

# Integrity Spotlight

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## Alert

### Selling land to recover unpaid debts: Corruption risks

#### Sale of private property by public authorities

Both state and local government authorities have the power to sell (or apply to a court for an order to sell) private land and properties to recover debts owed by land owners, for example, outstanding council rates, land tax or even court fines.

These powers are set out under various Acts, including:

- *Local Government Act 1999 (SA)*
- *Land Tax Act 1936 (SA)*
- *Stamp Duties Act 1923 (SA)*
- *Fines Enforcement and Debt Recovery Act (2017) (SA)*

Each Act sets out the conditions that must be met for private properties to be sold. For example, under section 184 of the *Local Government Act*, for councils to sell privately owned land (including any property on the land) to recover unpaid rates, the rates must be in arrears for three years or more, and the land must be sold by public auction.<sup>1</sup> If the outstanding rates are paid, councils can no longer auction the land.

#### What is the corruption risk?

The Commission recently investigated allegations that a council employee, in exchange for receiving a benefit, improperly acted as a broker for the private sale of a property that was scheduled to be auctioned by a council for unpaid rates. The allegations were not substantiated but they revealed how such conduct could occur.

When authorities identify land and properties to sell to recover debts, there is a risk that public officers may seek to exploit their knowledge of these properties for corrupt purposes.

Land and property are valuable. A public officer may solicit, or a potential buyer may offer, a bribe or other benefit in exchange for information about properties associated with significant outstanding debts.

The potential buyer may then make an offer to buy the property privately (possibly for less than market value) and pay the outstanding debts to prevent the property from being sold by the public authority at auction.

<sup>1</sup> Other criteria must be met in addition to these two conditions. See section 184, *Local Government Act 1999 (SA)*, available online here: [Local Government Act 1999 | South Australian Legislation](#)

The potential buyer effectively circumvents an open and competitive sales process. A property owner experiencing financial difficulties may welcome direct offers from potential buyers.

This risk is heightened when a public officer has an undisclosed association with either the property owner or a potential buyer.

## What can authorities do?

Public authorities with the power to sell (or apply for an order to sell) private properties for debt recovery ought to have strategies in place to mitigate the risk of corruption. This includes clear policies and procedures that:

- detail the process public officers should follow to organise the sale of land and property. A procedure should clearly specify the information that public officers can and cannot communicate with potential buyers. A procedure should also reinforce obligations for public officers to disclose any conflicts of interest, including personal associations with property owners or potential buyers.
- provide broader guidance for the identification, disclosure, and management of conflicts of interest that are appropriately communicated and enforced. Authorities should consider whether they maintain a central register of conflicts of interest.
- communicate public officers' obligations regarding the acceptance and disclosure of gifts and benefits. Authorities should consider maintaining a gifts and benefits register.
- provide a process for documenting all decisions made relating to the land and property sales for debt recovery. Public authorities should have the capacity to access, review and audit all records of these decisions.

## Further resources

For the public sector, the Commissioner for Public Sector Employment provides information and resources relating to integrity and corruption prevention. This includes the public sector code of ethics, integrity framework and fraud and corruption control policy:

[www.publicsector.sa.gov.au/integrity/resources](http://www.publicsector.sa.gov.au/integrity/resources)

For local government, The Local Government Association has resources available to support councils in developing policies and procedures:

[www.lga.sa.gov.au](http://www.lga.sa.gov.au)

The Commission's evaluation of the City of Playford made recommendations aimed at improving policies, procedures, and record keeping practices. These are relevant for all councils:

[www.icac.sa.gov.au/evaluations-and-reviews/city-of-playford](http://www.icac.sa.gov.au/evaluations-and-reviews/city-of-playford)

The Commission's report *Identify, Disclose and Manage* provides advice on the effective management of conflicts of interest in public administration:

[www.icac.sa.gov.au/publications/published-reports/identify-disclose-manage](http://www.icac.sa.gov.au/publications/published-reports/identify-disclose-manage)


Suspected corruption should be reported to the Office for Public Integrity:


[Office for Public Integrity | Office for Public Integrity](#)

Suspected misconduct and maladministration can be reported to either the Office for Public Integrity or the Ombudsman SA:

<https://www.ombudsman.sa.gov.au>

## CONTACT US

 GENERAL ENQUIRIES  
(08) 8463 5191

 LEVEL 9, 55 CURRIE ST  
ADELAIDE SA 5000

 @ICAC\_SA

ICAC.SA.GOV.AU



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