

Report by the Ombudsman on complaints management processes in the Department of Education and Training

Overview

This report is the result of an Ombudsman's 'own motion' investigation into the adequacy of the Department of Education and Training's complaints management processes.

In accordance with the mission of the office, the Ombudsman aims to assist organisations build public confidence in their administrative decision-making, practices and conduct. An important objective of an 'own motion' investigation is that the government agency concerned receives practical assistance in how to strengthen its administrative processes so that the Parliament and the people of Western Australia can have greater confidence in the integrity, transparency and accountability of that agency.

In order to achieve this objective of providing practical assistance to the Department, this report provides a series of examples and assessment tools to assist the Department respond to the findings of the Ombudsman's investigation.

The report contains three sections.

- **Section 1: The Ombudsman's model for assessing complaints management and good administrative practice**

This section illustrates the Ombudsman's approach to assessing how effective a government agency's administrative systems are, with particular reference to complaints management processes.

An additional assessment tool in the form of an overview diagram (based on work done by the NSW Ombudsman) forms part of this section. The diagram sets out the key features of an effective complaints handling system which, at the highest level, can equally apply to all government agencies.

- **Section 2: The need to improve complaints management processes in the Department of Education and Training**

This section draws on the issues raised in the Ombudsman's own motion investigation into how the Department managed a number of complaints from across the State. Examples of complaints that have informed our overall recommendations have been provided to illustrate the breadth and complexity of the issues raised about the Department with the Ombudsman.

It is essential that improvements to the Department's complaints management processes are able to accommodate complaints such as these in an efficient and effective manner.

As part of the Ombudsman's investigation, the findings and recommendations of the Department's independent review of the Complaints Management Unit, which was commenced in mid-2005 and published in June 2006, were assessed. Many common elements were identified between our own findings and those of the review. The core areas to be addressed to improve the Department's complaints management processes are highlighted and the Ombudsman's specific recommendations are provided.

This section also serves to provide a framework for an evaluation of the Department's complaints management processes in the future. It is the Ombudsman's intention to evaluate and report on the Department's performance against these recommendations at the end of 2007.

- Section 3: An example to guide the Department in strengthening its complaints management processes

In this section we have provided a practical example of ‘best practice’ complaints handling, as implemented by the New South Wales Department of Education. Given that many complaints to the Ombudsman raised concerns about the complexity of the Department’s complaint handling processes, we recommend as a priority a simplified and streamlined process. The New South Wales model is clear, comprehensive and covers the types of issues raised by the key stakeholders with whom the Department regularly interacts.

To illustrate how the New South Wales model might apply to the Department, a possible approach is provided in this section.

- Attachment: The Department’s response dated 7 November 2006.

The Ombudsman’s investigation

The Ombudsman initiated an extensive ‘own motion’ investigation into the Department of Education and Training after receiving a number of complaints about the Department’s complaints management approach. Examples of the types of complaints we received about the Department are provided in Section 2.

Our investigation covered a range of complaints received from parents and teachers, and a case study of a complaint about teacher conduct. We focused on whether the Department’s approach to complaints management was transparent, procedurally fair and dealt with risks to school communities. Using this systemic focus we drew conclusions and made recommendations about the overall processes employed by the Department.

The findings of the case study are listed below.

- Inquiries undertaken by the Department in respect of the complaints it received about the teacher were inadequate given the nature of those complaints.
- The Department did not appear to have adequately attempted to identify and manage the risk associated with the allegations which were the subject of the complaint.
- The Department did not review the adequacy of its handling of the incidents and allegations.

The overall investigation identified a number of systemic issues in relation to the Department’s complaints management processes and made five recommendations, which are listed in Section 2.

In early 2005 the Department decided to undertake a review of its complaints management system. The findings of that review had strong similarities with the Ombudsman’s findings and recommendations. Both reports identified a lack of confidence in complaints management processes.

The Department has worked cooperatively with the Ombudsman to address the issues identified. The Ombudsman’s model for assessing complaints management and good administration is provided to support this work.

Assessing improvements in the future

The Department has commenced the implementation of the recommendations of the Ombudsman's investigation and the Complaint Management Unit review. I welcome the Department's willingness to acknowledge deficiencies in its complaints management processes, and look forward to the successful implementation of the recommendations that have been made as a result of both my investigation and the review.

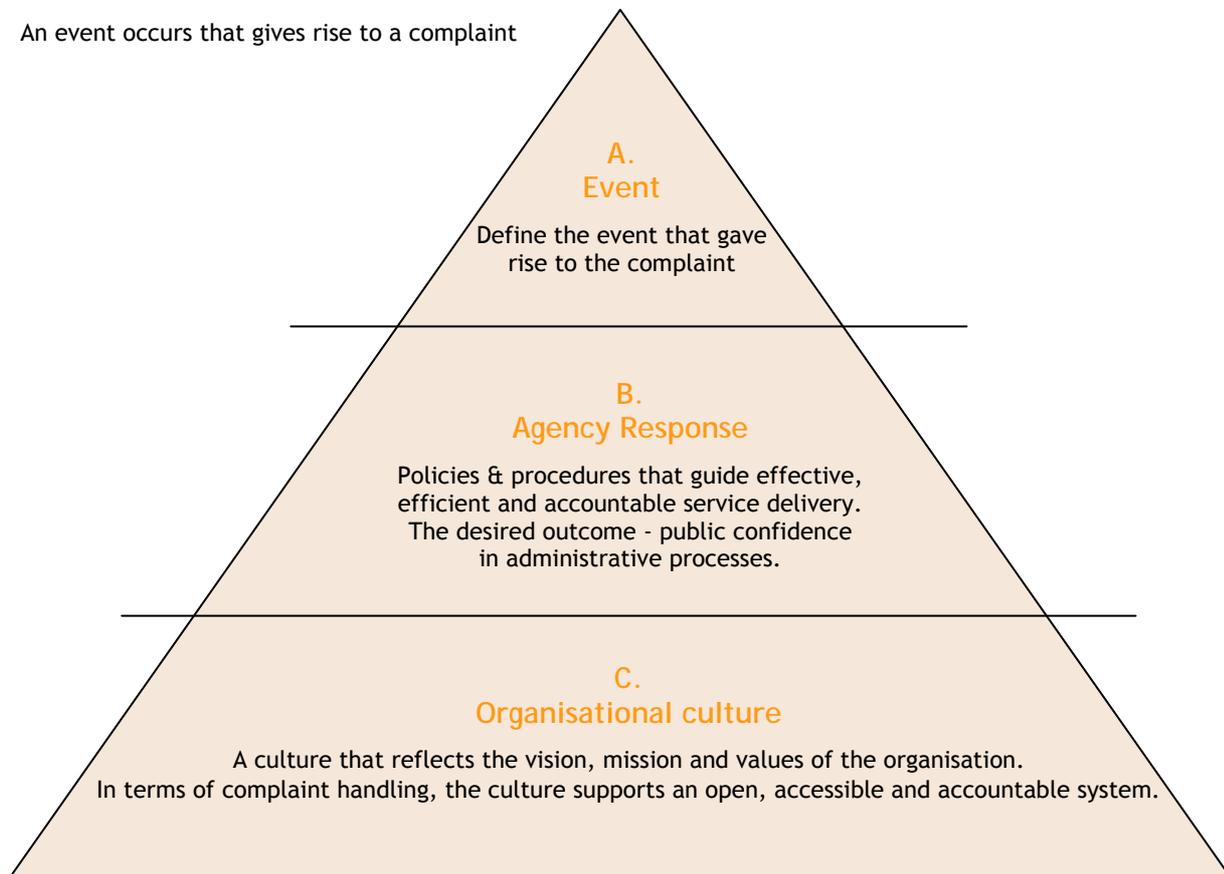
The information and assessment tools provided in this report are intended as a 'road map' to assist the Department to address shortcomings and deficiencies in its current complaints management system. To ensure that this work is successfully implemented and to provide feedback to the Department to help continuously improve its complaints handling, the Ombudsman proposes to assess progress in twelve months time.

In accordance with section 27 of the *Parliamentary Commissioner Act 1971* the Ombudsman will report on the Department's progress to Parliament.

Section 1

The Ombudsman's model for assessing complaints management and good administrative practice

An event occurs that gives rise to a complaint



The Ombudsman's perspective on complaints management

The 'ideal' model to guide the development of effective complaints management, in the Ombudsman's view, must be constructed having regard to the needs of the individual organisation. The development or changes to a complaints management system should complement the organisation's vision, mission and values.

In our experience, an effective system must be anchored in the culture and values of the organisation. Policies, procedures and systems that are consistent with and reinforce these values are the next layer. Together, these two layers will determine an organisation's response to complaints.

A good complaints management system can and should provide three key benefits to organisations:

1. It provides information which can lead to improvements in service delivery.
2. Where complaints are handled properly, a good system can improve the reputation of an organisation.
3. It strengthens public confidence in an organisation's administrative processes.

Best practice complaints management is demonstrated by a complaint handling system which:

- provides the complainant with a simple, visible and open process;
- enhances the ability of the organisation to address complaints in a consistent, systematic, prompt and fair manner, to the satisfaction of both parties;
- enhances the ability of the organisation to identify trends and eliminate many of the root causes of complaints, often with significant savings of time, money or effort; and
- provides a basis for the ongoing review of how the organisation deals with and resolves complaints, so that improvement through analysing the volume and nature of complaints and their outcomes becomes ingrained in the organisation.

In short, a good complaints handling system is efficient and effective; accountable; accessible; and fair.

Based on these principles, the Ombudsman has developed a model for assessing complaints management and good public administration. The model has three components.

A. What is the nature of the event/complaint?

In the case study, the nature of the event/complaint was staff conduct. Our investigation found the Department's complaints handling system did not adequately define the nature of the complaint.

B. What is the response of the organisation?

In reviewing the organisation's response to complaints, we look at relevant policies and procedures. We want to ensure complaints management provides a timely response that is satisfactory to all parties. That is, complaints management is:

- efficient;
- effective; and
- accountable.

Our investigation found the Department's policies and procedures did not help staff respond in a timely manner to achieve an efficient and effective resolution for all parties. A proper escalation mechanism was not in place and comprehensive information was not provided to all stakeholders (complainants, departmental staff, external agencies) during the process.

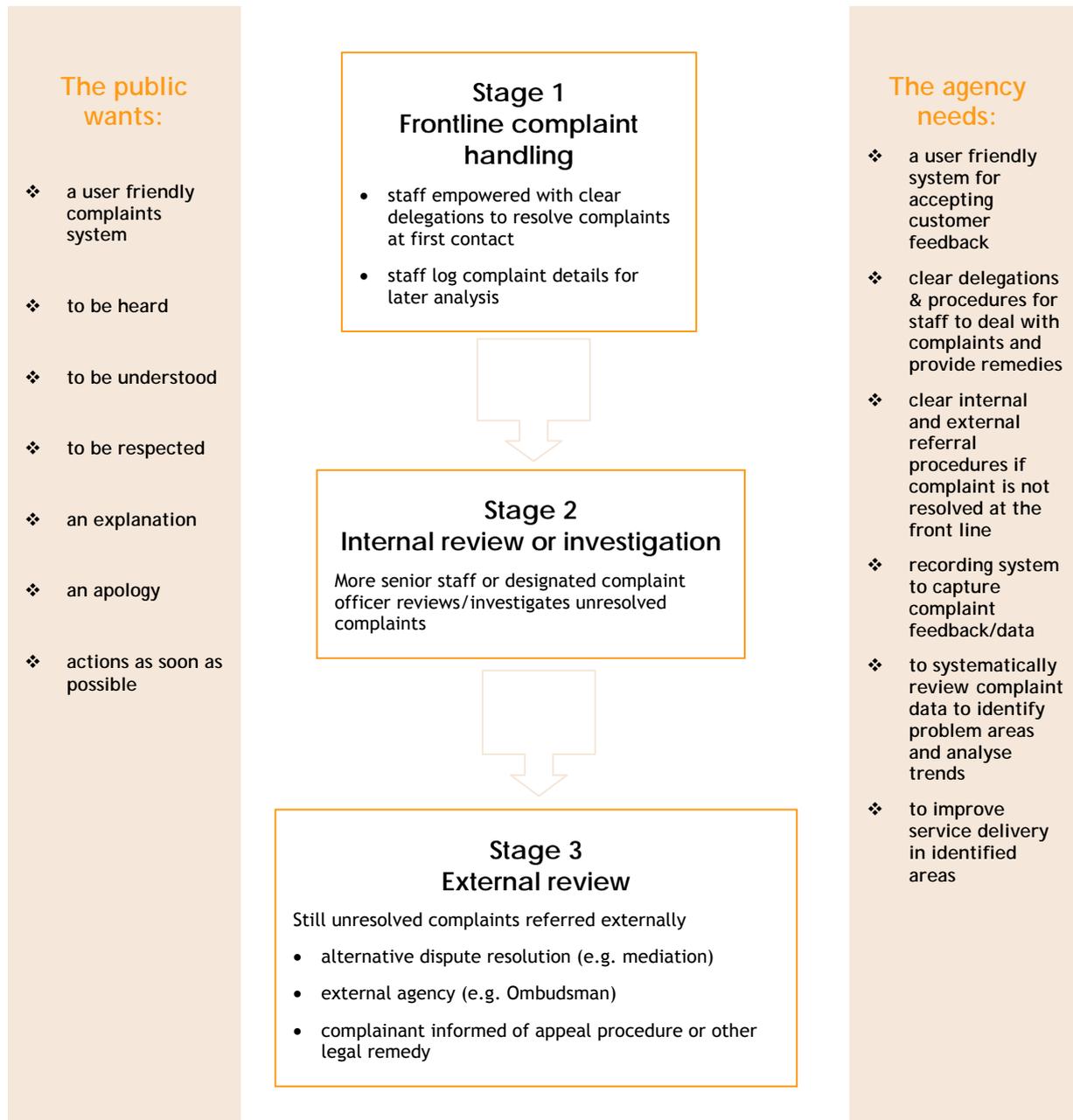
C. Does the organisation's culture support an appropriate response to the event/complaint?

In ensuring that appropriate policies and procedures are integral to the organisation, we observe cultural indicators: for complaints management this is manifest in a system that is fair and accessible. In order to ensure that a complaint will not recur, a culture is required that respects people's right to complain about any aspect of the organisation's operations, and where people, both staff and members of the public, can be guaranteed a fair and accessible complaints handling system.

Our investigation found that appropriate policies and procedures were not adequately integrated into the organisation. As a result, complaints management did not achieve the desired outcomes. Because the organisational culture did not have a well integrated approach to complaints management at the time of our investigation, we noted a risk that similar complaints could recur.

Best practice complaints management

An effective complaints handling system has the following essential features.¹



¹ NSW Ombudsman *Complaint Handler's Toolkit* page 3, 2004

Section 2

The need to improve complaints management processes in the Department of Education and Training

The need to improve complaints management in the Department of Education and Training has been identified through two separate processes: the Ombudsman's 'own motion' investigation initiated in 2004; and an independent review of the Department's Complaints Management Unit, concluded in 2006.

The Ombudsman's 'own motion' investigation

The focus of the Ombudsman's investigation and findings was on the need for improved complaint handling and appropriate risk management, with recommendations about policies and procedures that would:

- clearly delineate standards for assessing complaints;
- provide delegations and appropriate pathways for staff that define their responsibility for dealing with complaints and their ability to remedy problems;
- allow a fair and detailed consideration of complaints and provide for internal review if the complainant remains dissatisfied;
- provide sound communication, support and response to the issues raised by all parties; and
- ensure complaints management is undertaken in a respectful and timely manner.

The Complaints Management Unit Review

The Department's review identified that the two key objectives of the CMU (namely, the coordination of complaints management across the system to ensure complaints are managed at the appropriate site in a timely and consistent manner, and the establishment of a system for the recording, monitoring and analysis of complaints data for system improvement) were not effectively delivered, given resourcing constraints and a lack of internal support for the role and scope of the CMU.

The Ombudsman endorses the recommendations of the review, which are consistent with the findings of our own motion investigation. We believe that the successful implementation of these recommendations should make a significant improvement in the complaint handling processes of the Department.

Parents complained that the Department unreasonably refused to investigate their concerns about teacher conduct, school practices and their child's school program.

A number of teachers contacted the Ombudsman because they were dissatisfied with the Department's investigation into their complaints about the conduct of a school principal. They felt the process was procedurally unfair and they should be told the outcome.

A group of parents withdrew their children from school because they were concerned about a number of issues, including the appointment of a teacher at the school; an alleged lack of consumer focus and responsiveness to complaints; and an inappropriate formal complaint framework with an unreasonably high standard of proof. They believed that the Department did not honour commitments it made to parents; that it did not adequately meet its duty of care responsibilities; and that it failed to provide a considered and impartial response.

Common themes of the Department's Review and the Ombudsman's Investigation

The findings of the Ombudsman's investigation and the Complaints Management Unit review highlight common themes that are evident in the types of complaints received by the Ombudsman's office. An improvement in the Department's performance in respect of these areas is critical in order to improve public confidence in the Department's complaints management processes. The five core areas are:

1. A centralised complaints management system to provide a rigorous, consistent approach and efficiency and effectiveness in the handling of complaints. This will facilitate transparency and clear decision-making in complaints management processes.
2. Improved complaints assessment to determine the nature of the complaint, how it should be dealt with, who should be involved and whether investigation is needed. This will facilitate greater clarity in responding to matters relating to professional standards, grievances, employee relations and the provision of goods and services.
3. A risk management framework and a culture open to receiving complaints supported by:
 - an educative and advisory role;
 - clear guidelines with an explicit mechanism for dealing with issues according to the various degrees of seriousness and for determining the necessary and appropriate level of response;
 - training and support at the local level; and
 - an effective communications strategy to ensure complainants and all other stakeholders (including external agencies) are kept informed about the progress of a complaint.
4. Coordination and collation of systemic data and clear guidelines on record keeping. This will benefit the Department by:
 - providing information which can lead to improvements in service delivery;
 - providing a basis for ongoing review; and
 - enhancing the ability of the organisation to identify and respond to trends.
5. An independent and escalated review process for investigating serious complaints, together with redress options.

A parent complained that the Department did not properly investigate her concerns that her daughter and another child who reported they had been inappropriately touched by a teacher were not interviewed. The parent also believed she was given misleading information, and that the allegations about teacher conduct were not properly investigated.

Another parent complained that no formal investigation was conducted by the Department into a teacher's alleged inappropriate touching and holding of her daughter. The Department did not inform her of the allegations, or of any action that was taken. She was concerned that the teacher was a risk and, along with other parents, withdrew her children from the school. The parent was unhappy that the Department's local investigation was not thorough, did not involve relevant professionals and that her child was not interviewed.

Other teachers complained that the Department's investigations of their complaints about staff conduct were poorly conducted, and not impartial. They believed they were unreasonably denied information about the outcome of the investigations. The Department said it would not provide information for reasons of confidentiality.

The Ombudsman's recommendations

1. 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.
2. 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.
3. Develop a Memorandum of Understanding establishing a basis for the formal exchanging of advice and information between the Department and the Western Australia Police Service, Police Child Abuse Investigation Unit, which should ensure that appropriate recording and documenting procedures are introduced in respect of information sought and provided.
4. 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.
5. 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 the 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.

Section 3

An example to guide the Department in strengthening its complaints management processes

The New South Wales Department of Education and Training is an example of best practice complaints handling system. In 2001 this department rationalised and brought together in a single document the procedures for managing different types of complaints and grievances: *Responding to Suggestions, Complaints and Allegations*. The document clearly outlines the exclusions and links to related policy, procedure and pathways for dealing with:

- protected disclosures;
- protection and support of children and young people;
- anti-discrimination; and
- alleged serious breach of legislation, policy, procedure or contract.

There are three possible procedures, with performance standards including timeframes for response and quality of response:

1. Remedy and systems improvement procedure is used for a suggestion or complaint that is about policies and procedures, or a departmental policy position.
2. Negotiation procedure is used for a complaint about a person that is not about an alleged serious breach of legislation, policy, procedure or contract.
3. Investigation procedure is used for a complaint or allegation about a serious breach of legislation, policy, procedure or contract.

This framework enables staff to assess suggestions, complaints and allegations to determine which procedure applies and who the delegate is that can initiate the procedure.

The framework includes information on:

- advice about anonymous suggestions, complaints and allegations;
- confidentiality and privacy - rights and obligations;
- procedural fairness;
- protection against victimization;
- false and malicious complaints and allegations;
- appeal processes; disciplinary action;
- possible outcomes for each procedure;
- record keeping;
- statistics; and
- external reporting.

Delegations and pathways for responding to complaints

The following chart is an example of the delegations and pathways for receiving and responding to complaints. An explicit mechanism for dealing with issues according to the various degrees of seriousness and for determining the necessary and appropriate level of response is critical to good complaints management. The chart provides:

- clear responsibilities for dealing with complaints;
- complaint handling procedures with more than one level of review; and
- staff ability to remedy problems.

Category	Who can receive it internally	Who can receive it externally	Mechanisms
Protected disclosures (about serious and substantial waste or misuse of resources, or serious improper conduct)	PID Officer	CCC in the case of corruption Auditor General in the case of serious and substantial waste	PID procedures
Protection and support of children	Complaints re policies or programs go to principal or manager. Complaints about staff conduct go to principal or manager who will contact DCD, WA Police if appropriate.	DCD WA Police	MOU and Protocols (see inter-agency framework)
Anti-discrimination	Principal, manager, or director	Equal Opportunity Commission	EO and grievance process
Occupational safety and health	Principal or manager, OSH officer	DOCEP (Worksafe)	Occupational safety and health policies, OSH assessment
Human resource management issues	Principal or manager, HR or Corporate Services, Grievance Officer	Ombudsman (admin) OPSSC (standards) Auditor General (financial)	OPSSC breach mechanism, Awards & Agreements, grievance process
Workplace conflicts or grievances (e.g. bullying, harassment)	Principal or manager	DOCEP (WorkSafe)	Grievance process
Other improper conduct, misconduct	Principal or manager, Corporate or HR services	External options may vary depending on the nature of the complaint	Disciplinary procedures
Process and administration	Principal or manager, Internal auditor, Relevant director for that area	Ombudsman	Internal policy, manuals & guidelines
Other serious breach of legislation, policy, procedure or contract	Complaints about policies & procedures to director responsible for that policy or procedure. Complaints about staff conduct to principal or manager	Office of Public Sector Standards Commissioner Ombudsman	Breach of Public Sector Standard mechanisms, performance management process, disciplinary procedures
All other suggestions and complaints	Complaints about policy & procedure to manager responsible for that area. Complaints about staff conduct/goods & services to principal or manager.	External options may vary depending on the nature of the complaint	Complaints management procedures

Appendix: The Department's response



Department of Education and Training
Government of Western Australia

Your ref:

Our ref: DO06/282520

Enquiries:

Ms Deirdre O'Donnell
State Ombudsman
Level 12 St Martins Tower
44 St George's Terrace
PERTH WA 6000

Dear Ms O'Donnell

Thank you for providing me with a draft copy of your report into the Department of Education and Training complaint management processes.

Can I take this opportunity to restate the Department's intention to willingly and fully address the recommendations of your report.

The Department has already commenced comprehensively reviewing the way it handles complaints, encompassing policies and procedures both structurally and operationally.

Your model for complaint handling detailed in the report fits comfortably with the new Professional Standards directorate in the Department. The creation of this new area is a keystone recommendation from the Department's internal Complaints Management Unit Review early this year, and reflects the intent of the Corruption and Crime Commission report.

Other changes being implemented include:

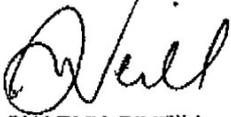
- the creation of a Parent Advocacy Unit that will be established to ensure the interests and welfare of parents and students are addressed through representation;
- the recruitment of a Child Protection Expert from the Western Australia Police Service Child Protection Squad. This will strengthen the Department's ability to deal with cases involving alleged sexual contact by staff with students and to provide education and support on what is, and is not, appropriate conduct; and
- strengthening the resources within the Department allocated to complaint handling and prevention. The reorganisation of these functions, with an increased education and prevention focus, will be through the establishment of a Professional Standards Directorate.

151 Royal Street, East Perth, Western Australia 6004

I believe that the nature of your report is constructive and provides strong guidance in our deliberations about the future.

As discussed, I welcome your office's review of the Department's complaint management systems to be undertaken in 12 months time. During this period your support will be valuable in improving our complaint management systems and therefore you are invited to present to our Corporate Executive to provide your advice on systemic complaint issues across the Public Sector. Additionally as agreed, I am keen to have meetings with your office on an ongoing basis.

Yours sincerely



SHARYN O'NEILL
A/DIRECTOR GENERAL

- 7 NOV 2006