

Chapter three: The dynamics of trust and corruption

The human impact of the offending

The conduct of both public officers highlighted in this report shocked their respective colleagues and communities. Both officers were trusted, senior and long term members of staff. Their criminal conduct was entirely unexpected.

There is a misconception that white-collar crime only harms an abstract entity or organisation. In reality organisations are comprised of people, who are often identified as victims of corruption of this type.

The Victim Impact Statement filed by the Yorke Peninsula Council was described by the Magistrate during sentencing as a 'powerful document' that personalised the impact upon this 'small, tight-knit rural community'. The Council public officers offending had a 'ripple effect and a significant impact on the council and those who worked in the council'. The Magistrate said:

Some might view the council as an entity, a corporation in some respects, but that Statement makes it very clear that there were people who worked closely with the defendant who were deeply and personally effected (sic) and negatively impacted by her offending.⁴

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4: Remarks on Penalty of Magistrate B. Harrap, Police v Schulz, Magistrates Court of South Australia (Criminal), 2 November 2016.

The Council's Chief Executive Officer and some affected staff members described the conduct as 'devastating' and 'horrendous' and left people with feelings of 'guilt' and that they had all been 'tarnished'.

Research suggests that while people will often view white-collar crime as being as improper as most other crimes many regard it as less harmful.⁵

Those who engage in corruption will often rely (both consciously and unconsciously) upon the widespread notion that their offending does not cause harm in order to justify it to themselves.

In reality the potential impact of this kind of criminal conduct ought not be underestimated. Such impact can be extensive and should be understood for a number of reasons.

First, understanding the impact of this conduct reinforces the importance of investing in corruption prevention activities. Such activities can reduce the risks associated with corruption, including its adverse impact on staff morale and welfare.

Secondly, research suggests that potential offenders may more readily excuse and rationalise their offending because they regard themselves as only stealing a little from a lot of people, and that the harm caused is not 'up close and personal'.⁶ Public officers who may be tempted to offend in this way may find it more difficult knowing their colleagues are likely to experience significant personal harm as a result of their conduct.

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Finally, attitudes that underestimate the emotional ramifications of corruption can cause staff to feel as if their responses to such corruption are unusual or unjustified. This may in turn discourage them from reporting corruption or accessing available supports.

In short, the breadth of harm caused by corruption is significant and agency leaders should bear in mind the significant consequences that might flow from such conduct.

5: Rosenmerkel, S. P. 'Wrongfulness and harmfulness as components of seriousness of white-collar offenses', *Contemporary Criminal Justice*, 2001, 17(4), p. 323, as cited in Larsson D and Alalehto T, 'The Reaction Towards White Collar Crime: When White Collar Crime Matters', *The Open Criminology Journal*, 2013, 6, p. 2.

6: Duffield G & Grabosky P. 2001. *The Psychology of Fraud*. Trends & issues in crime and criminal justice No. 199. Canberra: Australian Institute of Criminology. <https://aic.gov.au/publications/tandi/tandi199>.

The blind spot of reputation — The trust that blinds

The damaging repercussions of the criminal conduct of these two public officers is largely explained by the significant trust invested in them and their betrayal of that trust.

The Council public officer was highly regarded by her work colleagues and within the organisation generally. Comments made by the Council's Chief Executive Officer and various affected staff members confirmed that she was highly trusted, caring, kind and supportive.

Because of the seniority and considerable respect that both public officers had amassed, suspicions about their integrity were only raised after a long period of criminal behaviour.

The TAFE public officer was also regularly described as a highly experienced, diligent and reputable manager. Witness statements taken by ICAC investigators from her immediate colleagues consistently praised her knowledge, capabilities and professionalism, as well as her entrepreneurial dynamism. She was expected to advance through the organisation.

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Studies show that for long term corruption of this kind (thefts that engage in a 'low and slow' approach to avoid detection), the criminal conduct occurs for an average of 32 months before detection.⁷ Both public officers the

subject of this report engaged in corruption for roughly four years before detection.

Trusted insiders who are found to have engaged in corruption are often noted to be amongst an organisation's hardest workers and are frequently regarded as the 'go-to' people.⁸ Often red flags, such as excessive control over processes, 'first in/last to leave' office routines, reluctance to take annual leave, refusal to train other staff or delegate responsibilities, and a general 'workaholic' demeanour, are seen differently once corrupt activity emerges. Prior to detection these traits are often considered as evidence of a trustworthy, reliable and conscientious employee. After the corruption is exposed questions of excessive trust and the over-reliance on the person often arise.

7: Cummings, Lewellen, McIntire, Moore, Trezeciak, *Insider Threat Study: Illicit Cyber Activity Involving Fraud in the U.S Financial Services Sector*, July 2012, Special Report Cert Program, Software Engineering Institute, Carnegie Mellon University, p. 12-15.

8: Couch, Tiffany, *The Thief in Your Company: Protect Your Organisation from the Financial and Emotional Impacts of Insider Fraud*, (Lioncrest Publishing, 2017), p. 33.

A key feature of corruption by a trusted insider is the ‘trust trap’.⁹ Trusted insiders who engage in corruption are often typified by long periods of loyal service (around five years¹⁰) which in turn generates organisational trust. The public officers the subject of this report had been employed in their agencies for approximately seven and six years respectively before they began their corrupt conduct.

Trusted insiders’ long tenancy within organisations is often accompanied by promotion and increased prominence within agency functions, and the growing confidence of colleagues in their ability and reliability. Predictably, controls and risk protections applicable to such individuals are lowered or relaxed and they are often granted greater access to business processes. This may coincide with a growing acquiescence and inattention of subordinates and supervisors to what might otherwise be suspect behaviour. This excessive trust blinds the organisation to potential impropriety.

Trusting employees is an institutional necessity. But the downside is that trust can be abused. Agencies must find a way to provide safeguards that reduce the risks of corruption while at the same time not unduly burdening or undermining trust in employees which is vital for good public administration.

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9: Cummings, Lewellen, McIntire, Moore, Trezeciak, *Insider Threat Study: Illicit Cyber Activity Involving Fraud in the U.S Financial Services Sector*, July 2012, Special Report Cert Program, Software Engineering Institute, Carnegie Mellon University, p.37.

10: Cummings, Lewellen, McIntire, Moore, Trezeciak, *Insider Threat Study: Illicit Cyber Activity Involving Fraud in the U.S Financial Services Sector*, July 2012, Special Report Cert Program, Software Engineering Institute, Carnegie Mellon University, p. 12-15.

Motivations and rationalisations for corruption

Corruption often occurs because of three factors:

- ▶ the motivating incentives or pressures that prompt offending
- ▶ the opportunities that exist for offending
- ▶ the rationalisations offenders use to justify their offending

Public officers can have a substantial influence in reducing the opportunities that exist for offending within their organisations. This report contains a number of suggestions as to measures agencies can adopt to help limit and control those opportunities.

However, reducing the opportunity for wrongdoing is only part of enhancing a public agency's ability to resist corruption. Public agencies should be realistic about the ability of their systems, controls, policies and procedures to prevent all improper behaviour.

While the overwhelming majority of public officers act with integrity, there are some who might already be, or may become motivated to offend. If sufficiently motivated such individuals may engage in corruption irrespective of the control environment. And their ability to rationalise that offending will also contribute to the offending's duration and damage.

MOTIVATIONS

It is a common misconception that the primary reason for engaging in corruption is greed. In reality, the incentives and pressures to commit corruption are far more varied. Experience shows that prime motivators for offending can be:

- ▶ financial difficulty and debt
- ▶ social and work pressures
- ▶ personal, family or health concerns
- ▶ competing or conflicting loyalties
- ▶ mental health issues and substance dependencies
- ▶ feelings of disgruntlement or entitlement

There are also a range of underlying dispositions that can exacerbate the motivations behind corruption, such as:

- ▶ lack of self-esteem
- ▶ poor social control or social skills
- ▶ issues surrounding non-conformity to rules, norms and social expectations
- ▶ ethical flexibility, lack of risk perception
- ▶ lack of self-awareness
- ▶ poor decision making abilities

In both cases of offending explored in this report, motivators and pressures such as altruism, family loyalty, financial difficulties, mental health and self-esteem issues were all present; motivators not ordinarily acknowledged or understood by those who view corruption as primarily driven by greed.

Such pressures need not be intense to trigger criminal behaviour or misconduct. A broken down car, mounting credit card debt or a change in employment circumstances could all trigger an apparent crisis which incentivises improper conduct.

Research is increasing our awareness of the ‘slippery slope’ nature of dishonest behaviour.¹¹ A person’s first deception is often a threshold point, that once breached facilitates further dishonesty. This insight is corroborated by the ICAC’s corruption investigations described in this report. One of the public officers discussed in this report told ICAC investigators that her offending began from the need to pay a credit card debt. This initial theft was allegedly paid back the next day when the public officer’s tax return was refunded. This initial act would eventually escalate to the use of Council money to fund lavish holidays and private school fees.

Understanding that the potential motivators for corruption can come in many forms and be relatively minor is an essential first step in countering their potential influence. Public officers should be aware that their everyday, common ethical dilemmas may be enough to tempt them into corrupt conduct.

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RATIONALISATIONS

The rationalisations that people use to justify wrongdoing are also varied and remarkably common. Common rationalisations include:

- ▶ the conduct is temporary to alleviate a crisis
- ▶ corruption serves a ‘higher’ duty than the organisation’s needs, such as family issues or personal health
- ▶ money is being ‘borrowed’ and will be paid back
- ▶ the stolen money is for someone else, the corrupt individual not being the beneficiary
- ▶ no one is being hurt as the corruption affects the organisation generally
- ▶ perceived mistreatment by the organisation, or feeling ‘owed’
- ▶ misunderstanding, ignorance or apathy about the gravity of the conduct¹²

11: Hood, Michael, *Weathering Human Nature’s Storms: Is Your Internal Control System Intact?*, ACFE Anti-Fraud Resource Guide, First Quarter 2018, p. 4-5. See, https://www.acfe.com/uploadedFiles/ACFE_Website/Content/home/Q1-2018-RG-Web.pdf.

12: Cummings, Lewellen, McIntire, Moore, Trezeciak, *Insider Threat Study: Illicit Cyber Activity Involving Fraud in the U.S Financial Services Sector*, July 2012, Special Report Cert Program, Software Engineering Institute, Carnegie Mellon University, p.34.

Some of these rationalisations were perceptible in the conduct examined in this report, and such rationalisations often encourage the slippery slope towards long term and costly dishonest behaviour. Rationalisations for corruption can often begin benignly and then slowly snowball, and offenders often acclimatise to their behaviours, continuing their criminal conduct even as the original motivation fades.

Public officers should not expect their agencies to solely protect them from such ethical slippage. Public officers should also not resign themselves to the instinctive theory that dishonesty is just a question of ‘good people’ as opposed to ‘bad people’. This masks the real way dishonesty operates through emotional risks, social pressures, developing temptations, personal biases and dispositions that can rationalise wrongdoing, however small, and often without us being fully aware.

Small rationalisations for minor ethical lapses can quickly snowball into corruption. Integrity in public administration is greatly enhanced by public officers being aware of their own ordinary weaknesses and everyone’s capacity to disregard or ignore their own sense of integrity.

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ORGANISATIONAL STRATEGIES

While agencies will have less knowledge of the private motivations and rationalisations that may lead their staff to offend, they still have considerable means to influence these factors. Some of these are:

- ▶ providing assistance for staff who may be experiencing personal or work pressures
- ▶ fostering ethical and supportive work cultures
- ▶ providing training to staff about corruption and misconduct
- ▶ encouraging the reporting of inappropriate conduct
- ▶ clearly signalling the consequences of such conduct

All these measures are important. However, public officers themselves are far better placed to understand, consider and act upon the motivations or rationalisations behind corruption than their agencies.

Reducing the opportunity for corruption — The control environment

Government necessarily relies upon the appropriate discharge of powers by thousands of public officers every day. However, where power is invested, so too is the opportunity to abuse it. Hence, agency leaders must consider what controls and systems are required to reduce the likelihood of offending, whilst not being so burdensome as to paralyse decision making or render an organisation inefficient.

Finding this balance is challenging.

However, leaders in public administration ought to consider the following:

RISK ASSESSMENTS

Executives in every public authority should understand its functions and the responsibilities assigned to staff. Only then can the risks inherent in those functions and responsibilities be identified and controls implemented to minimise those risks.

Consideration should be given to *Australian Standard AS 8001-2008*¹³ and, for state government agencies, the *South Australian Public Sector Fraud and Corruption Control Policy*¹⁴.

Risk assessments should be regularly reviewed, particularly where there are new or amended practices, policies or procedures.

ONGOING EDUCATION

Every public authority should ensure staff receive continuous education about integrity in public administration, including policies concerning gifts and benefits, conflicts of interest, whistle-blower protections, reporting improper conduct and corruption prevention.

Staff should be continuously reminded of the perils of disclosing system passwords to other staff and the importance of ensuring a computer is locked when not in use.

Organisations should control and monitor user access to electronic payment systems, especially those with few inbuilt controls to restrict misuse. The level of access granted should match the user's role, and organisations should factor in how people interact with such electronic systems to mitigate the risk of their misuse. Staff also should be regularly trained in the appropriate use of such systems to avoid complacency and shortcuts. More than one staff member should have a role to play in transaction processing, in order to avoid one individual being able to manage the entire process.

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13: Standards Australia, *Australian Standard AS 8001-2008 Fraud and Corruption Control*, (Sydney, Australia, 2008), paragraphs 2.2, 2.3, 2.4, 3.5 and 3.6.

14: South Australian Public Sector Fraud and Corruption Control Policy, Date of Operation: 22 January 2016. See, <https://publicsector.sa.gov.au/wp-content/uploads/20160229-Fraud-and-Corruption-Control-Policy.pdf>.

REVIEW OF DELEGATIONS AND AUTHORISATIONS/SEGREGATION OF DUTIES

Such reviews also afford an opportunity to consider whether the delegations or authorisations might invest too much authority in one individual, risking the possibility of improper conduct if there are insufficient auditing and checking processes.

Every agency should have in place a process for the regular review of delegations and authorisations, particularly in relation to financial management and procurement. Such a review is critical to ensuring that those delegations and authorisations are current and appropriate.

Such reviews also afford an opportunity to consider whether the delegations or authorisations might invest too much authority in one individual, risking the possibility of improper conduct if there are insufficient auditing and checking processes. The NSW ICAC has recommended that the use of detailed process maps or flow charts is a good practice which can identify staff with excessive control over a key process.¹⁵

POLICIES AND PROCEDURES

Agencies typically have a suite of policies and procedures. However, unless they are reviewed regularly and are adhered to in practice, they lose relevance. Failure to follow policies and procedures leads to inconsistencies in approach and creates opportunities to act improperly.

Both the Yorke Peninsula Council and TAFE SA had a raft of policies and systems in place that were designed to detect, prevent and minimise corruption and maladministration in public administration. However, none of these controls managed to prevent either public officer from committing theft over an extended period of time.

It is critical that agencies regularly review their policies and procedures and make sure compliance is monitored and promoted. The regular promotion and checking of compliance is especially important for financial management and procurement processes.

Staff should also be well aware of any conflict of interest policies and how potential or actual conflicts of interest should be identified and managed. Approved vendor lists, contract registers and the monitoring of goods and services received are also key procurement controls.

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15: NSW ICAC, *Corruption and Integrity in the NSW Public Sector: an assessment of current trends and events*, December 2018, p. 37. See, <http://www.icac.nsw.gov.au/docman/preventing-corruption/cp-publications-guidelines/5358-corruption-and-integrity-in-the-nsw-public-sector-an-assessment-of-current-trends-and-events/file>

SPOT CHECKS AND RANDOM AUDITS

Agencies should consider routine spot checks of compliance with key internal financial controls in order to provide an early indication of whether actual practice adheres to policy.¹⁶

Many organisations have internal audit and risk teams, typically providing an announced and anticipated range of routine checks and assessments. Such teams should also conduct periodic random audits on specific parts or work practices of an organisation that go beyond the typical spot check. Random audits ensure everyone is open to the possibility of unannounced scrutiny which may decrease the likelihood of offending.

All staff should be aware that random audits and spot checks are normal parts of an organisation's operation. This shared understanding can both promote awareness that offending will be identified, and assure staff that they are not being individually targeted but that such processes ensure an accountable and high performing organisation.

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RECRUITMENT

Agencies should ensure that their recruitment processes are comprehensive and robust and that all relevant and appropriate employment screenings are conducted.

Public sector agencies should comply with the Premier's Direction on Recruitment¹⁷, which directs the use of pre-employment declarations, the conduct of adequate referee checks (possibly beyond a candidate's preferred or suggested referees), consideration of National Police Certificate or other appropriate background screening, and requiring the searching of the Eligibility for Re-employment Register¹⁸ for any records of misconduct by candidates. All appropriate employment screening should be completed before any appointment is made.

It should also be remembered that recruiting for integrity does not finish upon appointment. Inductions and on-boarding are important processes for new employees, and should be used to clearly outline expectations around honesty and integrity, and the consequences of wrongdoing.

16: As recommended by the Local Government Association in its *Financial Sustainability Information Paper 21 Internal Financial Controls*, revised February 2015, p. 7.

17: See, <https://publicsector.sa.gov.au/wp-content/uploads/20181002-Direction-of-the-Premier-of-South-Australia-Recruitment.pdf>

18: See, <https://publicsector.sa.gov.au/people/one-government-one-employer/eligibility-for-re-employment-register/>