

Investigation into the alleged theft of patient money by Ashley Brown at Royal Darwin Hospital

Public statement

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Office of the
Independent
Commissioner
Against
Corruption



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Summary of the report

This report relates to an investigation into the alleged theft of patient money at Royal Darwin Hospital (RDH) by Mr Ashley Brown. The allegation came to light during the course of an investigation into allegations Mr Brown fraudulently obtained employment as a public officer. I made findings of corrupt conduct in respect of this matter against Mr Brown on 16 October 2020.

In his capacity as Security and Site Manager at RDH Mr Brown was responsible for securing patient valuables. While in this role, Mr Brown took \$2 635 in patient money from a safety deposit box and banked it into his personal bank account. After a query from a colleague about the missing money, he claimed he forgot he had taken the money and was waiting for direction from his manager on where to bank it.

I make findings against Mr Brown of corrupt conduct in the following terms:

Pursuant to section 10(2)(a), (b) and (c)(i), (iv) and (vi) of the *Independent Commissioner Against Corruption Act 2017* (“the ICAC Act”), the behaviour in taking the money in the manner described in the following report constitutes reasonable grounds for dismissing or terminating the services of Mr Brown as a public officer. The behaviour is connected to public affairs, and it involves dishonesty. In addition, the taking of the money was illegal, unauthorised or inappropriate performance of official functions, and had an adverse effect on the honest performance of official functions by a public officer. Accordingly, Mr Brown engaged in corrupt conduct.

During the course of the investigation it also became apparent that Mr Brown had a prior conviction for stealing – a fact that, if known at the time of recruitment, may have prevented his employment in the first place, and therefore the subsequent theft.

When a person fraudulently obtains employment as a public officer, the risk of further corrupt conduct by this person can be heightened – as has been proven in this case.

This investigation serves to reinforce the risks associated with the current employment and screening processes in the Northern Territory Government (NTG), which do not require applicants to declare their criminal history, past convictions, or any disciplinary or performance proceedings. There are also no risk-based employment screening guidelines that identify high risk roles and appropriate recruitment practices such as criminal history checks.

Part of the Independent Commissioner Against Corruption’s (ICAC) role is to make recommendations to prevent further improper conduct, and the recommendations I have made in this report, and the Ashley Brown report released on 16 October 2020 seek to address these risks.

The Department of Health (DoH) and Office for the Commissioner for Public Employment (OCPE), who are responsible for implementing the recommendations, cooperated fully with this matter.

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Glossary

Acronyms and abbreviations

COA – Certificate of Aboriginality

DoH – Department of Health

ICAC – Independent Commissioner Against Corruption

ICAC Act – *Independent Commissioner Against Corruption Act 2017* (NT)

OCPE – The Office of the Commissioner for Public Employment

OICAC – Office of the Independent Commissioner Against Corruption

NTPS – Northern Territory Public Service

PSEMA – *Public Sector Employment and Management Act 1993* (NT)

RDH – Royal Darwin Hospital

RTF – Request to Fill, a number allocated to individual roles in eRecruit

Definitions

Corrupt conduct – pursuant to section 10 of the ICAC Act

Department of Health – Northern Territory Government Agency and a public body under the ICAC Act

Improper conduct – pursuant to section 9 of the ICAC Act

Northern Territory Public Service – the Public Service of the Territory referred to in the *Northern Territory (Self-Government) Act 1978* (Cth)

Public officer – pursuant to section 16(2) of the ICAC Act

Persons mentioned in this Report

Counsel Assist – Counsel assisting the Commissioner

Mr Ashley Brown – former Security and Site Manager, Royal Darwin Hospital, Department of Health

Dr Frank Daly – Chief Executive Officer, Department of Health

Public officer A – employee at Royal Darwin Hospital working in the same area as Ashley Brown

Public officer B – employee at Royal Darwin Hospital working in the same area as Ashley Brown

Ms Vicki Telfer – Commissioner for Public Employment

Legislation

Independent Commissioner Against Corruption Act 2017 (NT)

Criminal Code Act 1983 (NT)

Public Sector Employment and Management Act 1993 (NT)

ICAC jurisdiction and investigation methodology

1. On 11 April 2020, the ICAC received a report alleging that a person by the name of Mr Ashley Brown had engaged in improper conduct.
2. The report referred to the fact that \$2 635 was missing from security boxes in the security office of RDH. The money belonged to patients, and was given to security for safekeeping.
3. An investigation into that report of suspected improper conduct was undertaken by me.

Jurisdiction

4. Pursuant to section 10(2)(a)(b) and (c)(i)(iv) and (vi) of the ICAC Act, conduct is **corrupt conduct** if it is conduct engaged in by a public officer (whether or not the identity of the public officer is known):

“(a) that constitutes reasonable grounds for dismissing or terminating the services of the public officer; and

(b) that is connected to public affairs; and

(c) that involves or results in any of the following:

(i) dishonesty.

(iv) the illegal, unauthorised or otherwise inappropriate performance of official functions

(vi) an adverse effect on the honest, impartial or effective performance or official functions by any public officer.”

5. Pursuant to section 10(1) of the ICAC Act, conduct is **corrupt conduct** if it is conduct engaged in by a public officer:

“(a) that constitutes an offence for which the maximum penalty is imprisonment for a term of at least two (2) years...”

6. On 25 September 2019, Mr Brown submitted an application for the position of Security and Site Manager for DoH (RTF 174482) in eRecruit. He commenced in this position on 18 November 2019.
7. DoH is a public body pursuant to section 16(1)(a) of the ICAC Act.
8. Because Mr Brown was a public officer pursuant to section 16 of the ICAC Act, the ICAC may investigate the conduct of Mr Brown pursuant to section 10(2)(a)(b) and (c)(i)(iv) and (vi).

Summary of notices and directions

9. No notices or directions were served.

Procedural obligations

10. This section deals with matters of privilege, rules of evidence, natural justice and assessment of evidence.

Privilege

11. No questions of privilege arise.

Rules of evidence and natural justice

12. By section 60 of the ICAC Act I am not bound by the rules of evidence in the conduct of an investigation.
13. I am therefore concomitantly aware of the particular need to give due process and natural justice to a person the subject of an investigation and report.
14. If I, in a report, intend to make adverse findings about a person in an investigation report then, by section 50(2) of the ICAC Act, I *“must give the person...a reasonable opportunity to respond to the adverse material and include a fair representation of the response in the report.”*
15. This investigation had regard to procedural fairness and natural justice throughout. The allegations were sent to Mr Brown on 23 March 2021 and his response dated 28 March 2021 has been included in this report (**Annexure 1**).

Standard of proof

16. In all of my considerations of the available evidence in this investigation I have used the balance of probabilities as the standard of proof required to establish any relevant fact.
17. I have taken into account, in the use of that standard of proof, the gravity of the allegations against Mr Brown, and the consequences for Mr Brown that may arise from this investigation.

Assessment of evidence

18. I have reviewed carefully all of the evidence in this investigation, and any response from Mr Brown, including unsworn responses.
19. In assessing the weight of any evidence I have taken into account:
 - my observation of Mr Brown as a witness examined in the course of a previous employment matter relating to fraudulent certificates of Aboriginality

- Mr Brown’s dishonesty in that matter
- Mr Brown’s non-disclosure of a previous conviction for dishonesty
- any inculpatory evidence
- any exculpatory evidence
- contemporary records such as emails and phone messages; and
- documentary evidence.

20. Where I have doubted the veracity of evidence I have sought assistance from contemporary records to resolve doubts.

A report in respect of a public officer

21. At the end of an investigation I am entitled to produce a report.

22. Reports under the ICAC Act are dealt with by Part 3 Division 7, sections 48 to 59.

23. By section 50(1), I may make a report to the authority who is responsible for the public officer whose conduct is the subject of the investigation. By section 50(7)(a) a responsible authority means:

“(a) for a public body or public officer other than a minister or an MLA:

- i. an entity having authority to deal with one or more matters relating to improper conduct the subject of the investigation to which the report relates; or*
- ii. an entity whose functions include making future decisions in the public interest that may be better informed by receipt of the investigation report.”*

24. The Chief Executive Officer, DoH, Dr Frank Daly is the responsible authority in respect of Mr Brown. In addition, the Commissioner for Public Employment, Ms Vicki Telfer, has authority under the *Public Sector Employment and Management Act 1993* to deal with the matters relating to improper conduct that are the subject of this investigation. Commissioner Telfer may also make future decisions in the public interest, and is a responsible authority pursuant to section 50(7)(a) of the ICAC Act.

Background

25. By an investigation report dated 16 October 2020 I made findings of corrupt conduct against Mr Brown in respect of his employment at RDH pursuant to an appointment by DoH.
26. On 18 November 2019, Mr Brown was appointed to the position, RTF 174482, Security and Site Manager with RDH.
27. In his capacity as Security and Site Manager he was responsible for the security at RDH, including the security of patient valuables. That system of security was locked boxes located in the RDH security office.
28. As a result of an inquiry by a colleague on or about 12 March 2020 and relating to an amount of \$2 635, Mr Brown said in a text message:

"I just remembered that I have that money from the safety deposit boxes. I put it in my account last week by accident I totally forgot about it as I locked it away at my place when it went missing from my office. I know I'm here but it just popped into my head as I was still waiting for the boss to get back to me on where I was to bank it. Then the car dealer said they don't take cash as it's a friend of mine so I put the cash into the account and totally forgot about it until now. I feel really bad as I hope people don't think I was trying to steal it. I've just been so forgetful with this brain issue. I have no use for cash anymore these days as I get more than I need.

So I was going to see if Public officer A could give me the amount that was in there and I'll try and do a bank transfer now. I am so sorry I have been having the weirdest things pop into my head.

So sorry I feel like an idiot to forget this. Plus I would need the bank account and BSB to transfer it as well. So sorry I do feel so stupid to forget this. If Public officer B could see me about it that would be good as he maybe able to assist,"

Concurrent matters

29. On 6 March 2020, Mr Brown was served with a Notice to Attend for Examination before me, pursuant to section 34 of the ICAC Act, during the investigation of falsified documents which he used to obtain employment with RDH as the Security and Site Manager.
30. Mr Brown attended a private examination on 7 April 2020 and gave sworn evidence in respect of certificates of Aboriginality (COA).
31. In the course of giving evidence before me on that occasion, Mr Brown provided evidence that was inconsistent with physical exhibits and I formed the view that he was not a credible witness.
32. I also have in my possession a statutory declaration sworn on 21 April 2020. By that time Mr Brown had attended an examination before me as set out above. In addition, the matter relating to the \$2 635 had come to light.
33. In the statutory declaration Mr Brown sets out as follows:

“I, Ashley Grant Brown

Solemnly and sincerely declare

In 2012 I was charged with stealing – conviction recorded, a nine month suspended sentence for 12 months.”
34. That fact was not disclosed by Mr Brown, despite the earlier investigation being conducted by the Office of the ICAC and myself, and the investigation into the missing funds. He disclosed it some 14 days after his appearance before me at the examination into his obtaining employment as the RDH Security and Site Manager.
35. In respect of Mr Brown’s credit, I take into account in these findings, his concurrent dishonesty in obtaining the position of Site and Security Manager, and his dishonesty in an investigation examination before me. I also take into account the fact that he did not disclose a conviction for stealing, albeit in 2012, when he was applying for a position as Site and Security Manager.
36. I find the explanation contained in the text message set out above to be improbable:
 - He acknowledges that the money came from the safety deposit boxes.
 - He acknowledges he put it into his account as he locked it away at his place.
 - He acknowledges that the money went missing from his office. He in no way suggests how it might have gone missing, or suggests how he recovered the money and how he took possession of it.

- He alleges that he was waiting for '*the boss*' on where he was to bank it.
- He said that the car dealer '*did not take cash*', suggesting to me that the money was delivered to a dealer for an unknown, but entirely inappropriate purpose.
- He attempts to explain his non-delivery of the money away by forgetfulness and a '*brain issue*'.

37. On the balance of probabilities I find that Mr Brown wrongfully took the money belonging to patients which was within his care and custody.

Findings of corrupt conduct in respect of employment

38. I make findings against Mr Brown of corrupt conduct in the following terms:

Pursuant to section 10(2)(a), (b) and (c)(i), (iv) and (vi) of the ICAC Act, the behaviour in taking the money in the manner that I have described constitutes reasonable grounds for dismissing or terminating the services of Mr Brown as a public officer. The behaviour is connected to public affairs, and it involves dishonesty. In addition, the taking of the money was illegal, unauthorised or inappropriate performance of official functions, and had an adverse effect on the honest performance of official functions by a public officer. Accordingly, Mr Brown engaged in corrupt conduct.

Corruption prevention

39. This matter serves to reinforce the risks associated with the current NTG employment and recruitment processes and practices. If risk-based screening processes were in place, more rigour could have been applied to the recruitment process before Mr Brown was appointed, including requiring criminal history checks to be conducted.
40. Northern Territory Public Sector (NTPS) recruitment panels exist to ensure that candidates possess the requisite skills, experience, and integrity required to be appointed as a public officer. However, NTPS recruitment panels can only perform the due diligence required under the recruitment framework.
41. The absence of risk-based pre-employment screening processes in the NTPS has the potential to compromise the suitability and integrity of people engaged to work in the public service.
42. Pre-employment screening is commonly used to ensure the suitability, integrity and identity of people engaged to work in the public service.
43. OCPE has not issued risk-based pre-employment screening guidelines to agencies.

Recommendations

It is recommended:

1. DoH review its security policies, procedures in relation to patient valuables.
2. DoH updated its methods of securing patient valuables to be consistent with best practice.
3. DoH implement a requirement for all security staff to undergo a criminal history check as part of suitability.
4. OCPE develop and publish guidance on risk-based employment screening, including but not limited to:
 - Explaining the reasons for a risk-based approach to employment screening
 - What an agency should consider when determining their risk-based employment screening
 - The types of risks that may attract more robust pre-employment screening (such as access to confidential information or systems, financial functions, considerable financial delegation, likely to be lobbied by industry, frontline officers, mandatory requirements for certain qualifications, casual contracts)
 - The types of pre-employment screening checks that may be required, depending on the risk identified (such as criminal history checks, certified copies of qualifications, checks with NTG conduct team, OCPE '*flagged applicant or employee*' list)
 - Post-employment checks for roles identified as carrying risk (such as exit checklists and audits of access to systems etc.
 - Any legal considerations

That the '*Strengthening employment screening practices in the NSW public sector*' be used as a recommended resource when developing the guidelines.

That the guidance be incorporated into the OCPE's training manual.

5. OCPE develop and introduce mandatory pre-employment declaration for all NTPS candidates with fields including:
 - Disclosure of NTPS agencies and bodies that a candidate has worked for
 - Whether a candidate has been subject to a disciplinary proceeding (either finalised or current)
6. OCPE to incorporate guidance on risk based pre-employment screening above in merit-based selection advice and training.

7. OCPE create an across-government register of people who have attempted to attain or retain employment in the NTPS fraudulently.

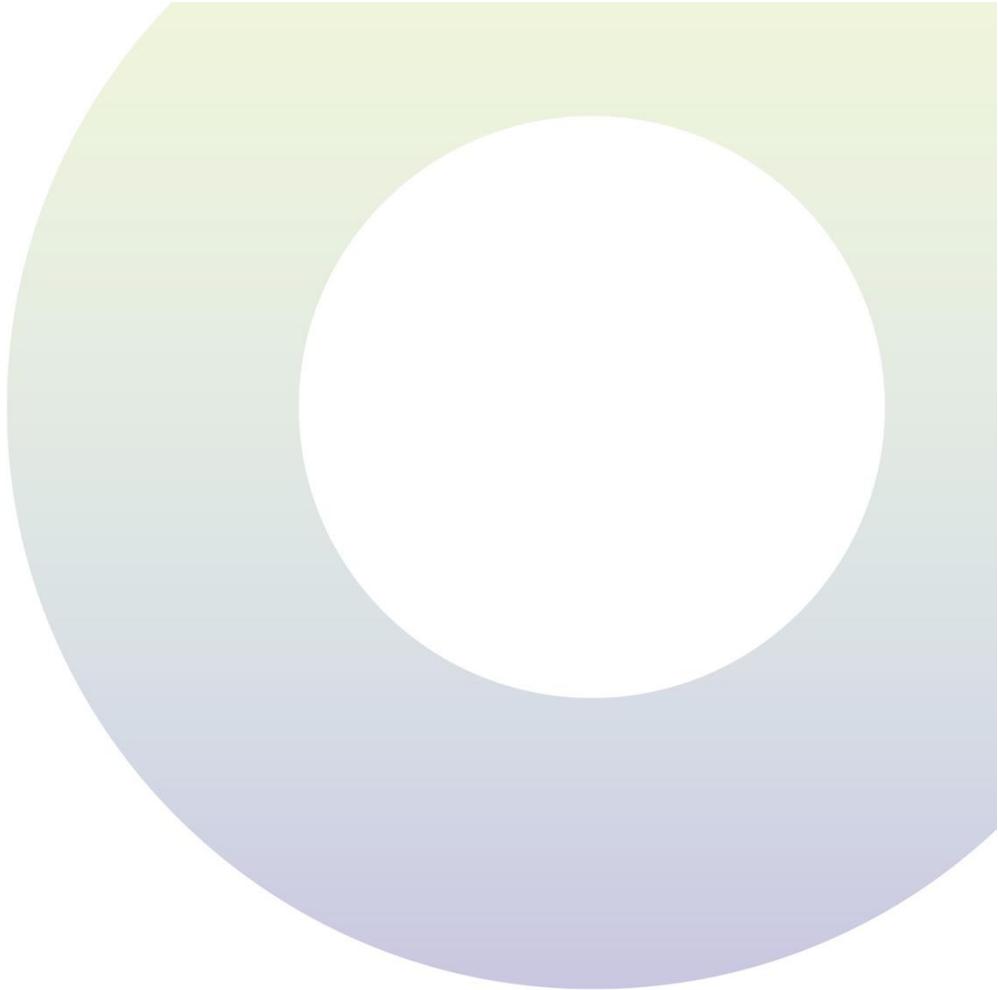
Annexure 1 – Relevant natural justice response from Mr Brown - 23 March 2021

“Yes, I admit I made mistakes in my handling of monies in my care. The monies have been returned in full to Territory Monies and it was a relatively small amount of money.....

This whole experience has been a huge wake up call for me as to how to handle monies in my care. I have been embarrassed by NT News regarding my dismissal from RDH. My friends and family are aware of the allegations which also is a huge embarrassment.

Regards Ashley Brown

28/03/2021”



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