

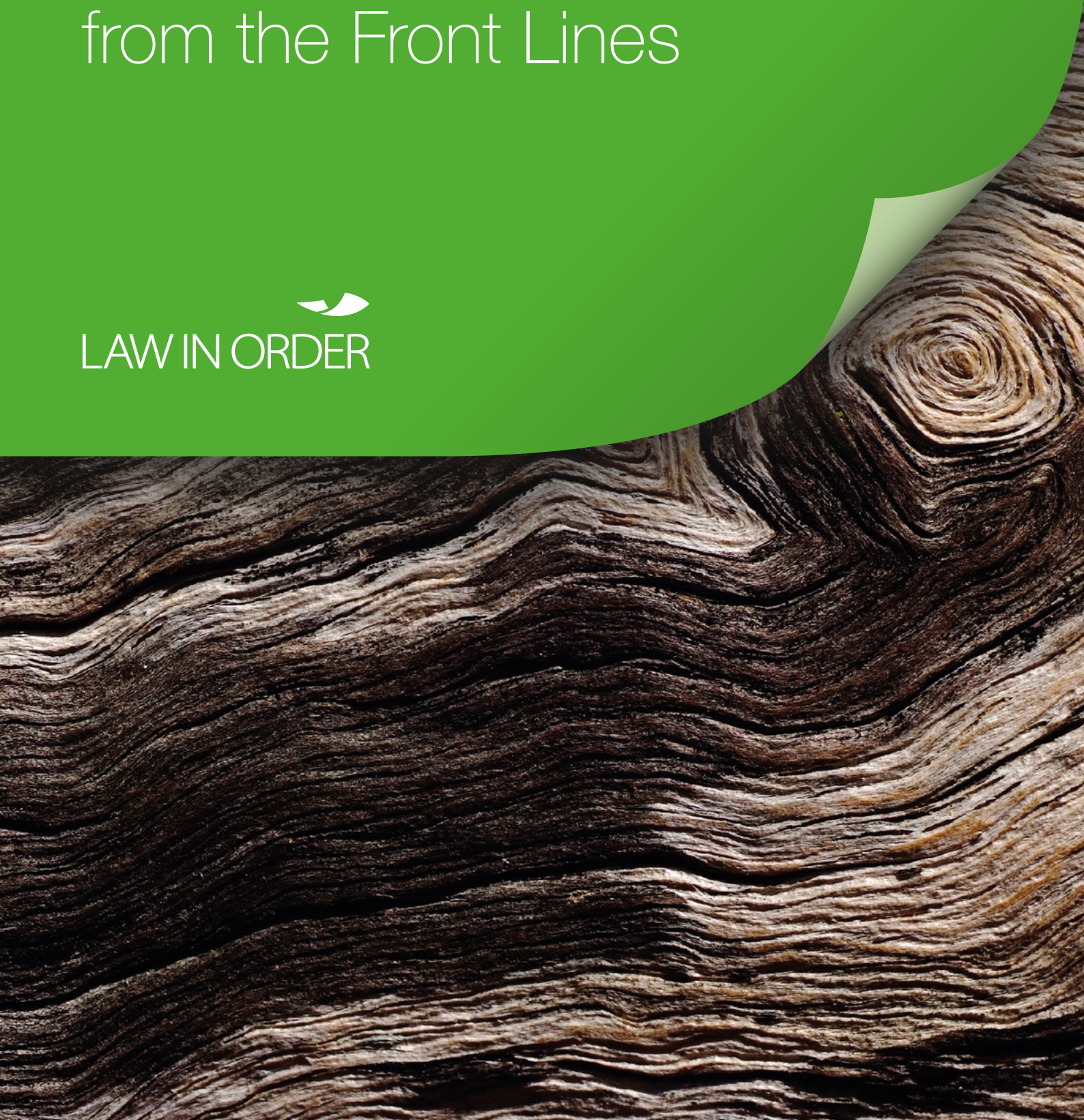
White Paper April 2020

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Preparing for Royal Commissions: Advice from the Front Lines



LAW IN ORDER





John kindly agreed to share his insights on preparing responses for Royal Commissions with Law In Order. He has been involved in The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, The Royal Commission into Aged Care Quality and Safety (currently suspended due to COVID-19) and The Royal Commission into Institutional Responses to Child Sexual Abuse from 2013 to 2017. For the latter two Commissions, he served as CEO in organisations required to submit a response.

First Phase

When starting to collect information for a Royal Commission, it's best to begin with dissecting the terms of reference from the Commission and discern exactly where the Commission is focused. From there, think about the organisation's records and where they are held; are they paper based or digital? Also, it's essential to put together a team of your key people from the outset.

Get to the facts of the matter quickly. If required to provide oral evidence, back up it up with proof. Not everyone sees things the same way and people will have different recollections.

When prioritising the information, make use of your team. Workshop the terms of reference and specific requests from the Commission and define clearly what they mean. Engage a lawyer and counsel with particular experience and expertise with Royal Commissions and spend time brainstorming where to find the necessary information. Ensure the methodology used is documented. At a later stage, it should be possible to trace how the team accomplished each task; what was researched and what was found. The strength is in your methodology.

Getting Buy-In

Getting buy-in is important. In a leadership position such as CEO, it's necessary to lead from the front and communicate the importance of the Royal Commission and what the Royal Commission team within the organisation will be doing; specifically, collecting records and preparing responses.

If going in as a project manager, it's essential to have the CEO's support. There has to be a culture of acceptance that Royal Commissions are a 'necessary evil' that ultimately benefits the sector.

There will always be some people who won't share this view as preparing the response may interrupt their day to day job and they may not all respond when they say they will. It will be necessary to constantly drive the agenda.

Also, it shouldn't be assumed that everyone in the organisation understands what a Royal Commission is. Buy-in can be greatly assisted by running workshops, seminars, and question and answer forums focusing on the organisation's involvement and emphasising that the whole organisation as a team needs to prepare for the Royal Commission.

Customers, clients or stakeholders may also need educating. The more that is done in readiness, the better prepared the organisation will be.

The internal Royal Commission team need to understand their agenda before meeting with people in the organisation so they don't go in and ask dumb questions. The internal meetings should be very focused. It should be possible to get to the heart of the matter quickly, so people's time isn't wasted. This builds rapport over time and the Royal Commission team will be viewed as a business partner in preparing for the Commission; sharing the load together.

The Information Commissions are Seeking

The Aged Care Royal Commission and the Disability Royal Commission have many parallels in regard to the information requested. The Commissions' focus has generally been on three broad areas – incidents that have occurred, complaints about the organisation and any subsequent investigations into either the incidents or complaints. Generally speaking, the Commission wants to know what the organisation did well in the circumstances and what it didn't do well.

This includes whether the organisation strengthened policies in the wake of any incidents or complaints, explanations on how matters were not exacerbated, how customers and their families were dealt with, and if there was an external investigation. Also, how ombudsmen matters were managed.

The Commissions want to know what the organisation learned and the steps they are taking to grow from the experience.

Most importantly, the organisation needs to understand where it didn't do well, so it can unashamedly acknowledge it to the Commission and reflect on what was learned, what is being done better and be sorry about it.

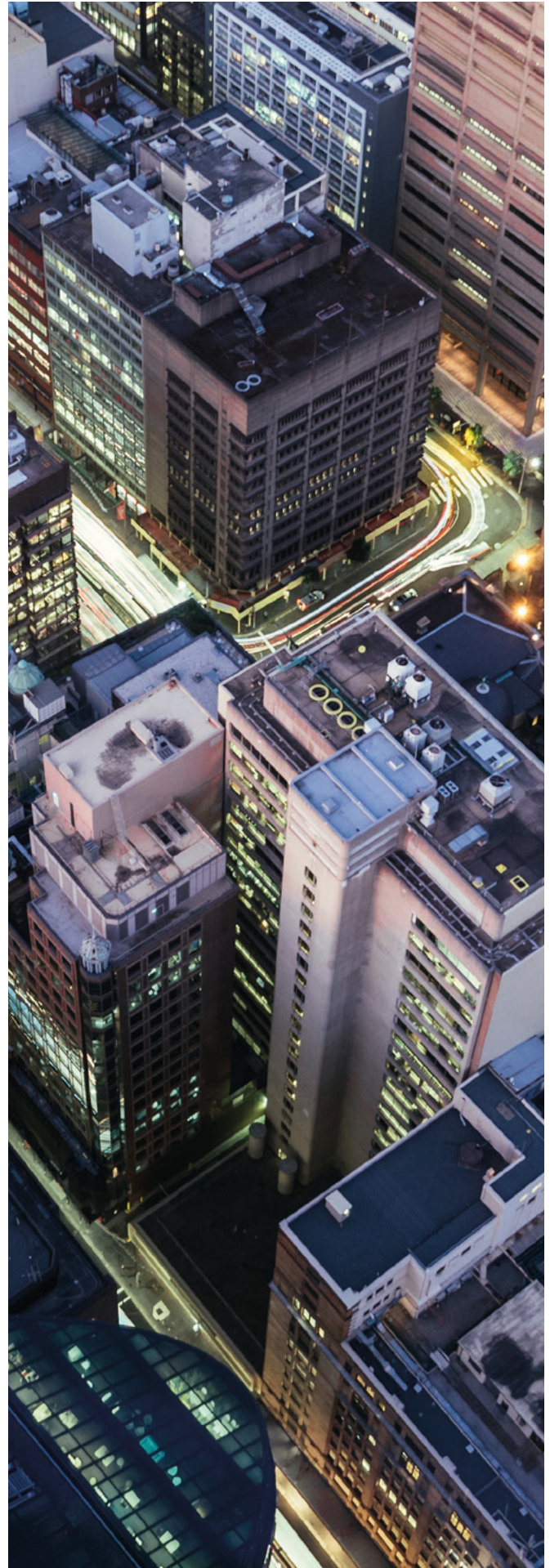
Roadblocks

As discussed earlier under 'Getting Buy-In', one roadblock can be an organisation's culture.

Larger organisations can have greater roadblocks. These organisations create more variety and thus more challenge. For example, archiving may vary from state to state or one location may have long term staff and another location, with a higher turnover, may have short term staff. Not being as familiar with the organisation's history, newer staff would be unable to assist to the same degree as long termers.

Policies and procedures are another difficult area. For example, if reporting on a seven year period, circumstances in the organisation would change during that time, so policies and definitions would also change. Then reporting requirements change too. In preparing a response for the Commission, understanding these changes and how to categorise and summarise them is a significant challenge.

The strength is in
your methodology.



Achieving Continuity for the Response

It's important to do your research before you start speaking to people in the organisation so you have a picture in your mind of what may have happened. Look at the files and read the documents. Scope the work plan based on the Commission's terms of reference and any advice from industry networks. Then it will be possible to simply corroborate your understanding in the interviews.

Keep an open mind, however. Possibly, the interviews may point in another direction and it will be necessary to look at other areas, but do the research beforehand.

In Summary

Start preparation from day one and resource up. It's essential to understand the organisation's history and put it into the Response cohesively. Also, document issues that are highlighted in the terms of reference, for example, terms of compliance, incidents, major matters, investigations policy and changes in key areas.

Finally, stay informed with the Royal Commission.

Law In Order would like to thank John Cleary for sharing his valuable knowledge with us, our clients and other stakeholders.

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Talk to us about support and solutions for your team.

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