Integrity Adviser Review April 2019

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Introduction

In December 2018 a number of media articles were published alleging wrongdoing and poor workplace culture within the Department of Planning and Environment (the Department). These reports were made by former employees. In response, the former Secretary of the Department commissioned an independent review to understand whether the management of staff during their cessation of employment could have been handled with greater care and diligence and where there may be areas of opportunity for improvements in particular:

- the adequacy of the Department's policies and procedures associated with workplace complaints
- roles and responsibilities of the Human Resources function
- communication and education processes.

The Terms of Reference for the review are at Attachment 1.

Acknowledgements

A number of current and former staff provided input to the review. Their feedback and constructive views were appreciated and have helped shape suggestions for improvement.

Methodology

Ms Carmel McGregor PSM was appointed in January 2019, by the former Secretary of the Department, as an Integrity Adviser (IA) to undertake an independent review and report on findings and recommendations for improvement.

The invitation to connect with the IA was promulgated to all staff. Considering the size of the Department, there were relatively few staff who took up the offer of interviews.

Current and former staff were invited to raise any concerns directly with the IA. Focus groups and individual interviews were conducted with approximately 100 staff. A number of staff also sent emails to the IA mailbox. The issues raised through these channels have contributed to the findings.

An initial focus for the review was to understand the concerns of former employees who had alleged wrongdoings which were publicly disclosed in print media. These alleged incidents of wrongdoing occurred during 2017 and 2018. At the outset of this review, contact was made with the former employees to listen to their perspectives. Only a small number availed themselves of this opportunity.

Individual interviews were also undertaken with a number of senior managers from the Human Resources (HR), Governance, Legal and Resources and Geoscience Divisions. The consultation extended formally to Maitland and the IA was in situ for a couple of days, a number of employees came forward to discuss their experiences and concerns. The IA included those employees who had left the Department's employment in the opportunity to meet and discuss any concerns. Focus groups were also convened with representatives of the HR teams and the Sydney based staff of the Resources and Geoscience Divisions. All interviews and focus groups were conducted under 'Chatham House Rules'.

In addition to interviews and focus groups, the IA analysed a variety of corporate documents and workforce reports, as well as undertook comparative analysis of a number of other agencies and experts to assess whether there were better practices which could be adopted by the Department.

Context

The Department is a department of the public service under the *Government Sector Employment Act 2013* (GSE Act) and was established in its current form in April 2014 comprising four divisions with a total full time equivalent count of 561.

Whilst the Department was subject to a number of changes between 2014 and 2016, in April 2017, following Machinery of Government (MOG) changes the Department commenced supporting the Minister for Resources, and the Minister for Energy and Utilities. Staff from the Department of Justice, including Create NSW, and others supporting the Minister for the Arts joined the Department at this time.

The integration of these staff into the Department's Cluster took approximately 9 months and resulted in the:

- total number of staff with the Department growing from 636 in 2016 to 1,932 in 2018
- total number of staff across the Cluster in 2018 being 13,773, making the Department the sixth biggest cluster (out of 11)
- creation of 6 new divisions (Energy, Water and Portfolio Strategy; Resources and Geoscience; Arts, Screen and Culture; and Central Coast Coordination and Resources Regulation)
- amalgamation of staff from a variety of portfolios with their own distinct cultures and operating styles and
- inclusion of additional contentious operations with heightened media profiles.

As at the date of commissioning this report the Department's Cluster contained one Department, seven executive agencies and four state owned corporations. The staff movement, recalibration of organisational structure and systems was a considerable challenge and would have placed stress on any Department to adapt, grow and settle into an integrated mode of operation.

Cluster Corporate Services (CCS) was operationalised in December 2016 and currently provides the following services, in accordance with a Service Partnership Agreement (SPA):[1]

- Corporate finance
- Decision support
- Business information services
- Human resources
- Capability and Executive Service
- Governance and Performance.

The objectives of the establishment of CCS are to:

- deliver consistent, efficient and effective services
- remove duplication
- establish a Business Partner model for service delivery
- improve decision transparency and accountability.

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[1] Service Partnership Agreement

CCS provides these services to the following agencies:
- The Office of Environment and Heritage
- The Environment Protection Agency
- The Department of Planning and Environment
- The Office of Local Government
- Hunter and Central Coast Development Corporation
- Botanic Gardens and Centennial Parklands
- Western Sydney Parklands and Parramatta Park and
- Office of Strategic Lands.

Considerable effort has been expended over the past 2 ½ years to deliver a shared services model for the Cluster. This has been a significant task to harmonise service offerings and delivery to a very varied set of agencies, all with their own culture and historical practices and needs.

At the time of the review it is fair to observe that it is yet to reach full maturity and there is varied understanding and knowledge of how to navigate the system from an employee and manager's perspective.

In addition to the maturity profile of CCS it should also be noted that, the initial structure within the Human Resources Division, included four Senior Executive appointments to the leadership team. During an 18 month period, in 2017/2018 all four senior staff members left the employment of the Department, which caused some disruption to the service offering from CCS, a loss of knowledge and raised staff concerns.

Findings

In addition to speaking with current and former staff the IA examined the Department's systems and policies relevant to the management of allegations and complaints, which included the roles of the various parties. A number of the issues emanated from the Resources and Geoscience Division (DRG) located at Maitland. As a result specific attention has been given to those issues.

This report is framed around the issues which emerged from the various discussions held across the Department and can be categorised into the following:

- Implications for the Ethics Framework
- Implications for the HR operating model
- Policies and procedures for workforce
- Maitland office
- Lessons from recent complaints

As a general statement it is important for any organisation to have in place a strong HR infrastructure with clearly defined points throughout the "employee life cycle" which set expectations, outcomes and consequences for actions.

This point is made, as it is important that all elements of the HR system are working cohesively. Further, that sufficient effort is in place early in the employment lifecycle so as to maximise the employee's contribution, while ensuring processes exist to identify and proactively remediate any performance and conduct issues as they arise. This review is therefore an examination of post facto events and seeks to identify what could have been done differently. To address that question, the review looked broadly at the Department and its management of the workforce, not just at the issues of complaint and discontent by former employees.

The Ethics Framework

As already noted the recent high tempo of change within the Department has presented challenges across a range of areas, in particular, the gearing of Cluster Corporate Services to support the increased number of agencies and associated staff. In addition to the substantial increase in size of the Cluster there are sensitivities around the policy settings for portfolios of Planning, Resources and Geoscience and the Environment within NSW and considerable scrutiny applied to the leaders and staff in acquitting their roles which are subject to intense public scrutiny.

Cognisant of this, the former Secretary pursued a number of initiatives to build a culture of transparency. The Governance Branch was charged with the development of an "Ethical Framework" and there have been strong efforts to hardwire this framework within the governance arrangements of the Department. Ongoing efforts continue to enhance this framework. In addition, she put in place a range of initiatives which included requiring all staff to:

- disclose interests and manage conflicts of interests, and
- report on contacts by official lobbyists.

These requirements, and other employment declaration processes, have been supported by the introduction of electronic registers which further enhances staff compliance and raises greater awareness of staff obligations across the Department. As reports of wrongdoing have been raised, either from the public or internal reporters, processes exist to refer these types of matters to the appropriate bodies such as ICAC. These actions demonstrate a culture of transparency.

In addition to these initiatives the assistance of St James Ethics Centre has been sought to work with senior leadership to further enhance their capabilities and responsibilities in terms of managing ethical dilemmas and providing guidance to staff. This is a valuable initiative and similar to efforts deployed by like agencies who seek to reflect on workplace failures and how to remedy for the future. (ie ATO)

It is noted that further Ethics training is planned for Executive Directors in May 2019.

The collective effort of these various streams of work initiated by the former Secretary is impressive. However, the Department is probably at a point where it needs to take stock and ensure that ongoing roles and responsibilities are clear. For instance, policy review work is underway, led by the Governance Branch which crosses the responsibility of two HR Divisions and the Legal Division. There is confusion as to who has accountability for individual cases and policies and how these are managed and acquitted as well as lessons learnt for the whole Department.

Clarity is also needed for agencies across the Cluster to ensure the appropriate architecture and settings are in place and operating as planned in a uniform or standardised way.

It would be fair to observe that the Department is still on the journey and the full maturity of the policies and their implementation is still to be realized. The risk settings and actions operated well for a small department, however haven't kept pace with the pressures of the new more complex environment. In fairness this "ramp up" of activity and building and implementing for a whole new set of agencies takes time even when the environment is relatively settled and stable.

The Department would also benefit from critically reviewing the 2017-18 Public Interest Disclosure report issued by the NSW Ombudsman[2] for areas of procedure and process improvement in particular the "Good practice" examples and guidance on the handling of internal reporters.

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[2] https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0011/67817/PID_Oversight_Annual_Report_2017-18.pdf

HR operating model

In addition to losing four senior members of staff, in the past 12 months the HR division has also been restructured. The new structure introduced Business Partners, whose true value as strategic advisers is yet to be realised.

During interviews and focus group sessions the IA was provided with numerous examples of confused responsibilities of the many parties involved in workforce management. This needs attention as it can lead to inequitable application of policies, poor advice, lack of accountability and missed opportunities to realize the CCS vision of "becoming trusted, valued and innovative Business Partner, providing end to end corporate services."[3]

The review had access to examples of other agencies that have implemented a Business Partner model. Also, a number of people interviewed within the Department had worked in this type of model in other agencies. "In the HR Business Partner model, the human resource department participates in strategic planning to help the business meet present and future goals."[4]

An important feature of this model is that HR helps build capability and capacity and should engender a proactive approach which can anticipate workforce needs, prevent issues manifesting into a problem before the issue is entrenched and the whole system is focused on problem resolution. If an issue can be identified, remediated before respective parties feel aggrieved this consumes less time, effort and energy and is less likely to impact on the culture. This is a better model than "after the fact" remedies. Therefore, a clear emphasis in the model is to ensure all parties from employees, managers, HR Business Partners and subject matter experts are knowledgeable about their own roles, how they interact and how and when to seek additional guidance or support.

In this model, HR Business Partners are usually identified to work with senior executives at the strategic level to advise and work with business areas on workforce needs and strategies with a future focus to drive optimal performance. There are some nuances in models which either embed the HR Business Partner within the business area or use a hybrid – sometime in the business area and sometime in HR.

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[3] Cluster Corporate Services Strategic Plan
[4] Smallbusiness.chron.com/hr-business-partner-model-3878

In medium to large enterprises the Business Partner model should involve a 3 tier approach. An example of how the HR Business Partner model has been deployed is described below.

Tier 1 – self service arrangement which can be augmented by a whole of HR contact centre or hotline. An emphasis is put on provision of tools so that staff can resolve their query by self help. If at this initial point the staff members cannot satisfy their request through use of policies or guidance, they can access a hotline or call centre and be triaged through to the relevant expert located in centres of expertise or policy teams. (eg Employee Relations, Industrial Relations, Recruitment, Work Health and Safety)

Tier 2 – centres of expertise or policy teams within the central HR Division who develop policies and procedural guidance. If Tier 1 is working effectively, individual queries are minimised and the focus for the HR Division is on whole of enterprise solutions, and assisting with ongoing delivery support to the business areas. Given their subject matter expertise, they may undertake intensive case manager support for complex cases. Locating this expertise centrally ensures consistent practice.

By way of example, the Australian Taxation Office (ATO) ensures their case managers are trained mediators as well as subject expertise in IR/ER and dispute resolution. ATO also maintains delegations for termination at a high level within the HR Division and where necessary at Secretary/Deputy level (equivalent) but the strong guidance of HR is essential to advise on consistency. (Peer review)

Tier 3 – Business Partner located within a business line. Ideally the role is to be of assistance to the business unit in a strategic sense, working on future focused workforce needs and providing guidance to managers on their handling of employee issues within their business unit. The role of the Business Partner is to build and coach managers, assisting them with their responsibilities to manage performance but build future capability. It is an important recognition that HR and business are in this together and that line managers have responsibilities and accountabilities which should not be delegated or passed off to HR. With an emphasis on the proactive role of the Business Partner. The Business Partner is also a conduit to the relevant subject matter expert within the central HR Division to seek guidance on policies and their application within the business unit. As an example of how the Business Partner can add value - In the case of ATO specific emphasis is accorded to explaining to managers and supervisors the criticality of the probation period to identify performance and fit issues. These need to be managed by the business, but assisted by HR to act within this period to ensure the employee is a long term prospect or someone who may need to separate.

There are some elements of this model which are in place in the Department, but holistically the end to end model described above has not been realised. In particular the absence of a Tier 1 triage point or hotline (outside of the payroll team) means that individual requests are made to the Business Partner and/or policy team. This compounds the ability of Business Partners to move from a reactive, "putting out bushfires" role to a value adding strategic role. This is putting considerable stress on the rest of the HR system.

The review was advised of another review being undertaken simultaneously by Zorana Bull. Ms Bull had been engaged to provide advice on possible structural enhancements to the current HR model. In consultation with Ms Bull similar observations were being made about areas of concern and the need to strengthen the 3 Tier model. It is vital that Tier 1 in particular is built so that a more responsive self help facility is implemented as a first order priority.

During interviews and focus groups, both Business Partners and subject matter experts identified the overlap and lack of clarity about respective roles and ambiguity about the transfer of responsibility of matters as areas of improvement. Staff and managers indicated a lack of certainty of how to interact with HR. This ambiguity has led to a tendency to source support from a trusted adviser, even when such a person has transferred into a new role. Given the transfer of so many agencies with differing practices into the Cluster as a consequence of MOGs, this practice of "forum shopping" for advice is risky and can result in inconsistent practices and outcomes.

The CCS Offering [5] specifies the services and responsibilities of HR, but at a high level and it isn't clear who has responsibility for the activities. However, it provides a good basis which could be elaborated upon and communicated across the Department and Cluster so that staff and managers were clearer about responsibilities and how to navigate the system.

There has been considerable staff churn in the Business Partner roles and HR Executive group, resulting in a large number of staff that are new and have not been adequately "onboarded". Notwithstanding, they are very keen to provide better customer service. Several commented that it was difficult to do so, because of the complexity of the system and lack of understanding as to respective roles. They felt that there needed to be a better understanding of how their role intersects with other parts of HR, particularly when cases escalate and fall within the remit of the Employee Relations Unit. There was a feeling of loss of control at this point, yet the Business Partner is the adviser on the ground and was often unable to keep the business unit apprised of action taken.

On the other side of the equation, some of the subject matter experts in the policy teams indicated similar frustrations and confusion about their role vis a vis the Business Partner.

Given the criticality of some of the complex staff management issues which can result in termination of employment it is vital that there is clarity and all parts of the system work well together. There needs to be clear, documented protocols around who has carriage of the issue at any point, how all teams connect and how and where the delegation lies for decisions. As per the Tier 2 outline earlier in this section, it is recommended that delegations for this be maintained at a senior level but informed and guided by experts who ensure the policies are applied equitably.

A further complexity is the overlaying of the Ethical Framework which is being driven by the Governance Branch across HR practices. In addition, the responsibility for Public Interest Disclosure handling transferred from the Legal Division to the Executive Director Governance. A recent strategy to coordinate and enhance this work was the establishment of the Ethics and Integrity Steering Committee which is attended by the three Branches (HR, Governance and Legal).

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[5] DPE Cluster Corporate Services Offering version 1.0 May 2017

There is considerable expertise embedded within HR, many of whom have worked across the Department and its predecessor agencies for some time. Since the establishment of the Business Partner model this expertise has been supplemented by HR experts from a wide variety of experiences gained elsewhere.

For instance improvements in streamlining payroll improvements from nine channels to a single channel, the reduction of backlogs is a very impressive achievement, so there is great potential to continue to improve the HR model utilizing the talent that exists across the HR teams.

It is also understood that the former Secretary commissioned an internal audit upon the maturity of the CCS model to check with "customers" as to the adequacy of their interactions with all areas of CCS. It will be important to analyse these results and consider in concert with the findings of this review.

Policies and procedures

There is a myriad of policies related to workplace behaviour and performance. When viewed singularly each would appear to be adequate (though noting some had expired and were in need of updates). However, when viewed in totality it becomes a complicated, complex picture which in the absence of a triage system at the Tier 1 level described earlier, would be confusing from a user perspective.

By way of example in terms of an issue such as "appropriate behaviour in the workplace" the review became aware of several relevant documents:

- Code of Ethics and Conduct
- Respectful workplace policy
- Prevention and management of bullying and harassment in the workplace
- Issue resolution and grievance management
- Management of complaints
- A brief guide to good decision making
- Managing misconduct and serious misconduct
- Grievance management
- Work health and safety policy.

Each has a nuance, but it would be opportune to view from a user's perspective in terms of explaining how to apply the policies and the associated procedures and where and how to seek support or further guidance. All need to be updated and the review was advised of the Policy Remediation process being managed by the Governance team.

At the time of the review the Grievance management policy was updated (published on the CCS Intranet on 22 February 2019) but there was no formal notification to staff. As part of the Policy Remediation process it will be important to ensure that the approach to communicating changes to policies and procedures is consistent and that where appropriate, awareness campaigns and training for staff and managers is provided. In the event that a true three tier HR approach is implemented the HR contact centre or hotline will be a crucial point of contact is these types of changes.

It was unclear at the time of writing whether the concerns listed above will be accommodated in the Policy Remediation process.

There is an opportunity given the skillsets and experience available across the HR team to co design some of the policies and guidance and incorporate the perspective of end users on the implementation issues. This review should also be extended to the Governance Branch who have developed a series of flow charts to guide internal and external complaint management. Noting better practice in regard to ensuring a robust consultation phase with Divisions and Cluster clients should be followed.

There is also the opportunity to build a collaborative and respectful team across the HR Division if there was more time to work together on projects, share ideas and lessons.

Workforce reports and oversight

The People and Customer Subcommittee oversees the people issues as they relate to the Department. It meets monthly for approximately an hour and is chaired by the Secretary.

The nature of the papers and reports appear to be somewhat retrospective in nature and focuses on the transactional efforts and various analyses of FTE performance and diversity across Divisions. Whilst these are important metrics, this Subcommittee does not appear to be focusing on the future strategic workforce issues which need to be considered in ensuring the Department is fit for the future – ie what are the skill projections, where is talent harnessed, are there complaints or local issues which indicate concerns or interventions around leadership, succession planning. This is all useful intelligence which Business Partners should be surfacing, providing into the system and positioning the Department to be ahead of issues, rather than reacting to problems.

This observation would need to be supported by an overhaul of the HR dashboard – and again could be a useful project for members of the HR division to develop and demonstrate their skills and value add to the business.

It may be worth considering whether this Subcommittee would be assisted by an additional external member who could:

- provide additional expertise
- provide first hand experience from a strategic point of view and
- challenge the status quo.

The Subcommittee may also need more time dedicated to the consideration of HR issues until the overall HR model is more mature and the reporting and future focus has been achieved.

Section 41 of the GSE Act

As per the Terms of Reference for this review, the IA was asked to examine how the use of Section 41 has been used within the Department.

The GSE legislation prescribes the mechanisms and procedural and reporting requirements governing the termination of employment of Public Sector Senior Executives (PSSE) as follows:

- Section 41 of the GSE Act (s41) states that the employer of a PSSE may terminate the employment of the executive at any time, for any or no stated reason and without notice. Executives whose employment is terminated under s41 are entitled to compensation in accordance with the GSE Regulation (and the model contract of employment for senior executives).

- Clause 39 of the GSE Regulation set out the compensation payable to PSSE whose employment is terminated under section 41 of the GSE Act 2013. In most cases, senior executives, employed on an ongoing basis, are entitled to the payment of 38 weeks remuneration.

- If the Secretary terminates the employment, the Secretary must provide a written report to the Public Service Commissioner (PSC) on the termination as required by the *Government Sector Employment (General) Rules 2014*.

This review notes that in 2017 there were two early termination of contracts in accordance with s41 and in 2018 there were eight, two of which were due to the role being redundant.

It should also be recognised that the use of s41 is an acceptable mechanism by which to manage the need to reduce the number of PSSE. Criticism was received that the causal factors for the use of s41 was not provided to the effected PSSE, however this approach accords with the requirements of the Act.

The Department should ensure that when future PSSE's join the Department, Performance and Development Plans, detailing key performance indicators, with agreed delivery timeframes are implemented and that regular discussions and monitoring occur.

Maitland

Given the history of events involving allegations of inappropriate behaviour which led to this review emanated from the Maitland office, this site was a particular area of focus for the review. Several focus groups were conducted as well as individual discussions with managers and current and former staff who accepted the invitation for a confidential meeting.

DRG is divided into three Branches:

- The Geological Survey of NSW which collects and manages geological, geophysical and geospatial data. This data informs the government, resources industry and the community about the state's geology, geological evolution, and renewable, mineral, coal and petroleum resources.
- Resources Operations which is the single point of authority for the strategic assessment, approval and administration of resource titles. It draws on recommendations from technical experts in the Geological Survey of NSW and the Resources Regulator.
- Resources Policy, Planning and Programs which develops strategies for resource planning, and provides ministerial advice on policy and legislative amendments and high quality responses for parliamentary and government services. The Branch also manages Coal Innovation NSW and the Legacy Mines program.

Over 80% of DRG's staff are based in the Maitland Office, including the vast majority of Geological Survey of NSW and Resource Operations staff.

It has been a volatile few years for the staff in the Maitland office. Much of the disruption occurred before the DRG function as subject to a Machinery of Government (MOG) change which saw it merged with the Department from the Department of Industry, in early 2017. However, the effects are still quite raw amongst staff who have remained in Maitland. It was regularly conveyed that the restructure which occurred alongside the MOG changes was handled poorly in at least one part of DRG. Its effects have been long lasting, have led to a loss of trust, a loss of corporate knowledge (some 60% staff loss in one work group), a sub optimal culture with reports of cliques and poor behaviour, absent leadership, continued high turnover (figures) and a perceived lack of support or attention from head office. The branch has also been the subject of an ICAC review in 2013 (Investigation into the conduct of Ian Macdonald, Edward Obeid Snr, Moses Obeid and others). Staff speak openly about the dilemmas of balancing mining interests and yet living within a community where this is a key feature of their lives.

At the time of this review a further performance audit had been scheduled and a number of staff indicated they felt somewhat overwhelmed by continued scrutiny. There was also a feeling of hurt and bitterness towards the former employee who had informed the media of alleged misconduct. One employee commented that they felt "their professional integrity had been impugned" and the Department had not sought to correct the record.

Since the new leadership team has been in place under Acting Deputy Secretary Wright, considerable work has been underway to rebuild a positive culture. Along with efforts to implement a revised structure and enhanced systems he has initiated work on a Cultural Roadmap [6] which involves staff engagement sessions, including education and training, improved communication and accountabilities and leadership dialogue. Whilst still early days, these directions were widely supported by those consulted. Equally the increased "on the ground" presence by senior leaders was also valued. Given the importance of "on the ground" leadership presence, there might be value in

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[6] Cultural Road Map

appointing a Site Leader who has a role for "pastoral care" and ensures the Maitland branch can perform optimally, in addition to the important visiting presence of the Acting Deputy Secretary.

As stated, staff are optimistic about the cultural reforms, but concerned that the necessary "scaffolding" may not be in place to withstand ongoing pressures and demands of high tempo work of applications and assessments – and a concern that the recent negative media reports have impacted a positive direction.

A further issue has been the impact of the recruitment "pause" where selection exercises have been suspended. There was not a clear understanding of the rationale for this decision, particularly when the advice to individuals had been so variable. Some staff were advised they were unsuccessful in selection rounds and that the position wouldn't be filled, but successful external candidates were subsequently appointed. Some staff have had no advice and lament that their requests for advice on outcomes have been ignored. Further to the points made earlier about confused lines of responsibility, there were varying views as to who was responsible for communicating and assisting staff who were candidates within the recruitment process. Varying effects for contractors or casual staff were noted.

The absence and/or inconsistent provision of information to staff was being felt quite acutely in Maitland. It is having a damaging effect and undermining the positive goodwill invested in the Cultural Roadmap.

Review of recent complaints

The IA attended to information provided about former staff allegations and concerns which led to their cessation with the Department. It is not appropriate to go into individual cases, but the concern which needs to be addressed for the future is whether these cases and others were treated equitably. Related to the observations made above around the HR operating model, this review did not find sufficient comfort in current practice to ensure that problematic workplace behaviour would be treated similarly across the Department.

Some cases seemed quite heavy handed in their treatment, whilst others did not elicit the same response. Depending on how the concern was raised, either by an individual staff member or a manager, there is not a clear cut and consistent mode of treatment. Hence the observations and findings in that section will be of utmost importance to address for the future. The processes and delegations referred to above will also be key in the remedies.

As noted earlier there is a need for greater clarity of policy guidance around management of workplace performance and possible complaints. It may be beneficial to adopt guiding principles from the NSW Ombudsman's on complaint handling.[7] and for serious conduct matters the NSW ICAC protocols[8]. These could apply to all policies and practices being developed.

Of concern in the cases which were considered within this review were the timeliness of decisions, clarity and consistency of advice to staff involved in the matter – either as a complainant or the subject of the complaint. There was confusion as to who had responsibility at various points in the process. This has been observed above in relation to the general operation of the HR model.

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[7] NSW Ombudsman – Effective complaint handling guidelines – third edition February 2017
[8] https://www.icac.nsw.gov.au/reporting

Areas for improvement

As noted through this review the Department has been operating in a high paced environment. There is evidence of considerable effort to build good policies and practices to support the workforce, while integrating staff from different backgrounds and cultures into the one Department. Whilst seeking to build and deploy modern approaches, the Department has also had to deliver on the business-as-usual.

So understandably there are areas which could improve and these are addressed below:

- The Governance Branch, Legal and HR Divisions should articulate advice on the respective roles and responsibilities for each of their areas as it relates to ethics and complaints management. It would be helpful if this was supported by easy to use flow charts. It is acknowledged that during the course of the Review, the Governance Branch provided a flow chart to depict how complaints will be handled from both external and internal sources. How this has been communicated or socialised with the broader workforce is not yet understood and needs to be part of a strong and ongoing communications strategy championed and embedded by those responsible.

- The HR operating model needs to be advanced to fully incorporate a 3 tier Business Partner model. Particular early emphasis (and possible resource enhancement) is needed to establish a robust Tier 1 self service element supported by "hotline" and triage arrangements to ensure consistent handling of queries from the initial contact.

- Consistent with the reclarified roles within HR, the CFOO should reprosecute the service offering to whole of Cluster to ensure there is a shared understanding of roles, expectations and accountabilities.

- Establish a short term project team comprised of a selection of HR experts from the HR Divisions including Business Partners to document the respective roles and responsibilities of all parties within the HR operating model. This needs to include the responsibilities of staff and managers as well. This project needs to produce simplified communication material – preferably tested with "Users" or staff to ensure the messages are easily understood.

- In the context of the Policy remediation process it should be established how the various HR or workforce policies are to be updated. Opportunities should be taken to rationalise where possible so as to reduce overlaps and confusion. As policies are re designed they should be tested with users and HR practitioners. It could be useful to consult with other Clusters and/or the Public Service Commission to adopt and adapt rather than undertake a body of work which others have already invested considerable time and effort.

- Develop a robust Onboarding process for Business Partners and HR staff to help them to be as productive as possible from an early stage.

- To assist in the building of a collaborative HR community, conduct quarterly or six monthly whole of HR and Ethics staff meetings to talk about challenges and trends, but importantly build a respectful understanding of each others' roles and opportunities for collaboration and future developments. This could be a valuable forum to share good practice, strengthen relationships and seize opportunities for improvement.

- Executive to consider the recasting of the role of the People and Customer Subcommittee to provide a forward focus view to its workforce considerations. HR Division heads to develop a proposal of the sequencing of themes and topics which incorporate key workforce challenges.

By way of example attention needs to be focused on talent management and succession planning, workforce planning, analysis of performance trends and results of PMES.

- The Subcommittee needs to be supported by workforce reports that provide granularity of detail to business units so that opportunities and weaknesses can be identified for action.

- The Secretary and executive to review the pause on recruitment arrangements. Formal advice on how these arrangements are to be implemented needs to be provided through senior executives, managers and HR recruitment team.

- To ensure that there is consistent and equitable treatment of staff who may need to be terminated, clarify the policy and processes for escalation. Ensure that the delegations for this policy are centralised and incorporate senior HR advice. Recommendations should be peer reviewed within HR before a decision is taken.

- It is suggested that consideration be given to the appointment of a site manager for the Maitland office. This doesn't require an additional resource but could be a six-monthly rotated responsibility between Executive Directors in Maitland DRG.

Attachment 1 – Terms of Reference for Independent Review

Terms of Reference for Independent Review

Terms of Reference for Independent Review of circumstances surrounding recent allegations by former employees.

Background:

A number of allegations have been made by former employees of DPE about possible wrongdoing and poor workplace culture.

Whilst the instances of any alleged maladministration and practice have been referred to the relevant investigation authorities Secretary DPE is concerned to understand whether the management of staff during their cessation with DPE could have been handled in a more effective way.

Secretary DPE has appointed Ms Carmel McGregor, (known as Integrity Adviser) to undertake an independent review and provide a report on findings and possible recommendations.

Terms of Reference

The Integrity Adviser will assess whether improvements can be made to any of or all of the following elements:

- DPE policies and procedures associated with workplace complaints and allegations
- DPE policies and procedures associated with the termination of employee, including Section 41 of the Government Sector Employment Act 2013.
- Roles and responsibilities of Business Partners, HR teams and Managers,
- Human Resource Delegations
- Communication to affected employees and timeliness of processes and follow up
- Consistency of practice in managing complaints
- Education and induction processes
- DPE Ethics and Integrity Framework
- Avenues for complaints to be lodged.

Review process

The Integrity Adviser is requested to:

- Examine available records relating to the allegations of wrongdoing raised by former staff
- Consider the relevant HR policies and guidelines
- Interview witnesses as required
- Consult with recently exited employees to understand practices can be strengthened to support all staff
- Conduct any other inquiries deemed necessary
- Consult with other organisations to elicit good practice which could be adopted within DPE

It is requested that a report be provided to Secretary DPE no later than end April 2019