



GOVERNMENT OF
WESTERN AUSTRALIA

**Report to the Legislative Assembly in response to
Report No.8 of the Joint Standing Committee on the
Corruption and Crime Commission
in relation to the
Report on the Investigation of Alleged Public
Sector Misconduct in Relation to the Activities of
an Associate to a Judge of the District Court of
Western Australia**

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1. Introduction

The Government welcomes the report from the Joint Standing Committee on the Corruption and Crime Commission in relation to the Report on the Investigation of Alleged Public Sector Misconduct in Relation to the Activities of an Associate to a Judge of the District Court of Western Australia. The Report was tabled in the Legislative Assembly on 18 March and the Legislative Council on 23 March 2010.

The issues explored by the Joint Standing Committee relate to an investigation by the Corruption and Crime Commission (the Commission) of alleged public sector misconduct in relation to the activities of Ms A, who was an Associate to a Judge of the District Court of Western Australia (the District Court).

The Commission was concerned that incidents of misconduct may have been related to Ms A's access to protected information, in her capacity as Associate to a Judge of the District Court. The Department of the Attorney General (the Department) fully cooperated with the Commission during its investigation and the compilation of its report.

The issues identified in the Commission's report are of concern and the Government has given full consideration to the issues that were identified and is taking action to address the issues identified by the Commission.

The Department will continue to work with the Judiciary to effectively manage the risks and potential threats to the integrity and reputation of each court jurisdiction.

The following report sets out brief responses to the Standing Committee's findings and recommendations, and outlines actions taken by the Department to address the recommendations.

2. Issues Identified by the Corruption and Crime Commission

The Commission identified the following systemic issues within the Administration of the District Court of Western Australia and the Department of the Attorney General:

- Judges' Associates are employed by the Attorney General of Western Australia, upon the recommendation of the Chief Judge, under contracts of service, pursuant to section 27A(1) of the District Court Act.
- The various computer systems and databases used within the District Court are not under the control of the Judges; they are controlled by the Department of the Attorney General or the Department of Corrective Services (DCS).
- In the Commission's assessment, the Department of the Attorney General and District Court administration did not have strategies in place to undertake an adequate or effective risk management assessment of potential threats to the integrity and reputation of the District Court caused by Ms A's actual or suspected inappropriate or improper associations and/or drug-related associations. In particular, they did not:
 - undertake steps necessary to ensure, with respect to information management systems, that sufficient safeguards were in place to mitigate against unauthorised access and disclosure, including audit tracking, and monitoring, of access to confidential and sensitive information in order to identify anomalous use; nor
 - conduct adequate or regular vetting of court staff; nor
 - have adequate procedures in place to deal with allegations of misconduct by court staff.

The report from the Joint Standing Committee on the Corruption and Crime Commission had as an appendix a précis of the Commission's report, which included the following recommendation:

In consultation with the Chief Justice of the Supreme Court of Western Australia, the Chief Judge of the District Court of Western Australia and the Chief Magistrate of the Magistrate's Court, the Director General of the Department of the Attorney General should conduct a systemic review of policies, practices and procedures in order to assess the capabilities of the administrations of the respective State courts to undertake an adequate and effective risk management assessment of the potential threats to the integrity and reputation of each court, and to determine strategies to address identified shortcomings.

The review should include an assessment of the need for and capability of each court to manage the threats identified in this report relating to vetting of court staff, audit tracking and monitoring of access to restricted databases, and the capacity to deal with allegations of misconduct.

3. Response to the Issues Identified by the Commission

Since becoming aware of the issues identified by this Report, the Department has put in place an extensive work program, which has also involved consultation with the Judiciary, to address the issues identified by the Commission and to respond to the Report's recommendation. The following section outlines the actions taken to date:

a. Screening and Vetting of Department Staff

The Department has introduced a new criminal screening and security vetting policy, which requires a criminal record check to have been completed, prior to the commencement of employment, in order to come to an informed position as to the suitability or otherwise of an applicant for employment.

Procedures for security vetting are currently being developed, whereby the Department will be able to require any applicant to consent to a background check into matters including their immigration status, good character, details of known associations and any other matter identified as relevant. Security vetting will be required for various occupational classifications within the Department, where staff have particular access to confidential information.

b. Employment Status of Judicial Support Staff

The Attorney General has confirmed that judicial support staff will continue to be employed on twelve-month contracts under the *Supreme Court Act (1935)* and the *District Court of Western Australia Act (1969)*. A draft employment contract for judicial support staff has subsequently been developed incorporating legal advice from the State Solicitor's Office, and is now the subject of consultation with the Judiciary. The draft contract includes a specific requirement to comply with all public sector and Departmental policies and practices.

c. Policies and Procedures

More than 50 Departmental policies and procedures have been reviewed and only 4 have been identified which currently exclude judicial support staff. Advice has been sought from the Judiciary on applying these to judicial support staff, which will ensure the consistent application of policies and procedures across both Departmental and judicial support staff, and will ensure that they are aware of their responsibilities.

d. Induction and Training Programs

Induction programs will now be compulsory for all Court and Tribunal staff, including judicial support staff, and will incorporate a specific focus on obligations and responsibilities to maintain the confidentiality of information. Induction programs will include a comprehensive explanation and discussion of the requirements of key integrity-related policies and procedures to ensure that judicial support staff are

aware of the requirements, their obligations, and the processes to manage potential conflicts of interest.

e. Controls on Court-related Applications

The Department accepts the Commission's recommendation about the need for audit tracking functionality within CHIPS¹, which will be developed and introduced by 31 December 2010, with funding made available through the reprioritisation of existing resources. This functionality will be supported by the development of a governance framework to support the use of this additional audit information. Other mitigation strategies, where required, for other court-related applications continue to be investigated.

A review of access to court-related applications to ensure that access is supported by a work-related requirement has been completed for 11 of the 16 applications, with 5 applications still to be completed. Of the applications that have been reviewed so far, only officers with a work-related requirement for access have retained access. Ongoing assurance about the management of access will be provided through an annual internal audit review.

f. Risk Management Assessments

The completion of the actions listed above has been underpinned by the identification of strategic and operational risks for each of the Courts, and an assessment of the adequacy of current risk mitigations, which has been undertaken in conjunction with RiskCover. Identified further control requirements have been prioritised with work plans developed for implementation.

The discussion of these risk assessments forms part of ongoing consultation with the Judiciary.

¹ The acronym used for the Lower Courts Criminal case Management System.

4. Conclusion

The Department has made good progress and will continue to prioritise actions in response to the issues identified in the Commission's Report. It is expected that the majority of actions will be completed by 30 September 2010, and audit functionality introduced for CHIPS by 31 December 2010.

The Department will continue to consult the Judiciary on elements of current and future risks to the integrity and reputation of each court, and undertake reviews of assessments of strategic and operational risks.