



ICAC

Independent Commission
Against Corruption
SOUTH AUSTRALIA

Integrity State 2023/2024

Corruption prevention recommendations

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October 2024



Integrity State

Corruption prevention
recommendations

Published October 2024

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Commissioner's foreword

This is the third Integrity State publication released by the Commission. It reports on prevention recommendations made to various public authorities between 1 July 2023 and 30 June 2024, arising from corruption investigations.

Regardless of whether allegations of corruption are substantiated, Commission investigations can identify vulnerabilities in organisational systems, policies, and practices that expose public authorities to corruption. Where this is the case, the Commission communicates with the relevant authority to make recommendations to address those deficiencies.

An examination of recommendations made over the 2023/2024 financial year indicates two specific areas of corruption vulnerability.

First, as in previous Integrity State reports, poorly managed conflicts of interest remain a prominent corruption risk for public authorities. This report highlights the dangers posed by conflicts of interest in human resources processes.

The second area of vulnerability is inadequate guidance and training for public officers on how to undertake their duties effectively and with integrity. A lack of appropriate guidance can lead to the spread of incorrect practices and behaviours. If these become normalised, corrupt conduct can become easier to undertake and conceal.

The Commission sent fewer corruption prevention letters to public authorities in the most recent financial year as compared with the two preceding years. This is due to several factors:

- ▶ The Commission embarked on several long and complex investigations during the 2023/2024 financial year with the result that prevention recommendations were not made by 30 June 2024.
- ▶ In some cases where there was evidence of potential wrongdoing but not corruption, information was provided to another authority for further investigation. If there is also evidence of systems or processes that give rise to particular corruption risks, the Commission brings these to the attention of the relevant public authority but may not make any specific recommendations.
- ▶ Some cases presented recurring issues which have previously been the subject of prevention recommendations, meaning there is little value in writing to the authority to repeat the same recommendations. Where this occurs, the Commission will bring this to the attention of the public authority and ask for an update about its implementation of those recommendations. The Commission may utilise other means to ensure a prevention outcome, such as providing a verbal briefing or educational resource to an agency, or documenting information internally with a view to undertaking a future evaluation.

This report is prepared under section 41(2) of the *Independent Commission Against Corruption Act 2012* as it reports on recommendations made in response to issues observed by the Commission in the course of its investigations.

Benjamin Broyd
Acting Commisisoner

Overview of prevention letters

DETAIL	NUMBER OF LETTERS
Type of public authority	
Emergency services	1
Health	2
Legal and law enforcement	1
Local government	1
Public authority	2
Education (including vocational education and training)	2
Total	9
Integrity theme	
Conflicts of interests in human resources lifecycle	4
Guidance, communication and training	5
Total	9
Letter resulted from	
Completed corruption investigation – no criminal proceedings	8
Completed corruption investigation – no criminal proceedings, matter referred to public authority for further investigation and disciplinary action	1
Total	9

Management of conflicts of interest in human resources

The human resources 'lifecycle' involves workforce planning and role creation, managing employee recruitment, induction, training and professional development, performance management and exit. To prevent corruption and impropriety, it is important that conflicts of interest are identified, disclosed and appropriately managed at every stage of this cycle.

Conflicts of interest during employment: Non-disclosure of secondary employment

METROPOLITAN FIRE SERVICE

Date: July 2023

The Commission investigated allegations that a public officer improperly claimed sick leave from the Metropolitan Fire Service (the Service) and used this time to work in a second job. The investigation revealed weaknesses in the Service's processes and procedures relating to secondary employment, conflicts of interest and sick leave.

The public officer was a longstanding employee of both the Service and the second employer. During that time, no declaration of secondary employment was provided to the Service, despite a clear obligation to obtain approval to engage in this activity, both under the *Code of Ethics for the South Australian Public Sector*¹ and under the Service's *Service Administrative Procedure No 13*. Evidence obtained in the investigation suggested both a lack of awareness of the policy and inadequate enforcement and monitoring for compliance.

In addition, the *Service's Service Administrative Procedure No 8* on conflicts of interest states that employees must disclose any conflicts of interest to their manager 'as soon as possible'. Secondary employment can give rise to conflicts of interest which, if not disclosed and appropriately managed, increase vulnerability to corruption. No disclosure of a conflict of interest was made by the public officer.

Evidence obtained during the investigation suggested that the public officer had used statutory declarations as a substitute for medical certificates in a manner that was inconsistent with internal directives. Although this was identified by the Service, internal policies were unclear about the consequences to employees for failing to comply with these directives.

Finally, the investigation found that there was no standard process for requesting sick leave across the Service. Processes varied from station to station. This variance in processes gave rise to an integrity risk.

1 See: [OCPSE-CodeofEthics-18042024.pdf \(publicsector.sa.gov.au\)](#) page 4, 'Outside Employment'.

The Commission recommended that the Service:

1. Undertake an audit of all secondary employment by the Service's employees.
2. Review procedures for regularly communicating policy directives in respect of secondary employment and conflicts of interest, including employee obligations and consequences for non-adherence.
3. When employees annually reapply for secondary employment, make it a requirement to update the application with any material changes to their secondary employment and make a conflict of interest declaration.
4. Provide training to line managers on the use of sick leave by employees to ensure they can identify excessive use and abnormalities and take steps to address these issues.
5. Consider strengthening service administrative procedures no 13 and no 41 by implementing consequences if provisions on secondary employment and statutory declarations are not adhered to (if such consequences do not already exist).
6. Consider amending service administrative procedure no 41 relevant to statutory declarations noting section 27(1) of the *Oaths Act 1936* that states *any person who wilfully makes any declaration by virtue of this Part, knowing that declaration to be untrue in any material particular, shall be guilty of an offence, and shall be liable, upon conviction thereof, to be imprisoned for any term not exceeding four years.*
7. Consider introducing a standardised process for requesting sick leave that is implemented across the Service.

The Service advised that a review of secondary employment processes and procedures was being undertaken to increase compliance and to ensure it is better managed and monitored. In addition, the Service advised that the recommendations regarding sick leave have been incorporated into the relevant procedure following a recent review.

Managing conflicts of interest during recruitment processes

DEPARTMENT FOR EDUCATION

Date: August 2023

The Commission investigated allegations of corruption in recruitment. The allegations were not substantiated.

The Department ran a recruitment process for a senior position. It was alleged that the position was awarded to a candidate with undisclosed familial and employment connections to a member of the recruitment panel.

The panel member with whom the candidate was said to have undisclosed connections was external to the Department and was the co-founder and chair of a charitable organisation which received departmental grant funding. The duties of the position being recruited for included making decisions about this grant funding.

Following an initial recruitment process, the panel did not find a suitable candidate for a position. The external panel member recommended someone they knew as an alternative candidate. Although the external panel member was not involved in the interview process of the alternative candidate, the external panel member did provide a reference in support of their application. The alternative candidate was successful.

It was alleged that the successful candidate had previously worked for the external panel member, and that they had a familial connection. These allegations were not substantiated.

The external panel member did not complete a conflict of interest declaration for the purposes of the recruitment process, despite potentially having an interest in the outcome of the process as a recipient of departmental grant funding. The panel chair was aware of their interest and considered any conflict to be manageable, but there was no formal documentation of the conflict or the plan for its management.

Even where, as here, no corruption occurs, *perceptions* of impropriety can be damaging. They can lead to disquiet, complaints and investigations. The transparent acknowledgement and documentation of conflicts of interest and how they will be managed can prevent such problems arising.

The Commission made the following recommendations to the Department:

1. Ensure all recruitment panel members complete a conflict of interest declaration prior to the panel first meeting to discuss candidates.
2. Review any recruitment policies, procedures or guidance to provide clarity around the appropriate use of referees. Should a preferred candidate's referee receive funding from the Department, or otherwise involve any conflicts of interest, the panel should request an alternate referee be provided by the candidate.

The Department advised that, in response to the recommendations, it had developed a new conflict of interest declaration form for recruitment purposes and had reviewed the conflict of interest policy, merit selection procedure and relevant content on the departmental intranet.

WOMEN'S AND CHILDREN'S HEALTH NETWORK

Date: September 2023

Allegations were made that a senior public officer improperly outsourced services to two external providers with whom he was connected and used a 'cost splitting' mechanism to avoid procurement requirements.² It was further alleged that the public officer used his position to increase patient referrals to a private organisation with which he had a family connection. These allegations were not substantiated.

However, evidence obtained in the course of the investigation revealed that the senior public officer had chaired a recruitment panel which awarded the advertised position to a member of the public officer's family. The public officer failed to declare the conflict of interest arising from his association with this candidate.

Although the Network had reviewed the matter and conducted the recruitment again with a differently constituted panel, the investigation demonstrated weaknesses in the Network's recruitment processes and procedures.

The Commission recommended that the Network:

1. Ensure all recruitment panel members complete a conflict of interest declaration prior to the panel first meeting to discuss candidates.
2. Amend the Hospital's *Recruitment Procedure* to make it clear that a panel member with a private interest in the result of the recruitment process should not participate in it or attempt to influence recruitment decisions. A panel member who, though having a conflict, believes they can act impartially should allow the panel to collectively decide whether they are able to be involved. If doubt remains, that person should step aside, or the Chief Executive should settle the matter.

² That is, by bringing the procurements under the value thresholds which mandate more stringent processes.

Managing conflicts of interest for separating staff

SOUTH AUSTRALIAN HOUSING AUTHORITY

Date: January 2024

The Commission investigated circumstances surrounding former Housing Authority staff taking up employment with a private company at a time when the company was bidding for a significant contract with the Authority. It was alleged that the former employees improperly assisted the company in tendering for this contract, drawing on information obtained during their roles as public officers. The allegations were not substantiated.

The investigation established that appropriate controls were in place at the Authority to protect procurements against impropriety. However, to further reduce the risks of conflicts of interest undermining procurements – especially in regard to separating staff – the Commission made two recommendations to the Authority.

The precise recommendations made to the Authority will not be listed in this report. They were complex and nuanced, relating specifically to the factual situation presented by the investigation. The recommendations came with a strong suggestion that legal advice should be sought regarding how they could be implemented.

However, in general terms, the recommendations related to contractual measures that the Authority could consider – both as regards employees and contractors – to limit the movement of procurement staff involved in high value procurements to businesses or organisations involved in those procurements.

The Authority advised that it would seek legal advice regarding implementation of the recommendations, as suggested.

Guidance, communication and training

To perform their duties capably and with integrity, public officers require appropriate written guidance in the form of policies, procedures and instructions that are accessible, regularly communicated, well understood and effectively enforced. Public officers also require a comprehensive induction and ongoing training on all aspects of their roles, including integrity obligations.

Need for appropriate training and instructions

COURTS ADMINISTRATION AUTHORITY

Date: August 2023

The Commission investigated allegations that a senior public officer attached to a Court threatened to misuse the power or influence they held in that role to seek personal restitution from a private business. The threat was made to another senior public officer in the hope of inducing the other officer to intervene on his behalf in a private dispute.

Although there was evidence that the subject of investigation had, in dealings with the senior public officer, referred to their office in an effort to promote a private cause, the conduct amounted to an instance of poor judgment rather than criminal conduct. It arose from his ignorance of integrity expectations placed on those holding public office. The investigation was closed.

The Commission recommended that the Authority:

1. Review any guidance, handbooks, information sheets or other instructional materials provided to officers to ensure they include instructions surrounding the ethical responsibilities of their public roles, including clear advice that invoking their public position in a private capacity or with a view to advancing personal interest is a misuse of their public office that may constitute a crime.
2. Commit to providing in person induction and training to officers on the ethical responsibilities of their role, especially for sessional officers of the courts who may not be accustomed to the norms and expectations of public office.

The Authority responded and advised the Commission that action would be taken to address the recommendations.

Need for clarity on roles and responsibilities

CENTRAL ADELAIDE LOCAL HEALTH NETWORK

Date: October 2023

The Commission investigated alleged corruption in Statewide Clinical Support Services (Statewide Services), a business unit of the Central Adelaide Local Health Network. It was alleged that a public officer working in Statewide Services entered into commercial agreements and provided services to external parties using publicly owned equipment without authorisation.

Although the allegations were not substantiated, it was apparent from the investigation that guidance about roles and responsibilities for contract development was either missing or unclear to staff. The investigation did not establish whether this was due to an absence of policies and procedures, or because policies and procedures had been inadequately communicated and enforced.

Further, the Commission's investigation revealed deficiencies with an internal investigation commissioned by Statewide Services. The investigator engaged by Statewide Services concluded that the allegations arose due to miscommunication and a lack of procedure, rather than due to the conduct of the public officer involved. However, this conclusion was reached primarily based on interviews, without reference to relevant policies or procedures.

The Commission recommended that the Network:

1. Specify in terms of reference for investigations the requirement for the investigator to set out in the investigation report those parts of any legislation, code of ethics, policy and procedure which apply to the subject employee in the circumstances apparently pertaining, and to identify any deficit in such stipulations.
2. Review existing policy and procedure to provide clarity regarding:
 - a. when a clinical director within the business unit should be informed about a proposed service or clinical trial
 - b. who is responsible for ensuring an agreement is in place prior to samples being received or processed
 - c. the services which attract fees.
3. Provide staff in the business unit with education regarding contract development requirements. This includes roles and responsibilities, and the risks of making representations to staff without authorisation, and providing services without an agreement in place.

The Network advised the Commission that it had taken appropriate actions to address all of the recommendations.

Need for induction, training and supervision in procurement

SOUTH AUSTRALIAN TOURISM COMMISSION

Date: November 2023

The Commission investigated allegations of corruption in procurement. It was alleged that the public officer responsible for the procurement attempted to circumvent proper contracting procedures for personal gain. The allegations were not substantiated.

Procurements for a specific event were conducted by an external company. The investigation revealed that interactions between procurement officers and suppliers were poorly documented. It was also suggested to investigators that procurement processes were rushed. Although in this case there was no evidence of corrupt conduct, procurements which are poorly documented and which prioritise expediency over compliance with proper procedures, may be vulnerable to corruption and impropriety.

The Commission recommended that for future procurements, including those conducted by external companies, the South Australian Tourism Commission ensures that:

1. All individuals with procurement responsibilities are sufficiently aware of, and trained in, corruption risks relating to procurement, and have received adequate induction, including being told that they are public officers under the *Independent Commission Against Corruption Act 2012*.
2. The conduct of the procurement complies with relevant policies, procedures and processes.
3. All verbal and written communication between those conducting the procurement and tenderers is adequately documented and recorded.
4. The agency retains responsibility for, and exercises adequate supervision over, its procurement function.

The South Australian Tourism Commission responded that it would take action to address all the recommendations.

Need for a procedure to guide property sales to recover unpaid debts

DISTRICT COUNCIL OF COOBER PEDY

Date: December 2023

The Commission investigated allegations that a council officer had improperly brokered the private sale of a property that was scheduled to be sold by the Council at auction to recoup unpaid rates. The allegations were not substantiated.

The investigation highlighted the risk that council officers might use their knowledge of properties to be auctioned to gain a benefit for themselves or another person. This risk is heightened where a council officer has an undisclosed conflict of interest in respect of the property, the property owner or a potential buyer.

The investigation showed that the council lacked a documented procedure governing how council staff should organise property auctions. Such a procedure would reduce ambiguity in the role of council officers in communicating with potential buyers, and would provide a formal mechanism for council officers to disclose any conflicts of interest in respect of the particular auction.

It also emerged from the investigation that a council officer was permitted to work remotely for an extended period of time, and in a location geographically removed from the council area. The integrity risks of remote work were communicated to the Council.

The Commission recommended that the Council:

1. Develop a procedure to guide the sale of properties for unpaid rates. This procedure should note staff obligations to disclose conflicts of interest.
2. Review the Commission's publication *Flexible and Remote work* to consider how the risks outlined in this publication may be applicable to the Council, and whether any steps can be taken to mitigate them.

The Council responded to advise that a procedure was being developed to guide Council officers in property sales that will include the need to complete a conflict of interest disclosure. The Council's Debt Recovery Policy was undergoing review. The Council also undertook to consider the Commission's *Flexible and Remote work* and other publications in developing a *Working Remotely* Policy and Procedure.

Need for accurate instructions to be documented and communicated

TAFE SA

Date: April 2024

The Commission investigated allegations that a public officer claimed on-call payments to which they knew they were not entitled. The allegations were not substantiated. Although the investigation revealed that the public officer had received a substantial overpayment of on-call entitlements, the payments had been approved by management. In claiming these payments, the public officer had acted in line with the incorrect advice provided to them at the time by TAFE management.

TAFE subsequently received advice from the Attorney-General's Department confirming the correct employee entitlements to overtime payments for on-call duties. TAFE corrected its *After Hours (on call) Incident Response Work Instruction* to reflect the correct entitlement for overtime payments. However, this instruction remained in draft for 21 months after it was corrected. It was unclear whether the on-call arrangements had been more widely reviewed to ensure that the correct employee entitlements were understood in other parts of the organisation.

The Commission recommended that TAFE SA:

1. Conduct a review of on-call arrangements across TAFE SA to ensure the advice received from the Attorney-General's Department is consistently applied. Ensure there was an up to date and communicated work instruction, if those arrangements were adopted by directorates additional to the Facilities and Projects Directorate.

In response, TAFE SA advised that a review of the on-call arrangements had been completed and had incorporated the advice received from the Attorney-General's Department. This updated document had been communicated to relevant staff.

Conclusion

Like previous Integrity State reports, this report demonstrates that integrity risks associated with undisclosed and poorly managed conflicts of interest continue to occur in public administration. It also highlights the importance of having accurate, up to date, clear and well communicated procedures, instructions, guidelines and training materials to assist public officers to undertake their duties ethically and effectively.



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