



# UWA ACADEMIC STAFF ASSOCIATION

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## PROFESSIONAL DEVELOPMENT REVIEW

There has been a review of the professional Development Review conducted by Professor Shelda Debowski, which has been made available to staff for comment. The plethora of reports, reviews and new proposals by management have long since reached the point of legislation by exhaustion. What academic has the time to even notice the publication of these documents, much less respond to them? The Academic Staff Association has been attempting to elicit the views of members and respond to key documents and make a critique of proposals on their behalf. These responses and critiques have been reproduced on our website.

In the case of the Professional Development Review, the Academic Staff Association and the local branch of the NTEU have a great deal of background and close involvement in the matter, a position not shared by Professor Debowski, whose document appears to reveal a serious misunderstanding of the development review.

*Let me quote in full the document that was authorised by the then Deputy Vice-Chancellor, Professor Alan Robson, to be sent to all academic staff at the origin of the developmental review at UWA, then called the Staff Development Review.*

### ***“TO ALL ACADEMIC STAFF***

#### ***STAFF DEVELOPMENT REVIEW***

All members of the academic staff at this university are at present, or soon will be, undergoing reviews for staff development. Members are reminded that although this review is compulsory, it is developmental in nature and **is not intended to be a performance appraisal**. The exercise is primarily one of self-evaluation, related to the areas of teaching, research and service followed by a discussion with a departmental appraiser or reviewer.

All heads of department are appraisers for staff development. Our Union's concern was that the other roles of a head of department such as the role of supervisor and identifier of unsatisfactory performance, together with an already significant workload, might impede the head's role in staff development. For this reason the union secured the agreement of the university to appoint further departmental appraisers. Since the role of the appraiser/reviewer is intended to be that of a mentor, it is important that departmental members choose as appraisers those with appropriate qualities and skills to assist staff in development. The union with support from the university administration, recommends that the alternative appraisers for staff development should be elected by the department through a secret ballot in the absence of the head of the department.

Because this is a development review, academics cannot be required by their appraisers to undergo student evaluation of teaching. If any academic as part of the self-

evaluation process wishes to use a Student Perception of Teaching (SPOT) survey, the survey results will be forwarded to them and not to the head of department or alternative appraisers. As indicated in the union's April-May newsletter, SPOT can only be authorised to release survey results to any person other than the person surveyed, by written consent from the individual concerned.

Departmental heads are responsible for reporting aggregated staff development needs to the Executive Deans so that the university and the Centre for Staff Development can devise suitable programmes to address more general needs. If there is a written record of the review, it will be kept in the department and will be accessible by the head of department. Any development programme requiring resources will need the approval of the head of department and would be published to the department through the open budgeting process. Otherwise matters concerning individual performance should remain confidential to the appraiser and appraisee.

If you are aware of any departure from the above principles or are concerned at any aspect of the staff development review process in your department you should inform:

*Sandra Penrose (then President of UWAASA and UWA branch NTEU)*

*Or Owen Hicks (then head of the centre for Staff Development)*

*Or Professor Alan Robson (then Deputy Vice-Chancellor)”*

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## PROFESSIONAL DEVELOPMENT REVIEW *continued*

Of course since the time when the above was written the Universities have traded much of their birthright for a few messes of potage dished out by the Howard government. There have been changes to the structure of the University of WA since that period and although Alan seems to have more confidence in “managerialism” than he used to display, the Staff Association does not. The Professional Development Review is part of the Enterprise Bargain and cannot be substantially or even modestly altered without the Union’s consent. Performance Review is also in the Enterprise Bargain and can be used as a part of the procedures under unsatisfactory performance but IT IS NOT TO BE CONFUSED with the developmental review! It is unfortunate the review committee did not appear to understand the professional development review and HAVE CONFUSED IT with a performance review. This document is therefore fundamentally flawed. Academics should report any instances of such confusion to the Academic Staff Association and may be assured that performance will not be substituted for development as far as UWAASA and the local branch of NTEU are concerned

Human Resources also seems to have slipped into similar mistaken assumptions. Does Human Resources have the skills and the personnel to manage the greatly enhanced role suggested by Professor Debowski in this document?

In our view it remains the case that there is too little mentoring at UWA. The few opportunities available to staff to develop their careers should certainly not be subverted by performance reviews and associated sanctions. The suggestions of compulsory SPOT and more extensive record keeping will also be resisted as inappropriate in developmental mode.

## INTELLECTUAL PROPERTY

Members may have noted newspaper reports on the case of The University of Western Australia versus Gray. The decision on this case was handed down by Justice J French on 17 April 2008 and it poses some serious challenges to the normal assumptions of Australian universities in relation to the subject of intellectual property. The judgment will no doubt be challenged by the university, presumably to the full court of the Federal Court and then, no matter what the finding, to the High Court since neither of the parties will be content with an adverse decision.

In anticipation, Justice French has set out his reasoning with commendable thoroughness (which, depending upon the paper size, runs between 400 and 600 pages).

Clearly it is not possible even to give the gist of 400 pages in a paragraph or two so I intend only to highlight a few points that stood out in my reading of this case.

- *The contract of employment at a university does not confer upon the employer the benefit of an invention made by the employee even if it were made in the employer’s time and using the employer’s human and material resources.*

- *It appears from this judgment that unless an academic is specifically hired to invent a particular invention or specifically make an improvement to an existing device, the general duty to “research” will not be taken as a justification of the University’s right to the intellectual property that results from the research. The intellectual property remains with the individual.*

The overwhelming impression left by the case law cited and the judgment given here is that intellectual property is conceived as an individual property right and can only be appropriated by an employer body under very specific arrangements. General arrangements will not legally suffice to override the individual’s right, in the view of Justice French.

*The UWAASA newsletter is written and edited by Dr Sandra Penrose, and authorised by the acting UWAASA President, Professor Stuart Bunt.*

## THE UWAASA COMMITTEE MEMBERS—A PROFILE

*INTRODUCING Dr Allan McKinley, senior lecturer in the former department of Chemistry, now part of the School of Biomedical, Biomolecular and Chemical Sciences in the Faculty of Life and Physical Sciences. Allan is Deputy Head of School.*

Allan came to UWA from a post-doc position in the United States in 1993. He is originally from Napier and attended Canterbury University in New Zealand.

Allan enjoys all aspects of his academic life and makes a great contribution to them all. His lectures to school age scientists have been much appreciated over many years and he is a regular at the UWA expo. His research interests are radicals and there is an environmental issue of ground water which is another area of research activity. Allan has long served the university in addressing issues of occupational health and safety and has for some years been chair of the UWA Safety Committee. He runs safety courses for the university and for industry. Allan has been an elected academic member of the UWA Senate since 2005.

Allan has been a member of the committees of both the Academic Staff Association and the UWA branch of the NTEU for many years. He currently is the Treasurer of the Academic Staff Association, and thankfully will remain in that position until at least July 2009.

Allan is married to Patricia, a medical surgical nurse at R.P.H. and is the father of two boys and a girl. All the family are keen on their British short-haired cat, Rosie. Allan enjoys bridge but finds too little time available for it over the past few years.

### Administrative Officer and Executive Officer

Joanna Manvell is the part time administrative officer— details per UWAASA.

Sandra Penrose is the executive officer, working one day a week (generally Thursday). Phone 6488 2487 on Thursdays, 9447 3667 (Home) or skpenrose@bigpond.com