



Review of an inadequate investigation by the Department of Communities into allegations of bribery

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OVERVIEW

- [1] In September 2017, the Department of Communities (DoC) received information from a member of the public which indicated that one or more of its employees may have been accepting bribes from potential tenants in exchange for being allocated priority or expedited public housing.
- [2] DoC enquiries identified the allocation of a number of tenancies that may not have followed established processes. Suspecting serious misconduct, DoC informed the Commission and the WA Police Force.
- [3] The Commission referred the matter back to DoC to investigate but maintained active oversight due to the possibility that serious corrupt or criminal conduct may have occurred.
- [4] Despite DoC expressing a willingness to progress the matter, its subsequent investigation was protracted and scant investigative avenues were explored before it reached a possibly premature conclusion that no serious misconduct had occurred.
- [5] Numerous staffing changes within DoC and poor communication with the Commission inhibited the Commission's ability to properly monitor the progress of the investigation.
- [6] The Director General or Chief Executive of any agency bears responsibility of corruption risk, prevention and mitigation. DoC has the responsibility to manage and properly address serious misconduct risks as they arise, even when the Commission has oversight. This responsibility is not lessened by instability caused by staffing or structural changes.
- [7] DoC's investigation was an inadequate response to a serious allegation of corrupt conduct.
- [8] The new Director General has acknowledged the investigation was inadequate and even before the results of this review were known, put in place new arrangements to address DoC's serious misconduct risks.

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CHAPTER ONE

Allegations of serious misconduct: possible bribery

- [9] On 2 September 2017, a DoC employee was approached by a member of the public who alleged that DoC staff in a suburban office were providing preferential housing allocations to members of the Middle Eastern community in exchange for bribes.
- [10] The information was specific. It alleged that potential tenants would speak to a female staff member in that office, before being referred to a male staff member, who accepted money to the value of \$5,000 in exchange for allocating them a house.
- [11] The DoC employee reported this information to her manager on 27 October 2017 who referred the matter to DoC's employee relations division.
- [12] DoC undertook preliminary enquiries, which indicated four public housing allocations by the suburban office may have circumvented the approvals process. Three properties had been allocated manually, rather than using HABITAT, DoC's database for managing and documenting housing allocations. The manual approval process allowed the allocator to bypass other tenants on the waiting lists for the properties. Sufficient reasons for these decisions were not recorded.
- [13] The fourth allocation was made after zoning changes came into effect and the client relocated. Immediately after these changes, the client moved directly to the top of the newly created shortlist.
- [14] DoC formed a reasonable suspicion that serious misconduct may have occurred and reported to the Commission on 15 January 2018.¹
- [15] The Commission conducted an assessment. An allegation of acceptance of bribes by DoC staff in exchange for housing could constitute serious misconduct.
- [16] DoC expressed a willingness to progress the matter further, proposing that a number of possible subject officers be interviewed and information obtained from some of the applicants for public housing.
- [17] When a reasonable suspicion of misconduct is formed, the Commission has a number of possible alternative courses of action including, referring the matter to a Department for action, overseeing a Department's

¹ *Corruption, Crime and Misconduct Act 2003 (CCM Act) s 28.*

investigation or investigate the matter itself. Having regard to the Commission's priorities and current investigative program, on 18 April 2018 the Commission referred the allegation back to DoC. It monitored the investigation and has reviewed the investigation and its result.²

- [18] The WA Police Force were also notified of the allegation in May 2018 and decided not to investigate.

² CCM Act ss 40, 41.

CHAPTER TWO

The Department of Communities' investigation

- [19] It took DoC 22 months from the initial receipt of the information to complete the investigation and provide the Commission with a report.
- [20] The investigation took too long.
- [21] Responsibility for the investigation was passed between four investigating officers in the DoC employee relations division during the course of the investigation.
- [22] DoC first reviewed the HABITAT database to identify any suspicious housing allocations from 2016/17. DoC's housing allocations policy states that all housing offers are managed through HABITAT. When a property becomes vacant, HABITAT is used to generate a shortlist of suitable applications from which an allocation can be made. An area manager is authorised to make a manual offer to house an applicant who does not appear on a system-generated shortlist. However, the first applicant on the shortlist can only be bypassed if there is a valid reason for not offering the property to them.³
- [23] This review identified the four suspect allocations by the suburban office notified to the Commission. The information initially obtained indicated that all four allocations bypassed DoC property shortlist protocols and lacked reasons required to justify the allocations.
- [24] Three of the four bypasses were enabled via a manual process. In each instance, this process was undertaken by the same two DoC staff members at the office. Other staff also had some visibility of the files.
- [25] A DoC investigator chose to approach one of the subject officers informally and ask that person to justify the manual overrides.
- [26] The subject officer responded with that person's recollection of the cases and supporting documentation, largely consisting of manual override requests from a subordinate staff member who advised that the tenant in question was the next suitable client. This is despite other tenants having priority for that housing in the HABITAT system. In two cases the tenants granted housing live close to each other and appear to be related.

³ Housing Authority allocations procedure.

- [27] Formal allegations of misconduct were not put to that subject officer, nor was an interview conducted. None of the other subject officers were approached in any manner to provide their explanation for the events.
- [28] Notes of one investigator's conversation with the member of the public who reported the matter were destroyed when he left DoC for another position. The member of the public was subsequently unwilling to provide further information.
- [29] DoC did not undertake any other enquiries. It considered the initial complaint, the four housing allocations, the subject officer's explanation and internal policies and procedures.
- [30] On this inadequate information, DoC determined there was insufficient evidence to substantiate the allegation that its employees had accepted bribes in exchange for providing tenants with preferential housing allocations. DoC found that, in the cases under review, its policies were followed but due to poor records, there were no clear means of identifying the decision making processes undertaken.
- [31] DoC committed to monitoring unusual allocations of public housing in the future and advised the Commission that consideration would be given to regular proactive audits of their systems. DoC also advised it would review its policies, procedures, guidelines, delegated authority and system limitations.

CHAPTER THREE

The Commission's review

- [32] Upon receipt of DoC's final report, the Commission conducted a review of the investigation.⁴ The Commission has reached the following conclusions.
- [33] The DoC investigation was unnecessarily protracted, disjointed and lacked basic investigative competence. There were significant failings in DoC's management and the rationale to support the final decision was flawed.
- [34] Two primary officers were identified, along with other officers, who may have been involved in serious misconduct. However, only one subject officer was asked to assist the investigation and provide an explanation. This explanation was apparently accepted, despite obvious gaps and deficiencies in the information provided.
- [35] Approaching a subject officer in this manner, outside a formal disciplinary process, seriously undermined the integrity of the investigation.
- [36] DoC advised it did not approach any other subject officers because they were of a lower level. This explanation makes no sense.
- [37] Other investigative avenues were not pursued. DoC submitted that it had a limited authority to obtain evidence of bribery through a disciplinary process. While it is acknowledged that DoC may not have some of the powers of investigatory bodies such as the Commission or the WA Police Force, undertaking basic lines of enquiry such as email audits and examination of other open source information may have provided insight. Interviewing all officers may have provided information.
- [38] While this matter was being investigated, the Commission attempted to monitor the investigation. However, the Commission experienced difficulties obtaining progress reports and maintaining communication with designated staff from within DoC. DoC has attributed the problem to staff turnover and inexperience in dealing with the Commission.
- [39] Ultimately, despite the time taken, the investigation failed to progress past the initial enquiry stage. DoC's findings were heavily reliant on one subject officer's mostly unchallenged version of events. There was a lack of analysis of the evidence in reaching their final conclusion.

⁴ CCM Act 2003 s 41.

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CHAPTER FOUR

Conclusion

- [40] Both the Commission and the Western Australian public rely on agencies to take seriously their responsibility to manage and properly investigate serious misconduct allegations and to have an adequate structure and procedure to manage serious misconduct risks.
- [41] DoC's poor communication, recordkeeping and investigative practices seriously inhibited the ability to properly address the allegations received on this occasion.
- [42] DoC has advised the Commission that it will monitor public housing allocations and will consider systems audits and reviews of their policies and procedures.
- [43] While this is a constructive response to the alleged misconduct, it does not address the deficiencies in this investigation.
- [44] Prior to being notified of the inadequacies, the Director General commissioned a review of DoC's governance and integrity functions and implemented a number of significant changes to ensure DoC increases its capacity to manage serious misconduct risks. These include, but are not limited to:
 - a new Governance, Capability and Reform Division that brings together the governance, capability, risk, integrity, legal, internal audit and reform functions under a single direct reporting line to the Director General, via a new Deputy Director General position. In doing so, DoC has clarified roles and responsibilities, strengthened accountability and consolidated their approach to governance and integrity across the organisation; and
 - a new Integrity and Standards Unit to support the development and implementation of an integrity framework and supporting systems, tools and training for staff. This consolidates related integrity functions, as well as investigating integrity matters.
- [45] In view of this response, the Commission makes no recommendations.
- [46] The lesson for all agencies is that risk of serious misconduct is primarily for them to manage. Heads of government agencies must have a robust integrity function in place.