

Integrity Spotlight

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Advisory Integrity in Government Boards

Board members are drawn from the community based on their skills, knowledge, and experience.

Government boards¹ play an important role in both the public sector and local government. This can include advising ministers on significant issues, managing public assets and institutions, and overseeing health, education, economic and environmental programs and services. There are more than 175² public sector boards in South Australia, in addition to local government boards.³

Boards vary in terms of their purpose, function, and size. Boards that govern agencies are responsible for developing and overseeing corporate direction, while executive staff are responsible for supervising day-to-day operations.

Board members are drawn from the community based on their skills, knowledge, and experience. Public sector board members are typically appointed by a Minister or the Governor, sometimes upon nomination by an interest group. Board members of local government subsidiaries are appointed by councils.

Government board members will likely be **public officers** for the purposes of the *Independent Commission Against Corruption Act 2012*. This means they are obliged to report their suspicions of corruption to the [Office for Public Integrity](#), and they too can be reported and investigated for potential corruption. Board members should also reported suspected misconduct and maladministration to the [South Australian Ombudsman](#).

1 These include bodies variously called boards, committees, governing councils, advisory boards and advisory council in both the public sector and local government.

2 [Current listing of government boards and committees | Department of the Premier and Cabinet \(dpc.sa.gov.au\)](#)

3 Under the *Local Government Act 1999*, individual councils can establish subsidiaries, and groups of councils can establish regional subsidiaries. These subsidiaries undertake local government functions and have boards of management.

Corruption can occur in circumstances where board members do not disclose conflicts of interest, or where those conflicts are not managed appropriately.

Integrity risks in boards

Conflicts of interest

Boards are a useful way for governments to gain access to and leverage the expertise and knowledge of people in the community. Many board members are appointed because of their professional connections and business pursuits within a particular sector. Consequently, there is the risk that their private and public interests will come into conflict.

It is not uncommon for people to sit on multiple boards (in the public and private sectors), which can increase the likelihood that a conflict of interest will arise.

Board members must ensure their private interests, including their business activities, associations and other employments, are declared and do not improperly influence the discharge of their public duties. Corruption can occur in circumstances where board members do not disclose conflicts of interest, or where those conflicts are not managed appropriately.

Case study

A corruption investigation

Tony⁴ was member of a government board that was responsible for the operations of a statutory authority. The statutory authority distributed public money to private businesses from a government scheme. Tony owned a business that received money from this scheme. It was alleged that Tony improperly used his position on the board to benefit his business. It was also alleged that Tony failed to declare his business interests, especially when changes to the scheme were proposed to the board which would affect those interests. Tony was appointed to the board because of his industry knowledge and expertise. Many of the allegations were made by his commercial competitors.

Board meeting minutes record that Tony declared conflicts of interest in relation to matters before the board that might have benefited his business. This included several proposals to change the scheme's funding model. The minutes indicated that Tony left the meeting when those matters were considered.

The investigation found that Tony met his legislative disclosure obligations, and provided advice to the board as a "person experienced in the area". No evidence of corruption was found, and it was concluded that Tony and the board managed the conflicts of interest that arose appropriately.

⁴ A pseudonym has been used for the purposes of this case study.

Boards must be able to scrutinise the performance and conduct of the leaders of the agencies they oversee.

Gifts, benefits, and inducements

Board members are susceptible to offers of gifts, benefits and other inducements from businesses that seek favourable treatment in return. This can include token items (for example, pens or chocolates) or more substantial gifts such as free or discounted travel, accommodation or hospitality.

Even small gifts can create a reciprocal relationship between a business and a board member that could lead to favourable treatment. Such treatment could include board members using their influence to award contracts to these businesses or undertake lobbying on their behalf.

Board capture

Boards that govern agencies must be able to scrutinise the performance and conduct of the leaders of these agencies. In order to do so, board members need accurate and unbiased information. Board members should be aware of the possibility that they can be *captured* by agency executives. This can result in board members becoming overly reliant on information provided by executive staff about how the agency functions. According to published research on this subject:

The board often monitors management's actions while wearing "filtered glasses" that are provided by the same executives the board is tasked to monitor.⁵

Members of a captured board may be unaware of, and therefore unable to address, significant issues within the agency. This may include:

- a poor organisational culture
- poor practices in one or more business activities
- misuse of resources
- improper or corrupt conduct on the part of one or more individuals

Board members who sit on a board for a long period of time may lose objectivity and be particularly susceptible to capture.

Reliance on other public authorities

Government boards, including those that oversee agencies, sometimes rely on other parts of government to support or deliver their functions. Where those arrangements exist, it is important that roles and responsibilities are clearly defined and understood. If this does not occur, there is the risk that certain business functions will not be performed or adequately supervised. This can in turn create an environment where corruption can flourish.

⁵ Yaron Nili and Kobi Kastiel, "Captured Boards": The Rise of 'Super Directors' and the Case for a Board Suite' (2016) 19 Wisconsin Law Review 23.

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Promoting integrity in government boards

It is crucial that government boards:




- have a clearly defined and well understood role and purpose (which may be derived from legislation, terms of reference or a charter)
- are transparent in their operations and decision-making. This includes publishing board agendas and meeting minutes
- adopt and enforce appropriate conflict of interest policies and procedures
- adopt and enforce an appropriate gifts and benefits policy
- properly induct board members and staff, and provide ongoing training in relation to integrity, ethics, risk and the broader workings of government
- have clear and effective written agreements where the board relies on other parts of government to deliver its functions
- consider limits on:
 - the length of time a member can sit on a board
 - the number of additional boards a member can sit on
- are aware of the risk of board capture and have strategies to:
 - seek information and opinions from multiple experts within the agency the board oversees
 - discuss certain issues separately from management
 - obtain external advice where necessary and appropriate
 - obtain regular independent audits of financial and non-financial corporate information

Further resources

The Department of the Premier and Cabinet publishes a number of policies and guidelines for public sector boards and committees. These are available here: www.dpc.sa.gov.au/responsibilities/boards-and-committees/resources-and-publications.

Victoria's Independent Broad-based Anti-corruption Commission has published an information sheet on corruption risks associated with public sector boards, available here: www.ibac.vic.gov.au/node/151.

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