



**THIRTY-SEVENTH PARLIAMENT**

**REPORT  
OF THE  
SELECT COMMITTEE INTO THE DEPARTMENT OF  
EDUCATION AND TRAINING**

Presented by Hon Giz Watson MLC (Chair)

December 2006

# **SELECT COMMITTEE INTO THE DEPARTMENT OF EDUCATION AND TRAINING**

## **Date first appointed:**

15 November 2006

## **Terms of Reference:**

### **Select Committee into the Department of Education and Training**

- (1) A Select Committee of three members is appointed, any two of whom constitute a quorum.
- (2) The Committee, and the proceedings of the Committee, are subject to Chapter XXII of Standing Orders and is to be regarded for all purposes as a committee appointed under that Chapter.
- (3) The Committee is to inquire into and report on -
  - (a) the circumstances surrounding the Management Initiated Retirements of Mr Paul Albert, former Director General and Mr Alby Huts, former Executive Director Human Resources, of the Department of Education and Training;
  - (b) the processes adopted by the Department of Education and Training in response to notification of inquiries by the Corruption and Crime Commission into allegations of sexual contact between departmental staff and children; and
  - (c) the processes adopted by the Minister for Education and Training and her Office in relation to the inquiries referred to in the preceding paragraphs.
- (4) The Committee is to report to the House no later than 7 December 2006.

## **Members as at the time of this inquiry:**

Hon Giz Watson MLC (Chair)

Hon Norman Moore MLC

Hon Graham Giffard MLC

## **Staff as at the time of this inquiry:**

Paul Grant, Advisory Officer (Legal)

Kelly Campbell, Executive Officer (Committees)

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## **Government Response**

This Report is subject to Standing Order 337:

*After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.*

The four-month period commences on the date of tabling.



## GLOSSARY AND ABBREVIATIONS

CCC	Corruption and Crime Commission
CCC Report	Corruption and Crime Commission of Western Australia, <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> , Perth, 16 October 2006
CMU	Complaints Management Unit of the Department of Education and Training
Committee	Select Committee into the Department of Education and Training
DET	Department of Education and Training
DPC	Department of the Premier and Cabinet
MCEETYA	Ministerial Council on Education, Employment Training and Youth Affairs
Minister	Minister for Education and Training
MIR	Management Initiated Retirement
Ombudsman	Parliamentary Commissioner for Administrative Investigations



# CONTENTS

GOVERNMENT RESPONSE

GLOSSARY AND ABBREVIATIONS

## **COMMITTEE FINDINGS AND RECOMMENDATIONS..... i**

COMMITTEE FINDINGS .....	i
Committee Finding 1 .....	i
Committee Finding 2 .....	i
Committee Finding 3 .....	ii
Committee Finding 4 .....	ii
Committee Finding 5 .....	iii
Committee Finding 7 .....	iv
Committee Finding 8 .....	vi
RECOMMENDATIONS .....	VI
1    REFERENCE AND PROCEDURE .....	1
2    INQUIRY PROCEDURE .....	1
3    GENERAL COMMENTS ON THE ORAL EVIDENCE RECEIVED BY THE COMMITTEE .....	2
4    BACKGROUND .....	2
The CCC Report.....	2
Statements in Parliament by the Minister .....	5
17 October 2006 .....	5
18 October 2006 .....	8
19 October 2006 .....	11
25 October 2006 .....	13
26 October 2006 .....	21
1 November 2006 .....	23
The Establishment of the Committee .....	24
5    CHRONOLOGY OF KEY EVENTS .....	25
6    THE DEPARTMENT OF EDUCATION AND TRAINING'S COMPLAINTS MANAGEMENT UNIT.....	29
The formation and role of the CMU .....	29
Contact between the CMU and the CCC .....	33
7    THE CORRUPTION AND CRIME COMMISSION .....	36
The role of the CCC .....	36
Inquiry into <i>Sexual Contact With Children By Persons in Authority in the             Department of Education and Training of Western Australia</i> .....	36
Statutory basis for the inquiry and CCC Report.....	36
The draft CCC Report .....	40
The publication of the CCC Report .....	41
Courtesy briefings of Ministers by the CCC .....	43
CCC Annual Report .....	46
CCC public hearings before the Joint Standing Committee on the CCC.....	46
CCC media statements generally .....	47

CCC Media statement of 1 June 2006 .....	48
Government media monitoring .....	49
Receipt of the media statement by DET .....	52
Receipt of the media statement by the Office of the Minister for Education and Training .....	52
8 THE STRAINED RELATIONSHIP BETWEEN DET AND THE CCC DURING 2006.....	66
The announcement of the preparation of the CCC Report.....	70
The CCC's 1 June 2006 media statement .....	71
Discussion on the draft CCC Report.....	73
The Minister's response to the CCC Report .....	75
After the publication of the CCC Report .....	78
Committee observations.....	85
9 THE PROVISION OF INFORMATION TO THE MINISTER FOR EDUCATION AND TRAINING .....	86
Contentious issues files .....	86
Disclosure of departmental information and documents to a Minister.....	88
The CCC's position on the disclosure of information to Ministers.....	92
10 THE MINISTER'S EVIDENCE TO THE COMMITTEE .....	96
11 MR PAUL ALBERT'S EVIDENCE AS TO GENERAL DISCUSSIONS WITH THE MINISTER AND HER STAFF ABOUT THE CCC INQUIRY AND THE CCC REPORT.....	98
12 MR PAUL ALBERT'S EVIDENCE AS TO FOUR SPECIFIC OCCASIONS ON WHICH HE VERBALLY ADVISED THE MINISTER OF THE CCC INQUIRY AND THE CCC REPORT.....	99
Parliamentary Estimates briefings (April/May 2006).....	99
Ministerial Council on Education, Employment Training and Youth Affairs (MCEETYA) (Brisbane, July 2006) .....	101
Meeting at the Office of the Minister (2 August 2006) .....	104
Ministerial briefings (3 October 2006).....	112
13 MANAGEMENT INITIATED RETIREMENT (MIR) .....	116
14 THE MIR OF MR ALBERT HUTS .....	116
15 THE MIR OF MR PAUL ALBERT .....	120
16 COMMITTEE FINDINGS .....	123
Committee Finding 1 .....	123
Committee Finding 2 .....	123
Committee Finding 3 .....	123
Committee Finding 4.....	124
Committee Finding 5 .....	124
Committee Finding 7 .....	126
Committee Finding 8 .....	127
<b>APPENDIX 1 LIST OF WITNESSES WHO APPEARED BEFORE THE COMMITTEE .....</b>	<b>129</b>
<b>APPENDIX 2 CHRONOLOGY OF KEY EVENTS .....</b>	<b>133</b>

<b>APPENDIX 3 CORRUPTION AND CRIME COMMISSION MEDIA STATEMENT ISSUED 1 JUNE 2006.....</b>	<b>159</b>
<b>APPENDIX 4 BRIEFING NOTE FOR MEETING BETWEEN THE DIRECTOR GENERAL OF THE DEPARTMENT OF EDUCATION AND TRAINING AND THE MINISTER FOR EDUCATION AND TRAINING ON 2 AUGUST 2006.....</b>	<b>163</b>
<b>APPENDIX 5 CORRESPONDENCE FROM THE CORRUPTION AND CRIME COMMISSION TO THE DIRECTOR GENERAL OF THE DEPARTMENT OF EDUCATION AND TRAINING AND THE MINISTER FOR EDUCATION AND TRAINING REGARDING THE DISCLOSURE OF MISCONDUCT REPORTS.....</b>	<b>169</b>
<b>APPENDIX 6 CORRUPTION AND CRIME COMMISSION MEDIA STATEMENT ISSUED 18 OCTOBER 2006 .....</b>	<b>179</b>



## COMMITTEE FINDINGS AND RECOMMENDATIONS FOR THE

### REPORT OF THE SELECT COMMITTEE INTO THE DEPARTMENT OF EDUCATION AND TRAINING

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#### COMMITTEE FINDINGS

- 1 The Committee makes the following findings from its consideration of the evidence, much of it conflicting, gathered over the course of the inquiry:

#### COMMITTEE FINDING 1

**The working relationship between the CCC and DET became increasingly dysfunctional between June 2005 and October 2006. Refer to Recommendation 3 in this Report.**

#### *Comment*

- 2 The Committee has formed the view that this particular issue is too complex for the Committee to examine in any detail in the short inquiry period. The Committee suggests, however, that the events that prompted the CCC to publish the CCC Report and the subsequent abolition/re-structuring of the CMU should be examined by a parliamentary committee.

#### COMMITTEE FINDING 2

**The Minister was never briefed in writing by Mr Paul Albert, the Director General of DET, in relation to the CCC inquiry into *Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia* and the CCC Report that was received in draft form by the DET on 4 July 2006.**

#### *Comment*

- 3 The Committee is strongly of the view that the Minister should have been given more information by Mr Albert about the CCC inquiry and draft report. The Director General should have provided written reports or briefings to the Minister on the matter, and the matter should also have been placed on the Minister's Contentious Issues file.

### COMMITTEE FINDING 3

**Mr Paul Albert, Director General of the DET, relied on three reasons as to why he did not brief the Minister in writing in relation to the CCC inquiry and draft CCC Report:**

- a) **the uncertainty within the DET as to the restrictions imposed on the disclosure of information by the *Corruption and Crime Commission Act 2003*, which was highlighted by the confusion within DET over the CCC's covering letter to the draft CCC Report and the CCC's guidelines on the "*Disclosure of Misconduct Reports Made to the Corruption and Crime Commission*";**
- b) **the practice of DET not to brief the Minister on the specifics of individual cases handled by the CMU, as such matters were regarded as operational matters for the Department to manage; and**
- c) **the attitude within DET that the matter was being handled, and that the CCC investigators would not finalise their report without speaking directly with the Director General.**

#### *Comment*

- 4 Although the Committee has found that the above reasons were relied upon by the Director General not to provide a detailed written briefing to the Minister, the Committee itself does not believe these reasons to be adequate. The Director General should have sought clarification from either the CCC or the State Solicitor's Office as to his ability to disclose the draft CCC Report to the Minister. The Committee also notes that any issue to do with a CCC inquiry into a public sector agency's complaints management process, particularly where allegations of sexual misconduct of staff against children are involved, should have alerted the Director General to the fact that the issue was of such importance to the Minister's portfolio that the Minister should have received a full written briefing on the CCC inquiry at the earliest opportunity.

### COMMITTEE FINDING 4

**The MIR of Mr Albert Huts, Executive Director, Human Resources, DET, was first raised by Mr Paul Albert, the Director General of DET, in the course of a discussion between the Director General and Mr Huts on 15 October 2006. Refer to paragraphs 14.1 to 14.6 in this Report.**

#### *Comment*

- 5 Following the meeting on 15 October 2006 between the Minister and the DET staff, Mr Paul Albert formed the view that it was no longer tenable for Mr Albert Huts to

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retain responsibility for the CMU. Mr Albert and Mr Huts discussed a MIR as one option available to Mr Huts and Mr Huts subsequently accepted the offer of a MIR.

## COMMITTEE FINDING 5

**The MIR of Mr Paul Albert, the Director General of DET, was first raised in a discussion between the Premier and the Director General on 16 October 2006. Refer to paragraphs 15.1 to 15.5 of this Report.**

### *Comment*

- 6 At a meeting between Mr Paul Albert and the Premier on 16 October 2006, the contents of the CCC Report were discussed. The meeting concluded that it was in the best interests of public confidence in the government school system that Mr Albert should accept a MIR. Mr Albert subsequently accepted the offer of a MIR.

## COMMITTEE FINDING 6

**Two staff members of the Office of the Minister saw the CCC's media statement of 1 June 2006, as well as various news summaries in relation to the CCC media statement. The evidence is that no staff member brought the CCC media statement of 1 June 2006 directly to the Minister's attention.**

### *Comment*

- 7 The evidence clearly shows that both Ms Michelle White, former Media Adviser to the Minister, and Mr Lance McMahon, Policy Officer, received the CCC media statement of 1 June 2006 from the Government Media Office on the afternoon of 1 June 2006. Ms White stated that she spoke about the CCC media statement to various other identified staff of the Office of the Minister, but all of these identified staff members have no recollection of speaking to Ms White either in relation to the CCC media statement or the CCC inquiry generally. The Committee notes Mr McMahon's acknowledgment that he may have been "*lax in reading the full transcript ... [and consequently, he] ... did not refer it to the minister.*"<sup>1</sup>
- 8 The Minister was therefore incorrect in her answer to Question Without Notice 892 on 18 October 2006, where Hon Ray Halligan MLC asked the Minister the following:<sup>2</sup>

*"The Corruption and Crime Commission released a media statement on 1 June 2006 stating that the commission planned to table a report in Parliament later this year on the important issue of sexual*

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<sup>1</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

<sup>2</sup> Question Without Notice 892.

*misconduct towards students. When did members of the minister's office or her department advise her of that media statement?"*<sup>3</sup>

9 The Minister replied (and to a subsequent interjection) as follows:

*"I assume that that was a media statement by the Corruption and Crime Commission that it would table a report. I must say that no officer in my office advised me that there would be a tabling of a report.*

*Hon Ray Halligan: Did they advise the minister of the media statement about the report?*

*Hon LJILJANNA RAVLICH: Clearly, no member of my staff or I was aware of that media statement."*<sup>4</sup>

## COMMITTEE FINDING 7

**The majority of the Committee (Hons Norman Moore and Giz Watson MLCs) finds that it is probable that Mr Paul Albert, the Director General of DET, verbally advised the Minister of the CCC inquiry and subsequent draft CCC Report on at least three separate occasions, being:**

- a) at the MCEETYA conference on 7 July 2006;
- b) at a meeting at the Minister's Office on 2 August 2006; and
- c) at a meeting at the Minister's Office on 3 October 2006.

**The minority of the Committee (Hon Graham Giffard MLC) finds that the available evidence does not support the majority finding that Mr Paul Albert advised the Minister that the CCC was conducting a formal inquiry into the DET's handling of the sexual misconduct allegations against staff and would be tabling a report in Parliament.**

## *Comment*

10 The majority of the Committee (Hons Norman Moore and Giz Watson MLCs) is of the view that three of the four specific conversations that Mr Albert states that he had with the Minister about the CCC inquiry and draft CCC Report have been sufficiently corroborated. The Committee notes that Mr Albert's statements to the Minister at the

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<sup>3</sup> Hon Ray Halligan MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7132.

<sup>4</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7132.

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MCEETYA meeting may not have provided enough information for her to appreciate the seriousness of the issue. The Committee finds, however, that the evidence of Mr Albert as to the questions asked by the Minister of him at both the 2 August 2006 and the 3 October 2006 meetings indicates that the Minister had an understanding of the nature of the issue.

- 11 The minority of the committee (Hon Graham Giffard MLC) notes that too much of Mr Albert's evidence was either disputed by other witnesses or inconsistent in material respects with the evidence of other witnesses. For these reasons Mr Albert's evidence cannot be relied upon or preferred to the evidence of the Minister or those witnesses whose evidence clearly indicated that the Minister had no knowledge of the CCC Report until she was briefed by CCC officers on 12 October 2006.
- 12 The minority of the Committee (Hon Graham Giffard MLC) is of the view that Mr Albert's evidence of his statements to the Minister at the MCEETYA meeting, even if it is accepted that they had been made (which is not accepted by the minority), were likely to have been too general and vague to have been clearly understood by the Minister. The corroborating evidence of Ms O'Neill cannot be relied upon. She had read the CCC Report while travelling to the MCEETYA meeting. If some general and vague comment were made by Mr Albert to the Minister then Ms O'Neill, given her detailed knowledge of the matter, would have a clear understanding of these comments whereas the Minister had no such knowledge. If Mr Albert had made clear to the Minister that the CCC was intending to table a adverse report about her department, the Minister would have demanded a full briefing on the matter from Mr Albert.
- 13 The minority of the Committee (Hon Graham Giffard MLC) notes that in relation to the Ministerial briefing on 2 August 2006, although it is accepted that a brief and informal exchange occurred between Mr Albert and the Minister in the corridor of the Ministerial Office after the meeting, that Mr Albert's evidence is either contradicted or otherwise not supported by others who attended the meeting, including the Minister, Mr Klarich, Ms Rinaldi, Mr McCaffery, Ms Hasleby and Ms Cook. The evidence of Ms White, who claimed she overheard Mr Albert speaking to an unidentified person outside her office following the meeting, does not in any way corroborate Mr Albert's assertion that he told the Minister of the CCC Report.
- 14 The minority of the committee (Hon Graham Giffard MLC) also finds that Mr Albert drew the committee's attention to a 3 October 2006 ministerial briefing, in which he asserted that he advised the Minister of the CCC Report, only after he had suffered adverse media comment following giving evidence to the Committee on the first occasion. It was after this, and during giving evidence to the Committee for the second time, that he alerted the Committee to two other witnesses who could corroborate his claims in relation to the 3 October 2006 meeting. Again the evidence of these witnesses was contradicted by another witness who attended that same

meeting and did not support Mr Albert's evidence in critical respects, including his claim that the CCC report into sexual contact had been discussed with the Minister at the meeting.

## COMMITTEE FINDING 8

**The Minister's immediate decision to implement all of the recommendations of the CCC Report at her briefing by CCC officers on 12 October 2006 committed her to a course of action before she had the benefit of obtaining all relevant information, including reading the full report and obtaining a briefing from the DET and the State Solicitor's Office.**

### *Comment*

- 15 The Minister determined to implement the recommendations of the CCC Report because her "*confidence was not with*" the DET. She made this decision without first testing those recommendations against the expert advice of the State Solicitor's Office and her departmental officers who held the view that the CCC Report contained serious flaws.

## RECOMMENDATIONS

- 16 Recommendations are grouped as they appear in the text at the page number indicated:

Page 46

**Recommendation 1: The Committee recommends that the Corruption and Crime Commission of Western Australia provide courtesy copies of its annual report to the offices of any Ministers whose portfolio may be affected by any ongoing investigation or proposed report mentioned in the annual report.**

Page 66

**Recommendation 2: The Committee recommends that the Corruption and Crime Commission of Western Australia ensure that a courtesy copy of any media statements that it issues be provided to the Office of any Minister whose portfolio may be affected by the contents of the media statement.**

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Page 86

**Recommendation 3:** The Committee recommends that the Legislative Council refer all matters relating to the respective procedures and processes of, and interaction between, the Corruption and Crime Commission of Western Australia and the Complaints Management Unit of the Department of Education and Training between June 2005 and October 2006 to the Public Administration Committee for inquiry and report, so as to establish the causes of the significant breakdown in the relationship between those two agencies and the subsequent re-structuring of the Complaints Management Unit.

Page 96

**Recommendation 4:** The Committee recommends that the Government clarify, through legal advice and/or legislative amendment, the anti-disclosure provisions of the *Corruption and Crime Commission Act 2003* so as to enable public sector chief executive officers to be able to freely discuss with their Ministers all matters relevant to the Minister's portfolio.



## REPORT OF THE SELECT COMMITTEE INTO THE DEPARTMENT OF EDUCATION AND TRAINING

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### 1 REFERENCE AND PROCEDURE

- 1.1 On 15 November 2006, on a motion by Hon Norman Moore MLC, the Legislative Council established the Select Committee into the Department of Education and Training (**Committee**) and appointed Hons Giz Watson (Chair), Graham Giffard and Norman Moore MLCs as its members.<sup>5</sup>

### 2 INQUIRY PROCEDURE

- 2.1 The Committee requested and obtained documents in relation to the inquiry from the following:
- Minister for Education and Training (**Minister**);
  - Department of Education and Training (**DET**);
  - Corruption and Crime Commission of Western Australia (**CCC**); and
  - Department of the Premier and Cabinet (**DPC**).
- 2.2 The Committee also summonsed additional documentation from Mr Paul Albert, former Director General of DET, and Mr Albert Huts, former Executive Director, Human Resources of DET.
- 2.3 Given the nature of the inquiry as a limited fact-finding endeavour, the Committee did not advertise for, nor otherwise seek, written submissions from stakeholders or the general public.
- 2.4 The Committee heard from 22 witnesses during 26 public hearings held over five days between 27 November 2006 and 5 December 2006, with minimal time for preparation. For details of the hearings, please see **Appendix 1**.
- 2.5 Details of the Committee's inquiry are available on the parliamentary website, [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).
- 2.6 The Committee thanks the individuals and organisations that provided evidence and information as part of the inquiry. The Committee also takes this opportunity to

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<sup>5</sup> Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 15 November 2005, pp8277-8287.

acknowledge the services of *Hansard* in the transcription of evidence gathered by the Committee. The Committee expresses its appreciation to the staff of the Committee.

### **3 GENERAL COMMENTS ON THE ORAL EVIDENCE RECEIVED BY THE COMMITTEE**

- 3.1 Over the course of the inquiry, the Committee received a large amount of oral evidence. Much of this evidence was conflicting, and sometimes even diametrically opposed.
- 3.2 In considering conflicting evidence, the Committee was required to make a judgment as to which version of the disputed facts appeared to be the most credible statement of fact in all of the circumstances. The fact that the committee has, in reaching its findings, preferred the evidence of one witness over another does not imply that the second witness has given evidence with an intention to deliberately mislead the Committee. The Committee accepts that different people can have different and sometimes contrasting recollections of events. However, in circumstances where there is a direct conflict, the Committee has no other option but to prefer some witnesses' evidence to that of others.
- 3.3 The Committee also notes that the education and training portfolio is an extremely demanding portfolio for not only the Minister, but also the Minister's staff and all of the public sector officers that assist her in administering the State's education and training sectors. In such a hectic environment with a heavy workload the Committee can understand that some people's recollection of events can sometimes be imprecise.
- 3.4 Nevertheless, the Committee takes this opportunity to remind readers that there are significant penalties that attach to deliberately misleading a parliamentary committee. These include a fine or imprisonment (in the event of non-payment of a fine) imposed by the House, or imprisonment for up to 7 years if found guilty of the crime of giving false evidence before Parliament as provided under s 57 of *The Criminal Code*.

### **4 BACKGROUND**

#### **The CCC Report**

- 4.1 On 16 October 2006 the CCC presented to the presiding officers of the Parliament, pursuant to s 93 of the *Corruption and Crime Commission Act 2003*, a copy of the CCC's report in the matter of *Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia (CCC Report)*.<sup>6</sup>

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<sup>6</sup> [http://www.ccc.wa.gov.au/pdfs/CCC\\_Sexual\\_Contact\\_Report\\_Complete.pdf](http://www.ccc.wa.gov.au/pdfs/CCC_Sexual_Contact_Report_Complete.pdf), (viewed on 29 November 2006).

- 4.2 The CCC Report states that the CCC chose to highlight this particular matter by way of a report for the following two reasons:<sup>7</sup>
- a) because of the very considerable public interest in ensuring that children in the care of public bodies are safe and secure; and
  - b) because it highlights the serious consequences for DET in not having in place a reasonably sophisticated and capable misconduct management mechanism.
- 4.3 The substance of the CCC Report is an analysis of DET's complaint management process in the context of five separate case studies selected from amongst the sexual contact matters referred by DET to the CCC since 1 January 2004:<sup>8</sup>
- **Case Study 1:** *"DET's decision to reprimand and transfer to a new teaching position a teacher convicted of indecently dealing with a 13-year-old girl."*
  - **Case Study 2:** *"The actions of a number of DET supervisors in allowing a teacher with a known history of sexual contact with students while on overseas excursions to attend another overseas excursion, failing to intervene when he was observed by them engaging in inappropriate conduct with a 15-year-old student, and failing to report such inappropriate conduct to the Complaints Management Unit until some 12 months later when the student filed a complaint about the teacher."*
  - **Case Study 3:** *"DET's decision to not conduct inquiries into allegations about a teacher engaging in sexual contact with students at school camps and outside school hours over a number of years."*
  - **Case Study 4:** *"DET's management of the circumstances surrounding the resignation of a teacher who was romantically involved with a 15-year-old student."*
  - **Case Study 5:** *"DET's decision to conduct an investigation into poor performance rather than allegations of inappropriate behaviour towards children, and its view that, on the evidence, a school gardener removing nude photographs from a school bin, showing them to someone else and claiming that they were of a female student did not amount to a breach of discipline."*
- 4.4 The CCC Report identified the following problems in DET's response to allegations of sexual contact between DET staff and students:<sup>9</sup>

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<sup>7</sup> Corruption and Crime Commission of Western Australia, *Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia*, Perth, 16 October 2006, p1.

<sup>8</sup> Ibid, pp5-6.

<sup>9</sup> Ibid, p6.

- “• *greater weight appears to have been given to employee welfare than to DET’s safe and secure learning environment policy;*
- *too much responsibility for dealing with sexual contact allegations being assumed by local and district managers;*
- *insufficient attention being paid to identifying and managing risks;*
- *non-adherence to policies and procedures;*
- *failure to give practical effect to the Western Australian College of Teaching Act 2004;*
- *senior managers not holding local and district managers to account for their decisions;*
- *insufficient attention to ensuring that police are notified and consulted; and*
- *poor record-keeping.”*

4.5 The CCC Report contained six recommendations to address the identified problems in DET’s management of sexual contact allegations.<sup>10</sup>

4.6 The CCC Report received widespread media coverage on 16 October 2006.<sup>11</sup> There was further media coverage on 17 October 2006 following the announcement of the management initiated retirements (**MIRs**) of DET Director General, Mr Paul Albert and DET Executive Director of Human Resources, Mr Albert Huts.<sup>12</sup> Media coverage continued over the following days, focussing on the Minister for Education and Training’s level of knowledge of the CCC investigation leading up to the publication of the CCC Report.<sup>13</sup>

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<sup>10</sup> Ibid, pp6-8.

<sup>11</sup> Radio: ABC Radio (Drive 720 ABC, 5:20pm; PM 720 ABC, 6:52pm); Drive 6PR, 5:38pm. Television: Channel 10 Evening News; Channel 9 Evening News; Channel 7 Evening News; Channel 2 Evening News.

<sup>12</sup> Radio: ABC Radio (Mornings 720 ABC, 8:34am; Breakfast 720 ABC News, 7:01am, PM 720 ABC, 6:41pm); Breakfast 6PR, 8:22am; Mornings 6PR, 9:15am and 10:05am; Drive 6PR, 5:11pm. Television: Channel 10 Evening News; Channel 9 Evening News; Channel 7 Evening News; Channel 2 Evening News.

<sup>13</sup> Radio: Drive 6PR, 4:40pm and 5:12pm (18 October 2006).

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**Statements in Parliament by the Minister**

- 4.7 The Minister made a number of statements in the Legislative Council regarding the subject matter of this inquiry.

*17 October 2006*

- 4.8 On 17 October 2006 the Minister made the following statement to the Legislative Council in relation to the CCC Report:

*“Premier Alan Carpenter has announced that the Director General of the Department of Education and Training, Mr Paul Albert, will leave the public service. It is regrettable that, in discussion with the Premier, it was agreed that it would be in the best interests of all parties for Mr Albert to leave the public sector under a management-initiated retirement. Mr Albert has provided excellent service to the government over many years. Although the Corruption and Crime Commission did not make any specific adverse findings against Mr Albert, it was agreed that public confidence in the education system is paramount. Ms Sharyn O’Neill, the current deputy director general, will act in the role of director general. The director general’s position will then be filled substantively in line with public sector requirements.*

*This government has zero tolerance for any sexual contact between staff and students. Parents must be secure in the knowledge that their children are safely supervised when they go to school. Anything less than a zero-tolerance approach to sexual misconduct by teachers is totally unacceptable in Western Australian schools. The department’s complaints management unit, established in 2002, will be significantly strengthened with extra staff and resources. I am also initiating a review of all the department’s structures, including district education offices. I will also be instructing the department to review all pending cases of a similar nature, in the light of the six recommendations of the CCC’s report. The department will also seek the assistance of the Western Australia Police child protection unit in changing the department’s structures, processes and policies that deal with sexual misconduct complaints. While the CCC acknowledges that the risk of sexual contact in a system involving 28 000 employees, more than 250 000 students and 750 schools has always existed and always will, the aim of this government must be to reduce the risk to an absolute minimum.*

*The five cases reported by the CCC clearly show that the department has not been meeting the community's expectations for risk management. Although there have been some improvements, the CCC has found that much more needs to be done, and I agree. The department will not only accept all the CCC's recommendations but, wherever possible, will go further to safeguard children in its care. I was particularly concerned about the details of the case in which the department allowed a teacher convicted of indecently dealing with a 12-year-old girl to return to a classroom. The decision taken by the department was wrong, and the department now accepts that. It is my strong view that anyone convicted of any sexual offence against a child or adult should never, under any circumstances, be allowed to work in any school in this state. I have told the department that this is not negotiable, and that it needs to do whatever is necessary to make sure that this never happens again.*

*Of particular concern to me as minister is the CCC's claim that the department has resisted its attempts to bring about change. This is clearly not good enough and I have made that plain to the department. From now on the department's policy will be that any teacher convicted of sexual misconduct inside or outside the school environment will not continue teaching. The department is establishing, as a priority, a professional standards portfolio, which will be responsible for ensuring that the current system of dealing with sexual misconduct allegations will further reduce the risk for students. This new branch will be established and headed by an executive director reporting directly to the director general to ensure that the department's capacity to deal with misconduct, including cases of a sexual nature, are strengthened.*

*The department will implement a number of additional measures to build on its commitment to ensure that no stone is left unturned in making Western Australia's public schools the safest in the whole country. A parent advocacy unit will be established to ensure the interests and welfare of parents and students are addressed through representation. The department will seek a secondment from the Western Australia Police child protection unit to strengthen its work in dealing with sexual contact between staff and students. The number of staff in the complaints management unit will be doubled from 7.5 to 15, to bolster the capacity of the department's centralised complaints management processes. Disciplinary action will be taken against staff failing to comply with the department's policy of reporting any suspicion or allegation of sexual contact with children. Where the department's investigations of allegations of sexual abuse cannot be*

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*progressed because of lengthy court proceedings or other delays, the department will consider, on a case-by-case basis, the suspension of the employee without pay.*"<sup>14</sup>

4.9 Also on 17 October 2006, during question time, Hon Simon O'Brien MLC asked the Minister the following:<sup>15</sup>

*"(1) When Mr Paul Albert and Mr Alby Huts were required to resign yesterday, why did the minister not resign?"*

*(2) Does the minister accept ministerial responsibility for the matters reported in the damning Corruption and Crime Commission report tabled today; if not, why not?"*<sup>16</sup>

4.10 The Minister answered as follows:

*"(1)-(2) Mr Albert and Mr Huts were not sacked; they were provided with management-initiated redundancies. In terms of my involvement, I was advised last Thursday that I would be meeting with the Corruption and Crime Commission. I thought that I was going to be given a general briefing about the workings of the Corruption and Crime Commission. When presented with that report, I was totally gobsmacked. I have to say that I was very, very angry, and very, very disappointed. I was certainly of the view that some quick action needed to be taken. Mr Paul Albert was at a conference related to his work. He was meeting with the Organisation for Economic Cooperation and Development. The first thing I did was recall him to the state. That was, as I saw it, a reflection of the gravity of the issue. This is certainly not an issue that I treat light-heartedly. There is no doubt that the findings of that report are very damning. There is no doubt that all parents in this state should rightly be able to send their children to a safe environment. Clearly we need to make sure that we reduce any element of risk for children. One of the things that really upset me was the finding of the commission that the department was resisting the commission's efforts to inquire into this matter. I was aware that the department and the commission had been working together for a very long time in trying to put the processes and structures in place at the departmental level, particularly in terms of the operation of the complaints management unit. I was certainly not*

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<sup>14</sup> Hon Ljiljana Ravlich MLA, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 17 October 2006, pp6968-6969.

<sup>15</sup> Question Without Notice 881.

<sup>16</sup> Hon Simon O'Brien MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 17 October 2006, p6987.

*aware that the commission was conducting an inquiry into the department in relation to the inappropriate handling of alleged sexual contact between staff and students. I first became aware of the report on Thursday afternoon. Since that time I have taken a very decisive course of action. I am certainly doing the best I can to restore public confidence.”<sup>17</sup>*

18 October 2006

- 4.11 On 18 October 2006, during question time, Hon Peter Collier MLC asked the Minister the following:<sup>18</sup>

*“I refer the minister to a media release by the Corruption and Crime Commission issued today which states in part -*

*The Commission released a Media Statement on 1 June 2006 stating that “the Commission plans to table a report in Parliament on this important issue (sexual misconduct towards students) later this year”.*

*A draft of the report was sent to DET on 30 June 2006.*

*The department returned its response on the 7 August 2006.*

*...*

*On the 28 September the Commission confirmed to the department its intention to table the report.*

*...*

*Executive Director, Mike Silverstone, said from the Commission’s point of view, there was no restriction on the department informing the Minister about the report.*

*I further refer to the minister’s answer to question without notice 881 on 17 October, which reads, in part -*

*In terms of my involvement, I was advised last Thursday that I would be meeting with the Corruption and Crime Commission. I thought that I was going to be given a general briefing about the workings of the Corruption and Crime*

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<sup>17</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 17 October 2006, p6987.

<sup>18</sup> Question Without Notice 888.

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*Commission. When presented with that report, I was totally gobsmacked.*

...

*I was certainly not aware that the commission was conducting an inquiry into the department in relation to the inappropriate handling of alleged sexual contact between staff and students. I first became aware of the report on Thursday afternoon.*

- (1) *Will the minister confirm that she was not aware of the fact that the Corruption and Crime Commission was investigating allegations of sexual misconduct within the Department of Education and Training until Thursday, 12 October 2006?*
- (2) *If no to (1), when did the minister become aware of the CCC investigation?*<sup>19</sup>

4.12 The Minister's response was as follows:

- “(1) I can confirm that I did not know that the CCC was carrying out an inquiry into the agency, investigating the matter of sexual misconduct by staff towards students. In fact, I noticed that the member left out one paragraph of the CCC statement, which states -*

*The Minister was briefed about the report (but did not receive a copy) late in the afternoon of Thursday 12 October, and the Premier and Leader of the Opposition received an embargoed copy on Friday 13 October.*

*I did not know that an inquiry was occurring into the department. I had been advised that ongoing work was taking place, with two agencies coming together to improve the processes of the complaints management unit.*

- (2) *I first found out about the inquiry when I met with officers from the Corruption and Crime Commission on the afternoon of Thursday, 12 October. I am concerned about this statement appearing because it seems to me the whole issue is about what I knew. Did I know about this? I have a letter to Mr*

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<sup>19</sup> Hon Peter Collier MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, pp7129-7130.

*Paul Albert, dated 30 June 2006, which refers to a draft report. The last paragraph reads -*

*The draft report contains official information. Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating your response, you and your Department are not at liberty to disclose the contents or substance of the draft report.*

*I am a bit curious about why the clarification has come from the CCC today if this letter is so clear. Today's statement did not come from Commissioner Hammond. This letter is open to interpretation.*"<sup>20</sup>

4.13 The following interjection and reply followed the Minister's response:

*"Hon Peter Collier: What about the media statement of 1 June?*

*Hon LJILJANNA RAVLICH: I do not want to get into that. The point is that I did not know that the CCC was inquiring into the department on these matters. I found out at the time I met with officers of the CCC.*"<sup>21</sup>

4.14 Also on 18 October 2006, during question time, Hon Ray Halligan MLC asked the Minister the following:<sup>22</sup>

*"The Corruption and Crime Commission released a media statement on 1 June 2006 stating that the commission planned to table a report in Parliament later this year on the important issue of sexual misconduct towards students. When did members of the minister's office or her department advise her of that media statement?"*<sup>23</sup>

4.15 The Minister replied (and to a subsequent interjection) as follows:

*"I assume that that was a media statement by the Corruption and Crime Commission that it would table a report. I must say that no officer in my office advised me that there would be a tabling of a report.*

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<sup>20</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7130.

<sup>21</sup> Ibid.

<sup>22</sup> Question Without Notice 892.

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**Hon Ray Halligan:** *Did they advise the minister of the media statement about the report?*

**Hon LJILJANNA RAVLICH:** *Clearly, no member of my staff or I was aware of that media statement.*<sup>24</sup>

- 4.16 The Minister subsequently confirmed for the Committee on 29 November 2006, by way of a handwritten notation on a copy of Question Without Notice 892, that as the question was without notice, her answer had not been a prepared response from either DET or her Office.<sup>25</sup>

*19 October 2006*

- 4.17 On 19 October 2006, during question time, Hon Norman Moore MLC asked the Minister the following:<sup>26</sup>

*“This question is without notice. Is it correct that the minister did not know that the Corruption and Crime Commission was investigating, or conducting an inquiry into, sexual contact between Department of Education and Training staff and students until last Thursday, 12 October 2006?”*

**Hon LJILJANNA RAVLICH replied:**

*It is true that I did not know.*<sup>27</sup>

- 4.18 On that same day, Hon Norman Moore MLC asked a further question of the Minister as follows:<sup>28</sup>

*“(1) Is the minister aware that the CCC “Annual Report 2005-2006”, which was tabled in this house on 27 September 2006 - that is, two weeks prior to last Thursday - in a section titled “Department of Education and Training” noted that the CCC*

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<sup>23</sup> Hon Ray Halligan MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7132.

<sup>24</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7132.

<sup>25</sup> Handwritten note of Hon Ljiljanna Ravlich MLC on copy of Question Without Notice 892, provided to the Committee after a hearing on 29 November 2006. See also Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p14.

<sup>26</sup> Question Without Notice 895.

<sup>27</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 19 October 2006, p7320.

<sup>28</sup> Question Without Notice 896.

*report into sexual contact between DET staff and students would “be tabled in Parliament shortly”?*

- (2) *If the minister was aware of the CCC annual report, why did she mislead the house regarding the time that she first became aware of the CCC report into sexual contact?*
- (3) *If the minister was not aware of the CCC annual report, how does she explain her ignorance of the report, which made direct reference to sensitive matters regarding the minister’s department, and was tabled in the minister’s presence in this house?*
- (4) *Does the minister agree that this ignorance suggests gross ministerial negligence relating to serious matters under her responsibility?”<sup>29</sup>*

4.19 The Minister responded as follows:

*“(1)-(4) First of all, I was not aware of the Corruption and Crime Commission annual report for 2005-06. ...”<sup>30</sup>*

4.20 A further question, also asked of the Minister by Hon Norman Moore MLC on 19 October 2006, was in similar terms:<sup>31</sup>

*“Would the minister have the house believe that she was not made aware of, or indeed read, the Corruption and Crime Commission’s annual report, which refers in very disparaging terms to an agency over which she has responsibility?”*

***Hon LJILJANNA RAVLICH replied:***

*I have already advised the house that I have not read the report from the Corruption and Crime Commission. I asked the member a very simple question. He has read the report. After having read the report, he did not think it was serious enough to ask a question.”<sup>32</sup>*

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<sup>29</sup> Hon Norman Moore MLC, Leader of the Opposition, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 19 October 2006, pp7320-7321.

<sup>30</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 19 October 2006, p7321.

<sup>31</sup> Question Without Notice 897.

<sup>32</sup> Hon Norman Moore MLC, Leader of the Opposition, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 19 October 2006, p7322.

- 4.21 Also on 19 October 2006 during question time, Hon Simon O'Brien MLC, asked the Minister the following:<sup>33</sup>

*"I refer to the current fiasco resulting in the forced resignation of the Director General of the Department of Education and Training and remind the minister of her own words recorded on page 1 986 of Hansard of 12 October 2000. She said -*

*Members opposite may think they can govern with a hands-off approach, but they are part of the Westminster system and can abrogate ministerial responsibility no more than can chief executive officers abrogate responsibility for what happens in their agencies.*

*If the sacked director general was not able to abrogate his responsibility, why has the minister abrogated her ministerial responsibility in this matter?"*<sup>34</sup>

- 4.22 The Minister responded as follows:

*"I did not abrogate my responsibility. I was advised of that report when it was dropped on my desk on Thursday. On Friday I took action immediately to recall Paul Albert from overseas.*

...

*I have already advised the house of when I was first informed and what action I have taken subsequent to that information being made available to me."*<sup>35</sup>

25 October 2006

- 4.23 On 25 October 2006 Hon Peter Collier MLC moved a no confidence motion against the Minister.<sup>36</sup> Hon Peter Collier MLC canvassed a range of matters in his speech in support of the motion, and in relation to the CCC Report he stated the following:

*"That report was handed down on 16 October 2006. It was much more damning of the Department of Education and Training than was*

<sup>33</sup> Question Without Notice 898.

<sup>34</sup> Hon Simon O'Brien MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 19 October 2006, p7322.

<sup>35</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 19 October 2006, p7322.

<sup>36</sup> Hon Peter Collier MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 25 October 2006, p7551.

*the report into the complaints management unit. If anyone has not read this document, he or she should take the time to read it because it raises serious concerns about the capacity of the Department of Education and Training to deal with issues of sexual misconduct.*

...

*As with the review of the complaints management unit, the minister pleaded ignorance.*

...

*How could the minister not have known that the CCC was investigating the Department of Education and Training? She was aware that its officers were in the department, but I can assure her that if the officers of the CCC were smelling around in her department, they were not there to check out the colour coordination. She should have assumed that there was an issue.*

...

*The Corruption and Crime Commission released a media statement on 1 June and the minister still did not know anything about it. She simply did not know that the Corruption and Crime Commission was investigating issues within the Department of Education and Training. During the minister's response to that question I interjected by asking, "What about the media statement of 1 June?" The minister's response was, "I do not want to get into that." Of course she did not want to get into that. It is absurd and appalling that the Minister for Education and Training was not aware that the Corruption and Crime Commission was investigating allegations of sexual misconduct in her department in June this year when that report was released. The media statement got significant media coverage over the next two days.*

*What is the problem here? This relates to accountability and individual ministerial responsibility. The minister can keep making excuses, but one of my affirmations in life is "Make no excuses". There are no excuses; she should take responsibility. It is not an excuse for the minister to plead ignorance of issues such as this by claiming a lack of knowledge about serious investigations into the complaints management unit and of sexual misconduct in her department. She has failed to meet her responsibilities and she should not be in that position. That is why I have moved this motion. Why*

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*was the Minister for Education and Training ignorant of the fact that the CCC was investigating her department?”<sup>37</sup>*

- 4.24 The no confidence motion was defeated.<sup>38</sup> In opposing the motion, the Minister stated:

*“I want to take members through the course of events involving the Corruption and Crime Commission. ...*

*I was very concerned when I read the executive summary of the report, when I had a meeting with the CCC nearly two weeks ago, because it made some very damning allegations about greater weight being given to employee welfare than to the safe and secure learning environment of children. The report also made a number of other observations, but the one that most concerned me was that the department was seen to be obstructing the efforts of the CCC. On Thursday, 12 October, during a non-sitting week, I was advised that I would be meeting with the CCC. It was not made clear to me why I would be meeting with the CCC, but I allocated time in my diary that would allow me to do that. I met with the CCC in the afternoon. That was the first time that I had any insight into this whole issue of the CCC inquiry into the department. In fact, my recollection is quite clearly that at that meeting I said to the people I met: “I am absolutely gobsmacked. This has come out of left field and it will be my intent that all those recommendations will be implemented.” Such was my concern for what I had found out. I will add that I was given only an executive summary at that point. This is a very important point: at the end of that meeting I asked whether I could keep the executive summary and I was advised that that would not be appropriate and I was required to hand it back.*

*I received the full report on the Friday morning. Mr Albert had been on an overseas trip and I called him back immediately. That was the first thing I did. He arrived back late on Saturday afternoon; within a couple of hours of having received that report I had acted to recall him. There are some issues in relation to disclosure of what happens when a CCC investigation takes place into a government agency or a part of a government agency. There are also some issues for me about when a cooperative relationship between two agencies changes to a formal inquiry. These are very interesting issues to consider. I wanted to make that comment about having to give back the executive*

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<sup>37</sup> Ibid, pp7559-7561.

<sup>38</sup> Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 25 October 2006, p7587.

*summary to the CCC at the end of that meeting because I cannot understand why, if I was allowed by the CCC to know about the inquiry into my department, as minister I was not allowed to keep a copy of the executive summary for 24 hours. That still does not make sense to me, but I will come back to the matter of communication shortly.*

*Was I aware that the CCC was conducting an investigation? I have to say, no, I was not aware that it was conducting an investigation. I had been made aware a number of weeks earlier that the CCC had been in the department for quite some time working with the department in relation to strengthening the complaints management processes. Was that in respect of complaints about sexual misconduct? No, that was not in relation to sexual misconduct; it was generally in relation to assisting the department in a cooperative way to work to improve the systems. The complaints management unit looks at all sorts of complaints: complaints from parents, complaints about tendering, complaints about allegations of nonperformance by teachers, etc. There was no reason for me to suspect that we were dealing with something relating to sexual misconduct. It has been put to me that perhaps I should have asked more questions at the time. At no point was I ever briefed by the director general of the department about the specific work of the CCC in the department. At no point was I briefed by the director general about any case of a sexual nature. At no time did my office receive correspondence about any one of these cases that are mentioned in the CCC report, or about any other case relating to matters of sexual misconduct.*

*I do not know what is in the director general's head. However, I have to ask myself whether, even if the director general had told me - let us suppose for a moment that he had - it would have altered anything. Could I have done anything? I think the answer is no. With a formal investigation going on into the department at that time, there was nothing I could have done. The fact is that these issues were not brought to my attention.*

*The point was made that of course I should have known that the CCC was at the education department conducting an investigation. That is what the CCC does; it investigates things and then it takes those people through a process and finds them guilty. That is the allegation. What do we see if we look at the CCC's mandate? What does it do? The CCC has a broader mandate than just to investigate government agencies and misconduct within those agencies. For example, the CCC accepts and can investigate allegations of misconduct by*

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*Western Australian public officers, including police officers and officers employed in local government. That is the broad mandate. The CCC also monitors the reporting and subsequent investigation of misconduct by public sector agencies. It also conducts education programs with public sector authorities in the community to increase the awareness of misconduct and how to prevent it. Clearly the issue for me is that if the CCC had been at the education department for quite some time and had been working in a spirit of cooperation, at what point did that cooperative working relationship between two agencies become a formalised inquiry? I would have thought that it would be appropriate for the CCC to advise the minister of such. Clearly my department did not advise me of such, but I would have thought that perhaps the CCC could have advised me.*

*It has been alleged by members that I should have known and I should have acted. I want to make some comments about that. One of the things the CCC commented on was the sheer size of the Department of Education and Training. We have more than a quarter of a million students, about 28 000 full-time employees and 776 schools. My working day starts at five o'clock in the morning - I do not know about anybody else - and I work through to about 10.30 pm or 11.00 pm when the Parliament is in session. I wanted to know how many pieces of correspondence I sign off on every month because the one thing I take pride in is that I like to clean out my in-tray pretty much on a daily basis. It is not an easy job, and the idea that I would be so uninterested in this that I would not bother to follow up anything or to ask any questions at all does not represent the real situation.*

...

*I turn to the question of communication - that is, who should know what and who is able to know what - when an investigation takes place. When Mr Albert returned and attended a meeting in my office on the Sunday morning, we went through the five cases in the CCC report. I asked why this had not been brought to my attention. The first response given was that the Department of Education and Training had written advice from the CCC to the effect that it could use and communicate about the draft CCC report only for the purpose of seeking legal advice and preparing the departmental response. I have subsequently obtained correspondence from the CCC to Mr Paul Albert, Director General of the Department of Education and Training, dated 30 June 2006. The last paragraph of that correspondence quite clearly states -*

*The draft report contains official information. Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating your response, you and your Department are not at liberty to disclose the contents or substance of the draft report.*

*... Members should keep in mind that when I met with the CCC, I was not even allowed to hang on to the executive summary; I had to give it back. This letter, which was received by the former director general, is very clear about how this information can be used. ... it is dated 30 June 2006.*

*After the report was made public, there were issues surrounding the reason I had not been informed. There were quite clearly different views floating around the place. I thought it was very interesting that on 18 October the Corruption and Crime Commission took the opportunity to put out a media release to clarify the situation about who could be communicated with. It seems to me that if it was unambiguous and everybody understood who could be advised about what, and under what circumstances, there would not be the need for a press statement to clarify who was allowed to know. The statement from the Corruption and Crime Commission reads -*

*The Commission released a Media Statement on 1 June 2006 stating that “the Commission plans to table a report in Parliament on this important issue . . .*

*A draft of the report was sent to DET on 30 June 2006.*

*The department returned its response on the 7 August 2006.*

*Some of those responses resulted in amendments to the draft report after examination of the points raised.*

*The department’s response was included in its entirety in the Commission’s final report.*

*On the 28 September the Commission confirmed to the department its intention to table the report.*

*The Minister was briefed about the report (but did not receive a copy) late in the afternoon of Thursday 12 October, and the Premier and Leader of the Opposition received an embargoed copy on Friday 13 October.*

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*Executive Director, Mike Silverstone, said from the Commission's point of view, there was no restriction on the department informing the minister about the report.*

*Clearly there were public servants in my agency - officers at levels 6, 7 or 8 - who had seen that report. I do not know; plenty of them would have seen it. The Premier got a copy; the Leader of the Opposition got a copy. However, I was not allowed to keep an executive summary; it had to be handed back. I have to say there is something wrong with that. I also say that I cannot understand why this report was not released by Commissioner Hammond himself. I cannot understand why the CCC report into this matter was released by a level 8 or 9 officer, or possibly an senior executive service level 1 officer. I have no idea; but it seems odd to me. I have to say that I am concerned. In a situation in which, as in this case, the Corruption and Crime Commission and the Department of Education and Training are working together to attend to the improvement of internal processes, at what point does a working relationship between two agencies become a formal inquiry? What is the trigger for that? I am very concerned about that. Hon Peter Collier spoke on the ABC with Geoff Hutchison, who read from the CCC report and said, "We all knew". He implied that if the ABC and all its listeners knew about the CCC investigation, the minister should also have known about it. Hon Peter Collier said that the minister's office carries out comprehensive media monitoring and advises her on every aspect, and so on and so on. Why did I not know? I understand that the media monitoring unit's coverage of the Corruption and Crime Commission investigation into child sex charges against a schoolteacher included radio coverage from 1 June 2006. Radio station ABC 720 ran the story on its 6.00 pm and 7.00 pm reports. No transcripts of these items were produced. Nova and Triple J also carried the story on their 6.00 pm news bulletins. No transcripts were produced of these items. There was radio coverage on 2 June 2006. The ABC ran stories at 5.30 am and 7.00 am and, again, no transcripts were produced of these items. Radio stations 94.5, 92.9 and Nova carried the story throughout the morning and no transcripts of these items were produced. I refer now to television coverage. The item on the 7.30 Report was not put on the video package for the minister.*

*The interesting thing about 1 June is that I made a commitment to this house that I would visit Wiluna and Halls Creek. I take the commitments that I make to this house very seriously, as I take my portfolio very seriously. On 1 June a couple of things happened. Firstly, at 7.15 in the morning I departed my residence for Perth*

airport to travel to Wiluna to deal with the issues in that town. I do not know whether radio access is available at Wiluna, because I do not usually travel with a radio.

... My priority was to give 100 per cent attention to the people at Wiluna, and that is exactly what I did. For those members who say I was all over the place, it is clear that I was not all over the place. I was in Wiluna and my media person at the time, Michelle White, was also at Wiluna with me. On 2 June The West Australian carried a three-paragraph story on page 9 about a 40-year-old former teacher being charged with sex offences. No mention was made of any investigation being carried out by the CCC. The article reads -

*A 40-year-old former teacher will appear in court next Wednesday after the Australian Federal Police charged him yesterday with two counts of indecently dealing with two girls while overseas.*

*The AFP will allege the man committed an indecent act on a 13-year-old girl while on an overseas trip in 1995.*

*It will also be alleged that he committed an indecent act on a 15-year-old girl on a flight between London and Kuala Lumpur in July 2003.*

That was on page 9 of The West Australian and I have the article in my hand. This is how big the story was. I must have missed that article. On 1 June there was also reference to this teacher, who had been charged, in a media statement put out by the CCC. It is alleged that I should have been checking the Corruption and Crime Commission's web site on a daily basis. If I had known that an inquiry into my department was the subject of a CCC report, I would have been checking the CCC web site. I advise Hon Norman Moore that, at the same time, I would have been checking the CCC's annual report. If he saw this reference in the annual report and he really cared, why did he not ask me a question?

**Hon Norman Moore:** Parliament was not sitting.

**Hon LJILJANNA RAVLICH:** A phone call - anything. This is exactly the point: if I had known that there was an inquiry into my department by the CCC, of course I would have checked the web site.

**Hon Norman Moore:** Do you think it is my job to draw your attention to these things?

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**Hon LJILJANNA RAVLICH:** *I told the member where I was on 1 June. I did not take my computer with me to Wiluna, because my press officer and I were giving our full attention to the people of Wiluna.*

*On 2 June, I left my home at 6.30 in the morning to travel to the Swan Valley to give a presentation at the Swan Chamber of Commerce and the City of Swan breakfast. That was followed by a meeting with my sector heads, the opening of a new library at Mt Hawthorn Primary School and then a meeting with my director general. ... .”<sup>39</sup>*

26 October 2006

4.25 On 26 October 2006 during question time, Hon Simon O’Brien MLC asked the Minister the following:<sup>40</sup>

*“I refer to the comments made by the minister yesterday when she stated -*

*At no point was I ever briefed by the director general of the department about the specific work of the CCC in the department. At no point was I briefed by the director general about any case of a sexual nature.*

*I also refer to comments made by the former Director General of the Department of Education and Training, Paul Albert, during a media conference on 16 October when he said -*

*I personally told her -*

*That is, the minister -*

*that the commission was investigating a number of cases concerning inappropriate sexual behaviour between teachers and students.*

*Did the then director general advise the minister prior to 12 October that the CCC was conducting an investigation: yes or no?”<sup>41</sup>*

4.26 In response to this question, the Minister replied:

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<sup>39</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 25 October 2006, pp7562-7567.

<sup>40</sup> Question Without Notice 958.

<sup>41</sup> Hon Simon O’Brien MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 26 October 2006, p7740.

*"To the best of my recollection, no."*<sup>42</sup>

4.27 Hon Simon O'Brien MLC subsequently asked a further question of the Minister:<sup>43</sup>

*"(1) On Sunday, 15 October, when the minister met with the then Director General of the Department of Education and Training, did the director general remind the minister that he had previously told her of the Corruption and Crime Commission investigation into her department?"*

*(2) If not, did the minister ask why the then director general did not tell her; and, if so, what did he say?"*<sup>44</sup>

4.28 The Minister replied to this question as follows:

*"(1) No.*

*(2) Not applicable. I thought I went over this matter in fine detail yesterday.*

**Hon Norman Moore:** *Mr Albert is saying something different.*

**Hon LJILJANNA RAVLICH:** *I have put my position on record and I have advised that the first I understood that the CCC was conducting an inquiry into the Department of Education and Training on matters of sexual misconduct was when I was briefed by the CCC. I have also said that probably four or five weeks earlier the Director General of the Department of Education and Training had, in passing, on the way out of the meeting, made a comment about the agencies working together on complaints handling. No mention was ever made to me of an inquiry into the Department of Education and Training by the Corruption and Crime Commission. I have said that repeatedly because that is the truth. There can be no fear in telling the truth."*<sup>45</sup>

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<sup>42</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Legislative Council, *Parliamentary Debates (Hansard)*, 26 October 2006, p7740.

<sup>43</sup> Question Without Notice 969.

<sup>44</sup> Hon Simon O'Brien MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 26 October 2006, p7744.

<sup>45</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 26 October 2006, p7744.

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1 November 2006

4.29 On 1 November 2006 during question time, Hon Norman Moore MLC asked the Minister the following:<sup>46</sup>

- “(1) *Did the minister discuss with the Premier the future employment of Mr Paul Albert and Mr Alby Huts prior to their decisions to accept management-initiated retirements?*
- (2) *If so, did the minister support the ultimate determination that both men should leave; and, if so, why did she support it?*
- (3) *If no to (1), why was the minister not involved in any of the discussions, considering that she is the minister responsible for their agency?’*<sup>47</sup>

4.30 The Minister responded to the question as follows:

*“I thank the member for some notice of this question.*

- (1) *I did not discuss the employment of Mr Alby Huts with the Premier. Mr Huts was employed by the Director General of the Department of Education and Training. Under the Public Sector Management Act 1994, I have no authority to intercede in any decisions relating to employment matters. I did discuss the situation with the Premier in light of the release of the Corruption and Crime Commission report, and we both agreed that public confidence in the education system was paramount.*
- (2)-(3) *The employing authority for Mr Albert is the Premier. It was with regret that during their discussion, they came to an agreement that it was in the best interests of all parties for Mr Albert to leave the public service under a management-initiated retirement.’*<sup>48</sup>

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<sup>46</sup> Question Without Notice 1004.

<sup>47</sup> Hon Norman Moore MLC, Leader of the Opposition, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 1 November 2006, p7980.

<sup>48</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 1 November 2006, p7980.

## **The Establishment of the Committee**

- 4.31 The Committee was established by the Legislative Council on 15 November 2006 on the motion of Hon Norman Moore MLC, Leader of the Opposition. In moving the Motion, Hon Norman Moore MLC stated:

*“I asked the Premier and the Minister for Education and Training why Mr Albert was sacked and I have not been given an answer. I ask rhetorically: was he incompetent, was he a crook, did he deliberately mislead the minister, or has he simply been sent off with a heap of money in his pocket and a confidentiality clause in his dismissal notice? That is a good question; it deserves some answers. The only way we will know the answers to these questions is if a select committee asks Mr Albert what happened in his agency from the time this matter arose - that is, when the Corruption and Crime Commission took a serious interest in what was going on in his agency and decided to investigate the way in which the agency dealt with these matters - until his dismissal. We are entitled to know what happened; that is, what he did, what the minister did, what the agency did and what the CCC did. If it transpires - it might - that Mr Albert’s version of events is the same as the minister’s, all the doubts that people, including me, have in their minds about the minister’s statements to the house will be allayed.”<sup>49</sup>*

- 4.32 In supporting the motion on behalf of The Greens (WA), Hon Giz Watson MLC stated:

*“The Greens (WA) have given this motion for the establishment of a select committee serious consideration. We have decided that as this is an issue of such significant seriousness and public interest a select committee would be able to establish the answers to some of the questions that have been referred to by the Leader of the Opposition. We agree, as is generally agreed, that questions have arisen about who said what and why certain people took management-initiated retirements. There are also allegations concerning sexual contact between students and staff of the Department of Education and Training. This is a very serious matter. We have heard a number of questions put to the minister in this place. We have also heard a number of answers given. The Greens are not prejudging any of these matters in respect of who is to be believed or why certain actions were taken. However, we acknowledge that not all the information is*

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<sup>49</sup> Hon Norman Moore MLC, Leader of the Opposition, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 15 November 2006, p8280.

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*in the public arena. As it stands at the moment there are limited ways of obtaining that information. A select committee of inquiry is an obvious way in which that information can be brought to light.”<sup>50</sup>*

4.33 In also supporting the establishment of the Committee, the Minister stated that:

*“I will support the motion .... It is a very serious matter, and it is certainly one that needs to be resolved.*

*... My involvement in the matters that the committee is to inquire into and report on has been fully disclosed to this house and in the other place over the past month or so.”<sup>51</sup>*

## 5 CHRONOLOGY OF KEY EVENTS

5.1 Establishing the timing of key events over the past two years is crucial for an understanding of the matters that are the subject of this inquiry. The Committee has therefore prepared a detailed chronology of key events, which is attached to this report at **Appendix 2**.

5.2 Some of the more crucial, undisputed, dates and events identified by the Committee are:

- 29 June 2005 - the CCC advises DET that it supports a DET proposal to create a centralised complaints management system for the TAFEs, similar to that developed for schools: *“which appears to be comprehensive and effective”*.<sup>52</sup>
- 7 July 2005 - the CCC advises DET that the CCC will be undertaking a number of specific investigations in order to examine a series of general themes of possible misconduct within DET.<sup>53</sup>
- 18 January 2006 - the CCC advises DET that it will be compiling a report to Parliament in relation to DET’s management of allegations against DET staff of sexual contact with children.<sup>54</sup>

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<sup>50</sup> Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 15 November 2006, p8283.

<sup>51</sup> Hon Ljiljana Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 15 November 2006, p8285.

<sup>52</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 29 June 2005, p1. Document provided by the Department of Education and Training (Document No. 37).

<sup>53</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 7 July 2005, p1. Document provided by the Department of Education and Training (Document No. 9).

- 15 February 2006 - the CCC advises DET that DET will be given an opportunity to comment on the draft CCC Report.<sup>55</sup>
- 5 May 2006 - the CCC provides DET with guidelines on the “*Disclosure of Misconduct Reports Made to the Corruption and Crime Commission*”.<sup>56</sup>
- 22 May 2006 - the CCC provides the Minister with guidelines on the “*Disclosure of Misconduct Reports Made to the Corruption and Crime Commission*”.<sup>57</sup>
- 23 May 2006 - Hon Norm Marlborough MLA, the Minister Assisting the Minister for Education and Training, is briefed by the Director General and other officers of DET as part of the annual parliamentary estimates hearings in the Legislative Assembly.<sup>58</sup>
- 1 June 2006 - the CCC issues a media statement announcing that a former teacher had been charged with a sexual offence against a child, and that the CCC will be presenting a report to Parliament later in 2006 on DET’s management of allegations against DET staff of sexual contact with children.
- 13 June 2006 - the Minister is briefed by the Director General and other officers of DET as part of the annual parliamentary estimates hearings in the Legislative Council.<sup>59</sup>
- 30 June 2006 - the CCC provides DET with a draft copy of the CCC Report for comment. The cover letter states that: “*The draft report contains official information. Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating your response, you and*

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<sup>54</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 18 January 2006, p1. Document provided by the Department of Education and Training (Document No. 2).

<sup>55</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 15 February 2006, p1. Document provided by the Department of Education and Training (Document No. 7).

<sup>56</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 5 May 2006. Document provided by the Department of Education and Training (Document No. 14). See **Appendix 5** of this report.

<sup>57</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Hon Ljiljanna Ravlich MLC, Minister for Education and Training, 22 May 2006. Document provided by the Office of the Minister for Education and Training. See **Appendix 5** of this report.

<sup>58</sup> Letter from Mr John Carruthers, Chief of Staff, Office of the Minister for Education and Training, 5 December 2006. Attached document.

<sup>59</sup> Ibid.

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*your Department are not at liberty to disclose the contents or substance of the draft report.*”<sup>60</sup>

- 7 July 2006 - the Minister, Mr Paul Albert, Director General of DET, and various other departmental and ministerial staff attend the meeting of the Ministerial Council on Education, Employment Training and Youth Affairs (MCEETYA) held in Brisbane.
- 25 July 2006 - the CCC agrees to a request from DET to extend the time in which DET may respond to the draft CCC Report from 31 July 2006 to 7 August 2006.<sup>61</sup>
- 2 August 2006 - the Minister, Mr Paul Albert, Director General of DET, and various departmental and ministerial staff attend at a regular meeting at the Minister’s Office. A briefing note is prepared for the meeting by officers of DET’s Complaints Management Unit (CMU) and Mr Albert Huts, Executive Director, Human resources, DET, but the subject of that briefing note (the CCC Report) does not appear on the formal agenda or action sheet for that meeting.<sup>62</sup>
- 7 August 2006 - DET provides the CCC with a response to the draft CCC Report.<sup>63</sup>
- 30 August 2006 - officers of the CCC appear before a public hearing of the Joint Standing Committee on the Corruption and Crime Commission and advise that the CCC is: *“involved in addressing its concerns associated with a complex mix of matters with regard to the Department of Education and Training. These include the preparation of a report on sexual contact with children by persons in authority in the department ...”*.<sup>64</sup>

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<sup>60</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 30 June 2006, p1. Document provided by the Department of Education and Training (Document No. 19).

<sup>61</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Ms Sharyn O’Neill, Acting Director General, Department of Education and Training, 25 July 2006, p1. Document provided by the Department of Education and Training (Document No. 22).

<sup>62</sup> Department of Education and Training, *Briefing Notes for the Director General’s Meeting with the Minister on Wednesday, 2 August 2006*, 26 July 2006. Document provided by the Department of Education and Training (Document No. 25).

<sup>63</sup> Letter from Mr Paul Albert, Director General, Department of Education and Training, to Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, 7 August 2006. Document provided by the Corruption and Crime Commission of Western Australia.

<sup>64</sup> Western Australia, Legislative Assembly, Joint Standing Committee on the Corruption and Crime Commission, Report 14, *Public Hearing with the Corruption and Crime Commission on 30 August 2006*, 18 October 2006, Appendix 2, p11.

- 15 September 2006 - the CCC writes to DET advising that the CCC anticipates that it will table the CCC Report within the next two weeks.<sup>65</sup>
- 27 September 2006 - the CCC presents its Annual Report 2005-2006 to the Parliament, which states that: *"A report addressing sexual contact between DET staff and students is expected to be tabled in Parliament shortly. The report makes a number of recommendations for change within DET."*<sup>66</sup>
- 28 September 2006 - officers of DET and the CCC attend a meeting, at which DET is advised that the CCC has considered DET's response to the draft CCC Report but that the CCC will be proceeding to finalise the CCC Report.<sup>67</sup>
- 3 October 2006 - a regular departmental meeting is held at which the Minister, Mr Paul Albert, Director General of DET, and various other departmental and ministerial staff are in attendance.
- 12 October 2006 - CCC officers brief the Minister on the CCC Report.<sup>68</sup>
- 15 October 2006 - a draft media statement and draft questions and answers are prepared for the Minister by DET, which includes the following question (number five of 19) and answer:

***"Minister, why didn't you know what was going on with this inquiry?"***

*5) By directive of the Corruption and Crime Commissioner dated May 22, 2006 the Director General was unable to disclose any information or documentation related to matters being investigated by the CCC. The only information the Director General was able to provide to the*

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<sup>65</sup> Letter from Commissioner John Hammond, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 15 September 2006. Document provided by the Department for Education and Training (Document No. 35).

<sup>66</sup> Corruption and Crime Commission of Western Australia, *Corruption and Crime Commission Annual Report 2005-2006*, Perth, 27 September 2006, p31.

<sup>67</sup> Email from Ms Beverley Dornan, Complaints Management Unit, Department of Education and Training, to Ms Karen Everett, Office of the Director General, Department of Education and Training, 31 October 2006, pp1-2. Document provided by the Department of Education and Training.

<sup>68</sup> Corruption and Crime Commission of Western Australia, *Background Notes: Ministerial Briefing 12.10.06 Re: DET Sexual Contact Report* (and accompanying handwritten notes of Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, 12 October 2006). Documents provided by the Corruption and Crime Commission of Western Australia.

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*Minister was that the CCC was investigating certain matters related to inappropriate sexual contact of staff with children.”<sup>69</sup>*

- 16 October 2006 - the CCC Report is published.<sup>70</sup> Mr Paul Albert, Director General of DET,<sup>71</sup> and Mr Albert Huts, Executive Director, Human Resources of DET, are both offered, and accept, management initiated retirements.
- Mr Paul Albert, Director General of DET, and Mr Albert Huts, Executive Director, Human Resources of DET, resign as part of management initiated retirements.<sup>72</sup>
- 18 October 2006 - CCC releases a media statement stating that: *“from the Commission’s point of view, there was no restriction on the department informing the Minister about the report.”<sup>73</sup>*

## **6 THE DEPARTMENT OF EDUCATION AND TRAINING’S COMPLAINTS MANAGEMENT UNIT**

### **The formation and role of the CMU**

- 6.1 In October 2001 the Auditor General presented to Parliament a Performance Examination Report titled *“Righting the Wrongs: Complaints Management in the Western Australian Public Sector”*.<sup>74</sup> In that report the Auditor General found that:

*“The Department of Education, the licensing section of the Department of Transport, the Library and Information Services of WA, and the former Department of Productivity and Labour Relations*

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<sup>69</sup> Email from Mr Andy O’Brien, Department of Education and Training, to staff of the Office of the Minister for Education and Training, 15 October 2006, p2. Document provided by the Office of the Minister for Education and Training.

<sup>70</sup> Corruption and Crime Commission of Western Australia, *Report on the handling of alleged sexual contact between staff and students in the Department of Education and Training*, Media Statement, 16 October 2006.

<sup>71</sup> Hon Alan Carpenter MLA, Premier, *Education Department chief to leave public service*, Media Statement, 16 October 2006.

<sup>72</sup> Memorandum from Mr Mal Wauchope, Director General, Department of the Premier and Cabinet, to Hon Alan Carpenter MLA, Premier, 17 October 2006. Letter from Mr Paul Albert, Director General, Department of Education and Training, to Mr Albert Huts, Executive Director, Human Resources, Department of Education and Training, 17 October 2006. Documents provided by the Department of the Premier and Cabinet.

<sup>73</sup> Corruption and Crime Commission of Western Australia, *Statement on times involved in DET report on sexual contact*, media statement, 18 October 2006, p1. Document provided by the Department of Education and Training (Document No. 52).

<sup>74</sup> Office of the Auditor General, Performance Examination, Report No. 9, *Righting the Wrongs: Complaints Management in the Western Australian Public Sector*, October 2001, at website: [http://www.audit.wa.gov.au/reports/report2001\\_09.html](http://www.audit.wa.gov.au/reports/report2001_09.html), (viewed on 1 December 2006).

*all had complaints management systems that failed to meet the Australian Standard on Complaints Handling (AS 4269-1995). ”<sup>75</sup>*

6.2 The CMU was established in February 2002, as a direct result of the above review of the Office of the Auditor General.<sup>76</sup> Similar concerns to those of the Auditor General had been expressed by the Parliamentary Commissioner for Administrative Investigations (**Ombudsman**) and the Office of the Public Sector Standards Commissioner.<sup>77</sup>

6.3 The Committee understands that the CMU has the following functions:<sup>78</sup>

- Manages complaints that have discipline ramifications for staff.
- Directs complaints to the appropriate worksite for resolution.
- Quality assures and finalises the outcome of substandard performance processes.
- Liaises with external monitoring agencies such as the Corruption and Crime Commission, the Equal Opportunity Commission, Office of the Public Sector Standards Commissioner, Ombudsman and the WA Police Service.
- Reports to Corporate Executive issues of systemic significance.

6.4 The Director General of DET had direct responsibility for the CMU up until 2004 when, following a recommendation of the Ombudsman, he transferred responsibility for the CMU to another senior officer, Mr Albert Huts, Executive Director, Human Resources, DET, by way of an instrument of delegation.<sup>79</sup> From that point on, the Director General’s role was essentially strategic, with his day-to-day involvement limited to signing off notifications of incidents and the outcomes of processes to the CCC, and a few other matters such as dealing with the media and any correspondence directed to him.<sup>80</sup>

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<sup>75</sup> At website: [http://www.audit.wa.gov.au/reports/report2001\\_09.html](http://www.audit.wa.gov.au/reports/report2001_09.html), (viewed on 1 December 2006).

<sup>76</sup> Department of Education and Training, *Program Briefings 2006*, “Human Resources: Complaints Management Unit (CMU)”, undated. Document provided by the Office of the Minister for Education and Training.

<sup>77</sup> Department of Education and Training, *Complaints Management Review*, Report, March 2006, p5 and p7.

<sup>78</sup> Department of Education and Training, *Program Briefings 2006*, “Human Resources: Complaints Management Unit (CMU)”, undated. Document provided by the Office of the Minister for Education and Training.

<sup>79</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p3.

<sup>80</sup> Ibid, pp3-4.

- 6.5 Mr Peter Denton was the Manager of the CMU during the period leading up to the publication of the CCC Report. In his evidence to the Committee, Mr Denton stated that:

*“As the manager, I reported directly to the director general as a means to ensure independence in all aspects of the complaints management process. In mid-2004, the director general delegated his functions with respect to complaints management to the executive director, human resources. The complaints management unit acts as a secretariat to the director general and the executive director, human resources. In addition to its general operational functions, it provides draft responses to ministerial questions and briefing notes as requested by the executive director, human resources, and the director general. However, there is no end-of-line responsibility for staff within the unit. End-of-line responsibility on all matters, including those of a disciplinary nature, reside with the director-general and/or executive director, human resources as his delegate. All matters of a disciplinary nature were managed according to the disciplinary provisions of the Public Sector Management Act 1994. For employees where the Public Sector Management Act was not relevant, such as for wages staff, the same principles were applied. Advice was sought from the State Solicitor’s Office in the establishment of the department processes and whenever it was deemed appropriate to ensure the department’s processes and decisions were consistent with the legislative framework within which we were obliged to operate.”<sup>81</sup>*

- 6.6 Mr Denton indicated that in his experience with the CMU, approximately 60 per cent of complaints would be upheld, whilst in 40 per cent of cases no breach would be identified.<sup>82</sup>
- 6.7 In 2005 Mr Paul Albert, then Director General of DET, commissioned a “*Complaints Management Review*” to ascertain if the structural and procedural practices for the management of complaints were aligned to DET’s business requirements.<sup>83</sup> The subsequent report of March 2006, prepared by the CMU Review Committee (chaired by former DET Director General, Peter Browne) stated:

*“The purpose of the Review is to independently review the role and functioning of DET’s CMU. The scope of the review was to assess*

<sup>81</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, pp1-2.

<sup>82</sup> Ibid, p4.

<sup>83</sup> Department of Education and Training, *Complaints Management Review*, Report, March 2006, p8.

*CMU's internal policies, procedures and practices in dealing with allegations and complaints (that is, the way complaints are handled and managed through CMU's actions, approach and role)."*<sup>84</sup>

6.8 The Complaints Management Review concluded that: *"a centralised complaints management function is beneficial and that the establishment and operation of the CMU was a positive initiative even though a number of reservations regarding CMU's role, its size and the lack of support were identified"*.<sup>85</sup> The Complaints Management Review made eleven recommendations to improve the operation of the CMU. These recommendations were in the process of being implemented at the time the CCC Report was being prepared.

6.9 Mrs Kelly Dansie, Senior Consultant, CMU, told the Committee that the CMU had difficulty obtaining appropriate funding from the beginning:

*"The unit was created in February 2002 and placed in temporary accommodation that was completely inadequate. There was no security. The people next door could hear exactly everything we were saying about specific cases. It breached all the confidentiality rules that exist. We consistently asked to be moved to a secure location, and they kept refusing, or there was always a reason or excuse. We asked for resources and we were told no. There was always another excuse or reason that was coming from senior executives. We also asked for funding at various points to be able to fulfil the commitments that had been made by the Premier at that time in relation to complaints handling. At one point we asked for \$10 000, and we were refused. There was always an excuse that there was a review, or an Ombudsman inquiry, or something that prevented them from resourcing us. We were not relocated to a semi-secure location until March this year, I think it was, and that was a long time to be in a very risky environment, without any support. It did not matter how many submissions Mr Denton made, it would always come back no; they could not give us what we asked for. The executive did not appear to understand the role and function of the unit, and it did not support us when we came up against difficulties, whether in relation to the CCC or other matters, for example, with the union.*

...

*I do not know why they did not support us. I guess it is like internal affairs or anything like that in the police department; we were not the*

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<sup>84</sup> Ibid.

<sup>85</sup> Ibid, p16.

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*most favourite people in the department. We were just doing our job and we were doing it ethically. I have no idea why they refused to relocate us, fund us or support us.*<sup>86</sup>

- 6.10 A staff of seven was allocated to the CMU at the time of the Complaints Management Review.<sup>87</sup> Mr Huts gave evidence that in August or September 2006 it was determined to increase the full-time equivalent staff of the CMU from 7.5 to 10.<sup>88</sup>
- 6.11 The Minister has, since the publication of the CCC Report, stated that staff numbers at the CMU will be increased to 15.<sup>89</sup> Evidence to the Committee suggests, however, that at present the majority of staff is on sick leave and that only two of the permanent operational staff are currently operating the unit, and that both of those officers are “*relatively inexperienced*”.<sup>90</sup>
- 6.12 Mr Peter Denton, former Manager of the CMU, gave evidence that the CMU was being replaced by a Professional Standards Unit, and that his position had been abolished to make way for a new position of Director of the Professional Standards Unit.<sup>91</sup>

#### **Contact between the CMU and the CCC**

- 6.13 The Committee understands that there has been extensive day-to-day contact between officers of the CMU and the CCC ever since the establishment of the CCC on 1 January 2004.
- 6.14 The Committee was told that of approximately 2,500 allegations received by the CCC each year, about 10 per cent would involve DET staff.<sup>92</sup>
- 6.15 In his evidence to the Committee, Mr Peter Denton, former Manager of the CMU stated:

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<sup>86</sup> Mrs Kelly Dansie, Senior Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p4.

<sup>87</sup> Email from Mr Andy O’Brien, Department of Education and Training, to staff of the Office of the Minister for Education and Training, 15 October 2006, p4. Document provided by the Office of the Minister for Education and Training.

<sup>88</sup> Mr Albert Huts, former Executive Director, Human Resources, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p7.

<sup>89</sup> Hon Ljiljanna Ravlich MLA, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 17 October 2006, p6969.

<sup>90</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p7.

<sup>91</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p4.

<sup>92</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p3.

*“The director general [of DET] has a legislative responsibility under the Corruption and Crime Commission Act to report all allegations of possible misconduct by employees. This is done as a matter of course as the department is notified of alleged inappropriate behaviour. In addition, the Corruption and Crime Commission requires the department to forward it a copy of all documentation associated with an investigation or inquiry into allegations of misconduct, including the reports prepared by independent investigators/inquirers.”<sup>93</sup>*

- 6.16 With respect to allegations against DET staff of a sexual nature, the CMU undertook the following initial process:

*“As soon as we were notified of an alleged inappropriate behaviour, particularly of a sexual nature, the first action the department took was to remove the officer from the school environment immediately and to relocate them, generally into the district office, pending the outcome of any investigation. That was done before any investigation or discussion took place. It was a matter of course that that was the first action that the department took to protect the children. We then notified the child protection squad, and the Corruption and Crime Commission was provided with the relevant documentation with respect to the alleged behaviour. We then worked closely with both those agencies, the police agency and the Corruption and Crime Commission, to ensure that any investigations that they might want to conduct were fitting in with the department’s processes, and we would generally wait for them to advise us before we made any internal investigations or undertook any internal investigations; so we worked closely with those two agencies.”<sup>94</sup>*

- 6.17 In her evidence to the Committee, Ms Beverley Dornan, Principal Consultant, CMU, added that:

*“We usually alert the CCC to the fact that we are waiting on advice from the child protection squad before we actually progress any disciplinary processes, because we do not want to interfere with any criminal investigations that they may be wishing to conduct. As soon as we have that clearance, we then initiate our own disciplinary processes against the officer in relation to the Public Sector Management Act disciplinary processes; or if those processes do not apply to that particular category of employee, to a process that*

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<sup>93</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p2.

<sup>94</sup> Ibid, p3.

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*mirrors those processes; and that process embodies procedural fairness and ultimately will result in some kind of finding by the executive director in relation to whether the allegations are proven or not.*"<sup>95</sup>

- 6.18 As to DET's process of investigating allegations of sexual contact, Mr Albert Huts, former Executive Director, Human Resources, DET, explained it as follows:

*"By and large, we outsource the investigations; they are done by private investigators. As part of the process, when a complaint comes to us, in serious cases of sexual misconduct, we take the individual out of the school. We provide that individual with documentation about the nature of the event, and the individual has an opportunity to respond. We appoint an investigator. The investigator has roughly 20 working days. The individual has 10 days and the investigator has 20 days to determine whether there is a case to answer. Invariably, almost without exception, we then appoint an inquirer to determine whether there is a need to impose a sanction. The range of sanctions goes from reprimand to dismissal, with a number of steps in between."*<sup>96</sup>

- 6.19 Mr Roger Watson, Manager Investigations Review and Complaints Assessment, CCC, advised the Committee that his staff were in contact with DET officers on a daily and weekly basis regarding a large number on ongoing investigations throughout 2006.<sup>97</sup>
- 6.20 It was Mr Albert's evidence that the Minister was not informed of specific allegations being investigated unless they were likely to generate media interest.<sup>98</sup> Accordingly, DET would report only general information to the Minister, such as the number of allegations received. The reason for this practice was so that the Minister was not seen to be having an influence on the selection, transfer or termination of employment of DET staff.<sup>99</sup>

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<sup>95</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p10.

<sup>96</sup> Mr Albert Huts, former Executive Director, Human Resources, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p5.

<sup>97</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p8.

<sup>98</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p14.

<sup>99</sup> Ibid.

## 7 THE CORRUPTION AND CRIME COMMISSION

### The role of the CCC

- 7.1 The CCC was formally established on 1 January 2004. It has broad functions of prevention, education and investigation with respect to misconduct under the *Corruption and Crime Commission Act 2003*. The CCC's website notes the following in relation to the CCC's jurisdiction:

*"Its jurisdiction covers the more than 115,000 Western Australian public officers in some 550 plus agencies that include government departments and boards, universities and local government."*<sup>100</sup>

- 7.2 Mr Roger Watson, Manager Investigations Review and Complaints Assessment, CCC, outlined for the Committee his role and the general function of the CCC in overseeing the complaint investigation processes of public sector agencies:

*"I manage our investigations review and complaints assessment area. Every year the commission gets about 2 500 complaints or notifications from agencies about misconduct. We assess those complaints to determine our jurisdiction over them and to make a decision about how they should be investigated. In the main they go back to the agencies for investigation or perhaps on to police and the like. We monitor those investigations and when those investigations are completed, those agencies would send us an investigation report and we would review that report for its adequacy, and form a view about whether we are happy with the outcomes or not."*<sup>101</sup>

### ***Inquiry into Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia***

#### *Statutory basis for the inquiry and CCC Report*

- 7.3 The Committee was advised that the CCC Report was prepared pursuant to the CCC's powers under ss 84 and 85 of the *Corruption and Crime Commission Act 2003*.<sup>102</sup>
- 7.4 Section 84 of the *Corruption and Crime Commission Act 2003* relevantly states:

***"84. Report to Parliament on investigation or received matter***

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<sup>100</sup> <http://www.ccc.wa.gov.au/about.php>, (viewed on 5 December 2006).

<sup>101</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p5.

<sup>102</sup> Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p2.

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(1) *The Commission may at any time prepare a report on any matter that has been the subject of an investigation or other action in respect of misconduct, irrespective of whether the investigation or action was carried out by —*

(a) *the Commission alone;*

(b) *the Commission in cooperation with an independent agency or appropriate authority; or*

(c) *an appropriate authority alone.*

... ”

7.5 Section 85 of the *Corruption and Crime Commission Act 2003* states that:

***“85. Report to Parliament on further action by appropriate authority***

(1) *After considering a report given to the Commission by an appropriate authority under section 40(1) or (4), the Commission may prepare a report on the report of the authority.*

(2) *During or after the carrying out of action by an appropriate authority in respect of an allegation referred to the authority under section 37(1), the Commission may prepare a report if the Commission considers that the action is not being, or has not been, properly, efficiently or expeditiously carried out.*

(3) *The Commission may include in a report under this section —*

(a) *statements as to any of the Commission's assessments, opinions and recommendations; and*

(b) *statements as to any of the Commission's reasons for the assessments, opinions and recommendations.*

(4) *The Commission may cause a report prepared under this section to be laid before each House of Parliament or dealt with under section 93. ”*

7.6 Mr Nicholas Anticich, Director Operations, CCC, advised the Committee of the following general purpose of the CCC Report:

*“Having regard to the purpose of the commission and powers contained within the legislation, the commission decided to prepare the report, “Sexual Contact with Children by Persons in Authority in the Department of Education and Training of Western Australia” and lay it before each house of Parliament. The commission took this decision because, despite trying to assist the Department of Education and Training to deal effectively and appropriately with the issue of sexual contact between staff and students, it was the commission’s view that the department believed that its complaints handling system was adequate and consequently was reluctant to address the issue; and the capacity of the department to deal with sexual contact was of such importance that it was in the public interest to publish a report.”<sup>103</sup>*

- 7.7 Mr Roger Watson, Manager Investigations Review and Complaints Assessment, CCC, provided the following detailed explanation behind focussing on five case studies in the CCC Report:

*“Mr Watson: ... There are about 16 people in my team. At various times perhaps three or four people became devoted to or were concentrating on education matters because there are a number of matters that came from the education department in relation to which we were not happy with the outcome of its investigations. A couple of people focused on putting those matters together in the form of this report because it seemed to us at the time that the sexual contact allegations were the most urgent of them, if you like. I managed that process. The people involved were essentially two - primarily one, I guess - issued some notices to the department and got some documents. She wrote the report up. I was involved with her in to-ing and fro-ing about the contents of that report, managed the report through our internal processes, and managed the interaction between us and the Department of Education and Training.*

*... we are in disagreement with the department about a particular case. This is case study 1 in the report. ... After an exchange of correspondence between us and the department, because essentially we had said to the department - if I can just go back and recap: this man had been convicted of indecently dealing with a child, I think under 13 years of age. The department had decided to reprimand him and put him back in the classroom and we thought that was the wrong decision. After an exchange of correspondence about that where we told them that, the department basically said that is our decision and*

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<sup>103</sup>

Ibid.

*we are sticking with it. We wrote back to them on 18 January and said we cannot live with this, we are going to write a report about it, or words to that effect.*

*... This was the catalyst; this is the most significant of the cases, at least in my view, and that is not to understate the importance of the others. I do not know how many we had on our books at that time; there were certainly more than the case studies that are in the report. So the issue for us was a pressing one. The decision making in relation to this particular case study was the catalyst at that point which pushed us over the line in order to write this report. We had to do something.*

**CHAIR:** *In terms of there being a range of cases that you could have used as a case study for this report, was there anything else in relation to the other four cases that warranted their inclusion?*

**Mr Watson:** *It was essentially trying to illustrate the faulty decision making. The department's process was a flawed one and there are a number of aspects to those flaws, so we chose those five case studies that went into the report to highlight the different sorts of flaws. For example, in case study number one it was a decision which is hard to understand in any circumstances. In the second case study, by contrast, we were trying to illustrate that the processes were so poor that this person, who was known to have sexual contact with children, had been in the system for a very long time, and they still sent him away on an overseas trip. Part of the argument the department was having with us was that it had put in place the complaints management unit, I think in 2001 or thereabouts, and that things had changed. From our perspective it had put the complaints management unit in in 2001 and things had stayed pretty much the same. So you work your way through the case studies and there are different aspects to that quite seriously flawed process.*<sup>104</sup>

- 7.8 It appears, however, that the management of DET had no understanding as to the reason for the CCC commencing its inquiry. Mr Albert provided the following evidence as to his actions following the CCC advising him of their proposed inquiry in January 2006:

*"... the moment I received that January letter, I convened a meeting of the department's legal officer and the head of complaints management - it may or may not have been Mr Huts, but whoever was*

<sup>104</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, pp5-6.

*acting - to ask why this was happening. That is when we came to the conclusion it has to be because they are a member of the Peter Browne review. It may well be a mechanism so they could inform themselves for that process. It was about systemic nature. The Browne review was about exactly the same thing.*"<sup>105</sup>

7.9 Mr Albert also noted that:

*"As I point out, the CCC were not actually investigating. They were reviewing the department's structures, practices and processes."*<sup>106</sup>

7.10 He also provided the following response to a question regarding the disclosure of information:

*"CHAIR: What was your understanding of your obligations regarding the release of information regarding the CCC investigations into department officers prior to 30 June 2006?"*

*Mr Albert: Prior to? The problem was we had no idea what they were investigating. I had certainly no idea. Apart from a very general comment, I could not give any details."*<sup>107</sup>

### **The draft CCC Report**

7.11 Mr Albert told the Committee that the draft CCC Report was provided to himself and Mr Albert Huts, former Executive Director, Human Resources, on 4 July 2006 in a five minute meeting.<sup>108</sup> Mr Huts stated that:

*"When we received the draft report, we looked at the recommendations that the CCC had put to us. We did not see there was much difference from what was already in the Browne report. In fact, our view was that we were already progressing the Browne report recommendations."*<sup>109</sup>

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<sup>105</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p16.

<sup>106</sup> Ibid, p11.

<sup>107</sup> Ibid, p15.

<sup>108</sup> Ibid, p5.

<sup>109</sup> Mr Albert Huts, former Executive Director, Human Resources, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p6.

- 7.12 As a result of DET's response, the draft CCC Report was amended, including by the removal of a sixth case study and two of the CCC's draft recommendations.<sup>110</sup>

### **The publication of the CCC Report**

- 7.13 The CCC Report was published on 16 October 2006.
- 7.14 Mr Albert advised the Committee that a letter had been received by DET from the CCC on 15 September 2006 that indicated that the CCC Report would be published within the following two weeks. Unfortunately, it appears that the letter was not immediately brought to the attention of either Mr Albert or Mr Huts:

*"It states that the commission intended tabling its report in the Parliament within the next two weeks. I think the two-week issue is pretty important because had we had knowledge of that, certainly there would have been time to brief the minister properly on the report and time to better manage the consequence of the report's release."*<sup>111</sup>

- 7.15 The Committee notes that the letter of 15 September 2006 from the CCC, which was initially actioned by DET in the temporary absence of both Mr Albert and Mr Huts, was in hindsight a crucial piece of correspondence that, had its significance been recognised by DET at the time, may have avoided the unfortunate events that led to the establishment of this inquiry.
- 7.16 Mr Albert gave the following evidence as to when he discovered that the CCC Report was to be finalised:

*"The first time that I can confirm that the CCC's final report was going to be released was via a telephone call from Mr Huts while I was overseas. He told me that in his regular meeting with the CCC he had been advised that it intended tabling it the following week in Parliament. I instructed him to organise an immediate briefing for the minister. From memory, I think I told him to send up a copy of the draft report. Mr Huts telephoned me later to say that the CCC had already visited the minister and that it had handed her a copy of the final report. He indicated that while the department was preparing a*

<sup>110</sup> Corruption and Crime Commission of Western Australia, *Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia*, Perth, 16 October 2006, p10.

<sup>111</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p5.

*detailed briefing for the minister, it had had not received the final report. I understand the department received it the following day.*”<sup>112</sup>

- 7.17 It was Mr Albert’s evidence that he was surprised that the CCC Report had been published without the CCC first coming back to him to discuss the final recommendations, as had been his experience with reports about DET prepared by various other oversight agencies:

*“... we did not have any reason to believe that this inquiry was any different from what is usually conducted by the Auditor General, the Commissioner for Public Sector Standards, the Commissioner for Equal Opportunity and, of course, the Ombudsman. In relation to the inquiry, we were actually engaged in the Ombudsman’s own inquiry in relation to complaints management, and particularly in relation to those. The process of communication on those sorts of inquiries with the minister’s office and the staff has always been general from my experience. Usually these reviews are iterative in nature. A draft report is produced for the department to comment on; the agencies then enter into detailed discussions about the department’s response, and then, from my experience - it has certainly been the case with the Ombudsman, the Commissioner for Public Sector Standards, the Auditor General and the Commissioner for Equal Opportunity - prior to the production of any final report, they would seek a meeting with me, outline the thrust of where they were going, usually table a set of draft recommendations and indicate their intentions as to what date they would table the report in the Parliament and when they would be seeing the minister. We would then prepare a detailed briefing for the particular minister’s meeting with the agency - because the agency would then go and meet with the minister - and of course, the handling of the tabling of the report in Parliament. Hindsight is a great thing but with the benefit of hindsight I acknowledge that I wrongly assumed that they would be applying the similar processes that are applied by those other agencies that have responsibility for overseeing the operations of the department.”*<sup>113</sup>

- 7.18 Mr Albert also stated that:

*“I was surprised that the CCC would present a report without coming and seeing me and at least giving me the courtesy of having a copy of*

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<sup>112</sup> Ibid.

<sup>113</sup> Ibid, p6.

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*the report before going any further. All the other agencies work that way, but for some reason the CCC did not.*"<sup>114</sup>

7.19 Mr Watson, on behalf of the CCC, however, provided the following response:

*"There are fundamental differences between the legislation as it applies to both agencies; for example, the Ombudsman does not have jurisdiction over members of Parliament, whereas the Corruption and Crime Commission does. How we as an agency would go about properly informing ministers of matters that we are investigating is much more problematic for us than it is for the Ombudsman. There is no issue with the Ombudsman writing to the minister and saying that she has begun an investigation into X, Y, Z in the minister's department, because there is never any notion of the Ombudsman investigating the minister. Even within a system in which the minister is provided with information about these inquiries, I can think of cases in the past decade or so in which the minister was not aware of inquiries conducted by the Ombudsman in the way that the minister might have preferred to be. It is a difficult problem for organisations like us. We need to keep our independence and keep our distance."*<sup>115</sup>

7.20 Mr Watson also added that:

*"The implied criticism that we did not discuss it with Mr Albert goes the other way. Mr Albert did not contact us and say, "Look, Roger, I am really concerned about this report; I want to sit down and talk to you about it so that we can achieve some meaningful outcomes." All I got from the department was, "You're wrong." That is evident in its response to the report."*<sup>116</sup>

### **Courtesy briefings of Ministers by the CCC**

7.21 Officers from the CCC advised the Committee of the CCC's practice of providing courtesy briefings to Ministers prior to the publication of a report relating to the Ministers' portfolio. In relation to the CCC Report, the Minister's briefing by the CCC took place on 12 October 2006:

*"**Mr Anticich:** ... If I can take you back to the matter that Roger [Watson] has raised in terms of attending at the minister's office, we do that. In relation to our reports - the reports that we have referred*

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<sup>114</sup> Ibid, p13.

<sup>115</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, pp9-10.

<sup>116</sup> Ibid, p8.

*to, the 12 we have done -we do that. It is a matter of process and procedure that we actually meet with the respective minister and tell them about a report that we are about to table, as was the case with this report. We have done that in relation to the other reports. I guess that goes part of the way towards answering that question. Certainly not the annual report, but all the other reports, we do brief the minister on the intended actions of the commission.*

**Hon NORMAN MOORE:** *Is that briefing with the minister done with the intention of providing the minister with an opportunity to refute, or challenge, or agree with what is in the report, or is it simply a courtesy process?*

**Mr Anticich:** *I think more to clarify, I guess. It is really principally a courtesy. I do not think there is any obligation under the act for us to do this, but again, one would have hoped and one would have anticipated that by the time we get to the minister's office to brief on a report of that nature, they would be well advised of that report.*

**Mr Watson:** *Can I throw into that as well that in relation to this briefing, that was for the purpose of courtesy, and that was made clear to the minister at the time. I recall that quite clearly from the meeting.*

**Mr Anticich:** *I suppose what I am saying is we would not anticipate that our appearance before the minister on that occasion was the first that they would hear of such an event.*"<sup>117</sup>

- 7.22 Mr Watson gave evidence about his handwritten notes of his briefing of the Minister on 12 October 2006 about the impending publication (on 16 October 2006) of the CCC Report. In particular, Mr Watson, spoke about the meaning of a notation at the end of his handwritten notes which states "Minister" above the words "didn't go that well!":

*"The meeting had not gone well. We were there before the minister. The minister arrived perhaps two or three minutes after us. She sat down to take some notes. It was fairly evident at the time that she was quite shocked by what she was being told. I handed out a copy of the executive summary of the report to her and her staff. They were madly reading that executive summary as I was trying to walk through these various issues in my briefing note, and they were trying*

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<sup>117</sup> Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, and Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p10.

*to absorb too much information. From my perspective, it didn't go well because I didn't anticipate the lack of knowledge on their part about it. My briefing notes were compiled with that in mind. Secondly, it didn't go well from my point of view because I probably should have given them the opportunity to read the executive summary before I started talking about issues that I thought were important but there were obviously more pressing issues for them that were important at the time. My indicating that it did not go well is because it did not go well from that perspective.*"<sup>118</sup>

- 7.23 Mr Watson stated that "it was very clear that the minister had no knowledge" of the matters contained in the CCC Report at the 12 October 2006 briefing, apart from some conversation with Mr Paul Albert or some other DET officer "about the complaint handling process generally":

*"The minister came into the meeting and she picked up a small notebook and a pencil to write some things down. When [Mike Silverstone, Executive Director, CCC] started talking about the sexual contact report, she almost dropped the notebook and pencil and was shocked, gobsmacked, at what she was being told. She said she expected us to be briefing her about a public hearing we had done in the preceding weeks, which was about a TAFE tendering issue. From the scramble to digest the contents of the executive summary of the report, it was fairly clear that neither she nor her staff had any knowledge of the report. There was some commentary - I cannot recall the details of it - from her about some conversation she might have had with Mr Albert or somebody like that about the complaint handling process generally. I temper my comments with that observation. But in fairness, it was not about the sexual contact issue. I only have a vague recollection of that. On the way out, Mr Klarich, the former chief of staff, made a point of speaking to Mike and I about this issue and the desire for there to be some sort of communication between us and the minister's office, which is a problematic thing for an organisation such as ours, in the immediate future.*"<sup>119</sup>

- 7.24 It was Mr Klarich's evidence to the Committee that:

*"The CCC met us on a Thursday, at which the minister and I were present. The CCC briefed us on the report and said that it had done a comprehensive report, looked at five case studies that they thought*

<sup>118</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p12.

<sup>119</sup> Ibid.

*were typical and said that it was intending to table the report in Parliament on the Monday. That was the first that I heard of such an investigation during by tenure as chief of staff.*"<sup>120</sup>

### CCC Annual Report

- 7.25 On 27 September 2006 the CCC presented its *Annual Report 2005-2006* to the Parliament. The *Annual Report 2005-2006* states:

*"A report addressing sexual contact between DET staff and students is expected to be tabled in Parliament shortly. The report makes a number of recommendations for change within DET."*<sup>121</sup>

- 7.26 The Committee was advised by officers of the CCC that Ministers of portfolios that may be affected by ongoing investigations or proposed reports of the CCC mentioned in a CCC Annual Report, are not provided with a briefing on that Annual Report.<sup>122</sup> Courtesy briefings are, however, provided for Ministers of relevant portfolios in the case of other reports published by the CCC.<sup>123</sup>
- 7.27 The Committee also notes that courtesy copies of CCC Annual Reports are not provided to the offices of Ministers of those portfolios affected by ongoing CCC investigations or proposed reports referred to in the CCC Annual Report.<sup>124</sup>

**Recommendation 1: The Committee recommends that the Corruption and Crime Commission of Western Australia provide courtesy copies of its annual report to the offices of any Ministers whose portfolio may be affected by any ongoing investigation or proposed report mentioned in the annual report.**

### CCC public hearings before the Joint Standing Committee on the CCC

- 7.28 On 30 August 2006 officers of the CCC appeared before a public hearing of the Joint Standing Committee on the Corruption and Crime Commission. The officers of the CCC gave evidence at that public hearing that the CCC is:

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<sup>120</sup> Mr Darren Klarich, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 27 November 2006, p3.

<sup>121</sup> Corruption and Crime Commission of Western Australia, *Corruption and Crime Commission Annual Report 2005-2006*, Perth, 27 September 2006, p31.

<sup>122</sup> Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, and Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p10.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

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*“... involved in addressing its concerns associated with a complex mix of matters with regard to the Department of Education and Training. These include the preparation of a report on sexual contact with children by persons in authority in the department ...”.*<sup>125</sup>

- 7.29 The Committee notes, however, that the transcript of the 30 August 2006 hearing does not appear to have been available on the parliamentary website until it was published as an appendix to a report of the Joint Standing Committee on the CCC tabled on 18 October 2006.
- 7.30 The Committee contacted the four Members of the Joint Standing Committee on the Corruption and Crime Commission and sought information as to whether any of those Members may have discussed the evidence they heard in that public hearing with any other person. Of the four Members of that committee (Mr John Hyde MLA (Chairman), Mrs Judy Hughes MLA, Hon Margaret Rowe MLC and Hon Ray Halligan MLC), only Hon Ray Halligan MLC indicated that he may have mentioned the public evidence relating to the CCC’s inquiry to another person - that person being the Opposition’s Education Spokesperson, Hon Peter Collier MLC.<sup>126</sup>
- 7.31 The Committee notes that this public hearing provided the Minister with another opportunity to be informed of the CCC investigation and proposed report into the DET’s handling of sexual misconduct allegations by its staff.

### **CCC media statements generally**

- 7.32 Two media statements by the CCC are significant to the events examined by the Committee’s inquiry; one of which was issued on 1 June 2006 and the other issued on 18 October 2006.
- 7.33 Mr Nicholas Anticich, Director Operations of the CCC, provided the Committee with the following advice as to the circumstances in which the CCC may issue a media statement:

*“They are many and varied. Generally speaking, they go towards public interest. We have unfortunately been drawn in many instances to make comment on matters that we would prefer not to, but due to circumstances beyond our control incorrect facts have been reported*

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<sup>125</sup> Western Australia, Legislative Assembly, Joint Standing Committee on the Corruption and Crime Commission, Report 14, *Public Hearing with the Corruption and Crime Commission on 30 August 2006*, 18 October 2006, Appendix 2, p11.  
[http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/2BCCB8A18F3990564825720C0017C174/\\$file/Report+No.+14+Public+Hearing+with+CCC+300806.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/2BCCB8A18F3990564825720C0017C174/$file/Report+No.+14+Public+Hearing+with+CCC+300806.pdf), (viewed on 7 December 2006).

<sup>126</sup> Letter from Hon Ray Halligan MLC, 5 December 2006. Letter from Hon Margaret Rowe MLC, 5 December 2006. Letter from Mrs Judy Hughes MLA, 4 December 2006. Letter from Mr John Hyde MLA, 4 December 2006.

*or facts have been misreported. In those instances we are drawn to make comment, but generally if I take issue with a report, something like this is quite significant. We would certainly make a media release, and we did in relation to these matters. Also, I think there is a reference to a media statement made following the arrest of a certain former teacher and some activity of another law enforcement agency. Again, in that instance we thought it appropriate to comment, because that agency had chosen also to comment. We thought it was important that we were able to illustrate our role in that matter.*"<sup>127</sup>

- 7.34 Mr Anticich further advised that CCC media statements are prepared with the assistance of the CCC's media person, with input from the executive and final sign-off by the Commissioner of the CCC himself.<sup>128</sup> The Committee was also advised that, as a general practice, if the CCC refers to another department in a media statement it will notify that department of the media statement.<sup>129</sup> This general practice, however, does not appear to extend to the provision of courtesy copies of a media statement to the office/s of any Minister/s whose portfolio may be affected by the contents of the media statement.<sup>130</sup>

#### **CCC Media statement of 1 June 2006**

- 7.35 On Thursday, 1 June 2006, the CCC issued a media statement in the following terms:

*"The Australian Federal Police today charged a 40-year-old former Department of Education and Training teacher with two counts of committing indecent acts on a person under 16 following a referral by the Corruption and Crime Commission.*

*Director of Operations, Nick Anticich, said the Commission referred the case to the Australian Federal Police in March 2006 as the alleged offence occurred overseas making it outside the jurisdiction of WA police.*

*"The alleged incident was detected during a Commission review of a Department of Education and Training internal investigation into allegations of sexual misconduct towards a student by the former teacher while he was employed by the department."*

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<sup>127</sup> Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p4.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

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*He said the Commission routinely reviews all internal investigations into allegations of misconduct by departments.*

*“The case was picked up during one of those routine reviews.*

*“This and other cases have prompted the Commission to look at the capacity of the Department of Education and Training to deal with allegations of sexual misconduct towards students by staff.*

*“The Commission plans to table a report in Parliament on this important issue later this year,” Mr Anticich said.*

*The man has been bailed to appear in the Perth Magistrates Court on Wednesday 7 June.”<sup>131</sup>*

7.36 A copy of this media statement is attached to the report at **Appendix 3**.

#### *Government media monitoring*

7.37 The Media Monitoring Unit of DPC (also known as the Government Media Office) provided the Committee with the following information regarding the Unit’s procedures with respect to providing Ministers with copies of transcripts of all relevant media reports or information concerning a Minister’s portfolio:<sup>132</sup>

- Radio news summaries are emailed to ministerial staff at 7:00am, 8:30am and then after hourly news bulletins are monitored between 9:00am and 6:00pm, Monday to Friday.
- Summary of nightly TV news and current affairs programs is emailed to Ministers and ministerial staff each evening, except for Saturdays. Footage of TV news reports of interest to the Government is also emailed each evening, except for Saturdays.
- Transcripts are typed and emailed to ministerial staff of radio news reports or from talkback radio that is considered to be of interest to a particular Minister/Ministers. Ministerial staff can also request a report or interview be transcribed.
- Press reports considered to be of relevance to the Government from Perth metropolitan, West Australian regional and national newspapers are scanned and can be accessed by ministerial staff via the internet.

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<sup>131</sup> [http://www.ccc.wa.gov.au/media\\_statements.php?id=84](http://www.ccc.wa.gov.au/media_statements.php?id=84), (viewed on 2 December 2006).

<sup>132</sup> Letter from Mr Mal Wauchope, Director General, Department of the Premier and Cabinet, 24 November 2006. Attached documents, p1.

- Stories of relevance in the State edition of *The West Australian* newspaper are scanned late evening - night before publication date - and are emailed to Ministers and ministerial staff.
  - Summaries of talkback radio - 720 ABC, 6PR and ABC Regional - are emailed to ministerial staff after 8:30am, 12:00pm and 8:00pm Monday to Friday.
- 7.38 The Media Monitoring Unit provided the Committee with copies of news summaries that were provided to the Minister's office on 1 June 2006. The news summaries indicate that the following media outlets carried items on the CCC media statement that evening:<sup>133</sup>
- 6:00pm - radio stations ABC 720; NOVA; JJJ;
  - 7:00pm - television Channel 2 news (although CCC Report not mentioned); radio station ABC 720.
- 7.39 The Media Monitoring Unit also provided the Committee with copies of news summaries that were provided to the Minister's office on Friday, 2 June 2006. The news summaries indicate that the following media outlets carried items on the CCC media statement that day (that is: "*The CCC is investigating how the Dept of Education and Training deals with allegations of sexual misconduct ...*"<sup>134</sup>):
- 5:30am - radio stations 94.5; ABC 720; 92.9;
  - 6:00am - radio stations 94.5; 92.9; NOVA;
  - 6:30am - radio stations 94.5; 92.9;
  - 7:00am - radio stations 94.5; 92.9; NOVA; ABC 720;
  - 7:30am - radio stations 94.5; 92.9;
  - 8:00am - radio stations 94.5; 92.9; NOVA.
- 7.40 Also provided to the Minister's Office by the Media Monitoring Unit was a document entitled "*Agenda Date: Friday June 2<sup>nd</sup> 2006, 7:30 AM*", which relevantly states:

***"Agenda Topics***

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<sup>133</sup> Media Monitoring Unit, Department of the Premier and Cabinet, *Late Afternoon Radio News Summary, Thursday June 1<sup>st</sup>, 2006*, pp1 and 4.

<sup>134</sup> Media Monitoring Unit, Department of the Premier and Cabinet, *Early Morning Radio News Summary, Friday June 2<sup>nd</sup>, 2006*, p1.

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***Review today's media coverage***

***FM radio news reports***

...

- *CCC is investigating how Dept of Educ deals with allegations of sexual misconduct of fmr school teacher.*

... „<sup>135</sup>

- 7.41 The Media Monitoring Unit also provided the Committee with a clipping from page 57 of the *Adelaide Advertiser*, dated 3 June 2006, that had also been provided to the Minister's office. That article relevantly states:

*“THE West Australian corruption regulator is investigating how the state's Education Department deals with sexual misconduct allegations, after a former Perth teacher was charged with offences against two girl students. ...”*<sup>136</sup>

- 7.42 The Committee notes that some radio news reports covered only that part of the CCC media statement that related to the charging of the former teacher in their news items, and did not refer to the CCC planning on tabling a report in the Parliament. Similarly, *The West Australian* newspaper only reported the fact of the charging of the former teacher on 2 June 2006.

- 7.43 Interestingly, the full transcript of the Friday, 2 June 2006, ABC 720 Radio story from the 5:30am news (which has been obtained by the Committee from the Media Monitoring Unit) contains the following response from DET:

*“The Department of Education and Training has released a statement saying it remains confident it can manage such allegations. However it says, 'it's always seeking to improve procedures and would be open to any suggestions the CCC may make.' The department says it has already commissioned an external review of complaints management procedures, which it will publish shortly.”*<sup>137</sup>

- 7.44 The contents of the media statement and DET's response were repeated by ABC 720 Radio at 7:50am on 2 June 2006.

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<sup>135</sup> Email from the Media Monitoring Unit of the Department of the Premier and Cabinet, 4 December 2006.

<sup>136</sup> Newscipping provided by the Media Monitoring Unit, Department of the Premier and Cabinet.

<sup>137</sup> ABC 720 Radio Perth, 5:32am, 2 June 2006.

*Receipt of the media statement by DET*

- 7.45 The CCC advised the Committee that a copy of the CCC's media statement was faxed to the Media Section of DET at 5:04pm on 1 June 2006.<sup>138</sup>
- 7.46 The CCC also provided documentation to the Committee indicating that the CCC media statement had also been sent to the "*Government Media Office*" shortly after 5:00pm.<sup>139</sup> The Media Monitoring Unit of DPC advised the Committee that it received the CCC media statement from the CCC at 5:06pm.<sup>140</sup>
- 7.47 DET has confirmed that a DET officer responsible for Corporate Communications and Marketing received the media statement by email from the CCC at 5:04pm on Thursday, 1 June 2006.<sup>141</sup>
- 7.48 Mr Albert gave evidence that he spoke on the phone to officers of the CCC following the issuing of the CCC media statement.<sup>142</sup>

*Receipt of the media statement by the Office of the Minister for Education and Training*

- 7.49 The CCC advised the Committee that it did not send a copy of the CCC's media statement of 1 June 2006 to the Minister's office.<sup>143</sup>
- 7.50 The Media Monitoring Unit of the Department of the Premier and Cabinet advised the Committee that it sent the CCC media statement to the Office of the Minister at 5:09pm on 1 June 2006.<sup>144</sup>
- 7.51 DET also confirmed with the Committee that it had no record of DET sending a copy of the CCC's 1 June 2006 media statement to the Minister's office.<sup>145</sup> This was despite Mr Albert's evidence to the Committee that:

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<sup>138</sup> Email from Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, 28 November 2006, p1.

<sup>139</sup> Email from Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, 4 December 2006. Corruption and Crime Commission media statement distribution list (provided to the Committee on 5 December 2006).

<sup>140</sup> Email from the Media Monitoring Unit of the Department of the Premier and Cabinet, 4 December 2006.

<sup>141</sup> Letter from Ms Sharyn O'Neill, A/Director General, Department of Education and Training, 30 November 2006, p1.

<sup>142</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p10.

<sup>143</sup> Email from Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, 28 November 2006, p1.

<sup>144</sup> Email from the Media Monitoring Unit of the Department of the Premier and Cabinet, 4 December 2006.

<sup>145</sup> Letter from Ms Sharyn O'Neill, A/Director General, Department of Education and Training, 30 November 2006, p1 (and subsequent telephone call from DET on 1 December 2006).

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*“Anything like that is automatically referred. In fact, the policy is that all media has to be referred to the minister’s office. That was definitely referred. I did not deal with that particular media release until after the event. I may have signed a statement late on the Sunday night; I cannot remember. The minister’s office was always communicated with before a determination was made about whether the department or the minister’s office would respond to the situation. That was for every media issue.”<sup>146</sup>*

7.52 The Committee understands, however, that Ms Liz Di Giovanni, the DET officer responsible for Corporate Communications and Marketing who received the CCC media statement on 1 June 2006 spoke to Ms Michelle White, the Minister’s then Media Adviser, on several occasions on the evening of 1 June 2006 and again on 2 June 2006 about the CCC media statement.<sup>147</sup> Ms White confirmed these conversations in her evidence of 5 December 2006.<sup>148</sup>

7.53 The Committee was advised that, in addition to a dedicated media adviser, the Office of the Minister usually consists of six policy officers, each with specific responsibility over one of the following areas of the education and training portfolio:<sup>149</sup>

- education;
- training;
- non-government education;
- higher education;
- capital works and infrastructure; and
- special projects.

7.54 The Committee was provided with the following outline of the role of a policy officer within the Office of the Minister by Ms Melissa Rinaldi, Principal Policy Adviser:

*“The general processes that relate to the role of the policy officer vary on a daily basis. Part of the role involves general environmental*

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<sup>146</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p12.

<sup>147</sup> Telephone conversation between Committee staff and Ms Liz Di Giovanni, Principal Media Consultant, Corporate Communication and Marketing, Department of Education and Training, 5 December 2006.

<sup>148</sup> Ms Michelle White, former Media Adviser to the Minister for Education and Training, *Transcript of Evidence*, 5 December 2006, pp7-8.

<sup>149</sup> Ms Melissa Rinaldi, Principal Policy Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

*scanning for contentious issues as they arise, be they in the media or brought to the attention through correspondence received directly by the ministerial office or through contact made to the ministerial office that is directed to the relevant policy officer as it is considered to be within his or her purview of expertise. These sorts of issues are many and varied. They are rather numerous based on a daily interaction with written and verbal correspondence external to the office and also within, dealing with officers of the Department of Education and Training.*<sup>150</sup>

- 7.55 Ms Rinaldi, who has been with the Office of the Minister since 10 July 2006, provided the following information in relation to how the Minister's policy officers are alerted to relevant media reports:

*"My understanding is that there are two types of news summaries. The first are those provided by the Government Media Office. We can access a clipping service. As Mr McMahon indicated, we can get up-to-date information from print media sources around the country from 8.00 am. A scanning of those generally alerts us to issues in the media at the time that we may or may not have been aware of to trigger the appropriate action in relation to advice, information, and briefings from the department if required. The second source of summaries is through the media monitoring unit. They are the transcripts of talkback radio and radio station hourly reports. The news in television packages is available the following day. During my stint at the ministerial office, I have only been able to access or receive for a period of time the media clipping service. The transcript service of various radio interviews and news reports was not provided to me directly as a policy adviser, but would come to me via the media officer if the issue was considered to require input from me as the policy adviser in the area. The media monitoring unit service was made available to me after 12 October so that I could scan transcripts on a daily basis. That means that I receive - I can only speak for myself as a policy officer; this is something that I asked to happen following recent events - in the vicinity of 40 to 50 e-mails from the media monitoring unit each day to scan through. Prior to 12 October the media clippings were available to me and they were scanned on a regular basis for any information sought. It was not until 12 October - from 13 October onwards - that radio transcripts and television packaged transcripts were made available to me on a daily basis,*

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<sup>150</sup>

Ibid, p1.

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*apart from where input from policy was sought by the media adviser in advising the minister.”<sup>151</sup>*

- 7.56 Ms Rinaldi also informed the Committee as to how relevant media reports are then brought to the Minister’s attention:

*“... an inordinate amount of information comes in on a daily basis. Scanning of the environment outside of the media channels would alert various policy officers within their portfolio areas to what needed to get through to the minister. A judgment call would be made by the policy person responsible for the area as to what is in and what is out. The policy officers have a couple of outlets. If something is considered important or significant enough, it would be raised with the minister personally and immediately to determine what needs to be done. The office has a regular weekly staff meeting at which various matters that are of an ongoing nature or that may affect a broad range of areas across the portfolio are raised with the minister and other policy staff so that people are aware of ongoing issues across the portfolio and not just the bits for which they are specifically responsible. If there is any doubt, it is my experience that the practice of the office is to discuss issues amongst policy officers and with the media adviser to gauge opinion as to whether something needs to be raised with the minister. Personally, it is my practice to err on the side of caution. It is much better to be told that I do not have to worry about something as opposed to finding out that something that should have been picked up on has been missed. There are a range of forums to bring issues to the attention of the minister. However, as the committee has already heard, it is often the case that judgment calls are made by the person ultimately responsible as to what is put forward to the minister and what is not. In terms of gauging that, there are regular meetings with department executives. In my portfolio I deal not only with the Department of Education and Training, but also the Department of Education Services and the Curriculum Council. That is the practice across those organisations that report to the minister. At each of those meetings the practice is to raise matters that are considered to be significant, important or needing further clarification on the agendas of those meetings, because both the department and the minister’s office have the capacity to add matters to be discussed to the agenda*

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<sup>151</sup> Ibid, p2.

*on a fortnightly basis. There are a range of different ways to vet the information that is provided to the minister.*"<sup>152</sup>

7.57 Mr Paul Joyce, Chief of Staff of the Minister at 1 June 2006, advised the Committee that whilst in the position of Chief of Staff he did not receive the daily summary of news articles.<sup>153</sup>

7.58 Ms Michelle White, who was Media Adviser to the Minister up until 15 September 2006, told the Committee that news summaries were emailed to her directly from the Media Monitoring Unit of the Department of the Premier and Cabinet.<sup>154</sup> She stated that whenever she identified a news item that she thought the Minister should know about, that either she or the Chief of Staff would brief the Minister.<sup>155</sup> Ms White added that:

*"I would try to get through to her. Obviously if there was something hot that day - most of the time that I was there it was hot, because we were dealing with OBE - I would constantly try to get through, but whether or not I could depended on her schedule, how busy she was that day or what meeting she was in. Even if I could not speak to her, I would always speak to the chief of staff or someone in the office."*<sup>156</sup>

7.59 In relation to the CCC's media statement of 1 June 2006, Ms White provided the following evidence. Because the Committee believes that this is significant evidence, it has repeated the relevant extract from the hearing transcript in full:

**"CHAIR:** *Did the minister's office receive news summaries from the Government Media Office or the CCC about the CCC's media statement dated 1 June 2006?*

**Ms White:** *I received a press release via the Government Media Office.*

**CHAIR:** *On 1 June?*

**Ms White:** *It was either the first or the second. I think it was the first.*

**Hon NORMAN MOORE:** *That was the CCC media release?*

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<sup>152</sup> Ibid, pp2-3.

<sup>153</sup> Mr Paul Joyce, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 27 November 2006, p1.

<sup>154</sup> Ms Michelle White, former Media Adviser to the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p1.

<sup>155</sup> Ibid, pp1-2.

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**Ms White:** *That is right. It was forwarded to me.*

**CHAIR:** *Did the minister's office receive news summaries from the Government Media Office or the CCC about media stories in relation to the CCC's stated intention of reporting to Parliament on the capacity of the Department of Education and Training to deal with allegations of sexual misconduct towards students by staff?*

**Ms White:** *I remember getting news summaries about the CCC investigation that day, but I cannot recall specifically. I just remember that that was an issue at the time and it was something I discussed with the department and the chief of staff when I got the initial press release and then when I saw the subsequent news summaries.*

**Hon NORMAN MOORE:** *You discussed it with the department?*

**Ms White:** *Yes.*

**Hon NORMAN MOORE:** *And the chief of staff?*

**Ms White:** *Yes.*

**Hon NORMAN MOORE:** *Who was the chief of staff at that time?*

**Ms White:** *Paul Joyce.*

**Hon NORMAN MOORE:** *That was on 1 or 2 June?*

**Ms White:** *I think it was both days, actually.*

**Hon NORMAN MOORE:** *Thank you.*

**Hon GRAHAM GIFFARD:** *What did you discuss with them?*

**Ms White:** *I just brought it to his attention and told him that it had come in and that, obviously, it was a media issue and something we might have to deal with. I had a similar discussion with the department. I was told by the department that it was being handled at department level and that we were not to get involved at that point. There was so much else going on at the time that it was, like, "Okay, we'll deal with it when we have to."*

**Hon GRAHAM GIFFARD:** When you said, "This could be a bit of an issue", what were you referring to?

**Ms White:** The fact that it was an investigation and that it could be controversial.

**Hon NORMAN MOORE:** Who did you discuss it with at the department?

**Ms White:** Liz Di Giovanni and the media team down there.

**Hon NORMAN MOORE:** The media team?

**Ms White:** Yes.

**CHAIR:** Are you able to indicate more exactly when that news summary was received on that day?

**Ms White:** Not really because we got them constantly all day. A never-ending wave of information hit us daily. We picked out the important bits that came through around that time. I think there were stories on both days. It seemed to be not just a one-hit issue; it was going for a while.

**CHAIR:** Did you or another member of the minister's staff inform the minister of the CCC investigation into the department or its proposal to table a report; and, if so, how was that information conveyed to her and when?

**Ms White:** I can remember when I first got the CCC release and the stories were first coming up that I could not get hold of the minister because her schedule was just so packed around that time. However, I mentioned it to the policy officer who was travelling with her and to the chief of staff so that if anyone managed to get through to her mobile they could mention it to her. I did not directly speak to her about that on those days.

**CHAIR:** At that time the chief policy officer and chief of staff were who?

**Ms White:** Daron Smith was travelling with her to Wiluna. It was Paul Joyce in the office.

**Hon GRAHAM GIFFARD:** Did you subsequently discuss it with the minister?

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**Ms White:** *Not that I can remember - directly with her. I can remember we were talking about it but I cannot remember specifically bringing it up with her one on one.*

**Hon GRAHAM GIFFARD:** *You did speak to the policy officer?*

**Ms White:** *Yes, on the phone.*

**Hon GRAHAM GIFFARD:** *Anyone else?*

**Ms White:** *I just spoke to the department.*

**Hon GRAHAM GIFFARD:** *Within your office you spoke to policy officer Daron Smith. Was he the only one you spoke to about that?*

**Ms White:** *Yes, because he was with her. Quite possibly others in the office were talking about it as well. It was not as though the door was closed. If something happened, we would all talk about it.*

**Hon GRAHAM GIFFARD:** *Did you advise him of the story about the laying of the charges or the investigation, or both?*

**Ms White:** *Both. I think after I had mentioned it to him I was saying that it was something that should be mentioned to her, but it was a mention only. It was being handled at a department level was the advice I had been given by the department.*

**Hon NORMAN MOORE:** *The policy officer was Daron Smith?*

**Ms White:** *Yes. To put it into context when I was speaking to him, after I had I finally got through to him, the conversation was also about Wiluna, the announcement up at Wiluna, media controversy about some comments the minister had made about the Governor General, OBE. It was a massive conversation with this also thrown into a whole heap of other pretty key media issues that we were dealing with at the time.*

**Hon NORMAN MOORE:** *I just want to know who you told, that is all. You told Mr Smith and Mr Joyce?*

**Ms White:** *And the department.*

**Hon NORMAN MOORE:** *You had received a copy of the CCC's media release and you had also received a copy of the media summary of the coverage of that media?*

**Ms White:** Yes. <sup>157</sup>

7.60 In summary of her evidence, Ms White provided the following responses:

**“Hon NORMAN MOORE:** *One final question, I think. Did you at any time discuss the CCC inquiry with the minister?*

**Ms White:** No.

**Hon NORMAN MOORE:** *But you discussed it with Mr Albert?*

**Ms White:** Yes.

**Hon NORMAN MOORE:** *And with Mr Joyce?*

**Ms White:** Yes.

**Hon NORMAN MOORE:** *And Mr Klarich?*

**Ms White:** Yes, I think so; yes.

**Hon NORMAN MOORE:** *And Mr Smith, who was the other policy adviser?*

**Ms White:** Yes, because he was travelling with the minister that day. Mainly I spoke to the department.

**Hon GRAHAM GIFFARD:** *And all of those answers are prior to 12 October?*

**Ms White:** Yes. <sup>158</sup>

7.61 Ms White also gave the following evidence on 5 December 2006 about her telephone discussions on the evening of 1 June 2006 with the DET Principal Media Consultant, Ms Liz Di Giovanni, regarding DET’s response to the CCC media statement:

**“Hon NORMAN MOORE:** *Do you remember whether Liz Di Giovanni gave you a copy of the department’s response?*

**Ms White:** *I can remember us going through it.*

**Hon NORMAN MOORE:** *Who would you have discussed it with in the office?*

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<sup>157</sup> Ibid, pp2-4.

<sup>158</sup> Ibid, p6.

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**Ms White:** *Everyone.*

**Hon NORMAN MOORE:** *Who is everyone?*

**Ms White:** *Sorry; Paul Joyce and whoever would have been in the office the next morning I would have discussed it with, so that everyone knew that the department was handling it and the department was putting out a response and if anyone else got a call, they would know where to direct people for information or for the response.*<sup>159</sup>

- 7.62 Mr Paul Joyce was the Minister's Chief of Staff at the time of the CCC's media statement of 1 June 2006. His evidence was that he was not aware of the impending CCC Report during his time as Chief of Staff (up to 25 July 2006).<sup>160</sup> He did not recall a discussion about the CCC Report with Ms Michelle White:

*"Michelle White was someone whom I worked with and I thought Michelle was a hardworking, decent person. I do not have any reason to dispute her evidence other than to say I cannot remember any discussions with Michelle or anyone else about a CCC investigation or matters to do with sexual misconduct or that had to do with the department's handling of sexual misconduct in the department.*

...

*Ministerial offices are pretty busy work environments. There are a lot of issues that are raised with you on a daily basis, particularly in a portfolio like Education and Training, which is, as you know, one of the biggest portfolios in government. It is possible in amongst all of the other things that you deal with that something is raised with you that you do not appreciate the significance of at the time. As I said before, I would be disappointed in myself if I was sat down and was told there was a CCC investigation, particularly into the matters that were being investigated and the concerns that the CCC had, and I did not follow up on those discussions and seek further information from the department. I clearly did not do that and, as I say, I cannot remember any discussions with Michelle about those matters.*<sup>161</sup>

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<sup>159</sup> Ms Michelle White, former Media Adviser to the Minister for Education and Training, *Transcript of Evidence*, 5 December 2006, p8

<sup>160</sup> Mr Paul Joyce, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 30 November 2006, p1.

<sup>161</sup> Mr Paul Joyce, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 30 November 2006, pp1-2.

7.63 Mr Daron Smith, Policy Adviser to the Minister, travelled to Wiluna with the Minister on 1 June 2006. His evidence was that although he spoke on the phone with Ms Michelle White on 1 June 2006, he did not discuss the CCC Report with Ms White either on that day or on any subsequent occasion.<sup>162</sup>

7.64 In his evidence to the Committee, Mr Darren Klarich, former Policy Officer and (from 14 July 2006 to 7 November 2006) Chief of Staff in the Minister's office, did not recall discussing the CCC inquiry with Ms Michelle White:

*"... at that stage there was quite a lot happening in terms of the education portfolio. There were the outcomes-based education things; there were things we were doing with training; there were federal things happening; there were issues with Julie Bishop, and the union. There were a lot of things happening on a daily basis. I mean, you would be getting four, five, six, seven different releases from seven different people. It was almost crisis management mode, if you like, because there was so much coming through our desk. Something of that magnitude, if Michelle had spoken to me about that I would have remembered something like that because, politically, that would have been, obviously, a major issue on top of everything else. To answer your question, no she did not speak to me about it and I cannot recollect. Having said that, there was so much coming through our office in terms of media and press releases at that time that we were basically under siege."*<sup>163</sup>

7.65 Mr Lance McMahon, Policy Officer in the Office of the Minister, provided the following evidence as to his recollection of relevant media reports of 1 June 2006:

*"On 1 June - I actually remember the day quite well - the minister was going to Wiluna and was paired out of the house. The opposition had decided, although the minister was paired, to move an urgency motion. I therefore had to go down to the house very early and brief Minister Chance to take my minister's role in the debate on the urgency motion, which was related to outcomes education. Minister Chance, as agriculture minister, was not really strongly across the outcomes education issues and so that took considerable time, with Minister Chance also attending to the business of the house. In the afternoon, Minister Ford answered questions on behalf of my minister, so I stayed at the house until about 6.30 - I think the house rose roughly 6.25 pm - and probably got back to the main office about*

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<sup>162</sup> Mr Daron Smith, Policy Adviser, Minister for Education and Training, *Transcript of Evidence*, 30 November 2006, pp2-4.

<sup>163</sup> Mr Darren Klarich, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p3.

seven. Then I went through very rapidly my e-mails. There was an e-mail from GMO that related to this matter, but it was referring to the CCC media release. I scanned that. I thought there is nothing in this release at this point that is necessary for me. The minister was airborne at this stage, I think, coming back from Wiluna. I was also of the view that The West Australian newspaper would be the trigger for me to pursue this further or, indeed, the opposition in Parliament. Neither The West Australian nor the opposition in Parliament ever raised the matter of the CCC having a special inquiry. I want to clarify this, and it is very important: I did not realise this was a special inquiry as such. Maybe I was lax in reading the full transcript. I just scanned it, recognised that it was about a teacher and the AFP, so I cannot in all honesty say that I really triggered that this was what became later the "Sexual Contact with Children" report. I did not refer it to the minister. The West Australian newspaper ran an article the next day or the day after, for which I did draw up a briefing note for the minister for her file. That did not refer to that CCC reference. The opposition did not ask any questions. So the normal triggers that would have triggered me to pursue that as a policy issue were not there. Equally it was not raised by anyone else with me. I would also add that I would find it extremely strange from the public policy and public admin point of view that an important matter is conveyed to a minister by way of press release. So if there was something more substantial to it, I would have expected a substantial document to follow. It is also clear that the department was not telling the ministerial office anything at all about this matter, and there was no follow-up with me either verbally or in writing about that matter.

...

*It was picked up by the diligent journalist at the ABC but was not picked up by The Australian, The Australian Financial Review or The West Australian, which at that stage, and has continued, any negative media that they can find on my minister they used. So they did not pick it up. ... So I suppose I am saying I am not alone in missing it.*"<sup>164</sup>

- 7.66 Mr McMahon was queried as to the "briefing note" that he said he prepared for the Minister:

<sup>164</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, pp5-6.

***Hon NORMAN MOORE:*** *You said you provided her with a briefing note.*

***Mr McMahon:*** *It may not have been a briefing note; it may have been verbal.*<sup>165</sup>

7.67 In subsequent written evidence to the Committee, Mr McMahon stated that:

*"I confirm that this was a verbal briefing to the Minister on the potential for a matter raised in a West Australian article to become a contentious issue."*<sup>166</sup>

7.68 The article referred to from *The West Australian* newspaper of 2 June 2006 (page 9), contains no reference to the CCC, and simply states:

***"Ex-teacher on sex charges***

*A 40-year-old former teacher will appear in court next Wednesday after the Australian Federal Police charged him yesterday with two counts of indecently dealing with two girls while overseas.*

*The AFP will allege the man committed an indecent act on a 13-year-old girl while on an overseas trip in 1995.*

*It will also be alleged that he committed an indecent act on a 15-year-old girl on a flight between London and Kuala Lumpur in July 2003."*

7.69 The Minister noted that:

*"Certainly the article in The West Australian made no mention of the fact that there was a CCC investigation, but I do note that this particular media release did. May I just say that this was not brought to my attention?"*<sup>167</sup>

7.70 Mr McMahon also provided the following evidence:

***Hon NORMAN MOORE:*** *With respect to this particular press release that Mr Albert says was sent to the minister's office, it is fair to assume that it would have gone to the media adviser?*

***Mr McMahon:*** *That would be my assumption.*

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<sup>165</sup> Ibid, p7.

<sup>166</sup> Letter from Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training 5 December 2006.

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**Hon NORMAN MOORE:** *It did not go to you?*

**Mr McMahon:** *No, it did not go to me.*

**Hon NORMAN MOORE:** *To your knowledge, it did not go to the minister?*

**Mr McMahon:** *To my knowledge, it did not go to the minister. I am not saying that that was not an important media release. I am saying that I missed that it was an important media release. Equally, I would be confident that if I missed something that was in a media release, it would be picked up in other media or it would become the subject of an official letter, which this never did. You have one chance of reading a media release and if you miss something, normally you would have other mechanisms in the policy process that would alert you to the importance of a matter.*"<sup>168</sup>

- 7.71 Mr McMahon advised the Committee that he did not see the Media Monitoring Unit news summaries on Friday, 2 June 2006.<sup>169</sup>
- 7.72 The Committee notes, however, from documentation provided by the Minister's Office, that Mr Lance McMahon received, along with Ms Michelle White, a copy of the CCC media statement from the Media Monitoring Unit by email at 5:09pm on 1 June 2006.<sup>170</sup> It is, therefore, clear to the Committee that at least two staff members of the Office of the Minister had been provided with copies of the CCC media statement on 1 June 2006.
- 7.73 For her part, the Minister advised the Committee that she had not seen the 1 June 2006 CCC media statement, but that she does recall seeing the article in *The West Australian* newspaper on 2 June 2006 that mentioned a teacher facing charges, but did not mention the CCC's intention to table a report about DET:

*"This was a small article in the paper. I do not know whether the next day I might have said to one of my officers, "Check it out", because often we go through the clippings. "Check it out." I have no recollection of seeing this, but I do have a recollection of seeing the*

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<sup>167</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p4.

<sup>168</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p7.

<sup>169</sup> Ibid, p10.

<sup>170</sup> Email from Mr John Arthur, Director, Government Media Office, to Mr Lance McMahon and Ms Michelle White, 1 June 2006. Provided to the Committee by the Office of the Minister for Education and Training on 5 December 2006.

*small newspaper article, which did not mention an inquiry by the CCC.*<sup>171</sup>

- 7.74 In light of all of the above evidence from ministerial staffers, the Committee finds it difficult to understand how so many policy staff of the Minister's Office failed to notice the large number of media reports of 1 June 2006 and 2 June 2006. The summaries of these media reports were provided directly to the Minister's Office by the Media Monitoring Unit of the Department of Premier and Cabinet and dealt with a significant issue relating to the Minister's portfolio - a CCC investigation into "*how the Dept of Education and Training deals with allegations of sexual misconduct*".<sup>172</sup>

**Recommendation 2: The Committee recommends that the Corruption and Crime Commission of Western Australia ensure that a courtesy copy of any media statements that it issues be provided to the Office of any Minister whose portfolio may be affected by the contents of the media statement.**

## **8 THE STRAINED RELATIONSHIP BETWEEN DET AND THE CCC DURING 2006**

- 8.1 From an examination of the correspondence between the CCC and the DET over the past two years it is apparent to the Committee that the relationship between these two organisations was significantly damaged by the time the CCC Report was published on 16 October 2006.

- 8.2 Relations between the CMU and the CCC appear to have been difficult from the very beginning. Mr Peter Denton, former Manager of the CMU, told the Committee that:

*"... at the first meeting we had with officers from the Corruption and Crime Commission when the unit was established and the act was passed, it was made very clear to me that they would be closely monitoring the department's activities and would not hesitate to expose us publicly."*<sup>173</sup>

- 8.3 Mr Denton's evidence was supported by that of Mrs Kelly Dansie, Senior Consultant, CMU:

*"... some time in 2003 officers from the Corruption and Crime Commission met with the complaints management unit. I assumed*

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<sup>171</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p4.

<sup>172</sup> Media Monitoring Unit, Department of the Premier and Cabinet, *Early Morning Radio News Summary, Friday June 2<sup>nd</sup>, 2006*, p1.

<sup>173</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

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*that this was a meeting to get to know each other, as we had held such meetings with the police child abuse unit and other stakeholders. During this meeting Roger Watson pointed out that he was integral in starting the Ombudsman inquiry into the department. Also at this meeting Roger stated that he would “catch us out”, or words to that effect. I have no idea why he felt the need to take this approach. It was inevitable from that point onwards that interactions between the two groups would be difficult.”<sup>174</sup>*

- 8.4 Mr Roger Watson, Manager, Investigations Review and Complaints Assessment, CCC, stated the following:

*“Over the period between early 2004 and 2006, focussing perhaps on the latter part of 2005 and going into 2006, a number of issues emerged. Those issues included, for example, the way the department deals with preliminary inquiries. We wanted to have a discussion about that. We had a different view from the department’s view about the way it should or should not conduct preliminary inquiries. In raising that the department adopted a very defensive position. It did not want to hear our message. We had concerns about the use of force in classrooms or about physical contact. Again, a similar thing occurred. We had concerns about sexual contact in classrooms in relation to those particular issues that are detailed in the report. Again, we raised the issues and got this very defensive response. It is difficult to know how to deal with that in a non-confrontational way, bearing in mind the need to keep our independence. We had to call the issues the way we saw them, and we did that. At all times we tried to maintain dialogue or an open course of communication with the department, trying to work cooperatively with the department. It is my view that the department just did not want to work cooperatively with us. It is my view that the department took a very defensive position on these issues and did not want to hear the message. The department did not want to enter into an honest dialogue with us where there is give and take; it just wanted to tell us that we had it wrong.”<sup>175</sup>*

- 8.5 Mr Watson added that:

*“ I think it is the case is that the department was very prone to get legal advice. One of the issues for us was that it seemed to be very*

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<sup>174</sup> Mrs Kelly Dansie, Senior Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p1.

<sup>175</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, p3

*legalistically driven in relation to these complaint issues, rather than trying to get to the facts. I will articulate it in this way: just because someone has advice on a particular issue does not make it right. You might get advice and I might get advice, and the two sets of advice might often be in conflict. The nature of the advice that the department was getting seemed to be driven more by industrial relations concerns rather than by getting to the heart of the complaints and investigating concerns. What it did with that advice, of course, was up to it, I guess.*"<sup>176</sup>

- 8.6 In her evidence to the Committee, Ms Annika Christou, a legal officer with DET who had been seconded from the State Solicitor's Office, stated:

*"I was aware of the fractured relationship. I became aware of it through requests for legal advice to revise responses to the CCC when it provided correspondence to either the director general or the executive director and the complaints management unit would assist in the drafting of a response. The reasons for it, I cannot necessarily comment on. Often the correspondence was [duplicated<sup>177</sup>] as several [items of] correspondence would ask similar questions. Often it could be interpreted that the CCC was potentially attacking the department's handling of the complaints."*<sup>178</sup>

- 8.7 Ms Beverley Dornan, former Principal Consultant with the CMU, told the Committee that:

*"... Mr Denton and I were responsible for most of the day-to-day contact with Roger Watson and officers attached to his review and assessment team at the CCC. Relations between Mr Watson's officers and department officers were often characterised by considerable tension. Mr Denton and I attributed this tension to our unwillingness to accede to CCC directions and suggestions to act contrary to the disciplinary proceedings outlined in the Public Sector Management Act and to the demonstrably low levels of understanding by officers in Mr Watson's team of the regulatory environment concerning complaints management and disciplinary processes in particular.*

*Earlier this year I became so concerned about the unacceptably low levels of understanding of these processes by CCC officers given*

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<sup>176</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, p4.

<sup>177</sup> Letter from Ms Annika Christou, Legal Officer, State Solicitor's Office, 27 November 2006, p1.

<sup>178</sup> Ms Annika Christou, Legal Officer, State Solicitor's Office, *Transcript of Evidence*, 28 November 2006, p3.

*responsibility for assessing department-managed disciplinary processes, that I wrote formally to the State Solicitor's Office seeking guidance as to how best to address this concerning issue. I did so again more recently, enclosing examples of intra-agency correspondence with respect to over 14 cases, again seeking the assistance of the State Solicitor's Office to possibly approach Commissioner Hammond, lawyer to lawyer, to impartially explain department concerns.*"<sup>179</sup>

8.8 Similar evidence was provided by Mrs Kelly Dansie, Senior Consultant, CMU:

*"Relations between the CCC and the CMU reached a critical point earlier this year, such that the CMU refused to receive telephone calls from CCC officers and insisted that all matters be dealt with in writing. It is my understanding that there were a number of reasons for this, including that CMU staff were constantly being asked by CCC staff to interpret legislation and provide them with advice on such matters as the jurisdiction of the CCC, whether certain officers were deemed public servants and specific explanations of the Public Sector Management Act processes.*

...

*The CCC was very critical of our decision making and would write to us asking why we did not do this or that. The CCC obviously had no understanding of the legislative framework in which we worked, and that would be the response that we would send back - "that we can't because" - and it interpreted that as us being difficult, obstructive or whatever, but in fact we were just complying with legislation. To do what the CCC had recommended would have meant that we would have breached various pieces of legislation over those few years. I have no idea why Mr Watson had that attitude from the start, but it obviously permeated down the team and we would often get telephone calls from his subordinate officers, who appeared to be trying to trick us, catch us out or get information out of us. It certainly was not conducive to the roles that each of us were playing, and the interactions that we were meant to be having, in that the CCC is a monitoring body and we were happy to respond to inquiries. At one point the CCC issued a subpoena for some information, which was completely heavy-handed; we would have handed the information*

<sup>179</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p4.

over voluntarily. There seemed to be a particular attitude towards us, and I do not know why that is.

...

*I can give you examples of two types of things. First, the CCC would write us a standard letter, I believe it was - we asked the CCC to change it and it would not - saying that during an investigation, if other matters come to light, the investigator should have to investigate those matters too. However, section 81(1) of the Public Sector Management Act requires that before you commence an investigation, you have to first articulate the allegations to the person. If something came up during the course of the investigations, we would have to hive that off and start a new process in which the person first gets to respond. The CCC expected an investigator - which is an outsourced part of our function - to pick up and run with new evidence or information that came to light in relation to other allegations. We explained that to the CCC, but it kept writing that in letters to the point that we would ignore it and do what was right by us. Another point is that I had a call from either Debbie Hills or Barbara Inglis - I cannot remember which. She was confused about why we had done two investigations. The Public Sector Management Act requires an investigation and inquiry; if it is a serious breach, and a certain set of circumstances go a certain way, you have to do two. The CCC obviously did not understand the difference between each and was querying why we had done two investigations. For me to have to explain that to somebody who is meant to be monitoring me frustrated me no end. It would be continuously like that; every little thing.*

*I understand that it is a very complex piece of legislation, and it takes many, many months to understand it, but to be continuously checked by these people who did not understand it was infuriating.*<sup>180</sup>

#### *The announcement of the preparation of the CCC Report*

- 8.9 It appears to the Committee that the CCC's announcement on 18 January 2006<sup>181</sup> that it was going to prepare a report did not come as a complete surprise to the staff of the CMU. Mr Peter Denton, the former Manager of the CMU, told the Committee that:

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<sup>180</sup> Mrs Kelly Dansie, Senior Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p2 and pp5-6.

<sup>181</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 18 January 2006, p1. Document provided by the Department of Education and Training (Document No. 2).

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*“I was not surprised that they would proceed with something like that, because from the communication that we had had with the CCC over the past two and a half, three years, they had questioned a lot of our processes on occasions, and we always responded in writing to their questions and queries, having sought legal advice before we did that. There often remained a difference of opinion between the department’s position on issues and the Corruption and Crime Commission’s. I have a sense that they were not comfortable with us challenging their decisions and that this may well have been an opportunity for them to bring the disagreement to a head.”<sup>182</sup>*

- 8.10 Mr Denton’s evidence was that DET was unaware which specific investigations, apart from one or two, that the CCC had chosen to report on as case studies until it received a copy of the draft CCC Report:

*“... we only became aware of some of those cases that were going to be tabled when the draft report came out. In essence, there were one or two cases that were part of that report that we had been dealing with the Corruption and Crime Commission on, but it was only when we were notified by Commissioner Hammond that the report was going to be tabled that we knew that there was something other than just those two cases.”<sup>183</sup>*

- 8.11 It is clear that DET did not have any specific input or other contact with the CCC in relation to the preparation of the CCC Report until a copy of the draft CCC Report was provided in early July 2006.<sup>184</sup>

*The CCC’s 1 June 2006 media statement*

- 8.12 It is clear that within DET there was significant anger and frustration at the perceived errors of fact contained in the CCC media statement of 1 June 2006. Mr Peter Denton, former Manager of the CMU, told the Committee that in his view the media statement was:

*“... an ingenuous account of what was going on with respect to the particular case and how the department had managed it; and they refer to the Corruption and Crime Commission as having raised the issue, for instance, with the Australian Federal Police, when in fact some 18 months previously the department had raised the issue with the Federal Police and, despite the fact that we did not have a fax*

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<sup>182</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

<sup>183</sup> Ibid, p3.

<sup>184</sup> Ibid.

*cover sheet to indicate that, and there was no record of the Federal Police, we have some documentation that clearly indicates that we had communication with the Federal Police. They were aware of the case because we had discussed that with them because the incident had occurred in international air space, and as a consequence no-one really wanted to have jurisdiction over it, and when it was established that it was the Australian Federal Police, we contacted them immediately to advise them and then proceeded with our own investigation. So we felt that what they were claiming to have done from the commission's point of view had already been covered by the department.*"<sup>185</sup>

- 8.13 The Committee understands that DET lodged a complaint with the Parliamentary Inspector of the CCC as a result of what the DET saw as factual inaccuracies in the 1 June 2006 media statement.<sup>186</sup> Mr Albert told the Committee that he was surprised that the CCC included the case study that related to the 1 June 2006 CCC media statement in the CCC Report, given that the DET's complaint to the Parliamentary Commissioner of the CCC had yet to be resolved.<sup>187</sup>

- 8.14 Mr Albert also took action at this time to attempt to repair the relationship with the CCC:

*"The press release inferred in a very critical way that without the timely intervention of the CCC, the department would not have addressed the situation in which the teacher in case 2 was found to have indecently assaulted a student. From my point of view that was incorrect. The teacher had been dealt with; the teacher had been dismissed. We were not sure what the issue was. I telephoned the CCC officer responsible for the press release - that is, the Director of Operations Mr Nick Anticich - to express my concerns about the press release. We had a discussion about the CCC's concerns in relation to notification of the incident to the Australian Federal Police. The department had notified the local police and the relevant agency at the time. In the CCC's view we should have also notified the Australian Federal Police. From my contact with the department, we had. However, the CCC disagreed. During the conversation we concluded that there were real problems between the relationship between CCC staff and our complaints management unit staff. As a*

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<sup>185</sup> Ibid, p6.

<sup>186</sup> Mrs Kelly Dansie, Senior Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p2. Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p4.

<sup>187</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, pp4-5.

*consequence, we agreed that Mr Watson of the commission and Mr Huts and Mr Peter Denton of the department needed to meet as quickly as possible to resolve the relationship. We also agreed that it would be helpful if regular meetings were held between the CCC and the department to ensure that no misunderstandings developed in the management of specific cases. I recall saying that Mr Huts would be our representative and I recall him saying that Roger Watson would be the CCC's representative. I indicated to him that if the CCC did not feel that the relationship was going well or that it was improving, it should immediately get in contact with me. However, from that time to my departure no-one from the commission contacted me to say that the relationship was not going well.*"<sup>188</sup>

#### *Discussion on the draft CCC Report*

- 8.15 Mr Roger Watson, Manager Investigations Review and Complaints Assessment, CCC, gave evidence that although the relationship between the CCC and DET was strained, officers of the two agencies kept in regular contact throughout 2006:

*"What I can say is that over the weeks, contact between my area and the department would have occurred several times a week on various cases. Philosophically, in running a section such as mine, you want to have fairly open discussions with the agencies you do business with, and you want to be able to have fairly robust discussions about things that you do not agree with, but still exchange information - so, still work collaboratively or cooperatively, if I can use those terms without indicating some sort of capture. Our interaction with the Department of Education and Training had, unfortunately, got to a point where it had become very defensive. It was almost like a game of table tennis. Rather than an open exchange, there was to-ing and fro-ing - so much so, that on more than one occasion, [Mr Nicholas Anticich, Director Operations, CCC] had asked me to try to do more to improve the relationship.*

*On various cases, there was interaction on a daily and weekly basis. I do not know how often the issue of the contents of this draft report came up, but I suspect that in the context of that fractured relationship, it would not have come up often, if at all. There were more formal meetings that I had with Alby Huts. We had, in order to improve this relationship, agreed to try to meet once a month, or something like that, in the months leading up to this report. Unfortunately, for one reason or another - I think probably because*

<sup>188</sup>

*Ibid*, p4.

*people were busy - we did not meet as often as we would have liked to. However, it is the case that on 28 September - I think a week or two before the report, and folio 19 refers to this - I met with Alby and others, including some of his people and some different people from the commission. We talked about a number of things, including this report. I indicated to him at that time that it was a week to a week and a half away from publication. There was no secrecy to this - it was well known. He had asked me if he could have an advance copy, and I said to him that it was not my decision specifically, but that I was in favour of him getting an advance copy, and that I would move to try to ensure that would happen; in fact, that did happen. How often contact occurred, I do not know, but at the 28 September meeting there was no shock, horror or surprise at the tabling of the report.*<sup>189</sup>

- 8.16 Mr Denton, the former Manager of the CMU, told the Committee that he was not confident that DET's response to the draft CCC Report would convince the CCC not to proceed with the finalisation of the report:

*"I was never confident that they would not proceed because of the background to the interaction between the department and the Corruption and Crime Commission, but having provided a response to their draft report and having had that reviewed by the State Solicitor's Office, I am confident all of the issues had been addressed significantly; and it was felt, both from a department perspective and also from the State Solicitor's, that there was no need for the report to be tabled, and I think anyone who has read the report and read our response to it would question why it proceeded to be tabled in Parliament."*<sup>190</sup>

- 8.17 Mr Denton, however, also noted that:

*"... the department has in the past received positive feedback from the Corruption and Crime Commission with respect to disciplinary matters managed by the CMU on behalf of the executive director, human resources. This agency - the Corruption and Crime Commission - has referred other agencies, such as the Department of Justice, CALM and the Department of Racing, Gaming and Liquor, for operational advice. It has invited CMU officers to provide advice with respect to the production of the CCC's own disciplinary*

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<sup>189</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p8.

<sup>190</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p7.

*guidelines for conducting investigations. In addition, Mr Mike Silverstone, Executive Director of the Corruption and Crime Commission, advised the director general in August 2004 that he was impressed with the professionalism of the CMU and its operational procedures. During 2005 the commissioner, Mr Kevin Hammond, advised the director general in writing that it appears the centralised complaints management process for schools is comprehensive and effective. In light of the above comments and the department's response to the draft report I find the actions of the CCC somewhat difficult to comprehend.*"<sup>191</sup>

- 8.18 Mr Watson, Manager Investigations Review and Complaints Assessment, CCC, however noted that:

*"I do not know how we could have made it any more clear than the path we were on to be perfectly honest. At the meeting with Mr Huts about a week and a half before the report was to be tabled, I made it very clear to him that we were going to table a report in the following week or week and a half. That we intended to table the report was made very clear to the department back in January. From January to the date we tabled the report, 16 October 2006, I do not recall one instance when the department or any person from the department came to us and said, "Look, I think we can resolve this without you tabling the report." If that had occurred, I would have been open to that. I am not saying we would not have tabled the report in any event. I think there are some issues of significant public interest in the report, but the report might well have differed insofar as it would have said, "Subsequent to the draft report or some other point in the process the department came to us and said how do we resolve the problems. There was a discussion and, consequently, the department put in place these different processes, revisited these decisions," or whatever the case may be. That never occurred. We would certainly have been open to that.*"<sup>192</sup>

#### *The Minister's response to the CCC Report*

- 8.19 The Committee noted with interest the following response by the Minister to her briefing on the draft CCC Report:

*"I believe that the CCC has a very legitimate role to play and has a very important mandate. Its willingness to work with DET in pursuit*

<sup>191</sup> Ibid, p2.

<sup>192</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, pp8-9.

*of higher complaints management standards; that is, Australian standards, should have been welcomed by my department, not resisted. I am particularly concerned that DET was seen to be obstructing the efforts of the CCC. Even though this was revealed to me only after the tabling of the report, I apologise on behalf of my agency for that being the case. I want to reassure members that there can be no greater priority in education than the safety and wellbeing of children. Anything that compromises this is totally unacceptable in my view. That is why when I met with the CCC and looked at the executive summary of the report I was shocked, and certainly gobsmacked - a term I have used in the Parliament - and stunned. I did say so to the officers when I had received my copy. I said without hesitation to the officers that I would act immediately and fully implement the recommendations as a matter of priority.”<sup>193</sup>*

8.20 The Committee pursued this issue in more detail with the Minister:

*“Hon NORMAN MOORE: In respect of that matter, you said that you had a meeting with the CCC at which you accepted the findings of their report.*

*Hon LJILJANNA RAVLICH: Yes.*

*Hon NORMAN MOORE: When was that meeting?*

*Hon LJILJANNA RAVLICH: That meeting was the day before the report was tabled. It was 12 October.*

*Hon NORMAN MOORE: You met with the CCC on 12 October, which was the Thursday. It was tabled the following week.*

*Hon LJILJANNA RAVLICH: Yes, I have a minister’s briefing note. It was 12 October. At that meeting was when I first got the executive summary. We went through the executive summary and spoke to the officers, Mr Watson and Mr Silverstone. I could not believe what had landed in my lap - absolutely shocked by what had landed in my lap. I was not going to muck around. I am telling you, honourable member, I do not think that it was an issue to be mucked around with. I gave them directly undertakings at that meeting that I would move and that I would move immediately.*

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<sup>193</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

**Hon NORMAN MOORE:** *I must ask you how you came to the conclusion that the CCC findings were superior to those of the department, which you would have been advised, I gather, had completely different views about this particular matter. What I would like to know is: why you accepted without question or without any further advice the CCC's recommendations?*

**Hon LJILJANNA RAVLICH:** *Because I believed that the CCC recommendations were actually based on an Australian standard. I assume that you are speaking about the Browne report.*

**Hon NORMAN MOORE:** *No, I am talking about the evidence we have received from former members of the complaints management unit that the CCC report is significantly flawed. What I am asking you is why you accepted the report without equivocation at the very moment you received it without taking further advice from anybody else; without going to the director general and asking what his views were on this; and without seeking any advice from the CMU at all about the matter before you made a decision to accept the recommendations? That is what I am asking.*

**Hon LJILJANNA RAVLICH:** *The Ombudsman had also been investigating complaints management within the department. I looked at the six recommendations and I just thought that we needed to move and that we needed to move quickly. I do not think that I could have had the luxury, in fact, of consulting, if you like, with stakeholders and with the department extensively. Certainly, the department had not kept me informed in relation to these matters. Keep in mind that I had been a minister for 18 months or thereabouts at that time. Certainly, on the matter of the complaints management unit, I cannot remember even being briefed verbally on the complaints management unit. I never was sent a final copy of the Browne report. So to me it indicated - certainly by way of the fact that I was not informed about this particular inquiry, I have to say that I held the view that this is the way forward. I do accept that the CCC would have expertise in complaints management.*

**Hon NORMAN MOORE:** *Without being argumentative, I think the people in the complaints management unit thought the same about their expertise. The point I am trying to make is that I gather that you were provided with an executive summary of the report, but not the whole report, by way of a preliminary briefing before the report was to be tabled the following week. Why did you not think it was prudent to at least seek a response from the department before you accepted*

*all the recommendations without equivocation, bearing in mind that you had time to do that before the report became public?*

**Hon LJILJANNA RAVLICH:** *Because quite clearly, Mr Moore, my department, in its communications with me, had not thought that the matter of sexual misconduct was of such importance that it should be brought to my attention. On this particular matter, my confidence was not with the agency, and I put my confidence in the CCC report.*

...

**Hon NORMAN MOORE:** *You have told us that, from your point of view, the CCC report was not flawed, which has been suggested to us by other witnesses. Did you take advice from anybody else about that report and the veracity of the report itself?*

**Hon LJILJANNA RAVLICH:** *No, I did not.*

**Hon NORMAN MOORE:** *You did not take any advice from anybody; you simply accepted the recommendations.*

**Hon LJILJANNA RAVLICH:** *I gave a commitment to the CCC that those six recommendations would be implemented, yes.*<sup>194</sup>

#### *After the publication of the CCC Report*

- 8.21 Officers of DET advised the Committee that they were of the view that the CCC Report was “legally flawed”.<sup>195</sup> In evidence to the Committee, Ms Beverley Dornan, former Principal Consultant, CMU, stated that:

*“I recall at the time that two state solicitors expressed surprise to me that the department’s response to the draft report did not allay the commissioner’s concerns or, at the very least, prompt an invitation to discuss the concerns further given their serious nature.”*<sup>196</sup>

- 8.22 Ms Annika Christou, at the relevant time a legal officer with DET seconded from the State Solicitor’s Office, advised the Committee that:

*“I share the view that some legal aspects of the report are troublesome. For example, I would seek to explore the recommendation about the reporting of matters to [the Western*

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<sup>194</sup> Ibid, pp11-12.

<sup>195</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p1.

<sup>196</sup> Ibid, p2.

Australian College of Teaching] outside the statutory requirement and compulsion to report. I also was a bit concerned about some of the legal matters falling out of the case studies, such as case study 3 where the department appeared to be criticised for delaying when, in reality, there were factors that I was aware of going towards that delay and that necessitated that delay from a legal perspective.”<sup>197</sup>

8.23 Mr Albert provided the following comments to the Committee on the CCC Report:

*“In the draft report, the comment that the Department was resisting change was at least qualified by the comment in that report that this was because of the Department’s interpretation of the Public Sector Management Act. In the final report, that qualification was omitted.*

...

*Indeed, the State Solicitor’s Officer was of the opinion that the report was challengeable and this advice was provided at the Minister’s meeting on Sunday 15 October and again to me on Monday 16 October. In my view, it was too late to challenge the quality of the report because it was to be placed in the public arena at 10.00 or 10.30 am that morning. Without the backing of the Minister or Government, the Department would be portrayed as defending the indefensible.*

*To put it bluntly, I am still staggered that no one to date has looked seriously at the quality of the CCC’s report. It begs the question as to who looks at the quality of the work undertaken by the CCC.”*<sup>198</sup>

8.24 However, Mr Watson, on behalf of the CCC, stated that:

*“The report that we tabled has one less case study in it. I think it has one less recommendation. If I were the department, as confronting as the report is, I would be less confronted by the final version than I would be by the draft version. It did not get worse for the department; it got better, as you would expect. We are obliged to consider their comments properly and carefully, and we did that. Hence, the removal of a case study and the removal of a*

<sup>197</sup> Ms Annika Christou, Legal Officer, State Solicitor’s Office, *Transcript of Evidence*, 28 November 2006, p4.

<sup>198</sup> Letter from Mr Paul Albert, former Director General, Department of Education and Training, 28 November 2006, p3.

*recommendation. Other things were taken out of it which probably do not matter for the purposes of today.*"<sup>199</sup>

- 8.25 Ms Beverley Dornan advised the Committee that the impact of the CCC Report on the CMU has been significant:

*"The cost to the public of the release of this CCC report has been immeasurable. Apart from the fact that public sector officers have been deprived of their livelihoods and that reputations, both personal and professional, have been destroyed, the complaints management processes of the second largest agency in this state is now completely dysfunctional.*"<sup>200</sup>

- 8.26 The CCC did, however, acknowledge the 'collateral damage' from the CCC Report:

*"I get no pleasure from the collateral damage through either the people who have lost their jobs or my having to come before this inquiry. It probably sounds cute to say that, but I cannot express that enough. I do not feel good about that whatsoever. However, ultimately, I am paid to do a job, and that job is to deal with these issues independently and objectively, and I think that is what I have done. I think that is what the commission has done. Ultimately, it is for people such as yourselves and the public to determine whether that is correct or incorrect.*

*I do not know how to express a view about the collateral damage other than that. To say that I do not or the commission would not turn its mind to the issue of collateral damage would be naive. It is hard to anticipate what the collateral damage will be prior to the publication of those reports. This not the first report I have been associated with that has been published. The collateral damage in previous reports has been different. However, in the end the decision is on the merits of the report on the information and on the basis of the legislation under which we operate.*"<sup>201</sup>

- 8.27 An indication as to the extent of the difficulties in the relationship between DET and the CCC following the publication of the CCC Report can be seen in the following evidence of Mr Denton:

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<sup>199</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, p11.

<sup>200</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

<sup>201</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, pp7-8.

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**“Mr Denton:** ... when the director general and the executive director of human resources left the department, I understand that a message came from the Corruption and Crime Commission to the minister’s office indicating that they had missed their target. They were not after the director general, nor the executive director; they were after two from the unit. So I suspect that this was more about -

**Hon GRAHAM GIFFARD:** I am sorry, where did you get that information from?

**Mr Denton:** From the minister.

**Hon GRAHAM GIFFARD:** Did she say where she got that information from?

**Mr Denton:** No.

**Hon GRAHAM GIFFARD:** And these what you would describe as targets were two people from the CMU.

**Mr Denton:** From the CMU, which I suspect is myself and my principal consultant, who were the two who used to challenge the perceptions of the world of the CCC.

**Hon NORMAN MOORE:** How did you come to be talking to the minister about this?

**Mr Denton:** I was up there following the tabling of the report providing some information to the minister on another case that had been raised outside of the report.

**Hon NORMAN MOORE:** And she informed you that the CCC had told her that they had missed the target?

**Mr Denton:** Yes.

**Hon NORMAN MOORE:** And that, indeed, the director general and Mr Huts were not supposed to have been got.

**Mr Denton:** They were not the targets; it was two officers within the unit, which was myself and the principal consultant, I would assume, because we were the ones who were generally the communications links with the commission and the two that challenged their position on a number of issues.

**Hon NORMAN MOORE:** *Did the minister happen to mention who the CCC person was who relayed that message to her?*

**Mr Denton:** *No, she did not.*

**Hon NORMAN MOORE:** *Extraordinary!*<sup>202</sup>

8.28 The Minister was asked to provide evidence as to this conversation with Mr Denton. She stated the following to the Committee:

**“Hon LJILJANNA RAVLICH:** *It would have been not long after the report was tabled and we had an implementation plan. It would have been a meeting up at Parliament House, and basically we were going through the implementation plan and checking the progress of initiatives. Mr Denton was at that meeting and he, in my view, was still not accepting of the CCC’s findings. He could still not get his head around the fact that we were dealing with such an important matter. He certainly felt that all the criticisms of the CMU were fairly unjustified. I had made the point - certainly, I had never spoken to the CCC; the CCC has not told me anything - that it had come to my notice that there was a view within the CCC that they had not expected that the director general and Alby Huts would take MIRs because they saw the greatest obstacle to their work as the middle management within the CMU. That was certainly indicated in terms of the report.*

**CHAIR:** *You say that you did not receive that information directly from the CCC?*

**Hon LJILJANNA RAVLICH:** *No.*

**CHAIR:** *Who did you receive that information from?*

**Hon LJILJANNA RAVLICH:** *Darren Klarich, who had apparently spoken to an officer within the CCC informally, and he communicated to me. It was simply by way of saying that they were a bit surprised at the fallout and certainly the biggest obstacle to their work had been middle managers in the CMU. That was certainly consistent in terms of the CCC report because they kept coming back to the problems within the complaints management unit.*

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Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, pp5-6.

**Hon GRAHAM GIFFARD:** Minister, it was actually put to us in evidence that the report to Mr Denton was that the CCC report had missed its targets and that, rather than Huts and Albert being the targets of the report, two people in the CMU were the targets of the report. Is that how you would have conveyed that to Mr Denton?

**Hon LJILJANNA RAVLICH:** I do not think so. I think I would have just said middle management within the CMU.<sup>203</sup>

- 8.29 Mr Darren Klarich, the Minister's Chief of Staff at the relevant time, gave the following evidence in relation to the conversation with a CCC officer that he had relayed to the Minister:

*"I had had an off-the-record discussion with a CCC officer basically stating that we would like to help the commission in any way we could - communication or whatever our office could do was at the CCC's disposal. Generally, the discussion was along the lines in which I think we were both surprised, if you like, at the fallout from the report. During that conversation it was my interpretation that I think the CCC or the investigation had concerns about the complaints management unit and how that was being handled, more so than Mr Huts or Mr Albert. Sorry, that was the background. To answer your question: my interpretation was that the CCC had missed its target and I think I said words to that effect to the minister. As I said, just from speaking to the investigator, I came to the conclusion, based on our conversation, that the CCC was not gunning if you like for Mr Huts or Mr Albert; it was more so the complaints management unit and the way the unit operated and the culture within that unit.*

...

*Mr Watson's comment was not that he was "gunning" or any of those things - that was my interpretation. Mr Watson generally said that there were concerns about the complaints management unit and that type of thing. "Gunning" or "missed the target" was my interpretation based on what he said. It was quite clear to me that the CCC had some grave concerns about the complaints management unit and how that had been managed. I think the CCC was a little bit surprised - when I say the CCC, I think Mr Watson was a bit*

<sup>203</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, pp10-11.

*surprised at the actual fallout that had happened in the prior 48 hours or whatever it was.*<sup>204</sup>

8.30 Mr Roger Watson provided the following account of his conversation with Mr Klarich:

*"We tabled the report on the Monday. It might have been the Tuesday, Wednesday or Thursday - it might have been even the Friday. I recall quite clearly: I was on the way back from the Police Academy in Joondalup and took the call on my mobile phone call in my car, which was plugged into the receiver at the time. That was a longer conversation in which Daron expressed to me that - I use the word "they" - the minister and the department, were implementing a professional standards portfolio, which I had stressed at both the briefing and at other points was the main issue for us. The recommendations we made in the report kind of fell in behind that. In the context of that conversation, I expressed sadness, if that is the right word, at the resignation of Alby Huts and Paul Albert. I had not met Paul Albert but I had certainly met Alby a couple of times, and he was a good bloke. I was disappointed for him. It was not our intention that people would be sacked or anything out of this report. I expressed some irony, if that is the right word.*

*In a general conversation about people being moved out of the complaints management unit, he talked about the CMU's resources being doubled - that people had been moved out. I asked him whether that meant everyone was going. I did not know that it was necessary for all the people to be moved on, for example. I expressed some irony about Peter Denton and Bev Dornan staying in the complaints management unit if that was to be the case. To be fair to him, he said to me that he did not know whether they were staying or not.*

...

*I was still quite guarded in what I said and I am completely confident that I did not express a view that we had missed our targets. We did not have any targets in our investigation and I certainly would not have said that.*<sup>205</sup>

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<sup>204</sup> Mr Darren Klarich, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 5 December 2006, pp1-2.

<sup>205</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 5 December 2006, pp1-2.

- 8.31 Ms Beverley Dornan, former Principal Consultant, CMU, advised the Committee that she had submitted, in her own name, a complaint to the Parliamentary Inspector of the CCC regarding the nature of the CCC Report.<sup>206</sup>
- 8.32 The Committee wrote to the Parliamentary Inspector requesting information on his investigation into the complaints of Ms Beverley Dornan and Mr Paul Albert. The Committee was advised by the Parliamentary Inspector that he had received a complaint from Ms Dornan, and that he is expecting to finalise his review of that complaint by late January 2007.<sup>207</sup>
- 8.33 From the CCC's point of view, however, they reported the following to the Committee when asked about DET's reluctance to address identified problems in its complaint handling system in the period leading up to the publication of the CCC Report:

*"... to put it into contrast, could I say that perhaps in the last six weeks we have seen more activity by the department to address some of the issues that we have raised than in the past two years. That puts it into some sort of contrast. There is an acceptance of the recommendations and real things occurring in terms of addressing some of those recommendations."*<sup>208</sup>

#### *Committee observations*

- 8.34 The Committee was very concerned at the evidence it heard regarding the steadily disintegrating relationship between the CCC and the DET between June 2005 and October 2006. The Committee has set out the evidence above so as to give an indication of the strong emotions of some of the witnesses and to indicate the progressive breakdown in the relationship between the CCC and the DET. The Committee does not reproduce this particular evidence as an accurate statement of fact, and makes no findings or conclusions with respect to the evidence.
- 8.35 The Committee has formed the view that this particular issue is too complex for the Committee to examine in any detail in the short inquiry period. The Committee suggests, however, that the events that prompted the CCC to publish the CCC Report and the subsequent abolition/re-structuring of the CMU should be examined by a parliamentary committee.

<sup>206</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p6.

<sup>207</sup> Telephone conversation between Mr Malcolm McCusker QC, Parliamentary Inspector of the Corruption and Crime Commission of Western Australia, and Committee staff, 7 December 2006.

<sup>208</sup> Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p4.

**Recommendation 3: The Committee recommends that the Legislative Council refer all matters relating to the respective procedures and processes of, and interaction between, the Corruption and Crime Commission of Western Australia and the Complaints Management Unit of the Department of Education and Training between June 2005 and October 2006 to the Public Administration Committee for inquiry and report, so as to establish the causes of the significant breakdown in the relationship between those two agencies and the subsequent re-structuring of the Complaints Management Unit.**

## 9 THE PROVISION OF INFORMATION TO THE MINISTER FOR EDUCATION AND TRAINING

### Contentious issues files

- 9.1 The Committee heard evidence that policy officers in the Office of the Minister receive contentious issues briefing notes from DET on a quarterly basis.<sup>209</sup> The most recent updates being signed by the then Director General of DET on 13 October 2006 and 1 August 2006.<sup>210</sup> The Committee was advised that the CCC inquiry or Report is not mentioned in either the August or October Contentious Issues file updates.<sup>211</sup>
- 9.2 Mr Lance McMahon, Policy Officer, Office of the Minister, advised the Committee that:

*“As in all ministerial offices - I am certain for many decades now - there are set procedures by which information is conveyed to and from the public service subject to the Public Sector Management Act and is regulated. In our office we had a variety. I will give an overview for the committee and the record’s benefit.*

*Each year we received an annual program file which covered all the programs of the department - every single one of them. I think also, when I was policy adviser in one of those periods, a similar file was provided to the shadow minister to give the shadow minister a full briefing. I am certainly aware that other program briefings were given to shadow ministers as well. These documents are not secretive in nature, but are documents where the department actually states what all the programs are, and maybe some comments on problems or issues with some of those programs. We also had an internal document developed in conjunction with the departments. The*

<sup>209</sup> Ms Melissa Rinaldi, Principal Policy Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p1.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid, p5.

*departments are asked to identify any contentious issues that may attract parliamentary or media attention, or the minister's immediate action. They were delivered quarterly from all departments. We are only concerned with one here. Just on a review of those, I had a look through them and they had approximately 50 issues in them, which the department thought were particularly critical. ... the matter with which this committee is concerned was not in any of the quarterly contentious issues files.*

*The other internal file - not to be shared with the opposition - is the minister's parliamentary file. The minister's parliamentary file would be updated with contentious issues on a daily basis. Something has happened; the minister needs to know about it because there could be a question without notice of which some notice is given - usually in this house - and so the minister's file would be updated. When the Parliament was not sitting, that file would fairly well lie dormant, but in the week or so preceding Parliament resuming, it would be updated. The department was expected to provide, again, the top contentious issues that it identified, as well as those identified by the minister's office.*

*The other way in which we would receive policy from the department was by briefing notes. Sometimes they were sparked by the media; sometimes they were sparked by an event; for example, a storm may have damaged a school badly and we would immediately request a briefing note so that the minister could be fully apprised of the key issues. They are normally about one page in length.*<sup>212</sup>

- 9.3 Mr Albert provided the following explanation when asked why the CCC inquiry/report had never been placed on the Minister's Contentious Issues files:

*"All the particular officers who had responsibility for the area had the job of identifying contentious issues. They would compile that file in that way. As I have said, up until the time I received the draft report, I had no idea other than [the CCC] was doing an inquiry. Indeed, the first time I thought that it was simply using it as a basis to get information to aid it with the Peter Browne committee. In terms of the way the department operates, each executive director would identify a list of contentious issues. That is how the file was compiled. There were some issues that I would be dealing with and I would compile those papers and send them to the office.*

<sup>212</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, pp1-2.

...

*The minister's office would request preparation of a contentious issue file. That would go to the relevant executive directors. They would make a list of what they thought was contentious in that area, prepare the briefing notes and send it up. Often the file would come to me if I was there; at other times, it would go straight up because often we were on tight timelines. I cannot explain why it was not there.*"<sup>213</sup>

- 9.4 Mr Albert Huts, former Executive Director, Human Resources, DET, told the Committee that:

*"I have attended a number of briefings with the minister but, to the best of my knowledge, at no time was I present when a CCC report or draft report was discussed or any matter involving the CCC. My recollection of the eight to 10 meetings I attended with the minister over the past 18 months is that they were in essence about the negotiation with the teachers' agreement."*<sup>214</sup>

- 9.5 The Minister's Chief of Staff between 14 July 2006 and 7 November 2006, Mr Darren Klarich, told the Committee that:

*"During my tenure as chief of staff I did not have any knowledge of a comprehensive or specific CCC investigation into child abuse allegations."*<sup>215</sup>

### **Disclosure of departmental information and documents to a Minister**

- 9.6 It appeared to the Committee that s 153 of the *Corruption and Crime Commission Act 2003* was viewed by the senior officers of the DET as an obstacle to them providing a full and frank briefing to the Minister on the CCC's activities with respect to DET. That section states:

***"153. Disclosure by other officials***

*(1) In this section —*

***"court"*** *includes a tribunal, authority or person having power to require the production of documents or the answering of questions;*

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<sup>213</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, p6.

<sup>214</sup> Mr Albert Huts, former Executive Director, Human Resources, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p7.

<sup>215</sup> Mr Darren Klarich, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 27 November 2006, p3.

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*“produce” includes permit access to.*

*(2) This section applies to information if, in circumstances referred to in section 152(4), it is disclosed to an authority or person for use in connection with the performance of a function of the authority or person under a written law.*

*(3) The authority or person, or any person or employee under the control of the authority or person —*

*(a) must not, either directly or indirectly —*

*(i) make a record of information to which this section applies; or*

*(ii) disclose any information to which this section applies,*

*except for the purpose for which it was disclosed to the authority or person; and*

*(b) cannot be required to produce or disclose the information in or to any court except for the purposes of a prosecution or disciplinary action instituted as a result of an investigation conducted by the Commission or the Parliamentary Inspector under this Act.*

*Penalty, for a contravention of paragraph (a): Imprisonment for 3 years and a fine of \$60 000.*

*(4) Subsection (3) does not prevent the disclosure of the fact that an allegation has been received or initiated by the Commission or the details of an allegation.”*

9.7 The Committee queried whether the type of inquiry being carried out by the CCC in this particular case technically fell within the s 153 anti-disclosure provisions:

*“Hon GRAHAM GIFFARD: Could you give me some guidance on how comfortably the report that we are talking about fits with section 153? My understanding is that although it was a report that you compiled and that dealt with five case studies, the real reason for the report was to report on processes and structures within the department and using those five allegations as case studies. It was really a report into how the department goes about doing things*

*rather than an investigation into five separate allegations. When you read section 153, and even the quote that you have referred to that section 153 does not prevent disclosure of the fact that an allegation has been received or initiated by the commissioner, or details of an allegation, to my mind that does not sit comfortably with the type of report that we are talking about. Do you have a view on how this sort of report, which arises out of sections 84 and 85 of the act, fits with sections 151 and 153?*

**Mr Anticich:** *Yes, you are correct. The reports emanate from the power under sections 84 and 85 of the act. Principally section 152 and 153 are about protecting that information until it is published. It is a matter of process. This was not dealt with particularly differently from any other report. It is standard practice for us for our reporting mechanism, I suppose. It is really about not preventing the proper flow of information but rather a catch-all to prevent inappropriate publication of excerpts of a report prior to its tabling in Parliament. Does that answer your question?*

**Hon GRAHAM GIFFARD:** *Not fully, no. I am a bit confused about how I, as a public officer, would read that and satisfy myself that the provision that allows the exemption, as it were, under sections 153 and 154, would apply to me, given that the primary focus of the report was not on a specific allegation. I might read it and think that it does not apply to this report. That is my question to you.*

**Mr Watson:** *It is a fair question and possibly, ultimately, it is not clear cut. It is a case-by-case issue. There is no question that the report is about the department's capacity to deal with these sorts of allegations, but that does not alter the fact that the report contains summaries of five allegations, so section 153 is on point at least in relation to those five allegations.*"<sup>216</sup>

- 9.8 The evidence received from those persons who were involved in the preparation of DET's 7 August 2006 response to the draft CCC Report was that they had not received advice from the State Solicitor's Office to the effect that the Minister should have been advised of the CCC investigations and the draft CCC Report.<sup>217</sup>

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<sup>216</sup> Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, and Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p3.

<sup>217</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p4. Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p11. Ms Annika Christou, Legal Officer, State Solicitor's Office, *Transcript of Evidence*, 28 November 2006, p3.

- 9.9 Mr Albert stated that the Commissioner of the CCC's letter of 30 June 2006, which was the cover letter of the draft CCC Report, had led him to believe that it was not appropriate to provide the Minister with a copy of the draft CCC Report:

*"I also point out that with the report I actually had a letter from Commission Hammond about disclosing the contents of the draft report. They were pretty specific in my view. I understand you have a copy of the letter. It states -*

*The draft report contains official information. Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating the response, you and your Department are not at liberty to disclose the contents or the substance of the draft report.*

*I understand that the CCC has issued a press statement indicating that I could have provided the minister with a copy of the draft report. I recall - at the time when we were looking at that letter - being told that a breach of sections 152 and 153 carries with it the possibility of three months imprisonment or a fine of up to \$60 000; in these matters, I always err on the conservative. I was certainly not going to place myself at risk in relation to that because the CCC could have had a different interpretation of the position. In any case, if the CCC considered that I could provide a copy of the draft report to the minister, it should have stated this in the letter."*<sup>218</sup>

- 9.10 Mr Albert made the following submission to the Committee:

*"What has puzzled me is that neither the Minister nor her staff ever requested a copy of the draft report. I know from the Commissioner's direction to me in the letter that accompanied the draft report, I was not in a position to give the Minister a copy of the draft report. However, she could have requested a copy and as I stated in on Monday 27 November, I would have sought the CCC's approval to do this.*

*From the press reports of the evidence presented by Michelle White that the matter was talked about in the Minister's Office, the Minister's question to me about whether the events had occurred in her time, Darren Klarich's denial that I had ever mentioned the CCC inquiry to him and from the line taken by the Minister in Parliament and the media since the release of the report and then on Tuesday*

<sup>218</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p7.

[28] November that I had deliberately kept her in the dark, I cannot help but speculate that perhaps the strategy was to keep the Minister away from this issue.”<sup>219</sup>

- 9.11 In her evidence the Minister agreed that the issue of disclosure of information to Ministers relating to CCC inquiries was not clear:

*“I have since read CCC correspondence and media releases, and I believe that the matter of who can or who cannot be informed and under what circumstances, by the CCC, certainly needs clarification. I think a lack of clarity certainly can lead to misinterpretation by all parties.*

*In my view, if there is a positive to come from this inquiry it may be that the CCC communication processes are clarified to avoid any confusion about what a director general can or cannot say to a minister and what a minister can or cannot be told by a director general.”*<sup>220</sup>

#### **The CCC’s position on the disclosure of information to Ministers**

- 9.12 On 5 May 2006 the CCC provided the DET with the CCC guidelines on the “*Disclosure of Misconduct Reports Made to the Corruption and Crime Commission*”.<sup>221</sup> These same guidelines were also provided to the Minister on 22 May 2006.<sup>222</sup> Both of these documents are attached at **Appendix 5** of this report. Each covering letter from the Commissioner of the CCC stated:

*“The Commission has recently been requested to provide guidance with regards to whether a chief executive officer of a Department (a CEO) was able to brief their Minister about highly sensitive suspected misconduct referred to the Commission. As this issue has relevance across all Departments a copy of the Commission’s Guidance is being sent to all CEO’s and their respective Ministers.”*

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<sup>219</sup> Letter from Mr Paul Albert, former Director General, Department of Education and Training, 28 November 2006, pp1-2.

<sup>220</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

<sup>221</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Mr Paul Albert, Director General, Department of Education and Training, 5 May 2006. Document provided by the Department of Education and Training (Document No. 14).

<sup>222</sup> Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission of Western Australia, to Hon Ljiljanna Ravlich MLC, Minister for Education and Training, 22 May 2006. Document provided by the Office of the Minister for Education and Training.

9.13 The letters then go on to speak of “*exceptional circumstances*” and “*politically sensitive and/or potentially highly damaging*” allegations of misconduct, as opposed to the routine communications between a department and the CCC. They note that the CCC Act makes no specific provision for a CEO to advise their Minister that a matter has been notified to the CCC. The letters conclude by stating that “*disclosure options are not straight forward*”, and that departmental officers should discuss the matter with the CCC on a case by case basis.

9.14 The Committee notes that the attached guidelines are just as unclear as the covering letter as to the current state of the law with respect to the disclosure of information by CEOs to their Ministers. It again simply urges departmental officers to contact the CCC on a case by case basis.

9.15 On 18 October 2006 the CCC issued a media statement that stated:

*“... from the Commission’s point of view, there was no restriction on the department informing the Minister about the report.”<sup>223</sup>*

9.16 A copy of this media statement is attached to this report at **Appendix 6**.

9.17 The CCC advised the Committee that it issued its media statement of 18 October 2006 for the following reason:

*“The CCC received a number of queries from journalists asking about the points addressed in the media statement. The CCC decided that the most equitable and efficient way to deal with these queries was to release a statement to the main stream media.”<sup>224</sup>*

9.18 Mr Nicholas Anticich, Director Operations, CCC, provided the following evidence to the Committee:

*“One issue that seems to have arisen in relation to the sexual contact report is whether the commission prevented the department from providing advice to the minister. The source of this belief appears to be the commission’s letter to the department of 30 June 2006 enclosing a draft of the report, which stated -*

*Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating your*

<sup>223</sup> Corruption and Crime Commission of Western Australia, *Statement on times involved in DET report on sexual contact*, media statement, 18 October 2006, p1. Document provided by the Department of Education and Training (Document No. 52).

<sup>224</sup> Email from Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, 28 November 2006, p1.

*response, you and your Department are not at liberty to disclose the contents or substance of the draft report.*

*There are two important aspects of this paragraph. Firstly, the commission does not believe that this paragraph excluded the department from informing the person with executive responsibility for it - namely the minister - about the report, nor did it want or intend this to occur. Secondly, subsection (4) of section 153 states that section 153 does not prevent disclosure of the fact that an allegation has been received or initiated by the commission or the details of an allegation, and that it does not prevent the department from advising the minister of any of the five allegations covered in the report at any time either prior or subsequent to the department's receipt of the draft report. In relation to this second point, the commission provided written advice to all departments, including the Department of Education and Training, on 8 May 2006 about how it should deal with the issue of disclosure of sensitive misconduct allegations. Importantly, this advice strongly advises CEOs or their delegated officers to contact the commission for guidance when required. The commission has no record of any such contact from the department in relation to the report.*"<sup>225</sup>

9.19 Mr Anticich further expanded on this point as follows:

*"Certainly our position is that the CCC is answerable to the Parliament, and our view would be that directors general of departments are answerable to their minister. We think they are the appropriate protocols. In terms of those provisions, perhaps if I could explain, we table these reports quite frequently and regularly. It does not always involve public officers; in fact, it can involve other people. Principally that section goes towards maintaining the integrity of the report until a final report is completed and we are able to publish it. By way of example, under the act, where a person, whether they be a public officer or not, is adversely mentioned in a CCC report, there is a requirement for procedural fairness for them to actually respond to that. Quite often that is considered in the formulation of the final report. These provisions are put in place so that when they are asked to comment on it, they obviously do not further publish the contents of that report until it has been finalised.*

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<sup>225</sup>

Mr Nicholas Anticich, Director Operations, Corruption and Crime Commission of Western Australia, Transcript of Evidence, 27 November 2006, p2.

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*It is really about not preventing the proper flow of information but rather a catch-all to prevent inappropriate publication of excerpts of a report prior to its tabling in Parliament.*"<sup>226</sup>

- 9.20 The Committee also notes the following evidence of Mr Roger Watson, Manager Investigations Review and Complaints Assessment, CCC:

*"Our intention certainly is to prevent disclosure generally of the draft report, but not within the confines of the department or for the purpose of legal advice. It depends on how you interpret where the minister sits in that. Given our advice to the department earlier in the year, we would have hoped that if that was unclear that they would seek advice from us. This issue of what you can or cannot disclose is a touchy issue."*<sup>227</sup>

- 9.21 When questioned about the meaning of the CCC's media statement of 18 October 2006, Mr Watson stated:

*"It depends on the view you take of the contents of our letter, saying "the department". We would be arguing that the minister, certainly in this context, is part of executive government and has executive responsibility for the department. We would have included her in "the department". From our point of view, there was no restriction on the department discussing the report with the minister. Certainly if they had contacted us about that, we would have made that clear."*<sup>228</sup>

- 9.22 The Committee notes the views of the officers of the CCC, but prefers the view that Ministers are ultimately responsible for all documentation and the actions of all officers within a public sector agency within their portfolio under the *Carltona* principle. The *Carltona* principle is set out in the case of *Carltona Ltd v Commissioner of Works*:

*"In the administration of government in this country the functions which are given to ministers (and constitutionally properly given to ministers because they are constitutionally responsible) are functions so multifarious that no minister could ever personally attend to them. To take the example of the present case no doubt there have been thousands of requisitions in this country by individual ministers. It cannot be supposed that this regulation meant that, in each case, the*

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<sup>226</sup> Ibid, p3.

<sup>227</sup> Mr Roger Watson, Manager Investigations Review and Complaints Assessment, Corruption and Crime Commission of Western Australia, *Transcript of Evidence*, 27 November 2006, p11.

<sup>228</sup> Ibid, p12.

*minister in person should direct his mind to the matter. The duties imposed upon ministers and the powers given to ministers are normally exercised under the authority of the ministers by responsible officials of the department. Public business could not be carried on if that were not the case.*"<sup>229</sup>

- 9.23 The Committee is of the view that the advice provided by the CCC to both the DET and the Minister in May and June 2006 as to the Department's ability to disclose information regarding CCC investigations to the Minister was unclear and confusing. The current legal status of communications between CEOs and Ministers on CCC matters needs to be urgently clarified by the Government, either by the obtaining of a definitive legal opinion on the matter or by a clarifying amendment to the *Corruption and Crime Commission Act 2003*, before another public sector agency finds itself in the same situation as the DET was prior to 12 October 2006.

**Recommendation 4: The Committee recommends that the Government clarify, through legal advice and/or legislative amendment, the anti-disclosure provisions of the *Corruption and Crime Commission Act 2003* so as to enable public sector chief executive officers to be able to freely discuss with their Ministers all matters relevant to the Minister's portfolio.**

## 10 THE MINISTER'S EVIDENCE TO THE COMMITTEE

- 10.1 The Minister provided the following evidence to the Committee as to when she became aware of the CCC inquiry/report:

*"I was first made aware of the CCC inquiry into the sexual misconduct of staff with students in the afternoon of 12 October. As I have already put on the public record, I was advised by Paul Albert in passing some five or six weeks [prior] after a meeting in my office while a group of people were leaving the office. I was advised in the corridor that the CCC was working with the DET on the issue of complaints management. Certainly no reference was made to sexual misconduct. Given that casual comment at the time, I thought that the two agencies were simply working together in an operational manner."*<sup>230</sup>

- 10.2 The Minister went on to state:

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<sup>229</sup> [1943] 2 All ER 560, per Lord Greene MR, p563.

<sup>230</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p1.

*“I want to put this in perspective, Madam Chair, because I have known Mr Albert since 1989. I believe that we had a very good and productive working relationship. I believe sincerely that if he could have briefed me about the inquiry verbally or in writing, he would have, and I think that we are at one on this. I have well-established procedures in my office to make sure that I am kept informed of important matters. I have fortnightly meetings with the director general and executive directors. On occasions I have weekly briefings. We have quarterly contentious issues. We have program briefings. Certainly I would have spoken on a daily basis with Mr Albert since becoming minister. We have requests for briefing notes and these are sometimes initiated by the department. None of the above alerted me to a significant investigation into my department.”<sup>231</sup>*

- 10.3 The Minister advised the Committee that, as a result of the matters the subject of this inquiry, she now regularly monitors the CCC website:

*“I now check the CCC web site. Clearly, if I had known there was an inquiry, I would have been checking the CCC web site. I would have been checking the CCC report. I would have done that, or certainly I would have had officers doing that. It defies logic that I as the education minister - as if I do not have enough to do in my agency - would have a look at the operations of another agency. I can tell you that I have an officer who checks anything released by the CCC on a daily basis.”<sup>232</sup>*

- 10.4 The Minister added that:

*“...even if I had been verbally or in writing briefed on this particular sexual misconduct inquiry: what could I have done about it in any event, given that I have no power to interfere in any inquiry process.”<sup>233</sup>*

<sup>231</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

<sup>232</sup> Ibid, p6.

<sup>233</sup> Ibid, p2.

**11 MR PAUL ALBERT'S EVIDENCE AS TO GENERAL DISCUSSIONS WITH THE MINISTER AND HER STAFF ABOUT THE CCC INQUIRY AND THE CCC REPORT**

- 11.1 Mr Albert told the Committee that he mentioned the CCC inquiry to the Minister on a number of occasions.<sup>234</sup> He also stated that he had mentioned the CCC Report to the staff of the Minister's Office:

*“CHAIR: Did you ever brief, or provide any information either in writing or verbally, about the draft CCC report to any staff of the office of the minister?”*

*Mr Albert: ... Verbally, I did; but not in writing.*

*Hon NORMAN MOORE: To the minister's staff?*

*Mr Albert: Yes, verbally.*

*Hon NORMAN MOORE: Can you tell the committee who it was?*

*Mr Albert: I would have mentioned it in conversation to a number of them. In terms of e-mails or whatever, none.*

*Hon GRAHAM GIFFARD: Do you recall any particular occasion with the minister's staff?*

*Mr Albert: I would definitely have mentioned it to Darren Klarich. In fact, I recall mentioning it to Darren Klarich on a couple of occasions. I cannot remember the dates, because it was mentioned as part of a conversation, as distinct from sitting down and providing a brief on the CCC. Someone would have been present at that August meeting with the minister.”<sup>235</sup>*

- 11.2 Mr Darren Klarich, Chief of Staff at the Office of the Minister between 14 July 2006 and 7 November 2006, provided the following evidence regarding any general conversations he may have had with Mr Albert regarding the CCC:

*“There may have been some general - once again, I am going from recollection here. There may have been some general discussions about the CCC in terms of them being notified as a matter of course when complaints happen. I am just trying to think what was happening. There was something in the media at the time about the CCC, I think; it might have been DCD or something along those lines.*

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<sup>234</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p6.

<sup>235</sup> Ibid, p13.

*I am not too sure. I think we might have had a general conversation about the CCC and its powers but in terms of specifics, in terms of child abuse allegations or any of those types of things, I cannot recall that. More than likely it would have been a reflection on the news of the day. I think it was probably DCD or something. I know that they were in the headlines at that stage. We had a general discussion about the CCC and its powers.*<sup>236</sup>

- 11.3 The Committee notes that no other staff of the Minister's Office can recall any general conversations with Mr Albert regarding the CCC, apart from Ms Michelle White, who stated that:

*"Ms White: I spoke to him later on. As I said last time, I am pretty sure it was on a trip. Again, I am quite vague on when things happened. I raised it with him because I wanted a little bit of information in case I got media inquiries about it. He told me in very general terms what was being investigated. It was a very informal conversation; it was not at a meeting.*

*Hon GRAHAM GIFFARD: When you say in general terms, what do you recall he said to you?*

*Ms White: He basically told me about one of the cases being investigated. He gave me some sort of sketchy details about that case. We were just talking generally about how the CCC will investigate things in departments. Essentially he said for us not to worry about it until a report came out and he would let us know kind of thing when we would have to concern ourselves with it.*<sup>237</sup>

## **12 MR PAUL ALBERT'S EVIDENCE AS TO FOUR SPECIFIC OCCASIONS ON WHICH HE VERBALLY ADVISED THE MINISTER OF THE CCC INQUIRY AND THE CCC REPORT**

### **Parliamentary Estimates briefings (April/May 2006)**

- 12.1 The first specific occasion that Mr Albert recalled mentioning the CCC inquiry to the Minister was at the time of the parliamentary estimates briefings, possibly in April or May:

*"The first is around April-May, at the time of the parliamentary estimates briefing. When briefing the minister on the findings and recommendations of the review conducted by Mr Peter Browne, at the*

<sup>236</sup> Mr Darren Klarich, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

<sup>237</sup> Ms Michelle White, former Media Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 5 December 2006, p2.

*time I indicated that although the CCC was represented on the review, it was conducting its own inquiry. I remember saying that I was not sure why it was continuing, given that it was part of the Peter Browne review and had signed off on the recommendations. I have to say at the time I had no idea what the commission was examining apart from the fact that I had been told that it had sought numerous files from the department, but we had no view at that time.*<sup>238</sup>

12.2 Mr Albert went on to provide the following further information about this discussion:

*“Certainly the first time I mentioned it, I indicated to the minister that I could not understand why the CCC was continuing, because the Peter Browne inquiry had been finalised, and that inquiry was about practices and so on. I would have thought that the CCC’s issues would have been resolved through the recommendations of that report. I told the minister that the CCC was analysing cases that had already happened and had been resolved. I am pretty sure it was about the way the department handles complaints management. It was not the particular cases the CCC was looking at. The CCC was looking at the cases in terms of how the department had handled them, and I am very sure that that is what I said to the minister.”*<sup>239</sup>

12.3 Mr Albert could not recall who else may have been present during this discussion.<sup>240</sup>

12.4 The Committee notes that the DET Program Briefing notes for the 2006 parliamentary estimates hearings contain a briefing note on the CMU generally.<sup>241</sup> The briefing note refers to the CCC only in the context of the CCC being represented on the Peter Browne Review Committee in relation to the CMU.

12.5 The Committee notes that the Legislative Council estimates hearings for the DET were held at 10:00am on 14 June 2006. The Minister advised the Committee that she received her briefing on the day prior, 13 June 2006.<sup>242</sup> The Minister’s diary for 13 June 2006 indicates that she met with Mr Albert and seven other DET officers, along

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<sup>238</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, pp6-7.

<sup>239</sup> Ibid, p12.

<sup>240</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

<sup>241</sup> Document titled “Complaints Management Unit - Review”, Department of Education and Training, *2006 Parliamentary Estimates*, briefing papers, undated. Documents received from the Office of the Minister for Education and Training on 5 December 2006.

<sup>242</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p1.

with two of her own staff, between 1:30pm and 2:30pm on that day to prepare for the estimates hearings in the Legislative Council.<sup>243</sup>

- 12.6 The Minister's diary for 23 May 2006 indicates that the Minister did not attend the DET briefing of Hon Norm Marlborough MLA, then Minister assisting the Minister for Education and Training, at Hon Norm Marlborough MLA's Office between 11:30am and 3:30pm on 23 May 2006 at.<sup>244</sup>
- 12.7 It appears possible to the Committee that Mr Albert may have been referring to the earlier briefing with the then Hon Norm Marlborough MLA, Minister representing the Minister in the Legislative Assembly, immediately prior to the 24 May 2006 Legislative Assembly estimates hearings.<sup>245</sup>

### **Ministerial Council on Education, Employment Training and Youth Affairs (MCEETYA) (Brisbane, July 2006)**

- 12.8 Mr Albert provided the following evidence with respect to a conversation he recalls having with the Minister at the MCEETYA meeting in Brisbane on 7 July 2006:

*"On 7 July I was attending, with the minister, the meeting of the Ministerial Council on Education, Employment Training and Youth Affairs - MCEETYA - and I recall telling the minister that the department had received the draft report and would be attaining the assistance of the State Solicitor's Office in making a response. I remember this very clearly because Mr Huts telephoned me about the draft report when I was in the company of the minister and I spoke to her directly after hanging up. I did not go into any detail but recall indicating that the report looked bad, although I had been assured by Mr Huts that there were many inaccuracies in the report which should be addressed through the department's response, which would end up, obviously, in a softer report."*<sup>246</sup>

- 12.9 Mr Albert Huts confirmed that he made six phone calls to Mr Albert over the two days of 5 July 2006 and 7 July 2006, whilst Mr Albert was either at MCEETYA or

<sup>243</sup> Letter from Mr John Carruthers, Chief of Staff, Office of the Minister for Education and Training, 5 December 2006. Attached document.

<sup>244</sup> Ibid.

<sup>245</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

<sup>246</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p7.

enroute.<sup>247</sup> Mr Huts also indicated that it is highly likely that he spoke to Mr Albert on more than these six occasions on those two particular dates.<sup>248</sup> Mr Huts stated:

*“The substance of these conversations included receipt by the department on 4 July 2006 of the draft CCC report into “sexual contact with children by persons in authority in the Department of Education and Training of Western Australia” and other urgent Human Resources matters. I can not recall the exact words used in these conversations, however I can say that after reading the draft CCC report I contacted the then Director General Mr Paul Albert and clearly conveyed to him that it was very critical of the department’s management of six cases involving alleged sexual misconduct. I also informed him that the draft report contained numerous inaccuracies and that I had instructed officers from the Complaints Management Unit to begin drafting a response. As advised in Commissioner Hammond’s letter we then discussed the need to urgently seek legal advice from the State Solicitor’s Office to assist with our response.”*<sup>249</sup>

12.10 As to who else was present at the 7 July 2006 conversation, Mr Albert stated that:

*“In relation to 7 July, in the situation, Lance McMahon, I have heard, was not there. He was on the computer at the time looking at the Internet. Michelle White was seated some distance from me and nearby was Sharyn O’Neill. That is my recollection.”*<sup>250</sup>

12.11 Ms Sharyn O’Neill, who in early July held the position of Deputy Director, Schools, DET, provided the following evidence as to when she first became aware of the CCC Report:

*“From what I recall, the first time I knew that a report would be published was in July 2006. Prior to attending a MCEETYA conference, I was provided with a draft report with the title that you have just described. I read the draft report and that was the first time that I was aware there would be a report into that.”*<sup>251</sup>

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<sup>247</sup> Letter from Mr Albert Huts, 30 November 2006.

<sup>248</sup> Ibid.

<sup>249</sup> Ibid.

<sup>250</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, p2.

<sup>251</sup> Ms Sharyn O’Neill, Acting Director General, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p2.

- 12.12 Ms Sharyn O'Neill advised the Committee that she had received a copy of the draft CCC Report from Mr Albert:

*"It was for information, so I read it on the plane, on the way."*<sup>252</sup>

- 12.13 It was Ms Sharyn O'Neill's evidence that she recalled Mr Albert discussing the draft CCC Report with the Minister at MCEETYA:

*"I recall some time over the few days that we were in Brisbane for that meeting that the director general raised with the minister that there was to be a report.*

...

*I recall while we were there that the former director general raised with the minister that there was such a report to be tabled. I was not privy to any further discussion around that."*<sup>253</sup>

- 12.14 The Committee notes that as Ms Sharyn O'Neill had read the draft report on the flight to MCEETYA, she had an understanding of the context of any reference that Mr Albert may have made to a "report" or to "the CCC". As Ms O'Neill stated:

*"... I do not recall the specifics of the conversation, except to say that the report was in my mind, having just read it, and I recall that it was raised, but I do not have any recollection of the nature of the conversations, so I cannot provide any further evidence about specific discussion that occurred."*<sup>254</sup>

- 12.15 The Minister's former Media Adviser, Ms Michelle White, was also in attendance at the MCEETYA meeting in Brisbane. She indicated that she had spoken to Mr Albert about the draft CCC Report, possibly on a plane during the MCEETYA trip.<sup>255</sup>

- 12.16 The Committee notes, however, that Mr Albert denied speaking to Ms White about the draft CCC Report on the MCEETYA trip:

*"No. It would not have been a matter that I would talk to her about unless something was going to hit the press. I certainly would not discuss such a matter with her. She was the minister's press*

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<sup>252</sup> Ibid, p3.

<sup>253</sup> Ibid, pp2-3.

<sup>254</sup> Ibid, p3.

<sup>255</sup> Ms Michelle White, former Media Adviser to the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p4.

*secretary. She may have overheard, but I do not think that she did because she was a reasonable distance away.*"<sup>256</sup>

12.17 Ms White had no recollection of a conversation between Mr Albert and the Minister at MCEETYA.<sup>257</sup>

12.18 Mr Lance McMahon, Policy Officer in the Minister's Office, stated:

*"Whilst I was not in the minister's hearing all the time - within earshot of it - I am confident that that was not raised with her. It certainly was not raised in my presence, and I was with her most of the time."*<sup>258</sup>

12.19 The Minister has no recollection of the conversation.<sup>259</sup> She did, however, note that if she had been told about a report by the CCC, she may have understood it to refer to the CCC's inquiry into tendering and Central TAFE.<sup>260</sup>

### **Meeting at the Office of the Minister (2 August 2006)**

12.20 The third specific occasion on which Mr Albert recalls speaking to the Minister about the CCC inquiry/report was at a meeting sometime in August, and most likely on 2 August 2006.<sup>261</sup>

12.21 Mr Peter Denton, former Manager of the CMU, advised the Committee that the CMU had prepared a briefing note on the draft CCC Report for the Director General's meeting with the Minister on 2 August 2006.<sup>262</sup> This was supported by the evidence of Ms Beverley Dornan, former Principal Consultant, CMU, who stated:

*"I drafted briefing notes for Mr Albert on the proposed draft CCC report that he required urgently for a meeting with the minister to be held on 2 August 2006. I have no personal knowledge of whether Mr Albert attended this meeting or used the briefing notes that I*

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<sup>256</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, p8.

<sup>257</sup> Ms Michelle White, former Media Adviser to the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, pp4-5.

<sup>258</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p8.

<sup>259</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p1.

<sup>260</sup> Ibid, p5.

<sup>261</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, p3.

<sup>262</sup> Mr Peter Denton, former Manager, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p4.

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*drafted as a basis of discussion at this meeting, if in fact it took place. These briefing notes are on TRIM - the department's record management system ...*”<sup>263</sup>

12.22 A copy of the briefing note is attached to this report at Appendix 4.

12.23 Mr Albert gave the following evidence:

*“It was at the end of a regular meeting with the minister - between the minister and the department - and it was shortly before her departure on leave in August.*

*I recall raising the inquiry, and I provided a general briefing in accordance with the briefing note, which I understand the committee has been provided with a copy. Prior to going to that meeting, I was actually handed the briefing note on the way to the meeting, and I remember being reminded that I needed to be very careful of what I say because of Commissioner Hammond's direction not to disclose the contents or the substance of the report. I do also recall that the briefing was rushed due to the fact that the minister had another appointment. I can recall indicating that the findings and recommendations were fairly consistent with those of the Peter Browne review, which the department was currently implementing. I also recall telling the minister that there was no doubt in my mind that the CCC would finalise the report; even though the briefing note actually says they may not end up with a report, it was pretty clear to me they were going to go ahead with that report. I also mentioned at that time that we actually had lodged a complaint about the CCC in relation to the matters raised in one of the cases, and so I thought that a final report probably would not be forthcoming until that complaint had actually been resolved.*”<sup>264</sup>

12.24 Mr Albert recalled that the briefing commenced during the meeting, that it was the last item, and that he pointed out the six cases in the report.<sup>265</sup> He also stated that:

*“I said to her, there is no question in my mind, that there is every likelihood that they would go ahead, because those sorts of agencies*

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<sup>263</sup> Ms Beverley Dornan, former Principal Consultant, Complaints Management Unit, Department of Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

<sup>264</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p7.

<sup>265</sup> Ibid, p8.

*do; although I did probably say that the Ombudsman report, which had been ongoing since 2004, had not been finalised.”*<sup>266</sup>

12.25 Mr Albert restated that the briefing took place at the end of the meeting:

*“Right at the end of the meeting - I recall the briefing being very rushed because she had to go, and I recall walking down the corridor with her and we talked a little bit more about the CCC, but that was not in the meeting.”*<sup>267</sup>

12.26 Mr Albert stressed that it was a rushed briefing:

*“I did recall indicating that I think that matter either would not be in the report or the report would not go ahead until it was resolved, because the department’s complaints against the findings of the CCC, certainly in my perspective and from what I have been advised, were quite at odds with the position of the CCC. In relation to it saying “one is an ongoing matter” etc, I did not actually say that. I just simply said that none of the people, all but one, was working for the department. So I have to acknowledge that it was a very rushed briefing. The minister was very keen to get to another appointment and I tried to get in as much as I could before she took off.”*<sup>268</sup>

12.27 Mr Albert advised the Committee that it was not unusual to give the Minister verbal briefings at meetings.<sup>269</sup> He also stressed that he felt that he was subject to issues of confidentiality:

*“**CHAIR:** I have just one more question in regards to that. You said that somebody reminded you of the issue to do with confidentiality.*

***Mr Albert:** Whoever handed me the briefing note.*

***CHAIR:** But you do not remember who that was?*

***Mr Albert:** It might have been Mr Huts. I cannot remember. It was whoever handed me the briefing note when I was on my way to the meeting.”*<sup>270</sup>

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<sup>266</sup> Ibid.

<sup>267</sup> Ibid, p14.

<sup>268</sup> Ibid, p9.

<sup>269</sup> Ibid.

<sup>270</sup> Ibid.

- 12.28 Subsequent to Mr Albert giving his evidence on 27 November 2006, he provided the following further information about his conversation with the Minister on 2 August 2006:

*“When I read the draft transcript [of 27 November 2006], it sounded as if there had just been a general discussion. It is not the case. When we were walking down the corridor, I recall the minister asking me whether any of the individuals were still working with the department and when the events occurred. I recall saying, all but one were working with the department and the remaining individual’s case should be finalised shortly. I indicated that the events were before her time and covered the current Labor and previous coalition governments, with one going back to 1985, but most occurring 2000 to 2004.”<sup>271</sup>*

- 12.29 The Minister provided the following evidence as to her recollection of this particular conversation:

*“At the end of that meeting - I remember it being a very good meeting - attended by eight or nine people, we walked out, and I or somebody mentioned the CCC. I think I made the comment that they are everywhere, to which Mr Albert said that, by the way, they are in the department in the complaints management area working with us. To me, that was at the end of a meeting. I understand that at that same meeting Mr Albert had a briefing note - I have only since found this out - that had been prepared for him to give to me at that meeting. Certainly it was not on the agenda. Certainly it was never handed to me. I only learned of the briefing note in more recent times. Certainly Mr Albert made no attempt to take me through that briefing note. That is all I can add to that. I do not know why that briefing note was prepared if he was not going to provide me with a copy of it. But, certainly, I have never seen a copy of that briefing note.*

...

*Somebody said something about the CCC, I said that I thought that they were everywhere, and Mr Albert said they have been in the department working with us on complaints management. I thought that it was two agencies working together. I had no reason to be alarmed. It was just sort of shrugged off. We were in a crowd of people, as you are when you are surrounded by seven or eight people. I will count how many people were at that meeting. There were nine*

<sup>271</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, p1.

*people, so there was a little mass of people outside the meeting room. Why would I have thought that there was something strange going on? I understood that one of the functions of the CCC was to work with agencies in order to improve their systems. There would be nothing irregular or extraordinary about a comment that the CCC has been down in the department working with us.*<sup>272</sup>

12.30 As to the two questions that Mr Albert states that the Minister asked of him on 2 August 2006 regarding the draft CCC Report, that is:

- whether any of the individuals were still working with the department; and
- when the events occurred.

On 6 December 2006, the Minister advised the Committee as follows of her recollection as to having asked such questions of Mr Albert:

*“There is no absence of recollection. I do recall Mr Albert mentioning the CCC working with DET in passing as we walked out of the meeting. The first conversation I had with Mr Albert on the matter of the CCC inquiry into the handling of sexual misconduct allegations was when I telephoned him in Paris on 13 October to recall him following the CCC briefing of 12 October.”*<sup>273</sup>

12.31 The following people who attended the 2 August 2006 meeting advised the Committee that they did not recall the conversation between Mr Albert and the Minister in relation to the CCC:<sup>274</sup>

- Mr Darren Klarich, former Chief of Staff, Office of the Minister;
- Ms Melissa Rinaldi, Principal Policy Adviser, Office of the Minister;
- Ms Jeanette Hasleby, Acting Director, Behaviour Standards and Wellbeing, DET;
- Ms Chris Cook, Acting Executive Director, Curriculum Standards, DET; and

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<sup>272</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p7.

<sup>273</sup> Letter from Hon Ljiljanna Ravlich MLC, Minister for Education and Training, 6 December 2006.

- Mr Peter McCaffrey, Deputy Director General, Administration and Finance, DET.

12.32 The Committee notes that the issue of the CCC Report was not recorded on either the agenda or action sheet for the meeting.<sup>275</sup> Ms Rinaldi also provided the following evidence:

*“CHAIR: Did the director general discuss the CCC inquiry into the sexual contact with children by persons in authority in the Department of Education and Training of Western Australia or any other inquiry into the Department of Education and Training by the CCC?”*

*Ms Rinaldi: No, they did not. As I previously indicated, an agenda is prepared, as well as briefing notes attached to each of the agenda items that are going to be discussed. Having been over the agenda and my notes taken at the meeting, obviously contemporaneously, and through my recollection, there was no discussion of that report or any matter of that nature.”*<sup>276</sup>

12.33 The Minister’s former Media Adviser, Ms Michelle White, did not attend the 2 August 2006 meeting. However, her evidence to the Committee was that her office in the Office of the Minister was located near the meeting room, and that she could hear the conversations of the participants of the meeting as they left the meeting room and entered the corridor. Ms White gave the following evidence as to a conversation she overheard between Mr Albert and another person regarding the draft CCC Report:

*“Ms White: ... I am pretty rough on the dates and time lines, but I can remember it coming up again in the minister’s office. I am pretty sure I was there when Paul Albert got that call saying that he had got the draft and it was bad.*

*I am pretty sure it was set outside my office in a really, really informal manner and we had just come out of a meeting and everyone*

<sup>274</sup> Mr Darren Klarich, former Chief of Staff, Office of the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p2. Ms Melissa Rinaldi, Principal Policy Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p3. Letter from Ms Jeanette Hasleby, Acting Director, Behaviour Standards and Wellbeing, Department of Education and Training, 30 November 2006. Letter from Ms Chris Cook, Acting Executive Director, Curriculum Standards, Department of Education and Training, 30 November 2006. Letter from Mr Peter McCaffrey, Deputy Director General, Administration and Finance, Department of Education and Training, 30 November 2006.

<sup>275</sup> Letter from Ms Chris Cook, Acting Executive Director, Curriculum Standards, Department of Education and Training, 30 November 2006 (Attachments).

<sup>276</sup> Ms Melissa Rinaldi, Principal Policy Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p3.

was sort of scattering everywhere, and that was it. I did not get any more information. It was almost, like, mentioned in passing and generally - unless I get a call from the media and I am asked to follow something through - then the department handles it or I let everyone else in the office handle it. At that point there was no reference back to me, so I did not follow through in speaking to anyone.

**Hon NORMAN MOORE:** I am a little confused now. We are aware that you attended the MCEETYA meeting and the minister and Mr Albert were both there, as was Ms O'Neill. Evidence has been provided that Mr Albert discussed the report, or the CCC's inquiry and future report, with the minister. The committee has also been informed that words to the effect "it was a bad report" were mentioned on that occasion. You have used those words again. Is that the occasion that you are referring to or is it another -

**Ms White:** No, later on.

**Hon NORMAN MOORE:** So it would have been about 2 August?

**Ms White:** Quite possibly, yes.

**Hon NORMAN MOORE:** With a ministerial briefing?

**Ms White:** Yes.

**Hon NORMAN MOORE:** Were you at the ministerial briefing?

**Ms White:** No, but it happens right next to my office and everyone sort of congregates outside my office and this is where I overheard a conversation about the report.

**Hon NORMAN MOORE:** Between whom?

**Ms White:** I do not know who he was talking to; just from what I have seen in the newspaper. My memory is pretty sort of dodgy from around that time because so much was going on, so just roughly, I can remember Paul Albert mentioning the report and mentioning that it was a quite bad report. I do not remember that being at the MCEETYA meeting. I remember at the MCEETYA meeting we were just talking about some of the cases that were being investigated - very generally talking about the substance of investigation - and that was purely because I had asked him about it and just wanted to know in case I got media calls.

**Hon NORMAN MOORE:** *So your conversation at MCEETYA was with Mr Albert?*

**Ms White:** *Yes.*

**Hon NORMAN MOORE:** *And it involved some of the cases but not in detail?*

**Ms White:** *No.*

**Hon NORMAN MOORE:** *And you did overhear Mr Albert talking to somebody in your office on the -*

**Ms White:** *Oh no, it was outside, and I was just standing there and a call came through -*

**Hon NORMAN MOORE:** *No, I am sorry; the second occasion on 2 August.*

**Ms White:** *Yes.*

**Hon NORMAN MOORE:** *You recall hearing Mr Albert discussing the report with somebody in the corridor?*

**Ms White:** *Yes. I was just standing there and everyone was mingling and going their ways after the meeting etc.*

**Hon NORMAN MOORE:** *Do you know if the minister was there?*

**Ms White:** *I think she had just walked out and gone into her office. I am just trying to think who else was there in the office. It might have been Paul, or Darren Klarich.*<sup>277</sup>

- 12.34 The Committee was provided with a copy of the floorplans to the Office of the Minister. The Committee is satisfied that a conversation held either in the doorway of the meeting room or in the corridor immediately adjacent to the meeting room could quite probably have been heard in Ms Michelle White's office.
- 12.35 Mr Albert provided the following written evidence to the Committee in response to the above evidence provided by Ms White:

*"I formed the impression that she did not hear me partly because she was some distance away, albeit in the vicinity, but also because at the*

<sup>277</sup> Ms Michelle White, former Media Adviser to the Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, pp5-6.

*end of my discussion I recall turning to her and saying something to the effect that this was a matter which would attract strong media interest later in the year and that she would have to get involved. I recall that she looked blankly at me and I have since assumed that she obviously did not hear. I reiterate that my conversation was not with her. It was with the Minister.”<sup>278</sup>*

### **Ministerial briefings (3 October 2006)**

- 12.36 Subsequent to Mr Albert’s evidence on 27 November 2006, Mr Albert provided details of a fourth specific occasion that he recalled talking to the Minister regarding the CCC Report:

*“I am not sure what page it is on the transcript, because I sent my copy back, obviously conscious that I did not want to be talking about my evidence, but it related to when I was talking about communication between the department and the Corruption and Crime Commission. I made a comment - “Other than a comment made to me by Mr Huts, just prior to my departure overseas that the CCC were in the process of finalising a report. The first time that I can confirm that I heard that the CCC’s final report was going to be released was through a telephone call from Mr Huts while I was overseas.” In relation to the prior comment, I obviously thought through and worked through my statement on Sunday. I just was not sure whether I had spoken to the minister by telephone or had spoken to her in a meeting, and because I did not have access to my diary, I decided just to leave it as a general comment. I am bringing this to the attention of your committee because of certain comments that were made in the newspaper yesterday that reflect poorly on my own integrity and, in my personal view, will severely affect my future employment prospects, given that there are issues about integrity, so this morning I checked that there was a meeting. It was on 3 October and was the normal, regular departmental meeting. The major issue that we were discussing at the time was the changes to the VET act. During the meeting, because we were talking about the employment conditions of TAFE staff, I mentioned to the minister that the department was already responsible for notification to the CCC for TAFE staff. The conversation, from my recollection, but I do have two people who can corroborate what was said, went on to the problem with Central TAFE, and we discussed that. The minister made the comment, “At least that is not to do with children.” That is*

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<sup>278</sup> Letter from Mr Paul Albert, former Director General, Department of Education and Training, 28 November 2006, p1.

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*what prompted me to say to her that I had just heard; in fact, you can check because I think some of the others will have a better recollection of that particular meeting, but the words I used were something like, "Oh, minister, in relation to the CCC inquiry into the department's handling of sexual misconduct, you need to be aware I have just been told that the finalisation of the commission's report is imminent." The two people from the department in that meeting were Karen Ho, director of VET policy, and Siobhan Mulvey, an executive director. I do recall Wendy Dunne from the minister's office at that meeting. That is my recollection of that particular event."*<sup>279</sup>

- 12.37 Mr Albert stated that he believed that his comments were made "... sometime during the meeting. It could have been the middle. It was not right at the end."<sup>280</sup> Mr Albert further stated that:

*"Two people can corroborate with me that that is what occurred, and maybe Wendy Dunne from the minister's office."*<sup>281</sup>

- 12.38 The majority of the Committee (Hons Norman Moore and Giz Watson MLCs) is of the view that Mr Albert's evidence was corroborated by Ms Siobhan Mulvey, Acting Executive Director, Vocational Education and Training and Career Development, DET, and Ms Karen Ho, Acting Director Policy and Review, DET.

- 12.39 Ms Mulvey stated:

*"The formal proceedings of the meeting had concluded so we had completed discussion of the agenda items. There were a number of people there, as I have outlined. We were in the process of packing up papers. I was aware of the conversation taking place between the minister and Mr Albert but I was not paying particular attention to that conversation. What I do recall is that Mr Albert made reference to an impending release of a report by the CCC into the department's handling of sexual misconduct cases. The minister responded to Paul alerting her to the imminent release of that report. I cannot recall what she said exactly. In response to her response, Mr Albert then went on to indicate that there was another CCC investigation taking place, this one into activities at Central TAFE. The minister responded to that, as I recall, by saying "But that one doesn't involve the department like the other one, does it?" Paul then responded to*

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<sup>279</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 29 November 2006, pp1-2.

<sup>280</sup> Ibid, p4.

<sup>281</sup> Ibid, p3.

say, “No, not really.” That is the extent of my recollection of the discussion.”<sup>282</sup>

12.40 Ms Ho stated:

*“I heard the director general say to the minister that the CCC’s report into the department’s handling of sexual misconduct complaints was coming forward, and there was no more than that.”*<sup>283</sup>

12.41 Ms Ho did not recall the Minister responding to Mr Albert’s comments.<sup>284</sup> She also noted that she thought that the comments had been made whilst the meeting was still in session, although at the very end of the meeting.<sup>285</sup>

12.42 Ms Wendy Dunne, Principal Policy Adviser in the Office of the Minister was also in attendance at the 3 October 2006 meeting.<sup>286</sup> She did not recall any discussion in relation to the CCC at the meeting, but was unable to discount the possibility that Mr Albert and the Minister discussed matters after the meeting ended as the participants were making their way out of the meeting room.<sup>287</sup> She stated that:

*“Ms Dunne: No, I do not recall any discussion in relation to the CCC or the sexual misconduct report in any way. I have chosen to table my notes from that meeting. I have also chosen to give you the agenda for that meeting. You will notice in the notes presented that there is no reference to my items relating to training, which are items 1 and 3. However, given that the acting chief of staff was quite late to that meeting - from memory, I think we were quite a way through item 2 - I was the only ministerial staffer at the meeting and felt that there was some responsibility there. I felt I had a heightened awareness of issues being discussed in the meeting, because it is the role of staff whether it is the minister or any other superior. Hence, I believe the notes I presented to you reflect the notes taken in terms of other issues, I will call it, raised in the meeting not related to my particular issues of training. You will even note within those minutes that I have noted that the minister invited people to attend the breakfast run by The West Australian newspaper on 6 October. I was not a staff*

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<sup>282</sup> Ms Siobhan Mulvey, Acting Executive Director, Vocational Education and Training and Career Development, Department of Education and Training, *Transcript of Evidence*, 30 November 2006, pp1-2.

<sup>283</sup> Ms Karen Ho, Acting Director, Policy and Review, Department of Education and Training, *Transcript of Evidence*, 30 November 2006, p1.

<sup>284</sup> Ibid.

<sup>285</sup> Ibid, p2.

<sup>286</sup> Ms Wendy Dunne, Principal Policy Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 30 November 2006, p1.

<sup>287</sup> Ibid, pp2-3.

*member attending, but the point I would like to make is that because I have noted something like that, I certainly believe that I would have noted something such as a CCC report on sexual misconduct in the same way as I have noted a number of other matters raised at that meeting.*

...

**Hon NORMAN MOORE:** *Is it possible that the minister, Mr Albert and others were engaged in conversation that you were not involved in at the end of the meeting?*

**Ms Dunne:** *At the conclusion of the meeting - you will see in my notes that I have listed other items that I suspect are under other business. They are not part of the formal agenda such as the points noted. I was certainly present for a number of other item business discussions. At the conclusion of any meeting - after those issues have been discussed - the meeting would break up and I would exit the room. If people chose to keep discussing matters there, I guess that is a possibility. I do not recall any other issues discussed other than what I have noted.*"<sup>288</sup>

- 12.43 The Minister's evidence was that she did not recall this conversation, but that again any general reference to a CCC investigation may have been interpreted by her as a reference to the CCC's Central TAFE investigation.<sup>289</sup> The Committee subsequently wrote to the Minister on 5 December 2006 and drew her attention to the evidence of Ms Mulvey and Ms Ho. The Minister was asked about her absence of recollection when two witnesses who also attended that meeting had provided evidence to the Committee that Mr Albert raised with the Minister on that day the CCC report into the department's handling of sexual misconduct complaints, She responded that:

*"I can account for the reliability of my recollection; there was no conversation with Mr Albert on this matter as mine and other evidence shows. I cannot account for the testimony of the two other witnesses you refer to, whom I understand discussed their evidence with Mr Albert and each other prior to appearing before the Committee."*<sup>290</sup>

<sup>288</sup> Ms Wendy Dunne, Principal Policy Adviser, Office of the Minister for Education and Training, *Transcript of Evidence*, 30 November 2006, pp1-2.

<sup>289</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p8.

<sup>290</sup> Letter from Hon Ljiljanna Ravlich MLC, Minister for Education and Training, 6 December 2006.

- 12.44 The Committee notes that the CCC Report is not listed on the formal agenda of the 3 October 2006 meeting.

### **13 MANAGEMENT INITIATED RETIREMENT (MIR)**

- 13.1 An MIR is not governed by legislation. It is based on a long-standing Government policy that involves a mutually negotiated agreement between an employee and their employer to bring a contract of employment to an end.<sup>291</sup>

### **14 THE MIR OF MR ALBERT HUTS**

- 14.1 Mr Huts provided the Committee with the following summary of the events following the Minister's briefing by the CCC on 12 October 2006:

*“... on the Thursday evening I got a call from one of the minister's advisers, Mr Darren Klarich, to say that they had been presented by the CCC with the report that we all now have knowledge of. He asked me if I could remain available to assist in managing issues arising from that report in the days that followed. In actual fact I was meant to be in Melbourne for a meeting of a national working party I was on on the Monday and Tuesday. I subsequently cancelled my attendance at that, and, as Mr Albert said, we attended a meeting with the minister and a number of ministerial staff at 11 o'clock on the Sunday - I think that was 15 October - and that meeting went for somewhere in the order of about three hours as we reviewed the report and the cases in the report. Subsequent to that, the departmental reps, plus others who came in on that Sunday, spent about another six hours working back for the department to make sure that all of our documentation was ready, if you like, for what we anticipated was going to be quite a hectic day on the Monday.*

*On the Monday morning I went to work, having had a call from Mr Albert on the Sunday night to reassure me that my position, if you like, as executive director HR, was safe; I think that is probably a good way of saying it. However, on the Monday morning, at around about a quarter to nine, I was called into his office and was advised at that stage that I would no longer have delegation for the complaints management unit - a decision I understood and accepted. We then, as he indicated, discussed a number of options. He offered me an opportunity to be the executive director, teaching and learning, north, a position that is substantively vacant. Given my previous history of having been a school principal, district superintendent and district*

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<sup>291</sup> Department of the Premier and Cabinet, *Management Initiated Retirements*, Briefing Note, undated. (Document provided by the Department of the Premier and Cabinet).

*director, and having been in charge of a number of districts when I first was appointed as an executive director, he felt that my competencies would actually suit that particular position. The concern I had with that particular offer was around the process whenever there is an allegation made against a teacher, or any other employee, for that matter. The process involves and includes a chain, and the chain often starts at the school level where the school gets the complaint, and as part of the process the district director is notified and the executive director is notified.*

*I did not want to put the department, or myself, in a position in the years that followed, if an allegation in some way came forward, that it had been mismanaged, because I felt if that were to happen, people could quite rightly say, "Why is he still in that job?" So in my discussion with the director general, I reminded him in the first instance that we had had a number of discussions during my performance management meetings that my contract was due to end in about 10 or 11 months - some time in mid-August next year, from memory - and that he had indicated in previous conversations that he would roll me over in my role as executive director for another five-year contract. One does not have to be particularly clever in reading the tea leaves. One could say that in making a judgment about that, the chance of being rolled over in the light of this particular report was problematic. So I said to him if the opportunity came up to take an MIR, I would consider it, but I would first want to talk to my wife about it."*<sup>292</sup>

- 14.2 In his evidence Mr Huts was unable to recall whether he initiated the MIR or whether it was a mutual decision between himself and Mr Albert.<sup>293</sup> Mr Huts gave the following evidence:

*"I discussed it with the director general as one option. I indicated that I had to go for the sake of the department; I would be prepared to go after having discussed with my wife. I did not hear back from anybody; however, a number of people rang me on the Tuesday morning. Was it Tuesday? The dates are a bit of a blur. Whatever the day was it was Tuesday morning. It was reported in The West Australian that the director general and I had agreed on an MIR. No-one from the Department of the Premier and Cabinet or the Premier's office or the minister's office has spoken to me about it - whatsoever.*

<sup>292</sup> Mr Albert Huts, former Executive Director, Human Resources, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, pp1-2.

<sup>293</sup> *Ibid*, p9.

*The only conversation I had about the possibility of an MIR was with the director general. Under the Public Sector Management Act, as my employer I guess that is the only place I should have a conversation.*

*... I went back to my desk and wrote down a range of options. What should I do? Should I fight the CCC report and stay or move on and take an MIR? I tried to think my way through. I rang Michelle Reynolds on 17 October. I told her that I did not want to make a decision right away. I told her that there were a couple of bits of work I wanted to finish before I left. Further, I wanted to get some financial advice. One should not make that type of decision quickly. She said she would try. She rang me back and said - I do not know who she spoke to - that they were prepared to let me stay to the end of the week if I went on annual leave. What was the point of staying? I walked out the door at 4.30 that afternoon.*<sup>294</sup>

- 14.3 The Committee received the following evidence from Ms Michelle Reynolds, Assistant Director General, Public Sector Management Division, Department of the Premier and Cabinet:

*"I immediately raised Mr Huts' request with Ms Emma Cole at the Premier's office. Ms Cole is the Senior Policy Advisor for liaison on matters pertaining to my Division. In accordance with Mr Huts' request, I asked Ms Cole whether the MIR offer could be deferred for three months.*

*Ms Cole later that day advised me that the request was not supported.*

*I advised Mr Huts of this. He requested that his cessation date be deferred until 31 October 2006.*

*I raised the further request with Ms Cole. After seeking advice, Ms Cole informed me that several additional days was not unreasonable but a deferral to 31 October was not supported.*

*I advised Mr Huts that his request was refused, but that he could have a few extra days. He indicated he would leave the same day, namely 17 October 2006.*

*I do not recall Ms Cole explaining to me any reason for rejecting Mr Huts' request.*

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<sup>294</sup>

Ibid.

...

*I was not informed, and I do not know, who made the decision.*<sup>295</sup>

14.4 On 17 October 2006 Mr Albert was advised that the Premier had approved the offer of a MIR package to Mr Huts.<sup>296</sup>

14.5 Mr Albert provided the following evidence of the events surrounding Mr Huts' MIR:

*"By Sunday evening it was pretty clear in my mind that, as a consequence of the CCC's adverse report, particularly in relation to case 1 - that was the decision to transfer that particular teacher to another school - it was simply not tenable for Mr Huts to remain with responsibility for complaints management in the department. I arranged to meet Mr Huts at 8.45 on Monday morning and prior to that meeting I contacted the acting head of the Department of the Premier and Cabinet, Michelle Reynolds, to ask whether, in my discussion with Mr Huts, it was possible to offer the option of an MIR. She said I could, provided I understood and he understood that the Premier's final approval would be required if that option was to be a goer. At my meeting with Mr Huts, I indicated to him that I intended to withdraw his delegation for the management of complaints within the department. Of course, we discussed a range of options. One was that he could stay on as the executive director of human resources, but not have responsibility for complaints management, which was to be incorporated into the new professional standards branch. The other one was that we had a vacant position of executive director, teaching and learning, north. We could transfer him to that. Alternatively, there was the option of the MIR. I guess, in weighing up the pros and cons during the discussion, we both came to the conclusion that the MIR was probably the best solution. Mr Huts indicated that he needed to talk to a few people and that he would let me know before lunch whether he intended to go that way. I cannot remember when, but sometime before lunch Mr Huts advised me that that was the way we should go. I had actually since been contacted by the Premier's office for a meeting with the Premier later in the afternoon. I said to Mr Huts that at that meeting I would seek the Premier's approval. I did so, and the Premier gave the approval, and*

<sup>295</sup> Letter from Ms Michelle Reynolds, Assistant Director General, Public Sector Management Division, Department of the Premier and Cabinet, 28 November 2006, pp1-2.

<sup>296</sup> Letter from Mr Mal Wauchope, Director General, Department of the Premier and Cabinet, to Mr Paul Albert, Director General, Department of Education and Training, 17 October 2006.

*that was it. After the meeting I telephoned Mr Huts to say that the MIR was approved.*"<sup>297</sup>

14.6 The Minister provided the following evidence:

**"CHAIR:** *What conversations, if any, did you have with Mr Albert between 12 October 2006 and 17 October 2006 in relation to Mr Huts' accepting an MRI?*

**Hon LJILJANNA RAVLICH:** *Mr Albert - I cannot remember what day it was - phoned me, after, I guess, realising the gravity of the situation, and made the point that Alby Huts would be prepared to go. I would have made the comment, "Well, that's between you and Alby Huts," and that would have been it, to the best of my knowledge.*

...

**Hon NORMAN MOORE:** *The question is: did you think Mr Huts should go?*

**Hon LJILJANNA RAVLICH:** *Ultimately, yes, because the complaints management unit was such a problem.*"<sup>298</sup>

15 THE MIR OF MR PAUL ALBERT

15.1 Mr Albert gave the following evidence as to the events surrounding his MIR:

*"... the circumstances surrounding my taking of the MIR developed during the day - that was Monday, 16 October. On that morning prior to the press conferences and so on, the minister had indicated to me that she wished me to stay on as director general. I actually did indicate to her that I had had a discussion with Mr Huts, and that he was probably going to take the MIR. She did actually say to me that she did not see the necessity for him to leave the department, but that was where the conversation ended.*

*However, after that we had the media conferences, the CCC conference, the minister's own conference and, of course, my own conference. Mine was scheduled, from memory, at 11 o'clock, although it might have been 11.15 am. A few minutes before meeting the press I was advised by a departmental representative who had*

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<sup>297</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, pp1-2.

<sup>298</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p10.

*attended the CCC's press conference that the CCC spokesman had been particularly critical of the department. In fact, he talked about there being a serious cultural problem in the department that was putting children at risk. I was also advised again, in the few minutes before my own press conference, by the departmental rep who had attended the minister's media conference that this had not gone well. From the comments made there, I was advised that there would be no doubt that my future with the department would be raised in the press conference. At the press conference the question of my future was actually raised. Following the press conference, and prior to the meeting with the Premier, I reflected on the report, the action we proposed taking to address the issues raised by the CCC and, of course, the tenability of my own position in light of the comments of the CCC at its press conference and, of course, the minister's statement. At around 4.30 - I cannot remember the precise time because I do not have my diary - I met with the Premier. The minister was also present at the meeting. The Premier asked me to brief him on my views of the report, the day's events and, of course, the action that the department proposed taking to address the issues. During the meeting I did advise him that, since my returning from overseas, Mr Huts had informed me that the CCC was now investigating 12 cases involving the use of force by teachers to restrain students. I indicated to the Premier and the minister that, given the events that had unfolded in relation to this particular inquiry, there was no doubt in my mind that that one was going to prove equally damaging to the department's reputation. The Premier then requested the minister to leave and asked what action I had taken in respect to staff involved in complaints management. I outlined to him the options that I had put to Mr Huts and asked whether he had approved an MIR for Mr Huts. He gave his verbal approval.*

*Discussion then focused on my future and we canvassed the pros and cons of a range of options, including my staying on as director general or taking an MIR. By the conclusion of the discussion, it was evident to me that I should take the MIR. I indicated to the Premier that I needed to talk to my wife before confirming this. Around two or three hours later, I telephoned the Premier to indicate that I would take the MIR.*<sup>299</sup>

## 15.2 Mr Albert elaborated on his reason for accepting the MIR in the following evidence:

<sup>299</sup> Mr Paul Albert, former Director General of the Department of Education and Training, *Transcript of Evidence*, 27 November 2006, pp2-3.

*“It was probably a personal one for me because I am very conscious of the importance of public confidence in the government school system. The government school system has been under challenge for some time. There is a drift from the government school system to the private school system. It is simply not acceptable to have these sorts of situations happening because they undermine the public’s confidence. I felt while we were talking and so on - this was mentally going through my mind - that maybe the time was for a new broom. I did actually feel pretty guilty about Mr Huts because Mr Huts had proved himself to be an outstanding executive director. He had led a number of substantial reforms such as the introduction of local selection in schools with minimal fuss. He had also successfully negotiated the teachers’ agreement early in the year, which was a very difficult agreement to do. Thinking that we had another 12 cases coming up in the future, the way that one had gone left no doubt in my mind that that one would be equally a problem and that it may well be best that we had new parties looking at what we actually do and how we behave. That is really what happened. That was in my mind. I do not know what was in the Premier’s mind and I cannot comment on that. I mean that I am not able to; it is not that I will not.”*<sup>300</sup>

- 15.3 The Minister advised the Committee that she was not present when the Premier and Mr Albert discussed the MIR. She noted, however, that:

*“I had a slightly different view from the Premier. I thought that Mr Albert had done a good job, and on the whole he was an excellent officer. On this occasion, however, he got it wrong. I did think that he deserved a second chance, if you like.”*<sup>301</sup>

- 15.4 Mr Albert addressed the senior staff of DET at a meeting on 17 October 2006.<sup>302</sup>

- 15.5 Ms Sharyn O’Neill, then Deputy Director, Schools, DET, met with the Premier on the afternoon of 17 October 2006.<sup>303</sup> On 18 October 2006 Ms O’Neill received a direction from the Premier to act in the position of Director General of the DET. The duration of the Premier’s direction is until 17 October 2007 or until the position is filled or the direction rescinded, whichever is sooner.<sup>304</sup>

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<sup>300</sup> Ibid, p3.

<sup>301</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, *Transcript of Evidence*, 29 November 2006, p9.

<sup>302</sup> Ms Sharyn O’Neill, Acting Director General, Department of Education and Training, *Transcript of Evidence*, 27 November 2006, p2.

<sup>303</sup> Ibid.

<sup>304</sup> Ibid.

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**16 COMMITTEE FINDINGS**

- 16.1 The Committee makes the following findings from its consideration of the evidence, much of it conflicting, gathered over the course of the inquiry:

**COMMITTEE FINDING 1**

**The working relationship between the CCC and DET became increasingly dysfunctional between June 2005 and October 2006. Refer to Recommendation 3 in this Report.**

*Comment*

- 16.2 The Committee has formed the view that this particular issue is too complex for the Committee to examine in any detail in the short inquiry period. The Committee suggests, however, that the events that prompted the CCC to publish the CCC Report and the subsequent abolition/re-structuring of the CMU should be examined by a parliamentary committee.

**COMMITTEE FINDING 2**

**The Minister was never briefed in writing by Mr Paul Albert, the Director General of DET, in relation to the CCC inquiry into *Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia* and the CCC Report that was received in draft form by the DET on 4 July 2006.**

*Comment*

- 16.3 The Committee is strongly of the view that the Minister should have been given more information by Mr Albert about the CCC inquiry and draft report. The Director General should have provided written reports or briefings to the Minister on the matter, and the matter should also have been placed on the Minister's Contentious Issues file.

**COMMITTEE FINDING 3**

**Mr Paul Albert, Director General of the DET, relied on three reasons as to why he did not brief the Minister in writing in relation to the CCC inquiry and draft CCC Report:**

- a) **the uncertainty within the DET as to the restrictions imposed on the disclosure of information by the *Corruption and Crime Commission Act 2003*, which was highlighted by the confusion within DET over the CCC's covering letter to the draft CCC Report and the CCC's guidelines on the**

***“Disclosure of Misconduct Reports Made to the Corruption and Crime Commission”;***

- b) the practice of DET not to brief the Minister on the specifics of individual cases handled by the CMU, as such matters were regarded as operational matters for the Department to manage; and**
- c) the attitude within DET that the matter was being handled, and that the CCC investigators would not finalise their report without speaking directly with the Director General.**

*Comment*

- 16.4 Although the Committee has found that the above reasons were relied upon by the Director General not to provide a detailed written briefing to the Minister, the Committee itself does not believe these reasons to be adequate. The Director General should have sought clarification from either the CCC or the State Solicitor’s Office as to his ability to disclose the draft CCC Report to the Minister. The Committee also notes that any issue to do with a CCC inquiry into a public sector agency’s complaints management process, particularly where allegations of sexual misconduct of staff against children are involved, should have alerted the Director General to the fact that the issue was of such importance to the Minister’s portfolio that the Minister should have received a full written briefing on the CCC inquiry at the earliest opportunity.

**COMMITTEE FINDING 4**

**The MIR of Mr Albert Huts, Executive Director, Human Resources, DET, was first raised by Mr Paul Albert, the Director General of DET, in the course of a discussion between the Director General and Mr Huts on 15 October 2006. Refer to paragraphs 14.1 to 14.6 in this Report.**

*Comment*

- 16.5 Following the meeting on 15 October 2006 between the Minister and the DET staff, Mr Paul Albert formed the view that it was no longer tenable for Mr Albert Huts to retain responsibility for the CMU. Mr Albert and Mr Huts discussed a MIR as one option available to Mr Huts and Mr Huts subsequently accepted the offer of a MIR.

**COMMITTEE FINDING 5**

**The MIR of Mr Paul Albert, the Director General of DET, was first raised in a discussion between the Premier and the Director General on 16 October 2006. Refer to paragraphs 15.1 to 15.5 of this Report.**

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*Comment*

- 16.6 At a meeting between Mr Paul Albert and the Premier on 16 October 2006, the contents of the CCC Report were discussed. The meeting concluded that it was in the best interests of public confidence in the government school system that Mr Albert should accept a MIR. Mr Albert subsequently accepted the offer of a MIR.

## COMMITTEE FINDING 6

**Two staff members of the Office of the Minister saw the CCC's media statement of 1 June 2006, as well as various news summaries in relation to the CCC media statement. The evidence is that no staff member brought the CCC media statement of 1 June 2006 directly to the Minister's attention.**

*Comment*

- 16.7 The evidence clearly shows that both Ms Michelle White, former Media Adviser to the Minister, and Mr Lance McMahon, Policy Officer, received the CCC media statement of 1 June 2006 from the Government Media Office on the afternoon of 1 June 2006. Ms White stated that she spoke about the CCC media statement to various other identified staff of the Office of the Minister, but all of these identified staff members have no recollection of speaking to Ms White either in relation to the CCC media statement or the CCC inquiry generally. The Committee notes Mr McMahon's acknowledgment that he may have been "*lax in reading the full transcript ... [and consequently, he] ... did not refer it to the minister.*"<sup>305</sup>
- 16.8 The Minister was therefore incorrect in her answer to Question Without Notice 892 on 18 October 2006, where Hon Ray Halligan MLC asked the Minister the following:<sup>306</sup>

*"The Corruption and Crime Commission released a media statement on 1 June 2006 stating that the commission planned to table a report in Parliament later this year on the important issue of sexual misconduct towards students. When did members of the minister's office or her department advise her of that media statement?"*<sup>307</sup>

- 16.9 The Minister replied (and to a subsequent interjection) as follows:

*"I assume that that was a media statement by the Corruption and Crime Commission that it would table a report. I must say that no*

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<sup>305</sup> Mr Lance McMahon, Policy Officer, Office of the Minister for Education and Training, *Transcript of Evidence*, 28 November 2006, p5.

<sup>306</sup> Question Without Notice 892.

<sup>307</sup> Hon Ray Halligan MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7132.

*officer in my office advised me that there would be a tabling of a report.*

**Hon Ray Halligan:** *Did they advise the minister of the media statement about the report?*

**Hon LJILJANNA RAVLICH:** *Clearly, no member of my staff or I was aware of that media statement.*<sup>308</sup>

## COMMITTEE FINDING 7

**The majority of the Committee (Hons Norman Moore and Giz Watson MLCs) finds that it is probable that Mr Paul Albert, the Director General of DET, verbally advised the Minister of the CCC inquiry and subsequent draft CCC Report on at least three separate occasions, being:**

- a) at the MCEETYA conference on 7 July 2006;**
- b) at a meeting at the Minister's Office on 2 August 2006; and**
- c) at a meeting at the Minister's Office on 3 October 2006.**

**The minority of the Committee (Hon Graham Giffard MLC) finds that the available evidence does not support the majority finding that Mr Paul Albert advised the Minister that the CCC was conducting a formal inquiry into the DET's handling of the sexual misconduct allegations against staff and would be tabling a report in Parliament.**

### *Comment*

- 16.10 The majority of the Committee (Hons Norman Moore and Giz Watson MLCs) is of the view that three of the four specific conversations that Mr Albert states that he had with the Minister about the CCC inquiry and draft CCC Report have been sufficiently corroborated. The Committee notes that Mr Albert's statements to the Minister at the MCEETYA meeting may not have provided enough information for her to appreciate the seriousness of the issue. The Committee finds, however, that the evidence of Mr Albert as to the questions asked by the Minister of him at both the 2 August 2006 and the 3 October 2006 meetings indicates that the Minister had an understanding of the nature of the issue.
- 16.11 The minority of the committee (Hon Graham Giffard MLC) notes that too much of Mr Albert's evidence was either disputed by other witnesses or inconsistent in material respects with the evidence of other witnesses. For these reasons Mr Albert's evidence

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<sup>308</sup> Hon Ljiljanna Ravlich MLC, Minister for Education and Training, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7132.

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cannot be relied upon or preferred to the evidence of the Minister or those witnesses whose evidence clearly indicated that the Minister had no knowledge of the CCC Report until she was briefed by CCC officers on 12 October 2006.

- 16.12 The minority of the Committee (Hon Graham Giffard MLC) is of the view that Mr Albert's evidence of his statements to the Minister at the MCEETYA meeting, even if it is accepted that they had been made (which is not accepted by the minority), were likely to have been too general and vague to have been clearly understood by the Minister. The corroborating evidence of Ms O'Neill cannot be relied upon. She had read the CCC Report while travelling to the MCEETYA meeting. If some general and vague comment were made by Mr Albert to the Minister then Ms O'Neill, given her detailed knowledge of the matter, would have a clear understanding of these comments whereas the Minister had no such knowledge. If Mr Albert had made clear to the Minister that the CCC was intending to table a adverse report about her department, the Minister would have demanded a full briefing on the matter from Mr Albert.
- 16.13 The minority of the Committee (Hon Graham Giffard MLC) notes that in relation to the Ministerial briefing on 2 August 2006, although it is accepted that a brief and informal exchange occurred between Mr Albert and the Minister in the corridor of the Ministerial Office after the meeting, that Mr Albert's evidence is either contradicted or otherwise not supported by others who attended the meeting, including the Minister, Mr Klarich, Ms Rinaldi, Mr McCaffery, Ms Hasleby and Ms Cook. The evidence of Ms White, who claimed she overheard Mr Albert speaking to an unidentified person outside her office following the meeting, does not in any way corroborate Mr Albert's assertion that he told the Minister of the CCC Report.
- 16.14 The minority of the committee (Hon Graham Giffard MLC) also finds that Mr Albert drew the committee's attention to a 3 October 2006 ministerial briefing, in which he asserted that he advised the Minister of the CCC Report, only after he had suffered adverse media comment following giving evidence to the Committee on the first occasion. It was after this, and during giving evidence to the Committee for the second time, that he alerted the Committee to two other witnesses who could corroborate his claims in relation to the 3 October 2006 meeting. Again the evidence of these witnesses was contradicted by another witness who attended that same meeting and did not support Mr Albert's evidence in critical respects, including his claim that the CCC report into sexual contact had been discussed with the Minister at the meeting.

## COMMITTEE FINDING 8

**The Minister's immediate decision to implement all of the recommendations of the CCC Report at her briefing by CCC officers on 12 October 2006 committed her to a course of action before she had the benefit of obtaining all relevant**

**information, including reading the full report and obtaining a briefing from the DET and the State Solicitor's Office.**

*Comment*

- 16.15 The Minister determined to implement the recommendations of the CCC Report because her "*confidence was not with*" the DET. She made this decision without first testing those recommendations against the expert advice of the State Solicitor's Office and her departmental officers who held the view that the CCC Report contained serious flaws.



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**Hon Giz Watson MLC**  
**Chair**

**7 December 2006**

**APPENDIX 1**  
**LIST OF WITNESSES WHO APPEARED BEFORE THE**  
**COMMITTEE**



# APPENDIX 1

## LIST OF WITNESSES WHO APPEARED BEFORE THE COMMITTEE

Date	Witness	Organisation
27/11/06 and 29/11/06	<b>Mr Paul Albert</b> Former Director General	Department of Education and Training
27/11/06	<b>Mr Albert Huts</b> Former Executive Director Human Resources	Department of Education and Training
27/11/06	<b>Mr Nicholas Anticich</b> Director Operations  <b>Mr Roger Watson</b> Manager Investigations Review and Complaints Assessment	Corruption and Crime Commission of Western Australia
27/11/06	<b>Ms Sharyn O'Neill</b> Acting Director General	Department of Education and Training
27/11/06, 29/11/06 and 5/12/06	<b>Mr Darren Klarich</b> Former Chief of Staff	Office of the Minister for Education and Training
27/11/06 and 30/11/06	<b>Mr Paul Joyce</b> Former Chief of Staff	Office of the Minister for Education and Training
28/11/06	<b>Mr Peter Denton</b> Former Manager Complaints Management Unit	Department of Education and Training
28/11/06	<b>Ms Kelly Dansie</b> Senior Consultant Complaints Management Unit	Department of Education and Training

28/11/06	<b>Ms Bev Dornan</b> Former Senior Consultant Complaints Management Unit	Department of Education and Training
28/11/06	<b>Ms Annika Christou</b> Secondee Legal Officer to Department of Education and Training	State Solicitor's Office
29/11/06 and 5/12/06	<b>Ms Michelle White</b> Former Media Adviser	Office of the Minister for Education and Training
29/11/06	<b>Hon Ljiljanna Ravlich</b>	Minister for Education and Training
30/11/06	<b>Ms Siobhan Mulvey</b> A/ Executive Director VET and Career Development	Department of Education and Training
30/11/06	<b>Ms Karen Ho</b> A/Director, Policy and Review	Department of Education and Training
30/11/06	<b>Ms Wendy Dunne</b> Principal Policy Advisor (Training)	Office of the Minister for Education and Training
30/11/06	<b>Mr Daron Smith</b> Policy Advisor (Parliamentary Liaison)	Office of the Minister for Education and Training
5/12/06	<b>Mr Roger Watson</b> Manager Investigations Review and Complaints Assessment	Corruption and Crime Commission of Western Australia

## **APPENDIX 2**

### **CHRONOLOGY OF KEY EVENTS**



## APPENDIX 2

### CHRONOLOGY OF KEY EVENTS

DATE	EVENT	SOURCE
<b>Feb 2002</b>	Department of Education and Training ( <b>DET</b> ) establishes the Complaints Management Unit ( <b>CMU</b> ) in response to concerns expressed by the Office of Public Sector Standards Commissioner, the Ombudsman and the Auditor General on complaints management processes within the public sector.	"Complaints Management Review" Report, Mar 2006, p5
<b>Late 2004</b>	Paul Albert delegates the line management of the CMU to Alby Huts.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, p3
<b>2005</b>	Minister for Education and Training ( <b>Minister</b> ) is given background to, current status of, and issues concerning, the CMU (Ombudsman is currently investigating the DET's complaints handling processes and this may affect the CMU's future practices).	<i>Briefing for Minister for Education and Training 2005</i> , p226
<b>30 Mar 2005</b>	Paul Albert sends a request to the CCC to second one of the CCC's officers (Roger Watson) for the purposes of the "Complaints Management Review".	Private - Letter from Paul Albert to Commissioner Hammond, 30.03.05
<b>Mid 2005</b>	Review of the Complaints Management Unit begins (Chair is Peter Browne, former Director General of the DET).	Report by the Ombudsman on complaints management processes in the DET, Nov 2006, p1
<b>29 Jun 2005</b>	CCC sends advice to the DET that it supports a DET proposal to create a centralised complaints management system for the TAFEs, similar to that developed for schools, " <i>which appears to be comprehensive and effective</i> ".	Private - Letter from Commissioner Hammond to Paul Albert, 29.06.05, p1

<b>7 Jul 2005</b>	CCC advises DET that it proposes to explore general themes of possible misconduct within the DET by undertaking specific investigations. It is acknowledged that Nick Anticich, Director of Operations, CCC, has already briefed Paul Albert about this matter.	Private - Letter from Commissioner Hammond to Paul Albert, 07.07.05, p1
<b>17 Nov 2005</b>	Alby Huts provides Minister with briefing note re Paedophile Teachers/Staff. Seven staff members currently located in District Offices who are subject to police and/or DET investigations for allegations of sexual abuse of students and/or accessing child pornography. It is noted that allegations of sexual assault of students by staff are referred immediately to the CCC, the Child Protection Squad and DCD.	Briefing Note from Alby Huts to Minister, 17.11.05 (LC Tabled Paper No 2156)
<b>23 Dec 2005</b>	Paul Albert (letter signed by Sharyn O'Neill) responds to the CCC's concerns about the DET's disciplining of a teacher who was accused of sexually abusing a child. The letter explains why the DET had not conducted an investigation/inquiry before sanctioning the teacher.	Letter from Paul Albert to Commissioner Hammond, 23.12.05 (LC Tabled Paper No 2192)
<b>01 Jan 2004 to 18 Mar 2006</b>	CCC receives 449 notifications and complaints involving DET (12% involving allegations of inappropriate behaviour of a sexual nature).	CCC report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> , 16.10.06, p9
<b>2006</b>	Minister is given background to, current status of, and issues concerning the CMU (CMU is currently subject to an internal review of its processes undertaken on behalf of the Executive Director, Human Resources).	<i>Program Briefings 2006</i> , p244
<b>10 Jan 2006</b>	Minister writes to Dr Elizabeth Constable MLA advising of the details of the "Complaints Management Review" being conducted by Peter Browne.	Private - Letter from the Minister to Dr Elizabeth Constable MLA, 10.01.06
<b>18 Jan 2006</b>	In response to a letter from Paul Albert dated 23.12.05 regarding the DET's handling of a particular allegation of inappropriate sexual misconduct by a teacher, the CCC first advises Paul Albert of its investigation of the DET's handling of this particular case and other cases of a similar (ie sexual misconduct) nature. Handwritten note (dated 23.01.06) on the letter states: <u>Peter</u> Please discuss - prepare briefing note to Alby response for DG.	Letter from Commissioner Hammond to Paul Albert, 18.01.06, p1 (LC Tabled Paper No 2170)

<b>24 Jan 2006</b>	CCC (Roger Watson) meets with DET (Peter Denton) to discuss the CMU/DET's conduct of preliminary investigations.	Private - Letter from Commissioner Hammond to Paul Albert, 10.08.06
<b>14 Feb 2006</b>	Paul Albert seeks clarification from the CCC that the DET will be given the opportunity to comment on the CCC's draft report on the DET's handling of sexual misconduct allegations against DET staff.	Letter from Paul Albert to Commissioner Hammond, 14.02.06 (LC Tabled Paper No 2192)
<b>15 Feb 2006</b>	CCC confirms with Paul Albert that the DET will be given the opportunity of commenting on its draft report on the DET's handling of sexual misconduct allegations against DET staff.	Letter from Commissioner Hammond to Paul Albert, 15.02.06, p1 (LC Tabled Paper No 2170)
<b>30 Mar 2006</b>	Peter Browne (former Director General of DET) completes his report titled "Complaints Management Review".	Private - Briefing Note from Alby Huts to the Minister, 13.10.06, p2
<b>16 Mar 2006</b>	Minister (in response to a question asked by Hon Simon O'Brien) advises the House that she will not be tabling Peter Browne's report in the Parliament because " <i>it is an internal report designed for internal purposes</i> ".	16.03.06, LC Question without Notice No 53, Hansard, p610
<b>Apr/May 2006 (or early Jun 2006)</b>	Paul Albert's claim: He provides the Minister with a verbal briefing (as part of the budget estimates briefings) on the findings and recommendations of the "Complaints Management Review" during which he indicates that the CCC is conducting its own inquiry into the DET's handling of complaints. He uses the word 'investigation' or 'inquiry' because he mentions the CCC inquiry in the same message as the Ombudsman's inquiry.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, pp6-7, 12 & 14; Transcript of Evidence of Paul Albert taken by the Select Committee, 29.11.06, pp2 & 7
	Lance McMahon's (then Education Policy Adviser, Office of the Minister) claim: He was present at the briefing of the Minister representing the Minister in the Legislative Assembly. He had no recollection of the CCC being referred to in that briefing.	Transcript of Evidence of Lance McMahon taken by the Select Committee, 28.11.06, p9

	Minister's claim: She was not briefed by Paul Albert on this occasion because her budget estimates briefing occurred on 13.06.06.	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, pp2-4
<b>12 Apr 2006</b>	Minister is given a briefing note regarding the relocation of employees to District Offices. Employees who are subject to a serious allegation (eg sexual assault or inappropriate behaviour of a sexual nature) are immediately relocated to a work environment that does not include contact with students until such time that the matter is resolved. The relocation is generally to the District Office associated with the particular school. The DET immediately notifies the Child Protection Squad, the Public Sector Investigations Unit and the CCC of the allegations and the DET's proposed action. The employee is also subject to disciplinary provisions of the <i>Public Sector Management Act 1994</i> . There are currently 11 employees located in District Offices who are subject to allegations of a sexual nature.	Briefing Note from Alby Huts to the Minister, 12.04.06
<b>21 Apr 2006</b>	CCC advises DET that it has concerns about the CMU's policy on conducting preliminary investigations.	Private - Letter from Commissioner Hammond to Paul Albert, 21.04.06
<b>05 May 2006</b>	CCC sends a letter to all Directors General advising that the CCC Act does not prevent a CEO from disclosing to another person, including the person who is the subject of the notification, the fact that a matter has been referred to the CCC, unless the CCC expressly prohibits such disclosure through a notice or summons issued under the CCC Act or by an order made at a CCC hearing. <i>"As disclosure options are not straightforward, I strongly advise CEOs, or their delegated officers who are dealing with these highly sensitive suspected misconduct cases, to contact the Commission's Investigations Review and Complaints Assessment Unit..."</i> . The attached disclosure guidelines provide similar advice.	eg Letter from Commissioner Hammond to Paul Albert, 05.05.06, p2 & Attachment

<b>22 May 2006</b>	CCC sends a letter to all Ministers advising that the CCC Act does not prevent a CEO from disclosing to another person, including the person who is the subject of the notification, the fact that a matter has been referred to the CCC, unless the CCC expressly prohibits such disclosure through a notice or summons issued under the CCC Act or by an order made at a CCC hearing. <i>"As disclosure options are not straightforward, I strongly advise CEOs, or their delegated officers who are dealing with these highly sensitive suspected misconduct cases, to contact the Commission's Investigations Review and Complaints Assessment Unit..."</i> . The attached disclosure guidelines provide similar advice.	eg Letter from Commissioner Hammond to Minister for Education and Training, 22.05.06, p2 & Attachment
<b>23 May 2006</b>	DET staff brief Hon Norm Marlborough MLA, then Minister representing the Minister in the Legislative Assembly for the Legislative Assembly Estimates Hearings held on 24.05.06. The Minister is not present at this briefing.	Letter from John Carruthers to the Select Committee, 05.12.06; Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, p2
<b>Jun 2006</b>	Corporate Executive endorses recommendations of the "Complaints Management Review" report.	Private - Briefing Note from Alby Huts to the Minister, 13.10.06, p2
<b>01 Jun 2006</b>	Minister travels to Wiluna with Daron Smith (Policy Adviser, Office of the Minister) and Wendy Dunne (Principal Policy Adviser, Office of the Minister) and arrives back to Perth around 3:45pm.	Daily Itinerary for the Minister, 01.06.06
	CCC releases a media statement from 5:12pm to advise that it will table its report on the investigation into the DET's capacity to deal with allegations of sexual misconduct towards students by staff later in 2006.	CCC Media Statement, 01.06.06; Email from Roger Watson, 04.12.06
	CCC faxes a copy of its media statement dated 01.06.06 to the media section of the DET at 5:04pm.	Email from Roger Watson to Select Committee, 28.11.06

	DET receives CCC media statement by email from the CCC at 5:04pm.	Letter from Sharyn O'Neill to the Select Committee, 30.11.06, p1; Email from Liz Di Giovanni to the Select Committee, 04.12.06
	Government Media Office receives CCC media statement from the CCC at 5:06pm and sends it to the Minister's Office (Michelle White, then Media Adviser, and Lance McMahon, then Education Policy Officer, Office of the Minister) at 5:09pm. At 6:45pm and 10:25pm, Government Media Office also emails two news summaries to various people, including Michelle White (then Media Adviser, Office of the Minister), containing reports about the CCC media statement.	Information from Government Media Office, delivered on 05.12.06; Email from John Arthur to Lance McMahon and Michelle White, 01.06.06
	Lance McMahon's (then Education Policy Officer, Officer of the Minister) claim: That evening, he read an email from the Government Media Office relating to the CCC media statement. He recognised that the media statement related to a former teacher being charged with sexual offences but did not realise that this issue also related to a CCC investigation into the DET's handling of sexual misconduct allegations against DET staff. Therefore, he did not refer it to the Minister.	Transcript of Evidence of Lance McMahon taken by the Select Committee, 28.11.06, p5
	Michelle White's (then Media Adviser, Office of the Minister) claim: She receives a copy of the CCC media statement from the Government Media Office and discusses the contents of the statement with Paul Joyce, then Chief of Staff, Office of the Minister, with Daron Smith, Policy Adviser, Office of the Minister, over the telephone while he is Wiluna, and with someone from the DET, possibly Liz Di Giovanni, Principal Media Consultant, Corporate Communications and Marketing, DET). She is told by the DET that this matter is being handled at the department level. She also receives news summaries about the CCC investigation into the DET's handling of sexual misconduct allegations by the DET's staff.	Transcript of Evidence of Michelle White taken by the Select Committee, 29.11.06, pp2-4; Transcript of Evidence of Michelle White taken by the Select Committee, 05.12.06, pp1-3 & 5-6, 7-8
	Liz Di Giovanni's (Principal Media Consultant) claim: After receiving a copy of the CCC media statement, she rings Michelle White (then Media Adviser, Office of the Minister) three or four times that night to discuss the CCC media statement. After drafting the DET's response, she reads it out over the phone Michelle White and then to the ABC. She also speaks to Paul Albert and Alby Huts that night.	Private - Internal Memorandum from Paul Grant to the Select Committee, 05.12.06

	Paul Joyce's (then Chief of Staff, Office of the Minister) claim: He did not receive any news summaries for that day. He was not aware of the CCC investigation into the DET's handling of sexual misconduct allegations against DET staff until the report was tabled. He could not remember any discussion with Michelle White (then Adviser, Office of the Minister) about these matters.	Transcript of Evidence of Paul Joyce taken by the Select Committee, 27.11.06, pp2 & 4; Transcript of Evidence of Paul Joyce taken by the Select Committee, 27.11.06, pp2 & 3
	Daron Smith's (Policy Adviser, Office of the Minister) claim: He did speak to Michelle White (then Media Adviser, Officer of the Minister) while he was in Wiluna but she never made him aware of the CCC investigation into the DET's handling of sexual misconduct allegations against its staff.	Transcript of Evidence of Daron Smith taken by the Select Committee, 30.11.06, p2
	Minister's claim: No one brought this media statement to her attention.	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, p4
	Various radio stations report on CCC investigation into the DET's handling of allegations of sexual misconduct by staff towards students.	Channel 10 News, 19.10.06; Media Monitoring News Summary for 01.06.06
<b>02 Jun 2006</b>	At 8:44am, Government Media Office emails an early morning news summary (containing reports about the CCC media statement dated 01.06.06) to various people, including Michelle White (then Media Adviser, Office of the Minister).	Information from Government Media Office, delivered on 05.12.06
	Government Media Office records indicate that Michelle White (then Media Adviser, Office of the Minister) opened all three emailed news summaries (sent by the Government Media Office on 01.06.06 and 02.06.06) today.	Information from Government Media Office, delivered on 05.12.06
	At 9:49am, Government Media Office sends email to Media Advisers Group (including Michelle White, then Media Adviser, Office of the Minister) regarding, among other things, the CCC investigation into how the DET deals with allegations of sexual misconduct of a former school teacher.	Email from John Arthur to Media Advisers Group, 02.06.06

	Michelle White's (then Media Adviser, Office of the Minister) claim: She discusses the contents of the CCC media statement dated 01.06.06 with Paul Joyce, then Chief of Staff of the Minister's Office, and Daron Smith, Policy Adviser, Office of the Minister.	Transcript of Evidence of Michelle White taken by the Select Committee, 29.11.06, p2
	Paul Joyce's (then Chief of Staff of the Minister's Office) claim: He was not aware of the CCC investigation into the DET's handling of sexual misconduct allegations against DET staff until the report was tabled.	Transcript of Evidence of Paul Joyce taken by the Select Committee, 27.11.06, pp2 & 4; Transcript of Evidence of Paul Joyce taken by the Select Committee, 27.11.06, pp2 & 3
	Daron Smith's (Policy Adviser, Office of the Minister) claim: Michelle White (then Media Adviser, Officer of the Minister) did not make him aware of the CCC investigation into the DET's handling of sexual misconduct allegations against its staff.	Transcript of Evidence of Daron Smith taken by the Select Committee, 30.11.06, p3
	Various radio stations report on CCC investigation into the DET's handling of allegations of sexual misconduct by staff towards students.	Channel 10 News, 19.10.06; Media Monitoring News Summary for 02.06.06
	<i>The West Australian</i> reports on criminal charges laid against a former teacher for indecent dealing with two girls. There is no mention of any CCC inquiry.	"Ex-teacher on sex charges", <i>The West Australian</i> , 02.06.2006, p9
<b>13 Jun 2006</b>	Paul Albert and other DET staff brief the Minister for the Legislative Council Estimates Hearings held on 14.06.06. The <i>Program Briefings</i> contain a briefing on the "Complaints Management Review".	Letter from John Carruthers to the Select Committee, 05.12.06; Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, p1

<b>20 Jun 2006</b>	Paul Albert requests that Commissioner Hammond personally investigate the CCC media statement dated 01.06.06, which he considers to have grossly misrepresented the DET's actions in relation to the sexual misconduct allegations which are the subject of the media statement.	Letter from Paul Albert to Commissioner Hammond, 20.06.06
<b>22 Jun 2006</b>	Commissioner Hammond responds to Paul Albert's letter dated 20.06.06 regarding Paul Albert's concerns that the CCC media statement dated 01.06.06 grossly misrepresents the DET's actions in relation to the sexual misconduct allegations which are the subject of the media statement. Amongst other things, the Commissioner indicates that the CCC will soon be forwarding a draft report about the way the DET deals with sexual misconduct allegations, including the allegation which was the subject of the media statement.	Letter from Commissioner Hammond to Paul Albert, 22.06.06
<b>26 Jun 2006</b>	Minister responds to CCC letter dated 22.05.06 regarding the disclosure of CCC information and advises that the DET has included the disclosure guidelines on senior executive meeting agenda to ensure that the issues and guidelines are understood by senior officers.	Letter from the Minister to Commissioner Hammond, 26.06.06
<b>29 Jun 2006</b>	Minister's Office requests a briefing note from the DET regarding the " <i>Browne Report on the CMU</i> " by 1pm.	Email from Heather Gabriel to Michael Malouf, forwarding an email from Lance McMahon to Heather Gabriel, 29.06.06
	Alby Huts provides Minister with a briefing note re the findings of Peter Browne's review of the operations of the CMU - the "Complaints Management Review".	25.10.06, LC Hansard, p7564
<b>30 Jun 2006</b>	CCC sends a copy of the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff to the DET. Covering letter says: <i>The draft report contains official information. Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating your response, you and your Department are not at liberty to disclose the contents or substance of the draft report.</i> [The DET's copy of this letter includes a handwritten note from Alby Huts to Peter Denton and Beverley Dornan: <i>Peter/Bev We need to provide our comments regarding this report back to CCC by 31 July. Please seek SSO advice regarding our response. Alby 5/7/06</i> ]	Letter from Commissioner Hammond to Paul Albert, 30.06.06, p1 (LC Tabled Paper No 2160)
<b>Jul 2006</b>	"Complaints Management Review" report is discussed in the media.	Channel 7 News, 19.10.06

<b>04 Jul 2006</b>	Paul Albert and Alby Huts are handed a copy of the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff by Mike Silverstone and another CCC officer. Covering letter says: <i>The draft report contains official information. Pursuant to sections 152 and 153 of the Act, aside from the purposes of obtaining legal advice and formulating your response, you and your Department are not at liberty to disclose the contents or substance of the draft report.</i>	Letter from Commissioner Hammond to Paul Albert, 30.06.06 (LC Tabled Paper No 2160); Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, pp5 & 15
<b>early Jul 2006</b>	Michelle White's (then Media Adviser, Office of the Minister) claim: Probably whilst travelling to the Ministerial Council on Education, Employment Training and Youth Affairs on a plane, she discussed the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff with Paul Albert. The Minister is sitting close by.	Transcript of Evidence of Michelle White taken by the Select Committee, 29.11.06, p4; Transcript of Evidence of Michelle White taken by the Select Committee, 05.12.06, pp2 & 3-5
	Sharyn O'Neill (then Deputy Director General, DET) receives a copy (from Paul Albert) of the draft CCC report into the DET's handling of sexual misconduct allegations against DET staff and reads the draft report on the way to the Ministerial Council on Education, Employment Training and Youth Affairs.	Transcript of Evidence of Sharyn O'Neill taken by the Select Committee, 27.11.06, pp2-3
<b>07 Jul 2006</b>	Paul Albert's claim: While at the Ministerial Council on Education, Employment Training and Youth Affairs, Paul Albert advises the Minister that the DET had received the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff, that the report 'looked bad', that the draft report contained a number of inaccuracies, and that the DET would be obtaining the assistance of the State Solicitor's Office in making a response.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, p7; Transcript of Evidence of Paul Albert taken by the Select Committee, 29.11.06, p3
	Minister's claim: While she attended the conference, she was not briefed by Paul Albert on this occasion about the CCC's investigation into the DET's handling of sexual misconduct allegations against DET staff. She had no recollection of that happening. If a CCC investigation had been mentioned, she may have thought of the CCC inquiry	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, pp1, 5

	into Central TAFE.	
	Sharyn O' Neill's (then Acting Deputy Director, Schools, DET) claim: Some time during the conference, she overhears Paul Albert discussing the CCC draft report the DET's handling of sexual misconduct allegations against DET staff with the Minister. She overhears Paul Albert mentioning that such a report was to be tabled.	Transcript of Evidence of Sharyn O'Neill taken by the Select Committee, 27.11.06, pp2-3
	Alby Huts calls Paul Albert three times to discuss the DET's receipt of the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff. He indicates to Paul Albert that the report is very critical of the DET and contains numerous inaccuracies. He also advises that he has instructed the CMU to prepare a response to the draft report and to seek urgent legal advice from the State Solicitor's Office to assist with the response.	Letter from Alby Huts to the Select Committee, 30.11.06
	Michelle White's (then Media Adviser, Office of the Minister) claim: She attended the conference and recalled seeing a call come through for Paul Albert at this conference and that Paul Albert said that he had obtained a draft of the CCC report on the DET's handling of sexual misconduct allegations against DET staff and that it was bad.	Transcript of Evidence of Michelle White taken by the Select Committee, 29.11.06, p5; Transcript of Evidence of Michelle White taken by the Select Committee, 05.12.06, p7
	Lance McMahon's (then Education Policy Officer, Officer of the Minister) claim: He attended the conference but did not hear Paul Albert brief the Minister on any matter related to the CCC at this conference.	Transcript of Evidence of Lance McMahon taken by the Select Committee, 28.11.06, p9
<b>24 Jul 2006</b>	DET requests an extension of the deadline (to 07.8.06) to respond to the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff.	Letter from Sharyn O'Neill, Acting Director General, to CCC, 24.07.06

<b>25 Jul 2006</b>	CCC grants DET request for an extension of the deadline (to 07.08.06) to respond to the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff.	Letter from Commissioner Hammond to Sharyn O'Neill, 25.07.06
<b>31 Jul 2006</b>	Original deadline for DET's response to CCC draft report on the DET's handling of sexual misconduct allegations against DET staff.	Letter from Commissioner Hammond to Paul Albert, 30.06.06 (LC Tabled Paper No 2160)
<b>01 Aug 2006</b>	<i>Contentious Issues Quarterly Update - April - July 2006</i> , which was issued on 01.08.06, does not contain any reference to the CCC investigation into the DET's handling of sexual misconduct allegations against its staff.	Transcript of Evidence of Melissa Rinaldi taken by the Select Committee, 28.11.06, p5; Private - <i>Contentious Issues Quarterly Update - April - July 2006</i> , 01.08.06
<b>02 Aug 2006</b>	Paul Albert and DET staff meet with the Minister and her staff in a regular meeting. The CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff does not appear in the meeting's agenda file or the action sheet arising from the meeting.	Action Sheet from 8am meeting, 02.08.06; Private - Agenda for 8am meeting, 02.08.06
	Paul Albert's claim: He is handed a briefing note on the CCC draft report (on the DET's handling of sexual misconduct allegations against DET staff) as he is walking to the meeting and is reminded about the CCC direction not to disclose the contents or the substance of the draft report. At the end of this meeting, he verbally briefs the Minister on the CCC draft report and the six case studies which are referred to in that draft report. He informs the Minister that there is no doubt in his mind that the CCC would finalise the report. The discussion continues after the meeting as they leave the meeting room and are walking in the corridor. The briefing note is not provided to the Minister. As they walk down the corridor, the Minister asks Paul Albert whether any of the individuals (who are the subject of the allegations) are still working with the DET and when the events occurred.	Briefing Note from Paul Albert to the Minister, 02.08.06; Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, pp7-9 & 14; Letter from Paul Albert to Select Committee, 28.11.06, p1; Transcript of Evidence of Paul Albert taken by the Select Committee, 29.11.06, pp1, 3 & 4

	Michelle White's (then Media Adviser, Office of the Minister) claim: She was not present at the meeting but after the meeting, while everyone was mingling in the corridor outside of the meeting room, which is just next door to her office, she overheard Paul Albert mentioning to someone that (it may have been Darren Klarich, then Chief of Staff, Office of the Minister, or Paul [Joyce], then Chief of Staff, Office of the Minister) the CCC draft report on into the DET's handling of sexual misconduct allegations against DET staff and that it was quite a bad report.	Transcript of Evidence of Michelle White taken by the Select Committee, 29.11.06, pp5-6
	Peter McCaffrey's (Deputy Director General, Administration and Finance, DET) claim: He was present for the whole meeting but did not recall Paul Albert discussing the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff (nor any other CCC inquiry into the DET) but acknowledged that there were occasions when the Minister and Paul Albert discussed matters after other officers had left.	Letter from Peter McCaffrey to the Select Committee, 30.11.06, p1
	Chris Cook's (Acting Executive Director, Curriculum Standards, DET) claim: She did not recall Paul Albert discussing the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff (nor any other CCC inquiry into the DET), but she was only present at the meeting for agenda items 1 to 4.	Letter from Chris Cook to the Select Committee, 30.11.06, p1
	Jeanette Hasleby's (Acting Director, Behaviour Standards and Wellbeing, DET) claim: She was present for the whole meeting but did not recall Paul Albert discussing the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff (nor any other CCC inquiry into the DET).	Letter from Jeanette Hasleby to the Select Committee, 30.11.06, p1
	Darren Klarich's (then Chief of Staff, Office of the Minister) claim: He was present at the meeting but claimed that Paul Albert did not discuss the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff (nor any other CCC inquiry into the DET) in his presence.	Letter from Darren Klarich to the Select Committee, 28.11.06
	Melissa Rinaldi's (Principal Policy Adviser, Office of the Minister) claim: She was present at the whole meeting but did not recall Paul Albert discussing the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff (nor any other CCC inquiry into the DET). Her notes of the meeting do not contain a reference to the CCC inquiry.	Private - Handwritten notes of Melissa Rinaldi, 8am meeting, 02.08.06; Transcript of Evidence of Melissa Rinaldi taken by the Select Committee, 27.11.06, pp3 & 4

	Minister's claim: Paul Albert did not refer to the CCC investigation into the DET's handling of sexual misconduct allegations during the meeting. Minister recollected discussing the CCC generally in the corridor after leaving the meeting. She remembered being advised that the CCC was working with the DET on the issue of complaints management and that no reference was made to sexual misconduct. She denied that Michelle White (then Media Adviser, Office of the Minister) could have overheard this conversation in the corridor.	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, pp1, 6-8; Letter from the Minister to the Select Committee, 06.12.06
<b>07 Aug 2006</b>	DET provides a response to CCC on CCC's draft report on the DET's handling of sexual misconduct allegations against DET staff. Covering letter says: ...I am of the view that the Department's response to the issues identified will allay any concerns the Commission has with respect to perceived systemic issues and its capacity to manage sensitive matters of a sexual nature involving children and Department employees.	Letter from Paul Albert to Commissioner Hammond, 07.08.06 (attached to CCC report)
	Paul Albert sends his response to CCC letter dated 22.06.06 regarding the wording of the CCC's media statement dated 01.06.06. The letter indicates that the relevant documents have been sent to Malcolm McCusker QC, Parliamentary Inspector of the CCC.	Letter from Paul Albert to Commissioner Hammond, 07.08.06
<b>10 Aug 2006</b>	CCC attempts to progress its discussions with the DET in relation to the CMU/DET's conduct of preliminary investigations.	Private - Letter from Commissioner Hammond to Paul Albert, 10.08.06
<b>30 Aug 2006</b>	At a public hearing, Commissioner Hammond advises the Joint Standing Committee on the Corruption and Crime Commission that the CCC is involved in addressing its concerns with a complex mix of matters with regard to the DET, including the preparation of a report on sexual contact with children by persons in authority in the DET, among other issues.	Opening Statement to Joint Standing Committee on the Corruption and Crime Commission, 30.08.06, p4
<b>15 Sep 2006</b>	Commissioner Hammond responds to Paul Albert's letter dated 07.08.06 regarding Paul Albert's continuing concerns about the CCC media statement dated 01.06.06. Among other things, the Commissioner advises that the matters raised by Paul Albert will be addressed in the CCC report, which is anticipated to be tabled within the next two weeks. [In the DET's copy of this letter, Paul Albert's details are crossed out and there are two handwritten notes: "Noted K Ward 20/09/06" and "Peter Denton For consideration and response K Ward 22/9/06"]	Letter from Commissioner Hammond to Paul Albert, 15.09.06

	Paul Albert's claim: He and Alby Huts were not aware of this letter. He only became aware of the letter upon his return from overseas on 14.10.06.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, pp5 & 13
<b>27 Sep 2006</b>	CCC Annual Report 2005-2006 is tabled in Parliament, containing a reference to the ongoing investigation into sexual contact between DET staff and students, and that the report on such investigations is expected to be tabled in Parliament shortly.	CCC Annual Report 2005-2006, p31
<b>28 Sep 2006</b>	CCC (including Roger Watson, Phil Barden, Debbie Hills) meets with DET (including Alby Huts, Kim Ward, Eric Fleming, Peter Denton and Beverley Dornan) to discuss various matters (did not formally include the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff. At the end of the meeting, Roger Watson indicates to Alby Huts that the draft report is about a week to a week and a half away from publication. Alby Huts requests an advanced copy of the report. Roger Watson refers to confidentiality and suggests the report could be provided a day before tabling. General scope and content of report is acknowledged.	Transcript of Evidence of Roger Watson taken by the Select Committee, 27.11.06, p8; Agenda attaching Minutes of Working Committee: DET and CCC, Misconduct Allegations Management, 10am, 28.09.06, p4; Private - Email from Beverley Dornan to Karen Everett, 31.10.06
	Beverley Dornan's (then Principal Consultant, CMU, DET) claim: Roger Watson advised that one case from the draft report had been dropped. Roger Watson also advised that he would try to provide the DET with an advanced copy of the report but that if it didn't happen, it was because he was not allowed to give the advanced warning.	Private - Email from Beverley Dornan to Karen Everett, 31.10.06
	Roger Watson's (CCC) claim: Alby Huts did not appear to be surprised.	Transcript of Evidence of Roger Watson taken by the Select Committee, 27.11.06, p8
	Alby Huts' claim: He was very surprised that the CCC report was going to be published because he and other DET staff thought that at that stage, <i>"we were still discussing a number of issues"</i> .	Transcript of Evidence of Alby Huts taken by the Select Committee, 27.11.06, p4

<b>03 Oct 2006</b>	Paul Albert and DET staff meet with the Minister and her staff in a regular meeting. The CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff does not appear on the meeting's agenda.	Agenda for 8am meeting, 03.10.06
	Paul Albert's claim: During this meeting (possibly during the middle, but not at the end of, the meeting), he advises the Minister that the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff will be finalised imminently.	Transcript of Evidence of Paul Albert taken by the Select Committee, 29.11.06, pp2, 3 & 4
	Karen Ho's (Acting Director, Policy and Review, DET) claim: She was present at the meeting and recalled Paul Albert and the Minister discussing a CCC report into <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> at the end of this meeting. She recalled Paul Albert mentioning that the report was " <i>coming forward</i> ". Her notes of the meeting do not contain any reference to the report.	Transcript of Evidence of Karen Ho taken by the Select Committee, 30.11.06, pp1-2
	Siobhan Mulvey's (Acting Executive Director, Vocational Education and Training and Career Development, DET) claim: She was present at the meeting and recalled Paul Albert making reference to an impending release of a report by the CCC into the DET's handling of sexual misconduct allegations at the end of the meeting, after all other agenda items had been dealt with. She also recalled Paul Albert mentioning that there was another CCC inquiry into the activities at Central TAFE and the Minister's response to that.	Transcript of Evidence of Siobhan Mulvey taken by the Select Committee, 30.11.06, pp1-2
	Wendy Dunne's (Principal Policy Adviser, Office of the Minister) claim: She was present at the meeting and did not recall any discussion in relation to the CCC or the sexual misconduct report in any way. Her notes of the meeting do not contain any reference to that matter.	Private - Handwritten notes of Wendy Dunne, 8am meeting, 03.10.06; Transcript of Evidence of Wendy Dunne taken by the Select Committee, 30.11.06, pp1-2

	Minister's claim: She did not recall this meeting. She did not recall any discussion about the CCC inquiry into the DET's handling of sexual misconduct allegations against DET staff.	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, p8; Letter from the Minister to the Select Committee, 06.12.06
<b>12 Oct 2006</b>	Minister meets with CCC (Roger Watson, Manager, Investigations Review and Complaints Assessment and Mike Silverstone, Executive Director) for the first time this afternoon with two of her policy officers to discuss the executive summary and recommendations of the draft CCC report on the DET's handling of sexual misconduct allegations against DET staff. Minister is only given an executive summary of the draft CC report for the duration of this meeting. Minister gives an undertaking to immediately implement all six recommendations in the CCC report.	17.10.06, LC Question without Notice No 881, Hansard, p6987; 25.10.06, LC Hansard, p7562; Transcript of Evidence of Roger Watson taken by the Select Committee, 27.11.06, p9; CCC, <i>Background Notes: Ministerial Briefing 12.10.06 Re: DET Sexual Contact Report</i> ; Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, pp11-12
	Minister's claim: She is 'gobsmacked' when the draft CCC report is provided to her.	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, p11
	Darren Klarich (then Chief of Staff, Office of the Minister) is present at this briefing. The Minister does not ask for any advice from him prior to giving the undertaking to immediately implement all of the recommendations in the CCC report.	Transcript of Evidence of Darren Klarich taken by the Select Committee, 27.11.06, p3; Transcript of Evidence of Klarich taken by the Select Committee, 05.12.06, p2

	Melissa Rinaldi's (Principal Policy Adviser, Office of the Minister) was present at this briefing.	Transcript of Evidence of Melissa Rinaldi taken by the Select Committee, 28.11.06, p3
	Roger Watson's (CCC) claim: It is very clear to him that the Minister has no knowledge of the CCC investigation into the DET's handling of sexual misconduct allegations.	Transcript of Evidence of Roger Watson taken by the Select Committee, 27.11.06, p12
<b>13 Oct 2006</b>	Minister receives copy of final CCC report on the DET's handling of sexual misconduct allegations against DET staff. Minister recalls Paul Albert, Director General, DET, from Paris.	19.10.06, LC Question without Notice No 898, p7322; 25.10.06, LC Hansard, p7563
	DET provides the Department of Premier and Cabinet with an embargoed copy of the draft version of the CCC media statement issued on 16.10.06 regarding the tabling of the CCC report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> .	Email from Jane Machin-Everill to Mark McGill, 13.10.06
	CCC provides DET with an embargoed copy of its report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> .	Letter from Commissioner Hammond to Paul Albert, 13.10.06
	CCC provides the Premier with an embargoed copy of its report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> .	Letter from Commissioner Hammond to the Premier, 13.10.06
	CCC provides the Leader of the Opposition with an embargoed copy of its report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> .	Letter from Commissioner Hammond to the Leader of the Opposition, 13.10.06

	<i>Contentious Issues Quarterly Update - August - October 2006</i> , which was issued on 13.10.06, does not contain any reference to the CCC investigation into the DET's handling of sexual misconduct allegations against its staff.	Transcript of Evidence of Melissa Rinaldi taken by the Select Committee, 28.11.06, p5; Private - <i>Contentious Issues Quarterly Update - August - October 2006</i> , 13.10.06
	Alby Huts provides a briefing note to the Minister regarding the CCC draft report on the DET's handling of sexual misconduct allegations against DET staff and its imminent tabling.	Private - Briefing Note from Alby Huts to the Minister, 13.10.06
<b>15 Oct 2006</b>	Minister meets with Paul Albert and other DET staff to discuss the finalised CCC report on the DET's handling of sexual misconduct allegations against DET staff. DET's draft response to the CCC report is discussed at this meeting. Minister is told by Paul Albert that he couldn't tell her about the CCC investigation because he was not allowed to.	25.10.06, LC Hansard, p7565; Email from Annika Christou to Melissa Rinaldi, 15.10.06; Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, pp2 & 9
	DET provides the Department of Premier and Cabinet with another draft version of the CCC media statement issued on 16.10.06 regarding the tabling of the CCC report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> .	Email from Jane Machin-Everill to Mark McGill, 15.10.06
	Draft media statement and draft questions and answers are prepared for the Minister by DET, which includes the following question and answer: <b><i>Minister, why didn't you know what was going on with this inquiry? By directive of the Corruption and Crime Commissioner dated May 22, 2006 the Director General was unable to disclose any information or documentation related to matters being investigated by the CCC. The only information the Director General was able to provide to the Minister was that the CCC was investigating certain matters related to inappropriate sexual contact with children.</i></b>	Email from Andy O'Brien to Mark McGill, Paul Joyce and Melissa Rinaldi, 15.10.06

	Alby Huts receives a telephone call from Paul Alberts reassuring him that his position as Executive Director, Human Resources, is safe.	Transcript of Evidence of Alby Huts taken by the Select Committee, 27.11.06, p2
	Paul Albert forms the view by evening that it is not tenable for Alby Huts to remain the line manager of the CMU.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, p1
<b>16 Oct 2006</b>	Paul Albert and Alby Huts meet in the morning to discuss Alby Huts' future at the DET. Alby Huts' delegated authority to line manage the CMU is revoked.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, pp1-2; Transcript of Evidence of Alby Huts taken by the Select Committee, 27.11.06, p2
	CCC publishes its report on its investigation into <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> . The report examined the DET's handling of five cases of alleged sexual misconduct by DET staff.	CCC Media Statement, 16.10.06
	Paul Albert speaks to the Minister prior to the press conference. The Minister indicates to Paul Albert that she wished for him to remain as Director General of the DET and that it was not necessary for Alby Huts to leave the DET.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, p2
	Minister does not corroborate this.	Transcript of Evidence of the Minister taken by the Select Committee, 29.11.06, pp8-10
	Paul Albert states to the media that he had personally informed the Minister of the CCC investigation into a number of cases of inappropriate sexual behaviour between teachers and students: <i>I personally told her that the commission was investigating a number of cases concerning inappropriate sexual behaviour between teachers and students.</i>	Channel 7 News, 19.10.06, transcript, p3; 26.10.06, LC Question without Notice No 958, Hansard, p7740

	Paul Albert issues a media statement in response to the CCC report. He advises that he has assured the Minister that all of the CCC recommendations will be implemented immediately. The DET will implement the following additional measures: Parent Advocacy Unit; Professional Standards Branch; Child Protection Expert; more staff; disciplinary action for non-compliant staff; and suspension without pay.	Media Statement from Paul Albert, 16.10.06
	Paul Albert meets with the Premier and the Minister around 4:30pm. The Minister leaves prior to discussions about the future of Paul Albert and Alby Huts at the DET.	Transcript of Evidence of Paul Albert taken by the Select Committee, 27.11.06, pp2-3
	Paul Albert and Alby Huts resign.	Private - Memorandum from Mal Wauchope to the Premier, 17.10.06; Private - Letter from Paul Albert to Alby Huts, 17.10.06
	Premier issues a media statement advising of the management-initiated retirement of Paul Albert and Alby Huts.	Media Statement from the Premier, 16.10.06
	Minister issues a media statement advising that she has ordered the DET to immediately comply with all six key recommendations of the CCC report into the handing of sexual misconduct complaints in the school system.	Media Statement from the Minister, 16.10.06
<b>17 Oct 2006 to 20 Oct 2006</b>	Darren Klarich's (then Chief of Staff, Office of the Minister) speaks to Roger Watson (Manager, Investigations Review and Complaints Assessment, CCC) about the implementation of the recommendations in the CCC report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> . During one of these conversations, Roger Watson indicates his "sadness" at the resignation of Alby Huts and Paul Albert and that it would be ironic if Peter Denton (former Manager, CMU, DET) and Beverley Dornan (former Principal Consultant, CMU, DET) were to remain in the DET. Darren Klarich forms the view that the CCC had 'missed its target'; that is, the CCC had been more concerned about the culture, management and processes of the CMU than the actions of the executives of the DET.	Transcript of Evidence of Darren Klarich taken by the Select Committee, 05.12.06, p1; Transcript of Evidence of Roger Watson taken by the Select Committee, 05.12.06, pp1-2

<b>17 Oct 2006</b>	Minister confirms that she did not know whether Paul Albert had intended to resign before the CCC report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> became known.	17.10.06, LC Question without Notice No 868, Hansard, p6979
	Minister advises that she was first informed of the CCC report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> when she met with the CCC on 12.10.06. Prior to that, she was only aware that the DET and the CCC had been working together to put processes in place, especially regarding the operation of the CMU.	17.10.06, LC Question without Notice No 881, Hansard, p6987
<b>18 Oct 2006</b>	CCC Executive Director, Mike Silverstone, issues a media statement advising that from the CCC's point of view, there was no restriction on DET informing the Minister about the CCC investigation and draft report on the DET's handling of sexual misconduct allegations against DET staff.	CCC Media Statement, 18.10.06; 18.10.06, LC Question without Notice No 888, Hansard, p7129; 26.10.06, LA Question without Notice No 794, Hansard, p7794
	Minister states: <i>Clearly, no member of my staff or I was aware of that media statement</i> [the CCC media statement dated 01.06.06]. [The Minister confirmed that she had prepared the answer herself because the question had been asked without notice.]	18.10.06, LC Question without Notice No 892, Hansard, p7132
	Minister states to the media that she was not aware of the nature of Peter Browne's "Complaints Management Review".	Channel 7 News, 19.10.06
	Sharyn O'Neill (then Deputy Director General, DET) is appointed as Acting Director General, DET until 17.10.07.	Transcript of Evidence of Sharyn O'Neill taken by the Select Committee, 27.11.06, pp1-2
<b>19 Oct 2006</b>	Minister confirms that she was not aware of the CCC investigation into the DET's handling of sexual misconduct allegations against DET staff until 12 October 2006.	19.10.06, LC Question without Notice No 895, p7320

<b>25 Oct 2006</b>	Minister states: <i>At no point was I ever briefed by the director general of the department about the specific work of the CCC in the department. At no point was I briefed by the director general about any case of a sexual nature. At no time did my office receive correspondence about any one of these cases that are mentioned in the CCC report, or about any other case relating to matters of sexual misconduct.</i>	25.10.06, LC Hansard, p7563
	Minister admits that, despite her statement to the media (on 18.10.06) that she was not aware of the nature of Peter Browne's "Complaints Management Review", she had previously answered a question relating to the tabling of the report on that review.	25.10.06, LC Hansard, p7564
	Sharyn O'Neill (then Acting Director General, DET) issues a memorandum to all staff advising that a comprehensive plan to implement the recommendations of the CCC in its report on <i>Sexual Contact With Children By Persons in Authority in the Department of Education and Training of Western Australia</i> is currently being prepared. With immediate effect, no cases of alleged sexual contact are to be handled or resolved locally, but are to be referred to the CMU.	Private - Memorandum from Sharyn O'Neill to all DET staff, 25.10.06
<b>26 Oct 2006</b>	Minister reconfirms that she was not aware of the CCC investigation into the DET's handling of sexual misconduct allegations against DET staff until 12 October 2006.	26.10.06, LC Question without Notice No 958, Hansard, p7740
	Minister states: <i>I have also said that probably four or five weeks earlier the Director General of the Department of Education and Training had, in passing, on the way out of the meeting, made a comment about the agencies working together on complaints handling. No mention was ever made to me of an inquiry into the Department of Education and Training by the Corruption and Crime Commission.</i>	26.10.06, LC Question without Notice No 969, Hansard, p7744
	Premier states: <i>Both the director general - to me personally - and the minister have said that Mr Albert did not give her a briefing about the individual cases. There is no inconsistency with that - none whatsoever.</i>	26.10.06, LA Question without Notice No 791, Hansard, p7791
	Premier confirms that Paul Albert's redundancy was a standard management-initiated retirement that was put in place by the last Government.	26.10.06, LA Question without Notice No 791, Hansard, p7792

<b>01 Nov 2006</b>	Minister confirms that she did not discuss the employment of Alby Huts with the Premier because Mr Huts was employed by the Director General of the DET. She also implies that she did not discuss the employment of Paul Albert with the Premier because the Premier was Mr Albert's employing authority.	01.11.06, LC Question without Notice No 1004, Hansard, p7980
<b>08 Nov 2006</b>	Ombudsman publishes her report on complaints management processes in the Department of Education and Training.	
	Minister appoints Supreme Court Justice Neville Owen to oversee changes to the DET's CMU.	"Report turns up heat on Ravlich", <i>The West Australian</i> , 09.11.06, p14
<b>14 Nov 2006</b>	Leader of the House (representing the Premier) confirms that Paul Albert informed the Premier that he had believed that CCC advice to him indicated that he was unable to advise the Minister about details of the CCC investigation.	14.11.06, LA Question without Notice No 1040, Hansard, p8241
<b>15 Nov 2006</b>	Select Committee into the Department of Education and Training is established by the Legislative Council.	LC, Hansard, pp8277-8287
<b>End of 2007</b>	Ombudsman intends to evaluate and report on the DET's performance against the recommendations made in her report on complaints management processes in the Department of Education and Training.	Report by the Ombudsman on complaints management processes in the DET, Nov 2006, p1

**APPENDIX 3**  
**CORRUPTION AND CRIME COMMISSION**  
**MEDIA STATEMENT ISSUED 1 JUNE 2006**



# APPENDIX 3

## CORRUPTION AND CRIME COMMISSION MEDIA STATEMENT

### ISSUED 1 JUNE 2006

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#### CORRUPTION AND CRIME COMMISSION OF WESTERN AUSTRALIA



#### MEDIA STATEMENT

##### Former Perth teacher charged over alleged sexual misconduct towards student

1/6/06

The Australian Federal Police today charged a 40-year-old former Department of Education and Training teacher with two counts of committing indecent acts on a person under 16 following a referral by the Corruption and Crime Commission.

Director of Operations, Nick Anticich, said the Commission referred the case to the Australian Federal Police in March 2006 as the alleged offence occurred overseas making it outside the jurisdiction of WA police.

"The alleged incident was detected during a Commission review of a Department of Education and Training internal investigation into allegations of sexual misconduct towards a student by the former teacher while he was employed by the department."

He said the Commission routinely reviews all internal investigations into allegations of misconduct by departments.

"The case was picked up during one of those routine reviews.

"This and other cases have prompted the Commission to look at the capacity of the Department of Education and Training to deal with allegations of sexual misconduct towards students by staff.

"The Commission plans to table a report in Parliament on this important issue later this year," Mr Anticich said.

The man has been bailed to appear in the Perth Magistrates Court on Wednesday 7 June.

Media contact: Owen Cole 9215 4802, 0439 910 161

**Warning:** The name of the person charged is supplied below to assist the media in following the case through the court system. Publication or broadcast of the name of a person charged with an offence prior to that person's first appearance in court defeats the right of the person to apply for their name to be suppressed from publication pursuant to S.171(4)(b) of the Criminal Procedure Act 2004.

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**APPENDIX 4**

**BRIEFING NOTE FOR MEETING BETWEEN**  
**THE DIRECTOR GENERAL OF THE DEPARTMENT OF**  
**EDUCATION AND TRAINING AND THE MINISTER FOR**  
**EDUCATION AND TRAINING ON 2 AUGUST 2006**



# APPENDIX 4

## BRIEFING NOTE FOR MEETING BETWEEN THE DIRECTOR GENERAL OF THE DEPARTMENT OF EDUCATION AND TRAINING AND THE MINISTER FOR EDUCATION AND TRAINING ON 2 AUGUST 2006

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### BRIEFING NOTES FOR THE DIRECTOR GENERAL'S MEETING WITH THE MINISTER ON WEDNESDAY 2 AUGUST 2006.

Our Ref: DO06/187761

The Corruption and Crime Commission proposed Draft Report to Parliament entitled *Sexual Contact With Children by Persons in Authority in the Department of Education and Training, Western Australia*.

#### BACKGROUND

In correspondence dated 30 June 2006 Mr Kevin Hammond, Commissioner, Corruption and Crime Commission informed the Director General of his intention to forward a Report to Parliament regarding the manner in which the Department handled allegations of sexual misconduct against staff. The Draft Report is entitled *Sexual Contact With Children by Persons in Authority in the Department of Education and Training, Western Australia*. Commissioner Hammond has provided the Department with a copy of the Draft Report and advised the Department that it may make representations concerning the matters raised in the Draft Report.

The Draft Report refers to six case studies that the Commission states indicate systemic problems in the manner in which the Department addresses sexual misconduct matters. The Commission stated that the particular case studies were selected because they 'highlight a commonality of weaknesses in DOET's approach' in terms of providing students with a safe and secure learning environment.

The Department is advanced in its preparation of its submission regarding the Draft Report. Its response is currently with the State Solicitor's Office for assessment and further advice.

The Department is confident, that its response to the Draft Report will serve to allay Commission concerns to the extent that the Commission will question the necessity for any report to Parliament of this nature.

In summary, of the **six** case studies cited;

- one is an ongoing matter (Case Study Six);
- one refers to a situation in which no employee is suspected on reasonable grounds of having committed an act of misconduct as defined in section 4 of the *Corruption and Crime Commission Act 2003* or, a breach of discipline as defined in section 80 of the PSMA (Case Study Three);

Of the remaining **four** finalised matters **none** of the respondents are still employed by the Department;

- two employees had their employment ceased as a **direct** result of Department processes (Case Study Four and Five)
- one employee had his employment ceased as an **indirect** result of Department processes (Case Study One)
- one employee retired having been found not to have breached discipline or, any state law. (Case Study Two)

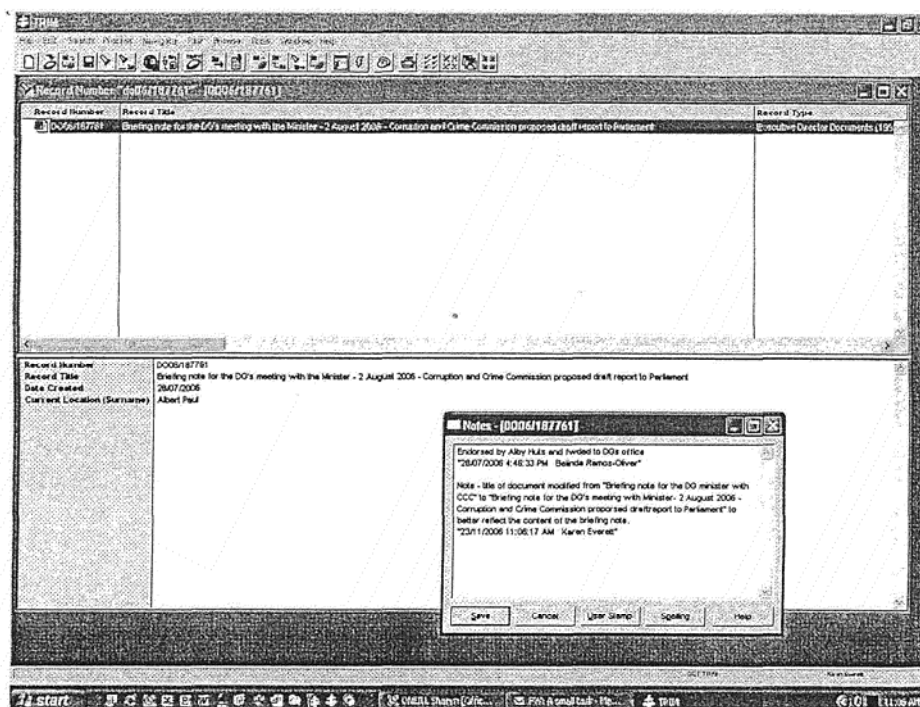
Therefore of the **six** case studies only **one** employee remains a potential risk to students and this person has not been permitted to teach since February 2000 (Case Study Six) pending the outcome of Department investigations.

Two of these **four** finalised case studies (Case Studies Four and Five) refer to

events and incidents that occurred prior to the appointment of the Director General in December 2001 and the decision to create the Complaints Management Unit to assist the Director General to address the acknowledged problems of the past. The remaining ongoing matter (Case Study Six) also refers to events and incidents prior to the current Director General's appointment in 2001.

**RECOMMENDATION**

That the Department finalise its submissions and convey these to the Commission for its consideration.





## **APPENDIX 5**

**CORRESPONDENCE FROM THE CORRUPTION AND  
CRIME COMMISSION TO THE DIRECTOR GENERAL OF  
THE DEPARTMENT OF EDUCATION AND TRAINING AND  
THE MINISTER FOR EDUCATION AND TRAINING  
REGARDING THE DISCLOSURE OF MISCONDUCT  
REPORTS**





**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

Your ref:  
Our ref: 01143/2005-1:IDF

5 May 2006

Mr Paul Albert  
Director General  
Department of Education and Training  
151 Royal Street  
EAST PERTH WA 6004



Dear Mr Albert

**DISCLOSURE OF MISCONDUCT REPORTS MADE TO THE CORRUPTION AND  
CRIME COMMISSION**

The Commission has recently been requested to provide guidance with regards to whether a chief executive officer of a Department (a CEO) was able to brief their Minister about highly sensitive suspected misconduct referred to the Commission. As this issue has relevance across all Departments a copy of the Commission's Guidance is being sent to all CEOs and their respective Ministers.

The Commission recognises that there will be, in some exceptional circumstances, allegations of misconduct that a CEO considers to be particularly politically sensitive and/or potentially highly damaging to the Government, a Minister, a Department or an employee, or which is likely to be of special interest to the media or members of the public. The Commission understands that in these types of cases a CEO may wish to inform his or her Minister of the allegation that has been or is being notified to the Commission.

The guidelines contained herein address these exceptional, highly sensitive cases and not those misconduct allegations that are routinely dealt with in communications between the Department and the Commission.

Although the *Corruption and Crime Commission Act 2003* (CCC Act) specifically prohibits disclosure to a third party in some circumstances, there is no statutory shroud of confidentiality or secrecy that automatically attaches to all aspects of a matter once the CEO notifies the Commission of a case of suspected misconduct.

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Email: [info@ccc.wa.gov.au](mailto:info@ccc.wa.gov.au)  
Website: [www.ccc.wa.gov.au](http://www.ccc.wa.gov.au)

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The CCC Act does not prevent a CEO from disclosing to another person, including the person who is the subject of the notification, the fact that a matter has been referred to the Commission, unless the Commission expressly prohibits such disclosure<sup>1</sup>.

Notwithstanding, the CCC Act makes no specific provision for a CEO to advise their Minister that a matter has been notified to the CCC.

The question of what detail can legally be disclosed about such a matter referred to the Commission is not straightforward. There are many factors to consider in any given situation, such as: the nature of the allegation; the potential for unfair damage to the reputation of any person if information is not handled confidentially; the type of investigation that may be required; and the range of parties that may be affected by the various processes that may be applied in dealing with the allegation.

In some cases a CEO may need to act quickly to remove a person from a position pending an investigation. In other cases the CEO will need to wait for advice from the Commission as to how it wishes to deal with the matter.

As disclosure options are not straight forward, I strongly advise CEOs or their delegated officers who are dealing with these highly sensitive suspected misconduct cases to contact the Commission's Investigations Review and Complaints Assessment Unit on (08) 9215 4888 in the first instance to discuss, on a case-by-case basis, the issues relevant to any contemplated disclosure to a third party.

Yours Faithfully



Kevin Hammond  
COMMISSIONER

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<sup>1</sup> Through a notice or summons issued under the CCC Act or by an order made at a Commission hearing.



**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

**DISCLOSURE OF MISCONDUCT REPORTS MADE  
TO THE CORRUPTION AND CRIME COMMISSION**

**GUIDELINES FOR PRINCIPAL OFFICERS OF PUBLIC AUTHORITIES**

May 2006

**Introduction:**

The *Corruption and Crime Commission Act 2003* (CCC Act) contains provisions restricting the disclosure of information about misconduct matters referred to the Corruption and Crime Commission (the Commission). In some situations it is an offence to disclose information about a matter that is in the hands of the Commission.

In carrying out its functions under the CCC Act, the Commission will request information from agencies and individuals about a misconduct matter<sup>1</sup>. The Commission may also provide information to agencies and individuals about a matter the Commission is considering.

In this interchange of information there is a general expectation that CEOs will have the necessary procedures and policies in place to ensure that the information about misconduct matters is managed lawfully and that all relevant staff are informed of their responsibilities.

The Commission recognises that there will be, in some exceptional circumstances, allegations of misconduct that a CEO considers to be particularly politically sensitive and/or potentially highly damaging to the Government, a Minister, a Department or an employee, or which is likely to be of special interest to the media or members of the public. The Commission understands that in these types of cases a CEO may wish to inform his or her Minister of the allegation that has been or is being notified to the Commission.

The advice contained herein addresses these exceptional, highly sensitive cases and not those misconduct allegations that are routinely dealt with in communications between the Department and the Commission.

<sup>1</sup> The Commission may request information informally by telephone, letter or voluntary interview, or formally through notices issued and hearings conducted under the CCC Act.

**Key Points:**

1. It is a legal requirement that the CEO notify the Commission, as soon as practicable, after a suspicion is formed that an officer may have committed misconduct.
2. In highly sensitive cases, as part of this initial notification and assessment process, the CEO should discuss with the Commission whether it is appropriate to disclose information to another party not directly involved in investigating the matter and the timing of that disclosure so as not to compromise the investigation in any way.
3. The circumstances of each case will vary and there are many factors to be considered in any given situation, such as: the nature of the allegation; the potential for damage to the reputation of any person if information is not handled confidentially; the type of investigation that may be required; and the range of parties that could be affected by the various processes that may be applied in dealing with the allegation.  
  
In some cases a CEO may need to act quickly to remove a person from a position pending an investigation. In others the CEO will need to wait for advice from the Commission as to how it wishes to deal with the matter.
4. The CCC Act makes no specific provision for a CEO to advise their Minister that a matter has been notified to the CCC.
5. The CCC Act does not prevent a CEO from disclosing to another person, including the person who is the subject of a notification, that a matter has been referred to the Commission, unless the Commission expressly prohibits such disclosure<sup>2</sup>.
6. A CEO may disclose notification details<sup>3</sup>. However any other information held by the CEO that was provided by the Commission is the Commission's 'official information' and should not be divulged. Other information developed as part of the investigation process may also be either 'restricted' or 'official' information under the CCC Act. Restricted and official information cannot be disclosed without the permission of the Commission.
7. There is provision in the CCC Act for the person who is the subject of a notification to be informed of the outcome. Where the agency has undertaken the investigation it will generally be asked to advise the person once the Commission has finalised the matter.

As disclosure options are not straight forward it is strongly advised that CEOs and their delegated officers who are dealing with these highly sensitive suspected misconduct cases contact the Commission's Investigations Review and Complaints Assessment Unit on (08) 9215 4888 in the first instance to discuss, on a case-by-case basis, the issues relevant to any contemplated disclosure to a third party.

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<sup>2</sup> Through a notice or summons issued under the CCC Act or by an order made at a Commission hearing.

<sup>3</sup> 'Notification details' are restricted to the fact that a notification has been made to the Commission, the name of the person/s involved and the allegation details.



**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

Your ref:  
Our ref: 01143/2005-1:IDF

1-8942

22 May 2006

The Hon. Ljiljanna Ravlich MLC  
Minister for Education and Training  
12th Floor Dumas House  
2 Havelock Street  
WEST PERTH WA 6005

Dear Minister

**DISCLOSURE OF MISCONDUCT REPORTS MADE TO THE CORRUPTION AND  
CRIME COMMISSION**

The Commission has recently been requested to provide guidance regarding whether a chief executive officer of a public sector organisation (a CEO) was able to brief their Minister about highly sensitive suspected misconduct referred to the Commission. As this issue has relevance across all public sector organisations a copy of the Commission's guidelines is being sent to all CEOs and their respective Ministers.

The Commission recognises that there will be, in some exceptional circumstances, allegations of misconduct that a CEO considers to be particularly politically sensitive and/or potentially highly damaging to the Government, a Minister, a public sector organisation or an employee, or which is likely to be of special interest to the media or members of the public. The Commission understands that in these types of cases a CEO may wish to inform their Minister of the allegation that has been or is being notified to the Commission.

The guidelines contained herein address these exceptional, highly sensitive cases and not those misconduct allegations that are routinely dealt with in communications between public sector organisations and the Commission.

Although the *Corruption and Crime Commission Act 2003* (CCC Act) specifically prohibits disclosure to a third party in some circumstances, there is no statutory shroud of confidentiality or secrecy that automatically attaches to all aspects of a matter once the CEO notifies the Commission of a case of suspected misconduct.

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The CCC Act does not prevent a CEO from disclosing to another person, including the person who is the subject of the notification, the fact that a matter has been referred to the Commission, unless the Commission expressly prohibits such disclosure<sup>1</sup>.

Notwithstanding, the CCC Act makes no specific provision for a CEO to advise their Minister that a matter has been notified to the CCC.

The question of what detail can legally be disclosed about such a matter referred to the Commission is not straightforward. There are many factors to consider in any given situation, such as: the nature of the allegation; the potential for unfair damage to the reputation of any person if information is not handled confidentially; the type of investigation that may be required; and the range of parties that may be affected by the various processes that may be applied in dealing with the allegation.

In some cases a CEO may need to act quickly to remove a person from a position pending an investigation. In other cases the CEO will need to wait for advice from the Commission as to how it wishes to deal with the matter.

As disclosure options are not straightforward, I strongly advise CEOs, or their delegated officers who are dealing with these highly sensitive suspected misconduct cases, to contact the Commission's Investigations Review and Complaints Assessment Unit on (08) 9215 4888 in the first instance to discuss, on a case-by-case basis, the issues relevant to any contemplated disclosure to a third party.

Yours faithfully



Kevin Hammond  
**COMMISSIONER**

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<sup>1</sup> Through a notice or summons issued under the CCC Act or by an order made at a Commission hearing.



**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

**DISCLOSURE OF MISCONDUCT REPORTS MADE  
TO THE CORRUPTION AND CRIME COMMISSION**

**GUIDELINES FOR PRINCIPAL OFFICERS OF  
PUBLIC SECTOR ORGANISATIONS**

May 2006

**Introduction:**

The *Corruption and Crime Commission Act 2003* (CCC Act) contains provisions restricting the disclosure of information about misconduct matters referred to the Corruption and Crime Commission (the Commission). In some situations it is an offence to disclose information about a matter that is in the hands of the Commission.

In carrying out its functions under the CCC Act, the Commission will request information from public sector organisations (organisations) and individuals about a misconduct matter<sup>1</sup>. The Commission may also provide information to organisations and individuals about a matter the Commission is considering.

In this interchange of information there is a general expectation that CEOs will have the necessary procedures and policies in place to ensure that the information about misconduct matters is managed lawfully and that all relevant staff are informed of their responsibilities.

The Commission recognises that there will be, in some exceptional circumstances, allegations of misconduct that a CEO considers to be particularly politically sensitive and/or potentially highly damaging to the Government, a Minister, an organisation or an employee, or which is likely to be of special interest to the media or members of the public. The Commission understands that in these types of cases a CEO may wish to inform their Minister of the allegation that has been or is being notified to the Commission.

The advice contained herein addresses these exceptional, highly sensitive cases and not those misconduct allegations that are routinely dealt with in communications between the organisation and the Commission.

<sup>1</sup> The Commission may request information informally by telephone, letter or voluntary interview, or formally through notices issued and hearings conducted under the CCC Act.

### Key Points:

1. It is a legal requirement that the CEO notify the Commission, as soon as practicable, after a suspicion is formed that an officer may have committed misconduct.
2. In highly sensitive cases, as part of this initial notification and assessment process, the CEO should discuss with the Commission whether it is appropriate to disclose information to another party not directly involved in investigating the matter and the timing of that disclosure so as not to compromise the investigation in any way.
3. The circumstances of each case will vary and there are many factors to be considered in any given situation, such as: the nature of the allegation; the potential for damage to the reputation of any person if information is not handled confidentially; the type of investigation that may be required; and the range of parties that could be affected by the various processes that may be applied in dealing with the allegation.

In some cases a CEO may need to act quickly to remove a person from a position pending an investigation. In others the CEO will need to wait for advice from the Commission as to how it wishes to deal with the matter.

4. Under the CCC Act a CEO is neither obliged nor prevented from advising their Minister that a matter has been notified to the CCC. A CEO may choose to disclose to any person, including their Minister and /or the person who is the subject of a notification, that a matter has been referred to the Commission, unless the Commission expressly prohibits such disclosure<sup>2</sup>.

However any other information held by the CEO that was provided by the Commission or developed as part of the investigation process that may be either 'restricted' or 'official' information under the CCC Act cannot be disclosed without the permission of the Commission.

5. There is provision in the CCC Act for the person who is the subject of a notification to be informed of the outcome. Where the agency has undertaken the investigation it will generally be asked to advise the person once the Commission has finalised the matter.

As disclosure options are not straightforward it is strongly advised that CEOs and their delegated officers who are dealing with these highly sensitive suspected misconduct cases contact the Commission's Investigations Review and Complaints Assessment Unit on (08) 9215 4888 in the first instance to discuss, on a case-by-case basis, the issues relevant to any contemplated disclosure to a third party.

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<sup>2</sup> Through a notice or summons issued under the CCC Act or by an order made at a Commission hearing.

**APPENDIX 6**  
**CORRUPTION AND CRIME COMMISSION MEDIA**  
**STATEMENT ISSUED 18 OCTOBER 2006**



# APPENDIX 6

## CORRUPTION AND CRIME COMMISSION MEDIA STATEMENT

### ISSUED 18 OCTOBER 2006

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52



#### CORRUPTION AND CRIME COMMISSION OF WESTERN AUSTRALIA

18/10/06

##### Statement on times involved in DET report on sexual contact

The Commission released a Media Statement on 1 June 2006 stating that "the Commission plans to table a report in Parliament on this important issue (sexual misconduct towards students) later this year".

A draft of the report was sent to DET on 30 June 2006.

The department returned its response on the 7 August 2006.

Some of those responses resulted in amendments to the draft report after examination of the points raised.

The department's response was included in its entirety in the Commission's final report.

On the 28 September the Commission confirmed to the department its intention to table the report.

The Minister was briefed about the report (but did not receive a copy) late in the afternoon of Thursday 12 October, and the Premier and Leader of the Opposition received an embargoed copy on Friday 13 October.

Executive Director, Mike Silverstone, said from the Commission's point of view, there was no restriction on the department informing the Minister about the report.

Media contact: Owen Cole 9215 4888, 0439 910 161