



Evaluation report 

Integrity checking of employees managing misconduct allegations

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Accessibility

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Terms and definitions

Term	Definition
Employee capability	The skills, knowledge and abilities required for an individual to perform the requirements of their job in an effective and professional manner.
Employment screening	For the purpose of the Australian Standard Employment Screening AS 4811-2006 employment screening is defined as ‘... the process of verifying, with the consent of the individual, the identity, integrity and credentials of an entrusted person and should apply to any individual that is, or will be, entrusted with resources and/or assets’.
Entrusted person	Any individual that is, or is targeted to be, employed within an organisation that is, or will be, entrusted with resources and/or assets.
Integrity and conduct survey (ICS)	The ICS is administered by the Public Sector Commission and is completed by public universities, local governments, government trading enterprises and government boards and committees. In 2017 the survey covered the period 1 July 2016 to 31 March 2017
Integrity	Soundness of principle and character. (Australian Standard Employment Screening AS 4811-2006)
Integrity checking	The aspect of employment screening which focuses on assessing the applicant against the integrity requirements of the position.
Position of trust	A ‘position of trust’ is one that has responsibilities where the level of integrity expected of the employee, due to the

Term	Definition
	<p>nature of the role undertaken, is higher than normally demanded or expected.</p> <p>See also ‘entrusted person.’</p> <p>The Public Sector Commission generally uses the term ‘position of trust’ to refer to an entrusted person and considers a person who deals with allegations about misconduct to be in a ‘position of trust.’</p>
<p>Probity</p>	<p>The level of integrity necessary to ensure the conscientious and honest conduct of one’s working relationships and activities.</p> <p>(Australian Standard Employment Screening AS 4811-2006)</p>
<p>Public sector entity survey (PSES)</p>	<p>The PSES is administered by the Public Sector Commission and is completed by all public sector bodies. In 2017 the survey covered the period 1 July 2016 to 31 March 2017. All 106 public sector bodies requested to complete the survey did so.</p>
<p>Public authority</p>	<p>Public authority is defined in s.3 of the CCM Act and includes public sector bodies, local governments, government trading authorities and universities.</p>
<p>Working with children checks (WWCC)</p>	<p>The WWCC as required by the Working with Children (Criminal Record Checking) Act 2004 and Working with Children (Criminal Record Checking) Regulations 2005</p>

1.0 Executive summary

1.1 Overview

Public authorities have responsibility for managing and notifying allegations of serious and minor misconduct under the *Corruption, Crime and Misconduct Act 2003* (CCM Act).

The size, functions and risk profile of a public authority generally dictate the resources used to manage and investigate these matters (e.g. a dedicated section or specific positions within the public authority). Authorities can also engage external contractors to conduct investigations of alleged misconduct on their behalf.

At the 2007 Australian Institute of Administrative Law forum No. 53 presentation on 'Ensuring integrity agencies have integrity'¹, in referring to 'integrity agencies', the Hon. James Roland Tomson Wood AO QC² stated:

'..they are obviously expected to apply high levels of ethical behaviours lest their reputation and capacity for setting an example to the bodies they oversee is destroyed'.

The view expressed by the Hon. James Wood AO can equally be applied to Western Australian public authority integrity oversight positions and areas, whose functions and responsibilities include managing allegations about misconduct. It is important that all public authority employees who have a role in managing misconduct allegations, which includes chief executive officers (CEOs), have a high level of integrity and appropriate capability to carry out this important role.

The objectives of the evaluation were to assess, make observations, and provide advice to the Commissioner and public authorities with respect to the CCM Act Part 4A, Division 1 functions in relation to misconduct. Specifically, the evaluation assessed current policy, procedures and practice in relation to the integrity checking and capability requirements of public officers and other persons managing or investigating misconduct allegations.

¹ Australian Institute of Administrative Law forum No. 53, Presentation: [Ensuring integrity agencies have integrity](#)

² Former judge of the Supreme Court of New South Wales in 1984, Chief Judge at Common Law in 1984.

Under the CCM Act, public authorities in Western Australia (WA) include public sector bodies, local governments, government trading enterprises and public universities, all of which may manage misconduct allegations under the CCM Act.

The evaluation follows the Public Sector Commission's related reports:

- [*More than a matter of trust - An examination of integrity checking controls in recruitment and employee induction processes*](#) (2013).
- [*Arrangements to manage misconduct and notify minor misconduct*](#) (2016).

Through the course of the evaluation, assistance was provided to participating public authorities to help them enhance policies and practices in regard to integrity checking and improve capability in misconduct oversight and investigations.

1.2 Recommendations³

Risk management

Public authorities should have a risk management strategy which refers to:

- employment screening and the need for screening to be commensurate with the level of risk posed by a particular role, as identified during the risk assessment process
- where considered necessary, includes the provision for a systematic and regular review of positions with particular risk exposures to ensure screening policies address current risk.

Policy scope and authorisation

Public authorities should have a policy/procedure that describes their position for effective employment screening and which:

- state their purpose and to whom they apply
- are endorsed by the CEO, Corporate Executive or Senior Executive
- state who is responsible for the oversight of the policy/procedures
- state who is responsible for the implementation of the policy/procedures
- make reference to relevant legislation.

³ These recommendations should be considered taking into account the functions, size, complexity and risk factors applying to each public authority.

Procedures and operational documents

Public authorities should:

- ensure the key points within employment screening policy/procedures are reflected in operational documents, such as recruitment information for applicants, job/position description forms, job advertisements, application forms and integrity checking applications and screening requests
- have relevant information on their website and intranet about employment screening and integrity checking requirements.

Who is screened

Public authorities should ensure their policy/procedures on employment screening:

- include coverage of integrity checking for positions of trust, including those who manage misconduct allegations
- consider whether to outline positions or work areas that will be subject to integrity checking
- state that the staff responsible for employment screening should undergo the same screening process, at least, and that they should possess the necessary knowledge and experience to conduct employment screening on behalf of the organisation
- in introducing a new screening policy, clarify whether to apply the requirements only to new employees or to existing employees as well.

How and when screening is undertaken

Public authority policy/procedures on employment screening should:

- state that screening should be conducted with the informed consent of the applicant
- identify specific requirements for full and honest disclosure during the screening process
- require screening to be completed prior to employment, preferably before an offer of employment and prior to completion of probation.

What integrity checks are conducted

When recruiting for positions which manage misconduct allegations and/or have an investigative role public authorities should take into account and apply the relevant parts of the 'Better practice for integrity checking' criteria listed in Appendix 2. At a minimum, it is suggested the following checks be applied:

- identification check
- check of curriculum vitae (including for gaps or anomalies)
- personal and employment references check from direct supervisor/managers
- criminal history record screening

- qualifications check (if required)
- work history check.

Decision making and appeals

Public authority policies and procedures should:

- include a decision making process on outcomes of applications for screening
- provide for a process of appeal in the case of unfavourable decisions.

Monitoring integrity during employment

Public authorities should consider and implement, particularly in high risk areas, appropriate measures to monitor the ongoing integrity of employees, such as:

- requiring honest and full disclosure as a condition of ongoing employment (e.g. disclosure of criminal convictions)
- systematic and regular review of employee circumstances (e.g. require a regular declaration by all employees in positions of trust relevant to the integrity requirements of the position)
- requiring re-screening upon promotion or change of employment circumstances.

Records and information management

Public authorities should ensure their policies and procedures on employment screening:

- state that advice should be provided to the applicant about the applicable checks, how the information will be used and when and in what circumstances it may be disclosed
- provide guidance on how information obtained through the screening process should be managed.

Integrity checking for past disciplinary history

Public authorities should:

- conduct checks of their own employment records for information about an employee or prospective employee's disciplinary history as part of their integrity checking process
- undertake work history checks with former employers, as discussed elsewhere in this report. These measures are particularly important in relation to positions of trust, such as those public officers who manage misconduct allegations.

Capability

Public authority CEOs should ensure:

- they are sufficiently familiar with their responsibilities as a principal officer under the CCM Act
- any public authority employees or other persons (i.e. external contractors) engaged by a public authority, who have involvement in managing and/or investigating allegations of misconduct, should have the relevant qualifications, skills and/or experience to conduct this work.

CEO employment screening

Taking into consideration any legislative requirements, public authorities should have a policy and procedural position on what employment screening (including integrity checking) should apply to their CEO.

Public interest disclosure officers

Within the context of current employment screening, integrity checking and legislative requirements for the public authority, public authorities should as required implement appropriate integrity checking for PID officers.

1.3 Public authority responses

The Commission appreciates the cooperation of the eight public authorities involved in the evaluation, and the support of the Corruption and Crime Commission, which was consulted during this evaluation.

The public authorities in the evaluation were each provided with observations and suggested improvements arising from the Commission's work conducted in their public authority. All of them generally agreed with the observations and suggestions for improvements made. They intend to take appropriate action, where relevant to their authority, to improve arrangements for integrity checking and capability of employees who manage, oversee or investigate misconduct allegations.

2.0 Detailed report

2.1 Background

Basis and authority for the evaluation

In a public authority context, employment screening covers a range of activities to screen prospective employees prior to employment, and to screen or rescreen employees as appropriate during their employment.

Employment screening should be conducted as a precursor to and a condition of employment and may include:

- identity checking
- checking of employment history
- qualification credential checks
- referee checks
- criminal history record checking
- security clearances (4 levels)
- medical testing
- drug and alcohol testing

In this report 'integrity checking' is used to refer to one aspect of employment screening and encompasses checking of integrity, identity and credentials. Other types of employment screening, such as medical, psychometric, or drug and alcohol testing, may be used by public authorities as part of their employment screening/integrity checking policy and procedure but were not assessed in the evaluation.

The type and nature of integrity checking applied is a decision for each public authority and reflects the level of risk associated with each position. Comprehensive integrity checking should be undertaken in relation to 'positions of trust'⁴, such as chief finance

⁴ A 'position of trust' is one that has responsibilities where the level of integrity expected of the employee, due to the nature of the role undertaken, is higher than normally demanded or expected.

officers, public officers who have involvement with vulnerable people, public officers with investigation or law enforcement powers etc.

In this evaluation an assessment was undertaken of policies and procedures used for employment screening and integrity checking, with a focus on public officers who manage misconduct allegations. Depending on the size and functions of the public authority, these public officers may be:

- part of integrity and standards units, human resources (HR) or industrial relations units
- public interest disclosure (PID) officers who receive a PID which relates to misconduct
- CEOs with overall responsibility for the management of misconduct
- external investigators who undertake misconduct investigations on behalf of a public authority.

This evaluation was conducted under the Public Sector Commissioner's minor misconduct function, s.45B (1) and (2) of the CCM Act.

Scope and approach

The evaluation covered a sample of eight public authorities (see Appendix 1) that are subject to the misconduct provisions established in the CCM Act. The choice of sample took into account the level of risk with regard to the nature of their business and relevant misconduct risk. The evaluation sought to gain an understanding of current policy, procedures and practice to inform better practice and improvements in integrity checking across all WA public authorities.

The evaluation approach included the following actions:

Research and consultation

- extensive literature search on approaches used for employment screening, integrity checking and security vetting, including consultation with the Independent Commission Against Corruption, New South Wales; South Australian Office for the Public Sector; and the Public Sector Commission, Queensland
- consultation with key central and department oversight bodies in WA, including the Corruption and Crime Commission, the Department of Local Government and Communities,⁵ the Department of Finance, and the State Records Office
- analysis of [Jobs WA](#) for recruitment processes for 'law enforcement' type positions across the public sector which closed within the six months prior to the commencement of the evaluation.

⁵ Since 1 July 2017 the part of the former Department of Local Government and Communities responsible for local government has been part of the newly established Department of Local Government, Sport and Cultural Industries.

Assessments in the sample of public authorities

- interviews with key employees responsible for the operational management of integrity checking and capability requirements of employees and external contractors managing misconduct allegations
- assessment of internal policies and procedures for coverage against criteria in the Australian Standard for Employment Screening AS 4811-2006⁶ and the Department of Commerce's ⁷2012 [Policy on Pre-Employment Screening](#)⁸
- assessment of recent recruitment actions applying to positions which manage misconduct allegations, for consistency of application of internal policy and statutory obligations
- consideration of integrity checking processes for PID officers and external contractors undertaking disciplinary or misconduct investigations.

Limitations

The observations and recommendations in this evaluation are not intended to be definitive or cover all matters in relation to integrity checking, but provide information to be considered in regard to improving integrity checking and capability in the management of misconduct. The evaluation focused primarily on policy and procedures for employment screening, including integrity checking.

Presentation of evaluation results

The results of the evaluation are presented under the following primary topic areas:

- Risk management
- Policy and procedures
- Capability requirements
- Assessment of recruitment cases

⁶ AS 4811-2006 was withdrawn at the end of June 2017, at the time the evaluation was concluding. The Standard is however still available for purchase and provides a useful framework for assessing employment screening. Public authorities are not bound by AS 4811-2006.

⁷ Since 1 July 2017 the former Department of Commerce has been part of the newly established Department of Mines, Industry Regulation and Safety.

⁸ The Commerce policy is applicable to public sector bodies which come under the *Public Sector Management Act 1994*.

- Other matters
 - External contractors - investigations
 - CEO employment screening
 - Public interest disclosure officers.

Under the 'Observations' sections in this report, reference to 'public authorities' means the eight public authorities in the evaluation, unless otherwise indicated.

2.2 Risk management

A mature risk management framework provides a sound basis for effective internal control and actions to reduce and address risks. Specifically referencing employment screening within a public authority's risk management framework, and applying a risk approach to this topic should help ensure:

- risks in not applying employment screening are addressed and there is a formal and transparent risk basis for the employment screening program
- the scale and scope of any employment screening required is well considered and appropriate to identified risks
- the risk of employing, or maintaining the employment of, a person who does not meet the integrity requirements of the public authority is minimised. This is particularly critical in relation to positions of trust.

Observations

The evaluation considered:

- the public authority's risk management framework
- whether it specifically referred to employment screening
- whether the screening program provided for screening to be commensurate with the level of risk posed by a particular role, as identified during the risk management process.

Within their formal risk management framework:

- Three public authorities made reference to employment screening.
- Four did not specifically refer to employment screening.
- One did not have a formal risk management framework.

While almost all public authorities had a screening program in place, and there was also some differentiation of screening requirements based on risk, this was generally referred to only in the screening policies and not within the risk management framework. In some public authorities the differentiation of requirements, such as a more frequent level of screening, was also based on the requirements of external screening bodies.

An essential part of risk management is to regularly review risk. In this regard, it is important to ensure that risk assessments are up to date and feed into employment screening policies.

Of the seven public authorities with policies for employment screening (see 2.3 *Policy and procedures*), only two referred in these policies to a systematic and regular review of positions with particular risk exposures. While initially this may be a cause for concern, it was noted that these authorities had at least some and, in most cases, a high level of screening already in place, as well as some differentiation of screening as noted above. In addition, they had in place other mitigation strategies which will be explored later in this report.

Recommendations

Public authorities should have a risk management strategy which refers to:

- employment screening
- the need for screening to be commensurate with the level of risk posed by a particular role, as identified during the risk assessment process
- where considered necessary, includes the provision for a systematic and regular review of positions with particular risk exposures to ensure screening policies address current risk.

2.3 Policy and procedures

Effective policies, procedures and processes should assist in addressing the public authority's risk approach to employment screening, and achieving consistency in its application.

The assessments of policy and procedures for employment screening and integrity checking in the evaluation are structured under the following headings:

- Policy scope and authorisation
- Procedures and operational documents
- Who is screened
- How and when screening is undertaken
- What screening checks are conducted
- Decision making and appeals
- Monitoring integrity during employment
- Records and information management
- Integrity checking for past disciplinary history.

The test points⁹ applied for policies and procedures are based on:

- Australian Standard AS 4811-2006 Employment screening (AS 4811-2006)
- The former Department of Commerce's 2012 policy on Pre-employment Screening.

2.3.1 Policy scope and authorisation

All public authorities should have policy/procedures for employment screening which:

- state their purpose and to whom they apply
- are endorsed by the CEO, corporate executive or senior executive
- state who is responsible for the oversight of the policy/procedures
- state who is responsible for the implementation of the policy/procedures
- make reference to relevant legislation (refer to Appendix 5).

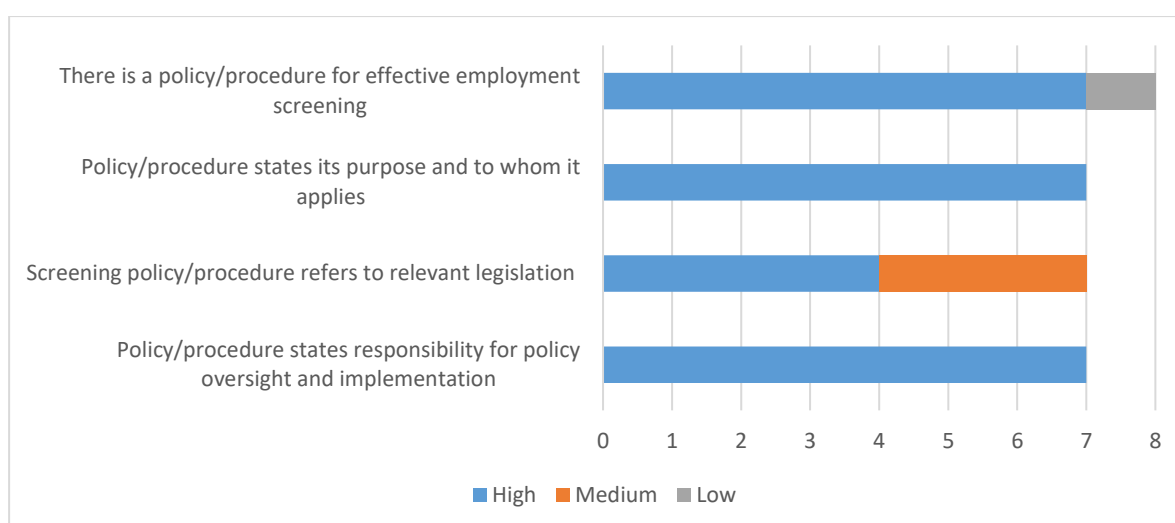
⁹ The policy and procedural points are also reflected in the Australian Human Rights Commission (AHRC) 2012 publication [*On the record: Guidelines for the prevention of discrimination in employment on the basis of a criminal record*](#). While the AHRC guidelines do not apply to public authorities in Western Australia, public authorities may find them of assistance when developing or reviewing employment screening policies.

Observations

The evaluation observed the following, with the results represented in Figure 1:

- Seven public authorities in the evaluation had a policy, either standalone or incorporated into other policies, which described employment screening, while one had a procedure which provided information on the working with children (WWC) legislation.
- Of the seven public authorities with policies, six were endorsed by the CEO or corporate executive, while one was endorsed at senior executive level.
- Of the seven public authorities with policies, all stated who is responsible for their implementation and oversight.

Figure 1: Policy scope and authorisation¹⁰



Other observations made in regard to policies/procedures were:

- Most policies and procedures were comprehensive and addressed the majority of the key points in the AS4811-2006.
- In addition to integrity checking, some also addressed other types of screening, such as drug testing, medical screening or secondary employment.
- Some included specific guidance on screening requirements for various types of employment (permanent, casual, volunteer, employees with a break in service etc.) within the public authority and articulated into other relevant policies such as the code of conduct, recruitment policies or misconduct management policies.

¹⁰ Rating scale: 'High': all aspects of the criteria well covered; 'Medium': some aspects of the criteria covered; 'Low': limited or no aspects of the criteria covered.

Recommendations

Public authorities should have a policy/procedure that describes their position for effective employment screening and which:

- state their purpose and to whom they apply
- are endorsed by the CEO, Corporate Executive or senior executive
- state who is responsible for the oversight of the policy/procedures
- state who is responsible for the implementation of the policy/procedures
- make reference to relevant legislation.

2.3.2 Procedures and operational documents

Observations

Effective procedures and processes for employment screening should cover the following high level key topics:

- Who is screened?
- How and when is screening undertaken?
- What screening checks are conducted?
- Decision making and appeals
- Monitoring integrity during employment
- Records and information management.

To facilitate effective processes, openness and transparency, relevant information within these high level topics should be clearly stated in operational documents, such as recruitment information for applicants, job/position description forms, job advertisements, application forms and integrity checking applications. Providing information about the checks and the decision making process:

- enables the person who is subject to screening to understand the requirements and how they will be applied
- enables a person with a criminal record or disciplinary history to consider the requirements and whether or not they might meet them. A person unlikely to meet the integrity requirements may be discouraged from applying and decide to 'self-select out' of the selection process.
- provides an opportunity for the public authority to convey that all applications will be considered on a case by case basis and that possession of a criminal record or disciplinary history will not result in automatic exclusion.

Websites and the intranet are also an important source of relevant employment screening information for prospective applicants about a public authority's integrity checking requirements.

Examples of employment screening information on public authority webpages were:

- A webpage for criminal history screening policy and procedures providing links to policy and procedures, as well as detailed information and links for different types of employees.
- Another employment webpage referring to the Working with children check, employment screening check and 100 point identification requirements.
- A website containing information for potential applicants about some of the employment screening requirements. The portal for lodging an application for employment includes mandatory questions regarding:
 - preparedness to provide a national police certificate
 - willingness to undertake alcohol and drug testing
 - whether they have been previously employed at the public authority.

Of the seven public authorities which had a policy or procedure for employment screening:

- All reflected the key points of the policy and procedures in operational documents.
- Six have information on their website about the employment screening requirements, generally on recruitment pages.

Recommendations

Public authorities should:

- ensure the key points within employment screening policy/procedures are reflected in operational documents, such as recruitment information for applicants, job/position description forms, job advertisements, application forms and integrity checking applications and screening requests
- have relevant information on their website and intranet about employment screening and integrity checking requirements.

2.3.3 Who is screened

Employment screening policy/procedures should include the following ‘better practice’ guidance on who should be screened:

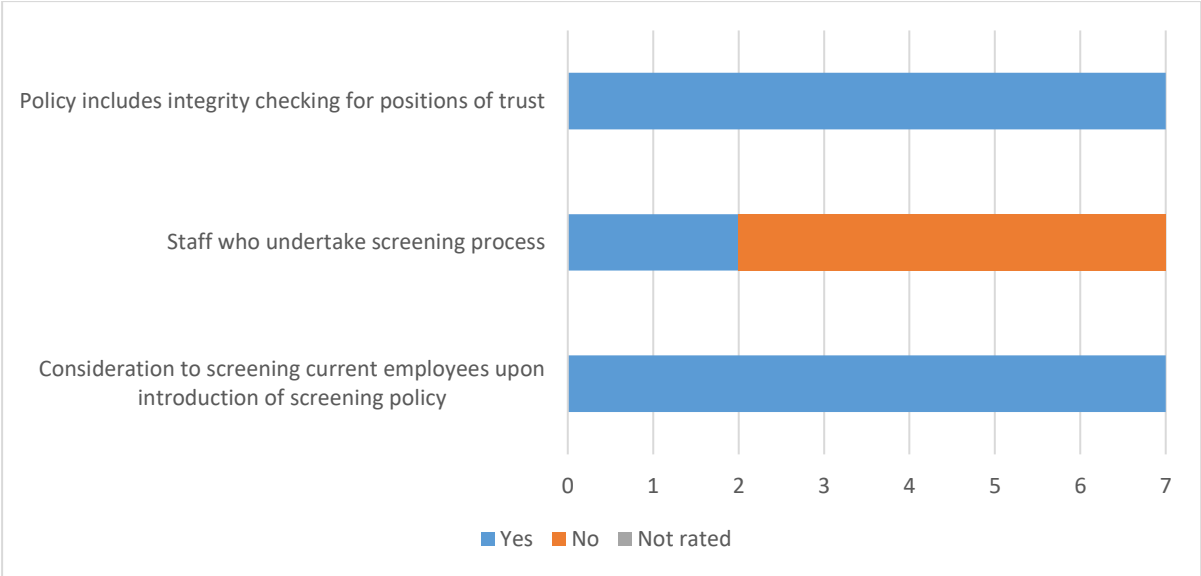
- refer to positions or work areas that will be subject to integrity checking¹¹. All four public authorities subject to the Commerce policy reflected this in their policies.
- specifically provide for integrity checking for positions of trust, such as those who manage misconduct allegations
- state that staff responsible for employment screening should undergo the same screening process, at least, and that they should possess the necessary knowledge and experience to conduct employment screening on behalf of the public authority
- reflect the public authority’s position on screening current employees upon introduction of a screening policy.

Observations

The seven public authorities which had a policy or procedure for employment screening were assessed for the above better practice requirements. All of these included integrity checking for positions of trust in their policy or procedure.

While five of the seven public authorities do not cover the screening of staff who undertake the screening process in their policy/procedures, for three of these their staff are subject to screening.

Figure 2: Information in policy and procedures about who is screened



¹¹ The Department of Commerce 2012 Policy statement on Pre-employment screening suggests that public authorities consider whether to outline positions or work areas that will be subject to pre-employment screening.

The Commission observed three approaches in the sample of public authorities in regard to who is subject to employment screening:

- universal screening of all successful applicants prior to employment or confirmation of employment
- screening of successful applicants for positions of trust prior to employment or confirmation of employment
- screening when there is internal movement to a position of trust and the employee has not previously been screened to that level.

Examples of better practice for screening staff who manage or are involved in the screening process included:

- In one public authority, the criminal record screening procedures require officers working within the criminal record screening unit to have annual criminal record checks, irrespective of current employment status, and to sign a confidentiality agreement.
- In another public authority, the staff who undertake the screening of applicants are screened as part of the criminal history screening policy, with re-screening occurring every five years. They must also sign a deed of confidentiality agreement.

Introducing a new policy

When a screening policy is first introduced, a question to be addressed is whether to apply the requirements only to new employees or to also undertake a process of screening current employees and how this should be done.

Screening current employees upon introduction of a new screening policy may have an industrial implication which will need to be addressed by the public authority according to its own industrial arrangements.

All seven public authorities with an employment screening policy considered this question. At the time of implementing a new screening policy, some public authorities decided to screen all current employees to the same standard. Because of the number of employees involved, this was generally undertaken in a phased approach.

Recommendations

Public authorities should ensure their policy/procedures on employment screening:

- include coverage of integrity checking for positions of trust, including those who manage misconduct allegations
- consider whether to outline positions or work areas that will be subject to integrity checking
- state that the staff responsible for employment screening should undergo the same screening process, at least, and that they should possess the necessary knowledge and experience to conduct employment screening on behalf of the organisation

- in introducing a new screening policy, clarify whether to apply the requirements only to new employees or to existing employees as well.

2.3.4 How and when screening is undertaken

Employment screening policy/procedures should:

- state that screening must only be conducted with the informed consent of the person
- identify specific requirements for full and honest disclosure during the screening process
- state that integrity should be addressed at the recruitment stage and stressed as a primary requirement
- require screening to be completed prior to employment and preferably before an offer of employment
- require screening to be completed prior to completion of probation.

Better practice in employment screening requires it to be conducted with the 'informed consent' of the applicant. Ensuring applicants understand and provide informed consent for employment screening assists in addressing any issues concerning privacy and legal issues. This is a crucial part of the employment screening process and is enabled by communicating details of the checking process to the applicant.

Procedures should underline the need for informed consent to be obtained in order to ensure this important step is not overlooked. This provides a logical basis for ensuring that an applicant consent mechanism (such as an application form) is part of the information supporting the employment screening procedure.

Examples of better practice for providing informed consent included:

- One public authority has a consent to obtain personal information form which describes why the information is collected and what will be collected for the purposes of criminal record screening. It includes a detailed consent section which must be signed by the applicant to provide consent. The form has provision for the recording of decision making in relation to the application for screening.
- Another public authority has an integrity declaration which is a form to provide consent to the integrity assessment. It includes a number of questions which relate to the integrity assessment and requires disclosure by the applicant.

The timing of employment screening is also important, and this should be conducted within the recruitment stage of the employment process, and preferably be completed before an offer of employment and prior to appointment.

Observations

In regard to obtaining informed consent, of the seven public authorities which had a policy or procedure for employment screening:

- Five specifically referred to the need for the informed consent of the applicant in their policy or procedure.
- Two did not refer to this in policy or procedure (although it was reflected elsewhere in the process, e.g. the application for employment screening).
- All seven had procedures which identified specific requirements for full and honest disclosure during the screening process as a condition of initial engagement.

Public authorities also indicated that for practical purposes it is preferable that the consent form is comprehensive and covers all checks that are required. This enables checks to be undertaken in a timely fashion and avoids unnecessary processing delays.

On the matter of when integrity checking is conducted, the following are examples used by some authorities:

- The recruitment procedures state that no offer of employment will be made until all relevant due diligence activities for the position are completed.
- The screening is completed before an offer of employment is made, or the offer of employment can be made conditional on completion of screening.
- Screening is generally completed prior to the offer of employment being made. The offer of employment can be made prior to screening being completed, however the appointment is conditional on the screening requirements being met.

Recommendations

Public authority policy/procedures on employment screening should:

- state that screening should be conducted with the informed consent of the applicant
- identify specific requirements for full and honest disclosure during the screening process
- require screening to be completed prior to employment, preferably before an offer of employment and prior to completion of probation.

2.3.5 What integrity checks are conducted

Public authorities use a number of types of processes to check the integrity of applicants. These vary in scale, cost and intrusiveness, from declarations regarding criminal or disciplinary history, to criminal record checking, to various types of vetting under the Australian Government Protective Security Policy Framework. For positions of trust, such as those who manage misconduct allegations, better practice is that a greater number of types of checks and more rigorous and regular checks should be conducted.

Observations

The following integrity checking mechanisms were observed during the evaluation. A combination of these was generally a feature of public authorities' integrity checking processes. Checks are listed in alphabetical order.

- Check of curriculum vitae
- Criminal history record screening - Australia
- Criminal history record screening - Overseas
- Declaration of conflict of interest
- Declaration/disclosure regarding secondary employment
- Declaration/disclosure regarding criminal history
- Declaration/disclosure regarding disciplinary history
- Disclosure of interests
- Drug and alcohol testing
- Identification checks
- Qualifications check
- Referee checks
- Security vetting
- Work history check
- Working with children checks.

A description of each check is found at Appendix 4 – Types of checks.

The evaluation assessed whether the following integrity checks, which are considered to be the most fundamental checks for positions of trust, were in place across the eight public authorities:

- identification check
- check of curriculum vitae
- personal and employment references check from direct supervisor/managers
- criminal history record screening
- credentials check (qualifications and work history).

The eight public authorities in the evaluation were rated on a maturity scale of *High* (4-5 checks in place); *Medium* (2-3 checks in place); *Low* (nil or one check in place):

- Six public authorities had a high level of maturity.
- One public authority had a medium level of maturity.
- One public authority had a low level of maturity.

Seven of the public authorities in the evaluation undertake criminal history record checking as part of integrity checking as follows:

- Four require criminal history record screening and other checks for all new employees, and two are in the process of implementing this approach.
- The two in the process of implementing this approach and one further public authority, already require criminal history record screening as a pre-employment condition for a large number of positions of trust, including those which manage misconduct.

Survey results - integrity checking across all public authorities

As part of its annual survey program, the Commission asked public authorities in the 2017 *Public sector entity survey* (PSES) and *Integrity and conduct survey* (ICS) about employment checks they used for 'positions of trust' during the period 1 July 2016 to 31 March 2017. These positions have responsibilities where the level of integrity expected of an employee, due to the nature of the role undertaken, is higher than normally demanded or expected¹².

Public authorities were asked which of the following employment checks they used for positions of trust:

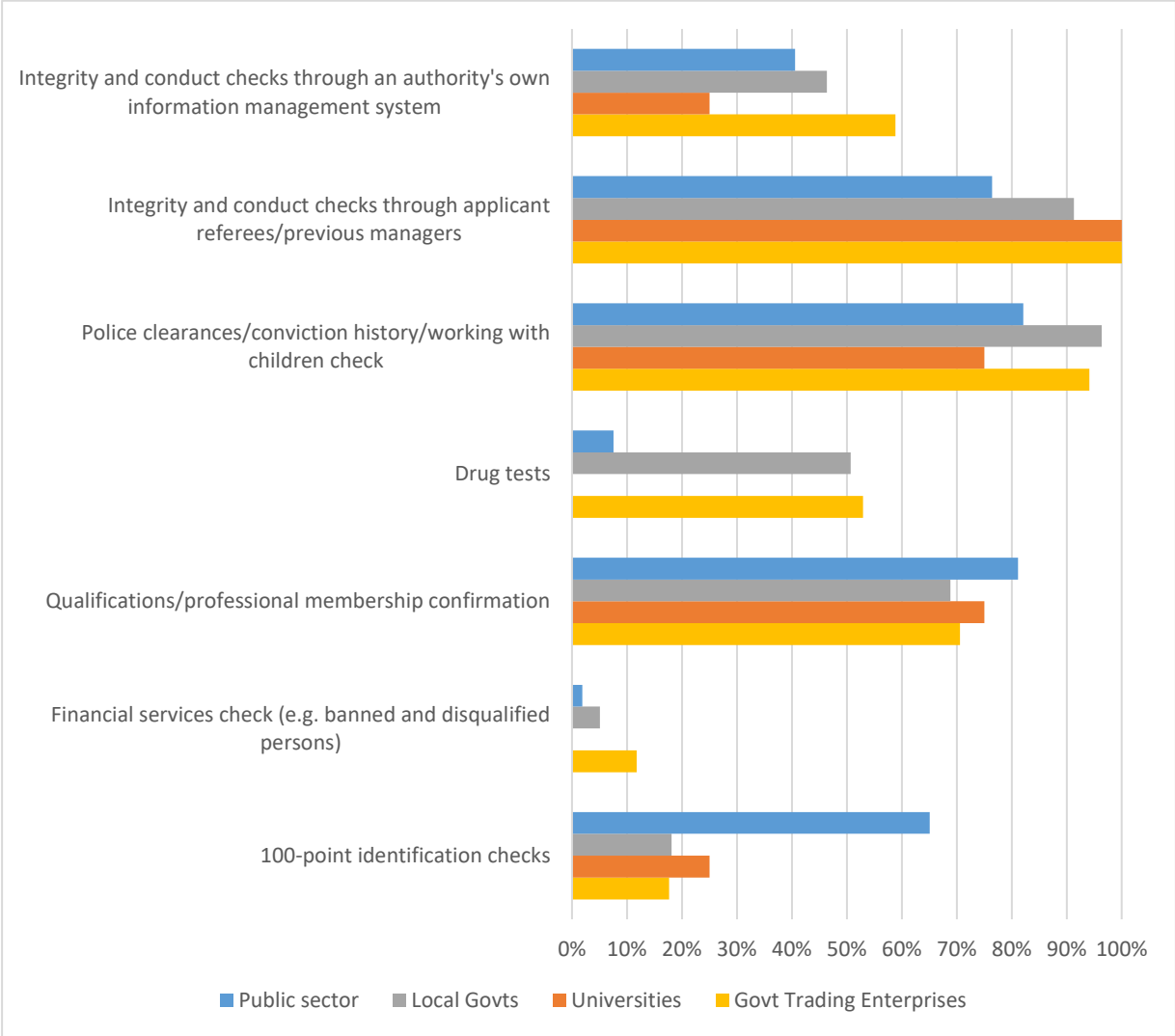
- integrity and conduct checks through their own information management system (i.e. whether candidates have previously been dismissed or resigned prior to likely dismissal from their authority for misconduct)
- integrity and conduct checks through applicant referees/previous managers (i.e. whether candidates have previously been dismissed or resigned prior to likely dismissal from other authorities for misconduct)
- police clearances/conviction history/ working with children check
- drug tests
- qualifications/ professional membership confirmation
- financial services checks
- the 100 point identification check.

¹² Definition from Public Sector Commission, 2013, *More than a matter of Trust- An examination of integrity checking controls in recruitment and employee induction processes* <https://publicsector.wa.gov.au/document/more-matter-trust-examination-integrity-checking-controls-recruitment-and-employee-induction-processes> accessed 8 August 2017

All public sector agencies, government trading enterprises, local governments or universities which responded indicated that the checks were applicable to their positions of trust.

Information from the 265 public authorities which responded are represented in Figure 3:

Figure 3: Survey results - employment checks used by public authorities for positions of trust 2016/17



Source: PSES and ICS

While not all the above checks are required or appropriate for all positions of trust, these responses suggest that in conducting checks for positions of trust, a significant number of public authorities are not utilising two key sources of information:

- the 100 point identification check, a fundamental check on which the veracity and reliability of other checks are dependent
- HR management information systems, which should provide information about the disciplinary history of applicants.

Recommendations

When recruiting for positions which manage misconduct allegations and/or have an investigative role public authorities should take into account and apply the relevant parts of the 'Better practice for integrity checking' criteria listed in Appendix 2. At a minimum, it is suggested the following checks be applied:

- identification check
- check of curriculum vitae (including for gaps or anomalies)
- personal and employment references check from direct supervisor/managers
- criminal history record screening
- qualifications check (if required)
- work history check.

2.3.6 Decision making and appeals

It is important that public authorities make informed decisions when deciding not to employ a person, or to cease the employment of an employee, based on a negative integrity check outcome. The courts in various jurisdictions have considered cases where an employee has appealed their dismissal for failure to meet the integrity requirements of the position, and these cases may provide guidance on similar circumstances.

Information collected in relation to employment screening should be considered according to the public authority's policy/procedure and a decision made on this information which is fair; consistent; unbiased; transparent; free from nepotism and favouritism; and job related. The policy/procedure should establish who within the public authority has the authority to make decisions on the basis of the pre-employment screening once the information has been collected.

For specific matters, and where appropriate, public authorities should consult with their labour relations or legal advisers (e.g. for the WA public sector, the Department of Mines, Industry Regulation and Safety (Commerce), or the State Solicitor's Office).

Additionally, when there is an unfavourable decision in relation to employment screening, better practice suggests that there should be a clearly defined and documented approach to manage an appeal for a review of the decision.

Observations

For decision-making, of the seven public authorities with an employment screening policy/procedure:

- six documented in their policy and procedures a decision making process and specified the decision making authority for the decisions. The level of authority generally involved escalation of cases as appropriate
- one made reference to a decision making process but did not specify the authority for the decision making.

For appeals, of the seven public authorities with an employment screening policy/procedure:

- five documented in their policy/procedures an approach for considering applications for a review of an unfavourable decision
- one did not document this in their policy/procedures but described to the Commission how a review process would operate
- one did not have a process for review.

Examples of better practice for decision making included:

- One public authority has a decision making process which includes clearance for those with no criminal history and a process for considering applications where there is a criminal history. The process includes consideration against certain criteria. Where convictions warrant further consideration, applicants are contacted for further information. A screening committee reviews such applications and advises applicants in writing of their decision.
- Another public authority's policy details the information and factors which the decision maker will take into account in making an assessment, including the interests of the public authority and the applicant's circumstances. Specific offences which will usually result in disqualification are listed. Exemptions for certain types of employment or employment circumstances are detailed. The assessment process and levels of authority for decision making are also detailed.
- Another public authority's policy provides for a decision making committee comprising the manager of the employing area, and the relevant workforce director or their delegate to make decisions on behalf of the CEO. Factors to be taken into consideration in the decision making process and the decision making authority are outlined in the policy.

Recommendations

Public authority policies and procedures should:

- include a decision making process on outcomes of applications for screening
- provide for a process of appeal in the case of unfavourable decisions.

2.3.7 Monitoring integrity during employment

While pre-employment screening serves a critical function in ensuring that people who do not hold the requisite level of integrity are not appointed as a public officer, monitoring integrity during the period of employment enables public authorities to assure themselves of the ongoing integrity of employees. This is generally undertaken in two ways:

- proactive monitoring by the public authority (i.e. employer driven)
- self-declaration by the employee of any changes in their circumstances relevant to the integrity requirements of the position they hold (i.e. employee driven).

Observations

Monitoring by the public authority

There are a number of ways in which public authorities can monitor the ongoing integrity of employees, including:

- requiring honest and full disclosure as a condition of ongoing employment (e.g. disclosure of criminal convictions)
- systematic and regular review of employee circumstances (e.g. requiring a regular declaration by all employees in positions of trust relevant to the integrity requirements of the position)
- requiring re-screening upon promotion or change of employment circumstances.

Some of these methods can be resource intensive and a number of public authorities stated they approached such methods aware of the risks involved, other controls in place (such as WWCC which are required to be renewed every three years) and the resources required to implement such controls.

Self-declaration of change of circumstances

As part of the screening process public authorities can advise applicants that they are to notify the public authority if their circumstances change relevant to the integrity requirements of the position. This requirement may be advised through specific advice to the applicant or contained in public authority policies, such as:

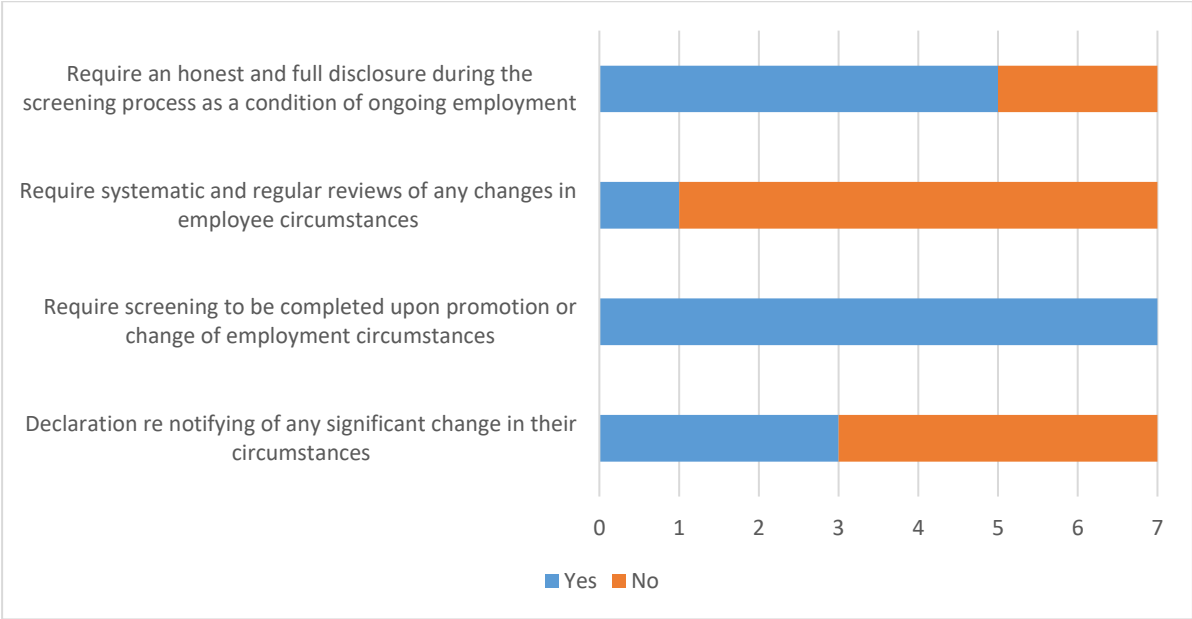
- specific notification to the applicant when providing the outcome of the screening process
- as a specific or general condition of a contract of employment
- provision in the code of conduct
- provision in employment screening and criminal record screening policies.

These measures can be strengthened through requiring a formal declaration that an entrusted person will notify the employer should there be a change in their circumstances (e.g. being charged with a criminal offence, bankruptcy etc).

It should also be noted that employment contracts generally include a requirement for employees to comply with ethical codes, public authority policies and procedures and can also specifically refer to the need to notify any change in circumstances.

The seven public authorities with an employment screening policy/procedure were assessed for coverage within these of requirements in regard to the monitoring of integrity during employment. The results for this are shown in Figure 4.

Figure 4: Monitoring integrity during employment



In the absence of systematic and regular monitoring of employee circumstances at an organisational level, most public authorities relied on the policy and procedural emphasis on employee responsibility to alert them to any change in their circumstances. This may present an area of risk for some public authorities.

Examples of better practice for employer monitoring of ongoing integrity and self-declaration of change of circumstances included:

- One public authority’s policy states that a criminal record check is part of the continuation of engagement process and requires a criminal check for contractors prior to renewal of a contract. The policy refers to a change in work position, noting that where a person has a change in role with different requirements from their current position that another criminal record check may need to be conducted prior to the person taking up the position.
- Another public authority’s policy provides for criminal history screening to be undertaken where there is a change in employment circumstances. Depending on the period of time and circumstances, criminal history re-screening is also required where there is a break in service.

- Another public authority requires employees to report all criminal activity in which they are involved, or for which they are charged or convicted, during their employment with the public authority.
- Another public authority's procedures require employees to immediately notify the CEO, through their line manager, if they are charged with an offence or convicted of any charges. These procedures are supported by the official advice from the public authority when it communicates the result of a criminal check.

Recommendations

Public authorities should consider and implement, particularly in high risk areas, appropriate measures to monitor the ongoing integrity of employees, such as:

- requiring honest and full disclosure as a condition of ongoing employment (e.g. disclosure of criminal convictions)
- systematic and regular review of employee circumstances (e.g. require a regular declaration by all employees in positions of trust relevant to the integrity requirements of the position)
- requiring re-screening upon promotion or change of employment circumstances.

2.3.8 Records and information management

Employment screening involves the collection of confidential and sensitive information about a prospective or current employee. This information should be managed in accordance with relevant legislation and policy. It is also important that job applicants are informed how the information they provide will be used and in what circumstances it will be disclosed.

Articulating these requirements in policy/procedures, rather than just relying on them being included in operational documents, such as forms and information packages, assists to ensure that these matters are not overlooked. It also emphasises the principles of transparency which support informed consent, and ensures compliance with information management legislation and consistency with policy.

Legislation and guidelines for the management of personal information

Record keeping legislation, the W.A. *State Records Act 2000* (SR Act), is applicable to all public authorities. Under the SR Act every State organisation must have and operate an approved Recordkeeping Plan. Further information on the SR Act and its application to integrity checking is at Appendix 3.

The Ombudsman's [Guidelines for the management of personal information](#) also provide guidance on how to effectively manage personal information. This includes:

- how and when personal information can be collected
- how it should be used and disclosed
- storage and security of electronic, paper and sensitive information
- how individuals should be able to access that information and have it corrected if it is wrong
- how agencies can ensure transparent management of personal information.

In addition, most public authorities are bound by ethical code requirements relevant to the management of personal information. For example:

- the Public Sector [Code of Ethics](#) requires public sector bodies to 'treat people with respect, courtesy and sensitivity and recognise their interests, rights, safety and welfare.'

Public sector bodies are reminded in the Public Sector Commission's [Conduct Guide](#) to treat with extra security and sensitivity certain information, such as sensitive personal or financial details. Public sector bodies are required to include in their code of conduct expectations of employees regarding official information and use of information.

'The [Freedom of Information Act 1992](#) (WA) (FOI Act) is overseen by the [Office of the Information Commissioner \(WA\)](#) (OIC), and the term 'personal information' and exemptions applying to this are described in the FOI Act. The OIC 'FOI Coordinators manual' also states: 'The FOI Act has exemption provisions to protect from disclosure material, which if released, would have a detrimental effect on the functioning of government or harm the interests of private individuals or commercial organisations.'

The Australian Standard AS 4811-2006 states that information obtained about a person for the purposes of employment screening is only to be used for the purpose for which it was collected and shall be stored securely. Once an organisation has determined that there is no longer a need to keep personal information, it should be securely destroyed.

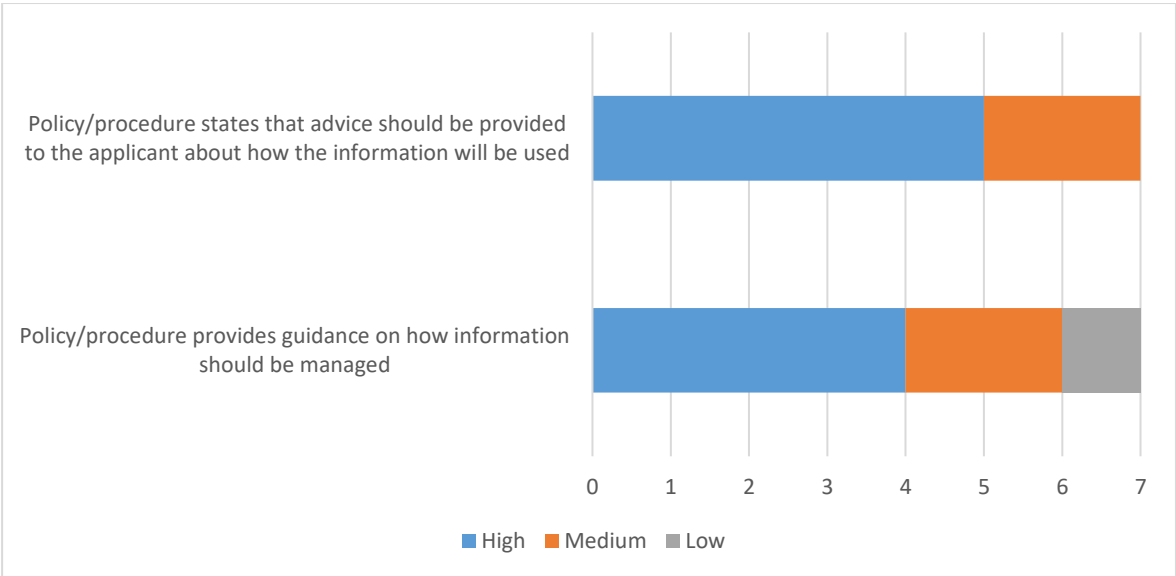
Observations

The seven public authorities with an employment screening policy/procedure were rated in relation to whether their policy/procedure:

- states that advice should be provided to the applicant about the applicable checks, how the information will be used and when and in what circumstances it may be disclosed
- provides guidance on how information obtained through the screening process should be managed.

The results of this assessment are shown in Figure 5.

Figure 5: Advice to applicants and guidance on information management



Rating scale: 'High': all aspects of the criteria well covered, 'Medium': some aspects of the criteria covered, 'Low': limited or no aspects of the criteria covered.

Recommendations

Public authorities should ensure their policies and procedures on employment screening:

- state that advice should be provided to the applicant about the applicable checks, how the information will be used and when and in what circumstances it may be disclosed
- provide guidance on how information obtained through the screening process should be managed.

2.3.9 Integrity checking for past disciplinary history

A recurring area of concern for the Commission is how to best manage the risk which arises where a public sector employee who has been involved in disciplinary action, sometimes leading to termination, or who resigns prior to a disciplinary finding being made, seeks re-employment in a new public authority. This scenario is also relevant to people outside the public sector seeking employment in the public sector.

Recent work conducted by other Australian integrity oversight bodies (see Appendix 5 for links), also highlights this is a topic which is common in other Australian public sector jurisdictions.

If a prospective employee's disciplinary history were known, this may raise legitimate concerns about the integrity of the person, particularly where they apply for a position of trust.

In acknowledging this issue, it is important to note the mere existence of a disciplinary action or outcome applying to a job applicant may not necessarily exclude that person from a recruitment process. Each matter should be considered on a case-by-case basis against the requirements of the position applied for, and any particular circumstances applying to the position functions. The seriousness, recency and degree of risk to the agency, clients and co-workers should also be considered.

Disciplinary action across all public authorities

As part of its annual survey program, the Commission asked public authorities in the PSES and ICS about disciplinary cases, breaches found and sanctions applied.

Information from the PSES data for all the 106 public sector bodies indicated that in the nine month period from 1 July 2016 to 31 March 2017:

- 733 disciplinary processes were completed while 133 disciplinary processes were discontinued. These disciplinary processes were discontinued for various reasons such as the resignation of the employee; insufficient evidence; or because improvement action such as training was taken instead.
- Of the 733 completed processes, there were 373 breaches of ethical codes and 154 other types of breaches.
- For these found breaches, no sanction was applied in 98 cases (19 per cent) due to reasons such as resignation/abandonment of employment.

Information from the ICS, for a total of 159 local governments, universities and GTEs, indicated that in the same period:

- 992 discipline processes related to codes of conduct or other staff behaviour policies were completed.
- The completed processes found 684 breaches of discipline. For these, no sanction was applied in 109 cases (16 per cent).

The Commission is aware that where legislation provides for this, when a public officer resigns during the course of a disciplinary process, some public authorities will complete the disciplinary process, while others do not pursue this. While caution needs to be exercised in drawing conclusions from the above data, they do provide some insight into the numbers of disciplinary cases across public authorities where there is potentially incomplete disciplinary action. As part of their integrity checking process in relation to a person seeking re-employment in a public authority, public authorities should take into account that there may be information held by the person's former public authority about an incomplete disciplinary process.

Observations

Many public authorities in the evaluation recognised the risk of employing a person who has a disciplinary history which is not known to them, and have implemented strategies to mitigate this occurring. Primarily this involves a thorough employment history check with previous employers, which includes asking about any instances of disciplinary action.

The evaluation found some of the eight public authorities ensured that disciplinary action was completed, to ensure the outcome of the disciplinary action could be noted in the public authority's record and is available information for integrity checking purposes should the person seek re-employment with the public authority.

It is noted that completing a disciplinary action also ensures that any disciplinary action which results in no breach being found is also appropriately documented.

Recommendations

The Commission proposes to consider issues concerning employees with a disciplinary record or history seeking employment in public authorities, and possible measures to address the public sector integrity risks associated with this.

Public authorities should:

- conduct checks of their own employment records for information about an employee or prospective employee's disciplinary history as part of their integrity checking process
- undertake work history checks with former employers, as discussed elsewhere in this report. These measures are particularly important in relation to positions of trust, such as those public officers who manage misconduct allegations.

2.4 Capability requirements

The oversight and management of misconduct in public authorities includes receiving allegations, as well as making notifications about and investigating allegations of misconduct. Positions involved in this work include:

- principal officers (CEOs), who are responsible and obliged under the CCM Act to notify the Corruption and Crime Commission or Public Sector Commission of serious or minor misconduct respectively and possibly manage or oversee investigations of alleged misconduct
- relevant employees of a public authority or external contractors required to manage and conduct investigations of alleged misconduct.

In WA there is no minimum standard or specified capability requirement for employees and other persons who manage and may be responsible for investigating misconduct allegations in public authorities. As a comparison, Australian government agencies have the [Australian Government Investigations Standards](#) (AGIS), which establish the minimum standards for agencies conducting investigations. The AGIS recommend the following minimum level of training or qualification for investigations staff:

- Certificate IV in Government (Investigation), or its equivalent, as set out in the Public Services Training Package (PSP04). This qualification should be obtained before an officer is primarily engaged as an investigator; otherwise the officer should be under the supervision of a qualified investigator.
- Diploma of Government (Investigation), or equivalent, as set out in the Public Services Training Package (PSP04) for staff primarily engaged in the coordination and supervision of investigations.

Commission initiatives

In 2016/17, as part of broader capability building initiatives related to integrity:

- The Commission arranged for five senior integrity leaders to participate in the Australian New Zealand School of Government (ANZSOG) Strategic Responses to Corruption workshop.
- In collaboration with the State Solicitor's Office, a *Principles of administrative law* workshop was delivered to 34 public sector Senior Executive Service members.
- The Commission continued to up-skill public officers overseeing and conducting investigations, with 75 officers undertaking the Certificate IV in Government (Investigation), and 36 officers undertaking a Diploma of Government (Investigation).

Building the capability of public officers who occupy positions of trust enhances the sector's ability to act and be seen to act, ethically and with integrity. In 2016/17, the Commission also released success profiles and accompanying measurement guidelines for CEOs and chief human resource officers which have varying roles in managing allegations of misconduct.

Observations

The capability of employees who manage and may be required to investigate misconduct allegations was considered during the evaluation.

Analysis of 14 recruitment cases (refer to 2.5 *Assessment of recruitment cases*) provided insight into the specific skills and knowledge which public authorities generally require of employees in integrity and conduct units. These skills and knowledge include:

- an understanding of the legislative framework and requirements for managing misconduct allegations
- qualifications, training and or relevant experience in investigative processes, including planning and conducting investigations
- procedural fairness and appropriate consideration of evidence
- record keeping.

The capability aspects of managing or investigating misconduct allegations were well covered in the 14 job/position description forms assessed, with all 14 which manage misconduct allegations referring to the skills and knowledge requirements mentioned above.

Those public authorities which have a dedicated unit to manage misconduct allegations indicated that employees whose work is wholly concerned with investigations meet, and in many cases exceed, the AGIS level.

In smaller public authorities without a dedicated misconduct management unit some employees who manage misconduct allegations as only one part of their role held the Certificate IV in Government (Investigation), or were working towards completing this.

All eight public authorities indicated that they conducted training as required into:

- the legislative framework and requirements for managing misconduct allegations
- conducting disciplinary investigations
- management of contracts (e.g. for external investigations).

Recommendations

Public authority CEOs should ensure:

- they are sufficiently familiar with their responsibilities as a principal officer under the CCM Act
- any public authority employees or other persons (i.e. external contractors) engaged by a public authority, who have involvement in managing and/or investigating allegations of misconduct, should have the relevant qualifications, skills and/or experience to conduct this work.

2.5 Assessment of recruitment cases

The evaluation considered recruitment processes in public authorities in relation to positions which manage misconduct allegations and/or have an investigative role. The 'Better practice for integrity checking' criteria (see Appendix 2 for full list) are based on the Australian Standard AS 4811 2006 and were used in the analysis of the following samples:

- 14 recent public authority recruitment cases in the evaluation sample of positions which manage misconduct allegations
- 10 recently closed jobs from the JobsWA website using the search criterion 'law enforcement/security.'

Both the integrity checking requirements and capability were assessed.

Observations

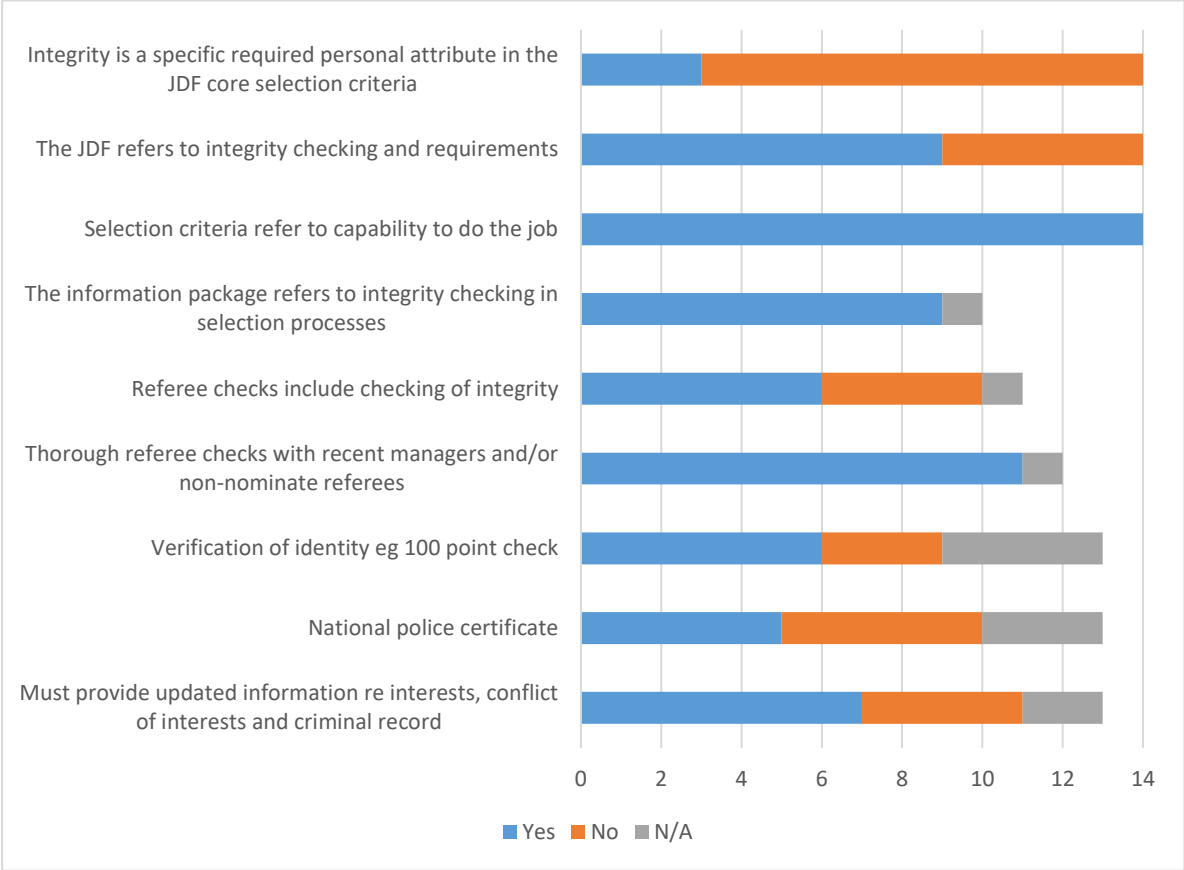
Assessment of recruitment cases in public authorities

Fourteen of the most recent positions across the eight public authorities were selected, as they were considered most indicative of current practice in the public authority. The recruitment information (job description form, job advertisement, application information package), selection process and appointment documentation were assessed.

Where it could be established from the documentation provided, an assessment ¹³ was made against the 'Better practice for integrity checking' criteria considered most crucial to integrity checking for positions of trust, such as those who manage misconduct allegations.

¹³ 'Yes' indicates documentation showed process was undertaken; 'No' indicates documentation showed process could have been undertaken but was not undertaken. For some cases there was no documentation available to enable an assessment of the process. Only 'yes' and 'no' assessments are reported. For this reason 'yes' and 'no' ratings do not all add up to 14.

Figure 6: Assessment of recruitment cases



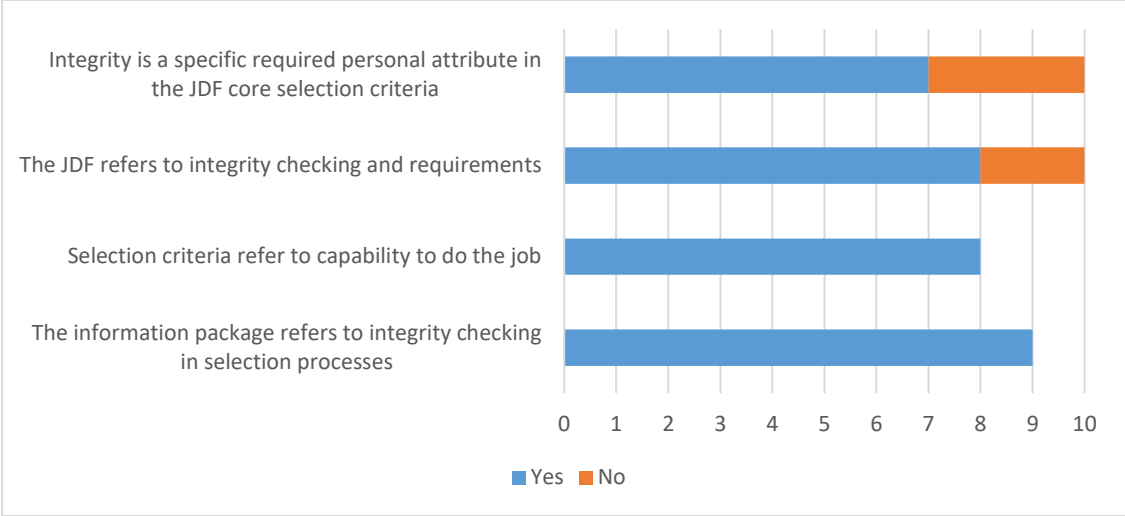
Assessment of closed jobs in JobsWA

This activity involved reviewing the JobsWA website using the search criterion ‘law enforcement/security’ for jobs which had closed in the six months prior to March 2017. One vacancy each from ten public sector authorities was selected. The job description form, job advertisement and application information package were assessed. No selection or appointment information was sought from the public authorities involved.

Where it could be established from the documentation provided, an assessment ¹⁴ was made against the ‘Better practice for integrity checking’ criteria considered most crucial to integrity checking for positions of trust, such as those who manage misconduct allegations. Figure 7 shows the outcome of the assessment.

¹⁴ ‘Yes’ indicates present in documentation. ‘No’ indicates not present in documentation. Only ‘yes’ and ‘no’ assessments are reported. For this reason ‘yes’ and ‘no’ ratings do not all add up to 10.

Figure 7: Assessment of closed jobs on JobsWA



While due to the small sample size available the observations in this section cannot be considered representative of practice across public authorities, they do provide some insight into current practice, and indicate areas which public authorities could focus on to improve integrity checking policies and recruitment practices. For example:

- a 100 point identity check should be mandatory for all public authority positions which manage misconduct
- where a position involves making decisions about the integrity of others, it is quite reasonable to expect the job description for that position to address integrity as a core selection criterion
- referee checks should involve the checking of integrity.

Recommendations

Refer to the recommendations listed for 2.3.5 'What integrity checks are conducted'.

2.6 Other roles and positions involved in dealing with misconduct

The evaluation also considered the following roles and positions which can be involved in the management and investigation of misconduct, and that require a high level of integrity:

- External contractors
- CEOs
- Public interest disclosure officers

2.6.1 External contractors – common use arrangements

Insufficient screening of contract investigators can pose a risk to the integrity and quality of the investigation process.

The UK [Government baseline personnel security standard](#) provides guidance on pre-employment screening of employees and others, including government contractors. With regard to the latter, it notes:

It is easy to overlook the fact that contractors, consultants and agency staff working on government premises may not have undergone the same degree of checking as permanent government employees, even though they will often have unsupervised access to both premises and information. This can apply to all levels of staff, from management consultants to cleaners.

An alternative (to not allowing the contractor to work unsupervised) is to build in to any contract for services a requirement that the same checks made for government employees must be applied to any contractor and that the contracting company must be able to demonstrate that the checks have been carried out satisfactorily. Also, that such checks may be audited (even spot-checked) by the contracting organisation.

This is an issue which is relevant to public authorities which engage external investigators to undertake investigations on their behalf. This commonly occurs where the public authority does not have permanent investigations capacity in-house due to the small number of investigations which take place in the public authority or where the subject of the investigation requires a more independent or an external investigator. Some public authorities use external contractors to undertake misconduct investigations on their behalf as and when the need arises.

Observations

Common use arrangements

Across the Western Australian public sector as a whole there is sufficient demand for investigators to warrant the Department of Finance maintaining a common use arrangement (CUA) for HR investigation services. The current CUA for HR recruitment and investigation services (HRS 2015) has been in place since January 2016. This is a

whole of government contract which is mandatory for Perth metropolitan area public sector agencies bound by the *State Supply Commission Act 1991 (WA)*. Regional public sector agencies and other entities listed on the 'Approved CUA Users List' may elect to use the CUA¹⁵.

One of the purposes of CUAs is to make purchasing across government more efficient and effective by introducing whole of sector buying arrangements in relation to some goods or services.

The investigations category of CUA HRS2015 is set up 'to meet the needs of agencies seeking HR Investigation Services in relation to a range of issues including:

- allegations of misconduct
- bullying and employee grievances and
- can provide advice to a public authority on investigation frameworks, processes and techniques.

The arrangement is designed to meet investigation requirements at the higher end of the spectrum of allegations and is not intended to be used for matters which require informal interviews, analysis and recommendations.¹⁶

The evaluation sought to ascertain the extent of use by the eight sample public authorities of external investigators, including those on the CUA, and discussed with public authorities their understanding of the integrity checking which applies to external investigators on the CUA. It is noted that only four of the public authorities in the sample are required to use the CUA when engaging external investigators in the Perth region.

The evaluation noted that in the eight sample public authorities:

- Two of the four public authorities for whom the CUA is mandatory if purchasing external investigations services in the Perth region have sufficient in-house investigators and do not use the CUA.
- The remaining six public authorities in the evaluation use external investigators, mostly from the CUA.
- Use of the CUA extended beyond those public authorities for whom it is mandatory when purchasing external investigations services in the Perth region. Three of the four public authorities for whom the CUA is not mandatory, use the CUA.

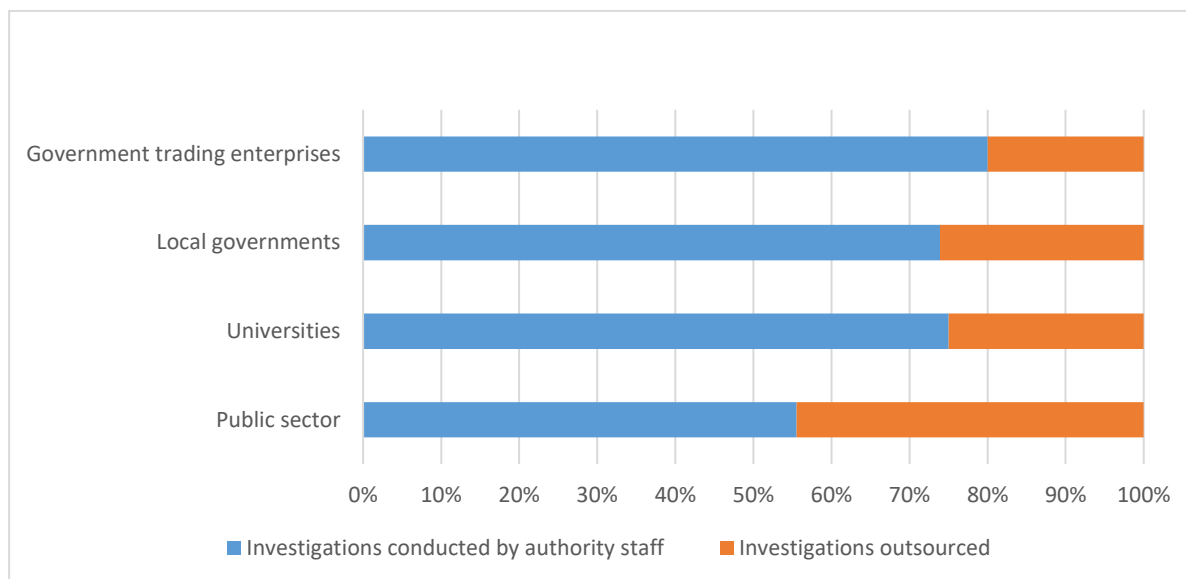
¹⁵ The Department of Finance's *Approved CUA Users List* lists WA Public Authorities bound by the *State Supply Commission Act 1991 (WA)*, other government organisations (State and local) and public benevolent institutions - [Approved CUA Users List \(Aug. 2017\)](#)

¹⁶ [Buyers Guide Human Resource and Investigations Services CUA HRS2015](#)

Use of external investigators across all public authorities

As part of its annual survey program, the Commission received results from the PSES and ICS in regard to the number of reports of unethical behaviour by their staff which were investigated by the authority's own employees or were outsourced to external providers. Information from the 146 public authorities which responded to this question are represented in Figure 8. It is noted that only the public sector bodies in the Perth region are required to use the CUA if seeking external investigators.

Figure 8: Staffing of investigations in public authorities, 2016/17



Source: PSES and ICS

Integrity checking of investigators on the CUA

The appointment of external investigators to the CUA HRS 2015 followed a tender process addressing a number of criteria. In addition to State Supply Commission policies such as the Probity and Accountability Policy, a number of specific integrity-related checks and balances were included in the tender process and contract documentation, including:

- Compliance disclosures required the respondent to confirm in writing that neither they nor any of their specified personnel has been convicted of a criminal offence that is punishable by imprisonment or detention and/or has currently been charged with a criminal offence punishable by imprisonment or detention awaiting determination by a Court.

The Department of Finance advised the Commission that presentation of police clearances is not required in the tender offer document on the basis that CUA customers have the right to request required clearances prior to entering each customer contract (this allows the contractual terms to cater to the individual requirements of each CUA customer).

- Compliance disclosures required the respondent to declare and provide details of any actual, potential or perceived conflict of interest.
- The respondents were required to agree to confidentiality provisions due to the sensitive nature of the information to which they will have access.
- The respondents were required to agree to the condition that the contract authority (Department of Finance) or the customer (the public authority) may at any time request an Australia wide police clearance and/or other security checks in respect of any contract personnel.
- The respondents were required to agree to manage the performance of the contract personnel and undertake quality control of consultants, maintain standards and records which can enable the services to be audited.
- The contract drew the attention of the respondents to the fact that a sector wide *Code of Ethics* exists and that all public sector bodies have codes of conduct.
- Respondents were required to provide detailed written referees, preferably public authorities, covering a number of specified issues.

The evaluation discussed with the eight public authorities their understanding of the integrity checking which applies to external investigators on the CUA and any integrity checking which they undertook in relation to the contractors they engage. The evaluation observed:

- Public authorities generally assumed that contractors were appropriately screened for the integrity requirements of the role and that they did not need to undertake further checks.
- Some public authorities assumed that the contractors would have provided a National Police Certificate for their specified personnel as part of the appointment process.
- Public authorities did not request the contractors to present to them clearances such as a National Police Certificate or investigator's license when engaging them.
- A small number advised that they put additional integrity checking processes in place. For example:
 - One public authority ensures that the contract documentation includes a requirement for the investigator to declare any conflict of interest arising with respect to the proposed investigation.
 - Another public authority conducts due diligence by seeking feedback from other public authorities which may have used the CUA.

Capability of investigators on the CUA

The evaluation discussed with public authorities their view of the capability of investigators on the CUA.

In the view of some of the eight public authorities:

- The level of skill of CUA contractors varies, with some investigators being of very high quality and others less so.
- Public authorities commented on the need for contractors to fully understand the requirements of undertaking administrative rather than criminal investigations.
- One public authority noted that they prepare the investigation plan for the investigator and conduct a thorough quality assurance of the report.
- One public authority which is required to use the CUA indicated that they have a need for specialist technical and legal skills, which is currently not easily available amongst the contractors on the CUA.

Future steps

The initial term of CUA HRS2015 is due to expire at the end of 2017 and the Department of Finance is currently undertaking a contract review to determine whether to exercise available extension options. As part of that review feedback will be sought from CUA stakeholders.

The information in the Commission's report will be provided to the Department of Finance as part of the consultation process. The Department of Finance has indicated that it will share with CUA customers relevant recommendations from the report. It will also review the security check requirements under CUA HRS2015 in the context of the Commission's recommendations and assess relevant Commission recommendations when developing future CUAs for HR investigation services.

Following recent consultation with the Commission, the Department of Finance has updated the information available to CUA HRS2015 customers so that they are reminded to consider the need to obtain police clearances and/or other security checks for consultants when they engage a contractor to carry out investigation services.

2.6.2 Chief Executive Officers

Under the CCM Act provisions and as a position of trust, CEOs play an integral role in overseeing and managing allegations about misconduct.

The degree of involvement a CEO may have in regard to dealing with allegations about misconduct can vary, from receiving allegations and signing off matters, to complete end to end investigation and management of allegations. For example, the Commission is aware from other recent work, that in one large local government all allegations of misconduct were managed from start to finish by the CEO and through their office. In view of the important role CEOs have in managing misconduct, the evaluation considered integrity checking requirements for CEOs.

Due to the small sample size for this evaluation and other factors, no testing was conducted of what employment screening was used for the CEO employment processes in the sample of public authorities.

Observations

CEO integrity checking

As the person with the highest level of authority and decision making in a public authority, the CEO holds a position of trust and integrity checking should be undertaken to ensure that the person appointed has the requisite level of integrity to undertake this important role. At a minimum this might include a 100 point identification check; criminal record checking; five year employment/background history; referee checking; and qualifications verification.

There will be a number of occasions, particularly in the public sector, where a more comprehensive vetting process would be necessary and appropriate.

Recruitment of public sector CEOs

The process for filling CEO vacancies under the *Public Sector Management Act 1994* is managed by the Commission. The employment screening process used by the Commission can vary depending on the position advertised, with qualification checking and referee checking occurring for all public sector CEO recruitment exercises. Some CEOs may also be required to successfully complete integrity checking requirements mandated by legislation, such as WWCC or security vetting.

On its [CEO employment services](#) homepage, the Commission's website emphasises the importance of integrity in CEOs:

Chief executive officers as leaders in the public sector must maintain the highest levels of integrity in both their professional and private activities. This integrity requirement is expected even when a person applies for a chief executive office and all claims in applications will be rigorously tested. Any misrepresentations in applications including about qualifications held will preclude applicants from appointment and will result in such claims being reported to the relevant law enforcement agency.

Recruitment of Local Government CEOs

Legislation and guidelines in place in relation to the recruitment of a local government CEOs include a number of provisions relevant to integrity checking. Under local government legislation:

- A local government is not to employ a person to fill the position of CEO unless the council believes that the person is suitably qualified for the position (S.5.36 (2)(a) and (b) of the *Local Government Act 1995*).
- It is an offence for a person to provide false information relating to their academic qualifications (Local Government (Administration) Regulation 1996 18E).

The Department of Local Government and Communities¹⁷ [Operational Guidelines Number 10 'Appointing a CEO'](#) note that:

- While 'suitably qualified' is not defined it is not intended to be limited to academic qualifications.
- Due to the importance of the position of CEO, a police clearance should be sought.
- A council may source a referee who is not one nominated by an applicant, providing they advise the applicant of the intention to do so.

Recommendation

Taking into consideration any legislative requirements, public authorities should have a policy and procedural position on what employment screening (including integrity checking) should apply to their CEO.

¹⁷ Since 1 July 2017 the part of the former Department of Local Government and Communities responsible for local government has been part of the newly established Department of Local Government, Sport and Cultural Industries.

2.6.3 Public interest disclosure officers

Public interest disclosures often include allegations about misconduct.

Under the *Public Interest Disclosure Act 2003* (PID Act), the principal executive officer (PEO) must designate the occupant of a specified position as the person (PID Officer) responsible for receiving public interest disclosures. PID officers are considered to be positions of trust and are bound by the [PID officers Code of Conduct and Integrity](#). Given the responsibility, trust required and importance of the position, they should be subject to an appropriate level of employment screening.

The PID Act does not prescribe any formal requirements for integrity checking for PID Officers. A PEO may, however, choose to conduct such checks, either as part of their general employment screening or specifically for the PID officer role.

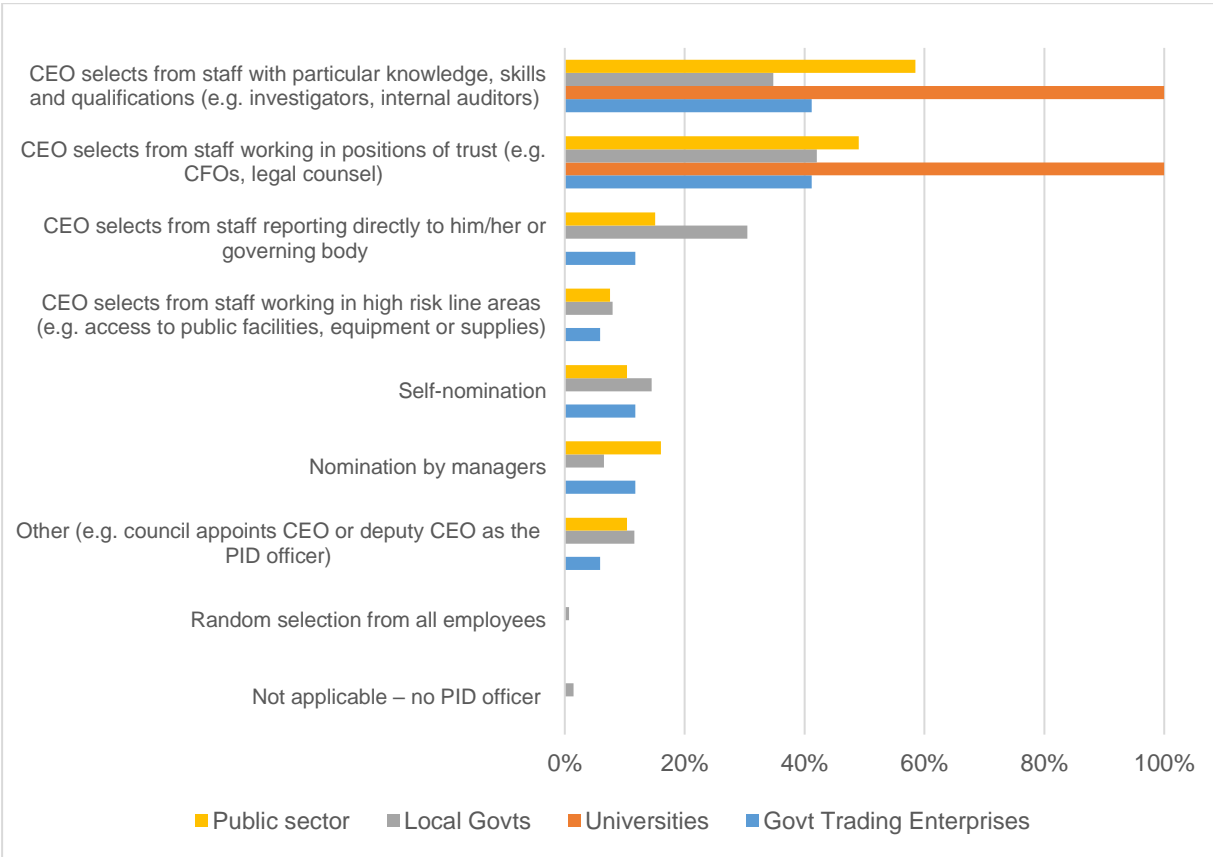
Observations

Survey results - selecting PID officers across all public authorities

As part of its annual survey program, the Commission asked public authorities in the PSES and ICS about the two main ways that PID officers are chosen.

Information from the 265 public authorities which responded are provided in Figure 9.

Figure 9: Methods of selecting a PID officer in public authorities, 2016/17



Source: PSES and ICS, excludes 1 GTE where information was not available

The results indicated that the two most common means of choosing a PID officer were:

- the CEO selects from specialist staff such as investigators or internal auditors
- the CEO selects from staff working in positions of trust (e.g. chief finance officers, legal counsel).

The types of employment positions which public authorities advised are chosen as PID officers are generally also considered positions of trust, to which an appropriate level of employment screening and integrity checking should apply.

During the evaluation public authorities were asked about any additional integrity checking which they applied to the role of PID officer. Public authorities advised that they did not apply any additional integrity checking to PID officers over and above what applied to the public officer through their normal role. In practice some of the public officers who manage misconduct allegations are also PID officers and are generally subject to screening as a position of trust. In addition it was noted that most of the public authorities had criminal history record screening in place as a basic level of checking for all employees or a wide range of positions of trust.

The survey results and responses from public authorities in the evaluation suggest that PID officers across public authorities are generally subject to appropriate integrity checking through their normal jobs.

Recommendation

Within the context of current employment screening, integrity checking and legislative requirements for the public authority, public authorities should as required implement appropriate integrity checking for PID officers.

Appendices

Appendix 1:

Evaluation - sample of public authorities

More than 250¹⁸ public authorities are subject to the CCM Act requirements applying to minor misconduct.

The sampling approach for this evaluation was judgemental, and took into account the following factors in the selection of the sample of public authorities for inclusion in the evaluation:

- adequate representation across the types and number of public authorities subject to the CCM Act requirements (public sector bodies, local governments, government trading enterprises and universities)
- the level of risk in public authorities with regard to the nature of their business and relevant misconduct risk
- practicality with respect to resources and time to perform the evaluation.

Most public authorities which had participated in the recent past or would, in the near future, participate in reviews, evaluation or assurance activities by the Commission involving significant public authority resources were excluded from consideration for the sample. The public authorities included in the evaluation were:

Public Sector Body¹⁹ - Department of Education; North Metropolitan Health Service; Department of Corrective Services²⁰; Department for Child Protection and Family Support²¹

University- Curtin University

Government trading enterprise - Water Corporation

Local Governments - City of Fremantle; City of Swan

¹⁸ Due to machinery of government changes in 2017 the number of public sector authorities was reduced with effect from 1 July 2017.

¹⁹ As the evaluation was conducted prior to 1 July 2017, the name of the public sector entity in which the evaluation was conducted is listed.

²⁰ From 1 July 2017 part of the Department of Justice.

²¹ From 1 July 2017 part of the Department of Communities.

Appendix 2

Better practice for integrity checking criteria

Sound policies and procedures provide a firm basis for the integrity checking of potential applicants, whether internal or external to the public authority. According to their circumstances, public authorities may use a number of mechanisms for integrity checking for positions of trust. Better practice during recruitment to a position of trust, such as one which manages misconduct allegations, would include, as appropriate, many of the following criteria for integrity checking:

Pre-employment screening (recruitment and selection process)

- Integrity is a specific required personal attribute in the core selection criteria in the job/position description form.
- There is appropriate reference to integrity checking, and to specific integrity checking requirements (e.g. criminal record screening, negative vetting, working with children checks), in job information, such as the job/position description, job advertisement and applicant package, and in recruitment pages and job information on the public authority's website.
- The job advertisement states that referees, including preferably the current or most recent manager, will be contacted as part of the selection process.
- The job advertisement states that non-nominated referees may be contacted to validate claims, including integrity.
- The application form or integrity checking consent form includes consent for going to non-nominated referees for validation of any claim.
- Self-disclosure by the applicant in an application form is required in regard to criminal convictions and disciplinary offences.
- A disclaimer in the application form or integrity checking consent form requires full and honest disclosure and advises of the implications of providing misleading information.
- There is a request for information about secondary employment and advice that a declaration of interests or conflicts of interest may be required.

- Many of the following checks are undertaken:
 - verification of identity (e.g. 100 point ID check)
 - verification of qualifications and/or memberships and/or associations
 - criminal history record checks
 - use of baseline, negative or positive security vetting process
 - equivalent checks for periods of overseas residence, if applicable
 - WWCC, if applicable
 - declaration of interests
 - declaration of conflict of interest

On appointment

- The probationary period is set at the maximum for employees from outside the public sector.
- Relevant declarations and acknowledgements are sought and recorded for agreed compliance (e.g. with code of conduct).
- There is a requirement to provide updated information about interests, declare conflict of interest, change in criminal record.

Appendix 3

Information management

Information management in relation to employment screening is vital to ensure confidentiality and appropriate management of the information collected.

The prime applicable legislation for government recordkeeping in Western Australia is the *State Records Act 2000* (the SR Act).

Under section 61 of the SR Act, the State Records Commission (SRC) produced a number of Standards governing various aspects of recordkeeping by State organisations. The SRC Standards have the same force as Regulations.

An essential requirement under the SR Act is that every State organisation is to have and operate an approved Recordkeeping Plan (the Plan). Among other things, the Plan is to set out:

- matters about which records are to be created by the organisation
- how the organisation is to keep its government records
- which government records will be state archives, and if not state archives, how long the records must be kept before they may be destroyed.

In addition, the Plan must:

- ensure that the government records kept by the organisation properly and adequately record the performance of the agency's functions
- comply with the SRC Standards
- be consistent with any written law to which the organisation is subject.

In regard to the records created or received during the integrity checking process, the organisation's standard operating procedures for recordkeeping (as part of the Plan) deal with:

- the capture of records in official recordkeeping or business information systems
- their ongoing control (e.g. maintaining as necessary the confidentiality of the information contained in the records)
- their keeping in accordance with the relevant approved disposal authority (the retention and disposal of the records).

Public authorities are expected to have suitable approved policies and procedures regarding the process and application of 'integrity checking', which would stipulate, as appropriate, which records are to be created or received during the process that would serve to ensure an adequate evidence trail of actions and decisions, capable of review. These documents would adhere to and be consistent with (e.g. the requirements of the *Public Sector Management Act 1994* and relevant Public Sector Commissioner's circulars, instructions, procedures, etc).

Appendix 4

Types of checks

Check	Description
Check of curriculum vitae	This is a check during the recruitment process of the applicant's curriculum vitae for any unexplained gaps or anomalies. Unexplained gaps in the curriculum vitae might indicate that a person was dismissed by a previous employer or resigned during a disciplinary process.
Criminal history record screening-Australia ('National police history checks' ²²)	A National Police Certificate (NPC) is a document that lists an individual's disclosable court outcomes and pending charges sourced from the databases of all Australian police jurisdictions. Certain convictions, such as spent or juvenile convictions, may not be disclosed on a NPC in accordance with the legislation and policies of the various police jurisdictions. ²³ A person can apply for a NPC to the Western Australia Police online or at participating Australia Post outlets. A number of non-government organisations are accredited to undertake this service. Alternatively, the public authority's criminal record check may involve providing consent to the public authority to undertake the check. Some public authorities have an exemption which enables them to receive information relating to spent convictions.
Criminal history record screening-Overseas	Criminal history record screening is undertaken in relation to periods of overseas residence within a certain period, (e.g. the last five or ten years).
Declaration of conflict of interest	A conflict of interest register records declarations from public officers about potential, perceived and actual conflicts between their public role and their private interests and decisions made to manage those conflicts. The information is recorded in a register and appropriately monitored.
Declaration/disclosure regarding secondary employment	An applicant is asked whether they have another job, whether the job applied for would be the primary or secondary job and details of this.

²² See the Australian Criminal Intelligence Commission's [National Police Checks](#) page for further information.

²³ See the Western Australia Police [Frequently asked questions National Police Certificate](#) website for further information.

Check	Description
Declaration/disclosure regarding criminal history	An applicant is asked whether they have any criminal convictions or there are charges pending. If so, they may be asked to provide details.
Declaration/disclosure regarding disciplinary history	An applicant is asked whether they have previously been or are subject to any disciplinary action. If so, they may be asked to provide details.
Declarations – other	<p>During the recruitment process the applicant is asked to make a declaration about such matters as:</p> <ul style="list-style-type: none"> • any previous employment with the public authority • acknowledgement that if there is any change in their circumstances relevant to the integrity requirements of the position, they should advise the public authority.
Disclosure of interests	<p>An interest register may include items which require declaration to the public authority such as shareholdings, real estate holdings, financial or business interests or employment, membership of groups.</p> <p>Local government legislation requires ‘designated employees’ to complete a primary and annual declaration of interests.</p>
Drug and alcohol testing	Some public authorities undertake drug and alcohol testing as part of their routine pre-employment process.
Identification checks	Identification checks are undertaken to confirm the person’s identity (i.e. that the entrusted person is who they purport to be). This is a key check and the one on which most other checks are based. A common method is the 100 point identity check which involves the public authority sighting original forms of identity, licenses etc.
Qualifications check	Essential requirements for a position can often include a qualification. A qualifications check involves verifying the accuracy and genuineness of the qualification, preferably through sighting the original. Some universities also provide an online qualifications verification service.
Referee checks	Referee checking is an essential part of the integrity checking process and involves seeking job-related information from a referee. In addition to confirming details of a person’s capability for the position, referee checking provides a means to verify employment history credentials and to ascertain if there are any disciplinary or conduct issues which may have arisen during the previous period of employment. Referee

Check	Description
	<p>comments are often required from the applicant’s current or most recent line manager. Contacting non-nominated referees provides a further source of information which may shed light on the integrity of an applicant, however should only be undertaken in consultation with the applicant.</p>
Security vetting	<p>Public authorities may require security vetting for some of their employees to allow them access to classified information and resources. Security vetting involves a series of thorough background checks. The Australian Government Security Vetting Agency (AGSVA) is the central agency for the processing and granting of security clearances for the majority of Australian Government agencies and state and territory agencies.²⁴</p>
Work history check	<p>This involves the recruiting employer making a formal request, with the consent of the applicant, for information relating to the person’s work history with a previous employer. This information can include information relevant to the applicant’s ability to meet the integrity requirements of the position. The work history check is not the same as a referee check.</p>
Working with children checks	<p>The WWC Check is a compulsory screening strategy in Western Australia and the Christmas and Cocos (Keeling) Islands for people who engage in certain paid or unpaid work with children, described as “child-related work” under the <i>Working with Children (Criminal Record Checking) Act 2004</i>. The WWC Check includes a National Police History Check, but is different from a National Police Certificate because it involves the ongoing collection and assessment of information that is relevant to whether a child may be exposed to a risk of harm should a person engage in child-related work.²⁵</p>

²⁴ See the [Australian Government Security Vetting Agency](#) website for further information.

²⁵ See the [Working with children check](#) website for further information.

Appendix 5

Relevant legislation, policies, standards and resources

State and Federal employment law

[Public Sector Management Act 1994](#)

[WA Public Sector Standards in Human Resource Management](#) established under the [Public Sector Management Act 1994](#)

[Corruption, Crime and Misconduct Act 2003](#)

[State Records Act 2000](#)

[Equal Opportunity Act 1984](#)

[Local Government Act 1995](#) and [regulations](#)

[Freedom of Information Act 1992](#)

[Spent Convictions Act 1988](#)

[Working with Children \(Criminal Record Checking\) Act 2004](#) and [Regulations 2005](#)

Department of Commerce, 2012, [Policy statement- Pre-employment screening](#)

Resources and links

Western Australia

Department of Finance [CUAHR2015 Human Resources \(HR\) and Investigation Services](#)

Ombudsman WA 2011, [The management of personal information - good practice and opportunities for improvement](#)

Ombudsman WA 2013, [Management of Personal Information: Guidelines for Agencies](#)

Public Sector Commission 2013, [More than a matter of trust: An examination of integrity checking controls in recruitment and employee induction processes](#)

Public Sector Commission 2014, [Public Sector Commissioner's Circular 2014-02 Policy Framework and Standards for information sharing between government agencies](#)

Public Sector Commission 2015, [Conduct Guide: Developing a code of conduct](#)

Public Sector Commission 2016, [Arrangements to manage misconduct and notify minor misconduct](#)

Public Sector Commission 2016, [Developing a code of conduct: Guide for local government](#)

Australia

Australian Human Rights Commission 2012, [On the Record: Guidelines for the prevention of discrimination in employment on the basis of criminal record.](#)

Australian Public Service Commission 2016, [Managing integrity risks in the workplace: A toolkit](#)

Commonwealth Attorney General's Department 2011, [Australian Government Investigation Standards 2011](#)

Commonwealth [Australian Government Protective Security Policy Framework](#)

Commonwealth [Australian Government Security Vetting Agency](#)

Government of South Australia, Direction of the Premier under Section 10 of the Public Sector Act 2009 (SA) 2017, [Recruitment](#)

Independent Broad-based Anti-corruption Commission, Victoria 2015, [A review of integrity frameworks in six Victorian councils](#)

Independent Broad-based Anti-corruption Commission, Victoria 2015, [Organised crime group cultivation of public sector employees](#) webpage

Independent Broad-based Commission Against Corruption, Victoria 2015, [Organised crime group cultivation of public sector employees Intelligence report 1](#)

Independent Commission Against Corruption NSW 2010, [Recruitment: the background check risk. Tip sheet for NSW public officials](#)

Independent Commission Against Corruption NSW 2016, [Resume fraud is a costly problem, but one you can manage](#), in Corruption Matters, Issue 48

Office for the Public Sector, South Australia 2017, [Pre-employment declaration](#)

Ombudsman Victoria 2013, [Report on issues in public sector employment](#)

Public Sector Commission, Victoria, [Integrity in Recruitment Guidance Note](#)

Queensland Crime and Corruption Commission 2017, [Summary audit report on Queensland public sector responses to corrupt conduct incidents in recruitment and selection activities](#)

Standards Australia 2006, *Australian Standard AS 4811-2006 Employment Screening*

Standards Australia 2007, *Employment Screening Handbook HB 323-2007*

International

UK Government 2014, [Government baseline personnel security standard](#)