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PUBLIC INTEGRITY IS GREAT... BUT WHAT IS IT?

The offices of the Independent Commissioner Against Corruption (ICAC) and the Office for Public Integrity (OPI) were designed to safeguard and enhance confidence in the integrity of public administration in South Australia. But just what is this ‘integrity’ we are to safeguard and enhance?

It can be tempting to view integrity simply as the lack of wrong doing. If no-one is doing the wrong thing then we have integrity. However, integrity in public administration is more complicated.

A review of definitions from the United Nations, the Organisation for Economic Co-operation and Development, Transparency International and varied Australian state governments identified some key themes:

Public Trust
Earning and sustaining the public’s trust in public administration. Ensuring there are adequate systems to prevent or minimise the chances of a betrayal of that trust.

Public Interest
Those employed by or elected to public administration are to faithfully serve the public interest. They should prioritise public over private interests when performing their duties. They should resist the influence of private interests.

Morality
For those in public administration to consistently act in line with ethical principles or values that are accepted by the public. Particularly the need to act honestly and respectfully.

Impartiality
For those in public administration to perform their duties without bias or influence. Including recognising and addressing conflicts of interests.

Transparency
For public administration to be open and transparent with information freely shared with the public.

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Abuse of power

Those in public administration do not improperly use the power they have been granted for personal benefit or in ways contrary to moral or ethical principles.

Accountability

For those in public administration to be obliged to report on how public resources are used, how they perform their duties and be answerable for failing to meet performance standards.

As can be seen, concepts of integrity in public administration are multi-faceted. There is obviously a great deal of overlap between these themes yet each allows for distinct areas of intervention, policy and performance measures.

Taken as a whole and at its most basic, public administration is ultimately a system established for the service and benefit of the public. When public administration is improperly used for private purposes or benefit, integrity is breached. Transparency and accountability help ensure public administration remains focused on the public good.

Beyond these themes, a review of varied definitions also reference a shared understanding of morality and appropriate behaviour. Perceptions of what is moral and appropriate behaviour go beyond simply following rules and its spirit should be embraced and actively promoted by both individuals and institutions.

Integrity in public administration also requires an acknowledgement of and compassion towards human frailty. Even genuinely well-meaning and dedicated professionals can make mistakes. The cumulative impact of minor mistakes or errors can, however, be great.

This can also steadily feed a culture where corruption may begin to take hold. Acknowledging that everyone has the capacity to make mistakes, integrity measures must all include a series of checks, balances and rules. These are to both help support us to consistently act with integrity and help guard against corruption and other types of wrongdoing.

Consequently, integrity in public administration is not simply the lack of corruption but also actively developing systems and a culture which make it difficult for corruption to take root; helping ensure that those given responsibility by the public carry out their duties in a moral manner, holding the public interest as paramount.

It is these active attempts to foster a culture where corruption is monitored for and rejected, and staff at all levels embrace values which promote the public good which is the end outcome of a public administration with integrity.

At ICAC we encourage you to look at both your organisation and your team and see what are your strengths and weaknesses in terms of these seven themes. Celebrate your successes and consider how to help further develop a culture and the necessary systems to actively encourage integrity.

References

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United Nations Office on Drugs and Crime, *United Nations Convention Against Corruption* (2004) <https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf>

Victorian Public Sector Commission, 'VSPC Integrity Strategy, updated May 2017' (Victorian Public Sector Commission, 2017)

OAKDEN UPDATE

The Commissioner's maladministration investigation into the Oakden Older Persons Mental Health Facility is being conducted in private, as required by the ICAC Act. During an appearance before the Parliamentary Crime and Public Integrity Policy Committee on 30 October 2017, the Commissioner provided a brief update.

Since announcing the investigation in May 2017, the Commissioner and his legal team have worked diligently to collect relevant information and identify and speak to people who may be able to assist.

The Commissioner issued 13 summonses seeking relevant documents, and received more than 37,000 documents comprising 200,000 to 300,000 pages of information.

"Regrettably there have been a number of delays in relation to the provision of these documents," the Commissioner told the Committee. The nature of such delays is a matter to be addressed in any report that may be published at the conclusion of the investigation.

"Suffice it to say, both the volume of the material, and the time taken to receive it, has exceeded my initial expectations," the Commissioner said.

51 people have also been interviewed and the evidence of 27 other witnesses has been taken by way of formal hearings.

When the Commissioner announced the investigation in May 2017, it was hoped that it would be completed within six months. Due to the significant volume of evidence collected, the Commissioner told the Committee that he would not be in a position to complete his review by the end of 2017.

"That is unfortunate and I appreciate there is a great deal of interest in the outcome of my investigation, but I will not rush the investigation. It is an important matter and it must be investigated properly."

Procedural fairness will be accorded to parties with a sufficient interest in the potential findings of this maladministration investigation.



CORRUPTION AND CORROSION

SAME SAME, BUT DIFFERENT?

Corruption is one of those terms that people frequently use and generally think they understand. But the everyday social use of the term can be somewhat hard to define precisely, even though we commonly say to ourselves about corruption that, “we know it when we see it”.

While ICAC operates under a strict statutory definition of corruption, it is worthwhile taking a closer look at the more basic and common idea of corruption, what it is, and how it occurs.

In this vein, Australian philosopher Seamus Miller makes a distinction between ‘corruption’ and ‘corrosion’. For Miller, corruption refers to those deliberate acts that go against the purpose of an institution, e.g. a public officer taking a bribe. With corruption the harm done is intended and foreseeable.

Corrosion however refers to the myriad smaller problems (shortcomings, misunderstandings, failures, lapses, trivial negligence’s, missed opportunities, minor errors, shortcuts, omissions and misconduct) which may all contribute to slowly undermining an institution’s purpose.

Miller uses the example of a court system in a large jurisdiction to illustrate how he sees corrosion impinging upon an institution’s operations and functions. But for our purposes we can simply imagine any small, medium or large government agency. Like many agencies, this one is subject to budgetary pressures and escalating demand on resources.



The agency has also experienced the recent departure of key experienced staff. New staff are less well trained than before and fewer are being hired. The overall workload steadily increases but not so drastically that staff and outside observers see severe problems.

Over many years these impositions and pressures lead to lower quality decisions and operations from the agency. Heavy workloads, policy and operational changes, staff overturn, lack of oversight, and many other pressures and distractions mean the declining quality of the agency’s work goes unnoticed. And even when problems are noticed they are tolerated. Despite the employees in this agency striving to do their best and not being individually corrupt, the agency at large finds itself undermined. The institution’s purpose has been corroded.

Miller discusses that certain acts and behaviours (mentioned above) may lead to institutional corrosion. But these acts do not amount to corruption, as they are not intended to cause harm and may not be seen as potentially having a negative effect. However, the accumulative impact of these is corrosion, or the unintentional undermining of the institution’s purpose.

What Miller does not explore is that corrosion of this type creates the conditions which enable and encourage actual acts of corruption. The overworked and disenfranchised manager decides to divulge confidential information to fast-track some work. The understaffed office doesn’t notice that equipment is going missing, or that corporate credit cards are being misused. Conflicts of interest are ignored during a major tendering and procurement process. Or the proper recruitment process is not adhered to, and an unqualified staff member repeatedly abuses the power entrusted to them.

Where Miller discusses corruption and corrosion, the South Australian *Independent Commissioner Against Corruption Act* (2012) makes a distinction between corruption and maladministration/ misconduct.

Maladministration and misconduct can be seen to be similar to corrosion in that they are negative behaviours or processes not necessarily or consciously intended to undermine an institution’s purpose. The ICAC has repeatedly found that maladministration is the breeding ground for corruption. Commissioner Lander noted in his 2015-16 Annual Report:

It is my firm view that corruption and maladministration are, in the majority of cases, inextricably linked. When investigating alleged corruption by a public officer it is often easy to identify underlying maladministration that has provided the opportunity to engage in corruption, or has at least undermined the likelihood of detecting it.

In some cases, underlying maladministration is of such an extent that improper conduct cannot be prosecuted or subject to disciplinary action because it has effectively been condoned by superiors, often for significant periods of time.

ICAC can investigate potential issues of serious or systemic misconduct and maladministration in public administration, but it is the responsibility of all public institutions to ensure workplaces do not unconsciously become corroded. Corruption lurks in the spaces and practices that have been corroded in myriad small ways through neglect, over work, ignorance or apathy. Being mindful of this may help stop corruption from visiting your workplace.

We may know corruption when we see it, but do we notice the corrosion around us that makes it possible?

References

- Miller, S 2011, *Corruption*, Stanford Encyclopedia of Philosophy <<https://plato.stanford.edu/entries/corruption/#summ>>
- 2015-16 ICAC and OPI Annual Report, Commissioner’s Report, page 50

EVERY DAY IS ANTI-CORRUPTION DAY

Saturday 9 December was International Anti-Corruption Day. The Independent Commissioner Against Corruption, the Hon. Bruce Lander QC, thinks every day should be anti-corruption day in the public sector. "The South Australian community deserves nothing less."

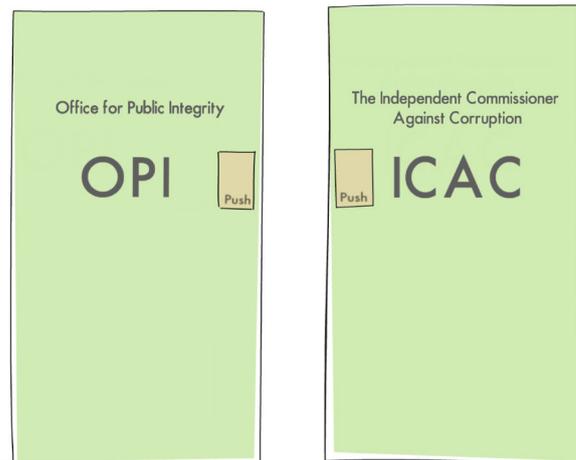
"The vast majority of people working to deliver for our community are people of integrity."

However, there will always be some who do not conduct themselves in line with their public purpose, or the public good, but instead choose to serve their own interests."

"This is not right and it can have wide ranging repercussions for the community and for individuals".

The Commissioner urges you to consider whether you know of conduct or circumstances where people have not acted with integrity and to report that conduct to the Office for Public Integrity (OPI).

If you know something, say something. We are listening. Contact the OPI on (08) 8207 1777 or complete the [online form](#).



EDUCATION UPDATE

The Commissioner and his Education Team held 76 education events in 2017. We look forward to speaking to more South Australian public officers in 2018.

Internal Investigations

The popular ICAC seminars and workshops, 'What Happened? How to Conduct an Internal Investigation' will continue in 2018.

The 2.5 hour seminar is a pre-requisite for the full-day practical workshop.

The next seminar for local government public officers will be held on **15 February 2018**. Apply to attend using the form on the [ICAC website](#).

Additional dates will be announced on the [ICAC website](#). We recommend [signing up to the waitlist](#) as the sessions fill quickly.

Commissioner's Awareness session

The Commissioner will deliver his next ICAC Awareness session on **26 February 2018**. [Register to attend via this link](#).

These sessions are managed by the Institute of Public Administration Australia (IPAA).

Contractors Event 2017

The Commissioner held a successful information session for more than 100 state and local government contractors in December 2017.

Contractors are captured by the ICAC Act so it is important that they are aware of their reporting obligations. Find out more in [our contractors brochure](#).

E-Learning

We encourage local and state government agencies to ask all new employees to complete our [ICAC e-learning course](#) as part of their induction.

It only takes 40 minutes to learn about the OPI and ICAC, and the important reporting obligations all public officers must follow.

Resources

Hard copies of our [education resources](#), including brochures, factsheets and posters are available at no cost. Please contact education@icac.sa.gov.au.

Request an education session

[Complete the form](#) on the ICAC website or contact education@icac.sa.gov.au.

PROSECUTION UPDATE

JANUARY 2018

COURT OUTCOMES

Former Public Trustee employee Alana Bartels entered guilty pleas to eight counts of abuse of public office for offences relating to the theft of property in excess of \$34,000 from deceased estates.

On 23 January 2018, Bartels was sentenced to five years, six months and one week in prison for abuse of public office, with a non-parole period of two years and six months. She was ordered to pay \$24,681 restitution, having earlier repaid \$5,000.

In late October, government contractor Frank Templeton entered guilty pleas regarding three counts of making false declarations. On 2 November 2017, Templeton was convicted and placed on an 18-month \$500 good behaviour bond.

NEW PROSECUTIONS

On 11 September 2017, the Commissioner released a public statement regarding charges laid against Sharon Stretton from Waikerie who is alleged to have introduced a prohibited item into a correctional facility. The matter returns to court on **1 March 2018**.

On 22 September 2017, the Commissioner released a public statement on the arrest of two public officers. Veronica Theriault was charged with deception and dishonestly dealing with documents in relation to her application for public sector employment, and abuse of public office. Alan Corkill was charged with deception and aiding and abetting Theriault's alleged offending. The matters return to court on **30 January 2018**.

The Commissioner's usual practice is not to name persons charged in his public statements to allow them to apply to the court for a suppression order. In this instance, The Advertiser had previously run a story about Veronica Theriault and Alan Corkill having been charged with multiple offences, so the Commissioner later chose to confirm that they were the two public officers referred to in his public statement.

The Commissioner also announced that he had commenced a maladministration investigation into the recruitment process that resulted in Theriault's public sector appointment. At the conclusion of this maladministration investigation, the Commissioner will decide whether or not it is in the public interest to make the investigation report public.

ONGOING PROSECUTIONS

On 11 August 2017, Troy Bell was charged with 20 counts of theft and six counts of dishonestly dealing with documents, being seven minor indictable offences and 19 major indictable offences. Bell appeared in the Mount Gambier Magistrates Court on 11 December 2017. The matter returns to court on **19 February 2018**.

On 28 July 2017, two South Australian police officers were charged with criminal offences amounting to corruption under the ICAC Act. Andrew Jaunay was charged with aggravated assault, and Sean Hobbs was charged with aggravated assault causing harm. The matter has been adjourned to **20 February 2018**.

Yvonne Buza was arrested and charged with 36 counts of deception on 15 January 2016. This matter has been set for trial commencing **March 2018**.

South Australian police officer, Hayley May Greenwood, was arrested on 21 August 2015 and charged with abuse of public office, drug trafficking, theft and possession of a dangerous article. She was later charged with possessing a controlled drug and equipment. On 15 May 2017, prosecutors tendered no evidence in relation to the abuse of public office charge but laid an alternative dishonesty charge under the *Public Sector (Honesty and Accountability) Act*. Trial dates have been set for **March and April 2018**.

Department of Planning, Transport and Infrastructure employee, Michael King, was arrested on 25 February 2016 and charged with 22 counts of failing to act honestly, and eight counts of unlawful possession. The matter has been set for trial commencing **May 2018**.

Former Chief Executive of BioSA, Jurgen Michaelis was originally charged with two counts of abuse of public office on 5 August 2015. Following the findings of a 'no case to answer' hearing in June 2017, the charges were reduced to one count of abuse of public office, in which Michaelis allegedly improperly exercised his power and influence. This matter is in court on **15 June 2018**.

Seven South Australian police officers were arrested and charged with various offences in March 2014. Six of the officers are scheduled to face trial in the Supreme Court of South Australia in **June 2018**. The remaining officer is due to face trial in the Supreme Court in **August 2018**.

On 15 May 2017, Kim Graham was arrested and charged with two counts of abuse of public office. Colin Weetra and Stacey Marie Haining, who are not public officers, were also arrested and charged with aiding, abetting, counselling and procuring an abuse of public office in relation to the charges laid against Kim Graham. The prosecution of Haining was discontinued. Graham and Weetra are scheduled to face trial commencing **10 December 2018**.

THE INFORMATION CONTAINED IN THIS NEWSLETTER MUST NOT BE UNDERSTOOD TO CONSTITUTE LEGAL ADVICE.