



PUBLIC ADMINISTRATION IN A PANDEMIC:

UNIQUE CHALLENGES IN THE CURRENT CLIMATE

A REPORT BY

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THE INDEPENDENT COMMISSIONER AGAINST CORRUPTION

MAY 2020



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Unique Challenges in the Current Climate

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The Independent Commissioner Against Corruption

Published May 2020

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PUBLIC ADMINISTRATION IN A PANDEMIC: UNIQUE CHALLENGES IN THE CURRENT CLIMATE

By the Hon. Bruce Lander QC
Independent Commissioner Against Corruption

In April I had planned on publishing my second Looking Back report. Obviously a lot has changed since my first Looking Back report was published in October 2019.

The COVID-19 pandemic has created an extraordinary environment for the community and for public administration. In such circumstances it seems to me that rather than offering reflections on the past six months, this report should focus on how the pandemic might impact upon integrity in public administration in South Australia. I will offer some views about preserving integrity in these unprecedented times and I hope that all public authorities will consider those views as they review their existing contingency arrangements.

I will also briefly explain how the COVID-19 pandemic has impacted the operations of my office and the Office for Public Integrity (OPI).

Integrity in Public Administration in Light of COVID-19

COVID-19 has impacted the landscape within which public administration operates in South Australia, as it has in other Australian jurisdictions and around the world. My office and the OPI have been, to the extent possible, working remotely. The exercise of enabling people and systems to operate remotely has created challenges for my organisation as I expect it has for others.

It is important to be mindful that during times of significant disruption and economic uncertainty, corruption and inappropriate conduct can become more prevalent. Many public officers will during this time be feeling stress and anxiety and workplace morale may decline as some people come to feel detached and isolated from their workplace. At the same time management's oversight capacity may be diminished, all of which provides fertile ground for inappropriate or unlawful conduct.

I expect that most agencies have now established contingency arrangements to address the current situation. Now is the time for all public authorities to evaluate those arrangements to ensure that an appropriate balance has been reached between productivity on the one hand and the management of impropriety risks on the other.

Working from Home

OVERSIGHT

More extensive working from home arrangements in public administration can mean that usual levels of oversight of the activities of public officers is reduced. Staff may begin to feel disconnected from their agency. This is also true for the reduced number of staff that have remained in the workplace.

It is incumbent upon managers to ensure they remain connected to their staff and that staff stay connected to each other and the organisation as a whole.

Managers in public administration still bear the responsibility to manage staff, whether those staff are located in a workplace or are working remotely. The public expect those in public administration to deliver services for the benefit of the community. Those services must still be delivered, even if the way in which those services are delivered looks different.

An absence of effective management can have a number of adverse effects, many of which may be amplified when part of or all of a team or group is working remotely. These adverse effects can include:

- ▶ Reduction in productivity
- ▶ Inconsistent approaches to tasks
- ▶ Poor judgement in the absence of the usually available sources of support, guidance and advice
- ▶ Loss of collaboration leading to siloed work groups
- ▶ Loss of effective oversight in relation to important decisions.

Business reporting lines, informal relationships and organisational structures can all be severed, slowed, blocked and weakened when staff are largely isolated and effective management is absent, all of which can impact on both productivity and integrity.

While flexibility and understanding are essential to help people work effectively in the current circumstances, the need for integrity in respect of fulfilling allotted duties and the maintenance of accurate records, including timesheets, must not be sacrificed.

Active communication between line managers and staff is paramount, and the fostering of continued communication within teams can promote business continuity, maintain standards and accountability, and stave off the detrimental effects that seclusion and isolation can have on performance.

INFORMATION AND CYBER SECURITY

Remote working arrangements also pose significant risks around information and cyber security.

With many public officers working from home there will be an abundance of new pathways and channels by which information is shared, communicated and stored.

Public officers who may be using personal devices for work related purposes should understand and adhere to organisational pre-requisites and limitations on their use, including:

- ▶ The need to ensure such devices are password protected
- ▶ The correct installation of anti-virus and anti-malware software
- ▶ Organisation mandated limitations on downloading and storing of work related information.

If public authorities have not already done so, consideration ought to be given to how staff will be assisted to sanitise personal devices of public administration information once those devices are no longer needed for work. Great care must be taken to ensure that sensitive public administration information is not held on an employee's personal device for any longer than might be necessary, and any such information must be appropriately and permanently removed from such devices before those devices are sold or otherwise disposed of.

Good records management is essential to good public administration. The current environment may necessitate an unorthodox approach to the access, movement and sharing of records. Consideration should be given to controlling versions of documents and ensuring that all work product makes its way back into the agency's record management system.

We have also already seen opportunistic and sophisticated phishing attacks launched upon public administration and the community. Public authorities should be providing regular updates to staff, and where appropriate the community, about how to identify and protect themselves from such phishing attacks.

I recommend all agencies turn their minds to these risks to ensure that information and cyber security is maintained.

High Risk Functions

There are a number of functions in public administration that in normal times are at higher risk of corruption, misconduct and maladministration. Some of those functions will be exposed to even higher risk at this time. Procurement, contract management and information management are some such prominent risk areas that are likely to come under increased pressure.

Engaging in emergency procurements, the avoidance of normal procurement practices in the interests of expedience, the increased use of credit cards to procure goods, vendors requesting contract variations and/or advance/quick payment, and the use of direct negotiations are all possible circumstances that, while potentially necessary and unavoidable in the current climate, nevertheless lend themselves to greater integrity risk. They should be carefully monitored and managed.

There are many things agencies can do to protect themselves throughout procurement activities, but as a minimum agencies should ensure that all procurements and expenditure remains the subject of appropriate oversight and that particular attention is paid to the extent to which an individual public officer can control the entirety of a procurement process.

Agencies should also strive to continue effective contract management, especially if they have dealings with suppliers who have been affected by the pandemic. Nefarious or struggling suppliers may be tempted to reduce services, inflate prices, misrepresent goods and services provided, or needlessly oversell while an agency's guard is down. Ensuring the proper expenditure of public money remains a priority.

Finally, agencies should continually assess the manner in which they deal with sensitive and confidential information. Such information may be more readily accessed remotely in light of existing working arrangements. Public authorities must continually assess the risks of such enhanced access and assess the effectiveness and suitability of controls that are in place to ensure that such access is not abused.

Trends During Financial Downturns

During the Global Financial Crisis of 2008-11, the NSW ICAC observed a marked increase in reports of corruption and fraudulent activity. More generally increases in white-collar crime were observed globally. It would be naïve to think that the economic downturn ensuing from the COVID-19 pandemic might avoid this trend. Agencies should be aware and prepared to address the following:

- ▶ New and unforeseen opportunities for corrupt behaviours to emerge and be exploited by motivated individuals.

New areas of activity should be assessed for those risks, while business activities, processes or programs that will necessarily suffer some neglect or inattention during this time should be monitored for any irregular or inappropriate activity as soon as it becomes feasible.

- ▶ The disruptions and rapid changes in business focus may expose past or current corrupt schemes or activities. Public authorities and public officers should be aware that their reporting obligations to the OPI are unchanged and that they should report anything which they reasonably suspect involves corruption or serious or systemic misconduct or maladministration. More information about reporting obligations can be found on my website, icac.sa.gov.au/obligations

Pressures on Public Officers

Advancing and supporting the interests of the community is one of the key purposes of public administration, but we should be mindful that public officers are also a significant part of that community. While public administration has not suffered the same employment devastation visited on other sectors and industries, some public officers may still be experiencing economic stress. The ways in which economic, health and other pressures may be affecting individual public officers should not be underestimated.

Pressures, stress and profoundly changed circumstances can motivate people to act in ways that would not ordinarily be expected of them, including engaging in improper conduct.

There are also emergent risks involved in public officers being mistreated, overworked, bullied or harassed in their workplaces during times of uncertainty and anxiety. Staff who are poorly treated, who are underappreciated, or become targets of the irrationalities of others, can react with their own misconduct. The wellbeing of staff should be a priority to minimise the risks of reduced trust, morale, loyalty, as well as absenteeism and misconduct in the workplace.

Above all agencies should ensure that staff experiencing difficulties are managed and supported appropriately and thoughtfully, and are given access to and reminded of any supports or relief that is available.

Keeping Perspective

While the risks of corruption, misconduct and maladministration are elevated during these times of upheaval, we should remind ourselves that arrangements to guide the conduct and integrity of public officers and public administration have been put in place.

Codes of conduct for public administration were created to guide public officers in their ethical and professional obligations. Senior leaders and managers in public administration can all play a part in reminding their staff and colleagues of the guiding principles of public administration and must always set an ethical example to follow.

Maintaining the control environment as best we can at this time will be challenging, but the first line of defence against corruption will be staff guided and directed by clear ethical expectations and principled leadership.

Amidst the disruption and uncertainty one expectation remains constant – that public administration be free from corruption.

ICAC/OPI COVID-19 RESPONSE

As I have said, to the extent possible my staff have been operating remotely, albeit with restrictions designed to manage security risks. Staff have remained on site on a rotational basis during business hours to ensure a physical presence and to attend to activities that cannot be undertaken remotely. Over the coming weeks, we will gradually return more staff to our physical premises, ensuring that we comply with government advice and recommendations around social distancing and hygiene measures.

Some of my staff have been or are offline supporting the broader pandemic containment efforts through assisting with contact tracing and with other related activities.

While it has not been business as usual in the physical sense, in practice we have continued as usual to receive and assess complaints and reports, conduct investigations and provide independent oversight of the management of complaints and reports about police. While there has been a slight decrease in complaints and reports about public administration, complaints about police have remained relatively static. We continue to actively conduct in excess of 20 corruption investigations, several maladministration investigations and we are supporting 12 current prosecutions.

We have suspended our face-to-face education program until the end of June, at which time the program will be further assessed.

While this is unfortunate we are taking the opportunity to progress the development of further online resources including an online course on the legal principles of conducting an internal investigation, which will be launched over the coming months.

We are also working on a number of education and prevention resources including a guide to creating a policy framework, a guide to conducting an internal investigation and the development of further resources to assist people with understanding the requirements of the *Public Interest Disclosure Act 2018*.

In March this year I launched an integrity survey for South Australian public universities. Despite the disruption caused to the sector by the COVID-19 pandemic, we have achieved a good response rate with more than 3,000 responses. I thank all university public officers who took the time to complete the survey and I thank the universities for their assistance in supporting the survey. The survey will gauge the perceptions and attitudes of public officers employed in the university sector in respect of a range of integrity issues. We are currently analysing the data with a view to publishing a public report before my term ends on 1 September 2020.

I am hopeful to be in a position to deliver my final Looking Back report in August 2020. I anticipate that that report will be a lengthy document, in which I will reflect upon my seven years as the Independent Commissioner Against Corruption.



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