

# Integrity Spotlight

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## Lessons from the Royal Commission into the Robodebt Scheme

## Advisory

### The importance of frank and fearless advice in preventing harmful policy outcomes

‘Robodebt’ refers to an automated debt collection system put in place to recover apparent over-payment of certain social security benefits between 2015 and 2019. The attempted recovery of funds through the implementation of the Robodebt scheme had harmful impacts on recipients and their families.<sup>1</sup>

Due in part to the public harm caused by its implementation, a [Royal Commission](#) was established in 2022 to inquire into the scheme.

In the words of Commissioner Holmes, Robodebt was “an unlawful scheme” giving rise to a “shameful chapter in the administration of the Commonwealth social security system” and was “a massive failure of public administration”.<sup>2</sup>

The Royal Commission explored in detail how this came about, identifying critical failures in the functioning of the public service agencies administering the scheme. Key among these was the failure of public servants to provide frank and fearless advice to Ministers. Commissioner Holmes observed that the continuation of Robodebt:

*... 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.<sup>3</sup>*

1 Royal Commission into the Robodebt Scheme (Report, July 2023) 336-340.

2 Royal Commission into the Robodebt Scheme (n 1) 25, citing *Prygodicz v Commonwealth* (No 2) [2021] FCA 634, at [5] per Murphy J.

3 Royal Commission into the Robodebt Scheme (n 1) 641.

## What is ‘frank and fearless’ advice?

The provision of frank and fearless advice by an independent and impartial public service is a core convention of the Westminster system of government.<sup>4</sup> It sits alongside the conventions of ministerial responsibility, requiring that public servants are responsible to their minister, and ministers are responsible to the Parliament, and through the Parliament, to the community.

Frank and fearless advice:

- is information to assist ministers to make decisions, and includes the risks and potential outcomes or consequences of decisions
- deals honestly with issues and ensures that ministers are not misled
- is apolitical, uncompromisingly impartial and non-partisan<sup>5</sup>

The Royal Commission emphasised the importance of applying the principles of administrative law in preparing advice:

*Public servants, whether lawyers or not, should have a basic understanding of natural justice principles and administrative decision making, including the statutory provisions governing that decision making.*<sup>6</sup>

That understanding should ensure that:

- Decisions are lawful
- Principles of natural justice are applied
- Decisions are based on evidence and facts
- Reasons for decisions are recorded

Each of these elements in turn supports accountability – ‘how’, ‘why’ and ‘by whom’ a decision has been made.

Some helpful guidance on these principles and their application can be found in publications of the former Administrative Review Council.<sup>7</sup>

South Australia’s *Building Integrity* framework also reinforces the need for directions to be issued within the public service “in accordance with legislative obligations and frameworks.”<sup>8</sup>

## Maintaining a culture of integrity is critical to community trust in the public sector

The Royal Commission into the Robodebt Scheme observed that “one of the consequences of the Scheme was a loss of trust in the social security system, and in government more broadly.”<sup>9</sup>

As provision of advice underpins policy decisions in the public sector, ensuring that advice demonstrates the values of honesty and integrity - acting truthfully, consistently and fairly – is critical to the maintenance of community trust in the public service.

All public sector employees in South Australia are required to comply with the public sector principles contained *Public Sector Act 2009* (SA), together with the public sector *Code of Ethics*. The intent of the legislation and the Code is to underpin the accountability of the public service to the community.

South Australia’s integrity framework, *Building Integrity*, lists frank and fearless advice as one of the ‘respectful and appropriate behaviours’ expected across the public sector, declaring:

*Our people provide frank and fearless advice, lead by example, demonstrate courage and fairness, and are empowered to speak up when necessary.*<sup>10</sup>

4 Stafford H. Northcote and C.E. Trevelyan, *Report on the Organisation of the Permanent Civil Service*, (House of Commons London 1854).

5 After Chris Eccles ‘[What is frank and fearless advice and how to give it](#)’, The Mandarin (online), 26 November 2015.

6 Royal Commission into the Robodebt Scheme (n 1) 642.

7 Administrative Review Council, [Administrative Review Council Publications](#), (Web Page).

8 Office of the Commissioner for Public Sector Employment, *Building Integrity: Embedding good practice in the South Australian public sector* (2023) 6.

9 Royal Commission into the Robodebt Scheme (n 1) 340.

10 Office of the Commissioner for Public Sector Employment (n 8) 6.

## Ethically competent leadership is vital to a culture of integrity

The Royal Commission heard evidence regarding the leadership culture in the agencies supervising the Robodebt scheme. Descriptions of behaviour by staff provided insight into organisational environments characterised by overweening control and disrespect.

### **Royal Commission into the Robodebt Scheme – evidence of the impact of organisational culture, including on the provision of advice**

*...it was a culture in which there was a lot of aggression expressed at senior levels... 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. (p.243)*

*... even where [staff] sought to act independently, they were constrained by the culture of the department which discouraged this behaviour. (p.521)*

*.. there was an imperative to stick to the ... talking points, which was prohibitive of [staff] forming any independent views about the accuracy of the talking points as a matter of law or fact. (p.521)*

*... many people were determined to achieve a particular outcome for government... the honest inquiry into issues ... was not something that ... was fostered by that culture. (p.521)*

*...a very siloed .... type of culture. You were responsible for what you were responsible for and stayed within those bounds... it wasn't our role to turn our mind to broader risks than what was being explicitly asked. (p.523)*

*... some senior officers were favoured by the leadership over others, which affected who was appointed.. (p.523)<sup>11</sup>*

Agency executives are responsible for leading in a manner that enables a culture in which staff are empowered to provide expert advice. Recent commentary on the Australian Public Service suggests that this environment has disintegrated to an alarming extent:

*Often the frontline, experienced and expert public servants are in the best position to make decisions about the work but have been increasingly disempowered from being able to do so.*

*We saw this systemic clash in the robodebt royal commission report, where frontline staff and other experts across the organisation were trying to raise the flag, but were shut down by a generalist and politically reactive group of senior executives.*

*Empowering staff is critical to ensuring decisions are made by people with the right expertise at the right time. The gap between decisions and the expertise needed to inform them has grown over the years, as the executive layer has increasingly embraced generalist management strategies that explicitly shun expertise.<sup>12</sup>*

The Independent Commission Against Corruption has published many reports on public authorities in South Australia highlighting the impact of poor agency culture on the ability of employees to perform their jobs effectively and on the vulnerability of organisations to corrupt behaviour.

### **ICAC Reports highlighting the importance of organisational culture as a driver of integrity:**

[Evaluation of the Practices, Policies and Procedures of the Public Trustee \(2017\)](#)

[Oakden: A Shameful Chapter in South Australia's History \(2018\)](#)

[Evaluation of the Practices, Policies and Procedures of SafeWork SA \(2018\)](#)

[Evaluation of the Practices, Policies and Procedures of the City of Playford \(2019\)](#)

[Troubling Ambiguity: Governance in SA Health \(2019\)](#)

[Evaluation of the Practices, Policies and Procedures of the Department for Correctional Services \(2021\)](#)

[Evaluation of the Practices, Policies and Procedures of Super SA \(2022\)](#)

[Evaluation of targeted aspects of the Central Adelaide Local Health Network \(2022\)](#)

<sup>11</sup> Royal Commission into the Robodebt Scheme (n 1).

<sup>12</sup> The Fearless Frankies, [Creating a great public service experience](#), The Mandarin (online), 7 September 2023.

The Commission's reports suggest that the South Australian public sector is not immune from many aspects of the same organisational culture that enabled the Robodebt scheme.

Observations of organisational culture in these reports reflect similar themes to those which emerged in evidence to the Royal Commission. They point to the criticality of competent and ethical leadership in supporting and promoting integrity and an environment where frank and fearless advice can be delivered.

The important role of agency leaders in supporting integrity has been a recurring theme in the *ICAC Public Integrity Survey*, conducted in 2018 and 2021. The 2021 survey highlighted a significant level of distrust of senior public sector leaders, and led to this conclusion:

*Many participants in non-leadership roles perceived their workplace to be at risk of abuse of authority, and believed that senior leaders lack accountability and put their own personal interests ahead of the public interest. They also perceived senior leaders to be vulnerable to political interference.<sup>13</sup>*


The Commission's reports suggest that the South Australian public sector is not immune to aspects of the same organisational culture that enabled the Robodebt scheme.


The South Australian *Building Integrity* framework is an important step in promoting implementation of values and practices to support a culture of integrity in public authorities. The findings of the Royal Commission into the Robodebt Scheme also emphasise the need for senior leaders in the public sector to model competent ethical behaviour.


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<sup>13</sup> Independent Commission Against Corruption, *ICAC Integrity Survey 2021* (2021) 53.

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