



Lessons Management Webinar Series

Learning Lessons from reviews and Inquiries – 14 October 2020

Unanswered Audience Questions, responses from Euan Ferguson and Mick Keelty

When doing these reviews which are postured to identify lessons, and you discover an issue, event or similar which may lead to legal implications, how do you navigate around them to identify the organisational level lesson cause without prejudicing outcomes of other reviews?

Euan: I'd always seek legal advice at an early stage. As a reviewer, one needs to be constantly mindful that there may be other legal processes yet to be initiated. For example, a Coronial Inquiry may occur, but well after the Review/Inquiry. Civil litigation is also quite common. Any report or Review is subject to discovery through Freedom of Information requests.

Mick: The Perth Hills Bushfire and Margaret River Bushfire Reviews I had access to Counsel who was the WA Govt General Counsel. Counsel sat in on a few 'hearings' to be assured the process and we had Counsel present when others wanted to appear with legal representation. In the Bega Valley and SA Bushfires, the State Coroner was involved so we engaged early with the Coroner and if any legal issues arose, we consulted Crown Law or the Coroner or both.

I have had some traction in my Organisation of getting Lessons Identified put on to the Operational Risk Register. This has greatly reduced the blame game to individuals as it elevates the lesson identified to an organisational issue.

Euan: Maintaining an organisational risk register is a good governance practice.

Mick: Good idea – the Risk Register and the Australian Standard for Risk ISO31000 is a good benchmark from which to use a comparative measurement rather than go down the 'blame game' path.

Notwithstanding our Federated systems and disasters emanating from numerous hazards seemingly occurring every season, do you see value in a national body to coordinate or conduct post-disaster inquiries - to take inquiries a little out of the political realm?

Euan: The Federated system, although not always perfect, is what we live within. The question of a National body, or National coordination would be up to the Commonwealth and States and Territories. COAG (or now, the National Cabinet) may be a forum for discussing the need for this.

Further, I understand that the current Royal Commission on National Natural Disaster Arrangements may be considering national coordination of some functions (eg: aerial firefighting). I think "watch this space".

Mick: Watch this space! When the Royal Commission hands down its findings next Monday then I am sure it will address this problem as well as the 'trigger' for national cross-jurisdictional intervention

Would either of you care to comment on 1) the validity of enquiries that are based on a Judicial / adversarial model which seems to default to the "looking for blame" mode; and 2) how effective is an expert review in that model?

Euan: I think the principle of natural justice is a good one. A "blame" culture is rarely efficient or effective in the long run.

Mick: I am not in favour of the adversarial approach – my preference is for a leadership/management approach that firstly identifies the problem before suggesting solutions.

I think the challenge for an Independent Reviewer is to understand the corporate culture of the Organisation being reviewed. If there is a 'just culture' that encourages learning through the identification of Lessons, then the Independent Review should be welcomed. If the Organisation has a blameworthy culture, that gives rise to the 'out to get me' mindset.

Euan: I agree with the statement. We also need to recognise that "natural justice" does not preclude accountability.

Mick: Culture comes from leadership and more often than not, it plays a key role in how the agency accepts an independent review. At the end of the day it is up to the Government to ensure that independent reviews are not a waste of taxpayers' money and everyone's time. Ministers need to be decisive and move on the leaders who resist change and are affronted by independent reviews.

Comprehensive reviews can make far-reaching recommendations to react to emerging changes such as climate change - but this typically occurs after things have already gone wrong. Are there any opportunities to make reviews part of a more proactive response to avoid these consequences from happening in the first place?

Euan: I like the concept of a "pre-mortem" that Christine Owen refers to in her published work. The underpinning issue here is one of risk management. By its nature, risk can/should be future focussed. Foresight, anticipation, and consequence management are all worthy practices.

Mick: Again, watch this space! I am hoping that the Royal Commission addresses this. I am wary of opportunistic media spruikers when these problems have been evolving for decades. People should have been addressing these issues long before the 2019/20 season as was articulated in the Black Saturday Royal Commission in Victoria.

Should reviews focus on the quick wins with one or two longer term lessons identified? Or break down the large-scale changes into smaller chunks (quick wins) to achieve the overall objective?

Euan: I like what Mick said in the webinar: You are better to have a smaller number of substantial recommendations, rather than a large volume of less significant ones. Looking at the system and identifying root causes is a good approach to get to the nub of an issue.

Mick: As discussed in the webinar – most governments progress at a snail's pace but not necessarily for the wrong reasons because they are spending taxpayer's money and need to have proper governance and audit procedures for major procurement. Sure, there will be some low hanging fruit but more often than not it requires capital at the State and local government levels.

Reviews are typically conducted in the immediate aftermath of an event, while the community are shocked and grieving. They also typically focus on the response phase. Should we be commissioning reviews of prevention, mitigation, response, recovery, and resilience during times when we are not in the immediate recovery phase?

Euan: Yes. In a comprehensive approach prevention, preparedness, response, and recovery should all be considered. Having said that, these need to be considered when the Terms of Reference are being developed.

Mick: We had those ToRs for the SA Bushfire Inquiry and tried to stick to them but also, in the WA inquiries we looked at preparation and poor recovery planning especially with wrongly identified evacuation centres. Like flood and drought – it is only front of mind of governments unless they are led by exceptional leaders.

Do the reviews gloss over or under-emphasize the positives? So, the reviews come across as negative. This is of interest to the media; but does not help the agency to respond.

Euan: There is always room to recognise what has been achieved through previous reviews, lessons identified, and lessons learned. It is important to recognise the legacy from previous generations. Recognise what you have, but always strive to do better.

Mick: When we undertook the SA Bushfire Review, we tried to avoid this pitfall by asking What went right? What went wrong? How can we improve for next time? It is a simplistic approach, but it identifies what went right as well as mistakes. This is useful to determine best practice and to share with other jurisdictions about how to improve.

Culturally/politically there appears a tension between agencies. When we work towards implementation on lessons/recommendations, how do we lift the thinking? Inspector General roles are key to steering implementation, yet some lessons are complex, and a nuance is the governance to support implementation and improvements in EM. New agencies, MoG changes, churn in leaders and election cycles can take us back a decade and we see the same trend of findings and recommendations.

Euan: There is a lot in this question. However, the one thing that we can work on is relationships. If you work on establishing and improving relationships with your peers and other organisations then you improve communication, trust, respect, and attitude. You can then shape a common intent. When everything else “falls” (or “fails”) what you are left with, is your relationships with others.

Mick: It is sadly a fact of life that we have a revolving door of political leaders most of whom are focused on the next election so strategic change and sticking to the plan is rare. Even rarer is a non-partisan approach to what is an apolitical problem – the forces of nature! New governments feel compelled to turn 180 degrees on decisions of previous governments and New governments tend to be characterised by certain levels of obsequious appointments of bureaucrats who are more like a sycophant than a leader in this space. Not sure any of us is in a position to change this as it is sadly a reflection of the quality of political leadership in our country.

Is there merit in people developing a greater understanding of complex/wicked problems and situation so they can deal with the 'no win' circumstances

Euan: Yes. We need to infuse in our future generations an understanding of a VUCA environment (volatile, uncertain, complex, and ambiguous). They need to feel comfortable making hard decisions in a high consequence environment. We need to be comfortable with the fact that, every now and then, there will be failure. In fact, you could argue that success requires us to fail - but fail fast so that the consequences are less. Be comfortable with uncertainty. With that should come a supporting culture (read: “intent based leadership”, mission command). This all goes to organisational culture. Leaders of organisations need to continually set goals for a future culture that equips future leaders.

Mick: Great question! We do not handle human nature and mistakes very well and we do overestimate our human ability to control everything that mother nature throws at us. We have to learn to accept that human intervention cannot always win, and we have to match our expectations with reality.