



Evaluation of the
practices, policies
& procedures of
TAFE SA



**Evaluation of the practices, policies
and procedures of TAFE SA**

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Letter of transmittal

20 March 2023

The Hon. Terence Stephens MLC
President
Legislative Council
Parliament House
North Terrace
ADELAIDE SA 5000

The Hon. Daniel Cregan MP
Speaker
House of Assembly
Parliament House
North Terrace
ADELAIDE SA 5000

Dear President and Speaker

In accordance with sections 40(3) and 41(2) of the *Independent Commission Against Corruption Act 2012* (SA), I present the report of the Commission's evaluation of the practices, policies and procedures of TAFE SA.

Sections 40(4) and 41(3) of the Act require that you lay the report before your House of Parliament on the first sitting day after receiving it.

Yours sincerely



The Hon. Ann Vanstone KC
COMMISSIONER



COMMISSIONER'S FOREWORD

Commissioner's foreword

TAFE SA is a driving force in South Australia's economy and society. Its footprint is vast, and its influence on the occupational lives of thousands of citizens, and on the state's trades and industries, is foundational.



TAFE SA has had a turbulent recent history, involving disruption, dysfunction and restructures. A common theme to emerge from the evaluation is that TAFE SA is expected to be *everything to everyone, everywhere*. It is pulled in many directions. Lack of stability increases corruption risk.

However, during this evaluation the Commission found an organisation about which people can be confident and hopeful. TAFE SA endures and has the resources to meet its challenges. Its people and their dedication to students are its principal asset.

A common observation during this evaluation was that many of the functions and areas of heightened corruption risk at TAFE SA are already subject to considerable scrutiny and reform. That is encouraging, but it also gives pause. TAFE SA is doing reform work across the entirety of the organisation. As my evaluation team was told, TAFE SA has been *rebuilding the plane while flying it*. Accordingly, its attentions might be thinly spread, and its attempts to instil change might struggle to properly settle.

TAFE SA has been reviewed, audited, and monitored more intensively than most agencies. The Commission's evaluation adds to that scrutiny. An evaluation by an anti-corruption agency does not seek to solve an agency's problems, but rather to strengthen the agency's understanding of the corruption risks attending its functions and purposes. By protecting those functions from dishonesty, TAFE SA will be more resistant to corruption. That said, an organisation with the unique profile and position of TAFE SA will always need to be on guard for corruption and maladministration. The Commission has made 34 recommendations to assist TAFE SA to address those risks.

I am grateful for the cooperation of TAFE SA's Board, its senior executives and the many TAFE SA staff who shared their observations with the evaluation team. I thank Dr Andrew Russ, Ms Anna Shortt-Smith, and Dr Laura Deane for undertaking the evaluation and preparing this report, and extend my gratitude to the evaluation coordinator, Ms Gemma Neary, and the evaluation officers. I also acknowledge the Commission's investigators for the insights provided.

Some of the observations here will only be of relevance to TAFE SA; while others could apply to public education entities more generally. Many of the vulnerabilities highlighted in this report will be relevant to all public authorities and public officers.

I hope it is of use to all.

(Signature of The Hon. Ann Vanstone KC)

The Hon. Ann Vanstone KC

Commissioner
INDEPENDENT COMMISSION AGAINST CORRUPTION



EXECUTIVE SUMMARY

Executive summary

As South Australia's largest vocational education and training provider, TAFE SA plays an important role in developing the state's skilled workforce. In recent years, TAFE SA has weathered significant legislative, policy, leadership and administrative changes, many of which have been beyond its control.

The TAFE SA of today is not lacking in strategic direction and planning. It has ambitions to move its focus from compliance to quality and innovation, and its operations centre on servicing the needs of its students. As TAFE SA continues to evolve, its corruption risks also will change.

Recently, TAFE SA has focused on renewing its governance arrangements. While this is encouraging, the Commission observed that TAFE SA may underestimate its fraud and corruption risks. There are opportunities for TAFE SA to strengthen its awareness and assessment of those risks and behaviours beyond the current understanding provided by its risk appetite statement and external audit function.

TAFE SA was overwhelmingly proud of its teaching staff and the important role they play in supporting the state's economic and social needs. However, the Commission observed a disconnect and perceived inequity between TAFE SA's leadership and the educational frontline. This sentiment was heightened at regional campuses.

Many TAFE SA staff reported fatigue from the significant and prolonged changes they have faced. Unfortunately, relief may not be in sight. TAFE SA has an ambitious future agenda in numerous operational areas where improvements are required to protect it against corruption. Those activities must be carefully communicated and managed.

The Commission was told that TAFE SA's Education Managers are responsible for supervising up to 60 staff, many of whom are spread across campuses.

As a result, many Education Managers cannot adequately induct, train, support and manage those staff. This was a source of frustration for the Education Managers and detrimental to the development of the staff they are responsible for managing. Worryingly, corruption and other impropriety can flourish in an environment of inadequate supervision.

The Commission noted the onerous administrative requirements associated with TAFE SA's procurement activities. The significant focus on compliance can motivate staff to find and potentially exploit workarounds.

In the Commission's view, TAFE SA is also susceptible to corruption in respect of the large volume of low value procurements undertaken by each of its business units. A member of TAFE SA's procurement team acknowledged this vulnerability but explained that due to competing priorities, it is not currently possible to properly monitor procurements under \$55,000. While TAFE SA has recently halved the number of agency purchase cards to minimise the risk of misuse, it would be well advised to explore other efficient means of low value procurement.

TAFE SA is taking steps to ensure proper visibility of its assets and facilities, many of which were transferred to its ownership in 2019. Because some of those facilities are only partially funded, TAFE SA must grapple with the pressures and risks of leasing them for commercial gain.

TAFE SA's size, range of courses and geographical spread also create challenges in managing its assets and facilities. However, steps can be taken to better guard against the theft or misuse of low value or surplus assets, and to more effectively manage the work of contractors and facilities maintenance staff.

Because TAFE SA's current funding model is not linked to performance targets, it is largely protected from the corruption risks faced by other training providers. Should TAFE SA's funding or subsidy arrangements change, it must carefully consider and guard against those emerging risks.

As an educational provider, TAFE SA's core business is teaching. Corruption risks are inherent in the power imbalance between teaching staff and students. While TAFE SA resoundingly cited teaching staff as its most valuable asset, some staff were aware of teaching staff engaging in improper relationships with students.

Remarkably, TAFE SA seemed to misunderstand or downplay the likelihood of a lecturer abusing their position of power for a corrupt purpose. Indeed, the Commission had reservations about the way in which TAFE SA addressed a complaint of alleged grooming behaviour by a lecturer. The Commission has recommended that TAFE SA centralise the management of complaints about teaching staff and better articulate the corruption risks in its policies and procedures.

Corruption risks are heightened where public authorities and public officers pursue commercial activities and industry engagement. TAFE SA's business model and regulatory compliance very much relies on these pursuits, which involve staff at all levels of the organisation.

Although the Commission did not observe any impropriety in this area of TAFE SA's operations, it found opportunities for its Fee for Service model to be exploited, or for staff to misuse TAFE SA's intellectual property or resources to further their private business interests. There is scope for TAFE SA to better educate staff about the corruption risks associated with industry engagement and to monitor those relationships without hindering the requirement for teaching staff to maintain industry currency, or frustrate TAFE SA's desire to be commercially responsive, agile and innovative.

TAFE SA holds sensitive and valuable information in respect of its staff and students, and through its partnerships with other training providers and government agencies. TAFE SA continues to reform and invest in information systems, data and document practices, which will reduce the risk that its information will be accessed and used for corrupt purposes.

Contemporaneously with the evaluation, the Commission conducted several investigations into potential corruption at TAFE SA. One remains on foot. Pleasingly, the completed investigations found no evidence that corruption had occurred. However, various administrative and procedural weaknesses were revealed. The corruption prevention opportunities arising from those investigations have been examined in this report.

The Commission has made 34 recommendations to enable TAFE SA to better recognise and address its corruption risks. Pleasingly, TAFE SA has welcomed those recommendations and is taking steps to implement them.

Acronyms and abbreviations

A number of acronyms and abbreviations are used throughout this report.

ACT IC	Australian Capital Territory Integrity Commission
QLD CCC	Crime and Corruption Commission Queensland
NSW ICAC	New South Wales Independent Commission Against Corruption
WA CCC	Western Australia Corruption and Crime Commission
VIC IBAC	Independent Broad-based Anti-corruption Commission Victoria
ASIC	Australian Securities And Investments Commission
AGFMA	Across Government Facilities Management Arrangements
ASQA	Australian Skills Quality Authority
DE	Department for Education
DIS	Department for Innovation and Skills
DTF	Department Of Treasury and Finance
FAMIS	Facilities Management Contract Information System
FOPP	Funder-Owner-Purchaser-Provider model
IT	Information Technology
PSSA	Procurement Services SA
RTO	Registered Training Organisation
SAMIS	Strategic Asset Management Information System
SIS	Student Information System
VET	Vocational education and training



RECOMMENDATIONS

Recommendations

RECOMMENDATION 1

TAFE SA conduct a dedicated fraud and corruption risk assessment to complement and strengthen its overall risk management framework.¹

RECOMMENDATION 2

TAFE SA identify ways to better incorporate elements of fraud and corruption risk assessments into its internal audit program, especially for audits into functions, activities or processes identified as being high risk for corruption.

RECOMMENDATION 3

TAFE SA update and distribute a detailed organisational chart to staff and provide periodic and regular updates to staff.

RECOMMENDATION 4

TAFE SA conduct focus groups with staff across business units to review the effects of restructures and strategic plans with the aim to identify areas of duplication, communication issues, and work team or process silos.

RECOMMENDATION 5

TAFE SA include conflict of interest disclosure and management obligations in its revised recruitment framework and in its panel training resources.

RECOMMENDATION 6

TAFE SA provide training to all panel members involved in recruitment activities, with consideration given to making the training mandatory for appointment to a recruitment panel.

RECOMMENDATION 7

TAFE SA conduct a role risk rating process to identify positions of trust which should attract higher scrutiny and screening processes during recruitments for those roles (including internal). Consideration also be given to conducting periodic post-employment screening for roles with the highest risk rating.

1: For guidance on conducting fraud and corruption assessments see, [https://www.counterfraud.gov.au/
access-tools-and-guidance/conduct-fraud-risk-assessment](https://www.counterfraud.gov.au/access-tools-and-guidance/conduct-fraud-risk-assessment).

RECOMMENDATION 8

TAFE SA amend its Pre-employment Declaration to screen for secondary employment or other remunerated activities of candidates.

RECOMMENDATION 9

TAFE SA review and consolidate its various complaint, grievance, performance and behavioural management policies and mechanisms. Policies should clearly set out the process from assessment of complaints to disciplinary investigations and the imposition of sanctions.

RECOMMENDATION 10

TAFE SA create at least one dedicated integrity position within the People and Culture directorate (such as a Principal Integrity Officer) responsible for:

- ▶ overseeing the assessment and referral of complaints
- ▶ overseeing any preliminary investigation or other processes undertaken by management relevant to a complaint
- ▶ investigating serious misconduct allegations.

RECOMMENDATION 11

TAFE SA ensure that all staff who have responsibilities for managing or conducting investigations complete the Commission's Internal Investigation Seminar and Workshop.

RECOMMENDATION 12

TAFE SA conduct a workforce structure review which maps lines of accountability and supervisory relationships with a view to determining integrity gaps or stresses within the workforce. This workforce review should be additional to, and complement, TAFE SA's New Strategic Workforce Plan.

RECOMMENDATION 13

TAFE SA amend the Induction Policy to include a local and worksite induction for internal employees who have moved to new positions.

RECOMMENDATION 14

TAFE SA extend its employee exit practices to have the People and Culture directorate monitor and follow up employee exit interviews. Consider auditing recent employee access and use of information and resources for employees in positions of trust, those moving to roles at organisations that might benefit from access to TAFE SA information or resources, or on any signs of unusual or suspicious activity.

RECOMMENDATION 15

TAFE SA assess its procurement compliance scheme to develop a schedule of procurement corruption risk signals or priority measures and triggers to prompt further scrutiny of at risk procurement processes.

RECOMMENDATION 16

TAFE SA develop a simple integrity guideline for the procurement of consultancy services, the consideration and acceptance of unsolicited bids or proposals, direct single source approaches, and the risks of undeclared conflicts of interest. TAFE SA executive, managers and senior staff should be periodically instructed on the guideline, and refer to it prior to any relevant procurements.

RECOMMENDATION 17

TAFE SA amend its procurement procedures to include a check of secondary employment, financial interests and conflicts of interest registers at appropriate stages of all procurements.

RECOMMENDATION 18

TAFE SA commit to a future review of low value procurements (below \$55,000) to explore ways to protect those activities from abuse. That review should ensure:

- ▶ that any consolidation of a function (i.e. within Stores or equivalent units) maintains appropriate separation between procurement, contract management and inventory roles
- ▶ processes are in place to manage vendor-employee relations, gifts and benefits, conflicts of interest, and supplier and company checks
- ▶ provision of procurement training to new and existing staff conducting (or in close proximity to) large volumes of low value procurements
- ▶ the activity has some level of supervision from TAFE SA's procurement team to detect anomalies, patterns and irregularities

RECOMMENDATION 19

As part of its review of low level procurement systems and practices, TAFE SA explore opportunities for efficiency and effectiveness to offset the removal of widespread purchase card access.

RECOMMENDATION 20

In accordance with the Commission's publication *Buy Now, Lie Later: Corruption Risks in the Management of Government issued Purchase Cards*, TAFE SA modify its purchase card practices, especially in assessing the business need for issuing particular employees with purchase cards.

RECOMMENDATION 21

TAFE SA set out in its Asset Disposal policy that misappropriation of surplus or low-value assets or unwanted or forgotten items can amount to theft.

RECOMMENDATION 22

TAFE SA regularly convene a working group of campus facilities staff drawn from all campuses to monitor the operation of the Across Government Facilities Management Arrangements, and devise processes and strategies to better manage the work of contractors and facilities maintenance generally.

RECOMMENDATION 23

TAFE SA commit to a specific fraud and corruption assessment whenever substantial changes are made to its subsidy structures, funding arrangements, policy settings or financial governance instruments, in order to determine whether and where they might have stimulated opportunities for exploitation.

RECOMMENDATION 24

TAFE SA commit to reviewing its results attribution practices to prevent, manage or mitigate any incentives for improper resulting among lecturers, and assess further opportunities to improve result monitoring and moderation.

RECOMMENDATION 25

TAFE SA update its lecturer behaviour and staff/student relations policy suite (especially the Professional Boundaries for Lecturers Guidelines) to reflect specific risks of bribery, inducement, threat, unduly favourable treatment, and abuse of public office risks. Consider explicit training for staff to support the recently introduced Professional Boundaries for Lecturers Guidelines.

RECOMMENDATION 26

TAFE SA ensure all complaints and reports of unsatisfactory lecturer conduct, as well as action taken to address the conduct, be referred to and monitored by a dedicated integrity officer such as a Principal Integrity Officer. This should be supported by periodic reporting to the People and Culture Committee.

RECOMMENDATION 27

TAFE SA conduct an audit of past ICT system procurements across all workgroups, close down all systems and services which are obsolete, unnecessary or present risks to TAFE SA's brand or information, and transition services to TAFE SA's new enterprise booking/scheduling software.

RECOMMENDATION 28

TAFE SA seek to strengthen its Fee For Service function by:

- ▶ further ‘ring fencing’ the function to ensure confidential or sensitive commercial information does not move too freely among staff and teams at the agency.
- ▶ amending the Educational Commercial Revenue Policy to include regular processes to manage conflicts of interest, and provide staff with regular opportunities to identify and declare any conflicts. Conflict of Interest policy expectations should be set out in the Educational Commercial Revenue Policy.
- ▶ including the Gifts and Benefits Policy and register in the Fee For Service function, and set out expectations in the Educational Commercial Revenue Policy.
- ▶ implementing a staff register of interests to be updated and consulted during revenue generating activities.

RECOMMENDATION 29

TAFE SA develop a policy and procedure addressing the management of industry and client engagement with particular regard to managing conflicts of interest that may arise.

RECOMMENDATION 30

TAFE SA provide industry and client relationship risk management training to staff with significant exposure to, or dealings with, industry and commercial clients.

RECOMMENDATION 31

TAFE SA require all staff in positions of trust (not just executives) to annually declare and record financial interests, with a record being retained on a central register.

RECOMMENDATION 32

- TAFE SA create a standalone secondary employment and other remunerative activities policy (separate from its existing Conflict of Interest Procedure) which requires employees to request approval for outside employment or business interests, and line managers to assess those declarations for risk before granting approval.

RECOMMENDATION 33

TAFE SA conduct a risk assessment to identify business areas and employee positions particularly vulnerable to secondary employment risks. Staff in those areas and positions should be regularly reminded of their secondary employment obligations, and assessments should be conducted every 2-3 years.

RECOMMENDATION 34

- TAFE SA consider conducting ASIC company director searches and Australian Business Number searches against identified vulnerable employees/business areas to identify any business interests or other remunerative activities which may not have been approved by TAFE SA. Further inquiries should be undertaken where those searches reveal undeclared interests.



TERMS OF REFERENCE

Terms of reference

On 4 April 2022, the Commission commenced an evaluation of the practices, policies and procedures of TAFE SA with the following terms of reference:

1. The extent to which TAFE SA's governance framework adequately guards against the risks of corruption.
2. TAFE SA's practices, policies and procedures in respect of:
 - a. Human resource management
 - b. Procurement and contract management
 - c. Asset and facilities managementand whether those practices, policies and procedures provide effective controls against corruption.
3. The manner in which TAFE SA claims and reports on the subsidy payments it receives from government.
4. The framework in place to manage relationships between staff and students and whether those processes are adequate to guard against inappropriate enrolments, assessments, qualifications, and awards of licenses, certificates, diplomas and associate degrees.

On 15 September 2022, as a result of information gained in the evaluation, the Commission included the additional terms of reference:

5. How TAFE SA guards against the risk of corruption in its commercial activities and engagement with industry, as well as the potential commercial exploitation of its resources.
6. How TAFE SA guards against inappropriate access to, use or dissemination of personal and proprietary information and its practices in respect of records management.



THE EVALUATION FUNCTION

The evaluation function

The Commission may evaluate the practices, policies and procedures of inquiry agencies and public authorities with a view to advancing comprehensive and effective systems for preventing or minimising corruption in public administration.²

Corruption is defined with reference to certain criminal offences. However, corrupt acts are invariably facilitated by various dynamics, conditions and environments. Accordingly, evaluations will examine and assess the influence of those corruption enabling features.

The evaluation function is to be distinguished from the Commission's investigatory function. Investigations are targeted towards specific allegations of wrongdoing, whereas evaluations focus more generically upon corruption risks and opportunities.

Often the initiation of an evaluation will give rise to specific allegations of corruption which require investigation. That has been the case during the evaluation of TAFE SA. Those matters were dealt with separately and in accordance with the legislation.

At the conclusion of corruption investigations, it is Commission practice to communicate to the relevant agency any corruption vulnerabilities and prevention improvements which the investigation revealed. The prevention issues arising from some of the corruption investigations related to TAFE SA have been analysed in this report.

2: *Independent Commission Against Corruption Act 2012 (SA) s 7 (1)(b).*



THE EVALUATION PROCESS

The evaluation process

This evaluation involved:

- ▶ collecting and reviewing relevant documents
- ▶ reviewing TAFE SA results from the Public Integrity Survey 2021
- ▶ administering evaluation surveys for both staff and students
- ▶ receiving submissions
- ▶ conducting interviews with staff, TAFE SA Board members and other stakeholders
- ▶ reviewing internal Commission holdings relevant to TAFE SA.

The Commission reviewed more than 700 documents, received 31 public submissions, and conducted 43 interviews.

Evaluation surveys were completed by 505 staff and 406 students, with each survey containing quantitative and qualitative elements. Only completed surveys were assessed. Comments in response to survey questions have been reproduced in this report without editing and may include typographical errors.

The surveys reflect the perceptions of staff and students about corruption vulnerabilities and other issues at TAFE SA. Those reflections are necessarily subjective, serving to illustrate the attitudes and experiences of staff and students, and the issues they have observed at TAFE SA.

On 30 January 2023, a draft report was provided to the TAFE SA Chief Executive and Board for comment. They responded on 17 February 2023 (Appendix 1 and 2), and their suggestions have been incorporated in this report.



CHAPTER ONE

GOVERNANCE FRAMEWORK

Chapter one: Governance framework

Introduction: The connection between governance and corruption

A well governed agency will have a high resistance to corruption and other forms of impropriety.

A robust governance framework is a diffuse corruption control. It does not target specific corruption threats, but aims to prevent general slippage of standards and expectations which can make agencies vulnerable to corruption.

The key elements of good governance are:

- ▶ strong leadership, culture and communication
- ▶ appropriate governance committee structures
- ▶ clear accountability and supervision mechanisms
- ▶ working effectively across organisational boundaries
- ▶ comprehensive risk management, compliance and assurance systems
- ▶ strategic planning, performance monitoring and evaluation
- ▶ flexible and evolving principles based systems³

TAFE SA's governance history

TAFE SA has undergone significant changes to its legislative, policy and administrative environment since becoming a statutory corporation in 2012. That change in agency orientation must also be understood in the context of comprehensive changes to national vocational education and training (VET) legislation, policy and regulation going back decades. Much of that change has been largely outside of TAFE SA's or the state government's ultimate control.⁴ Regardless, the journey of TAFE SA's recent transformation has been at times troubled.⁵

3: Australian Public Service Commission: *Building Better Governance* (2007, pp. 5-19), available: <https://www.iace.tn/wp-content/uploads/2020/04/Australia-Australian-Public-service-commission-australian-government-good-governance-in-the-public-sector-.pdf>.

4: For an appreciation of the complexity and comprehensiveness of those changes please consult the National Centre for Vocational Education Research's [VET Knowledge Bank: Timelines](https://www.voced.edu.au/vet-knowledge-bank-timeline-australian-vet-policy-initiatives) webpage, especially the Timeline of Australian VET policy initiatives 1998-2021: <https://www.voced.edu.au/vet-knowledge-bank-timeline-australian-vet-policy-initiatives>.

5: EXH 0001, EXH 0003, SA Parliament, The Statutory Authorities Review Committee, Inquiry into TAFE SA, 67th Report, available Hansard.

The 2017 Australian Skills Quality Authority (ASQA) audit of TAFE SA represents a point in time against which to measure TAFE SA's governance framework and culture. This is not an arbitrary point in TAFE SA's history. Multiple interviews conducted by the evaluation team confirmed that TAFE SA staff continue to measure the agency's progress from that baseline.

The ASQA audit precipitated two separate reviews into TAFE SA's governance and operations. The TAFE SA Strategic Capability Review stated its 'dismay' at the 'depth of the problems at TAFE SA', noting absence of strategy and poor leadership as key areas of concern.⁶

The Quality Review of TAFE SA detailed the poor state of governance at TAFE SA which had caused the deficiencies exposed by the ASQA audit:

board membership was unbalanced, the wrong structures were in place to effectively monitor risk to regulatory compliance and reputation, and performance metrics for executives were skewed. The most concerning finding... was that internal quality auditors had made discoveries similar to those later made by ASQA. They reported TAFE SA's non-compliance 'up the line', but these... were not given proper consideration at either the executive or Board level.⁷

The current Chief Executive confirmed those findings in a foreword to correspondence provided to the Commission at the outset of the evaluation:

In 2019 when I commenced my tenure as Chief Executive of TAFE SA, I was introduced to an organisation that was characterised by entrenched practices that did not enable it to be successful. There was a lack of systems and processes, an unclear purpose, poor performance against agreed targets, poor educational and financial accountability as well as stakeholders perceiving TAFE SA as low value and poor quality. We had a trust issue.⁸

The Commission is assured that is not the case at TAFE SA today.

TAFE SA has had its suspended courses reinstated,⁹ and was recently awarded the maximum seven year accreditation from ASQA.¹⁰ In 2022, TAFE SA won the Large Training Provider of the Year award.¹¹

That improvement in TAFE SA's reputational standing has been accompanied by improvements in its governance structures and culture.

6: EXH 0003, p.1.

7: EXH 0001, p.2. That review highlighted a dysfunctional governance culture, noting the then TAFE SA Board and executive appeared to be resistant to ministerial oversight and direction and lacked transparency, p.24.

8: EXH 0069.

9: See ASQA Statement: <https://www.asqa.gov.au/news-events/media-releases/updated-statement-tafe-sa-rto-41026>.

10: EXH 0069.

11: See, <https://skillscommission.sa.gov.au/sa-training-awards/2022-winners>.

TAFE SA's governance structures

TAFE SA's governance arrangements, including its Board membership, Ministerial Charter, Performance Statement and funding provisions, are set out in the *TAFE SA Act 2012*, the *Public Corporations Act 1993*, and memoranda of administrative arrangements.

The Commission's interest lies in those aspects of the governance framework which are in TAFE SA's direct control and responsibility. The Chief Executive detailed a number of structures, arrangements and initiatives that suggest TAFE SA is working to consolidate and renew its governance. These include:

- ▶ a Teaching and Learning Strategy
- ▶ a Quality Management Framework
- ▶ a Risk Appetite and Risk Management Framework
- ▶ a Delegations Framework
- ▶ a Staff Engagement Plan
- ▶ a Strategic Asset Management Framework
- ▶ a Resilience Planning Framework
- ▶ an Information Security Strategy¹²

There are other encouraging signs.

The TAFE SA Board has established Academic and Quality, Audit and Risk, and People and Culture committees, all with terms of reference and forward work plans. A Higher Education Academic Board has also been established to address separate regulatory matters in that sector.¹³

TAFE SA has recently reviewed its delegations framework, policy and procedure. Delegations are further reviewed, endorsed and monitored on a regular basis by the Audit and Risk Committee. Various sources have reported to the Commission these have been considerably tightened and streamlined.¹⁴ The Risk Appetite and Risk Management Framework are also noteworthy as, until the current Board and Chief Executive Officer were put in place, TAFE SA had not previously established this function.¹⁵

TAFE SA appears to have a comprehensive internal audit process, with a rolling three year internal audit program conducted by an independent external audit partner.¹⁶ The evaluation has reviewed many of those internal audit reports. It appears the audit subject areas are well targeted, and TAFE SA is generally responsive to audit recommendations and findings. However, those audits' scope could be widened to explicitly address fraud and corruption risk.

Additionally, in recent years TAFE SA has developed and finalised a Unit of Competency costing model allowing the agency to more accurately understand its course delivery costs.¹⁷ It was reported to the Commission that previously TAFE SA had no reliable means to calculate its delivery costs, which was a weakness in terms of both its financial literacy and accountability, and its operational awareness.¹⁸

12: EXH 0069.

13: EXH 0386.

14: EXH 0469; EXH 0470; EXH 0796.

15: EXH 0405; EXH 0418; EXH 0703.

16: EXH 0386.

17: EXH 0404.

18: EXH 0429.

The costing model provides TAFE SA with the means for greater financial discipline and an evidentiary basis to drive operational effectiveness.¹⁹

Another key ingredient of a sound governance framework is strategic plans and programs, as agencies without strategic direction are susceptible to cultural and operational tendencies that create the conditions for corruption.

The 2018 reviews commented on TAFE SA's lack of strategic direction, failings in leadership, and strategic priorities.

More recently, it is evident TAFE SA has been operating with a renewed sense of purpose and direction, guided by the Strategic Plan 2019-2022. That plan responds to the previous government's plan to rebuild TAFE SA known as *A Fresh Start for TAFE SA*, which seeks to focus TAFE SA to meet the needs of its customers, engage in constructive partnerships, and strengthen organisational accountability and sustainable performance.²⁰

The Board has implemented an operational improvement plan entitled *A Bolder Future for TAFE SA*,²¹ involving several streams of work throughout TAFE SA's operations:

- ▶ Education Training Profile and Delivery
- ▶ Priority Student Cohorts
- ▶ Digital Delivery
- ▶ Student Support
- ▶ People
- ▶ Infrastructure
- ▶ Corporate and Governance²²

During the evaluation, the TAFE SA Executive and Board were finalising a strategic plan for 2022-25. Those strategic efforts were described as aiming to advance TAFE SA on a journey from compliance to 'quality and innovation' in program delivery.²³

While TAFE SA's strategic direction and ambitions are not without issues — explored later in this chapter — the presence of strategic orientation and planning is itself reassuring. The Commission saw clear evidence that parts of TAFE SA were responding to that mission. While it remains to be seen how responsive TAFE SA staff will be to those plans and goals, strategic intent is not missing from TAFE SA.

In sum, TAFE SA is aware of the importance of an effective governance framework. The Commission is reasonably confident that TAFE SA is constructively positioned with respect to its strategic direction, risk management, compliance and assurance systems, performance monitoring, corporate accountability and supervision.

19: EXH 0418; EXH 0419.

20: TAFE SA Strategic Plan 2019-2022. See, https://www.tafesa.edu.au/docs/default-source/about_tafesa/tafe-sa-strategic-plan-2019-2022.pdf?sfvrsn=52797d14_4; A Fresh Start for TAFE SA, see, <http://hdl.voced.edu.au/10707/494515>.

21: EXH 0069.

22: EXH 0079.

23: TAFE SA Strategic Plan 2019-2022. See, https://www.tafesa.edu.au/docs/default-source/about_tafesa/tafe-sa-strategic-plan-2019-2022.pdf?sfvrsn=52797d14_4, p.2.

Board and executive relations: TAFE SA's developing governance maturity

TAFE SA's journey to its current state of governance maturity has not been smooth. That is a fact accepted by almost all board members and executives.

TAFE SA has had nine Ministers in ten years.²⁴ The aftermath of the ASQA audit precipitated an exodus of TAFE SA board members and executives. One senior executive remarked that when he started at TAFE SA, '*there were two remaining executives and eight empty offices*'.²⁵ He told the Commission the Executive and Board were '*rebuilding the plane whilst it was flying*', noting '*every aspect had to change at the same time*'.²⁶

Board members reported to the evaluation team they were shocked by the pace and extremity of the changes at TAFE SA after the ASQA audit,²⁷ with one even questioning their decision to join the Board.²⁸ Executives and board members told the evaluation team of the difficulty in reporting because records did not exist or could not be found, and of strained relations when executives delivered constant bad news or surprises.²⁹

Two individuals provided an independent view of the corporate governance culture at TAFE SA in the period after the ASQA audit. They told the Commission:

- ▶ There was a sense of inertia in response to the enormity of the changes required to reform TAFE SA. The Board appointed in 2018 were over-represented in private sector experience and outlook and struggled to relate to public sector norms. So too did staff and the executive.
- ▶ There was a lack of transparency between the Board and Executive, with questions from the Board unable to be answered or dealt with evasively. There were insufficiencies in briefings and information provided to the Minister for budget estimates processes. Sometimes discussions took place outside of Board meetings, and there were irregularities in relation to in camera sessions, record keeping and Freedom of Information requests.
- ▶ There was an unresolved tension in TAFE SA's dual role as the public training provider and commercial market competitor. TAFE SA and its funding agency (the then Department for Innovation and Skills) struggled and often failed to understand each other.
- ▶ Staff exits had caused significant loss of corporate knowledge and information deficiencies. Middle management were burnt out and overreacted to reasonable requests, and appeared fearful of documenting decisions in writing to avoid blame and responsibility.³⁰

All agreed the situation began to rectify upon the installation of a new Board Chair, and the implementation of a mentoring or 'buddy' system that paired Board members and executives to work on strategic projects.³¹ This practice was generally regarded as highly effective in improving relations and setting the reform agenda.³²

24: EXH 0409.

25: EXH 0405.

26: EXH 0405.

27: EXH 0418.

28: EXH 0416.

29: EXH 0405; EXH 0414; EXH 0418.

30: EXH 0429; EXH 0430.

31: EXH 0405; EXH 407; EXH 0411; EXH 0413; EXH 0418.

32: EXH 0407; EXH 0410; EXH 0411; EXH 0417.

In order to achieve reform, the Board was compelled to abandon some of the formalised boundaries and separations between boards and management.³³ One Board member remarked the Board had to '*put its hand quite deep into the organisation*'.³⁴ The Commission is aware the Board is presently becoming less focused on operational matters, with one executive noting the separation between Board and Executive is an important principle of effective management.³⁵

The Commission observes that fostering close relationships between the Board and executive may blur the boundaries between the Board's usual supervisory role and agency operations, potentially generating risks or unintended consequences.

When Boards develop deep connections or influence over an agency's operations, vulnerabilities to corruption can arise. These include the potential for inappropriate relationships, power imbalances and undue influence; misuse of information; irregularities in procurement; targeting for the purposes of bribery or inducement; and opportunities to improperly act on conflicts of interest.³⁶

The TAFE SA Board would do well to review its current processes to clarify roles, responsibilities and separations between Board governance and executive management. Continuing to review the current state of information holdings, systems and reporting pathways to the Board will also assist to identify any gaps in visibility or areas requiring enhancement.

Risk analysis, awareness and appetite

It is the Commission's view that TAFE SA has implemented a dependable level of governance, policy and procedure in regard to managing corruption risks, primarily through its Corruption and Fraud Policy, Fraud and Corruption Procedure and Control Plan,³⁷ and its internal audit program. There is, however, opportunity to strengthen these.

One of the more challenging aspects of corruption prevention is cultivating the ability to identify and analyse corruption risk areas.

Corruption is secretive in nature, occurring because people are determined to avoid detection. The signs of system failure are therefore rarely visible. For that reason, corruption risks are often underestimated, and a false sense of security can take hold.³⁸

Situational and structural analysis is required to ascertain where corruption may manifest, and who might be motivated to exploit a corruption opportunity.

33: EXH 0418.

34: EXH 0414.

35: EXH 0413; EXH 0418.

36: VIC IBAC, *Corruption Risks associated with public sector boards*. (September 2019) See, https://www.ibac.vic.gov.au/docs/default-source/education-resources/corruption-risks-associated-with-public-sector-boards.pdf?sfvrsn=351fb59d_0.

37: EXH 0196; EXH 0197.

38: NSW ICAC, *Risk Management*. (November 2018) See, <https://www.icac.nsw.gov.au/prevention/risk-management>.

It is encouraging that TAFE SA has formulated a Risk Management Framework and drafted a TAFE SA Board Risk Appetite Statement. The Risk Appetite Statement lists the following areas where TAFE SA is most significantly exposed to risk:³⁹

- ▶ External policy change
- ▶ Funding change
- ▶ Regulatory and compliance
- ▶ Teaching and learning
- ▶ Student experience
- ▶ Partnerships
- ▶ Workforce
- ▶ Safety, security and wellbeing
- ▶ Operating environment
- ▶ Financial viability
- ▶ Environmental

Fraud and corruption risks feature minimally throughout the document, even though such risks could materialise in many of TAFE SA's identified risk areas. For example, TAFE SA has expressed a high appetite for pursuing alternate funding sources, and a medium risk appetite for engaging with non-traditional or innovative partners.⁴⁰

The relative underrating of corruption and fraud risks in TAFE SA's risk appetite may have downstream effects on the internal audit program. While TAFE SA's internal audit program is relatively impressive and well targeted, those audits tend to focus on compliance, efficiency, and outcomes.

Corruption exploitation risks figure somewhat indirectly. There is scope for TAFE SA's internal audits to more explicitly identify and analyse where corruption and exploitation points might exist in an audited function or processes. Some examples are provided later in this report.

Pleasingly, TAFE SA has a Fraud and Corruption Policy and Fraud and Corruption Procedure and Control Plan.⁴¹ However, these are not particularly well integrated with TAFE SA's Risk Management Policy and Framework or Risk Appetite Statement.⁴²

Interviews with TAFE SA senior staff also suggested there was an attitude of minimising the possibility of fraud and corruption occurring at the agency across a range of activities. Most interviewees were willing to agree that some small level of corruption risk existed at TAFE SA, but often these risks were qualified as not 'systemic' or dismissed as the work of a potential 'rogue' actor.

It is not unusual for agencies to misjudge their risk of fraud and corruption.

39: EXH 0060.

40: EXH 0060.

41: EXH 0197.

42: EXH 0060; EXH 0391.

To a degree, this stems from a misconception about external auditing processes. The Association of Certified Fraud Examiners (ACFE) releases a biannual report on trends and themes in organisational fraud.⁴³ Those reports find that the annual external audit is consistently reported by agencies to be their primary control on the risk of fraud.

TAFE SA is no different.

Early in the evaluation, the Commission received a submission from the TAFE SA Board stating:

TAFE SA is required to prepare a response to the Auditor-General on an annual basis which details the risk of fraud within TAFE SA. The Auditor-General provides a series of questions seeking advice on the likelihood of fraud, the measures which have been implemented by TAFE SA to mitigate the risks and the processes which are in place to identify and respond to risks of fraud. The matter is addressed by the ARC (Audit and Risk Committee) and the Chair responds on behalf of the Board.⁴⁴

Relying on the external audit is one of the least effective ways of detecting occupational fraud, and '*it is important to note that this mechanism is not primarily designed to detect or prevent frauds*'.⁴⁵ Rather, its purpose is to ascertain if an agency's financial statements may be '*materially misstated*' whether due to error or fraud.⁴⁶

The best way to detect fraud and corruption is to conduct spot checks of key exploitation points in an agency's functions and processes, especially where some type of improper benefit can be derived. And the best way to identify an agency's corruption pressure points and places of exploitable value is to conduct specific fraud and corruption risk assessments. Active and targeted fraud and corruption assessments are reliable tools to create awareness of corruption risks.

Corruption is difficult to confront when it is nowhere to be seen, or where systems designed to guard against it do not detect it.

There are further signs TAFE SA may have underestimated its corruption and fraud risks.

One staff member in corporate governance and risk reported some internal resistance to the need for explicit fraud and corruption assessments, as there is an assumption that the normal risk management process will address those risks.⁴⁷ That reportedly changed after the Commission amended its terms of reference to include how TAFE SA guards against the risk of corruption in its commercial activities and engagement with industry, as well as the potential exploitation of its resources.

TAFE SA's Conflict of Interest Policy and Fraud and Corruption Control Plan are currently being updated. During the evaluation the Commission received information suggesting conflict of interest declaration and reporting practices were inconsistent and in flux.⁴⁸ This appears to have been rectified with the creation of a central conflicts of interest register that sits within the governance and assurance function.

43: Association of Certified Fraud Examiners, *Occupational Fraud 2022: A Report to the Nations*, (2022) p.34, see, <https://acfepublic.s3.us-west-2.amazonaws.com/2022+Report+to+the+Nations.pdf>.

44: EXH 0386.

45: Association of Certified Fraud Examiners, *Occupational Fraud 2020: A Report to the Nations*, (2020) pp.19, 31, see, <https://acfepublic.s3-us-west-2.amazonaws.com/2020-Report-to-the-Nations.pdf>.

46: EXH 0213; Australian Auditing Standards ASA200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Australian Auditing Standards*.

47: EXH 0698.

48: EXH 0698.

Except for mandatory conflict of interest declarations from Executive Directors, there had only been five conflict of interest declarations in the prior 12 months at the time of writing.⁴⁹ For an agency of TAFE SA's size and operations, that number indicates there might be undisclosed conflicts of interest.

TAFE SA conduct a dedicated fraud and corruption risk assessment to complement and strengthen its overall risk management framework.⁵⁰

RECOMMENDATION 1

TAFE SA identify ways to better incorporate elements of fraud and corruption risk assessments into its internal audit program, especially for audits into functions, activities or processes identified as being high risk for corruption.

RECOMMENDATION 2

Staff perceptions of TAFE SA's governance framework

STRATEGIC DIRECTION

While TAFE SA has made great headway to improve its corporate governance and strategic focus, it is less certain whether these have been accepted by the organisation at large.

The majority of evaluation survey respondents were aware of the strategic plan, with 60% having read the plan. However, few respondents had an opportunity to provide input, and only a third had discussed with their manager how their work aligns to the plan.

Respondents in executive and management roles were significantly more likely than staff in non-leadership roles to be aware of and have read the strategic plan.⁵¹

Many staff expressed reservations about how TAFE SA's strategic direction connected to their roles or how effectively it was being implemented:

They are not communicated clearly - how do these plans and structure affect our team and its operations.

Like all strategic plans it pays little attention to detail and is unrealistic. I also hate the manner in which it is tracked out as if we all agree to it, which we do not.

... the strategic plan is not woven into the fabric of my work. It would be useful to hear from the Governance department once in a while.⁵²

49: EXH 0698.

50: For guidance on conducting fraud and corruption assessments see, [https://www.counterfraud.gov.au/
access-tools-and-guidance/conduct-fraud-risk-assessment](https://www.counterfraud.gov.au/access-tools-and-guidance/conduct-fraud-risk-assessment).

51: EXH 0796.

52: EXH 0796.

GOVERNANCE STRUCTURE

Approximately two in five (41.2%) respondents had little confidence in their understanding of TAFE SA's governance structure. Respondents in executive and management roles were significantly more likely to be confident that they understood the governance structure of TAFE SA compared to respondents in other roles.⁵³

Some respondents stated they had not received adequate information about the organisational chart, and were unsure of the governance structure.

... we don't receive information about org charts, reporting lines or who is in the roles.

The governance structure is not discussed with the 'workers'.⁵⁴

Several respondents considered that frequent changes and complex reporting lines had made the governance structure difficult to follow.

The governance structure is very complex with overlap between numerous areas of the organisation. The level of sign off and approval required for basic and standard activities requires more time than it does to prepare the work. Whilst I have an understanding of governance, many within the organisation do not. The executive constantly change their expectations on approvals and expectations.

... there are so many layers of management - those of us down the bottom have no idea of the structure and how decisions are being made.⁵⁵

Staff respondents often raised the high proportion of executives relative to other staff, which diverted resources away from teaching:

Myself and many colleagues feel that TAFE SA have far too many staff at executive level. We can't utilise casual staff which are needed to cover ongoing staff when they are sick or on leave, because apparently there is nothing left in the budget for casual staff. But we forever get more and more upper level staff, costing hundreds of thousands more dollars in wages.

... it doesn't matter how many times they change the governance structure it doesn't change our jobs as lecturers it just lets them employ more staff at the top levels!⁵⁶

Clear, easily understood organisational structures help to create efficient pathways for authority, responsibility and accountability within and between work teams. A poorly designed organisational structure can result in responsibilities being neglected, duplication of efforts, conflict and confusion.

One team leader illustrated some of TAFE SA's issues related to organisational restructure, observing that a significant restructure in 2019 had disjointed the administrative staff into various streams. This has resulted in functional silos, administrative duplication, antagonism and errors, with no one retaining a 360-degree view of customer interactions.

In their view, too many staff retained editing rights of key administrative systems, leading to inconsistent practices, workarounds, and working at cross-purposes. They were hopeful that the implementation of an Enterprise Customer Relationship Manager system might alleviate some of these problems.⁵⁷

53: EXH 0796.

54: EXH 0796.

55: EXH 0796.

56: EXH 0796.

57: EXH 0689.

Another perspective was provided by a Director who remarked that senior managers were increasingly cohesive and cooperative in outlook. The organisation had put its efforts into 'vertically' erecting frameworks and initiatives across several operational areas but was yet to align and intersect these areas. He wanted to see the next phase focused on creating interconnections within the organisation, remarking, '*it's in the gaps where the mischief can start to fester*'.⁵⁸

It is apparent that at least some areas of TAFE SA may suffer from ill-defined organisational structures, or the Executive has been unsuccessful in communicating the benefits of the new organisational structure to staff. It is also evident that significant staff turnover negatively affects how staff perceive the stability of the governance structure. TAFE SA management has work to do to persuade its staff of the purpose behind corporate changes and expansion. That may be particularly pressing after an extended period of heavy cost-cutting and budgetary restraint that might have disproportionately affected the educational frontline.

Conducting focus groups with staff across business units to review the effects of restructures and strategic plans, identify areas of duplication, communication issues and work team or process silos will help with that aim.

Due to change fatigue and cynicism among many TAFE SA staff, the Commission does not believe that further restructure is the answer. Settling the organisational structure, and making iterative improvements, are more likely to be effective.

TAFE SA update and distribute a detailed organisational chart to staff, and provide periodic and regular updates of the chart.

RECOMMENDATION 3

TAFE SA conduct focus groups with staff across business units to review the effects of restructures and strategic plans with the aim to identify areas of duplication, communication issues, and work team or process silos.

RECOMMENDATION 4

58: EXH 0479.

A framework for policies and procedures

Where a governance framework provides an agency's overarching guidance, structure and direction, an agency's policies and procedures provide more detailed direction. Clear, up-to-date, and accessible policies and procedures help foster a culture of accountability and performance, which also assists in managing an agency's risks of corruption.

Having a robust policy framework is the best way to keep an agency's policy and procedure environment orderly, relevant and up to date. A policy framework provides an overarching structure that guides how policies and procedures are developed, approved, communicated, monitored, and reviewed.

TAFE SA has a Governance of TAFE SA Policy Documents Policy,⁵⁹ a TAFE SA Policy Document Development Procedure⁶⁰ and templates and fact sheets to assist with the development of policy and procedure.⁶¹ Policies and procedures are accessible via the Policy Portal on the intranet. While TAFE SA's policy framework is satisfactory, its implementation can be improved.

POLICY AND PROCEDURE CONSULTATION

It is important for subject matter experts and employees affected by new or amended policies and procedures to be consulted on their content.⁶²

Historically, feedback on proposed policy was sought via the TAFE SA Intranet. However, due to poor staff engagement, an Internal Policy Working Group was formed to provide feedback to policy owners prior to the policy being approved.⁶³ Membership of this working group consists of directors and managers across seven TAFE SA directorates.⁶⁴

While the Commission applauds TAFE SA's efforts to increase consultation, some staff commented in the evaluation survey that they now feel excluded from consultation about policies that affect their roles:

There was a change in consultation with regard to Policy and procedures in the last year or so. An Internal Policy Review Working Group (IPRWG) review policies and procedures now, where in the past a communication was sent to all staff via TDAY to advise them of a review period where anyone could provide feedback, this no longer happens. It appears the IPRWG review policies and procedures and only seek feedback for people they nominate.

Tafe used to put them out for consultation to the wider organisation. This no longer happens.⁶⁵

If affected staff are not given an opportunity to provide feedback on proposed policies and procedures, or cannot find the guidance they need to do their jobs, there is a risk they will disregard them in favour of developing their own work practices. This is not to say that all feedback must be incorporated, but those affected should be given an opportunity to provide that feedback.

59: EXH 0764.

60: EXH 0768.

61: EXH 0765; EXH 0766; EXH 0767.

62: ICAC SA *Integrity Spotlight, Policy Framework Guide*, (January 2022) see, <https://www.icac.sa.gov.au/documents/integrity-spotlight-policy-framework-jan-2022>.

63: EXH 0310; EXH 0698.

64: EXH 0310.

65: EXH 0796.

Other staff said consultation did occur, but it was a slow process, which one staff member said could take up to a year.⁶⁶ Another staff member expressed frustration that a policy sent for consultation last year was now so out of date it could not be used.⁶⁷

TAFE SA should consider how it is able to better target its consultation process without causing further delays to the approval process.

TAFE SA should also consider the possibility that the lack of staff engagement experienced under their previous policy consultation process might have been due to workloads rather than disinterest.

OVERLAPPING POLICY AND PROCEDURE

While some respondents to the evaluation survey said there had been recent improvements to policy and procedure at TAFE SA, many staff expressed frustration about the volume and accessibility of policies and procedures.

When staff participants were asked how often policies and procedures are used, 33.9% said ‘often/always’, 33.7% said ‘rarely’, and 30.9% said ‘never/rarely’. Of those who said they ‘never’ or ‘rarely’ referred to policy and procedure, 30.2% attributed this to the fact that policy or procedure was too burdensome or difficult to follow.

Respondents to the evaluation survey told the Commission:

People can't find stuff – they look, and because they can't find it they assume it's not there.

[Policies] ... are too long, and are not easy to use. They are often mixed up with procedures.

Policies should be easily accessible, not open to interpretation: there needs to be more clarity.

Unbelievably complex and on occasion counter-productive.⁶⁸

TAFE SA has 81 policies and 87 procedures. However, it was the evaluation team’s observation that some policies were complex and difficult to follow and some procedures did not set out a clear process to be followed.⁶⁹ Moreover, there were several overlapping policies and procedures, including six documents relevant to employee grievances.⁷⁰

The evaluation team was told that TAFE SA is conducting a review to consolidate policies and procedures.⁷¹

66: EXH 0700.

67: EXH 0796.

68: EXH 0796.

69: EXH 0175; EXH 0161.

70: EXH 0193; EXH 0196; EXH 0197; EXH 0450; EXH 0771; EXH 0773.

71: EXH 0698.

OVERDUE POLICIES AND PROCEDURES

At the time of writing the evaluation report, 58% of policies and 47% of procedures were overdue for review. The Commission received many comments from evaluation survey participants about this:

We work off old documents that are not fit for purpose, and they may not be matching what's written. Policy won't be touched until something happens years later.

They are a bit outdated and some are 'owned' by staff no longer here.⁷²

Many documents considered by the evaluation team referred to out-of-date legislation,⁷³ were on old templates,⁷⁴ or were missing creation and review dates, owners and/or version numbers.⁷⁵

It is of course difficult to follow or enforce a policy that is out-of-date and no longer relevant to staff. It is little wonder that some evaluation survey respondents complained that policies and procedures was not followed:

Another concern I have is how there doesn't seem to be any consequences for staff who disregard TAFE SA policies.

There can be policies which look great on paper but when Directors' and Executive don't follow them what is the point.⁷⁶

TAFE SA mandates that its policies are to be reviewed by the relevant policy owner every two years.⁷⁷ The TAFE SA Policy Document Development Procedure states that the Government and Board Relations Team is responsible for reminding business owners of review deadlines.⁷⁸

The evaluation team was told that a newly formed Strategic Policy and Advice workgroup is in the process of categorising policies and following up overdue policies.⁷⁹

Keeping a master list of policies and monitoring their currency is necessary. However, the Commission questions why two separate groups are involved in managing the overall policy lifecycle and framework. This could be a recipe for confusion, allowing diffuse accountabilities and responsibilities to ensue.

Delegating management of the overall policy framework to one workgroup which regularly reports to the Audit and Risk Committee may assist with providing some much-needed accountability to policy owners with respect to overdue policies and procedures.

However, the Commission acknowledges the work undertaken to date and the work currently being undertaken. The Commission is confident TAFE SA will continue to make improvements in this regard.

72: EXH 0796.

73: EXH 0196; EXH 0557; EXH 0773.

74: EXH 0698.

75: EXH 0148; EXH 0149; EXH 0151; EXH 0152; EXH 0154; EXH 0155; EXH 0157; EXH 0158; EXH 0160; EXH 0161; EXH 0162; EXH 0176; EXH 0177; EXH 0178; EXH 0179; EXH 0193; EXH 0194; EXH 0531; EXH 0532; EXH 0534; EXH 0537; EXH 0538; EXH 0543; EXH 0544; EXH 0546; EXH 0547; EXH 0549; EXH 0550; EXH 0556; EXH 0557; EXH 0614; EXH 0615; EXH 0665; EXH 0667; EXH 0682; EXH 0771.

76: EXH 0796.

77: EXH 0764 p.2.

78: EXH 0768 p.7.

79: EXH 0309; EXH 0698.

The Commission suggests TAFE SA continue its policy and procedure review to identify and update overdue policies and procedures, consolidate overlapping documents, and improve the readability and accessibility of policy documents. That continued review should also ensure clear responsibility for the policy lifecycle is set out, that policies do not accumulate outdated perspectives, and that timeframes attached to the policy lifecycle are timely and achievable.

The Commission also suggest TAFE SA review its policy framework and structure to provide ways for TAFE SA staff who are operationally affected by policy change to provide feedback.



CHAPTER TWO

CULTURE AT TAFE SA

Chapter two: Culture at TAFE SA

Introduction: Culture as a corruption control

Integrity agencies around Australia have found that an agency's culture can positively influence corruption prevention.⁸⁰ Building and maintaining a positive workplace culture discourages fraudulent or corrupt activities.⁸¹ Conversely, poor agency cultures create the conditions where corruption may take root.

Culture develops over time, comprising an agency's long-held practices, the behaviours and decision making of its staff, and the manner in which expectations about the agency's functions and performance are communicated and upheld.

Creating the right culture requires patience.

When culture at an agency is not actively shaped by its leaders and staff, cultures inevitably develop by default. Divergent and unhelpful practices and attitudes may develop, sometimes creating toxic cultures which hinder an agency's goals and provide the conditions for impropriety or maladministration. These are facilitating conditions for corruption.

While setting workplace culture is a diffuse form of corruption control, agencies can set the 'tone from the top' by demonstrating, encouraging, supporting and rewarding ethical behaviour.

Sometimes leaders new to an agency will encounter established cultures they may struggle to reform. From another perspective, an agency will encounter new leadership keen to introduce new practices and cultures which staff at the agency resist or are ill-equipped to absorb. This pattern is at work within TAFE SA.

The Commission was told by one observer that it was evident that TAFE SA had many different cultures in different parts of the agency, which often do not align.⁸²

Fortunately, TAFE SA has a gravitational core around which its culture currently orbits: servicing the needs of students. The importance of this core purpose came across repeatedly in interviews, and will serve TAFE SA well as a foundation upon which to continue building a positive integrity culture.

80: NSW ICAC, *Organisational culture and expectation* (undated) See, <https://www.icac.nsw.gov.au/prevention-foundations-for-corruption-prevention/organisational-culture-and-expectations>.

81: Commonwealth Fraud Prevention Centre, *Create a positive workplace culture*, (undated) See, <https://www.counterfraud.gov.au/fraud-countermeasures/create-positive-workplace-culture>.

82: EXH 0429.

Positive workplace culture

It was pleasing that many staff at TAFE SA valued the organisation and, in turn, felt valued in their work.

When asked to nominate the best thing about TAFE SA, Board members, Executives, and former and current staff overwhelmingly expressed pride in TAFE SA's role as a provider of vocational skills and education and the excellence and dedication of educational staff.⁸³

Many staff were keen to inform the Commission of TAFE SA's pivotal role in state and national growth, and its alignment with government, industry and employment objectives to provide the state's skilled workforce. As one Board member put it, '*we are pivotal to the future!*'⁸⁴

For all of TAFE SA's historical challenges, no one interviewed during the evaluation ever doubted or criticised the agency's standing or purpose. Staff took immense pride in their work and in TAFE SA's ability to cultivate quality training as a vital public good. And when quizzed as to who TAFE SA regarded as its core stakeholder, the answer was consistently 'the student'.

Many respondents to the evaluation survey described a positive, supportive and inclusive culture, where people are proud to work for TAFE SA and proud of its role as a training provider:

overall the culture is excellent as we all strive do our best for the student. The student is our core business.

Assisting growth and opportunities for our students by providing quality, supportive education.

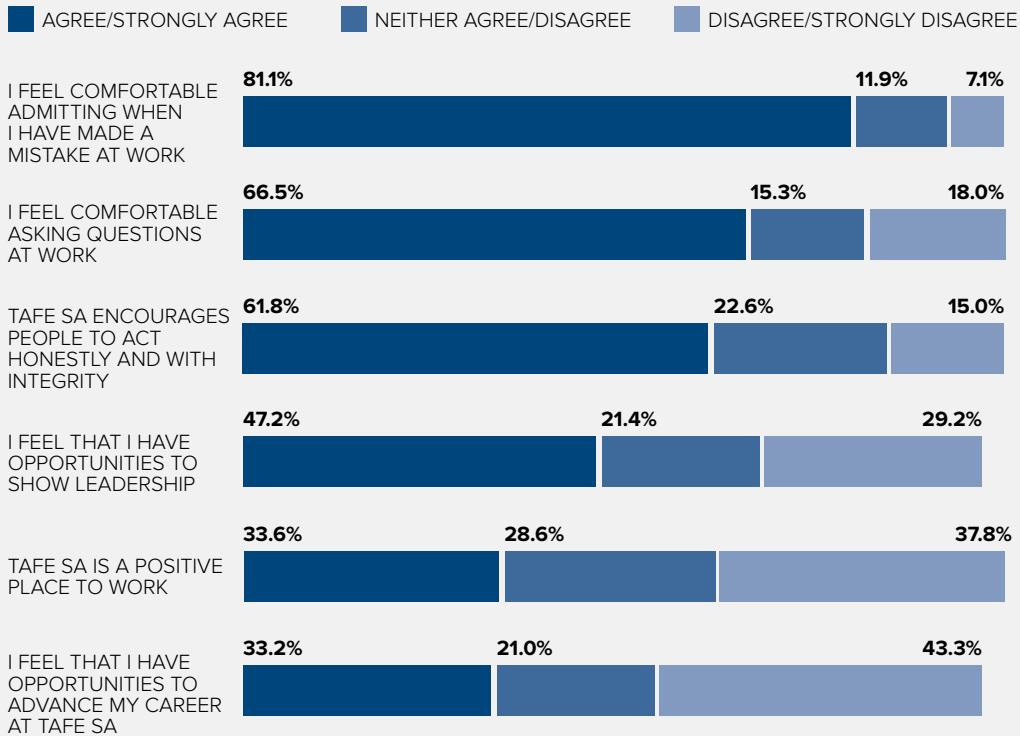
*I am very proud to be working for TAFESA and I acknowledge how important TAFESA is to the people of South Australia. This view also shared by my work colleagues.*⁸⁵

Those respondents described their work teams as *supportive, cooperative, collaborative, hardworking, respectful, diligent, caring, professional, and committed to providing a good service to students*. They described workgroups with a culture of trust, where opinions are valued, and good communication is in place. Most believed working relationships within their teams and with their line managers were positive.

83: EXH 0405; EXH 0409; EXH 0413; EXH 0417; EXH 0418; EXH 0430; EXH 0494.

84: EXH 0410.

85: EXH 0796.

PERCEPTIONS OF WORKPLACE CULTURE

However, when questioned about trust and support from colleagues, only a quarter of respondents agreed that they felt supported by the Executive. That is a fact TAFE SA must seek to understand and address.

Corporate and educational disconnect

The 2018 Strategic Capability Review observed that a discernible disconnection existed between the agency's leadership and its educational frontline.⁸⁶ The evaluation received much evidence to suggest that this sense of disconnect had not been remedied in the years since that review.

One manager told the Commission that while the educational workforce is at the 'coalface' of TAFE SA, corporate staff did not adequately understand the complexity of educators' roles, noting there was a '*vast inequity*' between the two cohorts.⁸⁷

Staff participating in the evaluation survey frequently raised the high proportion of managerial staff relative to other staff, with many commenting that the emphasis on corporate restructures had diverted resources and focus away from teaching.

TAFE SA devotes 35% of its funding to corporate costs with the other 65% to educational costs.⁸⁸

Respondents told the Commission of managers who appeared to be disconnected from the staff. That was particularly the case for staff from regional campuses:

If you're on the lower end of the job position level there is this feeling that your opinions don't matter much because ultimately the seniors (higher levels) know best.

Management at all levels seem (and act) remote to our operations. They live in their world and we live in ours, and it is difficult to break that barrier on occasion.

... our team is geographically diverse and in the regional areas ...we often feel isolated as there are no line managers necessarily on campus... The city counterparts do not understand this...⁸⁹

86: EXH 0003, p.42.

87: EXH 0700.

88: EXH 0405.

89: EXH 0796.

Change fatigue: the corruption risks of organisational change

Organisations where change is constant, or where the scale or speed of change is overwhelming, can create unintended opportunities for corrupt conduct to arise. As previously mentioned, TAFE SA is an agency subject to change and alteration from numerous external quarters, and has undergone various internal transformations in response to policy, legislative and regulatory change. Security specialist David Porter notes:

| Change is the fraudster's friend, and industries or businesses where there are high levels of organizational or process change will be particularly vulnerable.⁹⁰

Constant change '*has the effect of modifying the control systems of the organisation, resulting in the potential for internal arrangements, policies and procedures to be altered, duplicated or become inconsistent*', especially if dispersed clusters form throughout the agency, eroding organisational culture and practice.⁹¹

Some TAFE SA staff reported in the Commission's 2021 Public Integrity Survey that organisational change at TAFE SA had eroded corporate knowledge in TAFE SA's business functions:

people losing their jobs through redeployment that has now left our area without the required skills, knowledge and industry training to deliver qualifications...during the latest TVSP loss of jobs -those that had the required skills and knowledge that was required were the ones that lost their job and now left us without the people to deliver in 2022.

with change management and program reviews - some Managers are appointed or moved into programs with little knowledge of the specific program.⁹²

One manager told the Commission during the evaluation: '*We have probably deskilled some of our staff who had a great understanding but now are just doing data entry, so the knowledge has been broken down. There is a reluctance to say that everyone's tired, they've had enough!*'⁹³

Staff retrenchments, competition for positions and resources, and clashing values and work cultures can produce resistance and change fatigue.⁹⁴ Many staff who participated in the evaluation survey told the Commission of their experiences of change fatigue and instability:

Change is generally handled really badly, which leads to operational issues, lack of ownership and disengaged staff.

... lack of cohesion predominantly due to staff/leader turnover, poor top down information flows and insufficient policy and governance framework.

90: David Porter, *Insider Fraud: Spotting the Wolf in Sheep's Clothing, Computer Fraud & Security*, (April 2003) (3) p.13.

91: NSW ICAC, *Keeping it Together: Systems and Structures in Organisational Change*, (March 2017) pp. 6-7. See, <https://www.icac.nsw.gov.au/prevention/corruption-prevention-publications>

92: EXH 0024.

93: EXH 0700.

94: ICAC SA, *Change is the only constant: Disruption as an enabler of corruption*. (2020) See, <https://www.icac.sa.gov.au/media-and-news/newsletter/2020/change-is-the-only-constant>.

... we have had 5 managers in 5 years and in some periods had no one. ...The instability of the workgroup and inability of the director to actually understand our work group and maintain stability has made it very stressful and harder than it should be.⁹⁵

One staff member told the evaluation team: 'Work gets done, then someone leaves. There's a lot of turnover... There's change fatigue'.⁹⁶

One manager said many work teams had a sense of exhaustion after seven years of '*doing more with less*'. She worried how staff would cope with an ambitious program of growth at TAFE SA, especially after having to change rapidly to an online delivery mode during the COVID-19 pandemic. She felt grievances and recriminations among staff were becoming debilitating and impossible to accommodate.⁹⁷

In responses to the 2021 Public Integrity Survey, TAFE SA staff told the Commission they had higher workloads as a result of ongoing staffing cuts:

TAFE SA Education Managers currently direct line manage 35 staff and others 55 to 60 FTE staff. I believe there is not a fair and equitable distribution of workload within the education stream and preferential treatment exists where the roles are based on a person's ability to perform the role rather than the position.

Unfair workload distribution. Some of us overworking and others with a lot less hours and with a mysterious workload no one knows about.⁹⁸

While change fatigue can manifest as staff exhaustion, frustration or disgruntlement, constant change can also manifest in some staff as resistance or indifference.

TAFE SA appears to have strains of these attitudes among some staff. The evaluation team often heard this described as TAFE SA's 'public sector culture'. That term usually referred to parts of the agency perceived to be dominated by employees known as TAFE SA 'lifers', who were often considered to be entitled, uncooperative or resistant.

The Commission's Public Integrity Survey 2021 showed many TAFE SA staff (39.2%) had been working at TAFE SA for 20 years or more, and 31% had been with the agency for 11 to 20 years.⁹⁹

One manager told the Commission that areas such as administration had a lot of 'lifers' who felt entitled to promotion due to their long public service, and frequently expressed disgruntlement when they were not selected for internal vacancies, citing perceived favouritism or conflicts of interest. That manager was dealing with workforce issues and behaviours that had been around '*for years*', with some staff being redeployed to other parts of the agency because '*they need to move*'.¹⁰⁰

95: EXH 0796.

96: EXH 0487.

97: EXH 0494.

98: EXH 0749.

99: EXH 0749.

100: EXH 0700.

Respondents to the evaluation survey told the Commission about how that culture impacted on their work:

I'm concerned to observe that the privilege of working in the Public Sector is abused by some staff who don't appreciate the value of working for TAFESA and that because they have a 'safe' job they are somehow ok to underperform.

... some people have been there far too long, which impacts ability to be innovative. I also think due to some of these people being there for so long, they are promoted into positions that are not necessarily suited to them and therefore lack capability/ change resistant.¹⁰¹

One senior executive told the Commission that due to historically high turnover of executives, there had been '*a significant culture of waiting things out*'.¹⁰²

Additionally, respondents to the Public Integrity Survey told the Commission about 'lifers' occupying leadership roles:

... organisation are led by too much internally promoted employees with lack of experience externally, not innovative and progressive noting that a lot of these leaders have been in the role for more than 10 years and has not progressed with the times, bad structure.

Leaders failing to do their job, despite light work loads, due to excessive number of leaders (extra leaders were appointed when the school was established 10 years ago to assist with establishment. No positions have subsequently been relinquished).¹⁰³

It was perceived by someone close to board operations that staff were so weary of change they were ignoring reforms and sceptically waiting for the next change or reform to happen.¹⁰⁴

It was apparent to the evaluation team that the Board, Executive and many staff at TAFE SA are keenly aware of the corrosive nature of such weariness, and have been actively seeking to reset the agency's culture and direction since 2019.

The evaluation team also interviewed many TAFE SA employees with tenures extending to decades who displayed genuine enthusiasm, pride and devotion to their work. Not all staff expressed frustration at the constant change, but were enthusiastic about the changes and improvements being made:

Getting better as the team matures and the organisation has invested in people and improving culture.

The culture at TAFE SA has improved significantly in the past 2-3 years.¹⁰⁵

101: EXH 0796.

102: EXH 0405.

103: EXH 0749.

104: EXH 0429.

105: EXH 0796.

Exposure to political pressures and external stakeholders

Many TAFE SA staff used the Commission's Public Integrity Survey 2021 as an opportunity to provide their observations about TAFE SA's exposure to political influence:

Feel that Tafesa is to susceptible to the whims of whichever political party is in power at the time - rather than a long term (and stabilising) commitment. Not sure if this is corruption... but certainly doesn't feel right.

Massive, massive political interference.¹⁰⁶

No government agency is immune from the policy agendas of political parties and incoming governments. TAFE SA may be particularly affected due to the importance of training, employment and industry to the state.

Regardless, the evaluation team was struck by how accepting the TAFE SA Executive and Board were about the political realities of their work. They accepted considerable political scrutiny and intervention as an ongoing and habitual aspect of their business.

But politicians and political parties are not the only stakeholders jostling for influence over TAFE SA. TAFE SA also has to respond to and manage the expectations of other government departments, dozens of industries, their advocates and associations, businesses large and small, other registered training organisations, and all the state's local communities and councils.

One senior staff member described the effect this had on TAFE SA's course offerings, which in 2019 was offering more than 500 courses across the state. He remarked that TAFE SA had to be '*everything to everyone, everywhere... and it was sending us broke*'.¹⁰⁷ He said what kept him up at night were the constant ad hoc requests coming from stakeholders, and the juggling of expectations which this entailed.

Another senior staff member described the situation as '*being pulled in all directions*', adding TAFE SA is never '*left in doubt about what people think*'.¹⁰⁸

A senior manager described this situation as being acute in the regions. Regional managers in particular were expected to be everything to all people, while communities and the industries which employed them expected TAFE SA to demonstrate strong leadership and commitment in their areas.¹⁰⁹

Accommodating all those external stakeholders and their diverse needs must undoubtedly affect TAFE SA's orientation and culture. Strong resolve is needed for TAFE SA to maintain its momentum and direction while responding to those diverse expectations.

106: EXH 0749.

107: EXH 0413.

108: EXH 0417.

109: EXH 0494.

Reporting culture

A strong reporting culture is one of the key indicators of a corruption resistant agency, and there are signs a positive reporting culture exists at TAFE SA.

Slightly more than 83% of TAFE SA staff who responded to the Commission's Public Integrity Survey had received training on corruption risks related to their roles, compared to 47.1% of respondents overall. Staff being aware of the corruption risks that pertain to their role and their agency significantly increases the likelihood that suspected corruption will be reported. It was also encouraging that almost three quarters of participants agreed they were aware of TAFE SA's policies and procedures for reporting corruption.¹¹⁰

For the most part, TAFE SA staff who responded to the Public Integrity Survey felt safer making a report than participants overall. Nevertheless, more than a third of TAFE SA participants felt their job would be under threat if they reported suspected corruption, and 34.5% of TAFE SA staff worried that reports would not be accompanied by action.

Management seem more interested in covering issues rather than dealing with them. I have reported two instances of corruption to my superior who did not deal with them but instead covered them up.

Organisation has no idea how to undertake an investigation when reports are made. Staff can break the law but that is not enough for serious sanctions to be imposed on the employee.¹¹¹

The majority of staff (62.2%) who completed the evaluation survey knew how to raise a complaint.¹¹² Approximately one in five had reported improper conduct they had encountered at TAFE SA, with the majority of those reports made to their line manager, to People and Culture, or a senior leader. Only a few reports were made to an external person or agency.

The majority of respondents said their complaint related to bullying, harassment, threats of violence, racism or practices perceived to pose dangers to students. Three respondents had reported financial irregularities in relation to invoicing, timesheets and alleged theft.

However, 34.1% of staff responding to the evaluation survey said they did not know or were unsure about how to make a complaint.¹¹³

^{110:} EXH 0749.

^{111:} EXH 0796.

^{112:} EXH 0796.

^{113:} Percentage does not total 100 as some respondents skipped this question.

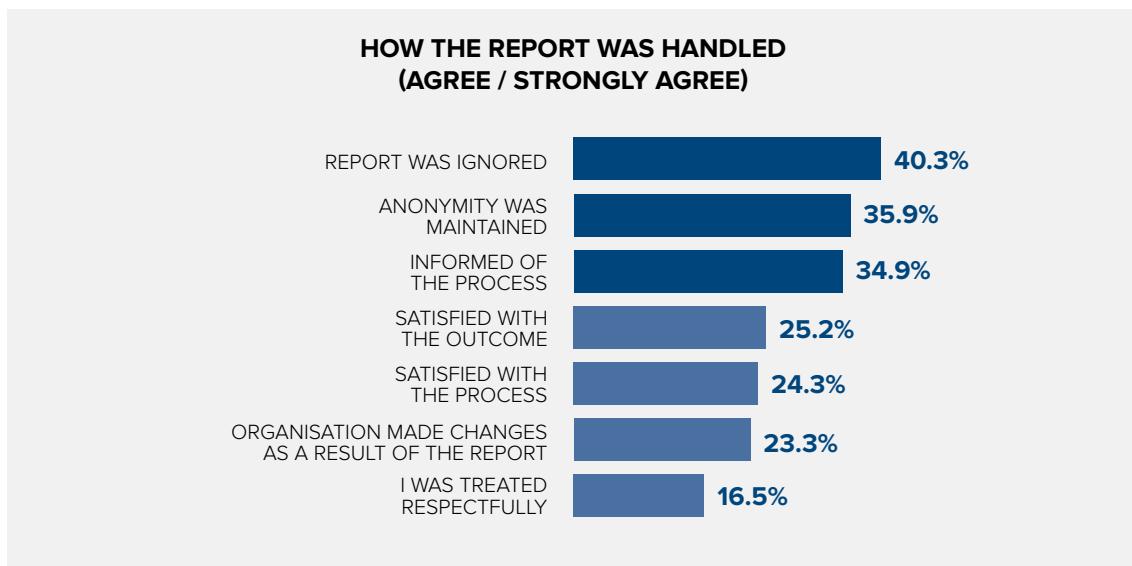
Staff perceptions of complaints handling

Confidence in the complaints handling process is vital to fostering a culture where people are prepared to make complaints.

There were mixed perceptions of how complaints were handled.

Some respondents had favourable views of how their complaint was handled. Those respondents described having received training on reporting and said relevant policies and procedures were easy to access. Positive outcomes included the subject of the complaint facing investigation or disciplinary action, changes to systems or processes, support for a team that had lodged numerous complaints, and workplace training.

However, many more respondents were critical of how their complaint was managed. Approximately 40% of respondents who had made a complaint believed their report was ignored:¹¹⁴



¹¹⁴: EXH 0796.

Some respondents described a lack of communication about their complaint:

Nothing happened, my email was ignored and never responded too.

If I hadn't followed this up with the director I would not have had any idea of the outcome.

The person I was reporting for bullying wasn't spoken to and I wasn't asked any further information or given any information on whether I was taken seriously.

I never heard the outcome.¹¹⁵

The failure to act on reports means that inappropriate behaviour is likely to continue unchecked, as noted by several respondents:

I reported bullying to HR by my Manager and nothing happened. I was actually then bullied more.

I was targetted by 'superiors' for a long period of time for reporting.

I was disciplined for 'making allegations' and my career has suffered since. Those 'allegations' were true but they didn't bother to investigate. They told my line manager, who was the one being improper.¹¹⁶

Almost half of complainants disagreed or strongly disagreed that they were informed of the process. More than half reported that no changes were made as a result of their report, while almost two thirds were dissatisfied with the outcome of their report:

The conduct continues to this day and it has resulted in me having no confidence in HR or CE.

Who would know - nothing was ever said to us about the report at all.

I received one phone call from HR without any further follow up.¹¹⁷

Many respondents who reported to their line manager or senior leader believed their confidentiality was protected. However, only 15% of respondents who had reported to Human Resources believed their anonymity was maintained, and some respondents believed the process was biased:

HR are not supportive and it is challenging to address matters in a confidential manner which will not impact upon future career decisions.

If you are one of the 'favourites' then nothing will happen to you even if there are multiple complaints or reports.

HR team do not provide fair justice and seem focussed on protecting TAFESA.¹¹⁸

¹¹⁵: EXH 0796.

¹¹⁶: EXH 0796.

¹¹⁷: EXH 0796.

¹¹⁸: EXH 0796.

The surest way to encourage a confident agency reporting culture is to have accessible, fair and robust complaint management processes. Yet, two thirds of respondents who had raised a complaint felt dissatisfied with the complaint handling process, and more than a third felt they were not treated respectfully.

Distrust in the complaint handling system was echoed in interviews with staff. One staff member told the Commission that complaints were often referred to the person about whom the complaint was made, there are few options to investigate complaints independently, and there is little appetite to manage workforce performance or poor behaviour.¹¹⁹

Corruption and improper conduct thrive in places where staff are apprehensive about reporting wrongdoing, whether due to fear of repercussions, or because they are not convinced reports will be acted upon or lead to meaningful change.

¹¹⁹: EXH 0689.



CHAPTER THREE

HUMAN RESOURCE MANAGEMENT

Chapter three: Human resource management

Introduction: Human resources and integrity in recruitment

Human resource management encompasses the full employment lifecycle including job and team design, recruitment and selection, induction, training, professional development, performance assessment and management, complaints handling and internal investigations, and staff exiting the agency.

Human resource practices should support staff and the agency to achieve their goals, and set the moral compass of the agency to assist it to prevent corruption and inappropriate conduct.

TAFE SA undoubtedly values its people, and its people value the role of the agency. Indeed, a key pillar of TAFE SA's *Bolder Future Plan* relates to human resourcing and highlights the importance TAFE SA places on its human resource function to support and protect its most valued asset.¹²⁰

However, the evaluation has received information that suggests some staff lack confidence in the human resource function, in particular recruitment, workforce planning and complaints management.

For many years the Commission has been aware of perceived improper recruitment practices at TAFE SA. Prior to the Office for Public Integrity becoming an independent entity in October 2021, the Commission received numerous complaints alleging nepotistic or biased recruitment.

A culture of poor recruitment breeds cultural dysfunction and non-compliance, and sends signals about value deficits and the tolerance of improper practice and conduct.

Just over half of evaluation survey respondents indicated that recruitment was 'poorly' or 'very poorly' managed at TAFE SA. Many respondents complained of alleged nepotism and a lack of training for panel members. Respondents also indicated they would benefit from increased human resource support during the recruitment process.

The evaluation team was told TAFE SA 'relied heavily'¹²¹ on the Guidelines of the Commissioner for Public Sector Employment, which outline good practice principles, as well as the minimum standards for public authorities engaged in recruitment.¹²²

Despite this, there was confusion among some staff working within the People and Culture directorate as to whether these guidelines applied to individuals employed under the *TAFE SA Act 2012*.¹²³ TAFE SA would do well to clarify this.

120: EXH 0437.

121: EXH 0485.

122: EXH 0477.

123: EXH 0485; EXH 0487.

At the time of writing, the recruitment guidance available to TAFE SA employees was a ‘Recruitment Toolkit’,¹²⁴ which provides ‘*suggested principles and processes*’, templates, and a stepped out process for the defining, attracting, selecting and engaging stages of recruitment.¹²⁵

The Commission understands TAFE SA is in the midst of reviewing its recruitment processes. An external review conducted by Deloitte identified that TAFE SA:

- ▶ may not comply with legislation
- ▶ is not successful in attracting and recruiting the best candidates
- ▶ needs to strengthen its screening of prospective employees
- ▶ does not always conduct its recruitment process efficiently¹²⁶

That review made 17 recommendations. There was a need for clear and well-documented recruitment processes, and Deloitte recommended TAFE SA create an accountability model to enforce and monitor compliance with legislative requirements. It also recommended TAFE SA explore alternative recruitment methods, and consider a system-based solution to improve efficiency, compliance, consistency and reporting in recruitment.

TAFE SA is currently developing a policy framework for recruitment and onboarding, seeking to clarify the roles and responsibilities of employees, managers and delegates.¹²⁷ That policy review is examining:

- ▶ staffing needs
- ▶ a recruitment approach/strategy
- ▶ advertising/sourcing
- ▶ shortlisting
- ▶ interviewing/assessing
- ▶ pre-employment checking
- ▶ issuing contracts
- ▶ maintaining compliance records¹²⁸

These important initiatives represent TAFE SA’s commitment to improve its recruitment function.

124: EXH 0444.

125: EXH 0444, p.4.

126: EXH 0365, p.4.

127: EXH 0606, p.3.

128: EXH 0606, p.4.

Support from human resources

Many respondents to the evaluation survey suggested TAFE SA employees would benefit from increased support from Human Resources, especially in recruitment. Selected comments included:

Would be nice if Human Resources actually assisted and provided staff with information when requested rather than advise one thing one day and tell you something else the next.

Our HR staff lack the skills and knowledge to support the business. They are slow to assist with enquiries and in getting recruitment of positions advertised.

... you could find the perfect candidate but lose them as the HR process is too slow to produce a contract.¹²⁹

One staff member told the Commission, '*HR is inconsistent depending on who you speak to*'.¹³⁰ Another who worked in People and Culture admitted their involvement could be '*a little grey*'.¹³¹

These comments should not necessarily be seen as reflections on individual staff in Human Resources. It can be difficult to operate in environments of constant change.

TAFE SA would do well to consider a more central role in recruitment for the People and Culture directorate, and clarify and communicate that role to staff. This work should help ease the administrative burden on business units and ensure consistency in recruitment.

129: EXH 0796.

130: EXH 0700.

131: EXH 0487.

Nepotism and cronyism

The recruitment review conducted by Deloitte observed that panel members are not making conflict of interest declarations in a prescribed or documented manner.¹³²

The legitimacy of an appointment can be called into question if a conflict of interest is not declared by selection panel members.¹³³

That was the view of 39.7% of evaluation survey respondents, who disagreed that recruitment at TAFE SA was merit based, with 34.6% of respondents disagreeing that conflicts of interest in recruitment are appropriately declared or managed:

chronic nepotism is evident in the recruitment of staff and most staff could give examples of this.

Recruitment is poor, too many staff employing family members etc.

seems like its who you know, not what you know...

*There needs to be consistency across the business in how recruitment happens - and how to know and declare conflicts of interest.*¹³⁴

The principle of merit based recruitment is well established within the South Australian Public Sector.¹³⁵

The *Guidelines of the Commissioner for Public Sector Employment: Recruitment* state that public sector recruitment must be free from patronage or nepotism.¹³⁶ Similarly, the *Code of Ethics for the South Australian Public Sector* requires employees to avoid actual or potential conflicts of interest, and to ensure the interests of family members, friends or associates do not influence the performance of their duties and/or their roles as public sector employees.¹³⁷

At the time of writing, TAFE SA had limited documentation to guide conflict of interest requirements in respect of recruitment. The Close Relationships Procedure¹³⁸ touches on conflicts of interest disclosures during internal recruitments, but focuses on students and internal applicants rather than external applicants.¹³⁹

The Commission understands TAFE SA is in the process of approving a conflicts of interest policy,¹⁴⁰ but there was no policy setting out how to handle conflicts of interest during external recruitment processes.

The Example Panel Report¹⁴¹ requires panel members to declare they are free from actual, perceived or potential conflicts of interest, but also requires panel members who declare such a conflict to seek the approval of the relevant Executive Director when recommending a candidate be appointed.¹⁴²

132: EXH 0365, p.11.

133: EXH 0365, p.11.

134: EXH 0796.

135: See for example s 46 of the *Public Sector Act 2009 (SA); Directions of the South Australian Premier, Recruitment* (24 September 2018); Office of the Commissioner for Public Sector Employment, *Guideline of the Commissioner for Public Sector Employment: Recruitment* (Guideline 16 June 2020).

136: EXH 0477, p.9.

137: EXH 0481.

138: EXH 0189.

139: EXH 0189.

140: This document is referred to as being in 'draft' as far back as 2020. At the time of writing, the policy still was in draft form and was not provided to the evaluation team.

141: EXH 0786.

142: EXH 0786.

A panel member with a potential conflict of interest should not participate in the recruitment process unless there are clear provisions for how such a conflict should be managed, and conflicted panel members should not attempt to influence recruitment decisions.

TAFE SA's recruitment framework and conflicts of interest policy should outline the circumstances where a conflict must be declared, and the subsequent steps required to manage any conflicts. Panel members should also be trained on their obligations in this respect.

The Commission acknowledges it can be difficult for TAFE SA to attract lecturers, particularly in regional areas.¹⁴³ Lecturers are required to meet the *Standards for Registered Training Organisations 2015* (Cth), and to hold a Certificate IV in Training and Assessment.¹⁴⁴ As a result, lecturers are sometimes required to '*get their feelers out*'¹⁴⁵ and '*networks can be used to find lecturers*'.¹⁴⁶

That may be appropriate so long as the applicant is not provided information or preferential treatment 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 external panel member should be sought.

.....

TAFE SA include conflict of interest disclosure and management obligations in its revised recruitment framework and in its panel training resources.

RECOMMENDATION 5

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¹⁴³: EXH 0409; EXH 0478; EXH 00486; EXH 0699.

¹⁴⁴: *Standards for Registered Training Organisations (RTOs) 2015*, made under subsection 185(a) and subsection 185(1) of the *National Vocational Education and Training Regulator Act 2011* (Cth).

¹⁴⁵: EXH 0478.

¹⁴⁶: EXH 0699.

Panel training

Employees participating in recruitment panels should ensure recruitment processes are conducted with integrity.

The *Guideline of the Commissioner for Public Sector Employment: Recruitment* sets out 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.'¹⁴⁷

TAFE SA staff are required to complete general conflict of interest training at induction, and the Recruitment Toolkit requires panellists to be trained in Equal Opportunity principles.¹⁴⁸ However, there is no panel training offered to TAFE SA's employees, despite a clear desire for such training among many respondents to the evaluation survey:

Selection Panellist/Panel Chair training has not been available in TAFE SA for nearly 10 years... This means our selection panels are at risk of not operating under best practice for merit based selection.

There has not been panel training and standard operations for recruitment for quite some time (before I commenced 14 years ago) so each panel chair operates differently. This is an area that should be improved, as candidates are not equally appointed depending on who the panel members are.¹⁴⁹

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

TAFE SA provide training to all panel members involved in recruitment activities, with consideration given to making the training mandatory for appointment to a recruitment panel.

RECOMMENDATION 6

147: EXH 0477, p.30.

148: EXH 0444, p.10.

149: EXH 0796.

Screening

The Deloitte review found numerous deficiencies in TAFE SA's screening processes. The Commission is troubled by the following deficiencies:

- ▶ inconsistent use of pre-employment declarations and inadequate or inconsistent reference checking
- ▶ inconsistent expectation setting and integrity assurances regarding the use of recruitment agencies
- ▶ poor verification processes and relevant screening checks, especially for Hourly Paid Instructors
- ▶ inconsistent documentation, evidence or monitoring of screening checks
- ▶ poorly defined roles and responsibilities for screening processes, qualifications verification, working with children and reference checks¹⁵⁰

The Deloitte report sets out a range of operational, performance and managerial risks. In light of that work, the Commission did not undertake to review TAFE SA's current screening practices. TAFE SA informed the Commission of reforms it has made to its screening practices since April 2022 in response to the review. These include improving consistency in pre-employment checking through a Recruitment Manager Toolkit, establishing a recruitment agency panel to foster consistent service levels, and consolidating recruitment practices for hourly paid employees to encourage the appropriate verifications.

However, the Commission considers it of value to extend upon the risks outlined by Deloitte, and provide observations based on its experience with TAFE SA over the years.

In its 2018 report, *Strengthening Employment Screening Practices in the NSW Public Sector*, the New South Wales Independent Commission Against Corruption (NSW ICAC) highlighted several studies indicating 20% to 30% of job applications contain verifiably false information.¹⁵¹

Employment fraud can provide considerable benefits to a dishonest person while disadvantaging honest applicants, and result in an agency not hiring the best available person for the role. This can result in poor performance or jeopardise public or workplace safety.¹⁵²

More importantly, dishonest candidates appointed to public administration roles may subsequently engage in corrupt conduct, such as accessing or misusing personal, commercially valuable, or confidential information.¹⁵³ Once such conduct is detected, agencies can incur considerable expense during the investigation and disciplinary process, and there is often lasting reputational damage.¹⁵⁴

A risk based approach such as that set out in the NSW ICAC's 2018 report can assist TAFE SA to strengthen its employment screening requirements.

150: EXH 0365.

151: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.8.

152: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.8.

153: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.8.

154: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.8.

A risk based approach

While the appointment of senior executives requires a robust screening process, junior roles can also have risks attached,¹⁵⁵ particularly when staff have significant financial delegations and access to bank accounts, check signatures, or handle cash. System administrator roles may also be vulnerable to risk.¹⁵⁶

Screening for employees occupying positions of trust, may include verifying applicants' qualifications (particularly if the qualification is an essential requirement of the role), a criminal history check, and an Internet, ASIC and ABN search. Employees in positions of trust should be subject to ongoing periodic screening.

Employees moving internally to new and higher risk roles will often warrant re-screening, particularly if the 'higher risk' role provides greater access to information, financial delegation, or decision making power. However, TAFE SA's Internal Movement Checklist and Employee Declaration does not contemplate the potential for re-screening.¹⁵⁷ Additionally, the Induction Policy only applies to employees who are 'new' to TAFE SA, while internal staff who have moved to new roles are not inducted to new roles under the policy.¹⁵⁸

Casual employees should also undergo screening, as the corruption risks associated with contingent workers can be at least as serious as those associated with permanent employees.¹⁵⁹ Special attention should be paid to casual employees who later convert to permanent employment, as familiarity with such candidates can result in a failure to perform screening processes such as referee and qualification checks.

That screening should extend to an audit of email use and access to information when an employee vacates a role.

Similarly, screening by recruitment agencies should be verified. The Commission is aware of lower levels of scrutiny where government departments rely on recruitment agencies,¹⁶⁰ and of screening simply not being conducted. This is especially the case where agencies' contracts with recruitment agencies are not properly designed.

155: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.5.
 156: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.14.

157: EXH 0782.

158: EXH 0158, p.2.

159: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.6.

160: NSW ICAC, *Strengthening Employment Screening Practices in the NSW Public Sector*, (February 2018) p.22;
 IBAC Victoria, *Corruption and Misconduct Risks associated with Employment Practices in the Victorian Public Sector*, (August 2018) p.14.

Secondary employment

Conversations about secondary employment should occur periodically, and whenever an employee is appointed to a new role.

The Commission's Public Integrity Survey 2021 revealed that a quarter (25.8%) of respondents at TAFE SA were engaged in secondary employment. This is slightly higher than the overall rate of secondary employment in the public sector.¹⁶¹

Appropriately, candidates applying to work at TAFE SA are asked about whether they have any conflicts of interest.¹⁶² However, that practice relies on the individual understanding public sector conflict of interest requirements and being able to determine whether or not they have such a conflict.

In the Commission's view, many staff do not realise their secondary employment may amount to a conflict of interest.

The *Code of Ethics for the South Australian Public Sector* requires employees to obtain written permission from their agency head before engaging in any outside employment or remunerative activity.¹⁶³

The Commission recommends that the Pre-employment Declaration be amended to request the applicant list any outside employment.

TAFE SA conduct a role risk rating process to identify positions of trust which will attract higher scrutiny and screening processes during recruitments for those roles (including internal). Consideration also be given to conducting periodic post-employment screening for roles with the highest risk rating.

RECOMMENDATION 7

TAFE SA amend its Pre-employment Declaration to screen for secondary employment or other remunerated activities of candidates.

RECOMMENDATION 8

161: EXH 0749. A total of 20.3% of respondents from across the South Australian Public Sector had engaged in secondary employment.

162: EXH 0786.

163: EXH 0481, p.8.

Complaint management and investigation

Human Resources has an important role to play in managing and investigating complaints or reports of improper conduct. Complaint management and the investigation of misconduct are the frontline of corruption prevention, as a trusted reporting process is the primary means for bringing integrity concerns to light.

Corrupt conduct can arise where systems for complaint handling and investigation are inadequate, where poor conduct goes unchecked, or where people are not held accountable.

Poor complaint management processes erode the confidence of staff in the integrity of their agencies, while signalling to staff that misconduct may be overlooked.

The surest way to encourage a confident agency reporting culture is to have accessible, fair and robust complaint management processes.

As set out in Chapter 2, staff were generally critical of the complaint handling process at TAFE SA. It might be that staff are confused about the complaint handling process.

TAFE SA has a Staff Grievance Resolution Procedure¹⁶⁴, a Public Interest Disclosure – TAFE SA Employees Policy¹⁶⁵ and accompanying Procedure,¹⁶⁶ a Fraud and Corruption Policy¹⁶⁷ and accompanying Fraud and Corruption Procedure and Control Plan¹⁶⁸, a Respectful Behaviours Policy¹⁶⁹, and an Investigations and Disciplinary Management Procedure for Managers.¹⁷⁰

Having several documents outlining complaint, investigations and disciplinary processes creates unnecessary red tape. When the evaluation team asked a staff member about the processes to manage staff grievances they replied ‘it’s a tricky one.’¹⁷¹ Another explained: ‘I’m not entirely sure what the procedure is’.¹⁷²

In the Evaluation of Targeted Aspects of the Central Adelaide Local Health Network, the Commission made several recommendations which TAFE SA ought to consider. One is particularly relevant to TAFE SA:

The Department [of Health and Wellbeing] implement one policy (preferably the Commissioner for Public Sector Employment Guidelines) that applies to all employees, regardless of the statutory framework under which they are employed, that deals with the management of unsatisfactory performance and misconduct. The policy should include the assessment of complaints, discipline investigations and processes, and the imposition of sanctions.¹⁷³

Confidence in the complaint handling process is vital to fostering a culture where people are prepared to report improper conduct.

Effective investigations of complaints are far more likely to uncover misconduct and inappropriate behaviour and identify the practices, policies and procedures that have enabled the misconduct or inappropriate behaviour to occur.

164: EXH 0193.

165: EXH 0773.

166: EXH 0771.

167: EXH 0196.

168: EXH 0197.

169: EXH 0450.

170: EXH 0730.

171: EXH 0699.

172: EXH 0487.

173: ICAC SA, *Evaluation of targeted aspects of the Central Adelaide Local Health Network*, (November 2022) p.13.

The Commission has observed both historic and recent examples of unsatisfactory investigations undertaken by or on behalf of TAFE SA.

The evaluation team reviewed several recent internal investigations conducted by or on behalf of TAFE SA, observing that one investigation had relied on a misunderstanding of the legal concept of 'procedural fairness'. The Commission also observed a reticence on TAFE SA's part to fully investigate or respond to allegations, and was troubled by confusing, inconsistent and lengthy investigation processes observed at TAFE SA, alongside erroneous decision making or decisions lacking clarity.

The Commission observes that TAFE SA does not seem to have the necessary knowledge or capability in the People and Culture directorate to deliver an effective in-house complaints and internal investigation function.

That may explain why many of its investigations are outsourced to third parties.

It may be that TAFE SA still requires guidance on complaint management, internal investigations and disciplinary proceedings.

TAFE SA has recently engaged a legal firm to assist with training staff from the People and Culture directorate, as well as to develop a suite of templates to help staff involved with the management of unsatisfactory performance.¹⁷⁴ Included in these documents is a procedure entitled Management of Unsatisfactory Performance Including Misconduct.¹⁷⁵

That procedure is to be used to manage unsatisfactory performance, including misconduct, and includes a summary of the relevant operational aspects of the *Guideline of the Commissioner for Public Sector Employment Management of Unsatisfactory Performance, Including Misconduct*.

That work will increase employee confidence in the complaint process.

While the procedure requires managers to consider whether they are the most appropriate person to investigate the incident, and if necessary to seek specialist human resource and/or legal advice,¹⁷⁶ the type of conduct to be escalated to human resources remains a question of individual professional judgement. Leaving such matters to a manager's discretion risks creating a lack of clarity or inconsistency in the process.

While in some circumstances, it is appropriate for managers to investigate unsatisfactory performance and minor misconduct matters, fair investigations must be objective, independent and timely. The Commission is concerned that TAFE SA managers may not have the necessary objectivity, skills or time to investigate allegations of serious misconduct.

174: EXH 0513; EXH 0605; EXH 0658; EXH 0731.

175: EXH 0730.

176: EXH 0730, p.3.

Finally, TAFE SA also has a new Investigations Report template.¹⁷⁷ It would be beneficial to include in that template a space for broader practice, policy or procedure recommendations to be made. It is the Commission's experience that instances of impropriety are usually accompanied or facilitated by some administrative issues also requiring modification.

TAFE SA review and consolidate its various complaints, grievance, performance and behavioural management policies and mechanisms. Policies should clearly set out the process from assessment of complaints to disciplinary investigations and the imposition of sanctions.

RECOMMENDATION 9

TAFE SA create at least one dedicated integrity position within the People and Culture directorate (such as a Principal Integrity Officer) responsible for:

- ▶ overseeing the assessment and referral of complaints
- ▶ overseeing any preliminary investigation or other processes undertaken by management relevant to a complaint
- ▶ investigating serious misconduct allegations

RECOMMENDATION 10

TAFE SA ensure that all staff who have responsibilities for managing or conducting investigations complete the Commission's Internal Investigation Seminar and Workshop.

RECOMMENDATION 11

¹⁷⁷: EXH 0373.

Workforce planning – supervision and performance management

The Commission received information during the course of the evaluation about a lack of succession planning, vacant positions, short staffing and rushed recruitment processes.¹⁷⁸ Rushed recruitment processes mean corners are more likely to be cut.

The Commission understands TAFE SA is making improvements in this area.¹⁷⁹

However, the significant reduction in the number of Education Managers, the significant increase in the number of their direct reports, and the consequent potential loss of supervisory capacity of staff at TAFE SA stood out to the Commission.

Corrupt individuals do the most damage when their work is not supervised by management and fellow staff. Corrupt actors put considerable effort into finding areas where supervision is lacking in an attempt to avoid detection.

Corruption relies on a lack of monitoring or neglect, but sometimes these become entrenched within an agency. That may be the case at TAFE SA.

During the evaluation, the Commission was told that Education Managers had between 50 and 60 staff reporting to them¹⁸⁰, with many staff complaining about the inability of these individuals to manage their staff and workload.¹⁸¹ One manager said she was not sure how to effectively manage more than 60 staff, and was always apologising for being so busy, but the situation had not improved.¹⁸²

Another staff member told the evaluation team an Education Manager with 57 direct reports spread over four campuses had been too busy to visit an outer metropolitan campus for six months.¹⁸³

Education Managers are direct line managing in excess of 60 FTE.¹⁸⁴

The EM shouldn't have so many staff that they can't speak to them or even know who they are. To me, that's wrong.¹⁸⁵

I can't fathom how they're supposed to do that number of direct reports, have one-on-one meetings and still do their job.¹⁸⁶

The reduction in the number of Education Managers is a complicated matter involving workforce reduction targets, Targeted Voluntary Separation Packages, restructures and industrial disputes.

Agencies must ensure that communication and reporting lines are clear, and responsibilities for employee supervision and performance management are both adequate and achievable. The value of effective performance management lies in the ability to create a culture of accountability and to set clear expectations for staff.

178: EXH 0487; EXH 0796.

179: EXH 0365, p.17; EXH 0606.

180: EXH 0427; EXH 0699.

181: EXH 0427; EXH 0485; EXH 0486; EXH 0699; EXH 0700.

182: EXH 0427.

183: EXH 0699.

184: EXH 0401.

185: EXH 0486.

186: EXH 0700.

Managers are expected to monitor the performance of employees through both regular formal reviews, but also ongoing informal engagement. Consistent engagement and supervision of employees helps to ensure role expectations and duties are met, rules and procedures followed, and the values of the organisation upheld.

Such monitoring also identifies any employee conduct that diverges from those expectations, rules and values, allowing the conduct to be addressed.

TAFE SA's Performance Management and Development Policy¹⁸⁷ clearly outlines the requirement for employees to participate in both a formal Performance Management and Development Plan, and a mid-year review.¹⁸⁸ Line managers also provide regular, informal, and impromptu feedback to employees in relation to these plans and behaviours in accordance with TAFE SA's core values.¹⁸⁹

TAFE SA's 2020-2021 Annual Report shows 92.3% of all TAFE SA staff had an approved performance management and development plan during this reporting cycle.¹⁹⁰

TAFE SA is to be congratulated on this achievement.

However, a focus on key performance indicators can risk the process becoming a mere 'tick and flick' exercise. The Commission queries how a manager with 60 direct reports can have meaningful performance conversations with staff on a biannual basis.

The sheer volume of direct reports can affect a manager's ability to effectively engage in meaningful inductions, performance reviews and exiting procedures.

When one Education Manager was asked how professional development plans operate with so many staff reports, they replied '*not very well*'.¹⁹¹ One staff member said performance management took up most of their work time,¹⁹² while others told the evaluation team that managers with many direct reports were likely to resort to '*tick and flick*' approaches.¹⁹³ This was confirmed by staff in comments to the evaluation survey:

Our managers try their best but are over stretched with too many staff to be able to manage twice a year PMD [Performance Management and Development] sessions in any way that does them justice. The staff who then NEED to have issues addressed don't have anything fixed.

*There is no time for mentoring as staff are burdened with administrative processes and trying to keep up with their own performance development requirements.*¹⁹⁴

187: EXH 0156.

188: EXH 0156, p.2.

189: EXH 0156, p.3.

190: EXH 0051, p.14.

191: EXH 0699.

192: EXH 0427.

193: EXH 0427; EXH 0486; EXH 0487.

194: EXH 0796.

The Commission understands that one Director has been authorised to conduct a review into Education Manager workloads and workflows, after persistent requests for the People and Culture directorate to conduct that work. That review aims to remove the strain on Education Managers and make their workloads more equitable.¹⁹⁵

The Commission is encouraged by that development, but is troubled by reports that this initiative was devised and agreed to without proper support from People and Culture. Such an initiative would appear to be core business for that directorate.

In the Commission's view, understanding which staff have high workloads that may give rise to potential gaps in supervision will strengthen integrity and accountability at TAFE SA.

TAFE SA conduct a workforce structure review which maps lines of accountability and supervisory relationships with a view to determining integrity gaps or stresses within the workforce. This workforce review should be additional to, and complement, TAFE SA's New Strategic Workforce Plan.

RECOMMENDATION 12

Induction

Employees who are new to public administration, or new to a role, need to have a clear understanding of public sector expectations and values, and of their obligations under the *Code of Ethics*.¹⁹⁶

'Induction' refers to the formal, structured approach used to welcome employees to the role.¹⁹⁷

Employees who are not properly inducted are at greater risk of poor conduct. Robust and complete induction processes are vital corruption controls.

TAFE SA's Induction Policy¹⁹⁸ and associated checklists¹⁹⁹ clearly set out the steps to follow when inducting staff. They have a layered approach, consisting of a local, worksite and online induction. The online induction includes an introduction to TAFE SA, Code of Ethics training, records management, work health and safety, cyber security, and safety and wellbeing training.²⁰⁰ Employees are also required to complete the Commission's Conflicts of Interest training.²⁰¹

195: EXH 0494.

196: EXH 0475, p.4.

197: EXH 0475, p.4.

198: EXH 0154.

199: EXH 0083, p.4.

200: EXH 0083, p.6.

201: EXH 0083, p.6.

TAFE SA's Mandatory Training Dashboard lists training compliance and can be sorted into divisions, workgroups, courses and upcoming training.²⁰² The Commission was informed that, as at the date of the report, 100% of executive staff and 98% of all other staff had completed induction training.

The transparency, availability and uptake of induction and training is commendable, making TAFE SA's induction program one of the better examples in public administration.

The Commission received information suggesting some managers with a high burden of direct reports struggle to effectively oversee the induction of new employees.

One TAFE SA employee explained how they onboarded a new employee themselves as their Education Manager had not had time to see that employee in the two months after their appointment; '*they could have slipped through the cracks if I hadn't done it*'.²⁰³

Another respondent to the evaluation survey observed:

*When I was first inducted in 2005, I had an excellent induction process, involving observation of classes, a mentoring process, and a checklist that I went over with 2 different Principal Lecturers as well as extra Senior Lecturers on hand for mentoring. The reduction in senior staffing by TAFE management and cutting of middle management has meant that induction is rushed and poorly handled now.*²⁰⁴

The review of direct reports noted above may help to ease some of the burden faced by overstretched managers. TAFE SA might consider delegating some onboarding and induction processes, so not all induction responsibilities fall to managers and supervisors, as dictated by its existing Induction Policy.²⁰⁵

Finally, TAFE SA's Induction Policy only applies to 'new' employees.²⁰⁶ The policy should be amended to include any local and worksite inductions for internal employees who have moved to new positions.

TAFE SA amend the Induction Policy to include a local and worksite induction for internal employees who have moved to new positions.

RECOMMENDATION 13

202: EXH 0083, p.6.

203: EXH 0486.

204: EXH 0796.

205: EXH 0154, p.4.

206: EXH 0158 p.2.

Exiting employees

It is common for employees to move between public and private sectors, particularly at TAFE SA where many staff work both as educators and industry professionals. However, there is a risk that an employee leaving TAFE SA might take information or resources they had access to in their public role to a new employer.

Agencies need to protect their information and commercially valuable assets from exploitation. Robust exit processes are a means to manage these risks. Exit processes ensure individuals understand their continuing obligations to the public sector after they leave, and ensure they no longer have access to systems and information post-employment.

Positions of trust can present greater risks of conflicts of interest.

The Commission is aware of improper conduct on the part of employees exiting public administration for roles in the private sector, which is discussed in Chapter 8.

TAFE SA has exit processes in place, including an Employee Exit Procedure,²⁰⁷ which requires forms to be completed both for separating staff, and for staff moving internally within TAFE SA. Separating staff are asked to acknowledge that they continue to be prohibited from any use of TAFE SA intellectual property without authorisation, or any use of confidential information to secure a benefit for themselves, any person, company, or future employer.²⁰⁸ A completed checklist is to be sent to the People and Culture directorate.

It was unclear to the Commission what role the People and Culture directorate holds in monitoring and holding staff to account during the exiting process. One staff member informed the Commission that they worked through exit processes with employees, ensuring they returned their campus keys and swipe cards, and were removed from the computer network, but no one checked the exit process was followed.²⁰⁹

It is important that employees and managers take responsibility for the exit process, and that the People and Culture directorate monitors and holds to account those who have not completed this process.

TAFE SA must have the ability to conduct audits to detect unusual patterns of email or system use or access to information before employees leave the agency, particularly for employees vacating ‘positions of trust’. This corruption control will allow TAFE SA to detect potential corruption by staff, and may deter staff from contemplating such conduct.

.....

TAFE SA extend its employee exit practices to have the People and Culture directorate monitor and follow up employee exit interviews, and consider auditing recent employee access and use of information and resources for employees in positions of trust, those moving to roles at organisations that might benefit from access to TAFE SA information or resources, or on any signs of unusual or suspicious activity.

RECOMMENDATION 14

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207: EXH 0105.

208: EXH 0790.

209: EXH 0699.



CHAPTER FOUR

PROCUREMENT AND CONTRACT MANAGEMENT

Chapter four: Procurement and contract management

Introduction

Procurement involves large volumes of money and the overlap of public and private interests. Its policy and procedure environment is often complex, with widespread and devolved decision making powers, and staff with varied levels of training and expertise.

These factors make procurement highly vulnerable to exploitation.

There is a risk that public officers might manipulate the procurement process to award work to businesses or persons with whom they have financial or other personal interests. Public officers might also seek bribes or inducements from suppliers or be targeted for bribes and inducements by unscrupulous suppliers.

Heightened risks of corruption in procurement include:

- ▶ public officers having unfettered discretion or authority
- ▶ confused roles and responsibilities or complex compliance environments
- ▶ insufficient or inappropriate management of contractor relationships
- ▶ poor risk awareness and lack of staff capacity
- ▶ poor engagement with suppliers
- ▶ poor project scoping or planning
- ▶ time sensitive, urgent or pressurised procurements
- ▶ poor budget management
- ▶ poor verification of completed work, supplies or invoicing processes
- ▶ poor documentation and recordkeeping

Other integrity risks related to procurement include gifts and benefits, conflicts of interest, secondary employment, post-separation employment, contract management, asset management, outsourcing, joint ventures or private/public partnerships (PPPs), intellectual property, misuse of information and accounts payable.

Scrutiny of TAFE SA recent procurement

TAFE SA's procurement and contract management functions have already been subject to significant recent reform and scrutiny.

The Auditor-General included TAFE SA's procurement and contract management processes in his 2021-22 audit scope, reviewing several procurements and managed contracts.²¹⁰ Additionally, TAFE SA has recently reconfigured its entire suite of procurement policies and procedures in accordance with whole of state government changes to procurement activity.

TAFE SA finalised an internal audit of Procurement Management in July 2022 and committed to action arising from that audit. That audit reviewed three procurements and contracts. TAFE SA also plans to include an audit of its contract management processes in its 2022-23 internal audit schedule.

During the evaluation, the Commission also received a referral from the Office for Public Integrity regarding potential issues of corruption related to two historical procurements undertaken by TAFE SA. The Commission accepted the referral and commenced a corruption investigation into the allegations. That investigation has now been finalised, and some prevention issues are discussed below.

The Commission was of the view that TAFE SA's procurement function was already subject to considerable scrutiny, and so elected not to conduct an audit of randomly selected procurements. Instead the evaluation has limited its view to corruption risks and prevention opportunities observed in staff interviews, surveys, submissions and the Commission's information holdings.

²¹⁰: EXH 0400.

The new procurement scheme

TREASURER'S INSTRUCTION 18 AND PROCUREMENT SERVICES SA

Any assessment of the integrity of TAFE SA's procurement activities requires an awareness of the recent sector-wide reforms to procurement.

The repeal of the *State Procurement Act 2004* dissolved the State Procurement Board and ushered in a new state government procurement scheme. Procurement Services SA (PSSA), a coordinating and advisory body, was established under the Department of Treasury and Finance, and *Treasurer's Instruction 18 – Procurement* (TI18) was issued with associated policies and guidelines.

Like all public authorities, TAFE SA was required to reform its procurement policies, procedures and practices in line with the new scheme. Accordingly, in June 2021, the Chief Executive approved the TAFE SA Procurement and Contract Management Framework and associated procedure documents.

In response to PSSA's recommendations, further improvements were implemented in July 2021.

After consultation with its Internal Policy Review Working Group, TAFE SA sought agreement on a new contract management operating model. Two models of contract management were proposed: an entirely centralised model and a hybrid model where complex and strategic contracts would be managed by a single procurement business unit.²¹¹

In sum, TAFE SA's procurement policies, procedures and practices have been subject to change (like all state government agencies) and the impact of those changes is still being processed and assessed. The new scheme's strengths and weaknesses are likely to emerge in coming months and years.

Observations pertaining to TAFE SA may be relevant to other public authorities responding to the new procurement scheme, as well as to Procurement Services SA.

211: EXH 0163.

TAFE SA staff perceptions of procurement

Sixty-eight evaluation survey participants reported being involved in procurement and contract management functions at TAFE SA.²¹²

Only 14.5% of staff respondents perceived TAFE SA as moderately or extremely vulnerable to the misuse of public money, while 16.35% of staff perceived TAFE SA as moderately to extremely vulnerable to favouritism in awarding contracts to suppliers. Approximately 10% of staff respondents perceived false invoices and splitting invoices as a potential risk, but this percentage dropped significantly among staff who work in procurement and contract management.²¹³

Pleasingly, relatively few staff had encountered impropriety in procurement and contract management.

However, of more than 100 comments by TAFE SA staff related to procurement and contract management, the overwhelming majority were negative.

The themes emerging from those comments are summarised below:

- ▶ Procurement is slow and time consuming. There is excessive scrutiny, and the processes are difficult, inflexible, and laborious.
- ▶ The delegation structure creates unnecessary blockages, and unapproachable and unresponsive procurement staff provide insufficient support, guidance or training.
- ▶ Procurement is only effective when the purchasing managers listen and respond to relevant staff who have knowledge of technical requirements, but technology and materials required for courses are not delivered in time, or at all, risking non-compliance.
- ▶ Centralising the function severed good working relations with local firms and created a generally negative impact on relations with suppliers, and regional campuses are disadvantaged by the centralised Stores being located primarily at Tonsley.
- ▶ Blind adherence to policy eclipses good purchasing decisions and outcomes. For example, removing credit cards means simple procurements are prolonged across pricing, quoting, approval, purchasing, invoicing and delivery.

Even where positive comments were provided, they were often qualified. For example, some respondents were impressed by the thoroughness and professionalism of procurement staff, but complained about the length of time procurement could take. Pleasingly, no one commented negatively on the ethics or integrity of procurement staff or processes.

Overall, the comments present an unsatisfactory picture of the operational effectiveness of TAFE SA's procurement activities. TAFE SA staff appear less concerned with procurement being open to corruption and misconduct than they are by delays and inflexibility in procurement. However, as will be made clear, there is every reason to believe that TAFE SA is not alone in this predicament.

Dysfunction and inefficiency in procurement may currently be experienced throughout state government, as the entire sector aligns its procurement operations to the new state government procurement requirements.

212: EXH 0796.

213: EXH 0796.

Compliance focused procurement

One TAFE SA Board member described the way procurement is conducted at TAFE SA under the new scheme as a '*problem*' and an '*administrative nightmare*', adding TAFE SA does not '*have the horsepower to keep up with the framework*'.²¹⁴

An executive director commented on TAFE SA's struggles to resource its procurement function, complaining of persistent staff turnover and shortages, a tight labour market for procurement specialists due to extraordinary salaries in the private sector, and the use of consultants and contractors to fill gaps. However, the one positive aspect of the new scheme was how hard it would be to commit fraud.²¹⁵

A new staff member working in TAFE SA's procurement function, who had significant procurement experience, provided a knowledgeable but unvarnished perspective.²¹⁶

He acknowledged staffing shortfalls in his team, with 11 vacant roles and an overreliance on contract and contingent labour. Competition for highly skilled procurement and contract management staff was fierce, and TAFE SA would struggle to compete for, and attract talent.

The staff member was not surprised to learn of highly negative TAFE SA staff perceptions of the procurement function.²¹⁷ He worried that the protracted nature of procurement was causing people to ask '*How do I get around that? I'm under pressure, how do I circumvent a six month process?*'²¹⁸

He remarked that the focus on compliance meant people were incentivised to look for workarounds. He also complained that onerous compliance caused TAFE SA to miss vital aspects of procurement such as market research, supplier relationships, and product assessment.²¹⁹

The staff member met regularly with other procurement professionals within the public sector, and had formed the view that TAFE SA is probably more advanced than other agencies in terms of compliance with the new framework. However, the new framework was so compliance-focused that it prevented TAFE SA from understanding how procurement could best support TAFE SA's core function of training, describing it as a '*prohibitor*'.

*It's a trade-off: we've put an iron-clad seal over it, but we're missing out on innovation, technical and commercial opportunities.*²²⁰

He remarked that the new procurement framework had become too prescriptive with too many '*must, will and shall*' elements. Agencies have potentially lost some autonomy and control over their procurement activities, with little flexibility to tailor procurement services to size, scale, risk, and agency objectives.

214: EXH 0409.

215: EXH 0413.

216: EXH 0484.

217: EXH 0484.

218: EXH 0484.

219: EXH 0484.

220: EXH 0484.

As a result, procurement is undermined by prescriptive and rigid compliance requirements. To illustrate this, he provided a checklist which he had created to help TAFE SA staff navigate procurements worth between \$55,000 and \$550,000 in accordance with the detailed requirements of the new framework. That checklist comprised 55 steps.²²¹ When he relayed this information to PSSA, they reportedly replied that it was never their intention to design a 55-step process.

The complexity of the new framework was also illustrated by the requirement for procurement staff to use a Complexity Tool, and create an Acquisition Plan, Negotiation Plan, Risk Matrix and evaluation before they begin the procurement. That process alone involves 75 pages of templates.²²²

TAFE SA is making proposals to PSSA to enhance its procurement framework to improve capacity and focus on greater value activities.²²³

When a particular function becomes so complex and detailed as to require multiple levels of compliance, the agency risks deviations from policy and procedure becoming commonplace, even inevitable. The likelihood of error multiplies, and minor non-compliances may be tolerated. Corrupt actors can exploit complicated systems precisely because people's attention is pulled in too many directions or too thinly dispersed.

The procurement staff member highlighted this with regards to the Auditor-General's recent audit report of TAFE SA, which had identified various breaches of the TI18 and PSSA scheme. Noting the intent of TI18 and the procurement framework is to guard against exploitation, he questioned whether the focus on breaches in an over-engineered scheme may be obscuring a proper view of the function.²²⁴

Corruption prevention involves being able to easily detect a breach, irregularity, or trend which might be a sign of corruption. However, when that system involves a lot of compliance 'noise', it risks diverting the focus away from detection. Compliance-heavy functions also create incentives for staff to find and potentially exploit workarounds.

The Commission is concerned that TAFE SA's procurement function may be subject to a degree of this risk. Work needs to occur to develop a schedule of corruption risk signals, or priority measures and triggers for further scrutiny. Otherwise, the focus on compliance may obscure the real signals of corruption.

To facilitate this work, the Commission encourages TAFE SA to continue consultation with PSSA to develop an effective procurement approach which services the operational needs of TAFE SA while complying with the scheme's requirements.

The Commission also encourages TAFE SA to continue its efforts to embed and normalise the reformed procurement processes, and explore ways to make procurement more responsive to operational needs and reduce administrative burden on non-procurement officers.

TAFE SA assess its procurement compliance scheme to develop a schedule of procurement corruption risk signals or priority measures and triggers to prompt further scrutiny of at risk procurement processes.

RECOMMENDATION 15

221: EXH 0483.

222: EXH 0484.

223: EXH 0794.

224: EXH 0484.

The corruption risks of workarounds

Compliance is undoubtedly important to prevent and detect breaches of policy, regulation, and legislation. Conduct which falls outside of these parameters should not be tolerated.

However, an excessive compliance focus can cause unintended results. Compliance-heavy functions can create incentives for staff to find and potentially exploit workarounds. The exploitation of loopholes and workarounds is often motivated by expediency and perceived necessity in pressurised work environments.

Workarounds involve creative ways to circumvent policy and procedure or exploit gaps in processes. Workarounds are usually employed because someone identifies delays, inefficiencies or obstacles in a process that they seek to bypass to achieve a goal. Most commonly, the motive for creating workarounds is to make a process that is frustrated by policy and procedural blockages or delays, easier to navigate.

Workarounds might seem beneficial to attaining a desired solution, but they mask unaddressed issues and can create dysfunctional processes.

Environments where workarounds and loopholes are regularly exploited may become amenable to corruption. Staff begin to accept bad process design, and a culture can quickly establish where policy and procedures are regularly ignored, and this may even be quietly encouraged by the agency.

The Commission has observed such environments develop at TAFE SA in the past.

In 2016, the Commission referred a misconduct matter to TAFE SA and supervised its subsequent investigation. That matter concerned allegations that lecturers had installed unauthorised software licenses onto dozens of computers, so as to enable student learning activities which were being frustrated by license renewal issues between TAFE SA and its software supplier. The staff involved reportedly regarded that as a legitimate workaround.²²⁵

The then Commissioner, the Hon. Bruce Lader KC found TAFE SA's internal investigation into the matter deficient in several regards. Mr Lander observed:

- ▶ there was a lack of clarity in the investigative process as well as the process adopted to make findings and impose sanctions
- ▶ there was a lack of detail about the individuals under investigation and whether formal interviews were conducted
- ▶ TAFE SA was of the view that discontinued legal action by the supplier reduced the seriousness of the conduct
- ▶ TAFE SA appeared to justify the misconduct as a means to achieve educational objectives
- ▶ TAFE SA was confused about the Commissioner's role

The Commissioner encouraged TAFE SA to develop a more rigorous investigative and disciplinary process to deal with allegations of misconduct.

225: ICAC SA internal holdings.

Primarily in response to observations about the insufficiency of TAFE SA's investigatory and disciplinary processes, the Commission developed its Internal Investigation Seminar and Workshop to instruct public administration on the proper conduct of internal investigations. This report has already discussed some aspects of TAFE SA's current investigative processes, and will have more to say in Chapter 7.

The matter highlights the risks of staff seeking workarounds, and shows how agency cultures can drift towards rationalisation or tacit approval of infringements of policy, contract or law.

In such circumstances, workarounds can quickly go from temporary fixes to unofficial new business processes.

When workarounds become commonplace or accepted, practice, policies and procedures tend to corrode. This exposes the agency to the greater risk that it may become less competent or less willing to identify, detect or adequately respond to more malicious contraventions that may amount to corruption.

The Commission is of the view that TAFE SA may currently be at risk of this occurring within procurement. This was also the view of one Board Member, who said the geographical dispersal of TAFE SA campuses combined with the lengthy approval processes for procurements meant workarounds were a conceivable threat.²²⁶

The Commission suggests TAFE SA consult with relevant staff to map key 'pain points' in procurement processes so as to address inefficiencies and curb the potential for workarounds and deviations.

226: EXH 0419.

Corruption investigations

TAFE SA is not unacquainted with procurement corruption.

In June 2019, the Commission published *The Trusted Insider: An Examination of Issues from Two ICAC Investigations*. One investigation involved a former TAFE SA Education Manager who engaged in corruption over a four year period between July 2012 and July 2016. Over that period she dishonestly authorised the payment of invoices that falsely claimed mentoring and coaching services from a bogus consultancy business set up by her ex-partner.²²⁷

Presumably in response to the discovery of that corrupt scheme, TAFE SA commissioned and completed an internal audit of its procurement processes in October 2018, and of contract management processes in November 2018.²²⁸ Those audits specifically identified high vulnerability in the identification and management of potential conflicts of interest, and moderate vulnerability related to direct and single sourced procurements.

TAFE SA committed to various remedial actions.²²⁹

However, in April 2022, the Commission received allegations of irregularities in TAFE SA's procurement of consultancy services throughout 2019, which were referred by the Office for Public Integrity for assessment.

The allegations concerned a public officer failing to declare a professional association with the director of a consultancy firm, and directing others at TAFE SA to award a contract to that consultancy firm after receiving an unsolicited bid for work from the director of that firm. That consultancy procurement appeared to be for services which had already been completed internally and independently validated by another consultant.

The allegations were not substantiated. However, it was clear to investigators that procurement staff at TAFE SA recognised the public officer might have failed to disclose a perceived conflict of interest, and the strong connection between the two consultancies had led them to the view that the procurement might be compromised.

The investigation found no evidence of corruption. However, it was clear to investigators that disregard for proper practice had crept into the procurement function, despite recent audits warning of such risks.

- ▶ While the consultancy was disclosed in TAFE SA's Annual Report, it was not disclosed on the SA Tenders and Contracts website in accordance with Department of the Premier and Cabinet Circular PC027 – Contract Disclosure.
- ▶ Even though the conditions for engaging in direct negotiation with the supplier existed, the procurement documentation did not properly justify or address the necessary criteria for single sourced direct procurements.
- ▶ Acquisition Plans or Purchase Recommendations related to another consultancy were not produced as directed under section 29 of the *Independent Commission Against Corruption Act 2012* (SA). As a result, the investigation was unable to establish whether these documents existed as required by the TAFE SA procurement policy in effect at the time.

²²⁷: ICAC SA, *The Trusted Insider: An Examination of Issues from Two ICAC Investigations* (June 2019), see, https://www.icac.sa.gov.au/_data/assets/pdf_file/0010/370567/The-Trusted-Insider_An-Examination-of-Issues-from-Two-ICAC-Investigations.pdf.

²²⁸: EXH 0334; EXH 0339.

²²⁹: EXH 0320.

On the evidence obtained, it appears likely the procurements were rushed and conducted under extreme pressure at a time when TAFE SA was responding to the ASQA crisis. There was an interim Board and Board Chair, a new Chief Executive, and many executive positions were vacant. Unfilled executive positions likely necessitated the urgent sourcing of expertise in the form of consultants.

In that environment, procurement probity was clearly sacrificed to expediency.

It is an open question whether the inadequate procurement processes revealed by the Commission's investigation would now be possible in the tightened procurement landscape. Regardless, TAFE SA should not forget lessons learned from procurement history simply because the administrative environment has altered. It would do well to revisit integrity insights and recommendations from previous audits or reviews of the procurement function to update current procurement practices.

Use of consultants

Hiring consultants is a form of procurement with heightened corruption risks. The work of consultants is often hard to reliably quantify, and justifications for their use can often seem opaque, especially in circumstances where an agency may already have the relevant in-house expertise.

The work of consultants can have uncertain or largely unseen effects upon agency operations, and can often only be accurately assessed for value by a limited number of people at an agency. For that reason, the procurement of consultants can appear to lack transparency, or be perceived as vulnerable to manipulation or dishonesty.

For that reason, the procurement of consultants is often met with suspicion. Evidence of that attitude was provided by respondents to the evaluation survey:

Finding funding to purchase new equipment is very difficult. However, TAFESA can pay \$2.5 million in consultancy fees as recorded in the 2019-2020 Annual Report.

Lots of money appears wasted on consultants, or the contract management process, which could have been spent on the acquisition of the actual resource involved. This applies in particular to items with only one valid supplier, yet the whole method of procurement still has to be followed (and paid for).²³⁰

The use of consultants can be a legitimate and cost-effective way to ensure agencies achieve their goals and are informed about issues relevant to their operations. However, the expert nature and independence of consultants' work means it necessarily takes place under limited agency supervision. For that reason, information asymmetries tend to exist in relations between the consultant and the agency, making it challenging to judge the quality or applicability of the work.

The sometimes obscure nature of consultancy makes it easy for public officers to procure consultancy services for purposes other than agency business.

As consultants operate between the public and private realms, their proximity to public decision making, resources and information makes it possible for them to advance their own interests by making their work crucial to the agency's operations.

The risk of misusing any advantages they may access while engaged by public authorities is clear.

230: EXH 0796.

Consultancies procured through unsolicited bids for work that the agency has not initiated heighten the opportunity and possibility for corruption. It should be a red flag when an unsolicited proposal comes from a consultant with connections to an agency employee. Such procurements need to be particularly well managed and rigorously reviewed for unidentified or undisclosed conflicts of interest.

TAFE SA develop a simple integrity guideline for the procurement of consultancy services, the consideration and acceptance of unsolicited bids or proposals, direct single source approaches, and the risks of undeclared conflicts of interest. TAFE SA executive, managers and senior staff should be periodically instructed on the guideline, and refer to it prior to any relevant procurements.

RECOMMENDATION 16

TAFE SA amend its procurement procedures to include a check of secondary employment, financial interests, and conflicts of interest registers at appropriate stages of all procurements.

RECOMMENDATION 17

Low value procurements

Procurements of high value and complexity are well covered in terms of compliance, supervision and reporting requirements. The state's new procurement scheme, however, is far less demanding in regard to low value procurements.

The state government procurement scheme places its lowest threshold at \$55,000. Any procurement under that threshold attracts limited obligations and requires only one quote. At TAFE SA, each business unit is responsible for conducting procurements below \$55,000 that are assessed as transactional, low risk and low complexity. There is no requirement to inform or consult anyone outside the business unit.²³¹

TAFE SA uses the complexity assessment tool to categorise procurements as either transactional, routine, complex or strategic. Most low value procurements fall under either the transactional or routine categories. In both cases, risk is considered in terms of interruption to core operations rather than susceptibility to corruption or exploitation.²³²

It is entirely reasonable that procurement risk be assessed according to how well the procurement fulfils, or its absence undermines, an agency's 'core operations'. But this is a necessarily limited analysis of risk. From a corruption perspective, risk is analysed according to how susceptible a procurement might be to manipulation for improper gain, and the state of controls to detect and prevent potential exploitation.

The Commission's experience is that low level procurements are more at risk of being exploited by corrupt actors than high value procurements.

Australia's biggest public sector corruption matter involved a senior West Australian public officer defrauding an agency of \$27.4 million through credit card purchases and electronic fund transfers to bogus companies for low value amounts totalling \$50,000 per month.²³³ The corrupt conduct of a former TAFE SA Education Manager, who was prosecuted and sentenced in 2018, also illustrates low value procurement risk that accumulated over time.

A manager working in the procurement function reported that while TAFE SA undertakes some '*big spends*' in some areas, it has a '*long tail*' of low level procurements. When asked about how susceptible those low level procurements were to corrupt practices, he explained that his team referred to it as the '*salami effect*', where procurements are chopped into little slices, making it more challenging to monitor which suppliers are getting paid. He admitted his team should ideally be running spend reports, for example, looking at series of \$5000 payments which are part of larger aggregate spends. But his team is simply too focussed on guiding and monitoring compliance on high value procurements to have time to run such checks.²³⁴

231: EXH 0169.

232: EXH 0171.

233: WA CCC, *Exposing corruption in the Department of Communities*, (16 November 2021) p.4.

234: EXH 0484.

It appears as though the majority of low value procurements at TAFE SA are occurring at the business unit level, away from the supervision that could be provided by the procurement team. Nevertheless, there are a number of actions that TAFE SA has made to address the risk of low level procurement corruption:

- ▶ TAFE SA has reduced the number of purchase cards being used across its sites from 300 active accounts to 150. One Board member is encouraging the removal of the entire purchase card system.²³⁵
- ▶ Lecturers are no longer authorised to engage suppliers and order stock.²³⁶
- ▶ Electronic inventory management systems are being deployed for some business units (notably the large Future Industry and Trade workgroup), which will assist in managing and monitoring the purchase, receipt and movement of materials.

These efforts have been met with frustration by some staff, especially at the regional campuses, with the centralisation of procurement activities to Tonsley frequently raised by staff who participated in the evaluation survey:

Sometimes local purchase is quicker, cheaper and supports the local community (regionally). Again a blind adherence to a policy of no purchases except through Stores is dumb.

If you work of campus it is too slow and unwieldy to deal with stores as they require far to long to get materials and equip to where it is needed.

Regional campuses suffer because procurement is centralised from the Tonsley campus. It simply doesn't work and affects the quality of training in regional areas. I have personally supplied and paid for materials to assess students correctly. There are not enough vehicles at the Tonsley campus which sometimes I have used my personal vehicle to travel. The process of reimbursement is tedious and doesn't get approved by the Director.²³⁷

Centralisation of functions necessarily reduces autonomy and removes control from local workgroups. However, functions as prone to corruption as procurement should rarely be completely decentralised as wide spread discretionary decision making makes procurement activity difficult to monitor and manage.

The evaluation team interviewed some members of a campus Stores team to better understand the nature of low level procurement activity across TAFE SA.

The Stores team were of the view that TAFE SA does not really have a '*proper or true procurement department*' in the sense of a centralised purchasing function spanning the entirety of TAFE SA. Each school conducts its own low level procurements. Asked how much discretion they had over the function, they reported being the principal unit involved in much low level procurement activity conducted at the site and elsewhere, as well as having significant dealings with suppliers.²³⁸

They reflected on the time when lecturers would simply order materials for themselves, telling the evaluation team that many lecturers work in the industries they teach in, and know the suppliers in their industry. Sometimes, lecturers' friends would drop off materials for free, assuming they would later become contracted as suppliers, or lecturers might recommend TAFE SA contract certain suppliers.²³⁹

235: EXH 0418.

236: EXH 0413; EXH 0695.

237: EXH 0796.

238: EXH 0695.

239: EXH 0695.

These observations add weight to the Commission's view that low level procurements require some functional separation from the educational workforce.

The Stores team also reported that it was conducting a review of the Future Industry and Trade workgroup's full purchasing lifecycle involving demand, supply, distribution and materials.²⁴⁰ One manager observed that at least 12 people within the business unit, working disparately and ordering for different sites, trades, or Education Managers, should ideally be reporting to the Stores workgroup.²⁴¹ They hoped that their review would consolidate several positions in the Future Industry and Trade workgroup under the auspices of Stores.

Because Future Industry and Trade is the largest workgroup with the largest spending on materials, the need for a cloud based inventory management system to provide complete visibility and control over their supply chain was identified. This would be a Future Industry and Trade standalone product and was out to tender at the time of interviewing.

The other schools reportedly use different systems for inventory control. The Stores team said ideally all three schools should use one system, but the only commonly used system in the organisation was Basware, which was viewed as being unsuitable for monitoring procurement spending.²⁴²

The Stores team said their biggest challenge in procuring materials for educational delivery is planning and forecasting. Forward planning of procurements is hindered by:

- ▶ the needs of lecturers often being fluid
- ▶ the numbers of students fluctuating over semesters
- ▶ up to 80% of material requests coming in the form of 'ad hoc material request forms'
- ▶ using ad hoc listed items to reorder supplies
- ▶ too much manual intervention in the existing system
- ▶ overreliance on emails, with purchase orders and quotes sitting in staff inboxes
- ▶ individual staff using spreadsheets to manage materials and failing to update them or provide handovers for absences
- ▶ volatility in prices, and vendors refusing to provide Bills of Materials or price lists²⁴³

Some aspects of the picture of low level procurement provided by the Stores team are reassuring, while others are worrying.

Those on the educational frontline who have lost control over procuring the materials they require to perform their roles have complained. But their complaint is less to do with centralisation itself, than that the function fails to adequately service their needs. Centralisation should not necessarily lead to loss of service. If that is currently the case, as the regional campuses have attested in the evaluation survey, TAFE SA will have to find means to be more responsive to the educational frontline with timely and efficient procurement of materials.

Some of the activities reported to the evaluation may help to bring that about.

240: EXH 0695.

241: EXH 0695.

242: EXH 0484; EXH 0695.

243: EXH 0695.

The future review of roles connected to procurement, inventory, and purchasing processes at Future Industry and Trade is also welcome. Consolidating roles into a coordinated unit to manage procurement and inventory may make low level procurements and inventory management at the business units more efficient. However, that process is not without risk.

Consolidating roles into a larger Stores function operating across market engagement, forward planning, purchasing, supplier management, inventory storage and distribution runs the risk of too much influence and discretion sitting within one team. TAFE SA will have to carefully map roles to ensure power and discretion does not reside in too few hands, and ensure segregation of duties and adequate levels of supervision to manage corruption risk exist.

The implementation of an electronic inventory management system is likewise an important advancement. It will allow the business group to have more visibility and control over the ordering, expenditure, receipt and movement of goods. This will hopefully aid in forward planning and reduce the reliance on manual systems, email, spreadsheets and ad hoc material requests.

The Commission wonders why similar systems are not being considered for the other two educational business units.

TAFE SA commit to a future review of low value procurements (below \$55,000) to explore ways to protect those activities from abuse. That review should ensure:

- ▶ that any consolidation of the function (i.e. within Stores or equivalent units) maintains appropriate separation between procurement, contract management and inventory roles
- ▶ processes are in place to manage vendor-employee relations, gifts and benefits, conflicts of interest, and supplier and company checks
- ▶ provision of procurement training to new and existing staff conducting (or in close proximity to) large volumes of low value procurements
- ▶ the activity has some level of supervision from TAFE SA's procurement team to detect anomalies, patterns and irregularities

RECOMMENDATION 18

Government purchase cards

The use of purchase cards at TAFE SA deserves specific consideration.

In many agencies, a large volume of procurement activity is undertaken using government purchase cards. The efficiency benefits of their use are obvious, but so are the risks of their misuse.

TAFE SA is aware of those risks and has undertaken initiatives to address the risk. First, TAFE SA has what appears to be a relatively robust Government Purchase Card Policy and Procedure.²⁴⁴ Second, TAFE SA has recently reduced the number of purchase cards authorised for use at the agency from approximately 300 to 150.

That action appears justified.

In June 2022, the Commission received a referral from the Office for Public Integrity regarding allegations a TAFE SA purchase card had been used on several occasions for personal purposes. It was alleged that the card was misused by a TAFE SA staff member who was not the authorised user of the card.

The authorised user of the card had undertaken the training on the use of Government purchase cards, and reported knowing the relevant rules. Nevertheless, there appears to have been a failure to adhere to the TAFE SA's Government Purchase Card Policy that 'Government purchase cards and numbers must be kept secure at all times, including restriction of its use by another person'.²⁴⁵

While TAFE SA's purchase card policy and procedure are thorough, and they provide users with training on its use, the matter demonstrates that no policy, training or system can completely eliminate the possibility of misuse.

The challenges of widespread purchase card authorisations were made plain during an interview with an Education Manager, who remarked that their workloads were so large and their direct reports so numerous and geographically dispersed that they could easily miss something like use of purchase cards.²⁴⁶

The removal of purchase cards was not a welcome initiative for many other staff.

A staff member working in campus operations noted he used to have a purchase card for use at the local hardware store. Access was removed and he now takes a photo of what he requires and sends the photo to his manager at a regional campus 400 kilometres away, who purchases the item there and sends it down in a truck. He failed to understand why some lecturing staff and middle management were granted purchase cards just to '*buy biscuits for their meetings*', when his purchasing needs were more pressing.²⁴⁷

The Stores team were attempting to implement alternative methods for low value procurements because they were still experiencing staff overusing purchase cards. One team member believed that TAFE SA embarked on reducing the number of purchase cards without implementing another easy method of low value procurement to replace their use.²⁴⁸

244: EXH 0795.

245: EXH 0795.

246: EXH 0495.

247: EXH 0492.

248: EXH 0695.

A senior staff member working in facilities observed that the removal of purchase cards had caused a degree of angst among certain staff. He confirmed facilities staff had become accustomed to the ease of conducting maintenance jobs using purchase cards at local hardware stores. While he viewed the activity as low value and low risk spending, it simply proved too difficult to control. He believed that a lot of the spending was unnecessary, and that facilities and lecturing staff should ‘check the cupboards’ before they went to the hardware store with their purchase cards.²⁴⁹

The use of purchase cards does not have an easy solution. TAFE SA’s intention to better control and even reduce the use of purchase cards will no doubt aid in efforts to reduce the opportunity for misuse and waste. However, continuing to reduce the number of purchase cards without resourcing and implementing a replacement method for easy and efficient low level procurement is likely to worsen resourcing challenges.

The Commission suggests TAFE SA review the effects of its purchase card reduction policy on low level procurement practices and operations generally.

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As part of its review of low level procurement systems and practices, TAFE SA explore opportunities for efficiency and effectiveness to offset the removal of widespread purchase card access.

RECOMMENDATION 19

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In accordance with the Commission’s publication *Buy Now, Lie Later: Corruption Risks in the Management of Government issued Purchase Cards*, TAFE SA modify its purchase card practices, especially in assessing the business need for issuing particular employees with purchase cards.

RECOMMENDATION 20

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249: EXH 0479.



CHAPTER FIVE

ASSET AND FACILITIES MANAGEMENT

Chapter five: Asset and facilities management

Introduction: Corruption risks of assets and facilities

TAFE SA has 24 campuses and facilities throughout the state, with an additional six services in the APY Lands. Those campuses and facilities have an estimated value of \$620 million.²⁵⁰

TAFE SA's size, range of course offerings, variety of campuses, and geographical spread create challenges in asset and facilities management.

The agency's core business of vocational education and training means the amount of plant, equipment and material required to provide 'hands on' training is substantial. The agency is brimming with assets required to deliver training.

Managing and monitoring the use of those educational resources and facilities places enormous demands on TAFE SA staff and resources.

The corruption risks related to an agency's assets primarily derive from their 'slipperiness', or the difficulty in maintaining full visibility over their condition, location and use. The risks of their misappropriation, misuse or disposal for private gain are obvious.

The corruption risks related to facilities are less obvious. Like other teaching assets, facilities and campuses are at risk of misuse for personal purposes. However, their maintenance is also at risk of procurement corruption. These risks were outlined in the Commission's report, *Facilities Maintenance in Local Government*, which outlined the risks of:

- ▶ seeking or accepting inducements for the award of facilities maintenance contracts
- ▶ improperly awarding facilities maintenance contracts to suppliers in which a public officer has a private or financial interest
- ▶ colluding to set prices for facilities maintenance work
- ▶ authorising maintenance work as complete when it has not been delivered
- ▶ authorising overcharging for maintenance work, or signing off on under delivery
- ▶ dishonestly authorising contract or work variations²⁵¹

250: EXH 00172.

251: ICAC SA, *Facilities Maintenance in Local Government* (25 August 2021) See, <https://www.icac.sa.gov.au/publications/published-reports/facilities-maintenance-local-government>.

Circumstances which can heighten the possibility of such behaviours occurring or not being detected include:

- ▶ wide geographical dispersal of facilities
- ▶ the use of ongoing, cyclical, open or rolling contracts
- ▶ a high proportion of urgent or ‘breakdown’ maintenance and work backlogs rather than scheduled maintenance activities
- ▶ poor budget planning and understanding
- ▶ poor systems to monitor the condition of facilities and manage the work of maintenance contractors

These factors can heighten corruption risk because they negatively affect an agency’s visibility and control of its assets and facilities, the people who use them, and those who maintain them.

The evaluation found evidence that aspects of those corruption risk factors are present at TAFE SA. Pleasingly, there are considerable efforts underway to mitigate those risks and improve the function of asset and facilities management.

TAFE SA’s ownership of facilities

Through no fault of its own, TAFE SA is at some disadvantage regarding its management of facilities.

Prior to 2019, TAFE SA leased its facilities from the Minister for the former Department of State Development, then from Renewal SA, and then from the Department for Innovation and Skills. The 2018 Strategic Capability Review commented that the arrangements in place at that time meant '*TAFE SA can exit space and return it to the Minister, meaning excess infrastructure is the Minister’s problem*'.²⁵²

The Review suggested:

... returning the ownership of infrastructure assets to TAFE SA and only partially funding the associated ownership costs. The resulting revenue gap would create targets for TAFE SA to generate revenue from leasing arrangements to non-government RTOs and community groups.²⁵³

Ownership of the facilities was transferred to TAFE SA in 2019.

While TAFE SA had previously undertaken some facilities management while leasing facilities from the Minister, the new arrangement made TAFE SA responsible not only for their maintenance, but also to generate revenue from those assets it now owned. Numerous interviews with senior TAFE SA staff demonstrated the agency has accepted the responsibility with little complaint.²⁵⁴

252: EXH 0003, p.34.

253: EXH 0003, p.34.

254: EXH 0407; EXH 0479.

The transfer of ownership is consistent with TAFE SA's status as a statutory corporation, as well as with the functions set out in the *TAFE SA Act 2012*:

*TAFE SA may, to the extent of its rights in respect of land, buildings, equipment, facilities or services used for technical and further education, authorise their use for commercial, community or other purposes for a fee or otherwise.*²⁵⁵

The Commission understands the transfer of ownership seeks to maximise the utility of underused government assets by making them available for occupancy by community and business groups. A senior employee working in infrastructure described the transfer of assets as putting TAFE SA '*in charge of its own destiny*'.²⁵⁶

However, that change of ownership shifts the balance of TAFE SA's functions. Because TAFE SA is now a 'landlord' required to find 'tenants', it must view its campuses in a strategic and commercial light, which may complicate or contradict some of its core educational priorities.

Those commercial imperatives are heightened by the fact the incoming assets were not accompanied by additional funding to cover their management.²⁵⁷

It is difficult to predict whether such commercial imperatives might produce unintended consequences. However, the move to ownership and the imperative to maximise the use of TAFE SA facilities has not been without adverse consequences. The Commission was told that the transfer of ownership was not accompanied by documentation about the state of those assets and facilities.²⁵⁸

That is disappointing. TAFE SA requires proper visibility over its assets and facilities to protect them from exploitation. The lack of documentation provided to TAFE SA suggests there may have been deficiencies in property management and maintenance on the part of the prior owner.

The former senior infrastructure employee warned the Board that accepting the assets without proper documentation would make it hard for TAFE SA to understand where deficiencies might lie, and to assess or manage risk.²⁵⁹

TAFE SA is now working at a disadvantage to rectify that information deficit.

²⁵⁵: *TAFE SA Act 2012* s 6(3).

²⁵⁶: EXH 0407.

²⁵⁷: EXH 0479.

²⁵⁸: EXH 0407; EXH 0479.

²⁵⁹: EXH 0407.

Asset management reforms at TAFE SA

TAFE SA has taken significant steps to develop a comprehensive asset and facilities management framework. These efforts, as well as the scope of the challenge, were acknowledged in an internal audit of the function completed in August 2021, which noted that developing TAFE SA's asset management strategy required significant '*investment in processes, systems and internal capacity building*'.²⁶⁰

A former senior infrastructure employee told the Commission that when he started at TAFE SA there was no asset management framework for any of TAFE SA's campuses, and there were only limited facilities management tools.²⁶¹

TAFE SA subsequently produced a Strategic Asset Management Framework in consultation with the Department for Infrastructure and Transport and in accordance with ISO – 55001 Asset Management. The structural elements of this framework, including policies and procedures, asset information systems, asset management plans, property strategies and master planning, are in development, with some systems yet to be acquired or built.²⁶²

The Commission is encouraged by these efforts, but acknowledges the immensity of the task.

The former infrastructure employee described TAFE SA as a '*toddler*' in terms of assets management, but said because it had 25 to 35 years' experience as a tenant, it was no novice in facilities management.²⁶³

As the owner of its facilities, TAFE SA can now create strategies for their use, where it was previously prevented from doing so as a mere tenant.²⁶⁴

A longstanding senior facilities employee said TAFE SA now has better central visibility over local asset and facilities activity. Previously, teams simply reported issues to the local site managers in relative isolation and autonomy. He remarked that it was the first time in TAFE's history the organisation had its own dedicated assets management policy with accompanying draft procedures.²⁶⁵

The Commission is encouraged by the content and aims of these policies and procedures.

Promising developments of the framework include principles for informed decision making; proposed asset management plans and systems to manage asset lifecycles; collection and storage of asset information; minor asset registers; plant and equipment tracking; asset/inventory disposal procedures; and risk and review processes.²⁶⁶

One document, however, is worthy of comment.

The Commission was provided with TAFE SA's draft Asset Management – Maintenance Management Procedure.²⁶⁷ It contains minimal guidance about how to proceed or what the practical steps are to manage assets. At best, it could be described as a high level policy or strategy document. It is also difficult to interpret.

260: EXH 0325.

261: EXH 0407.

262: EXH 0325.

263: EXH 0407.

264: EXH 0407.

265: EXH 0479.

266: EXH 0172; EXH 0174; EXH 0179.

267: EXH 0175.

From the evaluation team's viewpoint, the document demonstrated TAFE SA is still grappling with the strategic import of managing its asset base.

Additionally, TAFE SA's audit of its Asset Management Framework recommended that TAFE SA '*focus on strategic elements before tactical elements*', going on to say:

It is recommended that increased focus is given to the development of TAFE SA's AMS [Asset Management Strategy] in the first instance followed by the revisiting of any tactical asset management artefacts to ensure that they are appropriately aligned and will enable the delivery of the asset management objectives articulated in the Policy.

... Following on from considering [possible funding and service provision] scenarios, TAFE SA should look to draft its Strategic Asset Management Plan (SAMP) which should provide a high level outline of the various 'paths' to be followed to achieve the asset management objective dependent on which scenarios or 'futures' may transpire.²⁶⁸

Strategy is undoubtedly important, but there is a sense the internal audit has weighted its recommendations unevenly towards strategic rather than operational matters, and future rather than present corruption risks.

In terms of corruption prevention, the need to quickly implement and embed processes and practices to give TAFE SA operational visibility and control over its facilities is important.

The Commission does not suggest TAFE SA should have no overarching strategy. But the operation of asset and facilities management should remain a key focus.

Perceptions of facilities and asset management

It was evident to the Commission that there was a sense of disconnection between those who manage the facilities and those who use them.

Evaluation survey responses spoke of a lack of consultation between facility managers and users, expressing a desire for a more collaborative planning approach to facilities use and upkeep. Some users complained that external consultants' advice was often actioned, even when those suggestions proved unsuitable or wrong.

A manager with relevant operational experience questioned the need for facilities to directly respond to educational users' needs, noting the difference between '*fit for purpose*' and '*fit for occupancy*'.²⁶⁹ That manager reasoned that aiming for highly specific purpose-built training facilities was a losing strategy because training packages, course offerings and government skills priorities changed frequently, limiting their lifespan to only three years.

While acknowledging his educational colleagues likely held dissenting views, he considered infrastructure should operate flexibly like an all-purpose 'roof' to house whichever training speciality is required, allowing different educators to move in and out of the space as training need arose. Tonsley campus was held up as an example of facilities best able to deliver flexible and customised training spaces into the future.²⁷⁰

268: EXH 0325.

269: EXH 0479.

270: EXH 0479.

By contrast, many staff respondents to the evaluation survey regarded their campuses and facilities as out of date or in poor condition, with some suggesting they might not meet current industry standards. A common theme was lack of funding being given as the main reason for poor quality facilities and lack of upgrades:

I think genuine efforts are made to keep assets safe, welcoming, etc but it is extremely apparent that all efforts are put into saving money... we continually hear... No Money... No budget.²⁷¹

Some staff respondents perceived certain campuses and facilities to be favoured by management, while others languished for years without investment. Cuts to facilities staff, slow response rates to facilities requests, poor follow-up on completion of maintenance jobs, and reactive logging systems which prevented facilities staff from fixing issues as they arose, were also reported to the evaluation survey.²⁷²

Staff perceptions of asset management were more positive than those concerning facilities. One comment in particular was consistent with the Commission's experience that TAFE SA has actively improved management of assets:

I have seen (in my first year) facilities employers (sic) dispose of de-listed assets for self gain. I have also seen consumables paid for by TAFESA and sold on to students at profit for Christmas funds. This has since stopped.²⁷³

In 2018, TAFE SA undertook to review and reform its asset management systems after dozens of the agency's laptops were allegedly stolen by a staff member.²⁷⁴

That matter exposed deficiencies in TAFE SA's management of assets, with an internal review revealing there were dozens of other computers missing, the combined value of which amounted to hundreds of thousands of dollars. Mobile phones were also missing.

One Executive Director remarked there was '*still blood on the walls*' from that incident.²⁷⁵ To their credit it is evident TAFE SA has conducted a number of subsequent audits of asset and inventory management systems subsequent to that event.

The Commission is confident that TAFE SA is aware of the risks behind the 'slipperiness' of its numerous classes of assets, and has taken demonstrable steps to address those risks. Despite, or perhaps because of that awareness, senior executives consistently reported to the evaluation team that the theft of assets was one of TAFE SA's most persistent corruption risks.²⁷⁶

Respondents to the evaluation survey likewise complained about poor stock control, small items going missing, and perceptions that assets move too freely between locations or campuses without proper accountability for their use or loss.²⁷⁷

TAFE SA's large asset holdings are likely to be permanent targets for impropriety and theft, and will require continued efforts to control those risks.

271: EXH 0796.

272: EXH 0796.

273: EXH 0796.

274: ICAC SA internal holdings.

275: EXH 0407.

276: EXH 0405; EXH 0409; EXH 0410; EXH 0413; EXH 0419; EXH 0421.

277: EXH 0796.

Leasing of TAFE SA facilities

Staff completing the evaluation survey made many comments about the potentially negative effects of third parties leasing TAFE SA facilities. Their comments concerned:

- ▶ disruption to TAFE SA's courses and educational priorities and erosion of campus culture
- ▶ timetabling conflicts resulting in some TAFE SA program areas having to rent space in external locations because tenants occupy former teaching space
- ▶ declining student numbers for TAFE SA courses due to lack of space
- ▶ private RTOs appearing to move in as a result of TAFE SA courses being discontinued, and poor behaviour from clients of those RTOs
- ▶ a sense that TAFE SA is prioritising the need to 'make money from the facilities' without regard to consequences
- ▶ facilities staff focusing on leasing space to external organisations, leaving less time to service TAFE SA staff²⁷⁸

None of the comments suggested any corrupt practices in regard to the leasing of TAFE SA facilities to third party tenants.

The Commission had been worried that opening up TAFE SA campuses and facilities to commercial leasing might enliven the risk of those facilities being corruptly leased to businesses or persons with personal or financial connections to TAFE SA staff. For example, third party providers could be offered discounted rates as a result of their connections.

A senior infrastructure employee was confident TAFE SA's processes ensure the integrity of its leasing arrangements. TAFE SA's local sites do not enter into leasing arrangements, with all leases authorised by central management and background checks performed on all potential lessees.²⁷⁹

An Executive Director confirmed all leasing was vetted and controlled by the Director of Facilities and Projects and authorised by the Executive Director of Strategy and Infrastructure.²⁸⁰

However, transferring ownership of facilities to TAFE SA while only partially funding them with an aim to provide TAFE SA with an incentive to lease out those facilities creates an unresolved tension. TAFE SA is caught between the need to support in-house educational activities and the need to make its facilities commercially viable.

TAFE SA will need to devise an approach to better balance that tension.

278: EXH 0796.

279: EXH 0407.

280: EXH 0404.

Backlogs and reactive asset maintenance

Urgent maintenance or repair works that displace scheduled preventive maintenance can create the conditions for corrupt practices to emerge. Attention may be spread thin, priorities can become disordered, contractors can be poorly monitored, and proper process may be sidestepped.

Staff respondents to the evaluation survey perceived TAFE SA did not always act on maintenance requests:

Our facilities are run down. Staff at some campus have been in temporary accommodation for 2 years waiting for new office spaces, staff toilets and lunch areas.

Tafesa would not really know what assets they have...The process for repairs or replacement is so drawn out and based on availability of funding that in most cases things just do not happen until an accident occurs.

Continuously have to log jobs for air-conditioning/heating to be looked at and fixed. Dripping taps, running toilets, flickering lights.

Nothing gets fixed around TAFE they straight out say no we're not fixing it.²⁸¹

The question of funding is never distant from these complaints.

The former infrastructure manager noted TAFE SA was working with limited funds to maintain an asset base spanning the entire state, adding maintenance backlogs were a direct result of the lack of preventive maintenance.²⁸²

By contrast, the senior facilities employee said facilities management had to operate on a whole-of-life approach, noting the mix of preventive and breakdown maintenance was now 60% preventive, 30% refurbish or replace, and only 10% breakdown.²⁸³

Where there are pressures to fix urgent problems, opportunities to bypass procurement and contract management processes likely follow.

If the solution to these issues is funding, TAFE SA can only address this through negotiations with Government.

281: EXH 0796.

282: EXH 0407.

283: EXH 0479.

The Across Government Facilities Management Arrangements

TAFE SA is a party to the Across Government Facilities Management Arrangements (AGFMA), an arrangement for the provision of facilities maintenance services administered by the Department for Infrastructure and Transport. Ventia Australia Pty Ltd was contracted as the government's service provider in December 2021 to provide subcontractors to fulfil maintenance work orders.

The risks of a public officer improperly awarding facilities and asset maintenance contracts, or contractors manipulating maintenance work for undue benefit, have shifted from TAFE SA to Ventia and the Department.

TAFE SA has little, if any, scope to influence the awarding of facilities management or maintenance work.

The Commission is limited in recommending how TAFE SA can best mitigate the corruption risks of an outsourced function over which it has little control.

The Commission can provide some observations gained through the evaluation, while acknowledging TAFE SA is not primarily responsible for them, and nor does it have the power to fully address them.

In the course of the evaluation, the Commission received a referral from the OPI about potentially corrupt conduct by a former contract manager working under a previous iteration of AGFMA. It was alleged this former contract manager was awarding maintenance and construction works at Department for Education sites to a business owned and operated by a family member. That manager was permitted to award work to the relative's business despite having disclosed the conflict of interest to a superior.

Because of the likelihood that the contract manager's employer failed to adequately manage that conflict of interest, and the contract manager was no longer employed or a public officer, the prospects of proving dishonesty or of bringing the matter to prosecution were so low the Commission determined not to accept the OPI's referral.

That matter highlights the risks of corruption in facilities maintenance at government sites.

The degree to which the Department of Infrastructure and Transport is managing those risks, as well as what contractual terms, conditions and administrative processes have been implemented to prevent and detect the corrupt awarding of outsourced maintenance and construction contracts, are not known to the Commission.

However, the evaluation received information about potential irregularities in those facilities maintenance arrangements. One respondent to the evaluation survey said:

Tafe manages its contracts well however contracts managed via the AGFMA relinquish control of project progression and I believe there is a flaw in the financial modelling of the AGFMA that encourages the facilities management service provider to financially benefit from accepting Variations to contract.

A Senior Campus Operations Officer observed that often three contractors were sent to his regional campus for a single job, who would arrive only to find the work had already been completed by another contractor, or the job could not be completed because the facilities were in use. Service provision under the AGFMA contract appeared to that officer to be uncoordinated, with jobs failing to be updated once they had been assigned or completed. On occasions he was only advised a contractor had performed work after it had been completed and they had left the campus.²⁸⁴

He said operations staff from other campuses were informally reporting similar difficulties, with some regional campuses reportedly struggling to secure any contractors willing to travel to their campuses.

When asked if he was contacted to verify the work of contractors or whether he signs off on their work, he said he “doesn’t even know what TAFE knows”, and has no visibility of billing in relation to that work. He said contractors have to upload photos verifying the work they have done to generate payment, but some contractors forget to take photos and simply upload photos of work they have completed elsewhere.

He gave several other examples of irregular contractor behaviours:

- ▶ contractors billing for kilometres from Adelaide, even though they were already working in the area
- ▶ contractors from the other side of Adelaide travelling to the campus, but only taking notes about the fridges scheduled for repair, and leaving without repairing them
- ▶ a contractor continuing to bill TAFE SA for maintenance of an air conditioner which had been removed by campus operations staff

The Commission is not in a position to assess the veracity of those claims. If any of those claims are accurate, the AGFMA will require detailed review to determine where opportunities for mismanagement or corrupt practices might arise.

The Commission acknowledges TAFE SA is committed to improving its asset management function and is devoting considerable resources to that task.

A senior facilities manager confirmed TAFE SA had been in protracted negotiations with Ventia and the Department of Infrastructure and Transport (the Department) over its AGFMA Memorandum of Administrative Arrangements.²⁸⁵ TAFE SA reportedly identified a range of issues concerning the length of the agreement, misalignment in TAFE SA’s and the Department’s approaches to contractor management, and issues related to budgets and margins.

While this report was being written, those issues were unresolved.

Complications in the AGFMA arrangements were identified in TAFE SA’s August 2021 audit of its Asset Management Framework. That audit raised potential service delivery shortcomings produced by the new AGFMA, as the existing Facilities Asset Management Information System (FAMIS) and Strategic Asset Management Information System (SAMIS) were decommissioned, leaving TAFE SA with an immediate lack of reliable data about its assets and facilities.

That left TAFE SA to develop its own approach to asset information and data, negotiate with the new contractor on protocols regarding that data, and migrate its existing data to a new platform.²⁸⁶

284: EXH 0492.

285: EXH 0479.

286: EXH 0325, p.9.

TAFE SA is a party to an outsourced facilities management system over which it has limited control. The risks of corruption, fraud and manipulation in outsourced functions are well known, with two key risks being:

- ▶ a contractor colluding with in-house agency staff to cover up poor performance, such as through false data, results, or reporting
- ▶ a contractor colluding with in-house agency staff to submit false claims for work not performed²⁸⁷

How TAFE SA can protect itself from the presence of those corruption risks, and whether TAFE SA is ultimately responsible for protecting the integrity of an outsourced facilities maintenance function it is required to be party to, remains a vexed question.

The Commission's view, however, is that opportunities for exploitation are present in facilities and asset maintenance contract work. The Commission suggests that corruption risk mitigations (contractor management, budget control, segregation of duties, delegations and monitoring systems) are all considered as TAFE SA continues the implementation of its Strategic Asset Management Plan.

TAFE SA set out in its Asset Disposal policy that misappropriation of surplus or low-value assets or unwanted or forgotten items can amount to theft.

RECOMMENDATION 21

TAFE SA regularly convene a working group of campus facilities staff drawn from all campuses to monitor the operation of the Across Government Facilities Management Arrangements, and devise processes and strategies to better manage the work of contractors and facilities maintenance generally.

RECOMMENDATION 22

²⁸⁷: NSW ICAC, *Corruption Prevention Advice Topic – Outsourcing* (December 2018) See, <https://www.icac.nsw.gov.au/prevention/corruption-prevention-advice-topics/outsourcing>.



CHAPTER SIX

MANAGEMENT

OF SUBSIDIES

Chapter six: Management of subsidies

Introduction

It is common to hear the VET sector described as a ‘market’. Phrases and concepts such as ‘contestability’, ‘activity-based funding’ and ‘competitive neutrality’ contribute to the perception of a ‘training market’.

However, the VET sector does not operate like a normal market.²⁸⁸ The VET sector in South Australia is substantially funded through subsidised training, with subsidies best understood as financial aid from the government to reinforce the market and promote certain economic or social policies.

Claims are often made that TAFE SA needs to be ‘competitive’ in the VET market. This really means TAFE SA needs to ‘compete’ with other registered training organisations (RTOs) for financial aid from the government. This system of subsidisation creates financial incentives which can breed corruption.

Government subsidy schemes are commonly at risk of corruption through exploitation and manipulation. Those risks are noted in a report from Victoria’s Independent Broad-based Anti-corruption Commission (IBAC) about government funded community service organisations:

Competition for funding may increase corruption risks by creating incentives to misreport service delivery costs, or substitute services upon the contract being awarded. Additionally, restrictive budgets can create pressures around how resources are allocated.²⁸⁹

The same corruption risks are found amongst government funded RTOs. Corruption can occur where RTOs claim for activities or services which have not been delivered, or are delivered to inadequate standards to derive undeserved financial benefits. For example, RTOs could potentially manipulate subsidy claims by falsely reporting the number of students who have completed units of study for which a subsidy is payable.

Manipulation of subsidy schemes can occur through poor management and verification of claims by funding agencies, as well as poor funding scheme design that unintentionally incentivises dishonest and exploitative conduct on the part of recipients.

288: EXH 0003, p.29.

289 VIC IBAC, *Corruption risks associated with government funded human services delivered by community service organisations* (September 2021) p.45.

Evidence of corruption risk

The NSW ICAC warned about corruption risks in the VET sector in its 2018 report, *Corruption and Integrity in the NSW Public Sector: an assessment of current trends and events*.

The vocational education and training sector is particularly vulnerable to corruption, which is partially due to financial dependence... [R]egistered training organisations (RTOs) and private training and assessment providers have engaged in corrupt practices by under-delivering training or over-claiming government subsidies.²⁹⁰

Such conduct has also occurred in South Australia.

The Commission's June 2022 report, *Received or Deceived? Managing and monitoring the conduct of government contractors*, detailed the findings of an investigation into allegations of subsidy manipulation by a private RTO. The investigation established that the RTO had falsely reported students achieving full competency for courses so as to claim subsidy payments the organisation was not entitled to.

During that investigation it was suggested to investigators that subsidy manipulation might be more widespread among RTOs. The evaluation therefore considered it timely to evaluate the manner in which TAFE SA claims and reports on the subsidy payments it receives from government.

The Commission is of the view that TAFE SA does not currently have the opportunity to exploit its subsidies, but that may not always be the case.

Issues observed in TAFE SA student resulting practices

An anonymous submission provided to the evaluation suggested the risk of subsidy manipulation at TAFE SA was possible.²⁹¹ The author of that submission noted TAFE SA is only funded for subsidised training if students either pass or fail after having completed all assessments, but is not funded if a student has withdrawn (and hence has not attempted all assessments) or is deemed to not have started the course.

The author alleged TAFE SA '*management indirectly favours funded (ie Pass results)*', saying '*there is an incentive and culture to just show/tell the student how to do the assessment*'.²⁹²

290: NSW ICAC, *Corruption and Integrity in the NSW Public Sector: an assessment of current trends and events*, (December 2018) pp.62-63.

291: EXH 0395.

292: EXH 0395.

A small number of respondents to the evaluation survey raised integrity risks in resulting practices:

Staff delivering state-funded training are subject to a funding mode in which the relevant department pays only for 'pass' or 'fail' grades...There is constant pressure to 'get paid grades' with a concomitant pressure to act in ways that are unethical or fraudulent.

After reading the received or deceived reporting from ICAC I would consider TAFE SA to also be in a position where they could also claim monies that is not owed to them. This is a result of TAFE SA and DIS having very poor or non existent systems... flimsy, open to false or inaccurate claims being made.

Because funding for TAFE programmes is outcomes based, and resulting deadlines are dependent on financial rather than education principals...lecturers often find themselves in positions of providing a result, rather than giving extra time to a student to reach a level of competency.

We are supposed to teach students for the duration of a term and semester. However, come week 6 and 7 of Term 2 and 4, we are bombarded with emails telling us we need to get results in before the end of term so that TAFE can make money. We are VERY often threatened that if we do not get results completed before the end of term or semester, we will not be allowed to take our leave entitlements.²⁹³

TAFE SA conducted an internal audit of student resulting in August 2020, which found:

- ▶ lecturers often changed results after VET cut-off dates, meaning TAFE SA risked being over or under funded
- ▶ results were not checked prior to submission, meaning TAFE SA could claim funding for students who have not attained competency
- ▶ lack of segregation of duties, meaning lecturers could change student grades without supervision²⁹⁴

Such weaknesses in TAFE SA's resulting processes could be exploited for corrupt purposes.

That internal audit also observed that between January and December 2019, 4251 results were changed from Non-claimable to Claimable, far outweighing the 1191 claims changed to Non-claimable, with some lecturers found to have made more than 100 grade changes. The audit report did not explore the reasons for those changes, which could range from mere errors to irregularities in policy and procedure, or even corrupt conduct.²⁹⁵

Commendably, TAFE SA agreed to investigate the reasons for the large number of grade changes. TAFE SA updated its Resulting Policy in December 2019 to reset the focus on educational outcomes rather than the financial outcomes of resulting.²⁹⁶

However, these understandings of the way resulting practices produce financial outcomes for TAFE SA are not consistent with what the evaluation has come to understand about TAFE SA's funding arrangements. This inconsistency needs to be accounted for.

293: EXH 0796.

294: EXH 0330, pp.8-10.

295: EXH 0330.

296: EXH 0330.

TAFE SA's funding arrangements

VET funding was radically altered following the 2008 Council of Australian Governments agreement to open public VET funding to competition.

That change precipitated the state government's move to establish TAFE SA as a statutory corporation in 2012, enabling it to operate in a competitive commercial VET environment. To facilitate this, TAFE SA's governance arrangements were changed to a model of management known as the Funder-Owner-Purchaser-Provider model (FOPP) involving:

- ▶ Funder – the Treasurer
- ▶ Owner – Minister for Education
- ▶ Purchaser – Minister for Education (previously Minister for Innovation and Skills)
- ▶ Provider – TAFE SA Board and Executive

TAFE SA's incorporation also brought it into alignment with Competitive Neutrality Policy requirements under the *Government Business Enterprise (Competition) Act 1996* (SA). TAFE SA is also subject to the anti-competitive provisions of the *Competition and Consumer Act 2010* (Cth).²⁹⁷

As a public corporation, TAFE SA is subject to the *Public Corporations Act 1993* (SA). Under that Act, TAFE SA operates under a Ministerial Charter which broadly outlines the nature and scope of its commercial operations, and a Performance Statement which articulates TAFE SA's performance targets.²⁹⁸

TAFE SA's subsidised funding is administered through a Memorandum of Administrative Arrangement prepared each financial year between TAFE SA and the then Department of Innovation and Skills.²⁹⁹ That Agreement sets out TAFE SA's approved budget, structures payments for services, and directs the type and volume of qualifications to provide.

Funding arrangements between the Department and TAFE SA have been subject to considerable change over the years while TAFE SA was being transitioned to a competitive footing.³⁰⁰

The aim of various policies (such as the WorkReady policy of 2015) has been to gradually transition TAFE SA from being the primary recipient of government subsidies to a state of '*full contestability*', where it competes against private RTOs for funding.³⁰¹

That transition has proved difficult.

297: EXH 0396.

298: *Public Corporations Act 1993* (SA), ss 12 and 13.

299: That Department is now known as the Department for Innovation, Industry and Science. Up until March 2022, TAFE SA's funding arrangements involved both the Minister for Education (as the provider) and the Minister for Innovation and Skills (as the purchaser). The evaluation team understands those roles have been combined under the Minister for Education, Training and Skills.

300: Auditor-General's Annual Report, *Part C – Agency Audit Reports*, Report 8 of 2022 – TAFE SA, p.514.

301: EXH 0001, p.8.

A 2017 Statutory Authorities Review Committee Inquiry into TAFE SA observed that TAFE SA not only received significantly higher subsidies than other registered training organisations for delivering the same training, but also that a large proportion of subsidised places were quarantined for TAFE SA.³⁰² Private RTOs accused TAFE SA of enjoying '*preferential regulatory settings and discriminatory funding advantages*' that '*threatened the viability of private RTOs... as they were no longer able to compete against TAFE SA*'.³⁰³

After the 2018 election, TAFE SA's funding arrangements changed again. In its submission to the evaluation, the Board contended those changes affected the '*scope of courses on offer*' and increasingly TAFE SA was required to operate in a '*contestable market*'.³⁰⁴

The decision to move TAFE SA to market conditions was designed to make the organisation more efficient and accountable for its funding.

In November 2019, the Government approved the *TAFE SA Financial Management Framework*, jointly developed by the Department for Education (DE), Department of Treasury and Finance (DTF), The Department for Innovation and Skills (DIS) and TAFE SA. The Framework outlines the key principles of earned revenue for services delivered and full cost attribution subsidy pricing.³⁰⁵

The Chief Executive of the then Department for Innovation and Skills stated in his submission that COVID 19 had frustrated efforts to bring about '*full contestability*', but the 2021-22 agreement sought to '*re-establish activity based purchasing and the earned revenue principle*'.³⁰⁶

The full implications of TAFE SA's journey towards a wholly competitive footing in a contestable market are difficult to chart. However, the course set for TAFE SA appears to be as unrelenting as it is unattainable.

For a variety of reasons, TAFE SA sits apart from the wider VET ecosystem. It is not, or cannot be, a normal participant in the South Australian VET market. As the 2018 Strategic Capability Review observed, TAFE SA has an anomalous funding status because:

*[p]rice-based competition between TAFE SA and other providers that complies with the requirements of competition policy and competitive neutrality is not feasible across the full range of TAFE SA services.*³⁰⁷

In short, the attempt to shift TAFE SA to the same subsidy funding situation applied to private RTOs has never effectively come to fruition. This unpredictable and often precarious financial situation undoubtedly creates significant challenges for TAFE SA. Board members attested to constant funding ambiguity as TAFE SA's most significant source of risk.³⁰⁸

Yet the inability to shift TAFE SA towards fully contestable subsidy arrangements has perhaps spared TAFE SA from the corruption risks of subsidy manipulation seen at private RTOs.

302: SA Parliament, The Statutory Authorities Review Committee, *Inquiry into TAFE SA*, 67th Report, p.30.

303: SA Parliament, The Statutory Authorities Review Committee, *Inquiry into TAFE SA*, 67th Report, p.30.

304: EXH 0386.

305: EXH 0396. The evaluation requested a copy of that document, but was informed it could not be released due to it being 'Cabinet in confidence', see EXH 0716.

306: EXH 0396.

307: EXH 0003, p.30.

308: EXH 0410; EXH 0703.

Is TAFE SA's funding model at risk of corruption?

Despite some TAFE SA staff appearing to believe that TAFE SA is under pressure to report results in ways that are financially advantageous to the organisation, members of the TAFE SA Board and Executive were surprised to learn that the evaluation had chosen to examine the possibility of subsidy manipulation.

Those interviewees could not conceive of how TAFE SA's receipt of subsidies could be manipulated for financial advantage.³⁰⁹ As they explained, TAFE SA's funding has always been fixed, and until July 2021, it received one-twelfth of its funding each month.³¹⁰

Unlike private RTOs, TAFE SA is not funded according to the amount of training it delivers. Hence, it is not vulnerable to exploitation. TAFE SA would do well to make that clear to its staff.

The funding TAFE SA receives is always in accordance with its previously negotiated fixed monthly budget. TAFE SA must report to the Department the number of successfully completed units of competency it has delivered using fixed codes. The Department then pays TAFE SA according to a pricing model representing the cost associated with delivering those units of competency.

The pricing of that activity clearly does not equate with TAFE SA's fixed budget.

One submission explained that TAFE SA receives higher subsidies than non-government providers for the training it delivers because the subsidy price assumes additional costs for public sector '*employment terms and conditions, assets and expectations of the public provider*'. That submission notes '*an amount of 'residual payment' is paid to balance TAFE SA's accounts'*'.³¹¹

That 'residual' payment was described by a senior finance manager and others as the 'True-Up'.³¹² If there is a shortfall against TAFE SA's set monthly funding, this is reconciled each quarter when TAFE SA conducts the 'True-Up' to apply for residual funding.

It appears the Department requires TAFE SA to report its training activity to be assured it is receiving value for money, despite having already agreed to pay a fixed monthly amount regardless of the volume of training activity or outcomes provided by TAFE SA.

TAFE SA has made considerable headway in devising a pricing model which accurately reflects its actual costs of delivery. In the past, TAFE SA has not fully understood its costs for delivering training. After considerable effort, it is now in a position to accurately price its offerings. That is to be applauded.

Yet the funding arrangements in place for TAFE SA seem unnecessarily complex.

Those arrangements compel TAFE SA to report its training activity in a favourable light, all the while knowing it will be paid regardless of the training outcomes achieved. This is clearly susceptible to confusion and perverse incentives, as demonstrated by the view of some TAFE SA employees that the agency could be manipulating its training activity with a view to increasing its funding.

309: EXH 404; EXH 0405; EXH 0417.

310: EXH 0404.

311: EXH 0399.

312: EXH 0404.

While that view is not accurate, such perceptions may be affecting resulting practices at TAFE SA. TAFE SA cannot be assured that the pressure it is facing to show financial discipline and efficiency is not having flow on effects on lecturers who might elect to improperly pass students in the mistaken perception that their actions will balance the books.

Subsidies for vocational education and training have an unfortunate history of creating perverse incentives, often resulting in fraudulent and corrupt behaviours. Care needs to be taken to ensure that any future changes to TAFE SA's funding and subsidies regime does not create circumstances where perverse incentives take root.

That would be an unfortunate outcome, and a classic example of a perverse incentive arising from a poorly designed funding scheme.

While the Commission considers that TAFE SA's subsidy arrangements are not currently exposed to financial abuse, changing TAFE SA's funding arrangements to an activity-based model could enliven that risk.

TAFE SA invited to respond

The Commission invited TAFE SA to respond to a redacted copy of the *Received or Deceived* report, and provided TAFE SA with a series of observations and queries. These are summarised below:

- ▶ it is evident that TAFE SA has been expected for many years to gradually move closer to the competitive subsidy arrangements to which the private RTO market is subject.
- ▶ a transition to market parity with other RTOs would likely heighten the incentive for TAFE SA to inflate the reporting of training activity for improper gain in the manner observed in the private RTO sector if TAFE SA was unable to compete in a fully contestable market.
- ▶ that risk would be exacerbated by documented deficiencies in resulting practices.

TAFE SA advised that during the period of the relevant corruption investigation by the Commission, it had been directed by government to reduce volumes of training delivery so as to stimulate the development of a contestable market. It had faced many challenges in meeting its performance indicators and targets set out in various administrative instruments while being directed to reduce those delivery volumes.

TAFE SA confirmed the Commission's view that because its funding is not linked to performance targets or the delivery of specific VET volumes, it is not financially incentivised to manipulate students' achievement of competency in order to accelerate funding receipts.³¹³

³¹³: EXH 0471: TAFE SA detailed the controls in place to protect against improper or inaccurate resulting, including a Resulting Policy and Procedure applying to all staff to encourage consistent entering and reporting of results, an online course and Resulting Scenarios Guide, a Grade Change Process to ensure accurate recording of student results, and several audit programs conducted through the year with high-risk reports tabled in TAFE SA's Academic Governance Committee, and grade change audits undertaken by the Auditor-General.

Perverse incentives

In November 2022, the Commission published an *Integrity Spotlight* on the topic of perverse incentives and their relation to corruption.

Subsidy schemes are generally designed in order to incentivise a certain type of beneficial behaviour or activity. In the case of government subsidies to RTOs, the aim is to encourage the uptake of vocational education and training to support industry, employment and the economy. However, all incentive schemes can be undermined by unintended consequences.

The Commission warned:

The problem is that incentives are difficult to properly design and control, and when poorly designed they can direct people towards conduct which is evasive and dishonest, or opportunistic and exploitative.

... perverse incentives can manifest in overselling, under-supplying, misreporting outcomes, exploiting reward schemes, hiding mistakes to avoid penalties or otherwise manipulating contract terms. In extreme cases perverse incentives can encourage people to resort to corruption.³¹⁴

In many respects, TAFE SA will have minimal control over the ultimate design of its funding scheme. It will be incumbent upon TAFE SA to do the analytical work of determining how a subsidy or funding regime will affect their operations, might generate incentives for wrongdoing, and how those will ultimately be managed.

TAFE SA should keep the following points in mind when doing that analysis:

- ▶ What intended behaviours or outcomes is the subsidy/funding scheme designed to incentivise, shape or direct?
- ▶ What possible evasions, shortcuts, or improper methods might be deployed to achieve those ends?
- ▶ How would TAFE SA control against those improper methods being deployed?
- ▶ Is the outcome that is hoped for difficult or impossible to achieve?
- ▶ Can the incentives that the subsidy/funding scheme is designed to encourage be misunderstood, misconstrued or misinterpreted by those with responsibility to administer the scheme?
- ▶ Could the hoped for outcomes of the subsidy scheme be dishonestly achieved, or appear to be fulfilled without actually being fulfilled?

There is clear evidence that TAFE SA's funding arrangements are not currently susceptible to the same corrupt practices and manipulation risks observed in other RTOs that receive government subsidies. However, the Commission is not assured that TAFE SA will always be situated with negligible or non-existent subsidy manipulation risks.

³¹⁴: ICAC SA, *Integrity Spotlight: Perverse Incentives* (November 2022), see, <https://www.icac.sa.gov.au/education/education-resources/integrity-spotlight-perverse-incentives>.

In this regard, the Commission is encouraged that the TAFE SA Risk Appetite statement asserts the agency has a high appetite to influence VET policy, and a low risk appetite for a lack of understanding of the impact of funding changes.³¹⁵ That should place the agency in good stead to assess any exposure to corruption risk caused by future funding changes.

TAFE SA commit to a specific fraud and corruption assessment whenever substantial changes are made to its subsidy structures, funding arrangements, policy settings or financial governance instruments,³¹⁶ in order to determine whether and where they might have stimulated opportunities for exploitation.

RECOMMENDATION 23

TAFE SA commit to reviewing its results attribution practices to prevent, manage or mitigate any incentives for improper resulting among lecturers, and assess further opportunities to improve result monitoring and moderation.

RECOMMENDATION 24

315: EXH 0060, p.10.

316: A partial list includes The *TAFE SA Act 2012* and regulations, Ministerial Charter, Performance Statement, Purchasing Memorandum of Administrative Arrangement, Subsidised Training List, etc.



CHAPTER SEVEN

MANAGEMENT

OF STAFF

AND STUDENT

RELATIONSHIPS

Chapter seven:

Management of staff and student relationships

Introduction: Corruption risks in staff and student relations

The primary corruption risk arising between lecturers and students involves a lecturer soliciting or accepting bribes in return for exercising their powers to affect a student's outcomes. Numerous examples of such conduct have been observed internationally:

- ▶ An Italian architecture professor jailed for 10 years for demanding payments from students in return for passing exams³¹⁷
- ▶ A failing student at a British university jailed for attempting to bribe his tutor for a passing grade³¹⁸
- ▶ A New York university professor offering sham classes, soliciting bribes, and selling fake medical course certificates for \$1000³¹⁹
- ▶ The Dean of a United States college promising student scholarships and paid teaching appointments in exchange for lucrative contracts³²⁰
- ▶ Seven Italian tax law lecturers found to be systemically bestowing qualifications in exchange for favours or based on private and personal interests³²¹

Australia is not immune from such risks. In Western Australia, the Corruption and Crime Commission found a sessional academic at a West Australian university had groomed and sexually exploited students in exchange for favourable grades.³²²

317: See, <http://www.italianinsider.it/?q=node/9699> and <https://euroweeklynews.com/2021/01/10/italian-professor-jailed-for-10-years-over-student-bribery-scandal/>.

318: See, <https://www.bbc.com/news/uk-england-somerset-22269573>.

319: See, <https://nypost.com/2017/09/29/cuny-professor-allegedly-sold-fake-medical-certificates/>.

320: See, <https://www.nbcnews.com/news/us-news/former-university-southern-california-dean-pleads-guilty-political-bri-rcna48501>.

321: See, <https://www.thelocal.it/20170926/university-teachers-under-house-arrest-over-corruption-after-being-unmasked-by-an-english-academic/>.

322: WA CCC, *Report on the Investigation of Alleged Public Sector Misconduct by Dr Nasrul Ameer Ali as a Sessional Academic Employed by Curtin University of Technology*, (September 2010).

The Commission observed similar conduct when it investigated a former professor at a South Australian University who allegedly pressured a student to sign a false statutory declaration to avoid incurring a speeding fine. That former professor was charged and pleaded guilty to making a false declaration.³²³

A TAFE SA lecturer was convicted of dishonestly dealing with documents to benefit his brother with subsidised access to a TAFE SA course. The lecturer created falsified address details to ensure his brother satisfied two eligibility criteria for the award.³²⁴

Since 2013, the Commission has received allegations of TAFE SA lecturers bullying students, favouring students, sexually harassing or intimidating students, assaulting students, providing students with confidential information to confer unfair advantage, accepting gifts and benefits from students, and arranging unmerited employment opportunities for students.

Other forms of improper conduct can include:

- ▶ a lecturer failing to declare a conflict of interest involving students they teach
- ▶ a lecturer improperly providing confidential information to students, such as details of examination questions
- ▶ a public officer or student acting fraudulently in relation to the award of a certificate or qualification

323: ABC News 28, Rebecca Opie, "Renowned scientists convicted for pressuring student to help wife avoid speeding demerits" (April 2017) see, <https://www.abc.net.au/news/2017-04-28/professor-pressured-student-over-speeding-demerkit-points/8479942>

324: ICAC SA internal holdings.

Factors involved in staff and student corruption

As education and training providers control both the conferral of awards and qualifications, and the criteria by which they are measured, they are in a position of power over students.

Corruption risks are inherent in the imbalance of power between lecturers and students. Age differences, gender, sexuality, disability, migrant or refugee status, cultural background, whether English is a student's first language, whether a student is from a rural or remote location and living away from home and family while studying, financial pressures and low socio-economic status all increase students' vulnerability.³²⁵

International students comprise a particularly vulnerable student cohort.³²⁶

Those students may have financial, cultural, or family pressures placed upon them to pass, or face problems in retaining their student visas if they do not meet academic performance expectations. They may be isolated, and may be less willing to raise complaints against their lecturers for fear of not being allowed to continue their studies.

The risks of students seeking to corrupt education and training provision have been documented by integrity commissions since the 2010s.³²⁷

Those risks broadly involve academic, document and financial fraud. For example:

- ▶ students providing falsified qualifications to gain entry to Australian education providers
- ▶ academics accepting cheating and plagiarism and re-marking assessments of students who would otherwise fail
- ▶ academics seeking to exploit international students in return for favours or inducements³²⁸

Economist Robert Klitgaard's well known corruption equation emphasises the conditions in which corrupt conduct can emerge or flourish: '*Corruption = Monopoly + Discretion – Accountability*'.³²⁹

325: See for example, Productivity Commission *The Demand Driven University System: A Mixed Report Card*, (17 June 2019) <https://www.pc.gov.au/research/completed/university-report-card/university-report-card.pdf>. See also Tabatha Griffin 2014, 'Disadvantaged Learners and VET to higher education transitions', National Centre for Vocational Education Research, Occasional Paper.

326: WA CCC, *Report on the Investigation of Alleged Public Sector Misconduct by Dr Nasrul Ameer Ali as a Sessional Academic Employed by Curtin University of Technology* (September 2010) p.63.

327: NSW ICAC, *Learning the Hard Way: Managing Corruption Risks associated with International Students* (2015)

328: NSW ICAC, *Learning the Hard Way: Managing Corruption Risks associated with International Students*, (2015) pp.9-12.

329: Robert Klitgaard, 'International Cooperation Against Corruption', *Finance and Development*, 4, (March 1998) see, <https://www.imf.org/external/pubs/ft/fandd/1998/03/pdf/klitgaard.pdf>.

Educators are often solely responsible for their student cohort—which is to say, they are in a position of monopoly—and have high levels of discretionary power to pass or fail students.³³⁰ Controls such as double marking and moderation guard against the risk that lecturers might be in a position to abuse their powers, for example by accepting or soliciting a bribe.

Preventing corrupt conduct from arising between lecturers and students requires controls to reduce the monopoly and discretionary powers of lecturers and to increase lecturer accountability.

Corruption risks are heightened in education settings where there are staff who are not adequately supervised.³³¹ These include:

- ▶ a lack of managers on campus to oversee operations
- ▶ a number of small isolated regional and remote campuses where staff may work without close supervision
- ▶ workforce issues including a lack of qualified teachers in some rural and remote areas, as well as cuts in overall staffing levels

As discussed in Chapter 4, the Commission was told of Education Managers having as many as 60 direct reports from employees located on 12 different campuses spread throughout the state.³³² This suggests there may be gaps in supervision and support of staff, enlivening the risk that corrupt conduct may occur, or go unreported.

Other factors compound the possibility of underreporting.

Students are often reluctant to report the poor conduct of lecturers who have the power to determine whether they pass or fail. This is especially the case among vulnerable student cohorts such as international students, students from disadvantaged backgrounds, and students whose livelihood directly depends on acquiring a specified educational award. These cohorts are all present at TAFE SA.

Further, educational institutions may hesitate to address lecturer misconduct to protect their reputations, especially in the competitive commercial environments in which modern universities and vocational education providers operate.³³³

330: WA CCC, *Report on the Investigation of Alleged Public Sector Misconduct by Dr Nasrul Ameer Ali as a Sessional Academic Employed by Curtin University of Technology*, (September 2010) p.63.

331: WA CCC, *Report on the Investigation of Alleged Public Sector Misconduct by Dr Nasrul Ameer Ali as a Sessional Academic Employed by Curtin University of Technology*, (September 2010) p.61.

332: EXH 0378; EXH 0381; EXH 0401; EXH 0427; EXH 0486; EXH 0489; EXH 0493; EXH 0494; EXH 0495; EXH 0700.

333: The NSW ICAC's 2002 report, *Degrees of Risk*, noted universities tend to be 'reluctant' to acknowledge and address instances of lecturer misconduct, even when they are legally obliged to report them, and thereby allow the conduct to continue. Cited in WA CCC, *Report on the Investigation of Alleged Public Sector Misconduct by Dr Nasrul Ameer Ali as a Sessional Academic Employed by Curtin University of Technology*, (September 2010) p.63.

Teaching staff as TAFE SA's best asset

Both staff and students confirmed that lecturing staff are the lifeblood of TAFE SA.

The majority of the 505 staff members who responded to the evaluation survey described their colleagues as 'caring', 'dedicated' and 'passionate' about their teaching area. One respondent said '*TAFE SA's greatest asset is its staff*'. Those perceptions were echoed in the Commission's interviews. Board members, executives, senior managers, lecturers and administration staff all considered TAFE SA's educators as the best aspect of TAFE SA:

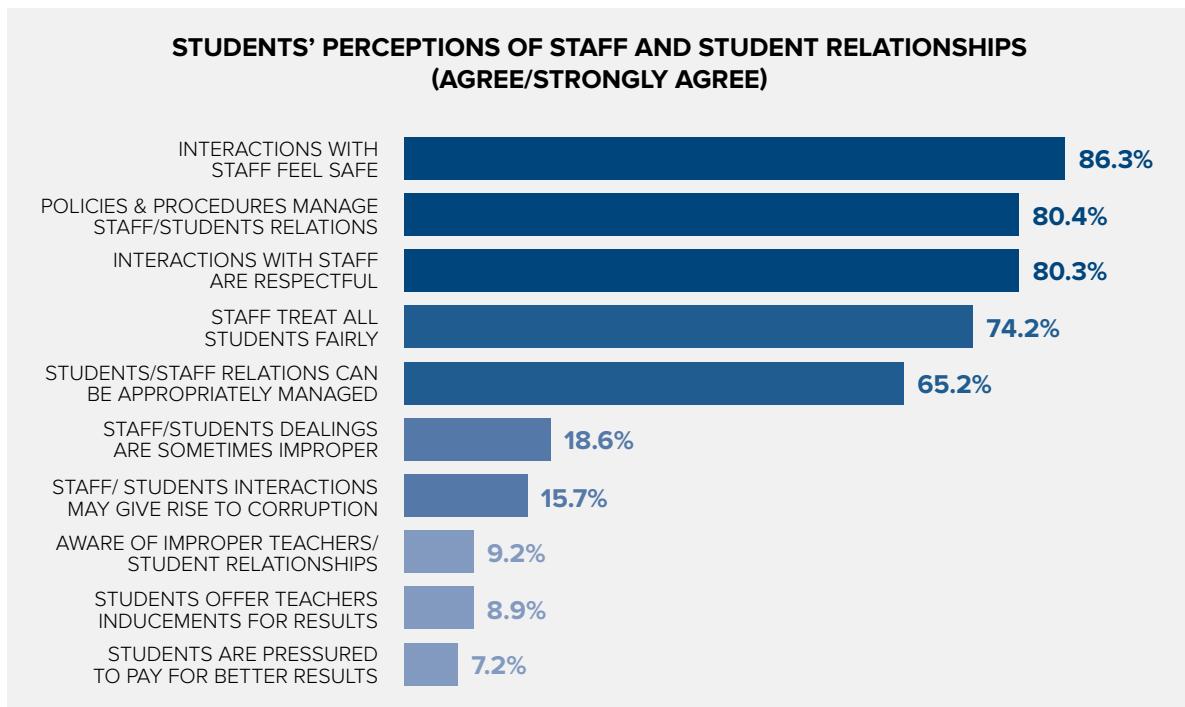
Teaching staff care so genuinely about students.³³⁴

There is outstanding teaching capability in this organisation.³³⁵

TAFE has really passionate people working at it. They have good outcomes for students.³³⁶

Students expressed very similar views.

Of 406 students who completed the Evaluation Student Survey, approximately 87% viewed their lecturers as dedicated and knowledgeable, commenting that teaching staff are 'professional', 'respectful', 'supportive' and 'understanding'. Students frequently responded that they highly valued the practical 'hands-on' learning and flexible delivery methods offered by TAFE SA.



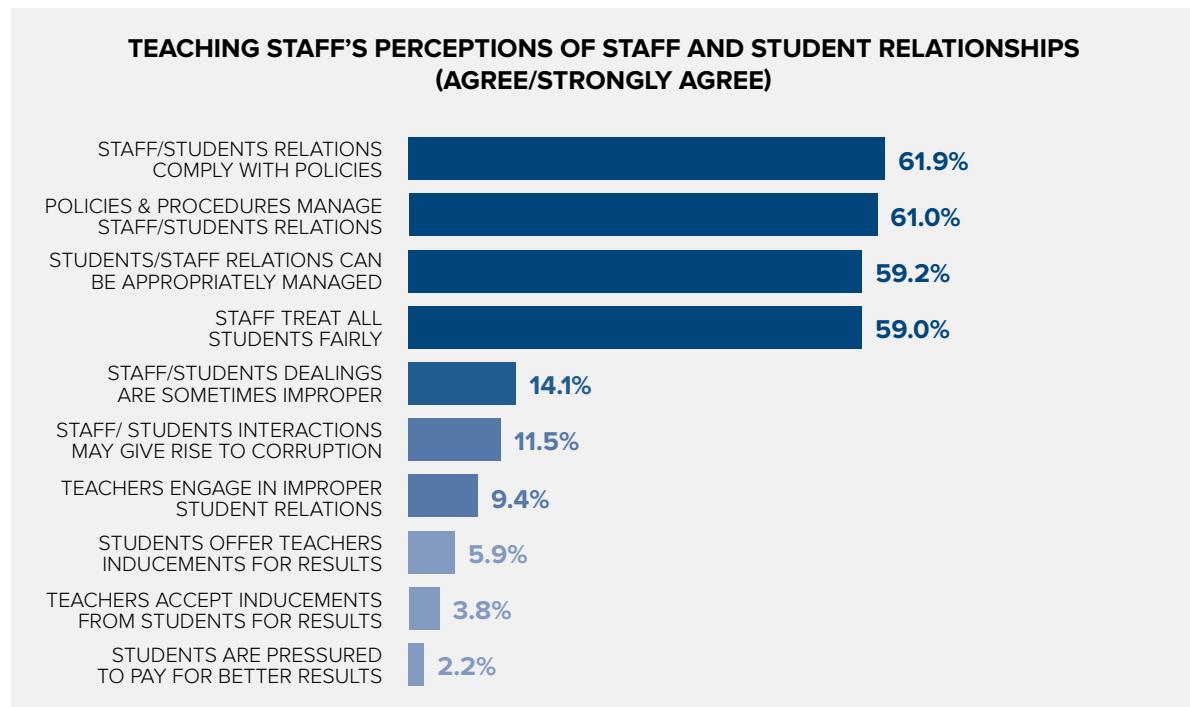
334: EXH 0430.

335: EXH 0405.

336: EXH 0703.

However, a very small number of students told the evaluation team they had experienced or were aware of unprofessional, inappropriate, discriminatory or unsafe conduct or comments by lecturers that made them feel unsafe or uncomfortable.

Additionally, it was troubling that some staff who responded to the evaluation survey said they were aware of teaching staff engaging in improper relationships with students.



Those respondents described conduct ranging from inappropriate touching or sexual jokes, to lecturers having sex with students. One of those was an historical example, and the Commission was told the staff member in question was sanctioned and had left TAFE SA.

However, other instances reported to the evaluation survey appeared to be contemporaneous:

A TAFE SA staff member that i know has had multiple relationships with different students. I dont see this as ok if they are teacher and student.

... there are many instances of lecturers having sexual relationships with their students - even if there is no favour given to these students eg passing without doing assessments, the perception of other students and colleagues is that this is happening.³³⁷

This is troubling.

³³⁷: EXH 0796.

Finally, some respondents to the evaluation survey described feeling pressured to pass international students as well as domestic students who had perhaps not always demonstrated the required proficiency:

Some lecturing staff will strongly encourage lecturers to pass students because of the ramifications for students if they do not pass. (International students/cadets etc.) This is a minority though, overall staff treat all students fairly.

There is always pressure to pass the International students in particular. Very worrying.

... however the greater risk is of students exploiting the complaints process and staff giving passes to keep students happy and prevent them from raising ministerial complaints, which I have observed occurring.³³⁸

Those pressures can enliven corruption risk in relations between staff and students.

Managing lecturer behaviour

The Commission is of the view that TAFE SA may have a limited appetite to address improper lecturer behaviour.

During the course of the evaluation, two matters involving the conduct of lecturers came to the Commission's attention.

Neither example constituted corruption.

One matter concerned allegations of favouritism or discrimination towards students and remains the subject of an Ombudsman SA investigation into whether TAFE SA followed relevant disciplinary and /or complaint procedures and whether TAFE SA appropriately communicated throughout the complaints handling process.³³⁹

The Commission does not intend to pre-empt the Ombudsman's findings in relation to that matter.

However, the evaluation team reviewed documents relevant to that matter for the purposes of the evaluation, and has some reservations about the manner in which the lecturer's conduct was managed by TAFE SA. Such allegations must be thoroughly investigated to signal that TAFE SA will not tolerate lecturer conduct that does not meet the highest standards of integrity.

The other matter involved allegations of potential exploitation or grooming of students. TAFE SA informed the Commission that the allegations were largely dismissed due to the conduct involving '*activities that are occurring outside of the TAFE SA teaching and learning environment*', noting there had been no other complaints involving that lecturer that would warrant additional investigation.

It was apparent to the Commission that TAFE SA had failed to properly recognise how the lecturer's interests outside of TAFE SA might be affecting the performance of their duties, or give rise to an alleged conflict of interest. It is the Commission's view that TAFE SA misread the allegations as relevant only to the lecturer's external personal interests, failing to see TAFE SA students may be being groomed.

338: EXH 0796.

339: EXH 0367.

The Commission wrote to TAFE SA to express reservations about its assessment of the matter. TAFE SA advised it had conducted further inquiries, but concluded the '*lack of substantiating evidence resulting from the preliminary investigation*' meant it would be '*inappropriate to interview current students due to procedural fairness and the significant detrimental effect this may cause to [redacted]’s professional reputation and trust as a Lecturer with TAFE SA!*'.³⁴⁰

No further investigation was conducted.³⁴¹

In the Commission’s view, TAFE SA appeared to focus more on protecting the lecturer’s reputation than on thoroughly investigating the allegations. Additionally, the Commission was troubled by the limited understanding of procedural fairness expressed by TAFE SA.

In its August 2022 *Integrity Spotlight Advisory: Conducting Internal Investigations*, the Commission recognised that investigations can be sensitive and may have the potential to cause a person undue reputational harm.³⁴²

However, failing to conduct a proper investigation to determine the truth of an allegation does not equate to offering a person under investigation procedural fairness.

Procedural fairness requires that:

- ▶ a decision maker is impartial, and free from bias (the rule against bias)
- ▶ a person whose rights or interests may be affected by a proposed decision receives a fair hearing, including the opportunity to respond to any allegations and material that could influence the decision (the hearing rule)
- ▶ findings are based on relevant and logical evidence (the no evidence rule)

Procedural fairness does not mean that investigations should not be conducted because of concern for a person’s reputation.

The Commission agrees that potential adverse consequences to a person’s reputation need to be considered and managed. But procedural fairness is not a reason to avoid investigation of sensitive matters.

340: EXH 0714.

341: TAFE SA reported that the lecturer in question was required to attend a meeting to refresh their understanding of obligations set out in the *Code of Ethics for the South Australian Public Sector*, TAFE SA Professional Boundaries for Lecturers Guidelines, Conflicts of Interest Procedure, and Respectful Behaviours Policy, and to undertake refresher training in respect of some of those obligations.

342: ICAC SA, *Integrity Spotlight: Conducting Internal Investigations*, (June 2022) See, <https://www.icac.sa.gov.au/education/education-resources/integrity-spotlight-conducting-internal-investigations>.

Awareness of corruption risk

While neither example of the conduct discussed above constitutes corruption, the substance of the allegations illustrates the risk. Where lecturers hold discretionary power, or have private associations or biases, they may engage in conduct without proper regard for the fair exercise of their duties.

Such conduct has the potential to either adversely affect or favour students. If any such conduct were to occur, TAFE SA would likely face significant damage to its reputation and brand.

It was apparent to the Commission that TAFE SA struggled to conceive how corrupt conduct of that kind could arise.

Many of those interviewed told us they did not believe there were any corruption issues at TAFE SA. That mindset is not uncommon in public administration.

Throughout more than 40 interviews conducted by the evaluation team, it appeared that TAFE SA Board Directors, Executives, managers and lecturers struggled to articulate any corruption risk in regard to relations between staff and students. When pressed, Board members, Executives, and senior managers alike told the Commission the likelihood of any such corrupt conduct occurring was at best remote.³⁴³

This is troubling as Board Directors, Executives, senior managers, teaching and administrative staff and students all nominated lecturers as TAFE SA's principal asset.

The potential for a rogue actor to devastate the reputation of TAFE SA's principal asset should be better understood.

TAFE SA's corruption controls in managing staff and student relations

The Commission reviewed many policy documents provided by TAFE SA in respect of managing the risks in relations between staff and students.

It was pleasing to see that TAFE SA has in place a comprehensive suite of policies, procedures and guidance including Professional Boundaries for Lecturers Guidelines, Close Relationships, Respectful Behaviours, and Sexual Assault and Sexual Harassment (SASH).³⁴⁴ The SASH policy was introduced in 2021, and the Professional Boundaries for Lecturers Guidelines were communicated to staff via the TAFE SA Intranet in October 2022.

Together, those policies provide clear definitions of improper conduct including grooming, and guidance on how to conduct appropriate relationships and set boundaries in relationships with students.

For example, lecturers are encouraged to use authorised means to communicate with students, to be transparent in recording outcomes of any meetings with students, to avoid meeting students off-campus or alone, and to monitor the responsible use of alcohol by students at graduations or similar events.

³⁴³: EXH 0413; EXH 0417; EXH 0421; EXH 0493; EXH 0703.

³⁴⁴: EXH 0189; EXH 0415; EXH 0450; EXH 0665.

Staff are also expected to abide by TAFE SA's Code of Practice.³⁴⁵

The suite of policies shows TAFE SA is aware of the inherent power differential that exists in any relationship involving educators and students, and is taking steps to reduce the potential for corrupt conduct to emerge from that power dynamic.

In focusing on professional boundaries and respectful relations between staff and students these policy documents indirectly address the risks of bribery and corruption between lecturers and students, though they do not explicitly contemplate those forms of deceitful conduct.

There is room for TAFE SA to better incorporate bribery, inducement, corruption and abuse of public officer risks into that policy suite, especially the Professional Boundaries for Lecturers Guidelines.

One executive also told the Commission that staff are not explicitly trained on the integrity risks involving relations between staff and students, with TAFE SA relying on policies and procedures to train the educators about those risks.³⁴⁶ The Commission acknowledges that the Professional Boundaries for Lecturers Guidelines have only recently been disseminated to staff, but there may be further work needed to socialise those policy expectations through training.

Educator training

New educators are well supported at TAFE SA. Lecturers mentor each other, offering peer support.³⁴⁷

TAFE SA's Centre for Educator Practice has developed a comprehensive 40 week training program offering modules on professional identity, student-centred and adult learning approaches; assessment, validation and moderation of student results; resulting, reporting, and recognition of prior learning; and use of the Student Information System to record student grades.³⁴⁸

The Public Sector Code of Ethics and ICAC Conflicts of Interest training are also offered. However, 40% of the Executive group had not completed it, 30% of managers and educators had yet to complete it, and 21% of non-educators still had to complete the training.³⁴⁹ This may suggest high levels of new staff and staff turnover, or that staff are undertaking but are yet to complete the training.

Additionally, TAFE SA has up to date policies, procedures and guidance in place to safeguard the integrity of student results and conferral of parchments.³⁵⁰ The Resulting Policy and Procedure explain what grades are to be recorded and who approves them.

Lecturers are also provided with a comprehensive Resulting Scenarios Guide offering 21 examples of where results of Pass, Withdrawn, Fail or Not Start must be issued.³⁵¹ The scenarios include examples of Recognition of Prior Learning processes and credit transfer applications for those students who may have completed some parts of a course either in an earlier year at TAFE SA or at another training organisation.

345: EXH 0663.

346: EXH 0411.

347: EXH 0639.

348: EXH 0083; EXH 0638.

349: EXH 0083.

350: EXH 0448; EXH 0449; EXH 0718.

351: EXH 0718.

Lecturers told the Commission that controls were in place to guard against potentially corrupt conduct arising in student resulting.

There are two lecturers involved in moderating and recording student results, and any requests for a change of grade are checked off by an Education Manager.³⁵² A separate data services team enters grade changes (where necessary) in the student information system.³⁵³ Samples of results are regularly checked with a senior member of the Academic Quality Team.³⁵⁴

However, it is not clear that all existing educators have access to the New Educator training. Several education staff who spoke to the evaluation team advised they had other qualifications that meant they did not have to do this training, or that they had been at TAFE SA for a long time and did not have to complete the program which was being trialled and offered only to new educators.³⁵⁵

Additionally, it was not clear to the Commission that casual teaching staff have access to the program, as their employment may not extend throughout the 40 week teaching year.

Management of student complaints at TAFE SA

One of the best methods to both detect and control for improper lecturer behaviour is to have an easy and accessible student complaints system. TAFE SA has been reviewing and updating its student complaints and feedback process known as Talk, Tell, Transform.³⁵⁶

TAFE SA acknowledges that the existing system is '*fragmented*' and '*a bit sporadic*'.³⁵⁷ As one team leader told the evaluation team, the split in administrative teams dealing with student services following the restructure meant student functions had been siloed and no one had a 360 degree view of customer interactions.³⁵⁸

Student Experience was the only team supposed to have editing rights to the Student Information System (SIS), but teams in the business units had retained editing access, resulting in duplication and confusion. That member of staff argued business unit teams' access to the SIS should be restricted to read only access³⁵⁹ to ensure the two teams were not separately actioning student complaints and creating confusing outcomes for the student.

The new system known as MyCustomer will give the Student Experience team greater visibility over the lifecycle of the complaint and allow better reporting of trends or areas of concern. Additionally, TAFE SA is currently drafting a Student Voice Framework to better engage with and support students.

³⁵²: EXH 0417; EXH 0486.

³⁵³: EXH 0330, p.3.

³⁵⁴: EXH 0489. The Commission was told 150 results from a course with 200 students would comprise a sample for checking.

³⁵⁵: EXH 0486; EXH 0496.

³⁵⁶: EXH 0715.

³⁵⁷: EXH 0490.

³⁵⁸: EXH 0699.

³⁵⁹: Except for teams working in Fee For Service who should retain full access.

The existing student complaints handling framework is supported by a Customer Resolution and Feedback Policy and Customer Resolution and Feedback Procedure,³⁶⁰ which aim to standardise the management and reporting of student complaints across the business.

Complaints concerning academic matters or allegations of bullying or harassment among students are separately dealt with.

The current complaints handling framework is guided by the key principle of natural justice, with frontline staff attempting to provide early resolution of the matter. More complex matters are considered ‘disputes’ and escalated to a senior manager or executive. Students have the right of appeal after a review or investigation. If a student is not satisfied with the result, the complaint can be referred to an external agency such as the SA Skills Commissioner, Ombudsman SA, Equal Opportunity Commissioner or Minister for Education.

On its face, the system appears to offer a robust mechanism for addressing student complaints.

However, the policy and procedure documents are undated, and therefore it is unclear when they are to be reviewed.

The Customer Resolution and Feedback Procedure is clearly set out, explaining what must happen at each step in the process, but at 17 pages in length, it may be unwieldy or laborious to follow.

While it appears comprehensive, anyone using it must read several pages setting out definitions, and the procedure’s commitment to values and alignment with standards, before a process for complaints management is offered on page seven.

As this report highlighted earlier, many comments provided by evaluation survey respondents underlined the complexity of some policies and procedures. Similarly, a small number of student respondents to the Evaluation of TAFE SA Student Survey expressed dissatisfaction with their experience of raising a complaint at TAFE SA.³⁶¹

Most of those reported either no change or no outcome; a lack of follow up or a delay in responding to the complaint; or a lack of trust in the student complaints system. A small number of students told the Commission they had received no information in response to their complaint.

360: EXH 0458.

361: Fewer than 4% of student participants commented on their experience of lodging a complaint.

It was not clear to the Commission how complaints about lecturer conduct might be reported to or reviewed by the Board. While student complaints relating to courses are analysed by the Board's Academic Quality Committee, or reported to the Higher Education Academic Board or external agencies where appropriate,³⁶² there was no specific person or unit responsible for overseeing the investigation of serious complaints of the kind received by the Commission.

.....

TAFE SA update its lecturer behaviour and staff/student relations policy suite (especially the Professional Boundaries for Lecturers Guidelines) to reflect specific risks of bribery, inducement, threat, unduly favourable treatment, and abuse of public office risks. TAFE SA consider explicit training for staff to support the recently introduced Professional Boundaries for Lecturers Guidelines.

RECOMMENDATION 25

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TAFE SA ensure all complaints and reports of unsatisfactory lecturer conduct, as well as action taken to address the conduct, be referred to and monitored by a dedicated integrity officer such as a Principal Integrity Officer. This should be supported by periodic reporting to the People and Culture Committee.

RECOMMENDATION 26

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362: EXH 0458.



CHAPTER EIGHT

COMMERCIAL

ACTIVITIES

AND INDUSTRY

ENGAGEMENT

Chapter eight:

Commercial activities and industry engagement

Introduction

The Queensland Crime and Corruption Commission observed the following risks in relationships between government agencies and the private sector:

Increased interaction with the private sector can heighten the risk of public sector employees being targeted or 'groomed'. Private sector entities may use specific strategies to 'groom' or target government employees to gain valuable information or to influence procurement or recruitment decisions.

Increased engagement and partnerships with the private sector can heighten corruption risks, particularly risks associated with conflicts of interest, procurement fraud and the misappropriation of public funds.

Movement of personnel between sectors. The movement of employees between the private and public sectors heightens the risk of certain corrupt activities, including conflicts of interest, the misuse of confidential information, procurement fraud and misuse of authority. Public sector agencies should ensure these risks are identified and managed during appointment and separation processes.³⁶³

Where agencies engage with industry, there is a risk that industries might influence agency operations, or receive beneficial treatment from the agency. The main risks involve public officers:

- ▶ forming inappropriate relations with industry participants or businesses and using their position to favour those industry participants
- ▶ accepting or soliciting money or benefits from industry or disclosing confidential information to industry
- ▶ failing to disclose their industry connections while engaging with those industries in their public roles
- ▶ leveraging commercial information or intellectual property to secure employment or other financial advantages with industry
- ▶ misusing agency resources to benefit industry where they have a personal interest in that industry or business.

Public authorities who undertake commercial activities to generate income are at risk of those incomes being misappropriated or commercial opportunities being co-opted or redirected to other entities.

363: QLD CCC, Prevention in focus - *Current and emerging risks: opportunities to detect, intervene and prevent corruption*, (June 2020) pp.2-3, see, <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Prevention-in-focus-Current-and-emerging-corruption-risks.pdf>.

Public officers employed to develop an agency's commercial dealings may fail to disclose prior relationships or develop relationships with entities the agency is doing business with. Or they might act preferentially to benefit entities with which the agency has commercial relations, or accept or solicit gifts and benefits from clients of the agency.

Ensuring sound business cases exist for commercial dealings, and that relations between agency staff and clients are well managed, with staff responsibilities clearly set out, are effective controls against those risks.

The agency must have the ability to 'ring fence' the agency's commercial operations from its core functions, for example by segregating and rotating relevant staff. Ethics walls or structured information barriers can also prevent the flow of restricted information between one group and another.³⁶⁴

Agencies should also have robust processes in place to manage conflicts of interest among staff involved in commercial activities, including establishing a gifts register, and maintaining and regularly updating a register of interests.

Clear policies and procedures for developing and approving commercial activities or opportunities, providing statements of business ethics, and ensuring Audit and Risk committees have visibility of all commercial activities also guard against corruption risks emerging in an agency's commercial activities.

Interstate observations

Improper commercial activities in the VET sector include the 2008 investigation of a former Director-General of the Queensland Department of Education, Training and the Arts who allegedly misused his position to help establish a private skills training company. The conduct involved disseminating in-confidence departmental information, seeking to 'poach' TAFE and departmental staff for the enterprise, and directing departmental staff to provide Departmental materials to the business.

The Queensland Crime and Corruption Commission considered the officer had breached his duty to act in the public interest and placed himself in a position of conflict of interest because of the extent of his assistance and the personal nature of that enterprise.³⁶⁵

In 2017, the Victorian Independent Broad-based Anti-corruption Commission (IBAC) investigated allegations of serious corruption involving the Victorian vocational education and training and transport sectors, in respect of activities at the South West Institute of TAFE and Bendigo Kangan Institute. The investigation found that a TAFE Executive Manager misused his position to interfere with the award of qualifications in Training and Assessment to a private training provider. That private provider intended to fraudulently claim government training funds for tuition to 'ghost' engineering students whose records had been fabricated.³⁶⁶

364: NSW ICAC, *Probity aspects of ethics walls: guidance for dealing with commercial activities and other complex scenarios*, (October 2022) see, <https://www.icac.nsw.gov.au/prevention/corruption-prevention-publications/latest-corruption-prevention-publications/probity-aspects-of-ethics-walls-guidance-for-dealing-with-commercial-activities-and-other-complex-scenarios>.

365: QLD CCC, *Public Duty, Private Interests: Issues in pre-separation conduct and post-separation employment for the Queensland public sector* (December 2008), see, <https://www.ccc.qld.gov.au/sites/default/files/Docs/Public-Hearings/Separation-issues-in-the-Queensland-public-sector/Public-duty-private-interests-Report-2008.pdf>.

366: VIC IBAC, *Operation Lansdowne An investigation into allegations of serious corruption involving Victorian vocational education and training, and public transport sectors* (December 2017), see, https://www.parliament.vic.gov.au/file_uploads/Operation_Lansdowne_special_report_081217_M6WsN389.pdf.

Commission observations

Pleasingly, the Commission has not observed any impropriety in relation to TAFE SA's commercial activities or industry engagements.

However, it has observed questionable conduct among other educational agencies which could conceivably occur at TAFE SA:

- ▶ A research associate employed by a university research centre set up a business in competition with the research centre, and tried to redirect the research centre's clients to that business.³⁶⁷
- ▶ A high school teacher who had co-developed educational products during a research partnership with a university allegedly transferred the intellectual property rights for those products to an international business.³⁶⁸
- ▶ A university lecturer allegedly developed publications derived from the university's freely available educational resources and then instructed students to source and pay for those materials, so as to receive royalties and other benefits. That lecturer failed to declare a financial interest in the resources, which students in prior years of the course had not had to pay for.³⁶⁹
- ▶ An employee of a university's business and industry engagement unit developed a relationship with a business the university was liaising with, and started volunteering consultancy services to that business. That officer failed to disclose their interest in that business, with an investigation finding insufficiencies in the university's management of secondary employment and conflicts of interest arising from secondary employments.³⁷⁰

Additionally, several respondents to the evaluation survey suggested a business unit of TAFE SA might be operating a business using TAFE SA resources. The Commission reported that information to the Office for Public Integrity, which referred the matter back to the Commission for investigation.

That investigation found no evidence of corrupt activity. The allegations are set out below.

A workgroup at a TAFE SA campus was alleged to be running a 'pirate' or 'private' TAFE. The group was established by a former senior lecturer who had allegedly recruited family and close acquaintances to public roles, employing them under Recognition of Prior Learning provisions he approved. Those recruitments were allegedly supported by the Education Manager.

That former senior lecturer and former Education Manager also worked for a private company in the same industry for which they taught at TAFE SA. The company allegedly had connections to TAFE SA staff, and was alleged to be offering courses which TAFE SA did not offer, on TAFE SA premises and using TAFE SA lecturers' worktime. Students recruited to those courses were reportedly seeking the assistance of TAFE SA administrative staff who were unaware of those course offerings.

367: ICAC SA internal holdings.

368: ICAC SA internal holdings.

369: ICAC SA internal holdings.

370: ICAC SA internal holdings.

Allegations received by the Commission since 2018 about people in this workgroup concerned:

- ▶ nepotism in recruitment
- ▶ bullying and harassment
- ▶ improper use of ‘recognition of prior learning’ processes
- ▶ misuse of government resources and undertaking private business activity during work time
- ▶ falsifying secondary employment approval forms and failing to declare conflicts of interest

During the evaluation, an online booking portal specific to that workgroup and branded with the TAFE SA logo was found, which allowed students to enrol in short courses and/or book assessment modules. That site appeared to be ad hoc and did not appear to be hosted by the official TAFE SA website. Adding further to suspicions, the site listed lecturers who had resigned from TAFE SA during misconduct investigations.

The investigation established that the booking portal developed was authorised by TAFE SA and had been procured for the workgroup’s exclusive use in June 2019, along with similar externally hosted, web-based booking and scheduling services used by four other workgroups. TAFE SA advised that individual workgroups had a high degree of flexibility to source and pay for software programs and information technology support before 2019.

However, there appeared to be significant opportunity for motivated TAFE SA staff to improperly establish private businesses offering similar services to TAFE SA’s offerings using TAFE SA’s intellectual property or resources. Additionally, the investigation revealed vulnerabilities as a result of poorly developed or poorly monitored Information Technology (IT) systems.

Those systems were described to Commission investigators as TAFE SA’s ‘*shadow IT*’, with TAFE SA staff admitting they could pose data storage risks, especially in terms of improper access to confidential student information and academic results. It was not apparent that TAFE SA was managing the risk associated with students’ personal information being stored on a web server based off-shore.

TAFE SA would do well to consider whether its brand, reputation and services are being appropriately communicated through those booking sites, and whether all educational activities offered through the sites are legitimate.

Pleasingly, TAFE SA’s IT service delivery changed in 2019 to provide controls for approving and using new computer programs and software. TAFE SA has also recently acquired an enterprise-wide booking and scheduling system, which should eliminate the need for workgroups to operate potentially risky off-shore systems.

TAFE SA to conduct an audit of past ICT system procurements across all workgroups, close down all systems and services which are obsolete, unnecessary or present risks to TAFE SA’s brand or information, and transition services to TAFE SA’s new enterprise booking/scheduling software.

RECOMMENDATION 27

Fee For Service

An increasing proportion of TAFE SA's revenue is derived from Fee For Service activities. The TAFE SA Strategic Plan 2019-2022 aims to increase Fee For Service revenue and provide a financial return to government for those services.³⁷¹

Fee For Service funds are paid by third parties such as industries, organisations, businesses, sole traders or students, for specific education and training services targeted to an industry or business's needs.³⁷²

Examples of Fee For Service activities include provision of training, apprentice and traineeship programs, and industry placements for various businesses across numerous industries such as defence, electrical, automotive, medical, therapeutic, IT and technological. Testimonials on the TAFE SA website detail the close connections forged between those clients and TAFE SA.³⁷³

In May 2021, TAFE SA finalised an internal audit of its Fee For Service arrangements. The Commission is encouraged by this development, and by management's commitment to act on the audit's findings.

The audit suggested a number of improvements:

- ▶ more guidance and definition of hybrid commercial agreements which combine Fee For Service and subsidised revenue sources was necessary, as was a more accurate pricing tool
- ▶ better Fee for Service contract checklists and a more accurate pricing tool were needed, as well as opportunities to provide more detail on transnational Fee For Service arrangements
- ▶ there was misalignment between the Fee For Service risk matrix and TAFE SA's risk management framework
- ▶ there were variations in invoicing processes by business units, clients and staff, lack of clarity about ownership of those processes, and disparate approaches to workforce planning among business units which might affect resourcing for Fee For Service contracts
- ▶ there was no centralised or consistent approach to document management of Fee For Service activities, and a lack of review of Fee For Service activities³⁷⁴

TAFE SA is to be commended for auditing a revenue generating function vulnerable to potential corruption. Actions to tighten the function were either fully implemented or nearing to completion, with a general view that the Fee For Service function had been professionalised in the last two years.³⁷⁵

However, the Commission wonders why the risk audit was almost completely silent on fraud and corruption risks. The audit considers various complexities and vulnerabilities in Fee For Service activity, but their cumulative effect suggests that activity is more structurally exposed and susceptible to corruption than the audit allows.

³⁷¹: EXH 0012; EXH 0762. The Auditor-General reported TAFE SA's sales/fee-for-service income for 2021-22 was \$45 million, of which \$27 million was received from the Commonwealth Government for the Adult Migrant English Program (AMEP) and Skills for Education and Employment (SEE) program. See *Report of the Auditor-General, Report 8 of 2022*, Part C: Agency audit reports, p.517.

³⁷²: EXH 0327.

³⁷³: TAFE SA Industry and Education Partnerships, available: <https://www.tafesa.edu.au/industry/partnerships>.

³⁷⁴: EXH 0327.

³⁷⁵: EXH 0468.

One Executive Director said the risk of exploitation in Fee for Service activity was neither something they had encountered nor a major concern. She said the biggest challenge was that a contract might be drawn up to train 100 attendees, but if only 80 people turned up, the activity would make a loss.³⁷⁶

The Commission would like to see more focus on the risk that undeclared conflicts of interest might pose to this function at all role levels detailed in the Educational Commercial Revenue Policy.³⁷⁷

The Commission was told conflicts of interest were declared, and separations and controls were in place to avoid situations of conflict or undue influence. There was some risk in Board members having connections with organisations TAFE SA approaches for Fee For Service opportunities, but there had not been any conflicts of interest.³⁷⁸

One manager agreed conflict of interest management could be more central to Fee For Service activity. He recalled having some training on managing the risk of improper relationships but could not name that training.³⁷⁹

The Education Partnerships team uses a Customer Relationship Manager system to pitch, negotiate, store information about, track and report on Fee For Service opportunities. However, the system was not integrated with other systems such as the Contract Management System and General Ledger, which could cause inconsistencies or gaps in information and visibility.³⁸⁰

Administrative officers in Fee For Service said they were looking forward to the completion of a pilot IT project that would merge the various systems and provide visibility over the full contract cycle. Asked how those systems might be used to monitor conflicts of interest, they told the Commission the system could store conflicts of interest information and track interactions with industry. However, determining what would comprise a relevant interaction with industry would depend on individual judgement.³⁸¹

The Education Partnerships team was encouraged by the recent acquisition of AdobeSign as a document management and contract execution tool to allow tracking and auditing of documents and provide transparent workflows.³⁸²

Members of that workgroup hoped the system could be rolled out across the organisation to solve issues related to information loss and storage difficulties in accessing documents. They observed that weaknesses in information and document management had been compounded by each TAFE SA site implementing its own document management systems.³⁸³

The Commission is relatively assured that TAFE SA's Fee For Service activities are not unusually vulnerable to corruption. The sales culture is moderate, the costing and budget control is sound, relevant policies and procedures are in place, visibility over the function is improving, and no one person holds excessive discretionary decision making power.

That said, the function will always be structurally exposed to corruption and fraud risk, and there are opportunities to strengthen its integrity.

376: EXH 0420.

377: EXH 0613.

378: EXH 0468; EXH 0470.

379: EXH 0470.

380: EXH 0327.

381: EXH 0469.

382: EXH 0469; EXH 0470.

383: EXH 0469.

The Commission suggests that TAFE SA continue its work in the refinement and enhancement of its Fee For Service costing, budgeting, and business case processes. The Commission also suggests TAFE SA explore ways to better improve documentation and information management processes in the Fee For Service function. It would also be useful for TAFE SA to develop a guidance document setting out TAFE SA's approach to business ethics and appropriate industry engagement.

TAFE SA seek to strengthen its Fee For Service function by:

- ▶ further 'ring fencing' the function to ensure confidential or sensitive commercial information does not move too freely among staff and teams at the agency.
- ▶ amending the Educational Commercial Revenue Policy to include regular processes to manage conflicts of interest, and provide staff with regular opportunities to identify and declare any conflicts. Conflict of Interest policy expectations should be set out in the Educational Commercial Revenue Policy.
- ▶ including the Gifts and Benefits Policy and register in the Fee For Service function, and set out expectations in the Educational Commercial Revenue Policy.
- ▶ implementing a staff register of interests to be updated and consulted during revenue generating activities.

RECOMMENDATION 28

Strategic industry partnerships

Another area of commercial interest for TAFE SA occurs under the banner of Strategic Industry Partnerships, housed in the Academic Development, Quality Teaching and Learning directorate.

An industry partnerships senior manager said the team spearheaded TAFE SA's commitment to ensure industry currency in its course offerings. The team conducts training needs analyses for emerging technology and cutting edge industries such as renewable energy and hydrogen, outlines industry requirements, captures industry insights, and develops industry engagement tools.³⁸⁴

TAFE SA is a key stakeholder in the state's future workforce and skills planning, valued for its industry insights, and acting as a skills and industry advocate and consultant, which it conducts as Fee For Service activity.³⁸⁵ Its role is to:

*ensure TAFE SA is positioned to provide training and qualifications that continue to meet the changing needs of industry... [and] provide industry engagement support, advice, intelligence and consultation to Educational Workgroups and other TAFE SA stakeholders.*³⁸⁶

Strategic Industry Partnerships provides advice to workgroups on sustainable industry engagement, working with industry associations, and industry currency for educators. The section also develops and undertakes partnerships, industry connections and applied research activities, including deep dive training needs analyses.³⁸⁷

Strategic Industry Partnerships was set up several years ago to focus on partnering the defence industry, especially in naval shipbuilding, but extended that model to industries involved in renewable energy, naval shipbuilding, space and satellites, aged care, nanotech fabrication, cybersecurity, and heavy-industry low carbon transition.³⁸⁸

While such initiatives show TAFE SA is an agile, resourceful and advanced educational provider, they come with risks.

TAFE SA conceives of industry engagement as a relatively ordinary activity. Indeed, it is a necessary requirement of compliance to the *Standards for RTOs 2015*. Engaging with industry is core to TAFE SA's operations.

That means TAFE SA must encourage its workforce to forge relationships with interested parties that have the potential to conflict with its public interest. TAFE SA obviously believes that its interest (and accordingly the public interest) is served by aligning itself with and responding to industry needs.

TAFE SA currently has no training on how to conduct industry engagement with integrity, and there are no rules about TAFE SA staff conducting industry engagement on their own, which might open the agency to risk.³⁸⁹ Yet staff at all levels of TAFE SA conduct industry engagement, meaning the risk is dispersed across the whole organisation.

384: EXH 0417.

385: EXH 0417.

386: EXH 0760.

387: EXH 0760.

388: EXH 0482.

389: EXH 0482.

One manager told the Commission it would be possible for someone to corrupt industry engagement processes if they were motivated to do so. As TAFE SA is such a large organisation, it is hard for industry or business to find an entry point, so when they do find someone, they tend to want to deal with that person exclusively and go back to them repeatedly.³⁹⁰

The risk that improper relationships could develop between a TAFE SA staff member and industry is clear.

TAFE SA is refining its methodology for conducting this activity.³⁹¹ The team has been developing an Industry Engagement Improvement Model to guide and document industry engagement activities across TAFE SA. Its suite of documents includes Industry Engagement Model Guidelines; Industry Engagement Methodology Template; Industry Engagement Log Template; Industry Engagement Plan Template; Industry Consultation Record Template; and Agenda and Minutes Template.³⁹²

These resources signal TAFE SA's commitment to making industry engagement a cornerstone of its operations.

Yet those resources lack awareness of the potential corruption risks that might attend initiatives to supercharge industry engagement, or strategies to combat that risk.

Monitoring and updating any personal or financial interests that TAFE SA staff might have that conflict with their industry engagement activities, and managing relationships that develop between TAFE SA staff and commercial entities can guard against corrupt exploitation of TAFE SA staff, resources or property.

TAFE SA would do well to consider that servicing the needs of industry means making decisions that will benefit certain industries, even certain companies or businesses. Servicing industry involves decision making about how best to respond to industry needs.

That decision making can be corrupted.

TAFE SA develop a policy and procedure addressing the management of industry and client engagement with particular regard to managing conflicts of interest that may arise.

RECOMMENDATION 29

TAFE SA provide industry and client relationship risk management training to staff with significant exposure to, or dealings with, industry and commercial clients.

RECOMMENDATION 30

390: EXH 0482.

391: EXH 0482.

392: EXH 0454; EXH 0456; EXH 0461; EXH 0462; EXH 0463; EXH 0464.

The dual role of educators

TAFE SA educators operate both as skilled educational professionals and skilled industry professionals. The TAFE SA New to TAFE SA Educator Orientation Handbook describes the '*dual professional role*' of educators as:

a very important aspect of your role and outlines the approach to the maintenance of both your competence and currency in your dual professional roles as an industry/subject expert and educator. It is essential that you record the evidence that you have the qualifications and the currency to undertake your role as educator in TAFE SA.³⁹³

Those dual roles are appropriate and necessary in vocational education.

However, public officers operating in dual sectors are more likely to find themselves in positions and with interests at odds with public sector norms and expectations.

To protect the integrity of public administration, the *Code of Ethics for the South Australian Public Sector* sets out limitations for public officers operating in dual roles under 'impartiality':

Public sector employees must be detached from political influence and the influence of partisan interests within the community.³⁹⁴

Restrictions on outside employment address the risks of public officers who have interests which might conflict with their public role:

Public sector employees must not engage in employment or other remunerative activity outside of their public sector employment where the activity conflicts with, or has the potential to conflict with, their role as a public sector employee, or if the performance of such outside employment or activity might affect their capacity to perform their public sector duties.³⁹⁵

TAFE SA employees work in a setting where these risks are simply more present than for many other public officers. They are not alone. For instance, salaried medical specialists in the public health system have rights of private practice and high levels of secondary employment in, and affiliations with, private health facilities.

393: EXH 0640, p.7.

394: *Code of Ethics for the South Australian Public Sector*, p.3.

395: *Code of Ethics for the South Australian Public Sector*, p.8.

TAFE SA has a policy outlining its educators' competency and currency requirements in line with the *Standards for RTOs 2015*. The forms of currency an educator might engage in include:

- ▶ attendance at trade events/expos, conferences and seminars, study tours or site visits
- ▶ participation in communities of practice or industry reference groups
- ▶ providing training, demonstrations or presentations to vendors, suppliers or industry
- ▶ return to industry, concurrent industry work (paid or volunteer), and involvement in industry based projects
- ▶ membership of industry professional associations
- ▶ participating in accredited or non-accredited training, and maintaining industry licences, credentials and registrations
- ▶ mentoring and work shadowing³⁹⁶

The range of industry activities which TAFE SA educators are expected to engage in situates many of them in private sector enterprise. The majority of these activities are not paid or income-generating activities, and in almost all cases, align with TAFE SA's need for knowledgeable and industry current educators.

However, these activities might expose educators to, or cause them to promote, the interests of industry, motivating conduct opposed to TAFE SA's interests.

The greater risk occurs where educators are not just motivated by the interests of their industry, but have remunerative or other financial interests in those industries and businesses.

Many TAFE SA educators will be concurrently employed in the trades they teach, while others may have private businesses. Others will have been previously employed in those sectors, or may wish to return to those industries in future.

TAFE SA is more exposed to these risks than many other public authorities.

Some interviewees saw this as a necessary cost of doing TAFE SA business, or the price of needing lecturers to have contemporary industry expertise. However, the Commission was told the risk was dispersed because '*everyone knows everyone's business*' at TAFE SA, and any conflicts of interest would be obvious.³⁹⁷

Others believed that the risk was well managed by three directorates responsible for providing guidance and training to lecturers: Educational Operations, Student Experience and Academic Development.³⁹⁸ One staff member thought the risk would largely be mitigated by '*active conversations*' as issues arise,³⁹⁹ while another believed issues such as secondary employment were addressed on an annual basis with some type of form kept on a staff member's HR file.⁴⁰⁰

³⁹⁶: EXH 0763.

³⁹⁷: EXH 0405.

³⁹⁸: EXH 0417.

³⁹⁹: EXH 0413.

⁴⁰⁰: EXH 0491.

One staff member saw it as a clear and present risk, admitting they had once had to manage the expectations of a casual lecturer who believed they had intellectual property ownership rights over course materials they had a hand in developing. That staff member also noted pressure to find Fee For Service business repeatedly fell on lecturers.⁴⁰¹

Others simply dismissed the threat due to their confidence in the dedication of the lecturing staff. While they admitted there were networks of associations between industry and TAFE SA lecturing staff, there was no nepotism or employment of those associates.⁴⁰²

Trusting staff is necessary, but it is not a corruption control. The easiest way for TAFE SA to manage the risks inherent in the dual professional roles of educators is to establish a robust secondary employment and other remunerative activity policy.

Secondary employment

Multiple employments and outside financial interests raise the risk that an employee might use their public position to benefit their private interests. Those risks are heightened when public officers do not declare their outside employments or business activities to their employers, or declare them in false or misleading ways.

Undeclared secondary employments or business interests are a crucial area of corruption risk vulnerability.

Unauthorised outside employment or remunerative activities are especially problematic where the outside employment involves, or is connected to, the same area of activity as the employee's public position. TAFE SA employees are particularly vulnerable in this regard.

Corruption risks are more acute if the secondary employer (or business interest) has, or is likely to have, contractual dealings with, be in commercial competition with, or have stakeholder relations with the public authority.

In such circumstances, conflicts of interest can be more frequent and risky, and the gains to be made from improper financial or other benefits may be more lucrative. Conduct to benefit from such opportunities can amount to an offence of abuse of public office and expose a public officer to prosecution.

Owing to TAFE SA's increasing focus on commercial revenue generating activity and its desire for deeper industry engagement, those risks are both present and heightened.

401: EXH 0486.

402: EXH 0495.

TAFE SA's secondary employment management is encapsulated within its conflict of interest procedure.⁴⁰³ However, TAFE SA's approach to managing the secondary employment and business interests of its staff could be improved.

TAFE SA require all staff in positions of trust (not just executives) to annually declare and record financial interests, with a record being retained on a central register.

RECOMMENDATION 31

TAFE SA create a standalone secondary employment and other remunerative activities policy (separate from its existing Conflict of Interest Procedure) which requires employees to request approval for outside employment or business interests, and line managers to assess those declarations for risk before granting approval.

RECOMMENDATION 32

TAFE SA conduct a risk assessment to identify business areas and employee positions particularly vulnerable to secondary employment risks. Staff in those areas and positions should be regularly reminded of their secondary employment obligations, and assessments should be conducted every 2-3 years.

RECOMMENDATION 33

TAFE SA consider conducting ASIC company director searches and Australian Business Number searches against identified vulnerable employees/business areas to identify any business interests or other remunerative activities which may not have been approved by TAFE SA. Further inquiries should be undertaken where those searches reveal undeclared interests.

RECOMMENDATION 34

403: EXH 0190.



CHAPTER NINE

INFORMATION ACCESS, USE AND DISSEMINATION

Chapter nine: Information access, use and dissemination

TAFE SA holds valuable student, staff and partner information such as passport numbers, tax file numbers, medical records, and bank account details, as well as sensitive commercial information and intellectual property from its relationships with training partners, including government departments such as Defence.⁴⁰⁴

The Commission decided to include improper access, use and dissemination of sensitive and propriety information as well as general document management in response to information received during the course of the evaluation.

TAFE SA has many information sources, systems and frameworks. Some are of legacy or manual systems, or are specific to a site or workgroup, with many not fit for purpose. There was evidence of poor practices in document creation, management and retention.

TAFE SA's issues of information and data management are the result of many years of chronic underinvestment.

Due to TAFE SA's varied information footprints and usages, the evaluation was not in a position to evaluate the issues of document management and information misuse. What the Commission can say with confidence is that TAFE SA is well aware of its information and data vulnerabilities and deficiencies, and is working to rectify those issues.

TAFE SA audited its Information Security Capability in July 2019. The reviewer noted risks in information security arise where there is a potential inability to adequately protect against or detect information security threats, where security threats are ineffectively managed, or where there is a lack of information security governance.⁴⁰⁵

That review noted:

In recent years, TAFE SA has continued to make good progress with its security program. The observations... in this report highlight the need for TAFE SA to continue this momentum, through continued focus and investment.⁴⁰⁶

The evaluation team was informed that TAFE SA had embarked on a new data governance project to develop a data governance framework and data governance council to drive agency maturity in this area. The officers involved in that project warned that the project was in its infancy, that TAFE SA was working from a very low base of data governance, and that the end result would not offer a 'silver bullet' to solve all TAFE SA's information system issues.⁴⁰⁷

That project is a step in the right direction. The Commission encourages TAFE SA to continue to reform and invest in information systems, data and document practices.

404: EXH 0335, p.4.

405: EXH 0335.

406: EXH 0335, p.4.

407: EXH 0702.

The most pressing reason for the inclusion of this term of reference came from a corruption investigation into the potential improper release and misuse of sensitive TAFE SA information by persons connected to, or involved in, criminal activity. That investigation continued while this report was being prepared, and for that reason, the Commission has elected not to report fully on its findings at this time. On completion of that investigation, the Commission proposes to alert TAFE SA to its corruption vulnerabilities and detail any opportunities for prevention. Recommendations will be included in the Commission's next *Integrity State* publication.

The Commission receives numerous referrals from the Office for Public Integrity each year about the improper access, use or dissemination of sensitive information held by the public sector. It is an integrity issue that exists across the whole of public administration, not just at TAFE SA.

The Commission takes the opportunity to make TAFE SA and other public authorities aware of advice about how to protect agency information and detect information breaches set out in its recent *Integrity Spotlight*, 'Confidentiality and Misuse of Information'.⁴⁰⁸

408: ICAC SA *Integrity Spotlight, Misuse of Confidential Information*, (June 2022), see, <https://www.icac.sa.gov.au/education/education-resources/integrity-spotlight-confidentiality-and-misuse-of-information>.



CONCLUSION

Conclusion

TAFE SA occupies a pre-eminent place in the state's educational ecosystem and contributes to the strength and vitality of our trades, industries and economy. The organisation can be rightly proud of the contributions it makes to the success of individuals and the state at large.

But TAFE SA is also an organisation emerging from a challenging journey to establish its operational effectiveness as a statutory corporation, and rebuild a once weakened reputation. As it emerges from those trials, it is vital that its functions, decision making and staff are protected from the risk of corruption. These are evident across a number of areas of TAFE SA's operations. But a willingness to better understand those risks, and to embed ongoing processes to monitor and control for them is also evident.

TAFE SA operates in a complex policy and regulatory arena, with multiple stakeholders and expectations drawing upon its attention. It is also subject to complicated funding and financial pressures which are pushing it into commercial realms needing careful management. Culturally, TAFE SA has undoubtedly suffered from change exhaustion, entrenched inertias and disconnection between educational and corporate functions. There is however a clear commitment and desire to overcome those challenges. TAFE SA enjoys both a core level of pride in the dedication of its staff and social value of its offerings, as well as a developing sense of its own potential for innovation and standard setting. Those commitments and confidences will hold it in good stead for the future.

I hope that this evaluation provides TAFE SA with both assurance in its current trajectory and growing governance maturity, as well as a renewed understanding of the corruption and impropriety vulnerabilities which attend its operations, both routine and emerging.

I again thank TAFE SA's Board, Chief Executive, executive team and all the TAFE SA staff who engaged with the evaluation process for their valuable contributions.



APPENDICES

Appendices

Appendix 1: Chief Executive Officer's response to the Commission's draft report

OFFICIAL:Sensitive



Government of
South Australia

TAFE/23/10479
BRIEFCTAFE/22/903

The Hon. Ann Vanstone KC
Commissioner
Independent Commission Against Corruption
Level 1, 55 Currie Street
ADELAIDE SA 5000

Delivered by hand

Dear Commissioner

Re Draft Report – Evaluation of the practices, policies and procedures of TAFE SA

Thank you for the opportunity to respond to the draft report of the Independent Commission Against Corruption's *Evaluation of the practices, policies and procedures of TAFE SA*.

As noted in the draft report, TAFE SA has worked in recent years to improve our reputational standing, governance structures and culture. Through the implementation of *A Bolder Future for TAFE SA*, we are continuing to bring about operational improvements, with the aim of embedding a national reputation as an innovator in learning and skill development.

ICAC's evaluation of TAFE SA complements this work and provides important insights to further strengthen our organisation against the risks of corruption.

I attach a summary of TAFE SA's response to the report's recommendations (Attachment 1). In addition, I attach a summary of content clarification and amendments for your consideration (Attachment 2), prior to the report's finalisation.

TAFE SA accepts all draft recommendations. TAFE SA agrees that these will assist us to further strengthen our organisation against the risk of corruption.

More than 25% of the recommendations had already been implemented prior to receipt of the draft report. We have provided in our response timelines for implementation and considerations of the remaining recommendations, with all scheduled for completion by the end of this calendar year.

TAFE SA's Board Chair, Ms Joanne Denley and I would be happy to meet with you to discuss the requested amendments, and to provide any further necessary rationale or background information.

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Once again, thank you for the opportunity to work with you on this evaluation. I have appreciated your collaborative approach throughout this process and am certain that the final report will be of great value to TAFE SA, as well as to other public authorities and public officers.

Yours sincerely



David Coltman
CHIEF EXECUTIVE, TAFE SA

17 February 2023

Encl: 1. Attachment 1 - Summary of Responses to Recommendations
2. Attachment 2 - Content Clarification and Amendments for consideration to the draft report
CC: Ms Joanne Denley, Chair, TAFE SA Board

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Attachment 1: Summary of Responses to Recommendations

Recommendation 1	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA notes the Commission's finding that TAFE SA's internal audit program is 'relatively impressive'. TAFE SA will conduct a dedicated fraud and corruption risk assessment to complement and strengthen the existing risk management framework. This work will be complete by Q4 22-23.</p>
Recommendation 2	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA will expand the existing internal audit program to expressly include active and targeted fraud and corruption assessments. This work will be complete by Q4 22-23.</p>
Recommendation 3	<p><i>Accepted and implemented</i></p> <p>TAFE SA maintains an up-to-date organisational chart on the TAFE SA intranet, as well as detailed information about the TAFE SA work groups and structure (including contact information). TAFE SA issued a reminder to all staff of the availability of the organisational chart and contact information via TAFE SA's biweekly communication, Bold Bites, on Friday 10 February. TAFE SA will schedule regular reminders about the availability of this information to all staff.</p>
Recommendation 4	<p><i>Accepted and implemented</i></p> <p>Since September 2021 there has been greater emphasis on seeking feedback, being visible at the campuses and listening to staff directly. The TAFE SA Board Chair and the Chief Executive have visited TAFE SA campuses across the state and engaged in open forums explaining TAFE SA's Bolder Future for TAFE SA directions. This work will continue in 2023 and beyond.</p> <p>Whilst we have an engagement strategy where there are regular visits by management and Board to campuses to hear feedback directly from staff, we will implement a new initiative to seek business unit feedback about the effects of restructures and strategic plans.</p>
Recommendation 5	<p><i>Accepted and implemented</i></p> <p>Following the TAFE SA commissioned external review of its HR Policies and Procedures, TAFE SA incorporated conflict of interest disclosure and management obligations in the revised recruitment framework. An update was sent to all people managers reminding them of this revision in early December 2022.</p>
Recommendation 6	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA will ensure training is available to all panel members involved in recruitment activities by the end of Q4 22-23.</p>

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	TAFE SA Executive and Board will consider making the training mandatory for appointment to a recruitment panel by the end of Q2 23-24.
Recommendation 7	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA has identified positions of trust which attract higher scrutiny and screening processes during recruitment, however this could be further expanded in response to this recommendation.</p> <p>TAFE SA Executive and Board will also consider, by Q4 23-24, conducting periodic post-employment screening for roles with the highest risk rating.</p>
Recommendation 8	<p><i>Accepted</i></p> <p>TAFE SA will amend its pre-employment declaration form for secondary employment or other remunerated activities of candidates. This work will be complete by the end of March 2023.</p>
Recommendation 9	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA has commenced a review and consolidation of all complaints, grievance, performance and behavioural management policies and mechanisms.</p> <p>Complaints Policies will clearly set out the process from assessment of complaints to disciplinary investigations and the imposition of sanctions. This work will be complete by the end of March 2023.</p>
Recommendation 10	<p><i>Accepted and implemented</i></p> <p>Recruitment commenced in February 2023 for a Principal Integrity Officer, which will fulfill a dedicated integrity position.</p> <p>This position is due to commence by the end of Q2-Q3, subject to completion of a successful merit-based recruitment process.</p>
Recommendation 11	<p><i>Accepted and scheduled for implementation</i></p> <p>The TAFE SA designated OPI officers have undertaken this training.</p> <p>TAFE SA will ensure that all staff who have responsibility for managing or conducting investigations complete ICAC's Internal Investigation Seminar and Workshop to be complete by end Q4 22-23, subject to the availability of workshops. TAFE SA notes that there is pre-requisite training for this available on the ICAC website and will ensure all relevant staff complete this by Q4 22-23.</p>
Recommendation 12	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA is developing a new Strategic Workforce Plan as part of its Bolder Future program of work. To complement this, TAFE SA will also conduct a workforce structure review which maps lines of accountability and supervisory relationships with a view to determining integrity gaps or stresses within the workforce. This will be complete by Q2 23-24.</p>

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Recommendation 13	<i>Accepted and scheduled for implementation</i> TAFE SA welcomes the Commission's feedback regarding the high quality of its induction process. TAFE SA will amend the existing Induction Policy to include a local and worksite induction for internal employees who have moved to new positions. This work will be complete by March 2023.
Recommendation 14	<i>Accepted and scheduled for implementation and consideration</i> TAFE SA will extend its employee exit practices to include monitoring and following up employee exit interviews. This change will be embedded by March 2023. In addition, TAFE SA will consider options to enable TAFE SA to effectively audit recent employee access and use of information and resources for employees in positions of trust, those moving to roles at organisations that might benefit from access to TAFE SA information or resources, or any signs of unusual or suspicious activity. TAFE SA Executive and Board will consider options by the end of Q2 23-24.
Recommendation 15	<i>Accepted and scheduled for implementation</i> TAFE SA's current procurement process includes several measures that serve to address the risk of corruption. TAFE SA will assess its procurement compliance scheme to incorporate procurement corruption risk signals or priority measures and signals to prompt further scrutiny with respect to the risk of corruption. This will be undertaken by Q2 23-24.
Recommendation 16	<i>Accepted and scheduled for implementation</i> TAFE SA welcomes the Commission's investigation into allegations regarding the engagement of consultancy services and finding no evidence of corruption. TAFE SA will, however, review its procurement framework to incorporate a simple integrity guideline for the procurement of consultancy services, the consideration and acceptance of unsolicited bids or proposals, direct single source approaches and the risks of undeclared conflicts of interest. This will be undertaken by Q2 23-24.
Recommendation 17	<i>Accepted and scheduled for consideration</i> TAFE SA's current procurement processes include measures to address conflicts of interest. It is recognised that the inclusion of checks for secondary employment, financial interest and conflict of interest registers would assist in addressing the applicable risks. TAFE SA will explore the feasibility of this recommendation to understand the extent of any consequential delays this may create and consider the merits of a risk-based approach. This will be undertaken by Q2 23-24.
Recommendation 18	<i>Accepted and scheduled for consideration</i> TAFE SA have a suite of procurement policies and procedures in place to minimise the risk of fraud and corruption. However, TAFE SA will undertake a future review of low value procurement (below \$55,000) to

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	explore ways to protect those activities from abuse. The review will occur by Q2 23-24.
Recommendation 19	<i>Accepted and scheduled for consideration</i> TAFE SA's decision to remove widespread purchase card access was intended to limit the risk of fraud and corruption. TAFE SA will continue to explore opportunities for efficiency and effectiveness to offset the removal of widespread access, as part of the review (see Recommendation 18) of low value procurement, to occur by Q2 23-24.
Recommendation 20	<i>Accepted and scheduled for consideration</i> TAFE SA will review the Commissioner's publication and assess what modifications to its purchase card practices would be appropriate. This will be undertaken by Q2 23-24.
Recommendation 21	<i>Accepted and scheduled for implementation</i> TAFE SA will amend the Asset Disposal Policy to explicitly state that misappropriation of surplus or low-value assets or unwanted or forgotten items can amount to theft. This work will occur by March 2023.
Recommendation 22	<i>Accepted and implemented</i> TAFE SA has a Facilities Management Governance Group, which includes campus facilities staff from all campuses to monitor the operation of the Across Government Facilities Management Arrangements, and devise processes and strategies to better manage the work of contractors and facilities maintenance generally. The next meeting will be held by end Q2 23-24.
Recommendation 23	<i>Accepted and implemented</i> TAFE SA undertakes specific fraud and corruption assessments whenever substantial changes are made to its subsidy structures, funding arrangements, policy settings or financial governance instruments. Recent examples include assessments undertaken prior to implementation of Job Trainer and Fee Free TAFE. TAFE SA commits to continuing to undertake these assessments.
Recommendation 24	<i>Accepted and scheduled for implementation</i> TAFE SA has established policies and governance structures to ensure robust result monitoring and moderation. TAFE SA's Assessments Policy, Resulting Policy and Procedure and Academic Integrity Policy establishes the policy framework for results attribution practices. TAFE SA's Academic Quality Committee will undertake a review of current practices by Q2 23-24.
Recommendation 25	<i>Accepted and scheduled for implementation and further consideration</i> TAFE SA will update the Professional Boundaries for Lecturers Guidelines to reflect specific risks of bribery, inducement, threat, unduly favourable treatment, and abuse of public office risks. This will occur by Q4 22-23.

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	TAFE SA People and Culture Committee will consider, by Q2 23-24, explicit training for staff to support the recently introduced Professional Boundaries for Lecturers Guidelines.
Recommendation 26	<p><i>Accepted and implemented</i></p> <p>Recruitment commenced in February 2023 for a Principal Integrity Officer, which will fulfill a dedicated integrity position. All complaints and reports of unsatisfactory staff conduct will be referred to the Principal Integrity Officer. This role will also be responsible for monitoring action taken to address the conduct.</p> <p>This role is due to commence by the end of Q2 22-23, subject to completion of a successful merit-based recruitment process.</p>
Recommendation 27	<p><i>Accepted and implemented</i></p> <p>TAFE SA commenced an enterprise architecture project in 2022, which aims to identify efficiencies in TAFE SA's enterprise architecture, including opportunities to close down obsolete or duplicate software and systems. This work has commenced and will continue through 22-23.</p> <p>A post implementation evaluation will also occur of the Electronic Scheduling System project. This will provide further opportunities to assess whether obsolete or duplicate software and systems have closed down. This will occur by Q4 22-23.</p>
Recommendation 28	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA Board will consider opportunities to strengthen the Fee For Service function to better protect commercial information by Q2 23-24.</p>
Recommendation 29	<p><i>Accepted and scheduled for implemented</i></p> <p>TAFE SA has developed a draft industry engagement policy and procedure, which addresses the management of industry and client engagements and cross references the conflict-of-interest policy. This is due to be considered by the TAFE SA Executive and implemented by March 2023.</p>
Recommendation 30	<p><i>Accepted and scheduled for consideration</i></p> <p>Once the draft industry engagement policy and procedure has been implemented (recommendation 29) TAFE SA will implement training to relevant staff. This will be completed in Q2 23-24.</p>
Recommendation 31	<p><i>Accepted and scheduled for consideration</i></p> <p>TAFE SA will identify staff in positions of trust (not just executives) and require them to annually declare and record financial interests, with a record being retained on a central register, by Q2 23-24.</p>
Recommendation 32	<p><i>Accepted and scheduled for implementation</i></p> <p>TAFE SA's Conflicts of Interest Policy requires that employees request approval for outside employment or business interests, and line managers are required to assess those declarations for risk before granting approval.</p>

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	TAFE SA has a conflicts of interest register. This will be reviewed to ensure all declarations are registered centrally by Q2 23-24.
Recommendation 33	<p><i>Accepted and implemented</i></p> <p>The Standards for Registered Training Organisations (RTO's) 2015 Standard 1.13 requires lecturers to have "current industry skills directly relevant to the training and assessments being provided". To meet this requirement a significant proportion of TAFE SA staff engage, of necessity, in secondary employment. TAFE SA regularly communicates with all staff to remind them of their secondary employment obligations. TAFE SA most recently issued a reminder to all staff in February 2023 and will continue these reminders approximately quarterly.</p>
Recommendation 34	<p><i>Accepted and scheduled for further consideration</i></p> <p>TAFE SA's Executive and Board will, by Q2 23-24, consider conducting ASIC company director searches and Australian Business Number searches against identified vulnerable employees/business areas to identify any business interests or other remunerative activities, which may not have been approved by TAFE SA.</p>

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Appendix 2: TAFE SA Board's response to the Commission's draft report

OFFICIAL:Sensitive

TAFE/23/10341
BRIEFCTAFE/22/903

The Hon. Ann Vanstone KC
Commissioner
Independent Commission Against Corruption
Level 1, 55 Currie Street
ADELAIDE SA 5000

Delivered by hand

Dear Commissioner

Re Draft Report – Evaluation of the practices, policies and procedures of TAFE SA

Thank you for your letter dated 30 January 2023 enclosing copies of the draft evaluation report for all Directors of the Board.

The Board is thankful to have an opportunity to make a submission for your consideration prior to the report being finalised and presented to the President of the Legislative Council and the Speaker of the House of Assembly.

The Board is pleased to have received recommendations from this evaluation in order for it to continually improve its governance of TAFE SA specifically in relation to fraud and corruption.

We appreciate ICAC recognises that TAFE SA in recent times has made significant improvements to its governance and operations.

The acknowledgment and commendations mentioned in the report, particularly TAFE SA's positive culture, strategic direction, student engagement and robust internal audit approach has reinforced our own positive observations and findings through our separate monitoring and evaluation of these areas.

Managing fraud and corruption risks is an ongoing focus and the Board has confidence in the governance systems currently in place. The Board also understands that with a complex and disparate organisation the need for increased fraud and control awareness is required, particularly in an ever-changing environment.

We submit the following points for your consideration.

1. Board response to recommendations

The Board values the insights and welcomes and accepts the recommendations that have resulted from the evaluation process. From the 34 recommendations proposed it is pleasing for the Board to advise that many have already been implemented as a result of previous identification from TAFE SA's robust internal audit plan and reporting. Management have already prepared an action plan for the remaining recommendations, and these items will be monitored as part of the operational governance regime.

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2. Board and Executive roles and responsibilities

The roles and responsibilities of both the Board and Executive management are clear. Mature reporting systems have now been established giving the Board confidence and oversight of management's execution of the BOLDER Future for TAFE SA plan and activities.

3. Risk Management Framework – three lines of defence

The Board is responsible for the effectiveness of the Risk Management Framework and takes fraud and corruption seriously. The Risk Management Framework is reviewed annually to reflect findings from previous audits and themes arising from other agencies, private organisations and environmental trends such as cyber security. At this time the Board also reviews its risk appetite based on the strategy and business activities, requiring management to implement approved controls which align accordingly. This has recently been undertaken given the change of government policy and the appointment of TAFE SA's new internal auditors, a professional external organisation.

Reference is made to TAFE SA relying on the Auditor General's (AG) external report findings. The Board is very clear on its internal control program comprising three lines of defence. There is a strong emphasis on its internal audit programme which evaluates the effectiveness of the first and second lines of defence of local operations.

The Board values the AG's external audit and findings which are of great benefit to the organisation. While the Board does not rely solely on the AG's audit, the audit and associated findings do support TAFE SA's Risk Management Framework and robust internal audit regime for fraud and corruption control.

4. Management of staff and student relationships

The Board has identified interactions between staff and students to be a potential corruption risk and understands the power imbalance that exists in an education institution. The Board ensures policies and procedures about academic integrity and professional boundaries for lecturers are in place and effective via numerous reporting mechanisms. This includes the monitoring of Student Voice reports and formal complaints about lecturer behaviour. Specific risks, as recommended, will be included in the suite of policies in this regard with more explicit staff training also being implemented. The appointment of a Principal Integrity Officer will assist in mitigating this risk and is fully supported by the Board.

5. Investment in workforce development

It was pleasing to note that TAFE SA staff have been highlighted as being committed to delivering quality outcomes for students. A dedicated and appropriately skilled workforce, in a positive, inclusive and diverse environment is key to the success of TAFE SA and its students. The Board is focused on ensuring that staff are appropriately trained and through its People and Culture committee is committed to the important and necessary monitoring of mandatory training.

Whilst we acknowledge there is much more to do, we continue to invest in the development of staff to ensure TAFE SA remains the benchmark for quality education and training in South Australia.

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6. Content Clarifications

Management and the Board have identified areas in the report where TAFE SA has provided additional context and information. Details of these items have been attached to the submission signed by TAFE SA Chief Executive, Mr David Coltman on behalf of the Agency.

At TAFE SA, the Board and staff are collectively committed to providing quality vocational education so that our students can thrive and contribute to the state's workforce and economy.

As a Board, we share the view that a skilled and dedicated workforce operating within a rigorous risk management framework are key to deliver on this commitment.

We thank the ICAC evaluation team for their interactions with our staff and stakeholders. This has been a valuable experience for TAFE SA to gain additional insights to further improve its operations.

The Board acknowledges its dedicated staff who have operated within a complex and changing environment, while also being focused on delivering strong and successful student outcomes. We appreciate the willingness of staff to contribute to the evaluation process.

The trust and transparency that has been established through this evaluation process has been invaluable and we would like to see this continue in future evaluations. Valuing the anonymity within the report will assist with the trust and transparency in future engagements.

We look forward to receiving the final report.

Yours sincerely



Joanne Denley
CHAIR, TAFE SA BOARD
17 February 2023

Encl: Confirmation of receipt of watermarked copies of draft report
Cc: Mr David Coltman, Chief Executive Officer, TAFE SA

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Appendix 3: Exhibit List

The table below contains the exhibits cited in footnotes in this report, and other select exhibits.

EXHIBIT NUMBER	EXHIBIT DESCRIPTION
EXH 0001	Department of State Development, Quality Review of TAFE SA (April 2018).
EXH 0003	TAFE SA, Strategic Capability Review (2018).
EXH 0012	TAFE SA, Strategic Plan 2019-2022 (September 2019).
EXH 0051	TAFE SA, Annual Report 2020-21 (September 2021) < https://www.tafesa.edu.au/about-tafesa/publications/annual-report-2020-2021 >.
EXH 0060	TAFE SA Risk Appetite (January 2020).
EXH 0069	TAFE SA Foreword (May 2021).
EXH 0079	TAFE SA, Board Report 'A Bolder Future for TAFE SA Plan' (May 2021).
EXH 0083	TAFE SA, Induction and Compliance Training Overview (April 2022).
EXH 0105	Memorandum of Administrative Arrangement – Extension and Variation between TAFE SA and the Department of State Development (June 2020).
EXH 0148	TAFE SA, Procedure - Bonafide Certificate and Leave Return Procedure (undated).
EXH 0149	TAFE SA, Policy - Change and Placement Services Redeployment (undated).
EXH 0151	TAFE SA, Procedure - Employment and Management of Hourly Paid Instructors (undated).
EXH 0152	TAFE SA, Policy - Excess Recreation Leave Policy (undated).
EXH 0154	TAFE SA, Policy -Induction Policy (undated).
EXH 0155	TAFE SA, Procedure - Industrial Relations – Workforce Development Procedure TAFE Act (undated).
EXH 0156	TAFE SA, Policy - Performance Management and Development Policy (November 2020)
EXH 0157	TAFE SA, Policy - TAFE SA Consultation and Change Policy (undated).
EXH 0158	TAFE SA, Policy - Variation in Hours (undated).
EXH 0160	TAFE SA, Policy - Voluntary Flexible Working Arrangements (undated).
EXH 0161	TAFE SA, Policy - Workforce Development Policy TAFE Act (undated)
EXH 0162	TAFE SA, Policy - Working with Children Check (undated)
EXH 0163	TAFE SA, Procurement Reform Status Overview (undated).
EXH 0169	TAFE SA, Draft Revised Procurement and Contract Management Responsible Accountable Consulted Informed Chart
EXH 0171	TAFE SA, Draft Procurement and Contract Management Complexity Assessment
EXH 0172	TAFE SA, Policy – Asset Management (November 2021)
EXH 0174	TAFE SA, Draft Procedure – Asset Management – Teaching Assets Data and Information Management
EXH 0175	TAFE SA, Draft Procedure – Asset Management – Maintenance Management
EXH 0176	TAFE SA, Procedure – Asset Management – Building Legislative Compliance (undated)
EXH 0177	TAFE SA, Procedure – Asset Management – Disposal Goods (including inventory) (undated)
EXH 0178	TAFE SA, Procedure – Asset Management – Fleet Management (undated)
EXH 0179	TAFE SA, Procedure – Asset Management – Minor Assets (July 2021)
EXH 0189	TAFE SA, Procedure – Close Relationships (September 2020)
EXH 0190	TAFE SA, Procedure – Conflicts of Interest (November 2020)
EXH 0193	TAFE SA, Policy – TAFE SA Staff Grievance Resolution Procedure (undated)
EXH 0194	TAFE SA, Policy – Customer Resolution and Feedback (undated)
EXH 0196	TAFE SA, Policy – Fraud and Corruption (November 2020)

EXH 0197	TAFE SA, Procedure – Fraud and Corruption (November 2020)
EXH 0213	Auditor-General, Risk of fraud in TAFE SA (June 2020)
EXH 0309	TAFE SA, Introduction to Policy Review Process and Working Group Information (May 2022)
EXH 0310	TAFE SA, Procedure – Fraud and Corruption (November 2020)
EXH 0320	TAFE SA, Action Plan – Procurement Process Internal Audit (undated)
EXH 0325	KPMG, TAFE SA Asset Management Framework Internal Audit Report (August 2021)
EXH 0327	KPMG, TAFE SA Fee for Service Internal Audit Report (May 2021)
EXH 0330	KPMG, TAFE SA Student Resulting Internal Audit Report (August 2020)
EXH 0334	Deloitte, TAFE SA Contract Management Internal Audit Report (November 2018)
EXH 0335	Deloitte, TAFE SA Information Security Capability Review (July 2019)
EXH 0339	Deloitte, TAFE SA Procurement Process Internal Audit (October 2018)
EXH 0365	Deloitte, Draft TAFE SA Recruitment Process Improvement Review
EXH 0367	Contribution via written submission or interview
EXH 0373	The Senate, Vocational education and training in South Australia (March 2018).
EXH 0378	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview.
EXH 0381	Contribution by written submission or interview.
EXH 0386	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0391	TAFE SA, Policy – Risk Management Policy and Framework (undated)
EXH 0395	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0396	Contribution via written submission or interview
EXH 0399	Contribution via written submission or interview
EXH 0400	Contribution via written submission or interview
EXH 0401	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0404	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0405	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0407	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
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EXH 0414	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0415	TAFE SA, Draft Guidelines – Professional Boundaries for Lecturers
EXH 0416	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0417	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
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EXH 0427	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0429	Contribution via written submission or interview
EXH 0430	Contribution via written submission or interview.
EXH 0437	TAFE SA, Plan Status Report – A Bolder Future for TAFE SA (June 2022)
EXH 0444	TAFE SA, Recruitment Toolkit Version 1.0 (December 2019)
EXH 0448	TAFE SA, Procedure – Resulting (September 2020)
EXH 0449	TAFE SA, Policy - Resulting (September 2020)
EXH 0450	TAFE SA, Policy - Respectful Behaviours (August 2022)
EXH 0454	TAFE SA, Draft Agenda and Minutes template
EXH 0456	TAFE SA, Draft Industry Engagement Log Template
EXH 0458	TAFE SA, Procedure – Customer Resolution and Feedback Procedure (undated)
EXH 0461	TAFE SA, Draft Industry Consultation Record template
EXH 0462	TAFE SA, Draft Industry Engagement Plan template
EXH 0463	TAFE SA, Draft Industry Engagement Methodology template
EXH 0464	TAFE SA, Industry Engagement Model Guidelines (2022)
EXH 0468	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0469	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0470	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0471	TAFE SA, Response to ICAC Report – Received or Deceived? – Managing and Monitoring the Conduct of Government Contractors (August 2022)
EXH 0475	Office for the Public Sector, Guideline of the Commissioner for Public Sector Employment: Induction (December 2016)
EXH 0477	Office for the Public Sector, Guideline of the Commissioner for Public Sector Employment: Recruitment (June 2020)
EXH 0478	Commissioner for Public Sector Employment, Pre-Employment Declaration (undated)
EXH 0479	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0481	Office of the Commissioner for Public Sector Employment, Code of Ethics for the South Australian public sector (January 2022)
EXH 0482	Contribution via written submission or interview
EXH 0483	TAFE SA, Checklist for Procurement and Contract Management (August 2022)
EXH 0484	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0485	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0486	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0487	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
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EXH 0494	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0495	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0496	KPMG, Draft TAFE SA Student Information System – Revenue Activities
EXH 0513	TAFE SA, Position Statement: Review of Disciplinary and Investigation processes (September 2022).
EXH 0531	TAFE SA, Procedure – Industrial Relations – Workforce Development TAFE Act (undated)
EXH 0532	TAFE SA, Policy – TAFE SA Consultation and Change (undated)
EXH 0534	TAFE SA, Policy – Variation in Hours (undated)
EXH 0537	TAFE SA, Policy – Workforce Development TAFE Act (undated)
EXH 0538	TAFE SA, Policy – Working with Children Check (undated)
EXH 0543	TAFE SA, Policy – Bonafide Certificate and Leave Return (undated)
EXH 0544	TAFE SA, Procedure – Bonafide Certificate and Leave Return (undated)
EXH 0546	TAFE SA, Procedure – Employment and Management of Hourly Paid Instructors (undated)
EXH 0547	TAFE SA, Policy – Change and Placement Services Redeployment Policy (undated)
EXH 0549	TAFE SA, Policy – Induction Policy (undated)
EXH 0550	TAFE SA, Policy – Excess Recreation Leave (undated)
EXH 0556	TAFE SA, Procedure – Work Health and Safety – Noise Management (undated)
EXH 0557	TAFE SA, Work Health and Safety Plant and Equipment Management Operations Manual (June 2020)
EXH 0605	TAFE SA, Disciplinary and Investigations – Project Management Plan (undated)
EXH 0606	TAFE SA, Draft Recruitment and Onboarding – Project Management Plan
EXH 0613	TAFE SA, Policy – Educational Commercial Revenue (November 2021)
EXH 0614	TAFE SA, Policy – Course Admission (undated)
EXH 0615	TAFE SA, Policy – Student Conduct and Disciplinary (undated)
EXH 0638	TAFE SA, New Educator Program Pathway (undated)
EXH 0639	TAFE SA, New to TAFE SA Educator Program – Mentoring Capacity Building (undated)
EXH 0640	TAFE SA, New to TAFE SA Educator Orientation Handbook (March 2022)
EXH 0658	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview.
EXH 0663	TAFE SA, Code of Practice (September 2022)
EXH 0665	TAFE SA, Policy – Sexual Assault and Sexual Harassment (undated)
EXH 0667	TAFE SA, Draft Procedure – Accommodation Management
EXH 0682	TAFE SA, Procedure – Disposal of Official Records (April 2021)
EXH 0689	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0695	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
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EXH 0699	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
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EXH 0702	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0703	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0714	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0715	TAFE SA, Talk Tell Transform – TAFE SA Complaint and Feedback Process (August 2018).
EXH 0716	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview.
EXH 0718	TAFE SA, Resulting Scenarios (undated)
EXH 0730	TAFE SA, Management of Unsatisfactory Performance including Misconduct – Procedure for Managers (undated)
EXH 0731	TAFE SA, Response Letter to ICAC (November 2022)
EXH 0760	Strategic Industry Partnerships – Contacts and Services (undated)
EXH 0762	TAFE SA, The TAFE SA Opportunity Process (August 2022)
EXH 0763	TAFE SA, Policy – Educator Competency and Currency Requirements (October 2021)
EXH 0764	TAFE SA, Policy – Governance of TAFE SA Policy Documents (June 2021)
EXH 0765	TAFE SA, Policies and Procedures (October 2022)
EXH 0766	TAFE SA, Procedure Template
EXH 0767	TAFE SA, Policy Template
EXH 0768	TAFE SA, Procedure - Policy Document Development (June 2021)
EXH 0771	TAFE SA, Procedure – Public Interest Disclosure TAFE SA Employees (undated)
EXH 0773	TAFE SA, Policy – Public Interest Disclosure (November 2020)
EXH 0782	TAFE SA, Internal Movement Checklist and Employee Declaration (May 2021)
EXH 0786	TAFE SA, Example Panel Report (undated)
EXH 0790	TAFE SA, Exit Interview Checklist and Employee Declaration (August 2021)
EXH 0794	Contribution by TAFE SA staff member, Board member or Department staff member via email, written submission or interview
EXH 0795	TAFE SA, Policy – Government Purchase Cards (September 2021)
EXH 0796	Evaluation Staff Survey Data (June 2021)
EXH 0797	ICAC SA Public Integrity Survey 2021 - TAFE SA results

Notes

