

**INQUIRY INTO MEASUREMENT AND OUTCOME-BASED  
FUNDING IN NEW SOUTH WALES SCHOOLS**

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**Date Received:** 5 August 2019

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Partially  
Confidential

### **Committee No. 3 - Education**

#### **Inquiry into Measurement and Outcome-based funding in New South Wales schools**

The United Nations Children's Fund (UNICEF) report card (2017) ranked Australia 39 out of 41 in developed countries for achieving quality education - demonstrating that Australia is falling behind in basic measures of teaching and learning, with only Romania and Turkey ranking lower.

Whilst we continue to look to Americanised/individualised and standardised models of providing education - research continually demonstrates that Scandinavian countries such as Finland, Denmark and Norway (which all ranked among the top 10 for education) continue to perform strongly. These models focus heavily on inclusive education that view students as citizens who are encouraged to make key decisions in their own education. Additionally, there is an emphasis on experimentation and discovery in learning, shorter school days, fewer mandatory tests and a greater focus on extra-curricular activities.

Research points to the importance of improving the quality of (organised) preschool education, increasing the remuneration for early childhood educators and ensuring high attendance in early childhood education. Each of the highest-ranking countries in the UN study had organised preschool participation rates of nearly 100 per cent.

However, instead of introducing new initiatives (including an outcome-based model) or essentially 'renovating the house', firstly the 'foundations' of NSW Education should be checked, and attention be given to improving/reforming the existing internal policies, practices and culture within NSW Department of Education (DoE). This culture and practices are having a profound effect on staffing and student performance. On review of DoE key policies, it becomes evident that many are highly flawed, outdated, corruptible or not followed. Once addressed, the focus and future direction for decision makers should be on building collaborative systems that support and encourage teachers – rather than pressure-based performance measures that increase staff stress and avenues for bullying (something that is a well-documented issue within NSW DoE).

There is an urgent need in NSW Dept. of Education (DoE) to:

- Reform the archaic employment act/practices – ensuring that the most capable employees are promoted.
- Reduce the over reliance on standardisation.
- Reduce the inappropriate threats to staff by the wrongful use of the Code of Conduct.

- Increase efforts to ensure transparency, validity and efficiency of EPAC investigations.
- Address the underlying issues of staff bullying – e.g. currently Principals who are known instigators of staff bullying continue to be moved on to other schools without facing consequences.
- Consider each child, school and teacher as an individual and build on their existing strengths.

Most Education staff are strongly advocating for a reduction in standardisation and outcomes-based measures - as they know only too well that humans aren't 'standard'. There is a need for recognition that **all** students have differing needs and come from a variety of backgrounds. It is vital to remember when developing policies regarding public education that children are not empty vessels (as I recently heard them referred by a lead NSW Education employee) that come to school to be filled only with literacy and numeracy skills. But each child is unique and comes to school from a variety of experiences and backgrounds to learn the skills needed for the future. These skills include literacy and numeracy (which are undoubtedly important) but schools also play a central role in teaching and role modelling to children life skills, such as - acceptance of difference, coping with change (especially as we head to an rapidly changing future), friendship/team building skills, emotional management, resilience, wellbeing, and safety. Sadly, the outcomes of teaching these skills is often intangible especially in the short term, and it is not until much later in life that success as active, well adjusted, economically contributing community members can this be realised. Skill attainment in these areas cannot be determined by standardised/outcome- based measures.

Each school, class, teacher and child are different, and I can certainly appreciate that this provides a significant challenge for leaders looking to improve NSW Education. In any class, in any particular school, there may be children with a variety of additional needs (physical, sensory, intellectual), some from non-English speaking backgrounds and some who are deeply traumatised/neglected/abused and on any particular day may be firstly hungry or scared. The sheer fact that many of these children turn up for school, on its own, is sometimes something that should be celebrated. However, teachers are then asked to teach them all students in a 'quality', 'standardised' way whilst obviously individualising their program and achieving a certain outcome ... its quite an ask.

It's also important to acknowledge that schools and children aren't all going to learn at the same speed, by using the same methods and in some cases, some children, may never have the intellectual capability of achieving a certain standard of educational attainment. This is a further challenge and consideration for using outcome-based funding. Teachers require the flexibility and

trust from the system and their employees to use their professional judgement and adapt to live 'teachable moments'.

Differing geographical and socio-economic areas stand to benefit from outcomes-based funding - whilst others stand to suffer.

One of the single most important factors impacting on NSW school's performance - is the appointment and leadership role of a school principal. Mr Mark Scott, Secretary of NSW DoE, recently wrote (P&C Federation Term 3 Newsletter):

*"I think parents intuitively know that it's the principal who sets the tone of a school; that its their leadership that makes it a place where kids feel known, valued and cared for and the kind of place where staff can bring their best selves to work – and do their best work".*

Despite Mr Scott's acknowledgement of the key role Principals play in setting the tone, culture and outcomes in schools, to date nothing has been done to address the existing flaws within the method by which these key roles are filled - DoE's "Merit Selection" Procedure. This procedure needs to ensure that the very best people are awarded these vital positions. However, instead the long-standing culture of nepotism within the Department and the continual failure of DoE staff to follow their own prescribed policies, is deeply affecting who is holding these influential leadership roles. In turn, impacting on the quality and outcomes of NSW schools.

Disappointingly, there are also many other existing NSW DoE policies that are either being ignored, misinterpreted or manipulated, impacting on school's performance and staff retention. Until such time as these are addressed - it is unlikely that genuine progress will be made.

The continuation of policies and practices that allow for the systemic and intertwining of issues - such as highly questionable/unethical merit selection decision making, internal bullying/fear of staff reprisal which is allowed to be continued due to subsequent lack of independent oversight and inadequate complains handling, is of concern.

A significant number of examples exist that demonstrate that these issues intermix at a number of touch points e.g. bullying is a symptom of the inadequate policy guidelines, broken processes and a lack of accountability. A bullying principal for example, such as at

firstly, should never have been appointed (Inadequate Merit Selection Process), the bullying should then have been dealt with (Complaints process not working), and investigated by EPAC (failure of EPAC and other internal processes). Staff are unwilling and/or unable to stand up to bullying principals/Local Directors due to reprisal, or if they do the

failure of internal DoE complaints processes means teacher and parents/P&C's get no-where or shockingly find themselves subject to EPAC investigations - even when support is requested from the DoE Executive staff. On the flip side, staff who try to raise issues such concerns of unethical merit selection (as such at ), find themselves swiftly subject to bullying by superiors and on the receiving end of highly questionable EPAC investigations. The system is corruptible, ingrained and missing independent oversight.

It is strongly believed at this time the Department requires external support and input in order to make necessary changes. It is felt that the current systems have been employed and manipulated for so long that practices such as these have become normalised, justified and accepted as part of the ingrained culture of NSW Department of Education. External support and reform are desperately needed in order for educational outcomes to be maximised.

Please find below an outline of policies that require urgent review to ensure improvement in the NSW public education system:

#### **NSW Department of Education Merit Selection Procedure (April 2016)**

The 2018 NSW Public Sector People Matter Employee survey (PMES) results demonstrate that teachers are by far the largest occupation group employed in the NSW Public Sector - 66,481 teachers in NSW (plus 21,851 school support staff) as follows: -

#### **Types of work - Key Occupation Groups**

##### **SCHOOL TEACHERS 66,481**

NURSES 47,942

CLERICAL AND ADMINISTRATIVE WORKERS 31,032

##### **SCHOOL SUPPORT STAFF 21,851**

POLICE OFFICERS 16,221

MEDICAL PRACTITIONERS 11,932

SOCIAL AND WELFARE PROFESSIONALS 7,303

CLEANERS AND LAUNDRY WORKERS 4,886

LABOURERS 4,233

FIREFIGHTERS 4,091

AMBULANCE OFFICERS 4,030

BUS DRIVERS 3,756

PRISON OFFICERS 3,606

FOOD PREPARATION ASSISTANTS 1,973

TRAIN DRIVERS 1,919

These statistics speak to the importance and significant role that NSW Department of Education have in providing robust and clear employment procedures. The Department of Education should in fact, be leading the field in merit selection in the government sector given the significance of the number of people they employ. However, the People Matter – Public Teachers survey results state that **only 34%** of teaching staff agree with the statement “I have confidence in the way recruitment decisions are made”. NSW DoE continue to adhere to a Procedure and Employment Act that lack robustness, is open to bias and fails to meet modern expectations.

Whilst, the majority of the NSW Public Sector falls under the *Government Service Employment Act (2014)* and while ‘some’ of this Act applies to Teaching Services, the section on “merit select” does not. I’m unsure whose interest this serves. Instead, teachers and the 2200 existing principals, are employed under the 40-year-old *Teacher Services Act 1980*, which lacks the robustness and capability testing required in other similar fields, which help to ensure employment is based on genuine merit.

The full PMES report outlines that two of the main findings from 2018 were that:

1. Bullying remains an area of concern in the Public Sector.
2. Overall confidence in recruitment practices remaining low.

Those who provided further comment in the survey were noted saying that “it takes too long to recruit people and that recruitment processes need to be more transparent”.

This was further reiterated in the question “*if you could make one change to improve the effectiveness of your workplace, what would it be?*”

Two of the leading negative answers to this question were:

- Faster action when bullying is reported
- Transparency and quality of recruitment outcomes.

In addition, the State of the NSW Public Sector Report 2018:

- Chapter 4 - highlights that “managers and senior managers collectively are the most common group of perpetrators of bullying and more needs to be done to address this” Yet, despite this knowledge data published on the DoE’s website (since removed) reported that

from 2008 - 2016, the Dept recorded that no principal was found guilty of workplace bullying. I suspect this is also true for more senior positions such as Directors of Educational Leadership.

- Chapter 2 - "The number of jobs openings in the Public Sector has steadily increased each year since 2014. This mean leaders and managers must make crucial recruitment decisions each year in an effort to find capable, high-performing employees." "With such frequent job vacancies and so many interactions with candidates, the sector has a great opportunity to improve the consistency and efficiency of recruitment processes; the effectiveness of candidate and employee selection; and candidates' satisfaction with the recruitment process."

And yet if we to look at the two examples (which are expanded on below) and a key target area for improvement within recruitment for the government sector - "time to hire", we can see further areas of concern in DoE. Despite the Public Sector Report listing the average low of time to hire as 41.5 days, at a recruitment process for principal in ran for 105 days (15 weeks) and at for 166 days (24 weeks – not counting the additional 27 days until the final determination was made post appeal = 193 days 27.5 weeks total – of a total 40 week school year)!. These delays have significant impact and a destabilising effect on schools, staff and stakeholders.

I recently had the opportunity to briefly discussed the topic of reform to merit selection with Mr Mark Scott. He noted that it was difficult to undertake changes in such a large industry, where there is a need to get agreement by multiple parties including the Teachers Federation. I remain unsure why these parties would provide any objection and are not in fact leading the debate for a more transparent approach. Mr Scott mentioned it was a bit of a no-win situation as people don't like direct allocation (which is necessary when there is excess staff) and they don't seem to like merit selection either. To which I replied "that they certainly don't like the façade of merit selection that is actually direct allocation masqueraded". What is currently missing in NSW DoE is actual, decisions making based on genuine merit. The current Procedure is often not resulting in this outcome.

The current process is corruptible. For example - for a Principals selection, Directors of Educational Leadership are frequently manipulating the process to get the outcome they desire – either inclusion or exclusion of certain applicants (in order to build support for their ideas, objectives and their own continued career advancement).

Below is an example that highlights the areas in the existing policy that allows the process to be applied with bias – this is based on recruitment process that took place throughout [redacted] for Principal at [redacted], NSW. This experience is not unique - there are a significant number of similar cases around the State.

### **Background**

- [redacted] has 600 students, approx. 400 actively engaged families and approx. 60 teaching and support staff.
- [redacted] is a high performing school in a desirable location.
- A Merit Selection process for the principal's position commenced in [redacted] and ran for over six months.
- [redacted] P&C were requested by DoE to select a nominated member to act as their representative on the selection panel – this panel consisted of a Director Educational Leadership [redacted], a Principal (as nominated by the Director), an [redacted] staff member and [redacted] P&C member.
- The P&C representative was thoughtfully chosen by the P&C due to the school communities' strong desire to ensure a suitable candidate was appointed.
- The P&C has had previously involvement in a merit selection panel with conjecture about a questionable outcome, for the exact same position in the past. This was another reason a considered approach was taken.
- [redacted] has experienced a lengthy period of leadership instability, with what will be 5 principals in 6 years. These principals have varied in their passion, work ethic and commitment to the position.
- [redacted] staff and the community hoped though their participation in the merit selection process they would have input into identifying a Principal who was the best suited to the role.
- The first P&C panel member was chosen following a call for nominations, a formal presentation and ballot at a P&C meeting. This person was selected on their skill; knowledge and ability reflect the communities' requirements. He was a well known locally respected Child Psychologist who had a wealth of experience working across a number of local school and was previous employed in the public service – both Health and ADHC.
- After a protracted period of time, the first Selection Panel was dissolved due to an inability to reach agreement.
- A new panel convenor was appointed by DoE- [redacted] - Director, Educational Leadership, [redacted] address the August P&C meeting



and assured those present that she would personally communicate with all applicants and inform them the process was continuing, after the protracted delays. This failed to be actioned.

- The P&C were concerned that without information on the delays relayed to potential applicants they may be drop off or take on other roles.
- A second Merit Selection Panel was formed in August.
- The second nominated P&C representative was chosen following the above same process. This parent representative was a University Professor, Faculty of Education from the University of Newcastle.
- Subsequently, and quickly the P&C Panel Representative resigned - as did the staff-appointed Member, leading to growing concerns within the community.
- A minority report was lodged by the P&C presentative as is required in the case of a dissenting viewpoint.
- A request was made by the P&C for someone from DoE to address our growing concerns.
  - Director, Educational Leadership, was again nominated as the spokesperson for Recruitment and Employment Human Resources Directorate. She attended the September P&C meeting via telephone.
- made several undertakings throughout the selection process including those made on the 17th of September in order to alleviate the P&C increasing concerns. These undertakings failed to be actioned.
- In particular, before the P&C agreed to nominate a 3rd P&C panel representative - committed that when the 3rd Panel was convened that she would consult with the P&C Representative and the Staff Representative and if it was their wish, and the wish of their members, then the position criteria would be re-drafted, the position would be re-advertised and the Merit Selection process would commence from scratch. This was due to concerns for - the lapse in time from advertisement to interview, the lack of input from the new panel in the advertisement and culling and whatever was occurring within the 2 previous panels that was resulting in members disagreeing/withdrawing. (**Note:** Panel members are required to sign a confidentially form and are unable to speak out about their knowledge and experiences). This was repeated reminded to panel members.
- Re-commencing the Merit Selection Process was the firm position of the Community.
- The P&C only proceeded with nominating a third representative on this assurance.

- DoE appointed a 5th panel member in the third iteration of the selection panel (despite no changes to the school or process). This member was a publicly acknowledged friend of the panel convenor.
- The Merit Selection Procedure outlines that a 5<sup>th</sup> panel member may be approved where there are “specific needs relevant to the position” such as if the position is for a special education teacher or school counsellor. The merit selection procedure also highlights this may be relevant for schools with significant ATSI or CALD enrolments. **None** of these examples are relevant in the context.
- Only one applicant was taken to interviewed and subsequently appointed the position.
- November , an announcement was made that a newly appointed principal had been appointed– despite the 10-day appeals period not having lapsed.
- Later, members of the parent body were informed by DoE that an appeal was lodged by an applicant, but subsequently this was dismissed.
- These highly irregular, questionable activities have raised ongoing concerns within the school community.
- These concerns have failed to be adequately addressed by DoE.

#### **Attempts made to resolve the Communities Concerns**

Throughout the process the community tried to raise their concern with the Convenor/s of the various panels. Since mid-November (prior to the announcement of a successful applicant) the parent community made presentations to members within DoE to investigate and address their concerns. These included

- Multiple letters to the former Minister – Hon. Rob Stokes
- A formal complaint to Ms Louise Gallagher - Director, Educational Leadership, Lake Macquarie North Principals Network
- Letters to and requests for a meeting with - Executive Director Human Resources (as per the advice of the P&C Federation)
- A formal complaint and subsequent complaint review addressed to - Tim McCallum - Executive Director, School Performance, Regional North Operational Directorate.

All replies from members within the Departments hierarchy failed to adequately address concerns or acknowledge the multiple requests for a meeting.

In addition, parents have met with local member - Jodie Harrison MP and a formal complaint was lodged with the NSW Ombudsman (deemed outside their jurisdiction) and Independent Commission Against Corruption (unable to investigate).

### **For noting**

Of perhaps greatest concern for        was the stress and pressure staff endured throughout the process.

- Staff had uncertainty of leadership for the majority of the school year (despite DOE promising a year of stability after a history of multiple leadership changes). There was no urgency to recruit, as an Acting Principal had been identified and appointed for a 12-month period.
- After the first panel was dissolved, staff were reluctant to put their hands up to be a on subsequent panels – due to concerns re: backlash on their careers and future career development.
- It was believed that staff had their careers threatened during their participation in the various initiation of the panel.
- A usual occurrence happened within the P&C nomination panel process – where another local School Principal (who is also a parent) put their hand up to be the parent representative on the 2<sup>nd</sup> panel. Leading to greater concerns regarding transparency and independent input.
- Staff were repeatedly reminded if they spoke out in opposition to the process that occurred, they would be breaching their Code of Conduct and face disciplinary action.
- On the final day of term - the large number of staff who were under contract (13) were only offered a 1 term extension on their existing contracts. Whilst, all this may all be allowable and within DoE's powers; it could also be interpreted as a form of intimidation.
- When a photographer arrived at the school on the Thursday of the last day of term at the scheduled time of 3.00 pm to photograph parents at the school gate for an article that was being written about the concerns – despite all staff having been separately asked over the loud speaker (which is unusual in itself) to vacate the premises by 2.45 the Director, Educational Leadership arrived at the school just prior to the scheduled 3pm photo shoot (she had not been there at all, earlier in the day) and parent members became anxious about their continued involvement, due to fears about potential ramification for their children due to any involvement in speaking out about this process. Subsequently, someone contacted the        directly and asked that the photo not be published.

- It was suspected that following the lodgement of an appeal against the process that an applicant (the Acting Principal and long-term substantive Deputy) was subject to a “witch hunt” and an subsequent investigation and case with EPAC– Employee Performance and Conduct had been lodged in order to force his silence, compliance and potential dismissal.
- This suspicion was confirmed when members of the parent working party were all individually contacted on the \_\_\_\_\_ by the Departments Employee Performance and Conduct unit requesting interview with a number of parents concerning the applicants conduct - which to all’s knowledge and experience had been nothing but professional and ethical thought the drawn out stressful ordeal.
- All parents declined to be party to an investigation that was felt to be retaliatory and falsified. This investigation has now been underway since \_\_\_\_\_ - with no known conclusion in sight and continued concerns for EPACs ability to follow their own prescribed guidelines of procedural fairness and timeliness.

What this example aims to highlight is that firstly, the *NSW Department of Education Merit Selection Procedure, April 2016* speaks of “independent representatives and equal voices” of panel members – however, if desired by Conveners of panels this can be tokenistic – such as is the case at \_\_\_\_\_.

For example in a principals selection–

1. The panel Convener is typically the relevant Director of Educational Leadership. They hold a position of power and influence over the other DoE panel members.
2. The Convener has the advantage of prior knowledge of potential applicants and relevant terms when drafting the criteria - this can favour/or hamper a particular applicant/s,
3. Referees – as with all recruitment processes referees have limitations – people can be given a “good reference” in order to be moved on from a job or equally a bad reference if the referee doesn’t want them to advance. Information of a positive or negative nature can be highlighted. In the current Merit Selection process the first referee is prescribed and referees are called **prior to interviews** (I am not aware of any other public sector agencies where this is the case). At \_\_\_\_\_, the Convener and Director of Educational Leadership – \_\_\_\_\_ – who was no doubt also the prescribed referee for a number of applicants, had been in the role for an extremely short period of time is unlikely to have had detailed knowledge of a particular applicant/s and the school. In addition – \_\_\_\_\_ (2<sup>nd</sup> and 3<sup>rd</sup> round panel Convener) also mentioned at a \_\_\_\_\_ P&C meeting that she had once been a Convener and referee for 12 applicants all for the one position – and thus

could potentially show preference to some applicants over others – seeing some get an interview and others not. This is a major flaw.

4. Panel members can have dissenting views –these need to take the form of minority reports – which can be ignored by DoE and the process continued from the same decision-making point that has been questioned.
5. The same applies to the withdrawal of panel members. Members can demonstrate they are unhappy/concerned about transparency of decision making by withdrawing – however, this doesn't change the process. In the case of [redacted], this occurred repeatedly, and the process pushed on from the same point, despite the Convener making numerous commitments (including to restart the process) that were to address the concerns. These failed to be actioned.
6. DoE staff inserted a 5<sup>th</sup> panel member in the 3<sup>rd</sup> round of the panel. After persistent and substantial pressure to provide justification for the inclusion of this member, it was responded (following the conclusion of the process) that this was to give a great community voice to the process (which is not outlined in the Procedure document as an example of a reason for inclusion of a 5<sup>th</sup> member). However, this member was from the community of the 2nd Convener ([redacted]) and not our school or area ([redacted]) and is a publicly acknowledged “friend” of the Conveners. Thus, raising more questions regarding transparency.
7. Finally, an appeals committee needs independent representatives - but in the end the DoE Appeals Secretariat can overrule their recommendation, if desired. Grounds for an appeal need to meet the criteria of “irregular or improper” – which are not defined in any policy or procedure document leaving room for ambiguity.
8. Questions remain at [redacted]'s that if a process with 3 iterations of a panel, that ran for over six months, had numerous panel members withdraw and lodge dissenting views, resulted in only one applicant being interviewed, which the community, an applicant and teachers all had strong concerns regarding the ethical nature of - did not warrant a “irregular” ruling by an appeal panel - it remains unclear when these grounds would in fact ever be determined.

Essentially, key staff members (e.g. Directors of Educational Leadership, aka prescribed referee, aka Conveners) can largely influence certain decisions (either inclusion or exclusion of applicants) without a great deal of input from others, if desired.

On conclusion of the process at , the P&C were informed by DoE that an applicant had in fact lodged an appeal and this was later ultimately dismissed. All Appeals Panels are required to have independent representation - thus hopefully demonstrating a reasonable level of integrity. However, the concerns of the parents/panel members had are largely different to an applicant's due to their differing role in the process and these continue to not have been adequately explored (due to failure in the application of the complaints policy – as detailed below)

The fact that – **teachers had voiced concerns (through their channels e.g. Teachers Federation), while parents have continued to voice concerns, and finally, an applicant lodged an appeal on the basis that they felt the process was “irregular or improper”** highlights the level of widespread concerns for the integrity of the merit selection process.

In addition, the Appeals process in itself must also be looked at as when asked for further review through a formal complaint - Mr Tim McCallum, Executive Director, School Performance Regional North Directorate recently wrote he had been advised by the Human Resources Directorate that the appeals panel process *“involved extensive interviews with all relevant parties and all elements of the complete merit selection process was therefore undertaken”*

However, I am unsure who provided Mr McCallum with this advice, and the truthfulness of these assertions and would question their definition of “extensive interviews”, “relevant parties” and “all elements” as it's a known fact that the

- Teacher Representative on the **first panel** was not contacted
- The P&C/Parent Representative on the **first panel** was not contacted
- Teacher Representative on the **second panel** was not contacted
- P&C/Parent Representative on the **second panel** was not contacted
- The **applicant** who lodged the appeal was not contacted or interviewed during the appeal process

There were **also others** involved in the process who were omitted from these interviews. It was anticipated by these members, once they became aware that an appeal had been lodged, that as a matter of due course, conversations would occur between them and the appeals panel. This was especially expected by those who had formally lodged a concern, those who had withdrawn and those who reported an objection. These people would still welcome the opportunity to openly discuss and outline their concerns and experiences as panel members to members of the appeals panel or any appropriate body, without the fear of negative repercussions.

When compared to other like experiences you can see patterns starting to develop.

For examples the commonalities of serious concerns raised between two principals merit selection processes in – and include:

- Panel members standing down mid process due to (at a minimum) feeling as though their voices/opinions were not being heard or valued.
- Assurances made to parents/P&C committees and Members of Parliament that the recruitment process would be restarted on request.
- The rescinding of the commitment (or no real intention) to restart the recruitment process.
- Pressure placed and short time frames provided for P&C's to put forward a replacement panel member or the convener (DoE employee) would directly appoint a replacement.
- Advice given to community members/P&C that they could lodge an appeal against the process, which is then at a later date refused by DoE (as this not allowed under the current Merit Selection Procedure, April 2016).
- Insertion of a 5<sup>th</sup> panellist occurring **after** the commencement of the process.
- Highly questionable conflicts of interest of panel members.
- Common personnel – the 5th panellist inserted in the process was **the same person** that is was put forward by Education as a “suggested parent presentative” for the panel. This panel member acted as ‘parent representative’ in the second iteration of their panels despite having never attended a P&C meeting prior to, to discuss with the parent/community their desires for an applicant. Strong questions need to be raised if this member is in fact independent or at the beck and call of Dept. of Education to swing panels, so that the outcome is to their liking.
- Lack of general transparency and access to information and rationale for decisions made.
- All Directors fall under the direct supervision of Tim McCallum and the
- Highly respected and capability applicants not being awarded **interview**.
- Only **one applicant** being interviewed.
- Progression to interview without community/P&C knowledge.
- Suspected deliberate delays in certain areas of the process – forcing decisions to fall at convenient/inconvenient times e.g. the very end of the school year or during caretaker mode for the government.
- Inadequate responses and handling of lodged community complaints.

- Both complaints have been continually referred back to the convener/s or original department/personnel with whom the complaint is about.
- Both cases where the entity in question or conflict was and/or is the adjudicator for the conflict resolution
- Both cases Dept of Education have claimed that staff members are behind parent actions. This is being perceived as an effort to deflect from the real issue and intimidate staff members. In both cases this accusation is **untrue**.
- Serious reprisal for inadvertently named staff members.
- Repeated instances of breach or questionable application of process with no real avenue for redress.
- The appearance of corruption and/or impropriety.
- Refusal by the Minister for Education, Secretary and Deputy Secretary to engage in any conversations, correspondence or requests on the issues surrounding transparency in merit selection procedure.

Commonalities of three cases - with a merit selection process:

- Alleged collusion of panel members with predetermined outcomes - to decline or progress certain applicants.
- Failure of , the Human Resources Department and relevant Executive Directors School Performance to adequately investigate complaints and/or a lack of transparency in decision making.
- Bias and conflicts of interest in the relevant panels.
- Highly experienced and respected applicant not being awarded **interview**.
- Bullying and intimidation by DoE personnel toward staff member – reprisal.

#### Serious questions need to be asked at this time?

1. In any setting – Government/Non-Government/Private Business – would a recruitment process be continued with only one applicant taken to interview (for a highly paid position with key leadership and supervision responsibilities) – or would common practice be to readvertise, in order to gain a larger pool of applicants?
2. Is it appropriate/acceptable for a recruitment process to run for over 6 months (especially when considering the controversy and path that led to delays)?



3. How does anyone question the decisions and actions within DoE without being referred back to the very same decision maker/person?
4. Where is the oversight and independency into decision making?
5. Is the *Merit Selection Procedure (April 2016)* really a robust and satisfactory guideline, open to scrutiny and reflectant of modern expectations and values of an accountable government sector?
6. How is genuine merit selection ensured in a process that does not allow for initial capability testing?
7. Why do the 'Teaching Services' recruitment methods fall outside of the responsibility of the *Government Service Employee Act* and therefore not have the oversight by the Public Service Commissioner? Whose interests are serviced by this?

Thus, I hope you can see start to see where the policy has significant flaws.

Changes that are urgently needed include

- not allowing the convener to also be the first prescribe referee and the Director of Education Leadership in a process (serious consideration to conflicts of interest)
- referee checks to occur **after** interviews
- referees to be nominated by candidates rather than prescribed
- potential multiple capability testing opportunities
- restarting of the process when committed to and where there are serious claims are made by panel members and withdrawals are noted.

In addition, it would appear NSW DoE are not only behind other NSW government sector agencies in merit selection but also behind other States in this field. In reviewing the VIC Education and Trainings Principals Selection Procedure (2018), The Australian Professional Standard for Principals and The Victorian Standards for the Application of the Public Sector Employment Principles 2017 it was noted that these documents strongly demonstrate the incongruence in expectations between Principals across various states in Australian. The documents also support and highlight the flaws I have identified through the (and other experiences). You will note a vast difference in the expectations, participation and merit components - compared with the current NSW Dept of Education Merit Selection Procedure. Below are a few examples from the VIC procedure which demonstrate the lack of robustness that is apparent in the NSW process.

For example the VIC Procedure -

- Has a strong framework and quality improvement expectation
- Is based on significantly **more current legislation** - Education and Training Reform Act 2006 and Public Administration Act 2004
- During the development of selection criteria a school council prepares a school profile statement for inclusion in the position description and can add community criterion.
- “Major determinants of the credibility of any selection process are the attitudes, skills, and experience of members of the selection panel and their **ability to bring alternative points of view** to the selection process. When establishing the selection panel, consideration should be given to including members who between them can bring to the process:
  - **a comprehensive understanding of the school’s profile and resource base;**
  - **knowledge of the school culture and future directions;**
  - **an understanding of the expertise, knowledge and attributes required to successfully undertake the role of principal;**
  - **an appreciation of the contributions principals can make to the wider school system; and**
  - expertise in and an understanding of the selection process. “
- Panel members are to “avoid any actual, potential or perceived conflict of interest in the selection process including the selection decision. A conflict may arise where it could be reasonably perceived that a panel member is influenced by the private interest of facilitating employment (for example the employment of a family member or associate). Where there could be a perception of possible favouritism and bias, to mitigate the risk the panel member should remove themselves from the selection process and/or selection decision. A panel member who considers they may have a conflict of interest must declare their conflict of interest and any steps taken to manage the conflict.”
- When assessing applicants, selection **panel members must ensure that they do not directly or indirectly discriminate**. Panel members should be aware of individual bias, assumptions and stereotyping which may impede the selection of the best applicant for the position. Panel members should be aware of the diverse pathways of experience and approaches which different candidates may bring to the interview and to the workplace, including people of different genders and from diverse cultural and linguistic backgrounds. This diversity should be viewed as an attribute and should in no way diminish the assessment of the applicant’s suitability for the position.

- Any experience and available evidence relevant to the selection criteria should be taken into account by the panel. Account may also be taken of an applicant's potential to acquire new skills. Specific job knowledge necessary to carry out the duties of a position can be less important where this knowledge can be acquired in a reasonable time.
- Referees **are nominated by the applicants** to clarify, verify and add information to what is learned in the interview and from other parts of the selection process.
- **Referees are contacted post interview.**
- There is a range of other capability tools such as presentations, second interviews etc available.
- In determining the priority order of suitable applicants, the selection panel should **attempt to reach unanimous agreement** on the ranking of applicants. If there is not unanimous agreement the selection panel should attempt to reach majority agreement on the ranking of suitable applicants. (for this purpose, a majority means at least three members of the panel).

The role of the school council (similar to a School P & C) in the process ensures that the selection criteria and position description meets the needs of the school. Further, the selection panel reports back to and is accountable to the School Council (not to the Department) and it is the School Council that then approves the applicant to be put forward to the Secretary of the Department for appointment. This significant level of involvement by the School Council ensures that most of the concerns that have been with regards to the flawed Process cannot occur due to the oversight and approval role of the School Council. It seems that Victoria has gone to significant lengths to ensure that the voice of the school community is extremely well heard, that the process is merit based, transparent and ethical, that the school community via the school council recommends (and approves of) the appointment and that the appropriate accountabilities are in place to protect both the applicants and the school community, both through the process and in the event of an appeal, all elements that were largely lacking through the Merit Selection Process.

#### **Additional Claims regarding concerns for Unethical Merit Selection**

In addition to a significant number of known, documented and reported cases of merit section corruption, a teacher's survey was recently generated on the topic of merit selection and bullying. This was both linked to a newspaper article and distributed via social media. This survey was live

three days and whilst the sample group is relatively small, the results come from across the State. I would encourage you to read and digest the comments which are enlightening, especially in relation to who teachers feel should be able to be a referee, when referees should be considered in the process, the strong feeling of an imbalance of power between panel members, the uncomfortableness people have in lodging an appeal given the perceived ramifications on their career, the multiple statements about Directors employing people with allegiances/relationship with them and their influence in who gets a position. This again adds weight to the claims of widespread, systemic issues within DoE merit selection directly impacting on the leadership and outcome of NSW schools.

Please see survey results below.

<https://surveyhero.com/results/122735/f58847f2cb8776c0a0b70d6caa98d1c0>

A sample of the statistical results include:

- Do you believe the convener is in a position of power which allows him/her to choose merit selection panel members to achieve the outcome that they want? YES - 89%
- Do you believe that all merit selection panel members have an equal voice in the process? NO - 82%
- Do you believe that the convener ultimately has more say in who they believe is the ideal candidate? YES - 85%
- In most organisations referees are only contacted after interviews have taken place. The DoE carry out reference checks prior to interviews taking place. Do you believe that contacting referees prior to the interview, can have a huge influence on the overall outcome? **YES - 90%**
- Do you believe the current merit selection process is fair to applicants? NO - 89%
- Do you think that the convener should be independent and not be any of the candidates referees? YES - 87%
- Would you agree that in most cases, teachers/principals that have had multiple complaints made against them, in relation to bullying and intimidation, are simply moved on to other schools? YES - 77%

## **NSW DOE Community Complaints Handling**

Numerous members of the P&C and wider community raised formal complaints and concerns in relation to the above-mentioned merit selection process:

- Through correspondence directly with the Minister, the Deputy Secretary and Secretary
- Through the relevant complaints handling processes - *Department of Education's School Community and Consumer Complaints Procedure (January 2017)*.
- Directly with , Human Resources – outlining concerns and requesting a meeting, as per the advice of Steve Carpenter, General Manager P&C Federation.

Replies received came from Mr Tim McCallum, Executive Director, School Performance Region North Operational Directorate and Human Resources. Mr McCallum provided a broad overview of the process, with repeated misnomers and omissions and both provided a consistent messaging that an appeal against the process had been lodged by an applicant and then later dismissed.

All correspondence failed to acknowledge the repeated requests for a meeting, the reneging of the commitments made to the community to restart the process by relevant Departmental staff (which was to alleviate genuine concerns for unethical application) and complete omission of the concerns expressed in relation to the second iteration of panel.

A subsequent formal complaint review was requested in writing within 10 days as per section 1.10 of the *Department of Education's School Community and Consumer Complaints Procedure (January 2017)* which reads as follows

<https://education.nsw.gov.au/policy-library/policies/complaints-handling-policy>

### ***"1.10***

*A complainant can request a review of a complaint outcome, which should be done within 10 working days from the decision, and will be carried out by an independent person and a person of equivalent or more senior level within the department who has not previously managed the complaint."*

In response to this complaint review and despite the direct expressed expectation to Mr McCallum that he not handle this matter as per the policy - *"will be carried out by a person of equivalent or more senior level within the department **who has not previously managed the complaint**"* he in fact replied again and stated that an appeal had been overseen by the Human Resources Director

(who was also not an independent party and had previously handled the matter) and again replied, noting an appeal has been dismissed by the appeals panel. No effort was made to investigate the **communities complaint** and especially none by an **independent** and/or **more senior member**.

The attempt to directly escalate this matter to Mr Dizdar, as Mr McCallum's superior –failed to receive a reply from Mr Dizdar.

This is a clear example of the failure of policy to be put into practice.

Given that Mr McCallum sought no further independent oversight into this matter then to consult with the Human Resources Directorate, who had made all the initial decisions throughout the merit selection process, it speaks to Mr Roy's statements in the attached article "*Adding Transparency*" - that when schools/Departments are left to investigate themselves, unsurprisingly they often do not find themselves at fault. This Mr Roy successfully went on to prove this in his own raised matter in relation to the treatment of children with additional needs by the Department and the failure to adequately investigate community complains.

The example of complaints handling for      is just one of many examples of this policies failure to be realised in practice that I am both aware of and can speak to.

### **Lack of External Oversight and Transparency**

The details in the expanding number of school cases continue to highlight a major flaw in the NSW Education system – the lack of external oversight. All concerns or complaints within Education are seemingly sent directly back to the individual or Department with which they are in relation to and every effort made by the various communities and staff members to raise their matter/s externally are referred directly back to the said department or individual in question. NSW DoE are their own gatekeeper, watchdog and investigator. No external agency approached to date regarding unethical merit selection has oversight e.g. the NSW Ombudsman does not have jurisdiction over employment matters within DoE, the Public Service Commission doesn't have external oversight into *Teacher Service Act* etc. The examples known repeatedly demonstrate that DoE are not accountable to anyone except themselves and as Mr David Roy articulately points out in the above-mentioned article – this can allow for a culture of collusion and corruption to fester and the potential for

systemic cover-up to occur. I share Mr Roy's valid concerns and feel I can add significant detail and evidence to this issue.

### **Further evidence of concerns for transparency and ability for DoE to meet public scrutiny**

Recently under the *Government Information Public Access 2009 Act (GIPA)*

) lodged separate requests for information pertaining to the principal's merit selection processes at both schools. These requests referenced section: 52 Part 2, Division 2 (A) (B) (E) – which reads as follows

*Division 2 Public interest considerations*

#### **12 Public interest considerations in favour of disclosure**

**(1) There is a general public interest in favour of the disclosure of government information.**

(2) Nothing in this Act limits any other public interest considerations in favour of the disclosure of government information that may be taken into account for the purpose of determining whether there is an overriding public interest against disclosure of government information.

#### **Note.**

*The following are examples of public interest considerations in favour of disclosure of information:*

**(a) Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.**

**(b) Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.**

**(c) Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.**

(d) The information is personal information of the person to whom it is to be disclosed.

**(e) Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.**

*(3) The Information Commissioner can issue guidelines about public interest considerations in favour of the disclosure of government information, for the assistance of agencies.*

However, we both individually received notification that the Information Access Department consulted with Mr Tim McCallum, Executive Director School Performance Regional North and \_\_\_\_\_ and they determined it would be an “unreasonable and substantial diversion of the department’s resources” to **investigate themselves!** Information Access did advise we could refer our matters – in relation to misconduct to the relevant superiors of the departments with which our concerns were about – which is one and the same (again themselves) or we could potentially report them to EPAC (whom I and so many others have serious concerns about their ability to follow procedure and act ethically, that they have very recently been under review).

The outrageous ability NSW Department of Education has to cover their own wrong doings is unlike anything witnessed before.

Whilst, it’s important to note that it was anticipated that some of the information requested under GIPA would not be released (such as the submitted applications and individuals personal details) the redacting of **all** relevant documentation, the substantial time quoted/inflated (e.g. 2 hrs to **consider** a single figure) plus the ultimate decision that it was not worth the Department’s precious time to be publicly accountable, further suggests questions of transparency. When applying to GIPA for information it was never anticipated that the individuals central to our concerns would be able to provide the determining advice as to what information could/would be made available. The ability to censor the information is a further area of concern that needs to be considered.

The Department of Education were able to estimate costs for information collection with no transparency e.g. a quote of 8 hours/ \$240 to provide a signal figure – ‘the number of principal merit selection process undertaken over a 2-year period’. When questioned on the breakdown of this e.g. what could possibly take 2 hrs to “consider” a singular figure, IA staff admitted this may in fact be inflated as it might only take 10 minutes! Even on reducing the scope of the request and reapplying for information, it was determined all useful information requested is either conveniently not held, not collected or would not be supplied.

Lastly, it should be noted that multiple matters have now been raised with the Independent Commission Against Corruption (ICAC) regarding DoE in an effort to attract some independent



oversight - but due to ICAC's limited resources to investigate matters (they receive 2800 requests for consideration per year and only capacity to investigate 4-6 annually) these practices are able to be continued.

The Committee is encouraged, if compelled, to use your powers to request such known documents, that would provide substantial evidence to support claims of misconduct regarding merit selection within the example of , such as appeals applications, minority reports and panel members withdrawal letters.

### **NSW Department of Education Code of Conduct**

Through expanding experience and increased knowledge of similar situations, I have seen how middle/senior departmental staff use/misuse sections of the Code of Conduct to law over staff members within their direct supervision. This may be through bullying/threaten tactics or lodged EPAC inquiries. These are undertaken in order to enforce silence of any attempts to raise serious concerns or feedback - even if these are done through the formal, internal channels such as the case of a merit selection appeal.

Staff members can swiftly find themselves threaten or investigated under the weaponising of "breaching" the "Code of Conduct". DoE staff with supervision powers are quickly are to turn the tables and paint victims as perpetrators by misusing their power, influence and the Code of Conduct/EPAC.

The pattern of misusing the Code of Conduct, is now starting to be repeated and extended to parents under the new - Community School Charter <https://education.nsw.gov.au/public-schools/going-to-a-public-school/school-community-charter>. Instead of the positive messaging about collaboration and respectful commitment to partnerships between schools and parents, this Charter is being used to accuse parents of undertaking frivolous and time-wasting communication, whenever they attempt to raise genuine concerns in an appropriate manner. Middle departmental managers are using the Charter as justification to not provide responses to parental concerns. It would be hoped, that this was not the spirit or intended use for the adoption of this Charter - which on the surface seems to be a positive document.

### **Employee Performance and Conduct (EPAC) Directorate**

This Directorate continues to receive worthy scrutiny and reputational damage based on alarming accounts by staff members.

As both a community member/parent that has been requested to be interviewed by EPAC, under what I would strongly argue is nothing more than an outrageously unjust witch hunt and abuse of power and then subsequently a subject of a line of inquiry (given I am a parent and not a staff member it needs to be questioned whether this is in fact outside of EPAC's jurisdiction), I feel that I can at least concur with what has already been repeatedly reported to Senior Departmental Staff - EPAC continues to fail to follow their own prescribed guidelines - "*Guidelines for the Management of Conduct and Performance*" (August 2006) and act morally especially in the area and of **procedural fairness** and **timely resolution** (pg. 7 and 8 ), Excerpts read as follows:

*"A key tenet of the legislation and these Guidelines is that an officer or permanent employee is entitled to be treated fairly and transparently at every stage of the disciplinary process. Investigations and disciplinary processes must be conducted according to the rules of procedural fairness.*

#### **4.1 Timeliness**

*A disciplinary or remedial process should be taken without delay. It is in the interests of all parties for the matter to be resolved in a timely and expeditious manner.*

#### **4.2 Procedural fairness**

*Essentially, procedural fairness is a legal safeguard applying to an individual whose rights or interests are or could be affected.*

*Procedural fairness serves an important function in the investigation of complaints by:*

- *providing a means of **checking facts** and **identifying major issues**;*
- *exposing **weaknesses in the investigation**; and*
- *informing the basis and direction of investigation.*

Mr Hatton's Submission 422 (attached) outlines how staff are "actively pursued by their employees in a system riddled with injustice". He noted the enormous amount of resources devoted to EPAC inquiries that are subsequently biased, intimidating and often unjust/unfairly investigated.

There has been repeated loud and strong calling for the disbanding of EPAC, resulting in Mr Mark Tedeschi AM QC recently reviewing its functions. Whilst, this review is still felt to be compromised due to the very limited promotion and timeline provided for input – it highlighted many areas for improvement to the transparency, timeliness and rigor of decision making from EPAC.

It's remains to be seen if DoE will enact these much-needed reforms such as - panels for decisions making, comparative cases and improved communication to schools and person's the subject of allegations (PSOA's).

It was clearly evidenced from Mr Tedeschi's report that EPAC staff are poorly resourced, trained and supported. They are continually making arbitrary decisions without reference to precedent or comparable cases.

The fact that 47% of matters are not closed with 12 month has significant consequences for the quality of information supplied to investigators and deeply impacts on PSOA's reputation and wellbeing. Whilst, recommendations were put forward by the review to reduce timeframe of cases to a maximum of 9 months – this is still unreasonable and not comparable with the other examples provided in the review, either locally or internationally e.g. NSW Police – has a maximum turnaround of 90-135 days for complex matters with most being settled in 45 days. Delays in EPAC investigations have a considerable knock on effect with staffing in schools, school morale, sick leave etc. Again, directly impacting on school culture and outcomes.

Interestingly, both the international systems that were compared in the report included internal and **external decision-making** functions – however this was not recommended (yet continues to be strongly advocated for by stakeholders).

Alarmingly this report noted there is no current recording of previous "enquiries" or Local Management matters (low level concerns of conduct) on personnel files. Meaning that staff can simply move and repeat patterns of 'lower level' unprofessional conduct without any tracking on personnel files. This impacts on merit selection and adds evidence to the often expressed issue that unprofessional/bullying principals and teachers are often moved on from school to schools.

Similarly, Mr Tedeschi's report highlighted issues such as those mirrored within Merit Selection (MS) in DoE

- There is no definition of key terms – for EPAC “misconduct” for Merit Selection “irregular” and “improper”. This leaves far too much room for individual interpretation and ambiguity.
- Procedures are based on old/antiquated legislation or policies.
- Staff often fail to follow procedures.
- The person who has been involved in decision making is also often charged with reviewing decisions.
- Witnesses put forward by PSOA’s are often not interviewed; similarly, to merit selection appeals panels only interviewing those they choose. It seems there is a cherry picking from the Dept on who is consulted on matters.
- The Dept runs on an insular model – with a continued reluctance to align with other agencies, tribunals and departments on best practice structures and systems e.g. GSE compliant merit selection.

The recurring structural issues within the Department were once again highlighted in the EPAC review e.g. protracted delays/issues in recruitment, poor staff morale/culture, high staff turnover, failure to follow procedures. Until these fundamental, underlying issues are genuinely addressed, I fail to see how progress will be made.

### **The Ethical Framework for the government sector**

It should be questioned if in their current state the DoE’s structures and practices adhere to the **Ethical Framework for the government sector** (items of concern highlighted below), as demonstrate through a wide range of known cases –

to name a few (further details these schools experiences is available and some attached – each case shares the commonality of highly questionable merit selection decision making and/or internal bullying/staff reprisal which is allowed to be continued due to inadequate complaints handling and subsequent lack of independent oversight. Each of these cases is able to be expanded on, if necessary.

### **The Ethical Framework for the government sector**

Part 2 of the GSE Act establishes the **Ethical Framework for the government sector**

## Objective

- Recognise the role of the government sector in preserving the public interest, defending public value and adding professional quality and value to the commitments of the Government of the day
- **Establish an ethical framework for a merit-based, apolitical and professional government sector** that implements the decisions of the Government of the day.

## Core values

The core values for the government sector and the principles that guide their implementation are:

### Integrity

- **Consider people equally without prejudice or favour**
- **Act professionally with honesty, consistency and impartiality**
- **Take responsibility for situations, showing leadership and courage**
- **Place the public interest over personal interest.**

### Trust

- Appreciate difference and welcome learning from others
- **Build relationships based on mutual respect**
- Uphold the law, institutions of government and democratic principles
- Communicate intentions clearly and invite teamwork and collaboration
- Provide apolitical and non-partisan advice.

### Service

- **Provide services fairly with a focus on customer needs**
- Be flexible, innovative and reliable in service delivery
- Engage with the not-for-profit and business sectors to develop and implement service solutions
- Focus on quality while maximising service delivery.

### Accountability

- **Recruit and promote employees on merit**

- Take responsibility for decisions and actions
- [Provide transparency to enable public scrutiny](#)
- Observe standards for safety
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

Further evidence of such claims can be found in documents such as Mr John Hatton OA Submission 422 supplied for the Inquiry into Student with a Disability or Special Needs in NSW. Within this document Mr Hatton detailed the failure of DoE's heads to abide by the Public Sector Employees and Government Sector Employment Act 2013 and Code of Conduct and Ethics. (Attached pgs. 16-21).

It is strongly and genuinely felt that until such time as Department of Education are held accountable, investigated and reform actioned; their ingrained culture of nepotism and if questioned subsequent bullying behaviours and failure to adequately investigate community complaints will continue to fester and grow, directly affecting the quality, outcome and standard of NSW Public Education.

Please find attached supporting documentation that provides further evidence of the impact of the above-mentioned issues and the importance of addressing these, if genuine improvement in NSW Public school is wanted.

Should you have any further questions, please don't hesitate to contact me.

Kind regards

UPFRONT  
OPINION

# ADDING TRANSPARENCY

Independent accountability and a separation of the Ministry from the Department of Education is needed now, for everyone's benefit, writes **David Roy**

**THERE IS** a dichotomy in the systemic running of NSW education and schools in terms of the separation of responsibility. NSW has three basic school systems: public, Catholic and independent. However, the issue lies in the lack of separation of government oversight from the public system. Both are one and the same, the Department of Education.

The NSW Education Standards Authority (NESA), while monitoring all three systems, has direct responsibility for dealing specifically with misconduct issues in the independent and Catholic systems. When recent allegations of student abuse were revealed in both public and independent schools by the ABC 7.30 Report, NESA immediately dealt with the independent

as Family and Community Services or indeed even the police, you are informed that the Department of Education investigates itself, usually through the internal section EPAC – Employee Performance and Conduct ([www.dec.nsw.gov.au/about-us/how-we-operate/how-we-handle-complaints](http://www.dec.nsw.gov.au/about-us/how-we-operate/how-we-handle-complaints)).

It is EPAC that decides if a complaint should be reportable and thus investigated, or is only a matter for local area management inquiry. In effect this usually means a principal of a school investigates their own school. It is therefore little surprise to find that often a principal will find little to no fault in how they run their own school.

In August 2016 when the former NSW

Recent Senate inquiries into institutional responses to misconduct, as well as the current Royal Commission, have shown the dangers of systems that self-regulate and the potential for systemic cover-up

school, while the Department of Education was left to internally investigate itself.

Recent Senate inquiries into institutional responses to misconduct, as well as the current Royal Commission, have shown the dangers of systems that self-regulate and the potential for systemic cover-up. Public schools investigate themselves, and the concern is that too often they appear to find themselves at no fault.

If you contact any outside authority such

education minister, Adrian Piccoli, refused information on cases of reportable conduct, multiple families and teachers found their reports of serious abuse and assaults on children were not listed as reportable. If the internal investigative body, EPAC, does not find unexplained bleeding to faces and adult bruising of children reportable there is clearly a problem in accountability and potential systemic cover-up that needs to be challenged.



Recent media reports of the treatment of children in schools have alluded to concerns about this being the case within the NSW public school system. With the long-desired change of the Minister for Education, the time is now right to make a fundamental change in the monitoring and accountability of the public school system.

There is a valid argument that the Minister for Education should be separated from the NSW Department of Education. Currently, if you have an issue with the public school

transparent oversight over all education in NSW, and offer some protection to the Minister from accusations of corruption and cover-up, if ever there were found to be any.

The separation of accountability and investigation is apparent in other systems across the world. The different education systems across the UK are all subject to HM Inspectorate. This creates confidence within the community that the system is robust and trustworthy. Public school uptake is significantly higher in those countries

**Separating the Ministry from the Department of Education ... allows Parliament to have transparent oversight over all education in NSW**

system, the highest authority to whom you can complain is the Minister, and thus there will be no independent body until there is a separation between the Ministry for Education and the Department of Education. Too often I have heard allegations of the previous minister referring complaints back to the very people in the Department of Education who the complaint was about. Rob Stokes, the new Minister for Education, has an opportunity to break this cycle of internal collusion.

Such a separation would benefit parents, staff and management, as well as the Ministry. Removing the conflict of self-interest would mean all parties involved in the complaints process could have a greater assurance of transparency and that the findings are valid. The current NSW Parliamentary Inquiry into Students with a Disability or Special Needs in New South Wales Schools was initiated in part due to the concerns of many over the potential lack of impartiality of investigative procedures for complaints in NSW.

While some might argue that the NSW Ombudsman already has such a role, the terms of reference for the Ombudsman are to ensure that procedures are undertaken correctly, not to look at any potential conflicts of interest or lack of impartiality. In addition, separating the Ministry from the Department of Education would allow Parliament to have

where public schools are independently monitored. Having a similar body responsible for this, which is separate to the body that sets the curriculum, allows for the protection of children and staff, as well as for ensuring that curriculum delivery is of a standard to be expected.

Currently in NSW all these areas are meshed so that those that set the curriculum and those that review the quality of teaching are intertwined.

If there is no outside oversight, there is the potential for a lack of perspicuity.

As a staff member of the NSW Department of Education in EPAC once said to me when I asked about the lack of transparency in their investigative procedures, "Well, they are transparent to us".

Children, parents and staff have the right to open and fair protection. The NSW Department of Education investigates itself, and appears to be accountable only internally, just like the Catholic Church. Until there is an independent body to investigate complaints of abuse, no child is safe. **DR**

David Roy is a lecturer in education and senior staff at the University of Newcastle. He has extensive experience in education in a department that, where author and speaker.

