

ANZSOG: Integrity Project

It is clear that ‘public sector integrity’ will be a high profile and critical public sector issue for the foreseeable future. The release of the Robodebt Royal Commission report has highlighted the breadth and depth of integrity challenges at the Commonwealth level – and the operations of the National Anti-Corruption Commission (NACC) will maintain this focus.

In anticipation of these initiatives, in October 2022, the Public Service Commissioners Conference (PSCC) discussed integrity issues broadly, with further consideration at their March 2023 meeting. All jurisdictions are focused on integrity issues in one way or another, and all public sector commissions are seeking more information and reliable advice related to their integrity priorities and challenges.

The ANZSOG program of work on integrity will drive a coordinated approach to bolster pro-integrity strategies, policies and cultures across jurisdictions – to offer strategic advice that has a positive impact with governments, partners and the community.

ANZSOG welcomes further discussions with public sector commissions and other government entities focused on integrity to share information, boost analysis and support the design of integrity strategies and cultures.

The papers attached here have been authored by ANZSOG staff: Dr Andrew Bushnell, Dr Lisa Carson, Dr Julia Richardson and Dr Robert Jansen.

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1. ANZSOG (2023), Integrity in Practice: An Analysis of Public Sector Integrity Reviews

Dr Andrew Bushnell, September 2023

Integrity is an issue of rising salience and importance in public administration in Australia. The July 2023 release of the Royal Commission into the Robodebt Scheme highlighted serious failings in government and raised questions about the honesty and intentions of Ministers and senior public servants, the robustness of Cabinet processes and the way that policy and legal advice is formulated, and how government considers the needs and circumstances of those it ostensibly serves.¹

Integrity had already been identified as a key area of public sector reform by the 2019 Independent Review of the Australian Public Service ('the Thodey Review'), which outlines a 'pro-integrity' agenda that includes legislating the principles and values that guide the APS in its work, which guide how it 'measures and tests' its integrity.² Thodey connects integrity to the public's trust and confidence in government, which has, by some measures declined in recent years.

For example, the Australian National University's *Australian Electoral Study 2022* found that 70% of respondents hold the view that 'people in government look after themselves' and 54% of respondents believe that government is 'run for a few big interests'.³ While these measures are not entirely driven by the public sector's performance, integrity failures in government are increasingly understood as potentially undermining government itself.

The question, then, is what the public sector can and must do to establish and demonstrate integrity. Integrity is a matter of practice – it is found in how individuals and institutions act, and to what ends. In public administration, integrity can be said to refer to the proper governance of public institutions through policies, processes and practices that achieve their designated functions, steward their resources, reflect high ethical standards, and guard against corruption by bad actors and influences.

An institution demonstrates integrity through the alignment of its actions (and the actions of its staff) with its mission and the expectations of the government and the public. But because integrity is about practice, this simple definition is insufficient; it must be filled out by consideration of how governments and public sector bodies have sought to act with integrity and to correct integrity failings.

To this end, this paper provides a comparative analysis of some recent and important public sector integrity reviews, often precipitated by corruption and serious procedural failures. This sample of reports is representative but not exhaustive, with the aim of illustrating how integrity has been understood by governments across Australia.

¹Catherine Holmes, *Report of the Royal Commission into the Robodebt Scheme*, Canberra: Australian Government, 2023, xxiii-xxix. See also the summary of this report appended to this document. (Hereafter, Robodebt.)

² Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, Canberra: Australian Government, Ch 3. (Hereafter, Thodey.)

³ Sarah Cameron et al, *The 2022 Australian Federal Election: Results from the Australian Election Study*, Canberra: Australian National University, 28.

The paper also identifies directions for further research on integrity. In keeping with ANZSOG's mission, further research on integrity will seek to capture recent insights in research and practice and translate them into useable guidance for public servants and others in government – work that will inform, and be informed by, ANZSOG's various functions across research, advising government, and education for leaders and practitioners in the public service. The aim of this research is to inform decision-makers in government of context relevant to their contributions to integrity and the management of integrity systems.

Integrity in practice

Public sector integrity includes the actions of institutions and individuals. It refers to the internal and external governance of institutions – the frameworks that define an institution's functions and processes, and its place in and contribution to the broader machinery of government. It also refers to the values and behaviours of public servants and, especially, the public service leadership, because government institutions are run by and for people. Integrity resides in the complex interactions of governance systems and individual actions, and how these together determine the successful and ethical performance of an institution's established functions.

Thus, writing for ANZSOG as input to the Thodey Review, Nikolas Kirby and Simone Webbe describe institutional integrity as comprising four qualities that institutions ought to possess: purpose (defined ends), legitimacy (prescribed means), commitments (delivered promises), and robustness (accountability mechanisms). For public servants, these institutional qualities entail a commitment to the institution's values, their coordinated stewardship of its resources, and leadership that is accountable and models expected behaviour.⁴

Similarly, Professor Peter Coaldrake holds, in *Let the Sunshine In: Review of Culture and Accountability in the Queensland Public Sector* ('the Coaldrake Review'), citing relevant academic literature, that acting with integrity involves 'the use of public power for officially endorsed and publicly justified purposes'.⁵ For the public, integrity should be apparent in the consistency, coherence and trustworthiness of government institutions and actions.

Integrity therefore gives rise to a range of practical considerations within government at the institutional and individual levels, including the procedures that generate public trust and confidence, the frameworks that define and secure institutional functions, the culture that grows up around those frameworks, including values and behaviours, and the various capabilities required of leaders and public servants to ethically achieve institutional purposes. These aspects of integrity in government have been examined and illustrated by various reviews across jurisdictions – some of specific incidents giving rise to systemic concerns, others of systems themselves.

Governance issues

Integrity is a product of the frameworks, structures and procedures that specify what institutions are to do and why. Importantly, public institutions do not exist in isolation; they form a system, the machinery of government generally understood, which is the tool by

⁴ Nikolas Kirby and Simone Webbe, *Being a Trusted and Respected Partner: The APS Integrity Framework: An ANZSOG Research Paper for the Australian Public Service Review Panel: ANZSOG Research Insights No. 3*, Melbourne: Australia and New Zealand School of Government, 2019, 9.

⁵ Department of Premier and Cabinet, *Let the Sunshine In: Review of Culture and Accountability in the Queensland Public Sector – Final Report*, Brisbane: Queensland Government, 6. (Hereafter, Coaldrake.)

which the elected government enacts the priorities it has been empowered to pursue. This suggests a need for coherence between the different parts of the system, as well as for the effectiveness of each part of that system.

Accordingly, public institutions are governed by frameworks at the system level as well as at the institutional level, and their internal governance includes their procedures and various inputs into institutional culture that shape individual behaviours, including the consistent demonstration of public sector values and adherence to codes of ethics.

Frameworks and functions

The frameworks that define institutional functions and their place within the machinery of government operate both across and within institutions. A good framework contributes to integrity by establishing principles by which institutions are to operate and cooperate; conversely, an inadequate framework creates, increases or fails to mitigate the possibility of corruption.⁶

Across institutions: Governance across the system includes standards that outline how institutions and public servants should operate, overseen by bodies like public sector commissions, and tied together by the Cabinet process. Broadly, the goal of this governance is to increase coherence across the system. The Thodey Review, for example, was concerned with recreating the APS as a ‘united institution’ that is aligned ‘around shared purpose, vision and values’.⁷ The theme of coherence can also be found in considerations of how certain parts of the system are arranged; that is, in the interactions of certain institutions within the broader machinery of government.

- For example, a fundamental factor in the Robodebt scheme, as identified by the Royal Commission, was the failure of policymakers across different departments, and in the Minister’s office, to consider legal advice warning that the scheme was unlawful. This advice had been referenced in a minute signed by the Minister but was subsequently omitted from the briefing given to the Expenditure Review Committee of Cabinet, and the Royal Commission accepted that the Minister had not been given the original advice.⁸ The overlooking of this advice raises questions about Cabinet oversight of major policy initiatives and how wider government priorities (in this case, the budget) might affect institutional decision-making.
- More narrowly, the 2022 Victorian Parliament *Inquiry into the Education and Prevention Functions of Victorian Integrity Agencies* was concerned with the coordination of integrity functions among Victoria’s four integrity agencies – the Independent Broad-based Anti-corruption Commission (IBAC), the Office of the Victorian Information Commissioner, the Victorian Inspectorate, and the Victorian Ombudsman – and how they can cooperate to deliver these functions across the broader system of government.⁹

⁶ Kirby and Webbe go too far when they write that ‘Every individual integrity failure, is a collective failure since the social norms of the group were insufficient to restrain, motivate, incentivise, select, and/or invigilate the individual’. It is asking too much of any framework to eliminate the human capacity for wrongdoing. The key point is that a sound integrity framework establishes a standard of propriety that can be followed by everyone in an institution and used to hold people accountable for their actions. Kirby and Webbe, 13.

⁷ Thodey, 52.

⁸ Robodebt, 88-9, 106 (and 55-107 for the full story of the genesis and fate of this advice).

⁹ Integrity Oversight Committee, *Inquiry into the Education and Prevention Functions of Victorian Integrity Agencies*, Melbourne: Parliament of Victoria, 2022.

- Similarly, IBAC's Operation Ord (2016), which investigated corruption within the Department of Education and Training where senior officials were found to have misappropriated public funds over many years, stated that an enabler of corruption was a lack of systematicity across the Victorian school system: there was a separation between school administrators and central office, including different accounting systems and no clear lines of oversight.¹⁰

Within institutions: The internal governance of institutions includes the structures and policies that enable the institution's operations. These might include features like governing or advisory boards, the organisational structure, standing committees, and so on. For integrity, the governance of an institution must support its functions and the oversight of its operations.

- So, for example, Operation Ord also demonstrates deficiencies in internal governance. IBAC found that the Department had inadequate controls for procurement, financial management and auditing. Not only were these systems operated poorly, with directions often ignored, but they were badly designed, with obscure language and infrequent oversight.
- IBAC followed Operation Ord with Operation Dunham (2017), which investigated corruption in a specific program of the Department of Education and Training. It similarly found inadequate financial management processes, as well as a lack of clarity around the responsibilities of key actors, including the Secretary of the department.¹¹

Recent years have seen a range of failures in the governing frameworks of public institutions, both across and within institutions. This kind of integrity failure includes a lack of oversight or coordination at the system level and inadequate controls within institutions, with internal processes being or becoming corrupted and opportunities for corruption being created. These issues are related: the proper level of system oversight is determined, in part, by the kinds of governance in place within an institution and the kinds of functions it performs, and, conversely, the internal governance and functions of an institution are defined, in part, by the place of that institution within the broader system.

So, these framework issues also raise the question of institutions' independence; that is, how much autonomy public institutions need to perform their functions, and how to judge whether an institution requires greater oversight (and possibly direction) from the centre. The answer will vary for different kinds of public institution, with, for example, departments (with their large budgets and policymaking roles) arguably being more integrated into the broader system than small statutory agencies (usually set up for specific purposes, with smaller budgets and at arm's length from the rest of government).¹² Addressing this kind of governance issue, then, is not as simple as merely increasing oversight from the centre – governance must fit the purpose of each institution as well as the broader needs of government.

¹⁰ Independent Broad-based Anti-corruption Commission, *Operation Ord Special Report*, Melbourne: Victorian Government, 2016.

¹¹ Independent Broad-based Anti-corruption Commission, *Operation Dunham Special Report*, Melbourne: Victorian Government, 2017.

¹² David Gilchrist and Shamit Saggar, *The Governance and Operation of Smaller Statutory Agencies: Evidence Review Report*, Melbourne: Australia and New Zealand School of Government, 2023.

In any event, the central problem of governance framework failure is that it can cause or permit the corruption of the procedures of institutions – without proper governance, the activities of institutions and actors may not achieve the desired results. In turn, this raises the question of what qualities those processes should have if they are to properly track institutional functions and thereby demonstrate integrity.

Procedures

Procedural integrity can be understood as the way that government institutions should operate, within their governing frameworks and structures. Consistent with Thodey's concerns, aspects of procedural integrity, including transparency, public engagement, impartiality and accountability have often been identified as a key contributor to public trust and confidence in government.

Transparency: It is widely considered desirable that, all else equal, government decision-making processes should be made legible to citizens through accurate and accessible documentation and clearly identified responsibilities for those exercising government powers. Access to information provides the basis of public oversight of and participation in government.¹³

- Notably, this issue was recently reiterated by the Victorian Public Sector Commission (VPSC) in guidance issued in the wake of the COVID-19 Hotel Quarantine Inquiry ('the Coate Inquiry'), which investigated how the decision to establish the failed policy of hotel quarantine had been made. The Coate report recommended that the VPSC respond to evidence heard by the inquiry as to the 'lines of accountability and responsibility' between departments and Ministers. The guidance subsequently issued aims to clarify the timing, content and form of briefs for Ministers, emphasising the importance of documenting 'what decision was made, who made it, [and] the information the decision was based on'.¹⁴
- In 2019, the New Zealand Government introduced a policy for the 'proactive release' of Cabinet papers, whereby the default position for cabinet papers is their release within 30 business days of cabinet decisions (though redactions may be applied to sensitive information).¹⁵ The Minister who introduced the policy change noted that the 'proactive release of official information promotes good government and transparency and fosters public trust and confidence in government and the public agencies'.¹⁶

Engagement: There is an emerging view that transparency should be complemented by active engagement by government with populations affected by policy decisions throughout the design and implementation phases of the policy cycle. As early as 2010, the Australian Government had described its commitment to 'openness and transparency' in terms of

¹³ Richard Mulgan, *Transparency and Public Sector Performance*, Melbourne: Australia and New Zealand School of Government, 2012, 8.

¹⁴ Victorian Public Sector Commission, *Office and Executive Guide for Informing and Advising Ministers*, Melbourne: Victorian Government, 2022, 17. (Hereafter, VPSC).

¹⁵ Department of the Prime Minister and Cabinet, 'Proactive release of Cabinet material', <https://www.dpmc.govt.nz/publications/proactive-release-cabinet-material> [accessed 31 August 2023]

¹⁶ Hon Chris Hipkins MP, Government to proactively release Cabinet papers – and Open Government Action Plan to be issued (media release), *The Beehive*, 18 September 2018 <https://www.beehive.govt.nz/release/government-proactively-release-cabinet-papers-%E2%80%93-and-open-government-action-plan-be-issued> [accessed 31 August 2023].

informing, engaging and participating, and these principles were later captured in the 2019 *APS Framework for Engagement and Participation*.¹⁷

Similar frameworks have been adopted across Australian jurisdictions. Aided by technological advances, community engagement has become a regular part of policymaking, being widely considered useful for designing policies that effectively serve the intended beneficiaries.¹⁸ To the extent that community engagement should be part of the policy design process, a failure to engage properly or sufficiently might be, or contribute to, a failure of integrity. Though it should also be noted that the capture of policy and regulatory processes by special interests (including business, political and community groups) is also a significant integrity risk.

- The Robodebt Royal Commission identified a lack of consistent engagement with peak bodies in civil society as one contributor to the harm caused by that policy. Recommendation 12.3 of the final report advises that ‘Peak advocacy bodies should be consulted prior to the implementation of projects involving the modification of the social security system’. The report goes on to note that ‘Such consultation should be standard and provided for in relevant business documents of DSS and Services Australia’.¹⁹

Impartiality: Within the Westminster system of government, the public service is obliged to be apolitical and independent. While this is sometimes in tension with the increasing desirability of political astuteness or responsiveness to government needs, it is understood that the public service, as the APS Values put it, ‘provides the government with advice that is frank, honest, timely and based on the best available evidence’.²⁰ As such, impartiality complements engagement, contributing to integrity by committing public servants to resisting political interference and other forms of undue influence on policymaking processes.²¹

- The 2022 independent inquiry into the appointment of former NSW Deputy Premier John Barilaro as Senior Trade and Investment Commissioner to the Americas (led by Graeme Head, ‘the Head inquiry’) found real concerns about the processes leading to the appointment, including whether the public servant leading the process had followed the code of conduct and whether the appointment was consistent with the merit principle.²² The appointment was the subject of considerable public controversy, focusing on political interference and the use of public office for private gain. The NSW Minister for Trade, Stuart Ayres, was subsequently forced to resign, and Mr Barilaro was implicated in political interference in a separate appointment for a similar position.²³ However, the

¹⁷ Department of Industry, Science and Resources, *APS Framework for Engagement and Participation*, Canberra: Australian Government 2019/2021.

¹⁸ See discussion in John Wanna, ‘Introduction’ in *Opening Government: Transparency and Engagement in the Information Age*, Canberra: ANU Press, 2018.

¹⁹ Robodebt, 376.

²⁰ Australian Public Service Commission, ‘APS Values’, <https://www.apsc.gov.au/working-aps/information-aps-employment/aps-values> [accessed 31 August 2023].

²¹ Kirby and Webbe, 23.

²² Department of Premier and Cabinet NSW, *DPC Inquiry: Appointment of Senior Trade and Investment Commissioner to the Americas*, Sydney: NSW Government, 2022. (Hereafter, Head).

²³ Ashleigh Raper, ‘Why John Barilaro’s New York Job Saga is an Own Goal for NSW Premier’, *ABC News*, 4 August 2022, <https://www.abc.net.au/news/2022-08-04/why-john-barilaro-new-york-job-is-own-goal-for-dominic-perrottet/101297818> [accessed 31 August 2023]; Michael McGowan, ‘Inquiry Finds John Barilaro “Interfered” in Selection Process for a Senior UK Trade Job’, *The Guardian Australia*, 27 February 2023,

Independent Commission Against Corruption (ICAC) found no evidence that either Mr Ayres or Mr Barilaro had engaged in corrupt conduct.²⁴

- The 2023 *Independent Review of Services Australia and NDIA Procurement and Contracting* (led by Ian Watt, ‘the Watt Review’) investigated reports that the two agencies had not followed proper procedure in awarding certain contracts. The reviewer made a number of observations about procurement processes across government, including that a high rate of procurements leading to subsequent procurements from the same vendors and to variations increasing the size and scope of procurements might be suggestive of ‘too convenient’ relationships being formed. Dr Watt also noted that a lack of competition in the tender process reduced transparency, accountability for value for money, and equitability for vendors.²⁵

Accountability: Along with establishing ethical decision-making processes, integrity – especially as it pertains to public trust in government – also includes the consequences of failing to follow those processes. Just as the elected government of the day is held accountable for its decisions to the public through elections, the public sector is, and must be seen to be, accountable for its use of public resources. Beyond anti-corruption measures, accountability also includes performance monitoring, program evaluation, and other positive measures that provide assurance that public funds are being used to legitimate and beneficial ends.

- Per its terms of reference, the Robodebt Royal Commission was established not only to investigate the failure of that policy but also to identify those ‘responsible for its design, development and establishment’ and why they ‘considered [it] necessary or desirable’. The final report notes that the scheme was an important budget measure, and as the budget allocates public money, ‘it is appropriate that there is proper oversight of, and accountability for, spending’.²⁶ The budget process is coordinated by Cabinet, and this process was seen to fail in this instance, with senior public servants among those implicated.
- The new National Anti-Corruption Commission (NACC) has been established to fill a gap in the Commonwealth’s integrity system; it is empowered to investigate corruption and educate the public sector on anti-corruption measures.²⁷ In part, the establishment of the NACC is motivated by inquiries into the Community Sport Infrastructure Grants program, in which the Australian National Audit Office (ANAO) found that at least one grant for sports facilities departed from established processes.²⁸ A Senate Committee

<https://www.theguardian.com/australia-news/2023/feb/27/inquiry-finds-john-barilaro-interfered-in-selection-process-for-a-senior-uk-trade-job> [accessed 31 August 2023]

²⁴ Independent Commission Against Corruption, “Statement Regarding the Appointment of John Barilaro as Senior Trade and Investment Commissioner to the Americas (media release)”, <https://www.icac.nsw.gov.au/media-centre/media-releases/2023-media-releases/statement-regarding-the-appointment-of-john-barilaro-as-senior-trade-and-investment-commissioner-to-the-americas> [accessed 31 August 2023]

²⁵ Ian Watt, *Independent Review of Services Australia and NDIA Procurement and Contracting: Independent Reviewer’s Report*, Canberra: Australian Government, 2023.

²⁶ Robodebt, pages x and 422.

²⁷ National Anti-Corruption Commission, “Overview of the NACC”, <https://www.nacc.gov.au/about-nacc/overview> [accessed 31 August 2023].

²⁸ Australian National Audit Office, *Award of Funding under the Community Sport Infrastructure Program*, Canberra: Australian Government, 2020.

subsequently recommended that the ANAO be given increased resources and that a national integrity commission be established.²⁹

In sum, the integrity of government procedures is demonstrated in practice by certain design features that, together, enable the public to see for themselves how and why decisions are made and who is responsible for making them. But this is not a sufficient description of integrity: these procedural concerns raise a further set of questions about the capabilities and character of decision-makers and the environment within which they make decisions.

Culture

The governance and procedures of institutions create the conditions under which individuals perform the tasks that contribute to the institution's mission. Connecting the two is the culture of the institution, comprising the values and principles that the institution expects individuals to follow, and the patterns of behaviour of leaders and staff. For integrity, the culture of an institution must support the institution's functions and overall mission.

Values: Institutions aim to instil a set of values in their leaders and staff that guide their actions towards the achievement of the institution's functions. Relatedly, institutions may prescribe certain specific behaviours or principles, often as a code of conduct or similar. For integrity, values and principles aim to ensure that individuals' actions place institutional purposes first, while minimising the scope and propensity for acts that are contrary to those purposes.

- The Head Inquiry found various failures to follow the Code of Ethics and Conduct and recommended legislating the Code of Ethics and Conduct for the public service.³⁰
- IBAC's Operation Dunham uncovered a pattern of corruption in which there was a consistent blurring of private and public interests: the key figure in the case sought to exploit intellectual property developed on worktime and used his position in the department to obtain commercial opportunities for himself and partners. Similarly, the earlier Operation Ord uncovered a 'boozy and blokey' culture that enabled corruption. In response, the Department of Education implemented a new integrity system, including a new set of values and plans for their dissemination to staff.

Education and prevention: Integrity can be understood as having both positive and negative aspects; it is both the cultivation of the qualities of integrity and the avoidance or minimisation of corruption. Writing in 2018, former ANZSOG Dean and CEO Ken Smith argued that 'The work of an anti-corruption body must... be complemented with a pro-integrity focus to monitor and lift general standards of integrity across the public service... Public sector leaders must take responsibility and advocate for integrity reforms that support their own long-term stewardship of the public sector'.³¹

- For example, Victoria's review of its integrity agencies focused on their role in preventing integrity by raising standards across the public sector. For example, Recommendation 11

²⁹ Australian Senate, *Select Committee on Administration of Sports Grants: Final Report*, Canberra: Australian Government, 2021, 61-2.

³⁰ Head, 8-10.

³¹ Ken Smith, "Remembering who you Report to: Pathways to Good Policy Outcomes", *Griffith Review* 67, 2020. Available here: <https://anzsog.edu.au/news/taking-the-lead-on-transparency-and-trust-anzsog-dean-ken-smith-in-griffith-review/> [accessed 31 August 2023]

proposes that the Victorian Public Sector Commission (VPSC) develop a mandatory annual training program for public servants on the public sector's values and code of conduct, and Recommendation 12 proposes that the four integrity agencies establish a 'corruption-prevention and education network'.³²

- Further, the Australian Government has introduced legislation that will add stewardship as an APS value, with a proposed definition of 'The APS builds its capability and institutional knowledge, and supports the public interest now and into the future, by understanding the long-term impacts of what it does'.³³ An important direction for research in this area will be to connect this understanding of stewardship with integrity, especially integrity's positive, educative aspect.

Whistleblowing: Both a structural and cultural matter, whistleblowing is often the cause of integrity investigations. Structurally, integrity reviews have found deficient processes and protections for raising integrity issues with relevant authorities. Culturally, they have also found a reluctance to disclose or expose wrongdoing (to blow the whistle) can be a product of the institutional culture.

- The Victorian Parliament's inquiry found that a key part of a culture of integrity is safety of reporting; that is, the protection of whistleblowers from victimisation, including such measures as anonymous reporting.³⁴
- While Operation Ord began with a complaint from a whistleblower, the investigation that followed, and the later Operation Dunham, found that the pattern of corruption might have been detected earlier but for a lack of avenues and protection of intimidation for people who had concerns about the conduct of the senior officers in question.

Institutional culture refers to the values that staff demonstrate in their actions. A pro-integrity culture prevents corruption through the education of staff in the institution's values and training in ethical procedures, while also contributing to accountability by enabling the reporting of wrongdoing. Integrity is, then, a set of behaviours learned through instruction and practice, and as such, it is a question for individuals as well as institutions.

Personnel Issues

Institutional culture captures the way that governance aims to influence individual behaviour, but integrity also goes directly to the qualities and capabilities of the individuals themselves; that is, it is vital to fill institutional roles with people committed to, and capable of, performing them.

Leadership: Coaldrake notes that 'culture is shaped by leaders at all levels... their tone will be a precondition for success, whether that tone be in the form of modelling behaviour, policy ambition and encouraging a contest of ideas, supporting the community in times of crisis, or the manner in which authority is exercised and the voice of the public heard'.³⁵ This leadership role requires certain capabilities, and so an important enabler of integrity is the

³² VPSC, xvi-xvii.

³³ APS Reform Office, 'Consultation Paper: Proposed Updates to the Public Service Act 1999 and Subordinate Legislation', <https://www.apsreform.gov.au/resources/capability-development/consultation-paper-proposed-updates-public-service-act-1999-and> [accessed 31 August 2023].

³⁴ Parliament of Victoria Integrity and Oversight Committee, *Inquiry into the Education and Prevention Functions of Victoria's Integrity Agencies*, Melbourne: Victorian Government, 61.

³⁵ Coaldrake, 1

selection and development of leaders who are capable of setting the tone for their institutions.

- One specific capability that has received recent attention is political astuteness, or the sensitivity of public service leaders to the political reality influencing Ministerial decision making. As the VPSC notes in its guidance for informing Ministers, following the Coate Inquiry, the challenge for a leader is to remain apolitical while demonstrating awareness of Ministerial priorities and building a relationship of trust.³⁶
- Failures of leadership can compound integrity problems; for example, IBAC's Operation Dunham raised serious questions about the lack of oversight and engagement by the departmental Secretary with the program in question, even though it was one of the biggest items on the department's agenda.³⁷

Merit: The merit principle holds that roles should be filled by persons capable of performing their tasks, and, ideally, by the most capable person available. Merit emerges from the same concern as integrity: the alignment of action with purpose and principle.

- Importantly, both Thodey and Coaldrake pointed out that diminished trust in government is linked to a decline in government capability. Such concerns are reinforced by incidents like those featured in the Head Inquiry, in which favouritism possibly trumped merit. The merit principle is also supposed to minimise the risk of recruiting, retaining and promoting people who lack personal integrity, such as the principal actors examined by Operation Ord.
- There has also been recent interest in how the merit principle interacts with diversity and inclusion in the public sector. For example, the 2019 *A Fair and Responsive Public Service for All: Independent Review of Queensland State Employment Law* (conducted by Peter Bridgman, 'the Bridgman Review') recommended various diversity measures, including the creation of a Special Commissioner for Equity and Diversity. The review linked these measures to transparency and accountability in the recruitment, retention and promotion of staff.³⁸

The Bridgman Review was concerned with placing renewed emphasis on the human factor in institutions – recognising that institutions operate through and for people – and this is a key point for integrity as well. The sound governance of institutions through frameworks and procedures is necessary but not sufficient for institutional integrity. In fact, whether or not an institution demonstrates integrity ultimately comes down to the capabilities and character of its leaders and staff.

Implementation of recent integrity reforms

In the wake of the reviews cited here, governments across Australia have taken various steps to strengthen integrity by implementing the recommendations provided in the many reports. The size of the task is roughly illustrated by the number of recommendations across these reviews: for example, Coaldrake made 14 recommendations, Thodey 40, the Robodebt Royal

³⁶ VPSC, as above. See also Jennifer Coate, *Covid-19 Hotel Quarantine Inquiry: Final Report and Recommendations*, Melbourne: Victorian Government, 2020.

³⁷ Operation Dunham, 79.

³⁸ Peter Bridgman, *A Fair and Responsive Public Service for All: Independent Review of Queensland State Employment Law*, Brisbane: Queensland Government, 2019.

Commission 58, and Bridgman 99. The recommendations across the reviews can be placed in three broad groups:

- *Oversight*: Attention has been paid to strengthening the agencies charged with systemwide oversight. The Thodey Review and the Coaldrake Review both recommended strengthening the relevant public sector commissions, including giving them new powers, and Coaldrake and the Victorian Parliament Integrity and Oversight Committee both made recommendations about the powers and operation of integrity agencies like the Ombudsman and Auditor General. The reviews have also recommended the creation of new bodies: Thodey endorsed the idea of a Commonwealth integrity commission, now created as the NACC, while Bridgman recommended a new Queensland Governance Council among other recommendations aimed at supporting public servants in their work.
- *Governance*: Naturally, many reviews have identified possible improvements in the frameworks and procedures of public institutions. Notable examples include Coaldrake's recommendations regarding the proactive release of Cabinet documents (following the New Zealand example) and enhanced whistleblower protections (also noted by the VPSC in their 2021 guidance), and the Victorian Ombudsman's Operations Ord and Dunham leading to a new integrity framework for Victoria's Department of Education and Training, along with a new public sector conflict of interest policy. The Head Inquiry and the Bridgman Inquiry recommended changes to both legislation and human resources practices in recruitment and training, while the Watt Review recommended changes to public sector procurement processes.
- *Education*: Consistent with the desirability of a pro-integrity culture within the public sector, the reviews have also drawn attention to improved education and training on the integrity responsibilities of leaders and staff. For example, this was a key theme in Thodey and in Operations Ord and Dunham, while Watt endorsed the professionalisation of procurement as a distinct role and set of capabilities.

The seriousness of these recommendations is reflected in the commitments made by governments to implement them. The current Commonwealth government has accepted the Thodey Review in full, including Recommendation 7, which is specifically directed to integrity, and to which the previous government had agreed only in part.

Similarly, the Queensland Government has accepted all the recommendations of the Coaldrake Review, and, in the wake of Operations Ord and Dunham, the Victorian Government sought to comprehensively update the integrity systems that had failed in those cases. A notable exception is that the then NSW Government did not accept all of the Head Inquiry's recommendations, withholding support for recommended changes to the Ministerial code of conduct, but nonetheless accepting the recommendations pertaining to the public service.

Research directions

Building on these recent reforms and drawing on the motivation for change created by recent incidents, a pro-integrity agenda is starting to coalesce. But there is also a range of emerging issues in public administration with implications for integrity that require further investigation.

Stewardship: As a value or principle for public servants, stewardship seems to be closely related to the positive aspects of integrity. A pro-integrity framework for government institutions and the broader machinery of government will need to define how the structures and values of institutions support and encourage stewardship as a value and the capabilities it requires, like policy foresight and political astuteness. Moreover, while stewardship has previously been understood as a responsibility of public service leaders, it is now considered desirable as a general capability of public servants at all levels, as illustrated by its addition as a legislated APS value. Whether and how this bears upon the governance arrangements, roles and responsibilities, and processes of institutions is a prospective area of both research and innovation in practice.

Leadership: Various reviews have identified leadership failures as contributing to integrity failures, and some high-profile cases have directly implicated public service leaders in deliberate departures from ethical standards and unlawful behaviour. The pro-integrity agenda therefore includes a focus on the broader suite of leadership capabilities that the public service requires, along with the kinds of behaviours that leaders ought to model for their staff.

Data and digital: Among the resources managed by the public sector, an increasingly valuable and important one is data. As Ken Smith puts it, 'If data is the new oil, governments are sitting on priceless deposits'.³⁹ But this raises various questions about how this resource is collected and used, who owns it (sometimes called data sovereignty), and who can access it. Integrity in government will increasingly require sound answers to these questions and the development of frameworks and processes that reflect their importance.

Engagement: It is increasingly understood that transparency in government, central to integrity and the development of public trust, includes an opportunity to participate in the design and implementation of policy, not only a chance to scrutinise it after the fact. But this new way of working also requires new forms of governance, and new capabilities in government, if it is to be done ethically and with due attention to the rights and duties of those involved, to be consistent with the functions of institutions and avoid the appearance of policy and regulatory capture, and to conduce to the general benefit of society.

Merit: Integrity is defined, in part, by the functions and roles within an institution, which determine what the institution is trying to do and how staff are expected to contribute to that mission, and merit is broadly understood as the fitness of a person for a particular role. For integrity, the question arises as to whether and how considerations like those canvassed in this paper affect the meaning of merit for different roles and how this might be assessed. Governments may establish system-wide priorities (for example, in respect of diversity and inclusion across the public sector) and an emerging discussion in public administration is whether these priorities are relevant to merit itself, or to be traded-off with merit considerations. How the merit principle is understood contributes to how institutions demonstrate integrity in recruitment, retention and promotion processes, and is also relevant to the instrumental value of integrity in generating trust and confidence in government.

As these research directions indicate, a pro-integrity reform agenda will influence a wide range of public sector functions, capabilities and practices. In this, an important cross-cutting

³⁹ Smith, as above.

question is the proper size and scope of integrity structures within the public sector – developing frameworks and processes that enable the functions of public institutions but do not over-govern them or direct them away from their established missions. For example, while some measure of trust and confidence in government is desirable, it is not always the main end towards which government actions ought to be directed, just as it not obvious that more government (more policies and programs) or more governance of the public sector (more frameworks and oversight) is necessarily desirable.

Similarly, some balance between political astuteness and the imperatives of independence and stewardship must be reached, and this is likely a matter of practice and not something that can be pre-empted by central agencies nor determined objectively. After all, integrity is about an alignment of means and ends within the public sector; it does not determine what kinds of public policy are desirable, nor prescribe the full meaning of good government.

Conclusion

Over recent years, a wide-ranging concern for integrity in the public sector has emerged. Several high-profile incidents have brought attention to the complex question of what constitutes ethical behaviour within the public sector, and these matters have contributed to a broader concern that the public's trust and confidence in government is declining.

In analysing the key findings from public sector integrity reviews, this paper has illustrated some of the key factors in answering this question. The reviews show that integrity resides in the complex interactions of governance frameworks and procedures across and within public institutions, as well as the actions of public sector leaders and staff, the various responsibilities of the elected government and public servants, and the democratic process itself. Together, these factors determine what the public sector is doing, why it is valuable, and how it can do it best.

Recent reforms seek to enhance integrity through changes to governance, procedures and culture, moving beyond anti-corruption to a positive commitment to the ethical use of public powers and resources. But as this pro-integrity agenda takes shape, it raises a range of further questions about how these reforms, severally and together, contribute to integrity in practice, and to our understanding of integrity in public administration.

2. Summary: Holmes, Catherine (2023), Report of the Royal Commission into the Robodebt Scheme

Report Details: Report of the Royal Commission into the Robodebt Scheme, (Commissioner Catherine Holmes AC SC), July 2023 (661 pages plus appendix)

Keywords: integrity, transparency, values, culture, systems, leadership, judgment

Summary

The report provides a clear and comprehensive explanation of the origins, design and implementation of the Robodebt scheme, including detailed analysis of the written submissions, government documents and testimony of witnesses, and offers 57 recommendations.

Extracts from the report are the best way to understand the approach of the Royal Commission:

Page v. The Scheme was a proposal developed by the Department of Human Services (DHS), put forward as a budget measure by the Minister for Social services in 2015 and begun that year (initially in pilot form and expanded in subsequent budgets). It was designed to recover supposed overpayments from welfare recipients going back to the financial year 2010-11 and relied heavily on a process known as ‘income averaging’ to assess income and entitlement to benefit. As used, it neither produced accurate results nor complied with the income calculation provisions of the *Social Security Act 1991 (Cth)*. By the end of 2016, the scheme was the subject of heavy public criticism but was nonetheless persisted with until November 2019.

Page xxii. There are different mindsets one can adopt in relation to social welfare policy. One is to recognise that many citizens will at different times in their lives need income support - on a temporary basis for some as they study or look for work; longer-term for others, for reasons of age, disadvantage or disability - and to provide that support willingly, adequately and with respect. An alternative approach is to regard those in receipt of social security benefits as a drag on the national economy, an entry on the debit side of the Budget to be reduced by any means available: by casting recipients as a burden on the taxpayer, by making onerous requirements of those who are claiming or have claimed benefit, by minimising the availability of assistance from departmental staff, by clawing back benefits whether justly or not, and by generally making the condition of the social security recipient unpleasant and undesirable. The Robodebt scheme exemplifies the latter.

Further on page xxii. ... in January 2015 the newly appointed Minister for Social Services, Mr Morrison described himself in an interview as planning to be a ‘strong welfare cop on the beat’; because Australians were ‘not going to cop people who are going to rot [the social security] system’. It was in this climate that the essential features of the Robodebt scheme were conceived by employees of DHS, were put by way of an Executive Minute in February 2015 to the Minister for Human Services, Senator the Hon Marise Payne, and to Mr Morrison as Minister for Social Services. Approved by the latter, they made their way in the form of a New Policy Proposal (NPP) through Cabinet with remarkable speed. In May 2015, as part of its 2015-16 Budget, the government adopted a measure named Strengthening the Integrity of Welfare Payments. Described as a package for ‘enhancing ... fraud prevention and debt recovery and improving assessment processes’ in relation to the payment of social security benefits, it was expected to save \$1.7 billion over five years. Most of those savings were to come from the Employment Income Matching measure, the initiative which began Robodebt, which was proposed to recover overpayments resulting from incorrect declarations of income. Another measure in the package, titled ‘Taskforce Integrity’, involved the secondment of Australian Federal Police officers and was designed to crack down on welfare fraud. The two were often, and not coincidentally, mentioned in the same breath.

Page xxiv Where, in any given fortnight, the averaged fortnightly amount exceeded the income the recipient was entitled to receive before reduction of benefit, it would be taken that there had been an overpayment, a debt would be raised accordingly, and steps would be taken to recover it. Where the recipient was still on benefit, deductions would be made from the income support currently being paid. Where the recipient was no longer on benefit, they would be required to enter a repayment arrangement. Debt collectors would be involved if they did not respond, and they were liable to have any income tax refund they were entitled to receive garnished.

Page xxv In February 2015, DHS officers provided the Ministers for Social Services and Human Services with the Executive Minute containing a number of proposals including Employment Income Matching (Robodebt). It pointed out that (consistently with its 2014 advice) DSS had advised policy change might be, and legislative change would be, needed to implement the Employment Income Matching initiative... By 3 March 2015 an NPP reflecting the Employment Income Matching initiative had been prepared for inclusion in an exposure draft of a Social Security Portfolio Budget Submission. It contained no reference to legal risks and said that legislation was not required. The Scheme was approved by Cabinet and proceeded without the legislative change to support averaging which DSS had said was needed. That awkward question was avoided in the NPP by the simple expedient of not mentioning averaging and saying instead, falsely, that the new approach would not change how income was assessed or payments calculated. Given that it was still proposed to undertake 866,857 compliance reviews (or 'interventions') for the 2010-13 financial years producing gross savings of \$1.1 billion (as compared with an estimated \$1.2 billion in the Executive Minute) and given the speed with which the NPP was developed and approved for presentation to Cabinet, it is not credible that anyone closely involved with the measure could have believed that there had been some fundamental change to the proposal so that it no longer entailed averaging or for some other reason ceased to require legislative change... No consideration seems to have been given to the legal basis on which DHS could ask recipients to provide information in response to it.

Page xxvi ... the way averaging was used in the Scheme was essentially unfair, treating many people as though they had received income at a time when they had not, and did not need support when they did, with the further fiction that they now owed something back to the government. It subverted the rationale on which income support was provided in the first place: as a safety net to ensure that people received help when they most needed it... There appears to have been an obliviousness to, or worse a callous disregard, of the fact that many welfare recipients had neither the means nor the ability to negotiate an online system. The effect on a largely disadvantaged, vulnerable population of suddenly making demands on them for payment of debts, often in the thousands of dollars, seems not to have been the subject of any behavioural insight at all.

Page xxvii The disastrous effects of Robodebt became apparent soon after it moved, in September 2016, from the last part of the limited release, involving around 1000 recipients, to sending out 20,000 notifications per week. In December 2016 and January 2017, the media, traditional and social, were saturated with articles about people who had had demonstrably wrong debts raised against them, and in many instances heard of it first when contacted by debt collectors. The human impacts of Robodebt were being reported: families struggling to make ends meet receiving a debt notice at Christmas, young people being driven to despair by demands for payment, and, horribly, an account of a young man's suicide. The Australian Council of Social Services, the peak body for community services supporting recipients, wrote to the Minister for Human Services in December 2016, pointing out the inaccuracies which were being produced by averaging instead of applying actual fortnightly income figures, the unfairness of charging a penalty where it was not established that a recipient had even been contacted, the difficulty for people in recovering information from employment years past, the technical difficulties with the online system, the lack of assistance from Centrelink officers and the commencing of debt collection often without warning to the recipient. The beginning of 2017 was the point at which Robodebt's unfairness, probable illegality and cruelty became apparent. It should then have been abandoned or revised drastically, and an enormous amount of hardship and misery (as

well as the expense the government was so anxious to minimise) would have been averted. Instead, the path taken was to double down, to go on the attack in the media against those who complained and to maintain the falsehood that in fact the system had not changed at all. The government was, the DHS and DSS ministers maintained, acting righteously to recoup taxpayers' money from the undeserving.

Page xxix For people who were able to prove they did not owe a debt, it was a stressful and time-consuming process. Undoubtedly some people paid amounts they did not owe because they were not in a position, practically or psychologically, to demonstrate otherwise. For other people who might have owed what would, certainly to them, have been significant amounts, the process was unreasonable: suddenly and unexpectedly being confronted with demands for information and payment in respect of benefits which might have been received and spent long ago. People who did owe some amount were unable to get any clear information as to what they owed and why. Of those people who were overpaid, it is questionable how many of them owed debts at a level which justified interrupting their lives years later to demand repayment and it is unknown how many of the debts recovered during the life of the Robodebt scheme actually proved, once payslips were provided, to have been of too small an amount to meet the cost of recovery. Robodebt was a crude and cruel mechanism, neither fair nor legal, and it made many people feel like criminals. In essence, people were traumatised on the off chance they might owe money. It was a costly failure of public administration, in both human and economic terms.

Page 161 In early January 2017, Ms [Karen] Harfield [DHS General Manager] had a conversation with Ms [Malisa] Golightly [DHS, Deputy Secretary] about the problems with the Online Compliance Intervention system, AAT appeals, increasing customer dissatisfaction and unfavourable media attention. Ms Harfield suggested that, given those factors, 'it would be a suitable time to consider declaring a major incident response to re-evaluate if the original measure assumptions were still valid'. According to Ms Harfield, Ms Golightly's 'style' was to gather information about many individual issues, brief the secretary or minister, and then return with a set of proposed actions. Ms Harfield was trying to convince her instead to look at the OCI problems at a broader strategic level. That might involve, for example, bringing a group of specialists together to solve those problems. The suggestion was not well-received. Ms Harfield said that an angry Ms Golightly 'made it clear that what she expected of me was to do as I was told ... she would tell me what needed to be done'. After this, she did not revisit the topic. Her interactions with Ms Golightly were about specific tasks and they never had a more general, strategic conversation about the compliance program. In March 2017, Ms Harfield was moved to a new division.

Pages 171-2 Colleen Taylor, an experienced DHS compliance officer, had raised concerns with the Scheme, both verbally and by email, since January 2016. Ms Taylor said that she was 'shocked when she read [DHS Secretary Kathryn] Campbell's email [of 25 January 2017 referring to misrepresentations in the media]. In particular, she was 'very concerned that she [Ms Campbell] had said that there had been no changes in how we assessed income or calculated and recovered debt, when I knew that was not correct'. Ms Taylor considered the new approach to be 'dramatically different', and that what Ms Campbell had said was 'quite wrong'. Clearly of a charitable disposition, Ms Taylor concluded that Ms Campbell 'obviously did not know what was happening in the implementation of the Scheme', so her reaction was: 'I wanted to tell her how dreadful the changes were and the effect they were having, because someone was obviously telling her that nothing had really changed, which was not true'. On 7 February 2017, Ms Taylor sent an email directly to Ms Campbell: 'Please allow me, as a loyal employee of many years standing who has only ever raised concerns in-house, to respond to you directly as your statement tells me that you are being misled and I want to ensure my words reach you... There has been a very dramatic change within the last 18 months to the way in which compliance assesses income and calculates and recovers debt...'. Ms Taylor's correspondence to Ms Campbell raised specific concerns about the accuracy and legality of debts raised pursuant to the Scheme, and about the reversal of the onus of proof on to a recipient. ,

Ms Campbell's evidence [to the Commission] was that she did not read 'the full extent of Ms Taylor's documents'. Instead, she had 'referred them to the relevant line area'. This is consistent with documents before the Commission which demonstrate that, approximately four minutes after receiving Ms Taylor's email, Ms Campbell forwarded it to DHS officers including Ms Golightly, stating 'Can I have some analysis undertaken on this urgently. I expect it will already be with the CPSU'. A short time later, a telephone conference was arranged between Ms Taylor and two members of the senior executive service of DHS. Ms Taylor described feeling 'very pleased' because she thought that 'someone was listening, and my concerns would be considered'. During the phone call, Ms Taylor recalled talking about the concerns she had raised in her response to the secretary and some additional matters, including problems with averaging [of income]. At the end of that call, Ms Taylor remarked to her team leader, 'I don't think she listened to a thing I said'. A departmental Minute was prepared which contained, among other things, a summary of the telephone conversation with Ms Taylor. It stated: 'It was clear during this phone conversation, that Ms Taylor did not understand the processing capabilities of the online compliance system...'. What was, in fact, clear was that there were a number of senior departmental officers who did not understand the online compliance system or its effects. To compound that problem, when people like Ms Taylor raised legitimate concerns, which in substance reflected the reality of what was occurring to those [people] subject to the system, they were, effectively, ignored.

Page 180 DHS's approach to the media, particularly during the period of intense publicity in the early months of 2017, was to respond to criticism by systematically repeating the same narrative, underpinned by a set of talking points and standard lines. There was no critical evaluation of this messaging, or its accuracy, because the 'gatekeepers' of its content were more concerned with 'getting it [the media criticism] shut down as quickly as possible', and 'correcting the record' with standard platitudes that failed to engage with the substance of any criticisms.

Page 243 Ms [Kathryn] Campbell was the secretary of DHS from March 2011 to 17 September 2017 and the secretary of DSS from 18 September 2017 to July 2021. Renee Leon was appointed secretary in September 2017 and commenced in that role in October 2018. Ms Leon gave evidence that she was aware about the culture at DHS before she commenced in that role. In particular, she stated:

I already knew something about the culture of the Department before I started, because one of my Deputy Secretaries at the Department of Employment had come to me in order to escape the culture in the Department of Human Services, which she described to me at the senior levels as very robust and challenging. And I understood that to mean from the description that she had of it that it was a culture in which there was a lot of aggression expressed at senior levels, where behaviour that I don't think is appropriate was modelled and encouraged, such as yelling at people or publicly shaming them in front of others and allowing discussions to occur between senior colleagues that were about attributing blame rather than working together to solve problems.

When Ms Leon started at DHS she was briefed on the Scheme. Ms Leon's evidence was that she was told two things: first, that averaging was a long-standing practice and second, that though there had been criticisms of the Scheme, they related to the roll out and customer experience, seemingly as distinct from its fundamental methodology. Ms Leon's appointment to the role as secretary of DHS represented the end of Ms Campbell's tenure in that role. Ms Campbell had been responsible for a department that had established, implemented and maintained an unlawful program. When exposed to information that brought to light the illegality of income averaging, she did nothing of substance. When presented with opportunities to obtain advice on the lawfulness of that practice, she failed to act.

Pages 305-6 Services Australia [previously the Department of Human Services] received the advice of the Solicitor-General on 24 September 2019. The Solicitor-General's Opinion was an authoritative opinion that the Commonwealth did not have a proper legal basis to raise, demand or recover

asserted debts solely on the basis of income averaging, a practice fundamental to the Scheme. The effect of the Opinion was to make clear that, over the life of the Scheme in its various iterations, the Commonwealth had unlawfully been raising asserted debts against welfare (or former welfare) recipients. [Secretary Leon informed the Minister Stuart Robert about the Solicitor-General's advice on 29 October 2019.] Mr Robert responded: 'Legal advice is just advice'.

Pages 308-9 ...Ms Leon's delay in telling Mr Robert and Ms Campbell about the Solicitor-General's Opinion. Ms Campbell was not told it had been received until 7 November 2019. That was the first time that DSS was notified of the advice; not surprisingly, Ms Leon recalled in evidence that Ms Campbell was 'unhappy that it had not been shared with her earlier.' The five-week delay between receiving the Solicitor-General's Opinion and bringing it to Mr Robert's attention, and the six-week lapse of time before Ms Campbell was informed of it, are of concern.

In her statement, Ms Leon said that on receiving the Solicitor-General's Opinion, she formed the view that it would be necessary either to change the Scheme to 'bring it within the parameters' of the Opinion or to cease it... Accordingly, Ms Leon said Mr Storen [DHS General Manager, Customer Compliance Division] and Mr McNamara [DHS General Manager, Integrity Modernisation Division] spent a month trying to find ways to adapt the program so that it was lawful. When it became apparent there was not a way to continue the Scheme, she [Secretary Leon] made the decision to inform the minister and DSS. In oral evidence, Ms Leon was questioned specifically about the delay in notifying DSS of the Solicitor-General's Opinion. She said that delaying telling DSS about the advice had no impact on the steps DHS took to respond to it. She was concerned to ensure that the Opinion remained confidential, given its significance. There was not, Ms Leon explained 'a high volume of trust and comity' between her and Ms Campbell and Ms Campbell might have found it 'somewhat uncomfortable' that the Scheme had been found to be unlawful.

None of that, however, is an adequate explanation for the delay in Services Australia's providing Mr Robert and Ms Campbell with the Solicitor-General's Opinion. Both needed to know of it, and there was no reason that had to await Services Australia's settling on a position in relation to the Opinion and its implications. The risk of the Opinion's being leaked did not justify its being withheld from them. Given the 27 March 2019 advice from AGS, the substance of the Solicitor-General's Opinion should not have taken Services Australia by surprise. Ms Leon's evidence that she was shocked upon receiving the Solicitor-General's Opinion is difficult to reconcile with its confirming, in effect, the view that AGS had already expressed to Services Australia. In the five months that elapsed between the 27 March 2019 advice and Services Australia's receipt of the Solicitor-General's Opinion, senior Services Australia officers could have been contingency planning in the event of advice of the kind that was ultimately provided.

Page 310 There is no suggestion that Ms Leon was acting in bad faith at any time. It is possible that her hesitance in passing on the Opinion to the minister and her colleague at DSS was, at least in part, symptomatic of a culture at Services Australia and DSS that discouraged the conveying of adverse information; a culture that existed long before Ms Leon's tenure as secretary.

Page 637 [This report] describes the conditions that led to the Robodebt Scheme's establishment and continuation. Those conditions included repeated failures by members of the Australian Public Service (APS) to discharge their professional obligations and to adhere to the values and standards that applied to their roles. But the behaviour of individuals is only part of the story. In the Commission's view, many of the failures of public administration that led to the creation and maintenance of the Scheme can be traced to features of the APS structure. These features include:

- the separation of responsibilities between agencies in relation to the development and maintenance of government programs and the lack clear definition of those responsibilities
- a lack of independence on the part of secretaries
- woefully inadequate recordkeeping practices

- a lack of understanding on the part of some of those involved of the APS' role, principles and values

Page 641 The idea for the Scheme was conceived by employees of DHS who failed to recognise its inconsistency with social security legislation, its incompatibility with an underlying policy rationale of that legislation and the cohort of people it was likely to affect. Its continuation was enabled and facilitated by employees who disregarded the considered views of the Administrative Appeals Tribunal, deceived the Commonwealth Ombudsman and failed to give frank and fearless advice to the executive.

Page 643 The APS Value of 'Impartial' requires the public service to be apolitical, and provide the government with advice that is frank, honest, timely, and based on the best available evidence. The Commission heard evidence about APS leaders (both Secretaries and SES leaders) being excessively responsive to government, undermining concept of impartiality and frank and fearless advice. For example, when the Scheme was developed in 2015, the New Policy Proposal was apt to mislead the Expenditure Review Committee and Kathryn Campbell (Secretary, DHS) did not take any steps to correct that misleading effect.

Further on page 643 The current government has emphasised that the public service must be empowered to be honest and truly independent. It has asked the Public Service Commissioner to ensure that SES performance assessments cover both outcomes and behaviours. In the Commission's view, this does not go far enough. The Commission endorses a number of recommendations made in the Thodey Review in relation to Secretarial appointments which should be revisited, including:

- That the PM&C Secretary and APS Commissioner agree and publish a policy on processes to support advice to the Prime Minister on appointments of secretaries and the APS Commissioner
- That the PM&C Secretary and APS Commissioner undertake robust and comprehensive performance management of secretaries
- That the PM&C Secretary and APS Commissioner publish the framework for managing the performance of secretaries under the Public Service Act
- That the PM&C Secretary and APS Commissioner ensure that robust processes govern the termination of secretaries' appointments

Page 659 [Closing observations by the Commissioner] I am confident that the Commission has served the purpose of bringing into the open an extraordinary saga, illustrating a myriad of ways that things can go wrong through venality, incompetence and cowardice.

Understanding of Integrity

The Royal Commission report does not outline a definition of public sector integrity; however, the long report is essentially a treatise on the failure of a government and its public service advisers to uphold and promote the integrity of public administration in one (significant) area of public policy. Further work could be undertaken to extrapolate the integrity principles from the report and to consider the implications for public administration generally.

Recommendations

The 57 recommendations in the Robodebt report cover a range of topics, including:

- Design policies and processes with emphasis on the people they are meant to serve
- Identification of circumstances affecting the capacity to engage with compliance activity
- Easier engagement with Centrelink
- Consultation and feedback processes
- Legislative change better defined in New Policy Proposals
- Review and strengthen governance of data-matching programs
- Comprehensive debt recovery policy for Services Australia
- Training for government lawyers

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- Strengthening the Administrative Appeals Tribunal
 - Boosting the powers of the Commonwealth Ombudsman
 - Improving the Australian Public Service

Implementation

An integrity taskforce was established within the Department of Prime Minister and Cabinet earlier this year in anticipation of the release of the Report of the Robodebt Royal Commission. More recently, another team was created within PM&C to consider the Robodebt report, especially how the government could respond to the recommendations. In parallel, the APSC has allocated responsibility to former Commonwealth Secretary and Public Service Commissioner Stephen Sedgwick to examine the confidential part of the Robodebt report in relation to the actions and behaviours of APS officers as documented by the Royal Commission, presumably to test whether specific staff have breached the Public Service Act or the APS Code of Conduct, and to make recommendations to the Public Service Commissioner on action to be taken with regard to these officers. The Commonwealth government will provide a written response to the Royal Commission report in due course.

Dr Robert Jansen
August 2023

3. Summary: Kirby and Webbe (2019), Being a trusted and respected partner: the APS integrity framework

Report Details: Nikolas Kirby and Simone Webbe, *Being a trusted and respected partner: the APS integrity framework* – ANZSOG research paper for Australian Public Service Review Panel, March 2019 (63 pages) <https://anzsog.edu.au/app/uploads/2023/06/3-Kirby-and-Webbe-March-2019-final-RI.pdf>

Keywords: trust, purpose, values, merit, institutional integrity, leadership, stewardship

Summary

The research paper by Kirby and Webbe was one of six papers commissioned by ANZSOG to inform the Independent Review of the Australian Public Service, chaired by David Thodey. Commonly referred to as the ‘Thodey Review’, it was established by the Australian Government to ensure the Australian Public Service (APS) is fit-for-purpose for the future. The task was to suggest reform directions for an integrity framework for the APS in 2030 and beyond. The primary argument put forward in the paper focused on the need to promote institutional integrity rather than anti-corruption or individual level public officer integrity. More specifically, that the APS has an opportunity to assert global leadership and reassert itself as a pillar and paradigm of trustworthiness in government – to develop an institutional approach that does not set integrity in opposition to performance, capability and effectiveness, but integrates these elements in one coherent balanced vision to be a respected and trusted partner by the community.

This commissioned paper for the APS Review panel proposes a pro-integrity framework that is valuesbased and offers a complete conception of public institutional integrity to understand what drives trust. It is recommended that this notion be achieved by the coordinated stewardship of public officers; to not merely comply with rules but show leadership and responsibility for ensuring that the combined actions and decisions maintain institutions that the public can see is overall consistent, coherent, legitimate and trustworthy; not merely the parts, but the whole can be described as having integrity. Institutional integrity is not just ‘this is the way we (individuals) do things around here’, but ‘this is what we are trying to achieve together’; a public sector ethos that is dynamic, collective and purposive. (p. 9)

Understanding of Integrity

The idea of institutional integrity seeks to align operational values, codes of conduct, culture, enforcement and governance to deliver four key collective qualities:

1. Purpose: the APS must pursue clear, shared purposes to the best of its capacity
2. Legitimacy: the APS must prioritise proper process, not only performance
3. Commitments: the APS must keep its commitments to be trustworthy
4. Robustness: the APS must invest in accountability mechanisms and incentives

Recommendations

The research paper proposes to add to APS values, notably to boost leadership, and to emphasise trustworthiness, and to promote merit, and a new value of stewardship. It is argued that the APSC should produce an annual standalone integrity review to be set against clear performance targets. There should be further investment in ethical leadership, with mandatory training on integrity linked with leadership progression. Also, the APS should create a central portal for advice and reporting on integrity issues.

The paper acknowledges calls for an integrity commission, which has often been couched as an anticorruption body rather than promoting integrity. A new framework needs a visible, pro-integrity institution to lead the public service in ‘how to be best always’ to build and sustain public integrity

strength and resilience. The revised approach could shape a 'new APSC' that has primary responsibility as 'the guardian of APS values' and is based on a comprehensive *Public Integrity Act* to replace the more narrowly focused *Public Service Act*.

Implementation

This submission was considered by the 2019 Thodey Review of the APS to inform its final overall review of the APS.

Analysis

The paper focuses on the construction of a new or revised framework of public sector integrity, with a clear argument for institutional arrangements backed by legislative reform. While the authors advocate for a pro-integrity approach, the notions of a pro-integrity culture and pro-integrity capabilities are less discussed, albeit implied in the proposed enhancement of APS values, the importance of public trust and need for more training, especially on leadership with integrity.

The outline of 'institutional integrity' is attractive in concept but less convincing in its descriptive parts, where the ideas may be central to any integrity discussion, but the language (commitments, robustness) is distracting. Nevertheless, this overarching approach can offer useful input to further analysis and progress in practice.

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Uhr, J., How do we know if it's working?, *Australian Journal of Public Administration*, 64, 2, 2005.

Dr Robert Jansen
July 2023

4. Summary: Thodey, David. (2019), *Our Public Service, Our Future: An independent review of the Australian Public Service*

Report Details: *Thodey Review, Our Public Service, Our Future: an independent review of the Australian Public Service*, Commonwealth of Australia, 2019 (384 pages)

<https://www.pmc.gov.au/sites/default/files/resource/download/independent-review-aps.pdf>

Keywords: culture, integrity, values, stewardship, trust, ethics, APS reform

Summary

The 2019 Independent Review of the Australian Public Service (APS), chaired by David Thodey, was established by the Commonwealth Government to assess the capability, culture and operating model of the APS with the goal of developing guidance for reform that would prepare the APS to thrive in a rapidly evolving operating environment. The review process involved over 400 consultations, eight commissioned reports and five surveys, engaging over 11,000 individuals in the process.

The review addressed the declining trust in public institutions, that can be seen in both Australia and abroad. The review reaffirms the importance of having a trusted APS that is united in serving all Australians and it placed integrity at its centre. A total of 40 recommendations were made that revolve around new ways of working, which are designed to enable the APS to meet current and future demands while also enabling it to harness the opportunities of evolving technologies. One of the recommendations dealt with integrity: however, the review indicates that integrity should undergird all of the work done by the APS.

Understanding of Integrity

The understanding of integrity in this report is linked to the Westminster foundations of the APS and the unique version of the Westminster tradition that has informed the structure and practice of the APS. In this context, integrity underpins all the work done by the APS and the people who make up the APS. Integrity is positioned as underpinning the five APS values, which are: *impartial, committed to service, accountable, respectful, and ethical*.

Integrity is further seen in this report as a key to building capability and that there needs to be clarity around the kinds of behaviours that the APS expects to see in its people. More specifically, 'integrity' is defined in the report as: 'Adhering to a high moral standard, including acting in line with the APS Values and Code of Conduct. Maintaining high standards of ethical behaviour, including honesty, truthfulness, and accuracy, in all interactions with the Government, stakeholders and the community, and across the APS'. (Thodey, p. 92)

Key Governance Issues

The review identified that declining trust in the APS is the result of fragmentation of the federal integrity system, comparatively (on a global level) low resourcing of the integrity system and incidences of integrity breaches within the public service. Integrity in this sense is beyond just doing the right thing, but also being seen to be doing the right thing. The perception of integrity here is highlighted as a key aspect to promoting a culture of integrity at the APS.

Recommendations

Recommendation 7 is: 'Reinforce APS institutional integrity to sustain the highest standards of ethics'. More specifically, to do this, the review recommends the following actions (p. 113):

- For the APS Commissioner to work with Secretaries Board and agencies with responsibility for integrity to build pro-integrity culture and practices in the APS.
- To amend the Public Service Act 1999 to:

- provide own-motion powers for the APS Commissioner to initiate investigations
- require agencies to provide integrity information to the APSC, and
- include requirements to ensure agency heads and SES avoid or manage potential conflicts of interest after leaving the APS
- For the Australian Public Service Commission (APSC) to embed integrity guidance in APS-wide induction, training and other core systems and processes.
- For the APSC and Finance to ensure all agencies extend APS integrity requirements to service providers, long-term APS contractors and consultants.

Implementation

The APS Reform Office has worked on a program of initiatives informed by the Thodey Review. Recommendation 7 was only agreed in part by the then Morrison government in 2019 for action.

Analysis

Integrity is at the heart of the reform agenda recommended by the 2019 Thodey Review. Integrity is linked to public trust in the government and government legitimacy. Priority one from the APS Reform Office in 2023 is that 'the APS embodies integrity in everything it does'. The APS Reform Office is seeking to re-build trust in the public service, particularly in the wake of recent integrity scandals and breaches.

Additional references

Podger, A (2022), Thodey recommendations a year into Albanese's watch, available via <https://www.themandarin.com.au/220892-thodey-recommendations-a-year-into-albaneses-watch>

Dr Julia Richardson
July 2023

5. Summary: Watt, Ian. (2023), Independent Review of Services Australia and NDIA Procurement and Contracting

Report Details: Watt, Ian (2023). *Independent Review of Services Australia and NDIA Procurement and Contracting: Independent Reviewer's Report* (25 Pages)
<https://www.servicesaustralia.gov.au/sites/default/files/2023-03/review-of-procurement-and-contracting-independent-reviewers-report.pdf>

Keywords: Procurement, contracting, conflict of interest, misconduct, capabilities

Summary

The Independent Review of Services Australia and NDIA Procurement (known as the Watt Review) was jointly commissioned by Services Australia (SA) and the National Disability Insurance Agency (NDIA) in 2022. The Watt Review was initiated to investigate media reports that the two agencies had potentially failed to follow the Commonwealth Procurement Rules (CPRs) and good practice in relation to contracts involving the company Synergy 360 and other entities. Specifically, it was alleged that Synergy 360 had lobbied government officials on behalf of certain clients and was paid a commission for securing government contracts. The question asked was whether and how these events may have distorted procurement processes.

Subsequent to this review, it has further been alleged that Synergy 360 received preferential treatment because of personal relationships between its principals and the then-Minister for Government Services, but this is not examined here.

The terms of reference included whether the process for these contracts had followed the CPRs, was consistent with comparable procurements in the reference period (back to 2015-16), and any real or perceived conflicts of interest. A review against the terms of reference was conducted by a taskforce from the two agencies, which was provided to the independent reviewer.

The taskforce reviewed 95 procurements from the period of 2016-2022 and it found that:

- 67 procurements were consistent with good practice
- 19 procurements required further investigation for failures including lack of appropriate documentation, reporting delays and insufficient justification of value for money
- There was a generally low ('not always high') standard across the procurements and some procurements evinced a 'poor understanding of procurement processes and requirements'; however, this is broadly consistent with the standard across the APS

Dr Watt drew on these findings along with formal consultations across the APS, Australian National Audit Office (ANAO) reports on procurement, and internal reports from the two agencies. The report makes recommendations directed to the two agencies as well as to senior leaders across the APS.

Regarding Services Australia and NDIA, key findings include:

- Tenders were not as competitive as may have been anticipated. While approximately half of the 95 procurements reviewed were 'open tenders' (i.e., receiving competing submissions from providers), 74 procurements were 'single supplier' (i.e., only one provider was approached through either an open tender or a limited tender). This lack of competition results in 'reduced transparency' and 'less equitable treatment of vendors', while making it 'harder to demonstrate value for money' (p. 7)
- There was a high rate of procurements leading to subsequent procurements from the same suppliers and variations to contracts to increase the size and scope of procurements, suggesting 'too convenient' relationships developing with suppliers (p. 7)
- Some circumstances suggesting a need for urgency in procurements seemed contrived

Based on the ANAO reports, Dr Watt found that some of these problems were present across government. The Review report notes and endorses the 2019 Thodey Review's recommendation regarding the professionalisation of APS capabilities in procurement, contracting and commissioning.

Understanding of Integrity

The Watt review is concerned with whether proper procedures are being followed in the expenditure of public money and thereby realising the intended legislative end of securing value for money for taxpayers. The standard used in the review is *good practice* rather than *best practice*, because as Dr Watt notes, the comparison is not with an ideal, which ‘few’ of the procurements might meet, but rather with the minimal requirement to be at least ‘consistent with the CPRs’. (p. 3)

Key Governance Issues

The Review raises issues chiefly relating to how governing frameworks are implemented and followed; that is, the terms of reference did not require consideration of the procurement rules in question, but rather of the procedures and policies implemented by the agencies like Services Australia and NDIA and the behaviours and capabilities required of staff involved in procurement. A range of deficiencies in procurement practices were identified, especially in relation to documentation and transparency, and the report also supports efforts to professionalise the procurement workforce.

Recommendations

The Watt Review made 13 recommendations, included that Services Australia and NDIA improve procurement processes by, among other things, enforcing requirements for documentation and justification of single supplier procurements and claims of urgency, by establishing a conflicts register at the start of each procurement, and by engaging external probity advice. To improve transparency, the number of suppliers invited to respond to procurements should be reported publicly. The Reviewer also noted the importance of training and developing of procurement capabilities. Whole-of-government actions were recommended that include the professionalisation of procurement and clarifications of the CPRs to explain the ‘deterministic role of officials’ and the limits this imposes on direction from Ministers, their advisers, and senior officials.

Implementation

As of July 2023, the Commonwealth Government had yet to respond to the review’s recommendations. Further integrity investigations related to the same media reports are possible, and this may bear upon whether and how the recommendations are implemented.

Analysis

This case is an example of the role integrity plays in the democratic process. The CPRs are subordinate legislation that give effect to the Parliament’s intention that procurement represents value for money for citizens. Agencies like Services Australia and NDIA then develop their own policies, procedures and practices to implement the regulations. The internal governance and practices of agencies therefore bear upon whether the legislative intent of Parliament is realised, and, by extension, on whether government is keeping faith with citizens.

More narrowly, the case also exemplifies the way that bad practices may proliferate even absent deliberate malfeasance. While the review did not uncover corrupt procurements, it found a range of failures to follow procedures, including a practice – single supplier approaches – that, by being overused, directly undermined the main mechanism, competition, by which the legislative intent of value for money is, per the regulations, to be realised.

Additional references

Services Australia and NDIA Joint Taskforce. (2023). *Independent Review of Services Australia and NDIA Procurement and Contracting: Taskforce Report to the Independent Reviewer*. (Canberra: Australian Government) <https://www.servicesaustralia.gov.au/sites/default/files/2023-03/review-of-procurement-and-contracting-taskforce-report.pdf>

Dr Andrew Bushnell
July 2023

6. Summary: Parliament of Victoria, (2022), Inquiry into the Education and Prevention Functions of Victorian Integrity Agencies

Report Details: Parliament of Victoria (2022), Integrity Oversight Committee, Inquiry into the Education and Prevention Functions of Victorian Integrity Agencies (204 pages)
https://www.parliament.vic.gov.au/images/stories/committees/IOC/Inquiry_into_the_Education_and_Prevention_Functions_of_Victorias_Integrity_Agencies/Report/IOC_59-04_Education_and_Prevention_Functions_Victorian_Integrity_Agencies_2.pdf

Keywords: Prevention, education, best practice, training, corruption, trust

Summary

On 1 July 2020, the Integrity and Oversight Committee of the Victorian Parliament announced a public inquiry into how Victoria's integrity agencies undertake their education and prevention functions to combat public sector corruption and misconduct. The inquiry focused on the Victorian legislative framework around the education and prevention functions of what is referred to as four 'integrity agencies'. These included the Independent Broad-based Anti-corruption Commission (IBAC), the Office of the Victorian Information Commissioner (OVIC), the Victorian Inspectorate (VI) and the Victorian Ombudsman (VO), each of which play a role in upholding and ensuring integrity in the state of Victoria. More specifically, the role of the VI is to provide oversight for several key integrity agencies, including IBAC, OVIC and the VO, by monitoring compliance with the law and procedural fairness requirements. IBAC is responsible for identifying, investigating and preventing corrupt conduct in the public sector. OVIC oversees Victoria's privacy, information security and freedom of information (FOI) systems to facilitate greater access to information while safeguarding privacy, particularly regarding the use of personal information by public sector bodies. And lastly, the VO investigates and resolves complaints about the administrative actions of Victorian government agencies, including local councils.

The review process entailed a combination of written submissions from the public (53 accepted), hearings (11 witnesses at public hearings), and the analysis and delivery of the final report. The key focus of the report was on an assessment of current policies, practices and activities of the integrity institutions. This was followed by an investigation into best practice regarding education and prevention of corruption and other misconduct (looking interstate and international) and asking if Victoria's integrity institutions practices around prevention and education, meets best practice with the goal of producing recommendations for further development in the area.

The 2022 report looks at prevention and education as instrumental in increasing and maintaining trust in government agencies. The range of focus is from education on integrity, ethics and accountability and building a culture of 'integrity', however it also considers deterrents and crime prevention approaches. The report outlines, with some detail, the best practice principles with relation to the education about, and prevention of, corruption and other misconduct – the range of topics here is large covering principles of adult education and training, to monitoring, law enforcement, crime prevention and deterrence. There is also a focus on integrity cultures, cultivating ethical values and ensuring 'psychological safety', particularly to encourage reporting of crimes. The key point is that there are a range of ways to address corruption and there will need to be tailored approaches depending on the context.

Understanding of Integrity

The report focuses on education and prevention of wrongdoing – specifically at how Victoria's integrity agencies can work to minimise/mitigate corruption, citing that an 'informed public' (p.2) is a powerful tool against misconduct and corruption with a focus on preventing and exposing public sector corruption as critical to building community confidence in the public sector. The report does not define integrity, but it does address wrongdoing, corruption and standards of behaviour. In this

sense, integrity is doing the right thing, acting with transparency, and following established rules, norms, and guidelines.

Key Governance Issues

This report does not address a specific integrity breach, rather it looks at education and prevention mechanisms and how these can be strengthened.

Recommendations

The report made 18 recommendations that revolve around:

- more in-depth integrity agency engagement with diverse and vulnerable communities
- better tailored education and prevention resources for all integrity agencies
- more systematic and rigorous measurement by the four integrity agencies of the quality and impact of their education and prevention work
- the establishment of a corruption-prevention and education network in Victoria

Implementation

Based on publicly available information, the response so far from the government is a one-page document that states the one recommendation directed at the government to amend the Freedom of Information Act 1982 is 'under review' (Justice & Community Safety, n.d). The Victorian Public Sector Commission (VPSC) points to a program of work over 2023-24 to design and develop an ethics and integrity training program as suggested in the recommendations. The remaining recommendations were made directly to the integrity agencies.

Analysis

This is a detailed report that covers a range of issues starting with a description of Victoria's integrity institutions and maps the legal landscape, including legislation that is relevant to the education and prevention functions of IBAC, VI, OVIC and VO. In general, the report presents a positive view of the integrity system in Victoria and finds that the integrity institutions are generally performing well, particularly in relation to education and public communication campaigns. However, the report revealed a clear need for a commonly agreed upon framework for measuring the quality and the impact of the work done by the four integrity institutions.

Additional references

Parliament of Victoria, 2020, Spotlight on how to help prevent corruption and misconduct. Integrity and Oversight Committee. Available via

https://new.parliament.vic.gov.au/49f373/contentassets/8517478ffd23432ebd87b0d488b81682/1_jul_2020_spotlight_on_how_to_help_prevent_corruption_and_misconduct.pdf

Dr Julia Richardson

July 2023

7. Summary: Coaldrake, Peter. (2022), *Let the sunshine in: Review of culture and accountability in the Queensland Public Sector*

Report Details: Coaldrake, Peter (2022), *Let the sunshine in: Review of culture and accountability in the Queensland Public Sector*, Queensland Government (101 pages)

<https://www.coaldrakereview.qld.gov.au>

Keywords: Accountability, transparency, integrity, governance, independence, culture

Summary

The 2022 review of culture and accountability in the Queensland Public Sector, referred to as the Coaldrake Review, was commissioned by the Premier on 18 February 2022 with the final report delivered on 28 June 2022. The review was prompted by a number of controversies and concern that there had been an erosion of the functions designed to hold the government to account. The report acknowledges public discontent with government performance and the need for greater accountability, transparency and integrity. In looking at the current status of integrity systems and processes in Queensland, the report recommends reforms that focus on education and behavioural change. The report emphasizes the importance of leaders setting the right tone and addresses issues such as trivialising parliamentary committees and insufficient independence of integrity bodies. It calls for openness, accountability and a long-term strategy to minimise integrity issues.

Coaldrake also highlights concerns about the decline in public service capacity, excessive reliance on external contractors and short-term political thinking. It urges a cultural shift towards openness and investing in good people. The report addresses the influence of paid lobbying and calls for more disclosure from ministers and officials, and it emphasises the need for a renewed focus on culture and accountability in government and a more open system to restore public confidence.

Understanding of Integrity

According to the Coaldrake report (p. 6):

1. **Integrity** means honesty and fairness. Acting with integrity involves the ‘use of public power for officially endorsed and publicly justified purposes’
2. **Accountability** means answerability. To be accountable is to promptly and accurately inform the relevant authority or the public directly of the reasons for all significant or potentially controversial decisions and actions. It means being answerable in respect of those decisions
3. **Transparency** means openness
4. **Impartiality** means objectivity and fairness, making decisions and taking all action, including public appointments, in the public interest without regard to personal, party political or other immaterial considerations
5. **Independence** means freedom from external direction. That a body is ‘independent’ does not mean it can act in an unfettered way. While an independent body must be able to exercise its functions free from external direction, it must remain accountable for the way in which it performs its legislated functions and exercises its powers.

The Coaldrake report states that ‘integrity’ is a term that might be ‘understood differently in a range of contexts. But a question about the integrity of an individual, or a decision-making process, cannot simply be waved away. It requires resolution and, usually, a fresh approach to ease concerns. This is not necessarily a bad thing’. (p. 8) The report acknowledges the importance of understanding that an integrity system or a culture of integrity is made up of people, and as such it needs ‘regular checking, sometimes encouragement, sometimes restraint’ (p. 8) to ensure the system is working as it should.

Key Governance Issues

This review into culture and accountability was in response to integrity allegations in Queensland and covers a wide range of governance issues. The report addresses concerns around the use of

consultants and the reduction in capacity in the Queensland public sector, the role and influence of lobbyists, the erosion of the mechanisms designed to hold the government to account and the potential overreach of ministerial staff. The central focus however is a broader look at 'integrity culture', premised on a view that it is fostered from the top down.

Recommendations

The Coaldrake report details 14 recommendations with the aim to strengthen accountability, transparency and integrity in the Queensland government. These include recommendations to empower the Auditor General to independently employ staff, setting audit fees, and conducting performance audits on government-owned corporations. Additionally, the recommendations suggest proactively releasing cabinet submissions, rejuvenating the public sector through the Public Service Commission, and establishing a framework to address issues of bullying.

The recommendations further focus on improving lobbying regulations, establishing a single clearing house for complaints, enhancing oversight of senior public sector employees, and increasing accountability for the use of consultants and contractors. Other recommendations include mandatory reporting of data breaches, enhancing protections for whistleblowers, aligning financial responsibilities with integrity bodies, and expanding the Ombudsman's authority over private organisations involved in government functions. These measures collectively seek to promote transparency, combat corruption, and strengthen governance in the Queensland public sector.

Implementation

The Premier accepted all 14 recommendations of the review and a taskforce was established within the Department of Premier and Cabinet to implement the recommendations, with the expectation to report to Cabinet in September 2022 with its first legislative reform package for introduction to the Parliament.

Analysis

A key point in the Coaldrake report is around the intersection of culture and integrity. Coaldrake specifically calls out the need for an 'integrity system' that ensures that all parts of the government (from ministers to public servants) work 'fairly, honestly, openly and accountably in the interests of the public they serve'. (p. 8) As such, an integrity system, clearly defined, becomes integral to the functioning of the government. The Coaldrake report is aimed at prompting a cultural shift that promotes lasting change on the part of the Queensland government and the public sector.

Dr Julia Richardson
July 2023

8. Summary: Head, Graeme. (2022), DPC Inquiry: Appointment of Senior Trade and Investment Commissioner to the Americas.

Report Details: Head, Graeme (2022) NSW Department of Premier and Cabinet Inquiry: Appointment of Senior Trade and Investment Commissioner to the Americas, [57 pages]

<https://www.nsw.gov.au/departments-and-agencies/the-cabinet-office/resources/trade-commissioner-to-americas-employment-process-inquiry>

Keywords: merit, impartiality, recruitment, ministerial relationships, political interference, trust

Summary

The 2022 DPC Inquiry relates to merit-based appointments in the New South Wales public service. The report, led by former NSW public service commissioner Graeme Head was handed down in August 2022. It seeks to address specific problems arising in the two recruitment processes that took place in the appointment of former NSW Deputy Premier John Barilaro as a Senior Trade and Investment Commissioner (STIC) earlier that year. The review was commissioned by the Premier after intense media scrutiny into Barilaro's selection and questions about whether there was any governmental interference. The inquiry found that Amy Brown, CEO of Investment NSW, did not act in accordance with the Code of Ethics and Conduct by keeping certain information from other members of the job panel and that it was 'highly irregular' for her to consult with someone outside the job panel, in this case the then NSW Minister Trade for Stuart Ayres about the shortlist.

Ultimately, the report found that the recruitment process did not live up to the expectations of merits-based public service appointments, negatively impacting the reputation of the public service and the individual candidates involved, including Jenny West who was initially offered the position in August 2021 which was subsequently rescinded and reportedly given to John Barilaro. The report makes thirteen recommendations for system-wide change related to the conduct of the appointment process, changes to legislative instruments, changes to recruitment practice and guidance, and clarity of Cabinet decisions.

Understanding of Integrity

Multiple aspects of integrity were revealed in this inquiry, including public trust in the public service; upholding the Code of Ethics and abiding by relevant policies and laws; confidence in merit-based recruitment processes for public servants; and impartiality vs political interference.

As highlighted in the inquiry, 'the attention to this issue has likely brought the integrity of Public Service recruitment processes into some disrepute. Confidence in the integrity of Public Service recruitment processes is important. It goes directly to questions of public trust in the Public Service. It goes directly to the ethical culture of the Public Service'. (p. 5)

Recommendations

A total of 13 recommendations were handed down across four main areas:

1. Findings related to the conduct of the process (Recommendation 1 regarding the employment of Amy Brown)
2. Changes to legislative instruments (Recommendations 2 to 9 to ensure greater clarity in the *Government Sector Employment Act 2013*, *Ministerial Code of Conduct*, *Government Sector Employment Regulation 2014*, *Government Sector Employment (General) Rules 2014*)
3. Changes to recruitment practice and guidance (Recommendations 10-12 regarding human resources processes, guidance, training and assessing current practice)
4. Guidance on Cabinet decisions (Recommendation 13 regarding the clarity of decisions)

Implementation

Recommendations supported by the government include amending government sector employment legislation so a Minister cannot give directives to an agency Secretary in their functions as employers; legislating a code of ethics and conduct for the public service; and a codification of the roles and responsibilities of Secretaries (Macdonald, 2022). Other recommendations include guidance on how a Secretary can clarify a government decision with training upon induction and promotion (Macdonald, 2022). Recommendations not supported by the government is amending the ministerial code of conduct to prevent ministers from influencing Secretaries or agency heads when it comes to their decisions as employers (Macdonald, 2022).

On 30 June 2022, John Barilaro withdrew from the role as NSW Trade Commissioner to the Americas, stating that his position had become untenable, due to the intense media scrutiny that his appointment had received. In August 2022, Stuart Ayres resigned from Cabinet as NSW Minister for Trade after a draft section of the Head report was given to the Premier. In September 2022, Amy Brown stepped down from her role as of the CEO and Secretary of the Department of Enterprise, Investment and Trade, reportedly receiving the maximum termination payment of 12 months' salary under government sector guidelines (Hutchinson, 2022).

Analysis

This inquiry reinforces negative perspectives held by segments of the public about the corrupt nature of politics, ministerial relationships, and 'jobs for the boys' stereotypes. The case, and the mainstream perceptions of it, undermine public trust and confidence in the public service to act with impartiality, to instil and enact appropriate and ethical ministerial relationships, and to follow merit-based processes that lead to the right person appointed for the job based on experience and expertise, not those with political connections. The case and subsequent reporting undermine other instances, that are arguably in the main, where recruitment processes are followed, and the Code of Ethics is upheld in practice by public servants acting with integrity.

Additional references

Hutchinson, Samantha. (2023). Investment NSW boss Amy Brown leaves public service. *Australian Financial Review*, 19 September <https://www.afr.com/politics/investment-nsw-boss-amy-brown-leaves-public-service-20220918-p5bj2a>

Macdonald, Anna. (2022). Head makes 13 recommendations in report into Barilaro's appointment. *The Mandarin*, 17 August <https://www.themandarin.com.au/197206-head-makes-13-recommendations-in-report-into-barilaros-appointment/>

Dr Lisa Carson
August 2023

9. Summary: Victorian Public Sector Commission, (2021), Informing & Advising Ministers in the VPS

Report Details: Victorian Public Sector Commission (2021), *Informing and Advising Ministers in the Victorian Public Service*, Victorian Government. There are two reports, one for secretaries (17 pages) and one for officers and executives (25 pages) Both available via: <https://vpsc.vic.gov.au/ethics-behaviours-culture/inform-and-advise-ministers/>

Keywords: Accountability, responsibility, principles-based, obligations, briefing practices

Summary

Guidance notes on informing and advising ministers, released in 2021, were prepared in response to findings from the 2020 Covid-19 Hotel Quarantine Inquiry. The inquiry, chaired by the Hon Jennifer Coate, released its Final Report on 21 December 2021. In relation to the role of the VPS, the Inquiry recommended that the Public Sector Commissioner examine ‘the evidence that emerged in this Inquiry as to the lines of accountability and responsibility as between Departmental heads and Ministers to give guidance across the public service as to the obligations on heads of departments and senior public office holders, both in law and in practice’. (Recommendation 76, p 311) The report on informing and advising Ministers is a response to that recommendation.

The purpose of the guidance notes is to provide Victorian Public Service (VPS) Secretaries and senior executives with advice on their obligations and responsibilities when providing advice to Ministers. It emphasises the principles of responsible government and Ministerial accountability in the Victorian system. The guidance clarifies the lines of accountability and responsibility, encourages clear communication and documentation of responsibilities, and outlines the key responsibilities of Secretaries. It also provides guidance on informing and advising Ministers, including the timing and nature of briefings, the use of formal and informal communication methods, and the challenges involved in providing difficult advice.

Understanding of Integrity

The VPSC Guidance emphasises the importance of integrity in the role of Secretaries and the VPS, which is expected to be professional and apolitical, providing frank and impartial advice to support government decision-making. Secretaries are required to promote the Victorian public sector values, including integrity, as set out in the *Public Administration Act 2004 (Vic)* (PAA).

Under the Code of Conduct for VPS Employees, Secretaries are expected to conduct themselves in an apolitical manner, implement and administer government policies and programs openly and transparently, and maintain accurate and reliable records. They are also obligated to provide frank, impartial, and timely advice, ensuring that relevant information is not withheld from the government. The guidance acknowledges the role of integrity in decision-making and accountability, highlighting the need to consider the impact of decisions on the government's broader policy direction and the highest expectations of public trust. Secretaries are expected to give proper consideration to human rights in their decision-making and act compatibly with human rights as outlined in the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

The *Victorian Public Administration Act 2004* defines ‘integrity’ as: ‘public officials should demonstrate integrity by— (i) being honest, open and transparent in their dealings; and (ii) using powers responsibly; and (iii) reporting improper conduct; and (iv) avoiding any real or apparent conflicts of interest; and (v) striving to earn and sustain public trust of a high level’. (p20)

Key Governance Issues

The guidance was developed in response to the failures in lines of accountability and responsibility in the running of the COVID-19 Hotel Quarantine program in Victoria.

Recommendations

The guidance emphasises the vital role of Secretaries in offering honest and impartial advice in a transparent and apolitical manner, and encourages Secretaries to provide frank and fearless advice, acknowledging and addressing challenging issues, and offering potential options and solutions. The notes also suggest the implementation of effective working arrangements that can manage urgent situations while upholding and exemplifying public sector values. They emphasise the need to build a trusting relationship between the Secretary and the Minister and their office, which can be achieved through consistent practices and the provision of evidence-based advice that aligns with the values of the public sector.

The recommendations highlight the significance of Secretaries in providing unbiased advice and fostering transparency and trust within the public sector and emphasises the need for open communication, while upholding the values that underpin the functioning of the public sector.

Implementation

This is a reference document and does not contain recommendations for implementation.

Analysis

This guidance was prepared to fit in with an existing framework of integrity found in previous VPSC guidance including the 'Guide for ministerial officers in the Victorian Public Sector' (2019). The 2021 Guidance notes seek to address clear failures in the lines of accountability and communication between departments and ministers. Regarding integrity, these guidance notes focus on how to ensure there are clear systems and procedures in place around communicating with Ministers, with reference to the importance of documentation – even in the case of informal communication. In developing a culture of integrity and accountability, the guidance focuses on systems, structures and clear expectations that will enable people to understand fully their responsibilities and obligations to Ministers and the Victorian public.

Additional references

Board of Inquiry, 2021, COVID-19 Hotel Quarantine Inquiry Final Report, Victorian Government
<https://www.quarantineinquiry.vic.gov.au/reports-0>

Victorian Public Sector Commission, 2019, Guide for ministerial officers in the Victorian Public Sector, Victorian Government <https://vpsc.vic.gov.au/ethics-behaviours-culture/codes-of-conduct/guide-for-ministerial-officers-in-the-victorian-public-sector/>

Dr Julia Richardson
July 2023

10. Summary: Sedgewick, Stephen. (2020), Report into consultations regarding APS approaches to ensure institutional integrity

Report Details: Sedgwick, Stephen. *Report into consultations regarding APS approaches to ensure institutional integrity*, Commonwealth, December 2020, (36 Pages)
<https://www.apsc.gov.au/working-aps/integrity/integrity-resources/report-consultations-regarding-aps-approaches-institutional-integrity>

Keywords: institutional integrity, ethics, risk, professionalism, leadership

Summary

This 2020 report, referred to as the Sedgewick Report, was commissioned in response to Recommendation 7 of the 2019 Independent Review of the Australian Public Service (the Thodey review) – to reinforce APS institutional integrity and sustain the highest standards of ethics. The report adopts a broad view of institutional integrity: conveyed as the pursuit of high standards of APS professionalism; ‘to do the right thing at the right time to deliver best outcomes’ (p. 1); not just to avoid doing wrong. The Sedgewick Report outlines the findings of consultations with over 150 people from Secretaries, agency heads, former Secretaries, and external observers to executive and senior executive level public service employees. It also involved the analysis of documents provided by agencies that set out their approach to integrity.

The report found that the compliance framework to support APS institutional integrity does not require additional changes, noting the government’s decision to establish the National Anti-Corruption Commission. The report notes that two examples of possible integrity breaches were uncovered through existing integrity protection mechanisms – the first through a Public Interest Disclosure from staff provided to the Department concerned, and the second through operations of the Australian National Audit Office (ANAO) in respect to a property procurement.

The report emphasises the importance of ensuring awareness about potential integrity concerns and that the skills to address them are continually refreshed, particularly as individuals assume additional leadership responsibilities. Indeed, ANAO reports reinforce the virtue of continued vigilance in public sector integrity, including procurement and contract management. The report also states that the principal responsibility to achieve high standards rests with Secretaries, agency heads and their leadership teams, who need to exemplify the required high standards and embed as routine the identification and management of integrity risks.

Overall, the ten recommendations in this report offer ‘modest steps’ to better ensure a pro-integrity- APS culture, including that consideration for greater consistency in the training provided across agencies and for measures to increase participation in relevant awareness raising or capability development opportunities.

Sedgwick summarises by suggesting that ‘effective delivery of the agenda of the government of the day’ be coupled with ‘quiet, but professional perseverance in shoring up the integrity platform’. (p. 2) Both of these approaches must be pursued and cannot be viewed as conflicting priorities. Importantly, ‘trust in the APS is related to its capacity to deliver – but the quality of both what is delivered and how delivery is achieved is crucial to that’. (p. 2)

Understanding of Integrity

The 2020 Sedgwick report recommends that the APS Secretaries Board adopt a common language (the broad view of integrity) when discussing integrity matters with employees, namely the pursuit of ‘high standards of APS professionalism’ which means ‘doing the right thing at the right time to deliver the best outcomes for Australia sought by the professionally advised government of the day’ (p.2).

Recommendations

The report offers ten recommendations of modest intent covering awareness, capability and accountability. To that end, the report recommends that the APSC, in collaboration with departments and agencies, examine current practices across the APS with a view to develop and promulgate (through enhanced guidance or Public Service Commissioner's Directions, as necessary) clear and common expectations regarding:

- the knowledge required by APS employees to ensure they achieve a level of awareness of the APS's integrity frameworks and policies
- the capabilities required by APS employees to ensure they can effectively implement the APS's integrity frameworks and policies
- how to assess an employee's performance in respect of what is required of them, given their role and responsibilities

Interestingly, the report recommends that as part of the Capability Reviews, an explicit assessment be made of how effectively each agency is securing an appropriate workplace culture to strengthen institutional integrity and consistently exhibit integrity and high professional standards of conduct.

Implementation

The APS Commissioner at the time, Peter Woolcott welcomed the Sedgewick report and noted in a 2020 media release that all the recommendations had been accepted. The Australian Government, via the Transparency Portal, has noted that some progress has been made towards reinforcing the integrity system and sustaining the highest standards of ethics.

Analysis

The report does not identify any serious integrity issues in the APS, notwithstanding the Robodebt issues had been made public by October 2020 and other significant integrity matters had been raised within the Commonwealth government. The author, Stephen Sedgwick, as a previous Secretary and Public Service Commissioner, demonstrates confidence in the existing mechanisms of the Commonwealth to identify and remedy integrity issues, although these structures or processes tend to be reactive, such as whistleblower pathways or ANAO performance audits.

The report does not discuss of the sometimes-difficult relationships between Ministers and the public service, especially with Secretaries, and the ability of Ministers to dismiss a Secretary. The author professes faith in the 'government of the day' as the elected authority in the Westminster system.

Additional references

APSC (2020), Media Release, Report into Consultations regarding APS approaches to institutional integrity <https://www.apsc.gov.au/about-us/who-we-are/media-releases/report-consultations-regarding-aps-approaches-institutional-integrity>

Australian Government (2020), Upholding the Integrity of the APS <https://www.transparency.gov.au/annual-reports/australian-public-service-commission/reporting-year/2020-21-20>

Elms, Matthew (2020), The Mandarin, Does the APS have an integrity issues? Depends on who you ask, concludes Sedgwick <https://www.themandarin.com.au/147271-integrity-sedgwick-apsc/>

Dr Robert Jansen
July 2023

11. Summary: Bridgeman, Peter. (2019), A fair and responsive public service for all: Independent review of Queensland state employment law

Report Details: Bridgeman, Peter (2019). *A fair and responsive public service for all: Independent review of Queensland state employment law*, Queensland Government (158 pages)
https://www.qld.gov.au/data/assets/pdf_file/0005/120020/A-fair-and-responsive-public-service-for-all.pdf

Keywords: public sector employment, fairness, management development, public governance

Summary

An independent review on state employment law was commissioned by the Queensland Government in September 2018, to be led by Peter Bridgman, and a report was provided to the Premier in May 2019 and released to the public 10 months later in March 2020. The review focused on Queensland's public sector employment laws with a focus on the *Public Service Act 2008* and other Queensland public employment laws (including the *Hospital and Health Boards Act 2011*) and involved around 100 meetings and workshops with an estimated 500 stakeholders. The review sought to 'put the employee at the heart' of the public service system, built on the premise that governments rely on employees working in structures rather than the structures themselves to deliver services that benefit Queenslanders' (Bridgman, p. 6). Ultimately, the review found 'significant problems and issues about the employment laws and practices that need resolution for a fair, responsive and inclusive public sector' and that the 'system is long overdue for maintenance and repair' (p. 3).

The review provided 99 recommendations that revolved around placing the employment relationship at the centre of why government hires people and requiring a positive performance framework, developing a new Public Service Act, addressing gender inequity and improving equal opportunity (such as appointing a Special Commissioner for Equity and Diversity), streamlining discipline and strengthening the whole sector to help deliver more consistency in employment experience, and high-quality whole of sector governance of Queensland public services (such as establishing a Queensland Governance Council). (pp. 14-20)

Understanding of Integrity

Although not specifically framed as 'integrity' issues, multiple aspects of integrity were revealed in the inquiry. Integrity was characterised as:

- Fairness, transparency and accountability in public service employment recruitment, retention, progression and governance for public servants and perceptions of fairness by the public
- Confidence and accountability for genuine inclusion and diversity in public service employment
- Responsiveness of the Queensland public service to community needs and expectations.

Key Governance Issues

A lack of responsibility and governance around employment laws and policies

- A lack of consistency in application of employment guidance, processes, policies and laws
- A lack of 'whole of sector' understanding and governance around employment

Recommendations

The review recommendations focused on how the law should be changed to meet the objectives of: fairness in the employment relationship, responsiveness of employees to the community and to the government, inclusiveness of public sector employment and reports on how the employment relationship is formed and managed, and how the public services are organised. This includes

developing a new Public Sector Act, a 'permanent public service' of ongoing employment, increased responsibility to chief executives regarding management development, prioritising research into public administration and management, high quality executive leadership development, high quality management development, structured review of departments and agencies, reporting of performance and leadership, achieving pay equity objectives, establishing a Queensland Governance Council.

Implementation

In July 2020, Queensland Premier Anastacia Palaszczuk introduced the *Public Service and Other Legislation Amendment Bill 2020*, intended to progress the 'priority first stage of public sector management reforms'. (Jenkins, 2020) The bill was subsequently passed to progress public sector management reforms with two priority areas: giving full effect to the commitment to maximise employment security in public sector employment; and providing positive performance management of public sector employees (Bill Explanatory Notes, 2020:1). At the time, the Premier outlined that the bill would be complemented by a second stage of reforms that would implement the remaining Bridgman recommendations and include a new Public Service Act and Code of Conduct.

Analysis

The 2019 Bridgman Review reveals a lack of governance including clear processes and accountability for secure and valued employment in the Queensland Public Service. The gaps identified in the laws and how that translates into practice negatively impacting public sector employees, their recruitment, retention and progression, and ultimately the impact on responsiveness of the public service to Queensland citizens, highlights the lack of value placed on 'the people' who make up the public service and how they are employed. The subsequent focus of the recommendations premised on the belief that 'employees matter' and the centrality for a positive 'employment relationship' (Bridgman, 2019:11) signal a shift towards greater fairness, transparency, accountability, and ultimately integrity and trust in ethical employment practices.

Additional references

Bill Explanatory Notes. (2020). Public Service & Other Legislation Amendment Bill 2020. Queensland Cabinet, Queensland Government. Available via <https://cabinet.qld.gov.au/documents/2020/Jul/PSOLA/Attachments/ExNotes.pdf>

Jenkins, Shannon. (2020). New Qld public service laws to 'ensure good work is recognised', says premier. *The Mandarin*, July 17. Available via <https://www.themandarin.com.au/136271-new-qld-public-service-laws-to-ensure-good-work-is-recognised-says-premier/>

Jenkins, Shannon. (2020a). Queensland government releases sweeping review of public sector employment laws, *The Mandarin*, March 30. Available via <https://www.themandarin.com.au/128993-queensland-government-releases-sweeping-review-of-public-sector-employment-laws/>

Dr Lisa Carson
August 2023

12. Summary: IBAC (2017), Operation Dunham (Victoria)

Report Details: Independent Broad-based Anti-corruption Commission. 2017. *Operation Dunham*.

Melbourne: Victorian Government, (199 Pages), Available via:

https://www.parliament.vic.gov.au/file_uploads/Operation_Dunham_special_report_January_2017_Q8233Kkg.pdf

Keywords: corruption, fraud, governance, procurement, oversight, culture

Summary

In 2014, the Victorian Independent Broad-based Anti-corruption Commission (IBAC) launched Operation Dunham under its own motion powers to investigate allegations that a program of the then Department of Education and Early Childhood Development (DEECD), *Ultraset*, an online teaching and learning system, had failed because of corruption in the awarding of a contract and in the auditing of that decision. As with the earlier Operation Ord in 2016 in Victoria which focused on corruption at the Department of Education, this 2017 investigation examined governance failures that enabled the corruption.

The 2017 Operation Dunham investigation found that the Ultraset process had been corrupted by Darrell Fraser. While a principal at Glen Waverley Secondary College (GWSC), Mr Fraser had played a role in the early development of the technology that would become Ultraset, which emerged out of the custom intranet created by other staff at his school. Mr Fraser later used his position in DEECD to influence the awarding of a tender for the Ultraset project, essentially the commercialisation of the GWSC intranet, to a company, CSG, with which he had a relationship, and sought to involve other departmental staff in the scheme. The corruption of the tender process involved gifts, travel, improper communication, and a 'likely attempt to influence the tender evaluation outcome by "stacking" an assessment team with like-minded colleagues'. (p. 8) The awarding of the tender to CSG was made despite contrary expert advice and commercial risk assessment. The investigation also uncovered potential insider trading by other senior officials who invested in CSG knowing that it had been awarded the contract. Mr Fraser later set up a sham audit process. Against departmental protocols, a company called Alliance Recruitment was appointed to run the audit but was in fact a means by which Mr Fraser could funnel money into CSG. In July 2020, Mr Fraser was convicted of fraud in relation to the Alliance Recruitment contract and sentenced to a community corrections order.

Understanding of Integrity

Like the 2016 Operation Ord in Victoria, Operation Dunham was concerned with corruption (specifically, fraud), defined as conduct by public officers that 'knowingly or recklessly breached, or contributed to a breach of, the public trust or that adversely affects the honest performance of their functions'. (p. 7)

Key Governance Issues

At the individual level, this case reflects the importance for integrity of the personal capacity of individuals to discharge their institutional functions and duties. It is notable that Mr Fraser's 2003 appointment as Deputy Secretary in the Office for Government School Education was labelled 'extraordinary' (p. 16) by IBAC. Mr Fraser moved directly from his role as a school principal into this senior position, responsible for 70% of the Department's multi-billion-dollar budget, without any other executive experience or financial management training. However, the report notes that Mr Fraser's behaviour (lack of transparency, inappropriate relationships, acceptance of gifts, excessive expenditures, and so on) would not have been acceptable for any public servant ('in particular, a school principal') anyway.

Thus, Mr Fraser's character was also called into question. It was Mr Fraser who conceived the idea of commercialising the GWSC intranet, intellectual property in which in fact belonged to the school, and

in his pursuit of venture capital he involved the school employees who had developed the intranet, effectively leading them astray. As a principal, Mr Fraser possessed an ‘unusually commercial attitude’ (p. 23) with respect to school resources. Later, as Deputy Secretary, Mr Fraser demonstrated a disregard for probity protocols, running a tender process (in which an intranet prototype contract was awarded to the multinational firm Oracle) that was the subject of industry complaints of bias, the prospect of which Mr Fraser had been warned about by independent legal counsel, and then engaging in favouritism and improper communication during the Ultranet tender. Systemically, a range of issues were raised:

- *Financial management*: Poor accounting processes meant that no final figure for Ultranet could be determined. Various reviews placed the cost anywhere between \$75m and \$152m, while Mr Fraser purportedly told a colleague the true cost was \$230m-\$240m. There was also a broader culture of making decisions based on draft documents.
- *Oversight*: The Department Secretary did not take an active role in the Ultranet project, despite its high cost; the Secretary was ‘not vigilant in holding Mr Fraser accountable’. Similarly, the Minister for Education permitted Mr Fraser to remain on the project’s board even after probity concerns were raised with her. ‘Gateway’ reviews were ineffective: the project continued past key ‘decision points’ even though issues had been raised. Various red flags were ignored throughout the approvals process. Also notable was the involvement of Jeffrey Rosewarne, who was one official charged with overseeing the project but who, as Operation Ord uncovered, had his own reasons for preventing careful auditing of the department’s finances. Between them, Mr Fraser and Mr Rosewarne created a culture within which people with integrity concerns did not feel confident about whether or how to report them.
- *Blurring of public and private interests*: Mr Fraser was permitted to work for the department while promoting the interests of CSG around the country, often trading on his position in the department. Later, he moved from the department to CSG, with his contract including bonuses for future Ultranet sales, the foundation for which was laid by him while employed at the department. Mr Fraser’s entrepreneurialism was enabled and possibly encouraged by the policy of school financial self-government.

Recommendations

IBAC made four recommendations, including that the Department of Education and Training (DET, as DEECD had been renamed) provide an update on its reform program and how it will address the findings of Operation Dunham, specifically with reference to tendering, procurement, and the development of commercial opportunities by schools and the department. Whole-of-government recommendations were also made: the Victorian Public Sector Commission (VPSC) was to investigate a ban on receipt of gifts and hospitality from suppliers, while the Department of Treasury and Finance (DTF) was to consider the investigation’s findings in relation to policy and procedure around probity and governance.

Implementation

In 2017, in response to Operation Dunham and the earlier 2016 Operation Ord, DET published *Working with Integrity*, a document outlining cultural and governance changes (as noted in the summary of Operation Ord in this document). In 2018, DET made a final report to IBAC in relation to Operation Dunham’s recommendations. The report outlines further governance changes, including a new framework and training for governing intellectual property, changes to the board and governance arrangements for major projects, a new project management office, a new Chief Information Officer position, new controls on procurement, and a new policy on gifts, benefits and hospitality.

In its response, DTF noted changes to the conduct of gateway reviews to ‘increase the likelihood that any procurement, probity and governance issues identified... are escalated to DTF and Government’ (DFT, 2017).

VPSC referred IBAC to its framework for gifts, benefits and hospitality, which is not a full ban, but rather includes a model policy for registering gifts and avoiding conflicts of interest.

Analysis

Like Operation Ord, Operation Dunham illustrates how poor governance and oversight create opportunities for corruption. Mr Fraser took advantage of the autonomy provided as a school principal and, later, the power that he had within the department to pursue commercial opportunities that emerged only because of his position in the public service. In this, Mr Fraser was enabled by failures in the governance of everything from intellectual property to project management to the receipt of gifts. The underlying failure, it can be said, was that the department's governance had not kept track of policy changes like school autonomy and practical innovations like the integration of information technology. At the same time, these policies, while inadequate, were also not implemented or followed correctly; the governance failures of DET extend to persons in authority charged with oversight of public funds and trust.

Additional references

The responses of DET, DTF and VPSC to Operation Dunham can be found here:

<https://www.ibac.vic.gov.au/publications-and-resources/article/op-dunham-sr-jan-17>

Dr Andrew Bushnell

July 2023

13. Summary: IBAC (2016), Operation Ord (Victoria)

Report Details: Independent Broad-based Anti-Corruption Commission, 2016, *Operation Ord*, Melbourne: Victorian Government. (130 pages) <https://www.ibac.vic.gov.au/publications-and-resources/article/operation-ord-special-report-april-2016>

Keywords: corruption, non-compliance, trust, education, service delivery, oversight

Summary

In 2013, Victoria's Independent Broad-based Anti-corruption Commission (IBAC) began investigating allegations of serious corruption at the Department of Education and Training. The investigation, 'Operation Ord', followed a referral from the Victorian Ombudsman, which had received a protected disclosure complaint from a whistleblower.

Released in April 2016, the final report of Operation Ord details a pattern of corruption dating back to at least 2007 in which senior officials within the Department exploited weaknesses in the governance of school expenditures to enrich themselves and others. By longstanding practice, certain Victorian schools had been signing off on expenditures for regional and inter-school activities. While these 'program coordinator schools' were supposed to be regulated and used only for specific activities, in practice the schools were used as, and came to be known as, 'banker schools', in which principals and business managers were encouraged by corrupt departmental officials to act as intermediaries for the payment of invoices unrelated to school activities. The investigation began with the activities of Jeff Rosewarne, then Deputy Secretary, Resources and Infrastructure, and at one point in the relevant period the Acting Secretary, who, it was found, exploited the lack of oversight of the so-called banker schools to pay for various goods and services, including furniture, coffee machines, travel, and a Christmas party. But the investigation became broader when it uncovered the activities of Mr Nino Napoli, then Director, School Resource Allocation Branch, who fraudulently benefited by allocating resources to banker schools, which would then use the funds to pay invoices issued by businesses controlled by Mr Napoli's relatives or associates.

Ultimately, the investigation found millions of dollars of misappropriations, fraudulent invoices and tainted procurements. Operation Ord also identified various governance failures within the department and across the school system that both enabled these frauds and contributed to a broader culture of non-compliance with integrity and behavioural standards. In 2021, Mr Napoli was convicted and incarcerated for his role in the fraud.

Understanding of Integrity

Operation Ord is an example of how systemic governance failures may permit opportunistic individuals to engage in fraud and a culture of non-compliance to develop. The final report identifies its subject matter as 'corruption', defined as 'conduct of a public officer or body that is found to have knowingly or recklessly breached, or contributed to a breach of, the public trust or that adversely affects the honest performance of their functions'. (p 7.)

Key Governance Issues

Operation Ord revealed the damage that bad actors can do to an institution. Not only were the principal subjects of the investigation found to have engaged in criminal acts, but they were also found to have had a corrupting influence on others implicated in their scheme. Mr Rosewarne's seniority was cited as one reason why school principals never acted on suspicions they had about some transactions, while Mr Napoli was a well-known figure in the department, having worked there for more than 40 years, and was able to exploit his network's trust in him. But the investigation also uncovered 'mixed evidence' that some school employees were knowing participants in Mr Napoli's scheme, receiving benefits like bonuses and travel opportunities, and this suggested a wider, systemic problem in the department.

The investigation found that the department's controls for procurement, financial management, and auditing were inadequate. There was a general pattern of failure to check invoices and receipt of

goods and services and to provide supporting documentation and information for invoices, of public funds being used for expenses unrelated to work, and to report funds moving in and out of schools.

Specific structural flaws identified included:

- Different accounting systems were used by the central office and schools, with no established procedure for accounting for how schools spent funding given by the central office. The fraudsters were able to make generic grants of funds that were then spent on their fraudulent invoices, with little to no oversight. (The investigation notes that this separateness was part of a broader divide between schools and the central office.)
- Protocols for procurement were routinely ignored, including failures to record conflicts of interest, inflated and falsified invoices, and misuse of credit cards. Governance of these protocols also failed in numerous ways, including business managers failing to check that procured goods and services had been delivered, false stamping of invoices, and paying invoices without seeing quotes and with a lack of information.
- Similarly, financial management standards were poor. Records were often unofficial, and terms like 'grant' were misused to obscure the source and use of funds. The departments audit system also failed, being too infrequent and not comprehensive enough, and auditors poorly understood their responsibilities and reporting obligations.

These governance failures allowed a 'malevolent culture of non-compliance and entitlement' (p. 13) to take root:

- Senior officers regularly abused their privileges and victimised those who complained. These people, with their seniority and institutional knowledge, were able to 'bypass policies and procedures, misuse funds, and procure goods and services through family and friends, without detection'. (p. 100)
- Beyond their failure to follow procedure, senior officers created a culture of entitlement, viewing public funds as theirs to use at will. This included regular use of funds for lunches and events. In fact, in 2010 a culture review had been commissioned after concerns were raised about a 'blokey or boozy' (p. 100) culture, but its findings were largely positive, perhaps because the process was overseen by Mr Rosewarne.
- Staff also told the investigation that they were too intimidated to raise their concerns, citing the possibility of victimisation and termination of employment.

Recommendations

Operation Ord made six recommendations requiring the Secretary and Department to strengthen integrity governance and culture, including educating employees on their obligations, boosting institutional support for reporting misconduct, improving policies and procedures for financial and risk management, and delivering leadership programs that 'set the right tone at the top'. (p. 107) The recommendations also outline a timetable for reporting to IBAC on implementation of these changes.

Implementation

Between 2016 and 2018, the Department of Education and Training (DET) provided two updates on its implementation of Operation Ord's recommendations, with two further updates provided by the Department of Premier and Cabinet (DPC) regarding whole-of-government actions.

DET's second report to IBAC outlines a new integrity system for the department, including values and their dissemination, structural changes like the introduction of new oversight committees and the creation of a new Integrity and Assurance Division, and governance changes like the publication of a new risk management strategy, a new integrity framework, and new policies for compliance and complaints.

DPC reported in July 2018 that the Victorian Secretaries Board had endorsed a new model conflict of interest policy and supporting materials published by the Victorian Public Sector Commission. Other initiatives include new resources supporting policies on gifts, benefits and hospitality and a new executive performance framework.

Analysis

Operation Ord is an example of fraud and corruption. It supports an understanding of integrity as the condition under which the governance arrangements of an institution enable and protect its core functions from bad actors. This case illustrates the connections between governance failures, individual malfeasance, and the emergence and entrenchment of a corrupt or potentially corrupt culture. By taking advantage of governance failures, bad actors not only benefit themselves, but damage the institution by creating a culture in which other bad acts are made possible or even encouraged.

As in the Victorian Government's response, this example indicates that integrity needs to be a value for both senior officers and the broader staff. As a practice, integrity must include both acting properly and reporting improper acts, and as such, must be supported by governance arrangements that protect individuals from victimisation.

Additional references

Department of Education and Training. *Working with Integrity: The Department of Education and Training's Second Report to the Independent Broad-based Anti-corruption Commission*. Victorian Government, September 2017. <https://www.ibac.vic.gov.au/media/573/download>

Department of Premier and Cabinet. *DPC Update in Response to Operation Ord Recommendations*. Victorian Government, July 2018. <https://www.ibac.vic.gov.au/media/576/download>

Dr Andrew Bushell
July 2023

14. Explainer: National Anti-Corruption Commission (NACC)

NACC website Link: <https://www.ag.gov.au/integrity/national-anti-corruption-commission>

The National Anti-Corruption Commission is an independent agency set up to prevent, detect, investigate and report on serious or systemic corruption in the Commonwealth public sector. The NACC further works to educate the public service, and the public, about risks and prevention. It can investigate past and present allegations of corrupt conduct, including those made prior to its establishment in July 2023.

The NACC is independent from government, which means that the government of the day is not able to tell the NACC what to investigate (or what not to investigate), or how to do its job.

The NACC is led by a Commissioner, Paul Brereton SC, and up to three Deputy Commissioners, with support from a Chief Executive Officer.

The NACC operates under the *National Anti-Corruption Act 2022* and is overseen by the Commonwealth Parliamentary Joint Committee (PJC-NACC) and an Inspector of the NACC, Gail Furness SC.

The NACC seeks to prevent corruption in the Commonwealth government by: investigating corruption thoroughly and informing the public about what is discovered; and educating the public sector (and the public) on how to prevent corruption in the future.

Prevention work also includes:

- raising awareness and providing training to people who work in the Australian Government and public sector about preventing, detecting and reporting corruption
- providing corruption prevention and education products based on research and analysis of corruption risks and trends
- making recommendations to prevent corruption (including identifying risks and vulnerabilities) based on issues it finds during its investigations
- conducting public inquiries into corruption risks, vulnerabilities, and prevention activities in government agencies

The NACC can investigate:

- Members and Senators of the Commonwealth parliament and staff
- employees and contractors of Commonwealth agencies and Commonwealth companies
- holders of any Commonwealth statutory office

The NACC cannot investigate judges, the Governor-General or Royal Commissioners.

Who can make a report to the NACC?

There are mandatory reporting requirements for heads of departments and agencies, heads of intelligence agencies, and Public Interest Disclosure Officers to refer any question of serious corruption to the NACC.

However, anyone can submit a corruption report or provide information relating to corrupt conduct, and this can be done anonymously. Anonymous submissions however can be difficult to follow up when more information around the allegation is needed to progress the complaint. The NACC encourages anyone, including any member of the public to submit anything that may be a corruption issue, but it is not an avenue for dispute resolution, and it cannot intervene to resolve individual disputes.

Protections

There are a number of protections in place to protect whistleblowers and witnesses. These include: protection from civil, criminal and administrative liability. It is also a criminal offence to take reprisal action against a person for making a referral.

How does the NACC work?

Once a report is made to the NACC, the commissioner must decide what to do with it. The options include: investigate the issue alone or jointly with a Commonwealth agency, or a state or territory government entity. The NACC can refer the issue to the Commonwealth agency for an internal investigation or refer the issue to a commonwealth agency or state or territory or government entity for consideration. Alternatively, the commissioner can decide to take no action at all.

The methods used to investigate allegations of corruption include interviewing witnesses, obtaining documents and records, analysing information and interviewing persons of interest.

Information-gathering powers include the power to:

- Compel the production of documents or other things
- Compel individuals to provide information (e.g. by participating in a hearing or to produce documentation)
- Obtain warrants to search properties
- Intercept telecommunications and use surveillance devices

The NACC is authorised to summon people to participate in a hearing, to give evidence or produce documentation. Hearings, unless there is exceptional circumstances relating to public interest, are held in private.

Investigations can be terminated at any time.

Criminal Activity

The NACC does not make findings of criminal guilt. If evidence of criminal activity is found, a brief of evidence may be sent to the Commonwealth Department of Public Prosecutions (CDPP) to determine whether there is sufficient evidence for charges to be laid.

Finalising an investigation

The NACC Commissioner must prepare a report on each investigation for the Attorney-General (unless the Attorney-General is the subject, then the report goes to the Prime Minister). The report should cover: the commission's findings or opinions on the case, summary of evidence and other material, and any recommendations made by the commission and the reasons for the recommendations.

Public release of NACC reports can occur when the Commissioner deems that it is in the public interest to do so.

Dr Julia Richardson
July 2023