

Talking Point

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Inquiry cloud must be lifted

There needs to be an open and transparent process to clear the air, writes David Adams

In parliament on Wednesday, Premier Jeremy Rockliff attacked independent MLC Meg Webb for naming 22 individuals and eight agencies against whom the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings could possibly have made adverse findings or findings of misconduct under S19 and S18 of the Commissions of Inquiry Act, but was unable to on the information before it.

The Premier's statement spent a lot of time maligning Ms Webb and asking her to apologise and very little time addressing the basic issue of the cloud that has been lingering over the individuals and agencies for months.

The statement by Ms Webb simply restated much of the commission's findings, namely that for a variety of reasons the commission was unable to properly investigate a number of individuals and agencies where adverse findings, or findings of misconduct may (or may not) have been made.

The constraints faced by the commission are outlined in the Report Summary pp25-26; Chapter One, pp13-17; and Chapter 23, pp319-321.

On my reading, neither the commission nor Ms Webb claimed that adverse findings or misconduct had been investigated, let alone 'proved' or otherwise, but rather the process of inquiry was truncated in part by the actions of the state. Entirely legal actions of course and based on fundamental principles including procedural fairness. So to be clear there may be nothing to see here.

But the consequence according to the commission was it was unable to properly investigate people for their actions in a transparent manner – the basic role of the commission. So the cloud was formed then and there, without a satisfactory resolution for anybody.

And while there has been a subsequent exchange of correspondence between the Premier and the commission, at no

point, including in the Premier's statement in the parliament on Wednesday, has there been an open and transparent process mooted by the government to lift the cloud, to demonstrate accountability, to clear the air.

Much of the report is about flawed systems and how those systems meant to protect children failed them. Rather than the Premier just reiterating the importance of procedural fairness on Wednesday, he could have responded to the commission's concerns about how the Tasmanian legal system, though not him personally, apparently hindered accountability.

The extent to which such system failures could be, or not be, related to the actions or inactions of individuals or agencies and the extent to which individuals or agencies could have or should have acted differently is what the commission inquired into, but not as widely as it would have wished.

Since the individuals and agencies have not been able to give an account, or give their side of the story, or be held to account, it is not transparent whether or how the recommendations of the commission effectively address the individual and systemic risks that may have been identified.

Rather than blaming the commission for not doing its job and Ms Webb for making public the names from the report, the Premier needs to finally explain how the issues raised by the commission are now going to be addressed.

There may be nothing to see here, but Tasmanians don't know.

Editor's note: On Thursday, the Premier, Jeremy Rockliff, told parliament that government lawyers were in fact provided with a list of those facing potential adverse findings from the Commission of Inquiry months ago – revising a statement he made in parliament 24 hours earlier.

David Adams is a Professor at UTAS and was Tasmania's inaugural Social Inclusion Commissioner.