



ICAC

Independent Commission
Against Corruption
SOUTH AUSTRALIA

Integrity State

Corruption prevention recommendations

A report by the Hon. Ann Vanstone KC
Commissioner

September 2023



Integrity State

Corruption prevention
recommendations

Published September 2023

Level 9, 55 Currie Street
Adelaide SA 5000
(08) 8463 5191
GPO Box 11066
Adelaide SA 5001
icac.sa.gov.au

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Commissioner's foreword

This is the Commission's second *Integrity State* report detailing corruption prevention recommendations made to public authorities.

Corruption prevention is a central aspect of the Commission's work. Investigations focus not only on whether corrupt conduct has occurred, but also on any factors that might make a public authority vulnerable to such conduct.

Investigations undertaken in the last financial year that did not result in referral to South Australia Police for potential prosecution nevertheless identified many corruption risks in public authorities. The Commission used this information to make recommendations to public authorities to strengthen their capacity to prevent and detect corruption. Public authorities were generally very receptive to the recommendations and to addressing the issues identified.

This report summarises 16 corruption prevention letters sent to public authorities between 1 July 2022 and 30 June 2023.

Recommendations made in seven of the letters were relevant to the corruption risks that arise from the interaction of public administration with the private sector. Private sector providers deliver various goods and services to public authorities, and in many cases perform functions on their behalf. As a result, private business operators regularly interact with public officers. These interactions carry risks which can be exacerbated by undisclosed and unmanaged conflicts of interest.

One area of corruption vulnerability that emerged related to unsolicited proposals. This report illustrates the threat posed when private sector providers seek to improperly influence public officers to accept these proposals. The Commission made recommendations to public sector and local government authorities to assist in managing unsolicited proposals.

In one matter, the recommendations related to two unsolicited proposals made by an associate of a senior Minister. This matter was considered in the Commission's report *Yes Minister*. We identified three significant integrity issues.

First, it is crucial that Ministers and other powerful decision makers understand that those with improper or corrupt motives may seek to influence decision making. Care must be taken not to become implicated in any potentially corrupt dealings.

Second, Ministers who advance proposals from personal associates risk having their actions interpreted as tacit endorsement of those projects. Care should be taken not to place senior government decision makers in the invidious position of progressing compromised proposals.

Third, agreeing to pass on proposals from personal associates raises questions about transparency and equity of access to government. Not all entities gain a Minister's personal assistance in having their proposal considered by senior government decision makers. Such a lack of transparency will be seen by the public as objectionable.

The Commission also made recommendations about managing corruption risks in procurement, including risks posed by undisclosed conflicts of interest, and risks posed by external contractors working inside the public sector.

Risks addressed in the remaining nine letters related to controls in human resources management, and the management of public assets including land, information and property.

Not all investigations conducted during the last financial year resulted in a prevention letter. In some instances, the corruption prevention insights arising from investigations contributed to Commission evaluations and were used to develop agency briefings and education resources.

This report has been prepared in accordance with section 41(2) of the *Independent Commission Against Corruption Act 2012* which requires the Commission to report the recommendations it makes to public authorities.



The Hon. Ann Vanstone KC
Commissioner

Overview of prevention letters

DETAIL	NUMBER OF LETTERS
Type of public authority	
Local government	3
Health and human services	4
Emergency services	2
Public sector department	2
Statutory corporation	2
Justice and law enforcement	3
Total	16
Integrity theme	
Interaction with private sector providers	7
Risks in human resources	5
Managing public resources	4
Total	16
Letter resulted from	
Completed corruption investigation – no criminal proceedings	14
Completed corruption investigation – no criminal proceedings, matter referred to public authority for further investigation and disciplinary action	2
Total	16

Winning friends and influencing people: corruption risks at the public-private interface

It is often necessary for public authorities and public officers to engage with private sector providers. However, corruption risks arise when these relationships are not properly managed.

The Commission made recommendations to three public authorities and one member based organisation about the assessment and management of unsolicited proposals. Unsolicited proposals pose corruption risks when they are not dealt with in an open, transparent and fair manner. There is the risk that conflicts of interest and improper influence will taint decisions about whether to accept such proposals.

The Commission recommended that three public authorities improve their policies, guidelines and practices in respect of procurements and contractors.

The risks posed by conflicts of interest were relevant in all these matters. Robust strategies are required to ensure that conflicts are appropriately identified, disclosed and managed.

Unsolicited proposals

DEPARTMENT OF THE PREMIER AND CABINET AND DEPARTMENT OF TREASURY AND FINANCE

Date: March 2023

The Commission investigated allegations that a senior Minister used his position to arrange a lucrative contact between an associate and the state government. The allegations centred on two unsolicited proposals made by the associate to the Minister which were then forwarded to the Chief Executive of the Minister's department. No evidence of corruption was found.

The Commission published a report¹ on this matter that highlighted the corruption risks of political connections being exploited for commercial gain.

Unsolicited proposals valued above \$1.1 million are assessed by the Department of Treasury and Finance. Proposals that do not meet this threshold are assessed by the agencies receiving them.

The Commission observed that guidance for assessing proposals under \$1.1 million could be improved and more widely communicated across the public sector. Without access to clear guidelines for assessing unsolicited proposals, public officers may make decisions that lead to the inefficient or improper use of public funds.

Both the Department of the Premier and Cabinet and the Department of Treasury and Finance are responsible for providing guidance to the public sector for assessing unsolicited proposals. The Department of the Premier and Cabinet is responsible for Premier and Cabinet Circular 038 *Unsolicited Proposals*.² Procurement Services SA in the Department of Treasury and Finance is responsible for the *Unsolicited Proposals Schedule*.³ The Commission made recommendations to both agencies to strengthen these guidelines.

The Commission recommended that the Department of the Premier and Cabinet:

1. review and update Premier and Cabinet Circular 038 *Unsolicited Proposals* to refer agencies to the *Unsolicited Proposals Schedule* issued by Procurement Services SA for proposals that are not required to be managed by the Department of Treasury and Finance
2. in consultation with Procurement Services SA, ensure that this advice is adequately communicated to all government agencies.

¹ Independent Commission Against Corruption, *Yes Minister: Corruption risks associated with unsolicited proposals* (2023) <https://www.icac.sa.gov.au/publications/published-reports/yes-minister>

² Department of Premier and Cabinet, *Premier and Cabinet Circular PC -38 – Unsolicited Proposals* (2018) [PC038-Unsolicited-Proposals.pdf](https://www.dpc.sa.gov.au/publications/published-reports/pc038-unsolicited-proposals) (dpc.sa.gov.au)

³ Procurement Services SA, *Unsolicited Proposals Schedule* (2023) [Unsolicited-Proposals-Schedule.pdf](https://www.procurement.sa.gov.au/publications/published-reports/unsolicited-proposals-schedule) (procurement.sa.gov.au)

For proposals that do not meet the minimum financial thresholds under the Department of Treasury and Finance's *Guidelines for Assessment of Unsolicited Proposals*, the Commission recommended that Procurement Services SA:

- 1a. review and update the *Unsolicited Proposals Schedule* to ensure that conflicts of interest must be declared and managed during the assessment process, and
- 1b. clarify the form and content required of acquisition plans and purchase recommendations, including the use of templates where appropriate.

The Commission further recommended that Procurement Services SA:

2. review the *Public Authority Internal Procurement Framework Development Guide* with a view to ensuring agencies are directed to the appropriate guiding documents for assessing unsolicited proposals of any value (both the Guidelines and the Schedule), and
3. ensure that this advice is communicated to all government agencies and consider the provision of training for public officers in the correct processes for managing unsolicited proposals.

The Chief Executives of the Department of the Premier and Cabinet and the Department of Treasury and Finance advised that the Commission's recommendations have been accepted in full and updates to the relevant documents have been made.

CAMPBELLTOWN CITY COUNCIL**Date: December 2022**

The Commission investigated allegations that the Campbelltown City Council's decision to terminate an existing contract and engage a different supplier was improperly influenced by a conflict of interest. The allegations were not substantiated. However, the investigation uncovered vulnerabilities in the Council's assessment of unsolicited proposals and the use of contract extensions.

A company with an existing Council contract made an unsolicited proposal for a different service. The proposal involved a \$2 million contract over 10 years. The Council accepted the proposal by extending and varying its contract with that company and terminating the contract with its existing supplier.

Contract extensions are typically used for the continuation of supply on previously agreed terms. When contract extensions are used to engage suppliers to provide different goods or services, the risk of corruption is heightened. Contract extensions and variations may be used to circumvent open tender processes. The closed nature of these negotiations exclude other potential suppliers and may increase the chance that corruption will be concealed.

The Council's procurement policy did not provide guidance for the assessment of unsolicited proposals. If costs associated with unsolicited proposals are not appropriately assessed, the Council may be paying inflated prices for goods and services, either unintentionally or by design.

The Commission recommended that the Council:

1. review and update its Procurement Policy:
 - a. to provide greater clarity of the circumstances in which an existing contract with a value of over \$1 million might be extended on similar terms, and when the extent of the variation warrants an alternative method of procurement; and
 - b. to preclude the use of contract variations and extensions where significant changes are made to the terms of the contract, including the nature of the goods and services being procured
2. consider developing a policy for the management of unsolicited proposals or amending its existing Procurement Policy to address this topic. The Council was referred to the advice provided by Procurement Services SA and the Department of Treasury and Finance.

In response, the Mayor of the Council advised that the Council's procurement policy would be refined in a manner consistent with the Commission's recommendations. The Council has guidelines for unsolicited proposals, and these would be amended so that they better align with the Council's procurement policy.

LOCAL GOVERNMENT ASSOCIATION

Date: January 2023

As a result of the Campbelltown City Council investigation, the Commission noted inconsistencies in the management of unsolicited proposals in the wider local government sector. Some councils had policies relating to unsolicited proposals and others did not.

The procurement policy developed by the Local Government Association, which is available to all South Australian councils, did not provide guidance relating to unsolicited proposals.

The Commission recommended that the Association:

1. consider the development of a policy on unsolicited proposals that local councils could adopt, and
2. review and amend its procurement training resources to include material on the management of unsolicited proposals.

The Association's Chief Executive Officer advised that consideration was being given to including public sector guidelines on unsolicited proposals on the Association's procurement website. While those public sector documents do not bind local government, they provide guidance that may assist local government staff in assessing proposals.

Conflicts of interest and poor procurement practices

SOUTH AUSTRALIAN COUNTRY FIRE SERVICE

Date: February 2023

The Commission investigated allegations that a public officer responsible for procurement in the Country Fire Service had improperly directed a large volume of work to a local business. The evidence obtained during that investigation did not show corruption. However, it was evident that the public officer did not disclose their relationship with the business owner. The corruption investigation was closed, and the matter was referred to the Service for internal action.

The Commission observed poor practices in the way procurements were managed in the Service. These practices provided opportunities for corruption, as they increased the risk that the Service might pay suppliers for goods it had not received, or pay inflated prices. It was also clear that procurements in the Service were vulnerable to being corrupted as a result of undisclosed conflicts of interest.

The allegations concerned fleet vehicle maintenance, which requires regular and ongoing expenditure.

Procurement of vehicle maintenance services was undertaken according to each individual transaction, rather than the overall volume of transactions. As individual transactions fell below the threshold of \$33,000, staff followed SAFECOM's accounts payable policy to organise procurements. However, the overall cost of procurements for fleet vehicle maintenance was valued at millions of dollars each year. When procurements involve large amounts of money the corruption risk is high, as both public officers and private providers may be motivated to manipulate procurement processes for monetary gain.

The Commission observed that following the South Australian Procurement Framework for fleet vehicle maintenance may allow for improved planning and monitoring of procurements.

The Commission recommended that the Service:

1. ensure officers involved in procurement have access to, and are adequately supported with policies and procedures that clearly set out each step of the process, and
2. consider implementing regular audits of financial transactions in all regions to identify any practices inconsistent with SAFECOM's Accounts Payable policy and Treasurer's Instruction 11, and
3. review and update the financial management training provided to officers involved in procurement at induction and on an ongoing basis, including managers who approve expenditure, and
4. review the adequacy of the current training provided to officers involved in procurement at induction and on an ongoing basis in respect of conflict of interest obligations under Standard Administrative Procedure 23.01 – South Australian Country Fire Service Code of Conduct, and
5. consider introducing a conflict of interest register (if one does not already exist) and a requirement for annual conflict of interest declarations for officers involved in procurement, and
6. consult with SAFECOM on the feasibility of managing fleet vehicle maintenance in accordance with the South Australian Government Procurement Framework and the Emergency Services Procurement Framework.

In response, the Chief Officer of the Service indicated that several actions had been taken to address the recommendations, and funding was being sought to further rectify deficiencies in procurement processes.

Several Service staff have undertaken online training provided by Procurement Services SA. A review of the Service induction program was being undertaken to improve information about procurement and promote awareness of the code of conduct. The Commission's conflict of interest online course had been promoted to staff, and consideration was being given to making it mandatory. A conflict of interest register was being established and a process was being piloted in two regions to improve procurement for fleet vehicle maintenance.

SAFECOM**Date: February 2023**

As a result of the Country Fire Service investigation, the Commissioner noted that SAFECOM's Accounts Payable policy did not set out in sufficient detail the steps that public officers need to follow to undertake a procurement under \$33,000. The policy was overdue for review and aspects of it were out of date.

A lack of clear, accessible and contemporary guidance for staff with procurement duties increases the risk that they will inadvertently or deliberately engage in improper conduct.

The Commission recommended that SAFECOM:

1. develop a procedure for managing procurements under \$33,000 (if such a procedure does not already exist), and
2. review and update the Accounts Payable Policy and any associated procedure to ensure they are accurate and provide sufficient guidance to staff.

The Commission further suggested that SAFECOM consult with the Service to improve procurement practices broadly and increase staff and volunteer awareness of their obligations to disclose conflicts of interest.

Contractor obligations

SA WATER

Date: December 2022

The Commission investigated allegations that an SA Water contractor improperly accessed and distributed confidential tender information. Allegations of corruption were not substantiated.

The contractor did not declare a relevant conflict of interest in a tender evaluation. Investigators established that contractors were not always completing the corporate induction process, and SA Water employees were failing to ensure contractors were inducted.

The Commission noted that the risk of corruption as a result of undeclared conflicts of interest and misuse of confidential information can be greater for contractors because they are more likely to have outside business interests.

Contractors are public officers for the purposes of the *Independent Commission Against Corruption Act 2012*. As public officers, contractors have an obligation to report suspected corruption to the Office for Public Integrity. They may also be investigated for alleged corruption, misconduct and maladministration. It is essential that contractors understand their obligations as public officers.

The Commission recommended that SA Water:

1. establish a central point for coordinating corporate inductions for contractors with responsibility for ensuring all contractors have completed an induction in the last two years, and
2. consider amending standard contracts for engaging contractors to include a requirement that a corporate induction must have been completed within the last two years, and
3. review the corporate induction for contractors to ensure that responsibilities for declaring conflicts of interest, particularly during procurement, and handling confidential information are adequately explained, and
4. review SA Water conflict of interest policies to ensure contractor responsibilities for declaring conflicts are clearly set out, and
5. review the corporate induction for contractors to ensure that obligations to report suspected corruption in line with the Office for Public Integrity's Directions and Guidelines are adequately explained.

The Chief Executive of SA Water accepted the recommendations and detailed the action being taken to address them. This included the establishment of an internal working group to define the induction requirements for different types of contractors. Current contracts now include a requirement for the supplier to assess and declare conflicts of interest. Other actions included the development of a conflicts of interest module for inclusion in corporate induction processes and a review of the internal conflicts of interest policy to ensure it is clear, up to date and aligned with business and legislative requirements.

Corruption risks in human resources

Human resources includes all aspects of managing employees. Corruption is only possible because public officers are entrusted to make decisions and manage public resources. Effective supervision and management is crucial to mitigate corruption risks. The Commission made recommendations to three public authorities to improve their human resource practices.

Misuse of leave entitlements

NORTHERN ADELAIDE LOCAL HEALTH NETWORK

Date: December 2022

The Commission investigated allegations that a Network employee colluded with their line manager so that they could take a lengthy period of paid leave in the absence of an entitlement. No evidence of corruption was found.

Commission investigators found that the employee's extended leave had been approved.

The Commission noted that where managers can approve extended periods of leave, it is important that controls are in place to ensure leave is legitimate. The Commission recommended that the Network:

1. consider introducing a two person approval process for extended periods of leave,
2. review delegations for approving leave in the Network and identify circumstances where leave applications must be escalated beyond line managers,
3. ensure supporting documents such as medical certificates can be accessed by human resource officers for verification and auditing purposes,
4. consider introducing ongoing monitoring with employees on extended periods of leave to identify any change in circumstances which could impact upon their planned return to work.

The Network's Chief Executive Officer advised that reviews would be undertaken of delegations relating to approving leave (particularly extended periods of leave) and compliance and monitoring processes for long term leave.

Secondary employment

SA HOUSING AUTHORITY

Date: January 2023

The Commission investigated allegations that an SA Housing Authority employee improperly used confidential information to purchase Authority properties to benefit a private renovation business. The allegations were not substantiated.

However, investigators established that the employee had not declared secondary employment or business interests to the Authority, contrary to the Code of Ethics for the South Australian Public Sector.

There are inherent corruption risks when public officers hold multiple jobs or have outside business interests. Public officers can be motivated to exploit the information and resources available to them by virtue of their public role to benefit those interests.

The Commission recommended that the Authority:

1. clarify the public officer's activities as a sole trader, to ascertain whether permission should have been sought to undertake outside employment, and
2. remind all Authority staff of their secondary employment obligations under the Code of Ethics and any relevant Authority policies, procedures or instructions.

NORTHERN ADELAIDE LOCAL HEALTH NETWORK, CENTRAL ADELAIDE LOCAL HEALTH NETWORK AND DEPARTMENT OF HUMAN SERVICES

Date: February 2023

The Commission investigated allegations that a public officer working for the Northern Adelaide Local Health Network, the Central Adelaide Local Health Network and the Department of Human Services dishonestly claimed sick leave from one employer so that they could work for the other agencies, thereby doubling their income.

The Commission recommended that each agency:

1. issue a communication to all staff reminding them of their secondary employment obligations, and encourage any staff who might be engaged in secondary employment without approval to comply with the relevant expectations and policies, and
2. conduct an audit of secondary employment practices and procedures to ensure that controls to identify, manage and monitor such behaviour are effective, and
3. incorporate secondary employment procedures into recruitment and induction processes for new employees.

In response, the Chief Executive of the Northern Adelaide Local Health Network advised that regular communication was sent to staff reminding them of their obligations to disclose secondary employment, and that reviews would be undertaken of secondary employment practices and procedures and induction processes to promote compliance with secondary employment obligations.

Managing public resources

Public authorities are responsible for managing significant resources, including information, land and physical assets. Information and some types of physical items can cause harm if they fall into the wrong hands. Land is of course valuable, and this may be an incentive for property owners to unlawfully appropriate or otherwise utilise public land. It is essential that authorities are aware of the corruption risks associated with the resources they manage and have robust controls to mitigate these risks.

Vulnerabilities in information management

COURTS ADMINISTRATION AUTHORITY

Date: January 2023

The Commission investigated allegations that a staff member at the Courts Administration Authority improperly accessed confidential information and disseminated the information to a personal associate.

The information provided was not sufficient to progress the investigation. However, the Commission noted these were not the first allegations relating to the misuse of official information in the Authority.

The sensitive nature of the information held by the Authority means it can be valuable to malicious actors. It is important that adequate controls are in place to prevent and detect the misuse of information.

The Commission recommended that the Authority review its practices, policies and procedures to ensure that:

1. information management responsibilities for staff in relation to information handling and conflicts of interest (including obligations set out in the Code of Ethics for the South Australian Public Sector) are adequately explained and understood during induction and in regular ongoing training, and
2. staff with access to confidential information have completed the training and are assessed as having a current business need for accessing confidential information. Such access rights ought to be regularly reviewed, and
3. information management systems, including hard copy and electronic, can identify individuals who have accessed, altered, deleted or disseminated information held by the Authority, and
4. systems holding confidential information have adequate auditing capabilities to detect misuse, and
5. regular audits are conducted to assess the appropriateness of information access and to identify misuse.

The Acting State Courts Administrator recognised the importance of taking action to address the risk of information misuse.

The Commission was advised of recently implemented controls. The corporate induction program now includes guidance on information handling and online training on the Public Sector Code of Ethics, and induction completion rates are actively monitored. Hardcopy files are stored in secure areas. The Authority has enabled audit logging on its case management systems, ensuring it is possible to monitor details of who has accessed files and how they have been viewed, changed or deleted. Monthly and ad hoc checks are undertaken of staff access permissions to ensure that only staff who need to access information are allowed that access.

The Authority indicated that further initiatives to improve information security were planned.

SOUTH AUSTRALIA POLICE

Date: February 2023

The Commission investigated allegations of corruption in South Australia Police. The allegations were not substantiated.

Investigators observed deficiencies in the ability to audit when and by whom certain intelligence information was accessed on internal systems.

Intelligence gathered by police officers is sensitive and holds significant value for nefarious actors. It is crucial that Police systems have robust controls to prevent and quickly detect improper information access and use.

The Commission wrote to the Commissioner of Police to recommend that funds be allocated for specific software to handle sensitive intelligence information. This software will enhance protection of this information.

Deficiencies in managing physical exhibits

SOUTH AUSTRALIA POLICE

Date: January 2023

The Commission investigated allegations of corruption in South Australia Police. The allegations were not substantiated. However, Commission investigators observed deficiencies in Police management of exhibits. Exhibits referred to seized physical objects held by Police as evidence in legal proceedings.

Separate computer systems were used to record different details for each exhibit. As these systems were not integrated, there was no centralised system to manage the receipt, return or destruction of exhibits.

Police officers responsible for managing exhibits did not always comply with their property management obligations and record keeping practices were poor. It was not clear what training was provided to property officers.

This environment could be exploited for corrupt purposes. Exhibits could easily go missing due to these deficiencies. Significant damage could be caused if these items were distributed elsewhere.

The Commission recommended that South Australia Police conduct a comprehensive audit of its exhibit management processes, with a view to introducing greater levels of accountability for exhibit management and movement, eliminating opportunities for the exploitation of exhibit management for corrupt purposes, improving officers' compliance with General Orders and Manuals, and ensuring that systems are better integrated to maintain visibility and responsibility for movement of exhibits.

Risks associated with enforcement powers

CITY OF NORWOOD, PAYNEHAM AND ST PETERS

Date: June 2023

The Commission investigated allegations of corruption among council officers. It was reported that officers ignored the encroachment of several private properties onto council land upon receiving inducements from property owners. The allegations were not substantiated.

Accessibility to public land is important. Complaints that residents are unlawfully appropriating public land ought to be promptly investigated and addressed.

Commission investigators were told that after investigating a complaint of encroachment, an officer concluded erroneously that there was no encroachment. No justification for this conclusion was documented. At the same time, other council staff were aware there was an encroachment; but this information was not provided to the investigating officer.

Mistakes of this nature raise suspicion.

The Commission noted that council officers have responsibility for enforcing compliance with various legislation. The risk of misuse of these powers for improper or corrupt motives must be managed. This includes having clear guidance as to how those powers ought to be used.

The Council did not have a publicly available enforcement policy. The Council's internal Planning Approval Compliance & Development Complaint Handling policy was out of date.

The Commission recommended that the Council:

1. consider developing an enforcement policy and making it publicly available, and
2. ensure that the Planning Approval Compliance & Development Complaint Handling policy is reviewed and updated as a priority, and
3. consider making the Planning Approval Compliance & Development Complaint Handling policy publicly available on the Council's website, and
4. review how training for staff responsible for responding to complaints can be improved, and
5. consider revisions that could be made to the Council's complaints handling policy and procedure to prevent errors going undetected, and
6. review how information management systems could be improved to alert staff to the existence of confidential (or other) information relevant to specific properties.

Conclusion

The Commission's recommendations indicate there are opportunities for many public authorities to improve their practices, policies and procedures to mitigate corruption risks. Corrupt actors are at pains to mask their activities and public authorities may not always be aware of their vulnerability.

The Commission takes the opportunities presented by investigations to shine a light on these vulnerabilities and propose actions that can be taken to prevent corruption.

