

TERMS OF REFERENCE FOR MARIA DEW QC

INDEPENDENT REVIEW OF WORKPLACE CULTURE FOR LYTTLETON PORT COMPANY

Dated 13 July 2020

1. SCOPE OF REVIEW

- 1.1 Maria Dew QC (the reviewer) is appointed by Lyttleton Port Company (LPC or employer) to conduct an independent review of workplace culture.
- 1.2 LPC wishes to ensure all its employees work in a positive and safe workplace with zero tolerance for bullying, discrimination, harassment or other inappropriate conduct.
- 1.3 This review process has been instigated by LPC's Chief Executive Officer supported by the Board of Directors, after identifying concerns about bullying, discrimination and other inappropriate conduct creating a poor workplace culture at LPC. These potential concerns came from a number of sources including internal observations, discussions with employees, feedback in an employee survey and allegations made by current and former employees in an article published by Newshub on 17 May 2020.
- 1.4 There are no named complainants who are identified at the outset of this investigation.¹ The identity of the current and former employees referred to in the Newshub article are as yet unknown.
- 1.5 This independent review will receive any evidence available, including allegations made by former or current employees, executives and contractors, over the past three years between January 2017 and 17 July 2020, relating to:
 - (a) Bullying;
 - (b) Racial and Sexual Discrimination;
 - (c) Harassment; and
 - (d) Unfair selection of family members for roles.

¹ LPC has received a specific complaint from the family of a former employee, Kassandra Hey. This is being investigated separately by another independent investigator and is not part of the Maria Dew review process.

- 1.6 The independent review report will, if possible, be provided by 30 September 2020. If this date needs to be extended LPC will be advised of this not later than 30 August 2020.

Terms of Reference One: Review of Workplace Allegations and Evidence

- 1.7 The reviewer will review all workplace allegations and evidence within the scope of the review and assess whether the nature and extent of such allegations and evidence raise concerns about the workplace culture of LPC.
- 1.8 The Chief Executive Officer, the LPC Board, employees and union representatives may submit information that they believe might be important to the review.
- 1.9 The reviewer may also address any related matters that arise during the investigation, provided the investigator considers this is necessary to meet the purpose of this independent review.
- 1.10 The reviewer will not make factual findings in relation to any particular employee's employment, but will seek to collate information about the range of allegations and evidence, in order to provide an accurate review of the LPC workplace culture.

Terms of Reference Two: To assess the LPC workplace culture and make recommendations for change

- 1.11 To assess the workplace culture of LPC, within the scope of the review, including evidence of any allegations of a toxic work environment, attitudes, and tolerances to inappropriate behaviour.

Terms of Reference Three: Referral of evidence or allegations which may give rise to a disciplinary employment investigation.

- 1.12 During the review process, allegations may arise or information or evidence disclosed which may indicate the need for a separate employment investigation related to a named current employee.
- 1.13 In this event, the matter will be promptly referred, with the consent of the disclosing person, to the LPC, General Manager Human Resources for immediate investigation.

2. REVIEW PROCESS

The review process will involve the following steps:

- 2.1 LPC will provide to Maria Dew any information or evidence that it believes may assist the investigation.
- 2.2 All eligible participants will be invited on a voluntary basis to come forward to be interviewed in the review. This will include all current and former employees, contractors, management and union representatives who have been engaged with LPC in the past three or so years.
- 2.3 Any participant who wishes to come forward to the review, but is the subject of a confidentiality provision in an Employment Record of Settlement with LPC, will be permitted to disclose all relevant information to this independent review. LPC agrees that it will provide a written waiver of confidentiality to any participant, provided that the waiver will only permit disclosure for the purposes of this review and to the reviewer.

Invitation for Participants to be interviewed

- 2.4 First, LPC will invite any participants to come forward to be interviewed relating to the topics referred to in clause 1.5 . They will be invited to contact the reviewer via confidential external email². A period of **14 days** will be allowed for participants to register their interest by email.
- 2.5 All participants will be interviewed, and a written summary of the interview taken and a copy provided to the participant where requested.
- 2.6 In order to take part in the review a participant will agree to be interviewed by the reviewer³. A participant may take a support person or representative to any interview.
- 2.7 The reviewer may request any person to come forward to be interviewed, on the basis that they may have relevant information to assist the review.

Documents to be produced to the review

² This email will only be accessed by Maria Dew QC and her assistants in the review and any participant email will not be shared with the employer without the written consent of the participant.

³ The review team consists of Maria Dew QC, a junior lawyer and administrator engaged by her.

- 2.8 The reviewer may require LPC or any current employee or contractor to produce any documents the reviewer considers relevant to the review.

Opportunity to respond

- 2.9 Following the interview of any participants, where considered necessary by the reviewer, any interview statements may be produced to any other person the reviewer considers to be a relevant respondent participant.
- 2.10 The respondent participant will also be asked to respond to any information contained in the witness statements. A written summary of the interview will be taken, and a copy provided to the interviewee if requested.

3. INDEPENDENT REVIEW REPORT

- 3.1 The reviewer will produce a draft written report providing a summary and assessment of all interviews and documents reviewed, but maintaining the confidentiality of participants where requested by the participant and so far as the law allows.
- 3.2 The draft report will be provided to LPC for comment before it is finalised. Portions of the draft report may be provided to any participant for comment where considered necessary by the reviewer.
- 3.3 The final report will be provided to LPC, who will determine how it is communicated to any other parties.
- 3.4 Maria Dew will produce an Executive Summary of the final report and its recommendations which will be provided to all participants in the review, all current LPC employees and contractors and other interested parties. The Executive Summary will not identify any individuals by name, except where they have given their written consent.

4. REVIEW PRINCIPLES

- 4.1 The review will be completed in accordance with the principles of natural justice, so far as this is necessary for a review of workplace culture. The reviewer will determine what information needs to be provided to any parties involved having regard to the need for the review to be fair to all participants.

- 4.2 The final review report will be confidential to LPC except to the extent that the Executive Summary of the Review may be published.
- 4.3 Information will only be disclosed to other participants where that is necessary for the purposes of the review.
- 4.4 Any information provided to the reviewer will be provided on the basis that it may be disclosed, by the reviewer, to any other person involved in the review and in order to ensure that the reviewer is able to conduct the review in a fair manner.

5. DOCUMENTATION SUPPLIED

The reviewer will be provided with the following initial documentation, which will be taken into account in the review:

- 5.1 LPC relevant HR Policies;
- 5.2 LPC Organisational Chart;
- 5.3 HR data on Bullying, Harassment, Discrimination complaints and or relevant exit interviews reported to LPC over the past three years;



Roger Gray
Chief Executive Officer
Signed for and on behalf of LPC

Dated 14 Jul 20

