



Corruption in the public sector: The big issues

Lessons from investigations by the Crime and Corruption Commission, 2009–14

Since 2009, the major corruption issues seen in the Queensland public sector by Crime and Corruption Commission (CCC) investigators have been:

Corruption and favouritism
(conflicts of interest)

Unauthorised disclosure of information

Misappropriation of assets

Procurement

THEY COMPRISE:

65% of the investigations undertaken
by the CCC during that time

Failure of supervision

was identified
as a key enabler
of serious and
systemic corruption
across the
public sector





Corruption, the abuse of entrusted power for private gain, hurts everyone whose life, livelihood or happiness depends on the integrity of people in a position of authority.¹

This paper brings together lessons drawn from CCC investigations across the public sector. It aims to inform CEOs and senior officers of the issues most likely to put you and your agency at risk.

Corruption and favouritism: conflicts of interest

Since 2009, conflicts of interests — relating to favouritism and the inappropriate rewarding of benefits — have generated the highest number of CCC investigations across the Queensland public sector.

524

ALLEGATIONS

INVESTIGATIONS

185

206

CRIMINAL AND DISCIPLINARY RECOMMENDATIONS

The last five years have seen several high-profile cases in which CEOs and senior officers have been exposed to public scrutiny for their failure to transparently and appropriately manage a conflict of interest, perceived or actual.

Poorly managed conflicts of interest can damage careers, put relationships under pressure, taint reputations and erode confidence in the leadership of public agencies. Investigations have shown that:

Agency staff will often feel compelled to act upon an instruction from a senior officer, despite considering it improper and/or unlawful.

Senior officers' actions can become the subject of rumour and innuendo within the agency, weakening their authority and making their position untenable.

Allegations of favouritism attract intense media interest, requiring the CCC to explore the issues in public reports or hearings to maintain community confidence.

Allegations of nepotism, corruption and favouritism expose family members to media or public comment on their personal integrity and achievements.

¹ Transparency International: <http://blog.transparency.org/about/>; accessed 21 November 2014.

Most CEOs and senior officers will be called upon to manage a conflict of interest during their career and such a situation in itself is not problematic. However, the more senior the officer involved, the higher the associated risks will be if the conflict is not appropriately handled. **At its most serious, a conflict of interest can constitute a criminal offence**, for example, a public officer having a private interest in a contract² concerning the department in which they are employed. Giving preferential treatment to a friend or family member — by approving an inappropriate appointment or contract, or issuing an instruction to staff to do so — may be an abuse of office³.

As a CEO or senior officer, your position within the agency exerts an enormous degree of influence on staff. For that reason, it is equally serious to infer or imply to an employee that you favour a particular outcome in circumstances where there would be a clear conflict of interest (about a friend or family member) if you made the decision yourself. Even casually expressed requests or opinions can lead to staff acting on them without further questions, either from a perceived inability to refuse or a desire to “please the boss”. In such cases, your conduct could become the subject of an investigation.

When interviewed, agency staff have detailed to the CCC the internal reaction to senior officers’ decisions perceived to be improper or self-interested. One staff member recalled that it ranged from disbelief and consternation to open derision:

... Staff were saying out loud “Are you kidding?” with others laughing as if it was a joke. ... people approached me and asked what was going on and how could it happen? ...

... My understanding was that [the senior officer] wanted [this to happen] and if [we] had pushed back there could have been repercussions for [us] ...



Could your handling of a conflict of interest become the subject of a corruption allegation?

To avoid compromising yourself or your agency:

- Abide by the standards of conduct and the directions for managing conflicts of interest set out in your agency’s Code of Conduct, which you as CEO are required to approve. Be transparent — even if you have only a perceived conflict, declare it. Seek impartial advice. Don’t put yourself in a position where your decisions become tainted by suspicion of conflict of interest.
- Where you may have inadvertently or unconsciously failed to recognise that you have a conflict of interest, be receptive to constructive questions and well-intentioned advice.
- Provide staff with a procedure to deal with the decision without involving you. Just as section 48A of the *Crime and Corruption Act 2001* requires you to have a process for dealing with complaints about the CEO, you may wish to nominate someone who has the authority to examine your role in a potential conflict of interest on behalf of the agency and instruct you accordingly, or be a substitute decision maker.
- Do not underestimate the amount of discussion that a perception of favouritism will generate within your organisation. Unless decisions are transparent and defensible, questions about your conduct may spread throughout the organisation and into the public arena.

² Section 89 *Criminal Code*

³ Sections 92 and 92A *Criminal Code*

Unauthorised disclosure of information

Over the last five years the CCC has undertaken 67 investigations into allegations of improper access to, use of and/or release of confidential information. Often these allegations arose out of, but were not the primary reason for, the CCC's investigation.

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ALLEGATIONS

INVESTIGATIONS

67

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CRIMINAL AND DISCIPLINARY RECOMMENDATIONS

As a CEO or senior officer, you are responsible for the safe storage of any information your agency is given for specific lawful purposes and for ensuring that your staff understand the basis on which they have the right to access it. Any reason given for accessing information other than an authorised one is not acceptable.

CCC investigators have been told that, within organisations, confidential information is being accessed and disclosed by staff for a variety of purposes, including curiosity, a desire to locate an ex-partner or wanting to ingratiate themselves with others. Staff have admitted to identifying and selling information of significant value to commercial interests.

Inappropriate access to and disclosure of information is a serious breach of the trust placed in you and your organisation by the government and the public. Public knowledge of what is occurring can damage your organisation's reputation and have implications for its continued authority to collect and store information.

Under the law, improperly accessing or disclosing information can be a criminal offence. This year, a CCC investigation resulted in three people who unlawfully accessed information and provided it to a family member being convicted of criminal offences. In sentencing them, the magistrate took very seriously the nature of the offending, even though those people received no direct financial benefit themselves:

Ultimately, this conduct can be described as the thin end of the wedge, a bending of the rules, but its seriousness can't be understated because if [public officers] justify any bending of the rules to achieve outcomes, then public confidence in the system is lost.

Once information is released from your agency without proper authority, there is no guaranteed control over it. Even if the original release was not intended to cause harm, your employees cannot know all those who may come to possess the information, nor the uses to which it may be put.

In August 2014 the Parliamentary Finance and Administration Committee reported on its findings following a review of four tabled reports from the Auditor-General.⁴ The Committee's inquiry considered, amongst other matters, the Auditor-General's Report No. 1: 2014-15: *Internal control systems 2013-14*. In the Auditor-General's report a number of security weaknesses were identified within government departments, including users having inappropriate access to sensitive or restricted information. The Committee found that despite the attempts to address the issues "... there are still gaps in internal controls in the IT area ... user access weaknesses are not fully addressed despite the fraud case at Queensland Health ... considerable attention ought to be given to user access weaknesses and [...] departments should regularly review this area to avoid users having inappropriate access."

4 Parliamentary Finance and Administration Committee (2014): Report no. 48: *Inquiry into Auditor-General's Reports on Internal Control Systems and Fraud Risk Management* <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2014/5414T5781.pdf>; Queensland Auditor-General (2014) *Report 1: 2014-15 Results of audit: Internal control systems 2013-14* <https://www.qao.qld.gov.au/report-1--2014-15>



Is information security a recognised priority for your agency?

Information abuse and theft is a growing corporate concern. As a CEO or senior officer with a delegated responsibility, protect the information in your care by making sure that:

- Employees understand the rules around their access to information, their obligations to maintain confidentiality, and the penalties for failing to do so.
- Audit and risk management committees periodically review and report to senior executive management on systems and practices for control of all official records and information holdings.
- IT systems are able to be audited so that an investigation can quickly identify any breaches of information security and prevent further disclosure.

Misappropriation of assets

Misappropriation of Queensland government assets by public sector employees continues to rank as one of the main reasons for investigation by the CCC in the last five years.

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ALLEGATIONS

INVESTIGATIONS

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CRIMINAL AND DISCIPLINARY RECOMMENDATIONS

The CCC has observed the recurring nature of complaints relating to staff taking property that has been classified, sometimes incorrectly, as scrap or obsolete. Such property still has significant value to the organisation from which it was stolen. A recent CCC investigation showed that used items of plant deemed obsolete by a department were worth \$16 000 once unlawfully removed and reconditioned by employees (at minimal cost to themselves), then sold privately.

Over the last five years, the CCC has conducted 57 investigations into departmental losses stemming from the appropriation of excess or leftover materials for personal use by employees. Warning signs include an entrenched cultural belief that resources and materials are at the disposal of employees. Within one agency, a CCC investigation found a long-standing practice (over 10 years) of removal of government property, involving more than 30 employees and contractors, seemingly without any challenge from supervisors or senior managers.



Would an audit reveal serious deficiencies in your management of public assets?

As a CEO or senior officer you are a steward of the assets assigned to your agency. To protect them, and ensure that they are used for public, not personal, benefit:

- Make clear that you have a zero-tolerance policy on asset misappropriation. Communicate your views widely, especially to supervisors and managers.
- Proactively challenge accepted cultural practices that encourage or contribute to the misuse or improper disposal of public assets, particularly if your agency deals with extensive manual works, plant, machinery, etc.

Procurement

Procurement continues to be an ongoing issue across all areas in the public sector. Staff at all levels, from procurement officers themselves to managers and CEOs, have been the subject of corruption allegations.

Corruption allegations relating to procurement tend to fall into two main types:

- (i) failing to follow processes and procedures (cutting corners), because of ignorance, indifference or loss of procedural rigour over time; or
- (ii) deliberately subverting processes to obtain a benefit for themselves, family or friends.

Many of the significant frauds committed against government departments have been committed by or with the assistance of an employee. A recent national conference under the aegis of the Commonwealth Attorney-General⁵ emphasised the importance of agencies being alert to the “red flags” that may indicate corrupt conduct on the part of an employee.

The trusted insider can be one of the biggest threats to your organisation, not only in relation to procurement, but other types of corrupt conduct as well.

Corruption of your agency’s procurement process may not be immediately evident. One CCC investigation found evidence that employees had conspired with an external contractor to defeat the organisation’s fraud controls. Although procurement officers were seemingly following procedure and obtaining three quotes before awarding work to the contractor, it was discovered that all three quotes were originating from the same contractor under different names. While a cursory examination of the organisation’s records showed compliance with the procurement policy, further examination found that the process had been corrupted. The investigation also uncovered evidence of payments by the contractor in both money and other benefits to the employees.

CCC investigations involving procurement-related allegations over the past five years have found that this type of conduct is not uncommon.



Is your agency vulnerable to exploitation by a trusted insider?

As the CEO, your responsibilities under the *Financial Accountability Act 2009* extend to ensure that you:

- (a) achieve reasonable value for money by ensuring the operations of the department or statutory body are carried out efficiently, effectively and economically;
- (b) establish and maintain appropriate systems of internal control and risk management.⁶

Appropriate fraud control and detection measures and honest staff are your best defences against this type of corruption.

5 2014 Security in Government Conference — “The Insider Threat” 2 September 2014. The Attorney-General’s opening address can be found at <http://www.attorneygeneral.gov.au/Speeches/Pages/2014/ThirdQuarter2014/2September2014-2014SecurityinGovernmentConference-TheInsiderThreat.aspx>

6 Section 61

Inadequate supervision: a corruption enabler

A 2014 report into public sector fraud found that proactive supervision can reduce fraud losses by around 90%.⁷



CCC investigations found that failure to provide adequate supervision is one of the most common enablers of serious and systemic corrupt conduct.

Supervisors who tacitly approve, or turn a blind eye to, dishonest behaviour are themselves culpable. The CCC reported publicly on this point in its 2013 report into the five-year, \$16.69 million fraud committed against Queensland Health by one of its employees⁸. In that case, more proactive intervention by supervisors may have reduced the extent of the internal criminal activity and its impact on the organisation. The report states:

To be effective leaders, managers must demonstrate, and instil in their staff, an ethos of professional and personal accountability. The degree to which staff respect relevant laws, policies and procedures often reflects the example set for them by their immediate — or higher level — managers. Managers should have sufficient experience and objectivity to identify vulnerabilities in individuals, teams or work areas; they also must be able to challenge inappropriate conduct and move quickly to mitigate risk. Most of all, managers should not, by their inaction, themselves constitute a risk to their agency by abrogating their responsibility.

4 senior executives and 6 managers were investigated over their failure to prevent or adequately address ongoing fraud within QHealth

In another agency, a CCC investigation found that supervisors' lack of regard for and/or knowledge of departmental policies and procedures enabled staff at all levels to participate in unlawful practices. It also identified supervisors failing to report corrupt conduct to senior management.



Is laissez-faire supervision facilitating serious and systemic corruption in your agency?

As part of a corruption investigation, the CCC examines agency or work unit culture to determine whether failure of supervision was an enabling factor in any corrupt conduct. This will include examination of the level of understanding of policies and procedures, including compliance with the code of conduct.

Staff and the public will look to the CEO and senior officers to set agency standards. Ensure that all supervisors and managers, particularly those at executive level, understand that:

- Proactive supervision requires commitment and a highly developed sense of personal and professional responsibility.
- Supervision requires a thorough knowledge of all the agency functions/procedures that come within their span of control, particularly those that relate to sensitive areas and practices.
- As managers, they will be held accountable for ensuring that the work undertaken by the agency is carried out accurately, fairly and lawfully.

⁷ Association of Certified Fraud Examiners (2014) *Report to the Nations on Occupational Fraud and Abuse*. [Copyright 2014 by the Association of Certified Fraud Examiners, Inc.]

⁸ CMC (2013): *Fraud, financial management and accountability in the Queensland public sector: an examination of how a \$16.69 million fraud was committed on Queensland Health* <http://www.ccc.qld.gov.au/qhealth>



Any agency can be vulnerable to corruption.

CCC investigations show that CEOs and senior officers can limit their agency's exposure by:

- identifying high-risk areas or practices
- developing realistic anti-corruption strategies
- paying attention to early-warning signals
- proactively engaging all staff in a "zero-tolerance" culture.

It is essential that this culture is driven from the top down, and it is only effective if it is implemented and reinforced by your managers.

If you would like to discuss any of the matters raised by this publication, please contact the Executive Director (Corruption), Crime and Corruption Commission:

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