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# Opening address to 2009 Symposium

*Working Together: Advancing Child  
Protection in the Workplace*

Monday 25 May 2009

Bruce Barbour  
NSW Ombudsman

Thank you Anne.

Good morning everyone, welcome and thank you for attending our symposium on child protection in the workplace.

I would like to start by thanking and acknowledging the traditional owners of the land on which we are meeting, the Gadigal People.

We have a fascinating and diverse range of speakers and facilitators for the next two days. We will be encouraging your active participation and I am confident that you will be able to take much from the sessions back to your work as administrators, investigators, academics and researchers.

I do not need to tell you that child protection is an extraordinarily broad issue. In the context of my office alone, it includes reviewing child deaths, working with Aboriginal communities and government agencies on auditing policies to tackle child sexual assault in Aboriginal communities, ensuring children are provided with adequate and appropriate care when they are living out of home, and of course our work in relation to child protection in the workplace. I will only be touching on this final aspect today, but of course all of these areas are interrelated.

I would like to talk briefly about the history of my office's involvement in this area. It has been ten years since we were first provided with this important and unique role to oversee employer's investigations of allegations and keep related systems under scrutiny, and we have learnt much during that time. We have also seen a real change in the way organisations think about and act upon issues around child protection.

I also want to take this opportunity to discuss some of the future issues and challenges that we will face. This symposium was designed to create a forum which brought together a diverse range of ideas, experiences and approaches.

There are certain people, positions and institutions within society in which, for a long time, we placed our trust without a second thought. Not just the community – but also government.

We trusted teachers and child care workers with our children, we trusted community service workers and foster carers to care for those who were already vulnerable and who had often already been improperly treated

We trusted schools, child care centres and churches. We assumed that when children were in the care of these institutions, they were protected and safe from harm and that we no longer needed to worry.

Sadly, in many instances, this trust was and has been misplaced.

In saying this, it is very important for me to note that the vast majority of people working in these organisations and with children do good work to help the community and pose no risk to the children in their care. The reputation of these professions must not be unfairly tarnished by the few who break our trust.

In 1997, the Wood Royal Commission highlighted a number of systemic failings when it investigated issues relating to Paedophilia and child abuse. There was a lack of commitment to an effective system for protecting children in NSW, a lack of coordination of roles, and a lack of communication among involved agencies.

These issues did not appear overnight, they were not unique to NSW, and Wood was certainly not the first to raise them. However, the Royal Commission, as such Commissions often do, provided the impetus for reform.

The Commission's recommendations included the introduction of pre-employment screening checks, better interagency cooperation, better records management around disciplinary processes and ongoing child protection training for employees. Justice Wood also recommended establishing the Children's Commission, and that my office conduct investigations into allegations of sexual misconduct against employees of the Departments Community Services, Juvenile Justice, Sport and Recreation and Education and Training.

The government responded with a number of reform initiatives and commitments and went further than Wood's recommendations, giving the Ombudsman responsibility for overseeing the investigation of child abuse allegations against employees of all government and some non-government agencies, and to also keep the relevant systems under scrutiny.

Not surprisingly, when first given this role we were met with a less than positive reaction from many of the organisations affected by these new obligations and our oversight.

Agencies and their employees feared our involvement was going to result in a rash of false, vexatious allegations, investigations were going to be held up indefinitely, and we were going to make binding decisions about people's employment, ruining their careers.

None of these things have happened, despite us having received and dealt with over 15,000 notifications since the introduction of the legislation.

Indeed, the number of notifications to our office that are found to be false or vexatious has hovered around one percent of the total notifications since 2002.

Our involvement has not slowed investigations. If anything, our advice and guidance around the best way to manage and conduct an investigation has meant they are often quicker, and in many cases more thorough and professional.

Far from unfairly ruining careers and reputations, the current system has provided a level of certainty to staff the subject of allegations. They know how an allegation will be handled by their organisation and they know that they will be given an opportunity to be made aware of and answer any allegation made against them.

The sky has not fallen in. The various sectors within our jurisdiction have not ground to a halt. Lives have not been unfairly ruined. What we have are systems that allow for early identification, recognition and management of situations and behaviour that would have either passed unnoticed or ignored.

These advances have not been the result of our work alone. As the title of the symposium suggests, we are working together. In the last ten years, we have worked alongside many of you to develop and refine your systems for dealing with allegations against staff.

Many agencies have gone from hostility towards our involvement, to reluctant adherence with our recommendations, to acceptance, and finally to leading the charge in promoting many of our recommended processes. This is a very important development, as a truly effective system needs to be driven by the organisations themselves, rather than by offices such as mine.

We see agencies better equipped to investigate allegations because of improved systems, a greater awareness by employees of what is acceptable and unacceptable behaviour and those conducting investigations are better trained and more confident, more skilfully interviewing children and young people. All of these processes are better and more accurately recorded.

Is there more to be done? Yes

One of our consistent messages has been the importance of effective risk assessment and risk management. It is not enough to merely react to situations as they arise. Organisations need to continually improve the environmental factors that may lead to an opportunity to develop an inappropriate relationship with a child. This can involve limiting the amount of unsupervised contact with children and changing physical layout of workplaces. Most importantly, agencies need to provide guidance and training to employees around building appropriate relationships and setting acceptable boundaries, particularly where they may be required to build close relationships with vulnerable children. These types of changes are vital, as no amount of employee screening will detect all those who are likely to offend.

The success of all our work in this area is reliant on those of you working in the agencies and organisations that are within our jurisdiction. Chief executives and senior managers must recognise publicly the importance of effective child protections systems. Employees need to be comfortable with the idea of receiving and passing on, or in some cases, investigating, an allegation. Employees also need to have faith in the strength and fairness of the systems that are in place.

While we have come a long way together, there will always be new challenges that develop and issues we will need to tackle. I want to briefly mention two of these: cooperation and information sharing among agencies and the implications of continuing advances in technology.

A re-occurring theme in much of my office's work, not just around child protection, is the pressing need for a greater level of cooperation between agencies. We need to overcome the disconnect that still exists, which results in several agencies often dealing with the same people as well as the same information, or worse, information slipping through the cracks, a disconnect which is compounded by an ingrained fear of potential breaches of privacy.

Many agencies attempting to investigate allegations have told us they experience particular difficulties when trying to obtain relevant information from Police. It is common for agencies to be in a position of investigating an allegation at the same time as a police investigation into the same or related conduct. If agencies cannot access this information, they may re-interview alleged victims, witnesses and employees, causing unnecessary distress. It can mean their investigation takes longer than it should. It may also mean they are not accessing all of the available information. Police are concerned to ensure that do not breach privacy laws or prejudice their own investigations.

I recognise that tensions arise around how best to deal with competing interests and obligations in such areas, but there must in my view be a greater level of clarity and consistency around what information agencies and organisations can and cannot share. Privacy principles are obviously important, but I would argue that in almost all cases the safety and wellbeing of children should be considered paramount.

This is not a problem confined to child protection in the workplace. The recent Wood Special Commission into child protection recommended that:

*Agencies, including non-government organisations should be free to exchange information for the purpose of the safety, welfare and well-being of a child or young person, and for that to occur, amendment is required in relation to the existing privacy legislation. In addition, enhanced interagency collaboration and acceptance of responsibility for child protection is recommended.*

Another challenge arises from the pace of the continuing developments in technology. Fifteen years ago, the world wide web was a new and exciting development available only to a select few. Mobile telephones were just telephones (and were far more difficult to lose), and social networking took place face to face.

We all know how much has changed. Quick, easy internet access, just about anywhere, is common place, and the current generation of 'digital natives' have made electronic communication an integral part of their everyday lives.

Education is just one area where these changes have had a marked impact. The classroom is no longer the only point of contact between students and teachers. It is not uncommon for schools to have computers that are constantly online, to allocate students and staff email addresses, and for students and their teachers to communicate online on a range of topics, such as assignments and activities.

One of the disturbing by-products of these developments is the level of exposure children now have. They are able to engage in risky behaviour, often from the safety of their own homes, with little or no realisation or understanding of the potential impact of their actions. Research in this area has also indicated children are more likely to take risks online they would never consider in face to face contact.

A recent survey by the Bureau of Statistics found that 64% of households had internet access. In 1998, only 16% had such access. Another survey by the Department of Broadband, Communications and the Digital Economy in 2007 found that 69% of 13-17 year olds reported that they used the internet everyday to chat to and message people. The 8-12 age group reported that they used the internet between one and four days each week. Finally, and of concern, the Wallis Consulting Group found 46% of children had no immediate supervision while using the internet.

Much of the research around the use of technology to develop inappropriate relationships with children has focussed on the actions of strangers, rather than those with a pre-existing, ongoing face to face relationship with a child.

This electronic contact needs to be carefully monitored, as it presents another point of contact and opportunity for the development of inappropriate relationships between children and employees.

This issue provides many challenges as it is simply impossible for employers to monitor all electronic contact their employees have with children.

The two challenges I have mentioned are just two of many that we will discuss over the next two days.

It is clear from our work over the past tens years and our thinking about the challenges ahead that child protection in the workplace will continue to be a challenging area. This symposium gives us an opportunity to take stock – we can assess how we are going, we can affirm what we have got right and acknowledge and discuss what we could do better, perhaps most importantly we can work together to prepare for the challenges ahead, advancing child protection in the workplace.

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