

Review of the Employee Performance and Conduct Directorate

Terms of Reference

1. Context

The Employee Performance and Conduct (EPAC) Directorate sits within the Corporate Services Division of the NSW Department of Education.

The EPAC Directorate comprises 8 teams with approximately 90 staff, headed by an Executive Director (PSSE Band 2 role) reporting to the Deputy Secretary, Corporate Services.

EPAC implements responsive and effective systems to investigate misconduct and take appropriate disciplinary action in response and works to improve the quality of employees and services through analysing data from consumer complaints and working collaboratively to manage performance improvement programs.

EPAC currently delivers its services through three streams:

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| Investigations | <ul style="list-style-type: none">▪ Investigating allegations of employee misconduct, including offences forming part of the reportable conduct scheme, ensuring that Department's statutory responsibilities are met.▪ Undertake disciplinary and remedial action. |
| Staff efficiency | <ul style="list-style-type: none">▪ Empowering leaders to manage underperformance so the department's workforce is of the highest calibre.▪ Building capacity of and collaborating with educational and school leaders and managers to respond promptly and effectively to under performance. |
| Feedback and complaints | <ul style="list-style-type: none">▪ Manage the department's consumer complaints reporting system and work collaboratively with leaders using complaints data to improve services and respond appropriately to consumer complaints.▪ Build capacity of school and education leaders to manage complaints and restore relationships with consumers.▪ Communicate with consumers about how to raise issues, feedback and complaints about Education. |

2. Purpose of the review

The purpose of this review is to examine and make recommendations to the Secretary of the department about the Employee Performance and Conduct (EPAC) Directorate and identify areas for improving operational efficiency, the timeliness of outcomes, as well as opportunities to enhance stakeholder's perceptions on aspects like independence and procedural fairness.

The specific focus of the review will be on the investigation stream and the way allegations of staff misconduct are referred to EPAC, and how those allegations are received and managed.

3. Scope of the review

The review will examine and make recommendations about:

- the structure and adequacy of resources currently deployed in the EPAC Directorate;
- the roles, responsibilities and functions of EPAC;
- investigation practices and procedures in use within EPAC;
- how procedural fairness considerations are incorporated into investigative practice and procedure and demonstrated as part of the investigation process;
- the tools, systems and processes used to manage cases under investigation including monitoring and reporting on the time taken to finalise investigations;
- opportunities for improving the timeliness of investigations while maintaining the quality of investigative outcomes.

The review will also consider how similar investigative functions are managed by other agencies both within and outside NSW in both educational and other professional settings and make recommendations as to how established best practices might be embedded within EPAC.

By way of example, and without limitation, the review may consider how similar investigative functions are managed by other agencies, both domestically and internationally. Agencies within Australia may include, for example, the NSW Law Enforcement Conduct Commission, the NSW Health Care Complaints Commission, The Education Queensland Ethical Standards Unit and the Employee Conduct Branch within the Victorian Department of Education and Training.

4. Consultation and submissions

There will be extensive stakeholder consultation undertaken as part of the review.

Stakeholders to be consulted include, but are not restricted to:

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| ▪ The Public Service Association | ▪ Deputy Secretary, Educational Services |
| ▪ The Primary Principals Association | ▪ Deputy Secretary, Corporate Services |
| ▪ The Secondary Principals Council | ▪ Director, Industrial Relations |
| ▪ NSW Teachers Federation | ▪ General Counsel – Department of Education |
| ▪ Directors Educational Leadership | ▪ NSW Ombudsman |
| ▪ Deputy Secretary, School Operations and Performance | ▪ NSW Children's Guardian |
| ▪ EPAC Directorate | ▪ New Law Pty Ltd |

5. Governance

Mr Mark Tedeschi AM QC has been appointed to conduct the review. Support and advice to Mr Tedeschi will be provided by or on behalf of Mr Peter Riordan, Deputy Secretary Corporate Services.

6. Timelines

The review will commence in March 2019 and will be concluded by 14 June 2019.

The review will produce a report and deliver that report to the Secretary of the Department by 30 June 2019.