



**ICAC**

Independent Commission  
Against Corruption

SOUTH AUSTRALIA

# Robust Recruitment

A report by the Hon. Ann Vanstone KC  
Commissioner

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**Robust Recruitment**

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

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*Public authorities must have robust policies and processes in place to guard against corruption in recruitment. This report provides measures that will assist to mitigate abuse of public office by preventing improper recruitment decisions.*

## Commissioner's foreword

Fair and transparent recruitment processes assist in recruiting the best people, and protect against those who might misuse public office.

The costs of appointing someone who lacks integrity can be substantial. This could include the direct cost of someone engaging in theft or fraud, and indirect costs like reduced workplace productivity and erosion of morale, reputational harm and undermining confidence in public administration.

Recruitment processes must be guided by merit. A merit based appointment leads to choice of the best person for the role based on the candidate's abilities, experience and potential for development. Assessing a candidate's merit also involves ensuring that the individual possesses the integrity required to serve the public interest.

The Commission has observed that inadequacies in recruitment practices, policies and procedures expose public administration to the risk of corruption. We have investigated public officers who have influenced recruitment processes to favour friends or family members. The Commission has also investigated persons who have exploited a lack of diligence in recruitment processes to gain, undeservedly, a position in public administration through misrepresentation.

Public authorities must have robust policies and processes in place to guard against corruption in recruitment. This report provides measures that will assist to mitigate abuse of public office by preventing improper recruitment decisions.

This report has been prepared in accordance with section 42(1)(c) of the *Independent Commission Against Corruption Act 2012*. I consider it in the public interest to disclose the lessons learned in relation to reports received and corruption investigations conducted by the Commission.



The Hon. Ann Vanstone KC  
**Commissioner**

## Introduction

Prior to the Office for Public Integrity becoming an independent entity in October 2021, the Commission regularly received reports about improper conduct in recruitment. Many of those allegations have been the subject of investigation, referral and supervision by the Commission.

Deficiencies in recruitment processes have also been a consistent theme arising from evaluations and surveys conducted by the Commission.<sup>1</sup>

Poor recruitment practices can be exploited by candidates who are able to circumvent processes and use deceptive means to enter public administration. This includes claiming false qualifications and experience.

Equally, poor recruitment practices can be exploited from within to favour certain candidates. This can occur by tailoring position descriptions or interview questions, limiting the field of potential applicants, excluding suitable candidates, manipulating panel membership or reports, misusing direct appointment processes, or failing to declare conflicts of interest.

There is a risk that dishonest candidates appointed to public administration roles will act dishonestly after their appointment to the detriment of public administration.

## Public administration requirements

With some limited exceptions, public authorities can only employ individuals on the basis of merit.<sup>2</sup> An applicant appointed on merit demonstrates the skills, qualifications, experience and aptitude to perform the role. This assumes that the candidate's integrity has been considered during the recruitment process.

While most merit based vacancies are advertised, in some circumstances alternative processes are used.<sup>3</sup> Most commonly, this involves direct appointments, where a suitable applicant is appointed to a role without the position being advertised.<sup>4</sup>

Direct appointments must also be based on merit, and should follow the same robust processes as other appointments. In this way direct appointments can be defended if challenged. Notably, direct appointments are often the subject of workplace dissatisfaction.<sup>5</sup>

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1 Independent Commission Against Corruption, *Evaluation of the Practices, Policies and Procedures of Safework SA* (November 2018) p 196; *Evaluation of the Practices, Policies and Procedures of the City of Playford Council* (November 2019) p 60; *Evaluation of the Practices, Policies and Procedures of the Department for Correctional Services* (June 2021) p 128; *Evaluation of the Practices, Policies and Procedures of Super SA* (September 2022) p 63.

2 *Public Sector Act 2009* (SA) s 46(2); *Public Sector Regulations 2010* (SA) r 17; *Directions of the South Australian Premier, Recruitment* (September 2018); Office of the Commissioner for Public Sector Employment, *Guideline of the Commissioner for Public Sector Employment: Recruitment* (June 2020); *Local Government Act 1999* (SA) s 107(2)(a).

3 *Public Sector Act 2009* (SA) s 46(2); *Public Sector Regulations 2010* (SA) r 17; Office of the Commissioner for Public Sector Employment, *Guideline: Recruitment* (June 2020) p 10.

4 *Public Sector Regulations 2010* (SA) r 17(3) requires public sector agencies to report to the Commissioner for Public Sector Employment any direct appointment within one month after the end of the financial year in which they were made.

5 Independent Commission Against Corruption, *ICAC Public Integrity Survey 2021: South Australia* (July 2022) p 16.

## Policy

Public authorities should have in place clear recruitment policies which describe resourcing requirements, advertising, the selection process (including shortlisting, interviewing, assessing and screening), how offers of employment are made, and the record keeping requirements. Unsuccessful candidates should have recourse to a fair review process.<sup>6</sup>

As with all policies, agency leaders must ensure relevant staff are trained in policy requirements and that they are accessible to all. Standards should be known, communicated and enforced.

A transparent, understood and enforced recruitment policy instils staff confidence in the agency's recruitment processes.

Agencies lacking recruitment direction, or that have out of date, inconsistent, or difficult to follow policies, run the risk of staff developing their own practices, or being improperly influenced. In those circumstances impropriety becomes more difficult to detect and address.

## Planning recruitment

Before any efforts are made to attract a new recruit a recruitment plan should be agreed upon. This ensures panel members are aware of their obligations, and it lessens the risk of important steps being missed. The roles and responsibilities of panel members and any human resource support should be clear.

Recruitment plans typically include a workforce analysis, budget considerations, a justification for the position if it is new, and a role description. The plan should also outline how the recruitment will be handled and the people involved in the various stages of the process. It will comprehend advertising, the shortlisting, and the proposed screening process.

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6 *Public Sector Act 2009 (SA) s 59; Local Government Act 1999 (SA) s 107(d).*

## Identifying, declaring and managing conflicts of interest

The Commission has regularly observed public officers allowing conflicts of interest to influence recruitment decisions. Examples include:

- ▶ writing a role description to suit a favoured candidate
- ▶ advertising a role for a very short period
- ▶ interviewing only one candidate when there are other suitable candidates
- ▶ not conducting interviews
- ▶ restricting the selection panel to one or two members
- ▶ failing to declare or manage conflicts of interest
- ▶ providing interview questions to a candidate, or coaching a candidate prior to an interview.

In the Commission's 2021 Public Integrity Survey, more participants reported nepotism and favouritism in recruitment than any other integrity issue.<sup>7</sup>

The *Guideline of the Commissioner for Public Sector Employment: Recruitment* stipulates that public sector recruitment must be free from patronage or nepotism.<sup>8</sup> Likewise, the *Code of Ethics for the South Australian Public Sector* requires employees to avoid conflicts of interest, and to ensure the interests of family members, friends or associates do not influence the performance of their duties or their roles as public sector employees.<sup>9</sup> There are also legislative requirements for public sector and local government employees to disclose conflicts of interest.<sup>10</sup>

Public authorities should clearly outline the circumstances in which a conflict must be declared, and the steps required to manage any conflicts. Disclosures should be recorded and panel members should be trained to understand their obligations.

The Commission's report *Identify, Disclose and Manage: Conflicts of Interest in Public Administration* sets out that, depending on the type of conflict, the management of a conflict of interest might involve:

- ▶ registering the conflict of interest
- ▶ recruiting an independent person to the selection panel
- ▶ restricting the involvement in the recruitment process of someone with a conflict
- ▶ removing altogether someone with a conflict from the recruitment process.<sup>11</sup>

7 A total of 30.3% of respondents who identified as leaders, and 42.3% of respondents who identified as non-leaders, reported having personally encountered nepotism/favoritism in recruitment in the last three years. See Independent Commission Against Corruption, *ICAC Public Integrity Survey 2021: South Australia* (July 2022) p 35.

8 Office of the Commissioner for Public Sector Employment, *Guideline: Recruitment* (June 2020) p 9.

9 Commissioner for Public Sector Employment, *Code of Ethics for the South Australian Public Sector* (March 2021) p 8.

10 *Public Sector (Honesty & Accountability) Act 1995* (SA) s 27; *Health Care Act 2008* (SA) s 92; *Local Government Act 1999* (SA) s 120.

11 Independent Commission Against Corruption, *Identify, Disclose and Manage: Conflicts of Interest in Public Administration* (June 2021) p 8.



A panel member with an extraneous interest in the result of the recruitment process should not participate in it and should not attempt to influence recruitment decisions.

A panel member who, through having a conflict, believes they are able to act impartially should allow the panel to collectively decide whether they are able to be involved. If doubt remains, that person should step aside, or the chief executive or agency head should settle the matter.

In some circumstances, particularly in regional areas, personal networks may be used to find potential employees. That may be appropriate as long as the applicant is not given information or assistance that is not available to other applicants. In addition, panel members who have more than a professional connection with an applicant should not be involved in the recruitment process. In such cases, an independent panel member should be sought.

The importance of raising conflicts of interest was highlighted in a recent matter investigated by the Commission where a conflict of interest gave rise to genuine concerns by a complainant.<sup>12</sup> The topic of conflicts was never addressed by the panel during the selection process.

While the Commission's inquiries established no evidence of impropriety, had the selection process included canvassing any member of the panel with respect to any conflict, it may have prevented the report to the Office for Public Integrity and subsequent Commission investigation.

## Secondary employment

*The Code of Ethics for the South Australian Public Sector* requires employees to obtain written permission from their agency head before engaging in outside employment or other remunerative activity.<sup>13</sup>

It seems that many staff do not realise that secondary employment can (but does not always) give rise to a conflict of interest.

Ideally, a candidate's wish to have secondary employment should be canvassed before any offer of employment is made. However at a minimum, employees should be advised of their secondary employment disclosure obligations during their induction.

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<sup>12</sup> Internal holdings.

<sup>13</sup> Commissioner for Public Sector Employment, *Code of Ethics for the South Australian Public Sector* (March 2021) p 8.

## Screening

In its 2018 report *Strengthening Employment Screening Practices in the NSW Public Sector*, the New South Wales Independent Commission Against Corruption recorded that 20 to 30 per cent of job applications contained verifiably false information.<sup>14</sup>

Employment fraud can provide considerable benefits to a dishonest person while disadvantaging honest and suitable applicants. This can result in poor performance and jeopardise public or workplace safety.

The Commission has observed circumstances in which a lack of pre-employment screening has allowed candidates to make fraudulent claims, including:

- ▶ providing false references
- ▶ claiming false qualifications
- ▶ exaggerating the status of their previous employment
- ▶ claiming work experience that they do not have.

The Commission investigated a matter where an individual took advantage of poor screening processes to provide false and misleading information in order to be appointed to a senior executive position.<sup>15</sup> The Commission observed:

- ▶ an incomplete pre-employment declaration was not noticed, or if it was no action was taken in respect of it
- ▶ no criminal record check or similar screening process was conducted. There was confusion about who had responsibility to conduct these checks
- ▶ the applicant made false representations about qualifications and experience which remained unchecked
- ▶ the applicant impersonated one referee and asked another person to impersonate a second.

The individual later provided a false pay slip to negotiate a higher salary and secured a contract for a family member.

That individual ultimately pleaded guilty to two counts of deception, dishonestly dealing with documents, and abuse of public office.<sup>16</sup>

In New South Wales, *Operation Sonet* found that an individual's prior fraud conviction had not been picked up by pre-employment screening. He was appointed to a role of acting information and communication technology manager, where he was able to overcharge ICT projects benefiting himself to the extent of \$1.1 million.<sup>17</sup>

Once such conduct is detected, agencies incur considerable expense during the investigation and disciplinary process, and there is often lasting reputational damage.

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14 Independent Commission Against Corruption, New South Wales, *Strengthening Employment Screening Practices in the NSW Public Sector* (February 2018) p 8.

15 Internal holdings.

16 See <https://www.icac.sa.gov.au/prosecution-outcomes/veronica-theriault>.

17 Independent Commission Against Corruption, New South Wales, *Strengthening Employment Screening Practices in the NSW Public Sector* (February 2018).

The *Direction of the Premier: Recruitment* requires public sector agencies to use a pre-employment declaration prior to any offer of employment being made.<sup>18</sup> Referee checks must be conducted.

The Commissioner for Public Sector Employment recommends that:

- ▶ reference checks be conducted with someone with direct personal knowledge of the candidate's experience, skills, knowledge, personal qualities and conduct
- ▶ when possible, a reference check be made with a current or recent line manager
- ▶ original copies of relevant qualifications be requested and verified
- ▶ candidates' employment history be verified
- ▶ gaps in a prospective employee's resume be scrutinised.<sup>19</sup>

A National Police Certificate or other screening should be considered, although only offences or current charges relevant to the role requirements should be considered.<sup>20</sup> Further advice can be sought from the agency's human resource unit, or the Crown Solicitor.

Casual employees should be subject to the same screening checks as permanent employees. The corruption risks associated with casual workers can be as serious as those relating to permanent employees.<sup>21</sup>

## A risk based approach

A risk based approach can assist agencies to strengthen their employment screening requirements.

While the appointment of senior executives requires a robust screening process, junior roles can also have risks attached, particularly when staff have significant financial delegations and access to bank accounts, cash and information. System administrator roles may also be vulnerable to risk.<sup>22</sup>

Screening for employees occupying positions of trust should include a criminal history check, an internet, ASIC and ABN search and verifying applicants' qualifications. This must always occur if the qualification is an essential requirement of the role.<sup>23</sup>

Employees in high risk roles or environments may require ongoing screening. For example, the Commission's *Evaluation of the Department for Correctional Services* demonstrated that there are corruption risks specific to working in a corrections facilities which require employees to be screened for criminal associations on an ongoing basis.<sup>24</sup>

Positions of trust requiring heightened screening should be identified by the agency prior to the commencement of any recruitment.

18 The *Direction of the Premier: Recruitment* requires the use of a Pre-employment Declaration, either in the form issued by the Commissioner for Public Sector Employment or a Pre-employment Declaration, or an agency specific Declaration containing no less than the content of the Declaration issued by the Commissioner.

19 Office of the Commissioner for Public Sector Employment, *Guideline: Recruitment* (June 2020) p 21.

20 Office of the Commissioner for Public Sector Employment, *Guideline: Recruitment* (June 2020) p 20.

21 Independent Commission Against Corruption, New South Wales, *Strengthening Employment Screening Practices in the NSW Public Sector* (February 2018) p 8.

22 Independent Commission Against Corruption, New South Wales, *Strengthening Employment Screening Practices in the NSW Public Sector* (February 2018).

23 Office of the Commissioner for Public Sector Employment, *Guideline: Recruitment* (June 2020) p 21.

24 Independent Commissioner Against Corruption, South Australia, *ICAC Evaluation of the Department for Correctional Services* p 132.

## Internal movements of employees

Movement of employees internally to new and higher risk roles will often warrant re-screening, particularly if the role provides greater access to information, financial delegations, or decision making power.

The consequences of inadequate ongoing screening were highlighted by the Queensland Crime and Corruption Commission investigation into Joel Barlow.<sup>25</sup> Mr Barlow was initially engaged by Queensland Health as a temporary contractor at a relatively junior level. A criminal check was not performed when Mr Barlow was offered the initial position, possibly because the position was not considered senior enough to warrant comprehensive screening.

A criminal check would have uncovered Mr Barlow's previous conviction for dishonesty. Mr Barlow was promoted to higher positions where he was given responsibility for significant financial decisions. No further employment checks were conducted. Mr Barlow engaged in fraudulent activities involving \$16 million. He was later sentenced to fourteen years in prison.

## Recruitment agencies

Screening by recruitment agencies should not be assumed to be complete. Interstate examples and the Commission's own investigations have shown that a lower level of scrutiny is sometimes applied by government departments where there is reliance on recruitment agencies.<sup>26</sup> Sometimes, requested levels of screening are simply not conducted, especially where agencies fail to properly design and monitor their contracts with recruitment agencies.

*Sometimes, requested levels of screening are simply not conducted, especially where agencies fail to properly design and monitor their contracts with recruitment agencies.*

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25 Crime and Corruption Commission, Queensland, *Risks in Recruitment – Are you Adequately Vetting your Staff?* (April 2018) p 2.

26 Independent Broad-based Anti-corruption Commission, Victoria, *Corruption and Misconduct Risks associated with Employment Practices in the Victorian Public Sector* (August 2018); Independent Commission Against Corruption, New South Wales, *Strengthening Employment Practices in the NSW Public Sector* (February 2018).

## Panel training

The *Guideline of the Commissioner for Public Sector Employment: Recruitment* provides that it is:

*'good practice for agencies to offer recruitment and selection training to panel members to ensure they understand the guiding principles and the recruitment and selection processes and practices.'*<sup>27</sup>

Staff involved in recruitment should receive training and clear guidance about conflict of interest requirements, screening, interviewing and integrity checking of applicants. Ensuring staff are aware of, understand, and consistently apply relevant policies and processes will help ensure a consistent, transparent, and trusted recruitment process.

## Recruitments involving internal candidates

Internal appointments are particularly vulnerable to the perception of favouritism.<sup>28</sup> Internal recruitments must not only be fair, but must also be seen to be fair.

As it is likely that an internal candidate will be known to members of the selection panel, conflicts of interest must be declared and managed. Appointment of an additional independent member should be considered to mitigate unconscious bias towards or against an internal candidate.

Clear communication with internal candidates is important. Unsuccessful candidates should receive constructive feedback and have recourse to a review process.

Internal candidates should not be involved in any stage of the recruitment process. The Commission has seen instances where candidates for a particular position have been listed as a contact person for role enquiries, or involved in the preparation of recruitment documentation.

Information about the process should be kept confidential. Internal candidates should not receive coaching or advice that is not available to other applicants. Clearly defined selection criteria, and documentation that includes the reasons for a candidate's selection or rejection can assist in ensuring that recruitment decisions are based on merit and respected.

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27 Office of the Commissioner for Public Sector Employment, *Guideline: Recruitment* (June 2020) p 30.

28 Independent Commission Against Corruption, *ICAC Public Integrity Survey 2021: South Australia* (July 2022) p 16-17.

## Roles and responsibilities

Ill-defined roles and responsibilities in any governance setting pose a corruption risk. When the roles of those involved in a recruitment are not made clear, there is a risk steps may be overlooked. In the case of the individual who falsified her references and qualifications, there was confusion about who had responsibility to conduct screening checks. There were gaps in the individual's pre-employment declaration and no criminal history check was undertaken.<sup>29</sup>

## Record keeping

Recruitment processes must be supported by thorough and accurate documentation. This ensures they are transparent and defensible.

This does not always occur. The Commission's *Evaluation of the Practice, Policies and Procedures of the City of Playford* found that documentation across recruitments was inconsistent, key documents were missing, and practices did not always adhere to policy.<sup>30</sup>

The Office for Public Sector Employment recommends the use of a panel selection report to be signed by the chief executive, agency head or delegate and to cover:

- ▶ advertisements
- ▶ process used for shortlisting candidates
- ▶ list of interviewed candidates
- ▶ process used for making the final recruitment decision
- ▶ evidence used in making the decision, including interview notes and rationale
- ▶ referee reports
- ▶ panel member signatures
- ▶ position justification
- ▶ conflict of interest declarations
- ▶ screening checks
- ▶ identification documents.

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<sup>29</sup> Internal holdings.

<sup>30</sup> Independent Commissioner Against Corruption, *Evaluation of the Practices, Policies & Procedures of the City of Playford Council* (November 2019) p 71-73.

## Conclusion

Poor recruitment can expose a public authority to corruption. Poor recruitment practices can also reduce the productivity of public administration, undermine staff morale, damage an agency's reputation and reduce public confidence in public administration.

To counter these risks, the Commission urges agencies to ensure that they have their own policies, processes and practices to support merit based recruitment. Consideration of a candidate's merit for a position should include assessing the candidate's integrity.

Public officers involved in recruitment should identify, declare and manage conflicts of interest. Candidates should be subjected to comprehensive screening, and ongoing screening should occur when appropriate. A candidate's secondary employment status should be canvassed before any offer of employment is made.

Every stage of the recruitment should be well planned, documented, and transparent. Good documentation assists in ensuring that policies and procedures are followed, and it provides protection for an agency if the integrity of a recruitment is questioned.

The use of external recruitment companies and recruitment pools can also pose corruption risks. Public officers who engage external recruitment agencies should ensure that key tasks, such as role appropriate screening and declarations of conflicts of interest, are performed.

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