4 CONCLUSION AND RECOMMENDATIONS

The events surrounding the Barlow fraud serve as an important reminder of the responsibilities and vigilance expected of public servants in the public interest. Public servants are entrusted, on behalf of the people of Queensland, with responsibility for the sound functioning of the state's institutions. According to their level of seniority, they are invested with increasing degrees of authority to make decisions and exercise powers. As employees of the state, they are both recipients and stewards of public funds. As such, the government and the people of Queensland are entitled to expect them to discharge their obligations diligently and effectively in the best interests of the community. To this end, the Queensland Government has clearly signalled its expectations of performance, accountability and outcomes across the public sector.

Arising out of an instance of fraud at QHealth, this report identified five main areas in which agencies should be particularly vigilant:

- Financial management
- Managerial standards and accountability
- Acceptance of gifts and benefits
- Managing risk in a context of organisational change
- Fraud awareness and prevention.

Although the events detailed in this report occurred in a government department, they could apply equally within local government, statutory authorities, government-owned corporations and universities.

The CMC recommends that agencies consider and address these issues at all levels of their organisation including, but not limited to, executive management, with particular consideration by members of risk and audit committees. All managers and supervisors are encouraged to review their local processes and practices in order to identify any emerging issues.

Financial management

Agencies should actively promote a culture of responsible financial management to all staff. It is important to reinforce the obligations of due diligence — and the impact of maladministration on the community — to public servants as custodians of public assets.

Public funds are provided to agencies in order to purchase services, goods or activities *for the benefit of the community*. Whether paying staff salaries, allocating grants or investing in capital works, any agency disbursing monies must be able to demonstrate clearly *what* has been purchased, and that the public has received fair value for the money spent.

Agency staff must therefore ensure that no greater expenditure of resources occurs than is necessary, that the government gets what it pays for, and that the assets under their control are safeguarded. These obligations sit with every individual within the management hierarchy, regardless of pay grade. All employees in the public sector, especially managers or those involved with procurement, must ensure that:

- All spending is done to meet an identified and demonstrable need. Managers who approve expenditure are certifying that there is a real and genuine need to purchase the requested goods or services, and that the goods or services being purchased will meet the needs of the agency.
- Due diligence checks are done on the credentials and delivery capability of the vendor. The existence, identity and track record of potential suppliers of goods and services should be verified before they are registered on the Accounts systems.

- Requested goods and services are delivered, to specification and to the required standard, before expenditure.

The preceding is not an exhaustive list of all the financial precautions that agencies should take. Rather, it is a reminder that managers are responsible for ensuring that there are adequate verification mechanisms at each stage of the procurement process. They also have obligations to periodically test that these mechanisms are working and to take corrective action if they are not. Given the recommendations of the Costello report,[105] and the foreshadowing by government of greater use of outsourcing and external contractors to provide goods and services to the community, the obligation to demonstrate that public money is being spent responsibly in the public interest is even greater.

Recommendation

That agencies redesign their grants/outsourcing/expenditure arrangements, to include due diligence to establish that organisations receiving public monies are suitable for, and capable of, delivering the required services.

Recommendation

That agencies redesign their grants/outsourcing/expenditure payment processes, to ensure that payments of public monies cannot be made or continue to be made without clear demonstration that detailed delivery requirements have been met.

Managerial standards and accountability

Managerial accountability involves more than just overseeing the functional aspects and deliverables of defined roles. The experience of QHealth clearly demonstrates the importance of proactive, energetic management as the first line of defence against improper or potentially criminal action by public service employees.

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. Failure to properly manage the staff under their control could constitute a failure in performance and may attract disciplinary action under s. 187 of the *Public Service Act 2008* for performing their duties carelessly, incompetently or inefficiently. In the case of sustained dereliction of duty, managers or supervisors may expose themselves to disciplinary action for official misconduct under the CM Act.

How can agencies ensure that their managers can fulfil all the expectations placed upon them?

1. To begin with, agencies must recognise reciprocal responsibilities. Those responsible for employing or internally promoting people to management positions must look for people management skills as well as technical and/or professional skills.
2. Those moving into new roles must be apprised not just of key deliverables but also of their obligations as staff supervisors.
3. All staff should be clearly informed of performance expectations, including consequences of non-performance. Where appropriate, these should be formalised in position descriptions, performance appraisal documents or employment contracts.

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105 Queensland Commission of Audit Final Report, February 2013 and Queensland Government's response to the Commission of Audit's final report, *A plan: better services for Queenslanders*, 30 April 2013.

Key documents for all public servants are the Code of Conduct for the Queensland Public Service; the *Public Sector Ethics Act 1994*; and the *Public Service Act 2008*.

> ***Recommendation***
>
> That agencies implement policies and programs to ensure that:
>
> 1. Candidates for roles with management or supervisory responsibilities are positively vetted for a skill-set appropriate to the role.
> 2. Existing officers with supervisory or management roles have proper skills in and understanding of the function and duties of effective supervision.
> 3. Agencies initiate programs to manage and remedy the performance of managers who fail to effectively perform their supervisory functions.

Acceptance of gifts and benefits

Across the public sector, most departments and agencies should have policies governing public servants' acceptance of gifts and benefits. These are intended to reduce the risk, or perception, of improper influence by members of the public upon government decision making — in short, to prevent bribery of public officials.

The current *Public Service Directive 22/09 Gifts and Benefits* is the key document in this regard; in general, most public servants are well aware of the restrictions it places on their acceptance of gifts and benefits from outside the public sector. However, while the directive covers both giving and receiving gifts, it only applies where gifts are given to public officials "when they are acting in their official capacity".[106] The current policy framework does not specifically deal with the issue of gifts given or accepted by colleagues within the workplace.

The potential for inappropriate influence is obvious when the offer of a gift or benefit comes from an external party and so caution is exercised. In the CMC's view, the same prudence should be exercised in accepting gifts, benefits or hospitality within the workplace. It is not advocating that there should be no gift-giving between colleagues; in most workplaces presents are given and accepted without any adverse impacts or larger implications. Nonetheless, public servants when considering whether or not to accept a gift or offer — whether from a peer, subordinate or superior— should ask themselves, "Why am I being offered this gift, and could my integrity or the integrity of my agency be compromised if I accept it?"

Consideration should be given, particularly by managers, to the potential implications of such offers, particularly in relation to the value of the item, the frequency of the gift-giving, and the power and/or hierarchical relationship between the giver and the recipient. Managers who accept gifts or other benefits, particularly from those they supervise, may find their authority and objectivity compromised. They also have an obligation to maintain appropriate standards of conduct and professionalism in the workplace.

Certainly managers should *never* attempt to solicit gifts, benefits or services from those they supervise or those in less senior positions in the organisation, regardless of personal circumstances. In extreme cases, such conduct may constitute workplace harassment.

The CMC has requested that the Public Service Commission consider amending the *Public Service Directive 22/09 Gifts and Benefits*, in particular in relation to acceptance of gifts and benefits within the workplace.

106 Section 6 "Definitions".

Managing risk in a context of organisational change

All organisations undergo change. In the public sector, this may take the form of machinery-of-government changes or restructures designed to promote greater efficiencies. As discussed in Chapter 3, organisations must ensure that major structural or workplace change includes a full review of all relevant policies, delegations, protocols and reporting arrangements. Such a review ensures that corporate governance requirements are appropriate to the new structure and relationships, and provide guidance and authoritative reference to the affected employees.

In particular, any move of business units or functions should be supported by a full risk assessment of the post-restructure environment. Where risks are identified, these must be analysed at the design phase and supported during implementation by appropriate organisational controls. These should be communicated to and discussed with managers taking on responsibility for the new functions; implementing practical work-area-based oversight mitigates the identified risks and sets a clear direction in line with organisational controls.

In addition, given increasing workforce mobility, greater movement of staff between the public and private sectors, and consequent turnover in staff, agencies should ensure organisational continuity by regular review and refresher training in policies and procedures.

> ***Recommendation***
>
> That agencies undertaking restructures or other organisational changes implement a strict productivity and risk based analysis of work flows, procedures and accountabilities to ensure that local and overall efficiency is not compromised.

Fraud awareness and prevention

QAO reports tabled in Parliament since the discovery of the Barlow frauds show that public sector agencies may still be putting themselves at risk by not engaging actively enough with the issue. In its report published in June 2012, six months after Barlow was arrested, the QAO found that that the number of control issues identified during its audits demonstrated that significant scope remained for improvement in the area of fundamental governance responsibility. The QAO also found that:

> The internal control issues identified during our audit, such as lack of criminal history checking, controls over preventing duplicate payments, missing reports and documentation, and inadequate monitoring and checking that controls were operating effectively, also contribute to an environment where fraud can occur and remain undetected.[107]

As recently as March 2013,[108] the QAO assessed fraud controls at three departments, including QHealth, and again identified deficiencies. The CMC quotes part of that report here as a reminder of the importance of corporate will, and the key role of senior leadership, in safeguarding public assets from fraud:

> While senior management is committed to fraud control, this is not being supported by visible processes to actively prevent, detect and respond to fraud. This means the risk of fraud occurring and going undetected is unacceptably high …
>
> Having policies, plans and reporting and investigation procedures alone is not sufficient. What is missing and is much needed is a targeted campaign of fraud prevention and detection ...
>
> There is also little evidence that agency culture reinforces the message that fraud management is a core responsibility of every employee. There is little fraud specific education and awareness training. As a result,

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107 Queensland Audit Office, *Results of audits: internal control systems*, Report No. 5 for 2012, June 2012, page 1. See the full report at <www.qao.qld.gov.au/files/file/Report5for2012-Resultsofaudits-A7-clearerPDFs.pdf>.

108 Queensland Audit Office, *Fraud risk management*, Report No. 9 for 2012–13, March 2013. See the full report at <www.qao.qld.gov.au/report-9-:-2012-13>.

> employees are less likely to be alert to, and aware of, fraud risks, or to know what to do if they suspect fraud.[109]

The QAO also outlined some of the key elements of an effective fraud prevention blueprint:

- strong organisational commitment to good governance
- active senior management engagement
- visibility of control mechanisms
- reinforcement of fraud awareness through employee education and training.

As the QHealth experience has demonstrated, fraud is a live issue that must be factored into agency planning and risk management. Given the high cost to the public sector — and ultimately to taxpayers — of trying to repair the damage done by an instance of fraud, agencies must take early and informed preventative action.

Recommendation

In light of the QAO reports and Queensland Health investigation, that agencies, as a matter of urgency:

1. Undertake a full review of their fraud control and awareness policies and procedures, ensuring that these are up to date and that there is effective alignment between governance controls and actual work processes.
2. Undertake a systematic implementation of fraud awareness training for all staff, appropriate to their function and level.

109 Ibid., page 1.