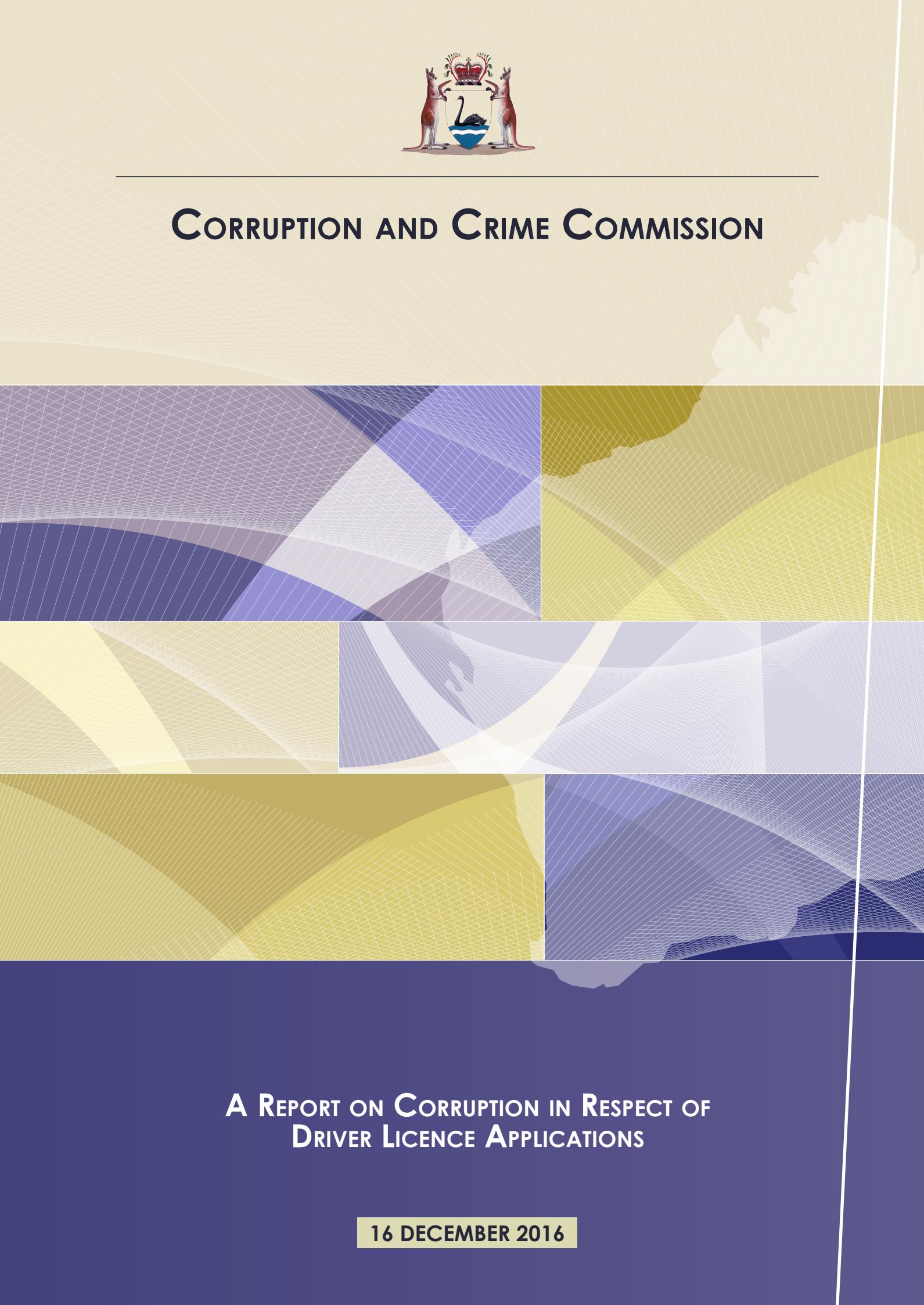




CORRUPTION AND CRIME COMMISSION



**A REPORT ON CORRUPTION IN RESPECT OF
DRIVER LICENCE APPLICATIONS**

16 DECEMBER 2016

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CORRUPTION AND CRIME COMMISSION

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Dear Mr Pratt
Dear Ms Robinson

As neither House of Parliament is presently sitting, in accordance with the *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 93, the Commission hereby transmits to you a copy of its *Report on Corruption in Respect of Driver Licence Applications*.

The Commission notes that under CCM Act s 93 a copy of a report transmitted to a Clerk of a House is to be regarded as having been laid before that House.

Yours sincerely

John McKechnie, QC
COMMISSIONER

16 December 2016

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The corrupt actions of a vehicle examiner

- [1] As a result of a notification from the Department of Transport (DoT), the Commission commenced an investigation into the activities of Mr Gregory Paul Briotti, a contracted vehicle licence examiner.
- [2] Mr Briotti was born in Koorda, in the Wheatbelt, some 235km from Perth. He was a Councillor in the Shire of Koorda and worked as a farmer until 2008.
- [3] In that year, he was contracted by DoT (formerly Department of Planning and Infrastructure) to conduct practical driving assessments in Koorda. Initially, he carried out that work in a part time capacity, perhaps as a service to that community because no one else expressed an interest.
- [4] Between then and June 2015 when his contract was terminated, Mr Briotti gave evidence to the Commission that he received payments to pass people for driving assessments they had not undertaken. He estimated the payments received were about \$50,000. This was in addition to the fees he was paid under contracts.
- [5] On numerous occasions, persons would attend on Mr Briotti, often at his house. On the payment of money to him, Mr Briotti would complete a Practical Driving Assessment (PDA) form even though he did not observe the person driving. Many motorcycle licences, as well as other vehicle licences, were issued because of Mr Briotti's actions. There was no way of knowing that the person was in fact competent to drive the particular class of vehicle. When DoT realised what Mr Briotti was doing, they terminated his contract. On becoming aware he was being investigated, Mr Briotti made some efforts to persuade people who paid him to lie and say they had in fact undertaken a practical driving test.
- [6] Mr Briotti's PDAs were substantial over the period of his employment, numbering 10,225 and earning him \$682,418.54 in fees. This does not include illegal payments he received. There was a 467% increase in PDAs conducted in Koorda compared with the metropolitan area. When DoT conducted a review following the cancellation of Mr Briotti's contract, there were 518 assessments that were audited and 188 (or 36%) of the total number of customers were referred to driver suitability services for either cancellation or suspension of licence, or requirement to re-sit the PDA.
- [7] On the basis of his evidence and other material, the Commission has formed an opinion of serious misconduct in respect of Mr Briotti's actions in accepting payment for driving assessments not undertaken.¹
- [8] The Commission recommends that the Director of Public Prosecutions consider criminal proceedings in respect of Mr Briotti's activities.

¹ CCM Act s 4(b).

[9] In order not to prejudice any possible trial, the Commission will not report into his activities in any great detail.

The enablers: (1) the procurers

[10] Mr Briotti could not have acted as he did without help. It came in the form of two sets of enablers. The first set were those who channelled work his way, particularly the brothers Veronesi. They are not public officers. Alex Junior Veronesi and Brandon Mario Veronesi channelled acquisitions from a motorcycle club and elsewhere to Mr Briotti. Whether they should be prosecuted is a decision for the Director of Public Prosecutions.

The enablers: (2) the assisters

[11] The second set of enablers were staff at rural local government offices who processed Mr Briotti's assessments knowing they were false. His wrongful activities could not have occurred unless he found people willing to enter data into the DoT computer system TRELIS (Transport Executive and Licensing Information System).

[12] Local governments were contracted by DoT to process licence applications into TRELIS. The risk to human safety in allowing a person who is not qualified to operate a particular class of vehicle is obvious. Public officers working for local government ignored that risk simply to help out Mr Briotti. In doing so, they corrupted the DoT system with false information. DoT was put to trouble and expense in recalling licences and retesting individuals. DoT estimates it cost \$200,000 to put right Mr Briotti's corrupt assessments.

The DoT licensing system

[13] The Commission took evidence from Mr Alistair Butcher, Director of Business Reform at DoT. The Commission thanks him for his active assistance in the course of this and another investigation. He explained the licensing system under which Mr Briotti was contracted as a driver licence examiner.

[14] Until 2007, WA Police conducted driver assessment in rural Western Australia. Between May 2007 and July 2008 the driving assessment function in regional and rural areas was transferred from WA Police to the Department of Planning and Infrastructure (DPI). For ease of reference, the licensing authority will be referred to as DoT to encompass a time when licensing was part of DPI. It was proposed that contract assessors would be engaged in the Wheatbelt region following the withdrawal of WA Police services. The assessment location in each nominated town of Dowerin, Moora, Cunderdin, Kellerberrin, Wyalkatchem and Koorda, was the shire office or similar community facility.

[15] If a person wanted to obtain a licence for a particular class of vehicle, they would pay a fee and pass an online test. They were then classified as a

learner driver for that particular class and if the class required it, would have to undertake a certain number of hours driving under supervision. It was then necessary to carry out a PDA. If they had access to an online booking system, they would arrange their PDA through that medium. Koorda did not have access to the online booking system until 2015. Nor did Dowerin.

TRELIS

[16] TRELIS is a critical government computer system that has been operating since 2004. It:

- is a client-centric system with a database that contains personal information on the 1.3 million licensed drivers and 1.9 million registered vehicles in Western Australia. This information supports DPI's licensing function;
- calculates applicable fees, records payments, and issues licenses and registration documents;
- collects fees for the Insurance Commission of Western Australia, the Commissioner of Main Roads and WA Police;
- creates records of financial transactions which are used to update DPI's financial accounts.

A gap in the booking system

[17] Part of DoT's service is an online booking tool. In the Perth metropolitan area, a person seeking a driving assessment would go online and make an appointment. A driving assessor has no influence over the appointments for a PDA. A person wishing to obtain a PDA in a local government which did not have access to the booking system, was supposed to contact the local government and be allocated a time. The examiner was not meant to arrange bookings.

[18] In regional Western Australia, including Koorda and Dowerin, the online booking tool was unavailable. Although appointments should have been made through the relevant local government, Mr Briotti was able to maintain control over his bookings. In October 2014, Mr Briotti's mobile number was on the Shire of Koorda website as the contact number. This control was important in allowing him to carry out his wrongful activities.

[19] Driving examiners were permitted to charge only the prescribed fee, \$60.

[20] As part of the contract, an examiner was required to conduct a PDA at a prescribed location, namely the relevant shire office.

[21] DoT has now extended the booking system to more local governments.

Mr Briotti and the Shire of Koorda

[22] The Shire of Koorda is about 235km north east of Perth in the Wheatbelt. Its population is around 596. For such a tiny place, there were a remarkable number of PDAs which Mr Briotti allegedly performed. Koorda has no traffic lights, a fact which might come as a surprise to one witness, Mr Arias, who insisted that he had performed a PDA in Koorda and seen traffic lights there. The Commission rejects his evidence that he sat a test in Koorda or anywhere. On the day of 15 April 2015, Commission surveillance officers filmed Mr Arias paying money to Mr Briotti on the front verandah of Mr Briotti's house and departing shortly after Mr Briotti had completed a PDA form for Mr Arias and given it to him.

[23] Ms Karen Natalie Clare was an administrative officer with the Shire of Koorda. She was trained on TRELIS in 2009 and thereafter would enter details into TRELIS given to her by Mr Briotti.

[24] From 2010, Mr Briotti would call Ms Clare from time to time, to find out if a particular person was entitled to take a PDA. She would check on TRELIS and advise Mr Briotti accordingly. Mr Briotti would send completed PDA forms to Koorda, which Ms Clare would enter into TRELIS. She claimed that on occasions, a client taking a test in Koorda might supply the paperwork. However she acknowledged that she did not ever observe a person taking a test.²

[25] Occasionally, Mr Briotti would leave paperwork in a hatch outside the Shire office or the paperwork would be posted or faxed. Sometimes, Mr Briotti would attach a yellow sticky note nominating a particular time when the PDA should be processed and a person become eligible for a licence for a particular class of vehicle. From the beginning of 2014, Ms Clare would enter into TRELIS details corresponding to what had been written on a sticky note.

[26] On occasion, Ms Clare would receive a batch of paperwork containing perhaps up to 10 practical driving assessments. Ms Clare was unable to satisfactorily explain why she would enter into TRELIS information that cannot have been correct. If she received a completed assessment form from Mr Briotti with a sticky note telling her to enter it on a specified time at a later date, self-evidently the test could not have been completed at that time and date.

[27] She said she assumed that it may have something to do with his quota. The Commission does not accept her evidence in this respect. Ms Clare conceded she did not know whether Mr Briotti had a quota.

[28] Ms Clare never asked Mr Briotti why he was doing what he did. She knew that the information she entered would be in an official database and that it should contain detailed and accurate information. As she was entering details for completed PDAs in respect of tests which, according to the

² Transcript of Public Examination 9 November 2015, K N Clare, p4.

sticky notes were yet to occur, it should have been obvious to her that she was corrupting the TRELIS database with false information.

[29] Two telephone calls on 20 April 2015 are revealing. The telephone call was between a Koorda Shire employee, Ms Lana Foote and Mr Briotti. Ms Clare was listening and interjected:

Foote: *Good morning, Shire of Koorda, Lana speaking.*
Briotti: *Hello Lana. It's Greg here.*
Foote: *How ya going?*
Briotti: *Not bad. There's uhm a big yellow envelope there.*
Foote: *Is there?*
Briotti: *Full of licence papers.*
Foote: *Where would that be?*
Briotti: *Uhm*
Foote: *(indistinct) have it?*
Briotti: *Yeah. Could have. Joy would have dropped it in the mailbox.*
Foote: *Big yellow envelope from Greg. Yeah.*
Briotti: *Pardon?*
Clare: *All organised.*
Foote: *Yeah. All organised she said.*
Briotti: *Okay. No worries. Can you do them on the times that are that I've written on the little bits of paper?*
Foote: *Yeah. I'll let her know.*
Briotti: *Good on ya.*
Foote: *All rightey.*
Briotti: *Thank you.*
Foote: *No worries. See ya later.*
Briotti: *Bye bye.*
Foote: *Bye.³*

[30] Later the same day, Ms Clare spoke directly with Mr Briotti:

Clare: *Good afternoon, Shire of Koorda, Karen speaking.*
Briotti: *Hello Karen. It's Greg here.*

³ Transcript of Public Examination 30 October 2015, G Briotti, pp70-71.

Clare: Yes. Oh shit.

Briotti: Just checking just checking to make sure everything's going all right.

Clare: (laughs) Hence by the oh shit yes everything's going fine (laughs)

Briotti: Have you not done of 'em yet?

Clare: No (laughs)

Briotti: What?

Clare: Oh I've just had them sitting here and I thought yes yes and I looked at the clock and it was about half past nine yes yes can't do the first one until ten o'clock. Bloody hell. So I'll go through and I'll do 'em now. One

Briotti: Oh yes. Righto.

Clare: three

Briotti: Okay.

Clare: Yeah I can do twelve thirties now.

Briotti: Yeah.

Clare: And then the rest I can't do until three three thirty. Okay. I shall leave them sitting on my front thing here.

Briotti: Yeah. Righto.

Clare: As I said I thought about it about half past nine.

Briotti: Okay. (indistinct)

Clare: but I'll leave it sitting right there so I can see it

Briotti: All right then. Leave ya with it.

Clare: Okay. I'll do it now for ya.

Briotti: Okay. Bye.

Clare: Okay. Bye.⁴

- [31] These telephone calls indicate Ms Clare well knew she was entering details into TRELIS which were inaccurate.
- [32] Ms Clare and Mr Briotti also communicated through text messages. It is unnecessary to set them out in this report.
- [33] An examination of the texts and the telephone calls together with Ms Clare's admissions, indicate that she knew what Mr Briotti required and

⁴ Transcript of Public Examination 30 October 2015, G Briotti, pp73-74.

she was a willing enabler. She must have known some of the entries were false. For example, in relation to a motorcycle PDA, a test allegedly commencing at 2.00 pm on 20 April 2015 and completed at 2.30 pm was entered by her at 2.27 pm, three minutes before the test supposedly ended. Although Ms Clare claimed not to know whether Mr Briotti was in town on that day, it is obvious that he was not, having regard to the phone call and texts. The Commission does not accept Ms Clare was ignorant about Mr Briotti's actions.

[34] The Commission accepts Ms Clare's evidence that she was not paid or given a gift at any time.

[35] In answer to the question 'why did you do it?':

I think I trusted him, that he was doing the correct thing. I said I've known him for quite a while. Yeah; I just didn't remotely think he was doing anything wrong or misleading anybody. Yeah; I took - yeah; I just trusted him that he was doing the correct thing.

But it can't have been the correct thing to get forms faxed to you on a Wednesday, to be processed on a Friday. You must have realised that the person couldn't possibly have sat the test two days on. So why did you do it --Yeah; I don't - I don't know. I can't say why I did it.⁵

[36] Mr Briotti's conduct in completing PDAs when no assessment had been undertaken was essential to his receiving a wrongful payment for a purportedly successful PDA. It enabled him to be paid money directly from an applicant. His scheme could not have worked without the active assistance of Ms Clare at the Shire of Koorda, processing documents that she must have known were false.

[37] In a response to the draft report, submissions on behalf of Ms Clare:

1. *Ms Clare confirms her evidence at the hearing that she did not believe that what she was doing in the course of her duties in the Shire was either in error or illegal. Her actions were never queried by other people at the Shire and she simply assumed Mr Briotti was acting in accordance with his position as an examiner.*
2. *Ms Clare and Mr Briotti both lived in the small town of Koorda and she had known him all her life. In putting her faith in him, she was at worst naïve and trusting.*
3. *With the benefit of hindsight, she now realises that she should have queried some of the instructions he gave, in particular those to enter information about tests which had supposedly happened at a later time. At the time, it never occurred to her to do so.*
4. *The fact that she received messages and telephone calls from Mr Briotti was not of itself an indication that he was not in Koorda. It is common usage to do so and was not of itself in any sense so unusual as to excite comment or question.*

⁵ Transcript of Public Examination 9 November 2015, K N Clare, p22.

5. It is submitted that there is no question of any corrupt action on the part of Ms Clare. She was never offered and did not receive any bribe or gift.⁶

[38] The Commission has carefully considered these submissions. While submissions 2 and 3 can be accepted, contrary to submissions 1, 4 and 5, the Commission's assessment of all the evidence including Ms Clare's testimony, is that Ms Clare was well aware of Mr Briotti's method of operation. Koorda is a small town. She must have known Mr Briotti was not there when receiving bundles of forms in envelopes and sticky note instructions to enter details of a PDA at some time in the future.

Opinion of serious misconduct

[39] The CCM Act s 4 defines serious misconduct:

Misconduct occurs if -

(a) *a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; ...*

[40] Corruption as defined in the *Oxford English Dictionary* has a number of meanings. In order to select the correct meaning, it is necessary to know the context in which it is used. In the CCM Act and in the meaning applied by the Commission, it is 'perversion of a person's integrity in the performance of (especially official or public) duty or work by bribery etc'.

[41] In the United Kingdom, juries are directed that "corruptly" is a simple English adverb which does not mean dishonesty, but rather purposely doing an act which the law forbids as tending to corrupt: *R v Wellburn, R v Nurdin, R v Randel* (1979) 69 Cr App Rep 254.

[42] In *DPP (Cth) v Hogarth* (1995) 93 A Crim R 452 corruption is not to be equated with dishonesty and dishonesty does not necessarily connote corruption.

[43] In the *Independent Commission against Corruption v Cunneen* [2015] HCA 14 at [76], Gageler J (in dissent) discussed the meaning of corruption:

The word "corruption" appears in the ICAC Act in its title and in its objects clause. The word connotes moral impropriety in, or in relation to, public administration. It has never acquired a more precise meaning in the language of the law or in ordinary speech. Standard dictionary definitions of "corrupt", used as an adjective, provide a range of meanings, from "dishonest" or "without integrity" to "infected" or "tainted".

[44] In *Western Australia v Burke (No 3)* [2010] WASC 110 at [74]:

The word "corruptly" is not defined in the Code. It is to be given its ordinary meaning which, in my opinion, when one is concerned with the quality of the act or omission which is said to be corrupt, will involve the notion that

⁶ Letter from Laurie James AM, Kott Gunning, on behalf of Ms Clare to Commissioner McKechnie, 6 December 2016.

there has been a dereliction of duty, an element of fault, some perversion of the proper performance of the duties of office: Williams v R (1979) 23 ALR 369 at 373, per Blackburn J.

[45] The Commission is cautious in forming an opinion of serious misconduct but does so in respect of Ms Clare. In the Commission's opinion, she corruptly acted in the performance of her function of employment.⁷ She entered details into TRELIS for the improper purpose of assisting Mr Briotti, when she knew that the details were false.

Mr Briotti and the Shire of Dowerin

[46] Ms Rhian Hathaway has been employed by the Shire of Dowerin since November 2013. She was 16 when she started working. In about February 2014, she was trained in the TRELIS system, attending a course in Perth. Dowerin did not have access to the online booking system. Dowerin kept an Excel spreadsheet instead and if an applicant contacted the Dowerin Shire, Ms Hathaway explained "and then we would have our own booking form and then ... we would forward that information on to Greg [Briotti] and then he'd say you've got five this day and ... that's when he'd come up and carry out the tests."⁸

[47] Other Dowerin employees were authorised to enter data into TRELIS.

[48] After Ms Hathaway was able to log into TRELIS, she became aware of Mr Briotti's methods. Although the Finance Manager was her supervisor, Ms Hathaway never discussed Mr Briotti with her or had any concerns herself. She gave evidence "... obviously I believe that, myself, that driving assessors must have a limit of how many they can do a day; tests, that is."⁹ But she did not discuss that view with anyone. She never discussed it with Mr Briotti. She never wondered whether some of the tests said to be carried out in Dowerin were actually occurring in Perth. It never occurred to her.

[49] Ms Hathaway's evidence initially was that they would contact "Greg and let him know how many people that we had booked in for that day. Then he would come up and carry out the tests"¹⁰ He would do this once a month. "On school holidays he would try and come up ... more often. ...only [on] week days... If someone passed the test they would come back to the Shire with the paperwork that showed that."¹¹ "If someone was actually taking a test in Dowerin and passed the test ... Greg would give us ... the other copy ... but the person ... came in as well ... because they get their own copy."¹²

⁷ CCM Act s 4(a).

⁸ Transcript of Public Examination 9 November 2015, R A Hathaway, p24.

⁹ Transcript of Public Examination 9 November 2015, R A Hathaway, p27.

¹⁰ Transcript of Public Examination 9 November 2015, R A Hathaway, pp24-25.

¹¹ Transcript of Public Examination 9 November 2015, R A Hathaway, p25.

¹² Transcript of Public Examination 9 November 2015, R A Hathaway, p26.

[50] Ms Hathaway gave evidence and was shown Dowerin records matched against DoT records. For example, 27 February 2015 appears to be the only date in February when Mr Briotti had assessments booked in Dowerin. Ten people were booked, starting with Mr DB. Tests started at 9.00 am and finished at 2.00 pm Ms Hathaway was not aware of the fact that people were apparently taking tests in Dowerin on a day that Mr Briotti was not there and didn't become aware "... until all this stuff has come out."¹³

Would there be occasions when you would enter into the computer system the fact that someone had taken a test in Dowerin on a particular day when you knew that Mr Briotti was not in Dowerin on the day?--Yes.

Were you sometimes given particular instructions by Mr Briotti as to what time you should enter the details into the system?--Yes.

Would he tend to use a system of putting yellow sticky notes on documents to advise you as to what to do?--Yep.

The documents that had yellow sticky notes on, would they be received in the post or by fax or how would - - -?--No. He used to - like when he'd come up to do the test, he would leave them behind, like you know. So like when he'd come up, he'd leave them with us.

He would leave the assessment sheet?--Yeah.

But would he leave assessment sheets with yellow sticky notes - - -?--Yes.

- - - telling you what time to enter it into the system?

--Yes.

But he would physically be there at the time when he would do that?--Yeah.

And the yellow sticky notes, would they relate to that day or some date in the future?--I don't know. I've never looked, to be honest.

But you would have looked at the yellow sticky notes on occasions and - - -?--All it ever said was, "Please enter," and a time.

Would that time be on the same day or a date in the future?--I can't remember. I'm sure it was the same day, yeah.

You never remember receiving documents that told you to enter it into the system some date in the future?--No.

Were there occasions when you would receive documents when Mr Briotti wasn't there, so you would get them in the post or they would be left at the office?--Not since I've been there, no.

You never remember that happening?--No, not in the post.

¹³ Transcript of Public Examination 9 November 2015, R A Hathaway, p30.

When he would give you documents that had yellow sticky notes that told you what time to enter it into the system, did he explain to you why he was doing that?---No.

Did he explain to you why it was necessary to enter it into the system at a particular time in a day?---No.

Did you have any understanding as to why it was that you were being asked by him to enter the results into the system at a particular time?---Well, like I said before, I just assumed that he's obviously only allowed to do - take a certain amount of time for each test, so I suppose one after the other would allow enough time as if the tests were being done.

Did you ever think that one of the reasons he was doing that was because he was doing the tests elsewhere?---No.

And that he needed to ensure that there was enough time so that he wouldn't get caught out?--Yes.

That occurred to you?---Yes.

So did that occur to you because you had an understanding that he was doing the test somewhere other than in Dowerin?--No. Like, because like of the time like to do a test.

Yes?--I think they have to have like 45 minutes, half an hour between every test. Like that's how long a test usually takes.

But was he asking you to enter it at a certain time so as to ensure that he didn't get caught out?--- I assume, yeah.

And you assumed that at the time?---Yeah.¹⁴

- [51] She agreed that she thought there must be something wrong. She didn't speak to anybody "... because, like, it was happening before ... I got my job."¹⁵
- [52] Ms Hathaway thought there was something wrong to a certain extent. She was aware almost from the beginning that there were people who apparently carried out a PDA in Dowerin that hadn't actually come to Dowerin.
- [53] The Commission accepts Ms Hathaway's evidence that Mr Briotti never gave her money or gifts.

Opinion of misconduct

- [54] A finding of misconduct carries no legal consequences, but is obviously very serious for the person concerned. Ms Hathaway was young at the time. She was under 18 when first employed and was only permitted to log on to TRELIS after she turned 18. Moreover, the Commission has recently reported on the actions of the former CEO of Dowerin, who was unlikely in

¹⁴ Transcript of Public Examination 9 November 2015, R A Hathaway, pp30-32.

¹⁵ Transcript of Public Examination 9 November 2015, R A Hathaway, p33.

the circumstances to have given her the mentoring and guidance which she required. Having regard to these factors, the Commission does not form an opinion of serious misconduct. It does however form an opinion of misconduct, as her actions adversely affected the honest and impartial performance of the functions of her office by entering false information into TRELIS.¹⁶

- [55] The Commission interviewed other staff members of Koorda and Dowerin and is unable to form an opinion about their actions.

Conclusion

- [56] The Commission has some evidence that what occurred at Dowerin and Koorda may have occurred at some other rural local governments. In view of the Commission's priorities and resources, and with Mr Briotti's admissions, the Commission did not investigate other local governments in any detail. DoT is aware of the issue and has taken positive steps to manage future risks to the licensing systems including a further roll-out of the online booking system.
- [57] Corruption is insidious and can have a wide reach. There is evidence that Mr Briotti received payment in return for a successful PDA form even though no assessment was ever undertaken.
- [58] There is no evidence that Ms Clare or Ms Hathaway received any bribe.
- [59] However, they were complicit in Mr Briotti's actions. Every public officer, whatever his or her level, owes a duty of fidelity and honesty to their employer. This Report is a reminder that faced with a situation that looks wrong, a public officer must say no.

¹⁶ *Corruption and Crime Commission Act 2003*, s 228.