic in nature;
- (b) The benefit of exposing corrupt conduct to the public;
- (c) The seriousness of the matters being investigated;
- (d) The risk of undue prejudice to a person's reputation, including prejudice that might arise from **not** holding an inquiry; and
- (e) Whether the public interest in exposing the conduct is outweighed by the public interest in preserving the privacy of the persons concerned.

A public examination provides an opportunity for public scrutiny of the Commission's activities. It is well known that the Commission has been involved in the investigation of alleged serious misconduct by Mr Paul Whyte and others. These examinations provide a measure of accountability.

The first witness will be Mr Lorne O'Mara who held a senior accounting position in the Department at the relevant time. Mr O'Mara may be able to assist in relation to some of the Department's processes, including for corporate credit card acquittals.

Mr O'Mara was also a long standing employee of the Department and may be able to assist in relation to changes in the Department's corporate executive and its culture. Mr O'Mara will be examined in public.

A number of witnesses will then be examined in private.

Mr Grahame Searle, who was the Director General of the Department at relevant times, will also be examined.