

INTEGRITY COMMISSION EXECUTIVE SUMMARY

REPORT ON ETHICS & INTEGRITY
IN THE TASMANIAN PUBLIC SECTOR

2013



INTRODUCTION

The Integrity Commission was established in October 2010. One of its key objectives is to improve the standard of conduct, propriety and ethics in Tasmanian public authorities by adopting a strong educative, preventative and advisory role.

Since establishment, the Commission has been collecting information about the state of ethics and integrity in the public sector. The Commission has done this by delivering face to face training and education programs; establishing discussion and advisory groups (Ethical Reference Groups);¹ examining public information about agencies; investigating misconduct and auditing the way agencies have responded to allegations of misconduct.

While agencies believe that they are providing sufficient information in applicable codes of conduct and ethics and integrity at induction, **staff do not perceive that they have received that training.**

Between November 2012 and January 2013, the Commission conducted a detailed survey of integrity mechanisms in state departments and government businesses.² The total staff within agencies surveyed amounted to nearly 31,000. The Commission combined the information it had gathered from all sources, and from this survey, to produce the first 'map' of the gaps in ethics and integrity policies and practices in these agencies. This information provides valuable insight into the key areas of misconduct risk. The Commission will use this information to develop training, research and misconduct prevention activities (products) to ensure that the work of the Commission is directed towards the areas of highest misconduct risk and that its products are most effective in helping agencies to reduce that risk. This work will also assist agency heads to meet their obligations under the *Integrity Commission Act 2009* to provide training to staff on ethics and integrity.

1. Ethical reference groups have been established to cover key areas of state public administration – state service departments, government businesses, local government. There is also a separate group to cover northern agencies.
2. The survey was conducted generally by face to face interviews with officers nominated by the head of the agency.

WHAT IS A MISCONDUCT RISK?

Misconduct risk arises from various sources. A poor culture; gaps in administrative processes; a lack of, or poorly drafted policies and procedures; ignorance of obligations and accountability system failures have been identified as key factors.³

Risk management models are universally recommended for agencies to assess their own governance needs, adopt (or not adopt) recommended standards and tailor their integrity frameworks to suit their needs.⁴ The OECD⁵ recommends agencies identify high risk areas and manage them with existing processes such as personnel management or internal audit.

In mapping misconduct risk within the Tasmanian public sector, the Commission identified a number of risk areas to measure agencies against, in order to determine the 'health' of the sector in relation to ethics and integrity. The areas the Commission focussed on included:

- education on ethical codes and key integrity policies – this included an assessment of whether education was ongoing or limited to induction, employees understood the information that was provided to them and records of training were maintained;
- key ethical guides – values, vision and mission statements and service charters set the ethical tone of an agency, so the existence, accessibility and employee awareness of these was assessed;
- misconduct management systems – crucial to minimising misconduct risk is the identification, reporting and treatment of complaints and reports of misconduct (internal or external). The existence and robustness of these management systems was assessed; and
- Public Interest Disclosure – protection of a 'discloser' is a key risk management tool, particularly for misconduct at higher levels, which is most serious. The existence of procedures to allow for such disclosures and the awareness of employees and the public in how to use them was assessed.

3. Testing APS Ethics: Where's the Integrity, Lynelle Briggs
Australian Journal of Public Administration, Vol 68 No 2 p 119

4. ASX corporate governance principles at
<http://www.asx.com.au/governance/corporate-governance.htm>

5. OECD Reviews of Public Sector Integrity
<http://www.oecd.org/gov/ethics/publicsectorintegrityreviews.htm>

Generally, the survey of 26 agencies found that most:

- provide their staff with information on the code of conduct at induction;
- review complaints for the purpose of improving processes;
- have comprehensive internal audits; and
- train and delegate staff in known risk areas, such as procurement.

However some key gaps were identified.



Education

Of most concern was that 17 out of 26 agencies surveyed did not provide adequate training or awareness-raising in ethics and integrity after staff induction.

This information confirmed what the Commission had been told directly by staff of agencies. The Commission surveyed staff who undertook its face to face training in 2012 and 69% of those who responded said they had not attended training in ethics or integrity at all with either their current or former employer. Of those the Commission trained in 2013, 58% said they had not received any previous ethics and integrity training.

The Ethical Reference Groups which meet regularly with Commission officers have also consistently raised concerns that staff are not aware of their responsibilities under the applicable codes of conduct and are also unaware of their ethical obligations generally.

These findings indicate that while agencies believe that they are providing sufficient information in applicable codes of conduct and ethics and integrity at induction, staff do not perceive that they have received that training. It was also clear from our survey that for most agencies, ethics training is a 'one-off' on induction. After induction staff are not reminded about it nor do they have their understanding refreshed.

Other gaps in the education area included:

- 8 agencies did not make any record of their staff's understanding of their ethical training and 3 did not record participant attendance; and
- 8 omitted key ethical issues (such as the code of conduct, vision, mission and values and the service charter) from initial induction or ethical training.



Key ethical guides

Of the agencies surveyed 7 had no service charter and 4 no vision statement.



Managing misconduct

There was significant room for improvement in recording and analysing complaints - 9 agencies did not have a complaints policy or defined process for handling complaints and 8 did not have a complaints register to track breaches of key policies and report trends to senior management.

Eight agencies did not inform their contractors about code of conduct provisions that might be relevant to the work they did for the agency.

Staff were not trained at all in key compliance policies covering high risk areas such as conflict of interest (4 agencies) and receipt of gifts and benefits (6 agencies). Nine agencies provided no ongoing training or awareness - raising of these after induction. An interesting parallel theme emerged from feedback the Commission received in its staff training sessions. There was a widespread degree of concern about conflicts of interest, particularly in the health sector and local councils (recruitment was identified as a key area). Nepotism and patronage were perceived as a problem in these sectors.

On the positive side 22 agencies surveyed said they reported complaints to senior management in one form or another, after receipt.



Public Interest Disclosure

The *Public Interest Disclosures Act 2002* (the PID Act) requires agencies to establish procedures to deal with certain processes (such as investigations and disclosures) under the Act and to make those procedures available to its staff and the public.

The information we received from our survey of agencies showed that nearly a quarter did not have PID procedures in place and 10 did not provide training to staff on PID rights and obligations, despite the Ombudsman publishing guidelines and model procedures to assist agencies to comply with the PID Act.

WHAT THE **INTEGRITY COMMISSION** **FOUND** FROM **26** AGENCIES SURVEYED



Education on ethical codes, policies and issues, vision/mission statement, service charter and PID

Limited or lack of ongoing ethics and integrity training or awareness-raising following initial induction.	17
Key ethical issues omitted from induction.	8
Employees not provided with practical examples during education or awareness-raising.	1
Training records not kept.	3
Employee understanding of education or awareness-raising not assessed or recorded.	8



Key ethical guides

No vision statement.	4
No service charter.	7
Limited or no access to service charter.	3
No steps taken to make the code of conduct 'visible' to employees.	1



Managing misconduct

Key compliance policies (including conflict of interest, gifts and benefits and confidentiality) not included in ongoing training or awareness raising.	9
Contractors not informed about the code of conduct.	8
No complaints policy or process.	9
No complaints/breach registers.	8
Complaints not reported to senior management.	4



Public interest disclosure (PID)

No PID policy or procedures.

6

No PID training.

10

Limited or no access to PID information.

6



Special needs clients

Limited or no provision for special needs clients.

3



Investigations

Limited or no guidance and education for employees on conducting investigations.

2



Accreditation

Employee accreditation not checked.

1



Risk assessment

No internal audit.

1



Special needs clients

Most agencies (23) had some procedures in place to inform special needs clients about the key policies that existed for their benefit (e.g. consultation with special interest groups, establishment of telephone hotlines, and direct liaison with carers, guardians and parents).



Investigations

Most agencies used external consultants to carry out investigations for code of conduct breaches – 6 exclusively and an additional 13 for more serious or complex investigations.

Of those agencies which conducted their investigations internally, 10 stated that they provided guidance or training to their staff conducting the investigations.

However, feedback from our training sessions and the Ethical Advisory Groups over the last year indicated that there is a significant lack of skill in managing and carrying out these kinds of disciplinary investigations.

The Commission surveyed staff who undertook its face to face training in 2012 and **69% of those who responded said they had not attended training in ethics or integrity at all** with either their current or former employer. Of those the Commission trained in 2013, **58% said they had not received any previous ethics and integrity training.**

GAPS = MISCONDUCT RISKS

The following identified gaps give rise to integrity risks in agencies:

- employees do not know of their ethical obligations, which places the agencies at risk of them engaging in misconduct or behaviour that might be seen as such by the public;
- manager ignorance of how to address employee misconduct, which places agencies at risk of poor cultures developing though bad behaviour not being addressed;

There was a widespread degree of concern about conflicts of interest, **particularly in the health sector and local councils** (recruitment was identified as a key area). **Nepotism and patronage were perceived as problems in these sectors.**

- employee misunderstanding of their organisation's core values and the expected behaviour that flows from them;
- lack of training records making disciplinary action following a breach of the code of conduct or key compliance policy difficult to substantiate or sanction through appropriate penalty;
- ignorance of ethical standards in contractors engaged to deliver core business leading to an increased risk of behaviour damaging to the reputation of the agency;
- the lack of a co-ordinated complaint process with analysis and feedback to management resulting in trends and risks not being identified;
- the lack of robust and accessible PID procedures may result in employees or others avoiding use of the PID processes to expose misconduct, allowing it to go undetected; and
- the lack of facilities to allow special needs clients to complain, may result in misconduct involving them going undetected.

Good practices

There were a number of activities, resources and programs within a small proportion of those surveyed, mostly from government businesses, that serve as good practice examples within the state public sector.

1. Education

- use of online training tools;
- agencies establishing a compliance officer position conducting monthly compliance training;
- toolbox talks on the code of conduct/ethical issues;
- regular internal emails and newsletters about ethical issues;
- refresher training on ethics and the code of conduct; and
- the agency's code of conduct is discussed regularly with staff.

2. Managing misconduct

- the code of conduct forms part of the contract of engagement and induction for contractors.

3. Client Services

- service agreements made with customers containing dispute resolution procedures; and
- undertaking a customer service survey.

4. Risk assessment

- discussion regarding the service charter is included in the performance review process; and
- a register of issues and opportunities identifies opportunities for improvement and assesses risk.

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Crucial to minimising misconduct risk is the identification, reporting and treatment of complaints and reports of misconduct.

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WHAT HELP DID AGENCIES ASK FOR FROM THE INTEGRITY COMMISSION?

Agencies wanted:

- help with reviewing ethical frameworks, including key compliance policies;
- online training modules to assist with ongoing training in ethics and integrity;
- information sheets and articles on 'hot topics' and compliance requirements with embedded scenarios for use in toolbox talks and newsletters;
- training that was suited to them and their staff in areas such as release of information, code of conduct, whistleblowing, social media, conflict of interest and gifts; and
- information on the role and processes of the Integrity Commission.

WHAT NEXT?

Based on the information from these sources, the Commission is currently developing a range of misconduct prevention products, including:

- conflict of interest template policies, procedures and guidance that agencies will be able to tailor to their specific needs and use with minimal additional work;
- training modules on ethics and integrity to be available online for use by agencies to deliver in-house training. The first of these modules is due to be released in June 2013;
- a bank of case studies and scenarios to complement the training modules; and
- a 'hot topic' series on misconduct risks, available on the Commission website.

The Commission will continue its regular Ethical Reference Groups in Hobart and Launceston. As well as catering for the ethical issues they raised in 2012, the Commission will facilitate environments for more issues to be raised and will develop a range of template policies, procedures and guidance to assist strengthening agencies' ethical frameworks.

The Commission will also continue its regular ethics and integrity direct training workshops for public sector employees in Hobart and Launceston.



GPO Box 822, Hobart Tas 7001
Level 2, 199 Macquarie St, Hobart
Ph: 1300 720 289
Fax: (03) 6233 7215
integritycommission@integrity.tas.gov.au
www.integrity.tas.gov.au