

Review of Main Roads investigation into misconduct by two managers

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CHAPTER ONE

Overview

- [1] Main Roads Western Australia (Main Roads) is part of WA's transport portfolio, responsible for planning, constructing, maintaining, and operating WA's state road network.
- [2] Main Roads engages directly with suppliers, contractors, and consultants to provide an integrated and world class road transport system.¹
- [3] In December 2021, after receiving an internal complaint, Main Roads notified the Commission that two managers had allegedly used their positions to corruptly gain a benefit for others.²
- [4] Both were alleged to have corrupted a procurement process to ensure a relative of one of the managers was provided a contract. One manager was also alleged to have extensively misused their corporate credit card and procured the services of a colleague's company without following correct procurement processes.
- [5] Western Australian government authorities are responsible for dealing with and mitigating acts of misconduct within their workplace. The Commission referred this matter back to Main Roads for action.³
- [6] The Commission decided to conduct a comprehensive review of the matter.⁴ A review is not an investigation. A review examines the quality of the investigation and how well the authority has dealt with the serious misconduct. It also determines whether the actions taken by the authority were adequate.
- [7] The review process provides greater insight into the authority's capacity to manage serious misconduct risks.
- [8] This report details the Commission's review of the actions taken by Main Roads in dealing with these allegations of misconduct.
- [9] Main Roads engaged an external provider to investigate the allegations. While the investigation was thorough, several red flags and wider serious misconduct risks were identified.

¹ Main Roads Annual Report 2022 - Our Finances.

² *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 28.

³ CCM Act ss 33(1)(c) and 40.

⁴ CCM Act ss 40 and 41.

- [10] Main Roads advised that further action had been taken to address the wider risks.
- [11] Despite requests from the Commission, limited supporting information to demonstrate this action was provided.
- [12] The Commission was unable to determine if Main Roads' actions were adequate.
- [13] When an authority encounters a misconduct incident, hindsight provides a good opportunity for the authority to reflect and identify any weaknesses that may require improvement. In the absence of looking at the bigger picture, the risks, and the potential for others to engage in similar conduct remain.
- [14] During the review, Main Roads was unable to demonstrate the improvements implemented to strengthen controls and mitigate reoccurrence.
- [15] Where concerns are identified in the capacity of a WA government authority to manage serious misconduct, the Commission can assist in consulting with the authority and making recommendations to prevent risk of serious misconduct.⁵
- [16] The Commission made three recommendations to Main Roads:
1. Undertake audit actions to understand the nature and extent of the misconduct, including but not limited to, a full financial review of the subject officer's credit card.
 2. Review procurement processes and consider implementing controls to ensure there is oversight of processes/approvals that would normally be completed by one person.
 3. Review, update, and finalise all policies and procedures relating to fixed asset management.
- [17] During the finalisation of this report, Main Roads accepted and demonstrated it had taken action into the three recommendations.
- [18] Main Roads' response to the recommendations is detailed at Chapter Six of this report.

⁵ CCM Act s 43.

CHAPTER TWO

Nepotism by managers

- [19] In 2021, Main Roads received an internal complaint that alleged two managers (Manager A and Manager B) had used their positions to ensure Manager A's relative received a contract at Main Roads.
- [20] Main Roads engaged an independent external investigator to address the alleged conduct.
- [21] The investigation considered a range of evidence including emails, credit card summaries and interviews with both managers and witnesses.
- [22] The investigation uncovered:
- nepotism by both Managers in a procurement process; and
 - additional procurement and purchasing misconduct by Manager B.
- [23] The two managers worked in different areas of Main Roads but were known to each other, as their roles had an intersecting skill set.
- [24] Both Manager A and B were looking for additional support in their individual work areas. During a discussion, Manager A suggested to Manager B that a relative would be interested. Manager A considered that the relative could commence in Manager B's team, and then eventually take over some of the duties Manager A was also looking to offload.
- [25] Both managers agreed that the relative should send their Curriculum Vitae (CV) to a specific recruitment agency listed on the Common Use Arrangement (CUA). A CUA is a contract that exists for goods and services commonly bought by government. A CUA service provider must follow strict due diligence practices during the tendering process which ensures that CUA contracts comply with relevant government policy and insurance requirements.
- [26] In this instance, sending the CV to a particular CUA recruitment agency ensured that the CV would find its way to Manager B who had authority to fill the role.
- [27] Manager B sent his proposal for additional staff which contained the full rationale and detailed requirements of the position to Manager A. This information was then forwarded to the relative so that the relative could craft their CV accordingly.

- [28] Manager A assisted the relative to prepare a CV. The CV contained false and misleading information to give the appearance the relative had the necessary skills and experience for the role.
- [29] The relative did not have the qualifications to fulfill the role requirements.
- [30] The Managers arranged for the relative to be trained at the expense of Main Roads. The training was booked prior to the relative submitting a CV.
- [31] Manager B obtained approval for the training by sending a misleading email to the line manager. The request was for refresher training for Manager A and Manager B. The relative's name was not mentioned in the request.
- [32] Manager B commenced the procurement process to fill the short-term contract.
- [33] Three recruitment agencies from the CUA provided four CVs. One CV belonged to Manager A's relative.
- [34] The CVs were evaluated by a Main Roads Business Service Coordinator and then passed on to Manager B.
- [35] The Business Service Coordinator identified and mentioned to Manager B that one of the applicants was highly qualified and suitable. This applicant was not Manager A's relative.
- [36] Despite the Business Service Coordinator's recommendation and Manager B's recognition of other suitable candidates, the only applicant to progress to interview was the relative.
- [37] Prior to the interview, both managers sent information to the relative including a link and password to a Main Roads project. Manager B also sent their personal log in details to the relative so the relative could have access to LinkedIn online training. This was to assist the relative understand the work of Main Roads prior to the interview.
- [38] Manager B single-handedly conducted the interview with the relative.
- [39] Manager B did not make any interview notes and did not complete any qualification or referee checks.
- [40] Manager B submitted a recommendation report to the Main Roads team approving appointment of the relative to the position. Manager B reported that the relative met all the requirements of the role and was the superior candidate. Manager B failed to declare that the candidate was a relative of Manager A.

- [41] The relative was deemed suitable and given a contract in Manager B's team.
- [42] Once the relative commenced in Manager B's work area, the relative attended the prebooked training course.
- [43] Manager A requested the training providers not to include the relative's name, nature of training, or date of training on the invoice. The invoice was constructed so that it appeared only Manager A and Manager B completed the training.
- [44] In addition to the training, Manager A provided the relative with access to specific online systems that were related to Manager A's role. This was to create future opportunities for the relative within Manager A's portfolio. Manager A did not seek permission to do this.
- [45] Manager A and B continued to use agency resources to advantage Manager A's relative. Manager A purchased non-essential personal protective equipment (PPE) workwear for the relative using their corporate card. The cost of the PPE was expensed to Manager B's work area. Manager B approved the transaction without looking at the cost or details of the purchase. This arrangement occurred despite both managers knowing that Main Roads would not have approved the purchase of such items for contractors.

CHAPTER THREE

Additional concerns

- [46] Following the internal complaint, further issues relating to Manager B's purchasing activities were uncovered.
- [47] Manager B had used their corporate credit card to purchase goods and services from a specific company (Company X).
- [48] It was unclear whether the goods and services were ever provided.

Development of a bespoke device

- [49] In January 2021, Manager B sought approval from their line manager to personally build and install a bespoke device for a Main Roads project.
- [50] Manager B estimated the device to cost \$2500. Approval was granted by the line manager, despite any documented specifications of the device or service to be provided.
- [51] Manager B subsequently agreed to personally build the same device for other work areas and invoice the cost to their relevant projects.
- [52] Manager B did not build the devices. Instead, Manager B engaged Company X, a sole owner business, to purchase the components and complete the build.
- [53] Company X was the side business of an external contractor who worked within Main Roads. They had no previous experience in building these devices.
- [54] Manager B paid for the services by using their corporate credit card.
- [55] Besides a verbal discussion between the two colleagues, no documentation existed to support the engagement of Company X. Manager B failed to advise Main Roads of the change in arrangements to outsource the build to Company X.
- [56] A review of the invoices from Company X highlighted a lack of detail and significant inaccuracies. As a result, Main Roads was unable to reconcile purchases or account for the parts, the number of devices built and where the products were located.
- [57] Main Roads estimates that at least five devices were built, the initial device costing \$2500 and the subsequent devices costing \$6500 each.

Manager B's wider credit card expenditure

- [58] In addition to the corporate credit card payments to Company X, the external investigation uncovered that Manager B had spent approximately \$145,000 on technology purchases in just over a two-year period.
- [59] Manager B's credit card records lacked specificity. Item descriptions were blank or did not match the pricing and some invoices were split, making it difficult to audit and reconcile expenditures.
- [60] In addition to the volume and value of Manager B's spending, questions were raised as to whether the purchases were a reasonable business expense.
- [61] At interview, Manager B denied using the card to purchase components to build the devices. Manager B said that all expenditure on the card was approved by management.
- [62] A recommendation was made by the external investigator that Main Roads conduct a full financial review of the technology purchases on Manager B's corporate credit card. This would verify Manager B's claims.
- [63] Main Roads accepted this recommendation.
- [64] The financial review on Manager B's corporate credit card was commenced in December 2022. The anticipated completion date was March 2023 but was later changed to July 2023. The Commission could not confirm if the review was completed.

CHAPTER FOUR

Main Roads investigation outcome

- [65] Both Managers denied the allegations put to them by Main Roads. The managers provided various reasons for their conduct. Some explanations provided were discredited by witness evidence.
- [66] The Main Roads investigation concluded on the balance of probabilities that:
- Both managers colluded to manipulate the procurement process in favour of the relative.
 - Both managers misled Main Roads to fund training for the relative. Both managers used their corporate credit card to pay for non-essential PPE workwear for the relative.
 - Manager B did not follow procurement processes central to the proper functioning of a government organisation, and deliberately misled Main Roads with respect to the bespoke devices and engagement of Company X.
 - Manager B operated in ways of his choosing and did not give Main Roads the opportunity to decide whether they wished to provide such services and under what conditions.
 - Manager B failed to make it transparent that the owner of Company X was a contractor at Main Roads and that this would be a secondary employment relationship.
- [67] Main Roads sustained all allegations against both managers.
- [68] Manager A received a written warning and further training.
- [69] Manager B resigned prior to Main Roads completing the disciplinary process. No findings were made. Main Roads noted had Manager B remained employed, Main Roads intended to demote Manager B, revoke their corporate credit card, and provide extra training.

CHAPTER FIVE

Commission review

- [70] The Commission reviewed the actions taken by Main Roads.
- [71] The external investigation was thorough and brought further areas of concern to Main Roads surrounding Manager B's credit card expenditure.
- [72] On the evidence available, the Commission considers the conclusions reached that both managers engaged in misconduct were open to be made.
- [73] During the investigation, one of the managers resigned. Main Roads decided not to progress with the disciplinary process against the former employee. This decision was open to Main Roads. The other remained employed and was sanctioned.
- [74] Throughout the review the Commission sought further information to understand what actions Main Roads had taken to identify and mitigate future misconduct risks as well as what action was being taken in relation to the credit card concerns.⁶
- [75] On 14 July 2023 Main Roads advised:⁷
- Integrity awareness training continued to be provided. Accountable and Ethical Decision Making eLearning is undertaken by all employees and contractors at time of induction and as a refresher every three years.
 - A 'speak up' environment was being promoted as well as an annual integrity communications campaign.
 - In late 2022, an internal audit of the processes and controls for the management of assets was completed. The audit identified that across the agency:
 - Assets were not adequately registered. This was largely attributed to assets being purchased by credit card and not through proper procurement channels.
 - Key asset policies were outdated or still in draft form and were to be updated by June 2023.
 - Emails were being used as approvals instead of designated forms.

⁶ Email to Main Roads 20 June 2023.

⁷ Response email from Main Roads 14 July 2023.

- Stocktake of assets was not being completed in a timely manner.

[76] The Commission requested copies of the following:

- The financial review of Manager B's credit card. Expected completion date was July 2023.⁸
- Information on any changes to policies or standard operating procedures. Expected completion date for new policies was June 2023.⁹

[77] No copies were provided.

[78] On the information available to the Commission, the primary action taken by Main Roads was the external investigation. Limited action had been taken to understand and address the broader serious misconduct risks.

[79] It appeared Main Roads did not further explore the circumstances to understand how the conduct was able to occur and/or identify any gaps in current processes. As a result, there were outstanding questions such as:

- How were Manager A and B able to circumvent the recruitment and training process? What checks and balances were in place?
- How was Manager B able to procure a colleague's business without appropriate oversight from Main Roads?
- How was Manager B able to independently procure and make payments for goods and services without scrutiny?

[80] Until the financial review is completed, the scale of misconduct remains unknown.

[81] Given these identified concerns, the Commission made three recommendations to Main Roads:

1. Undertake audit actions to understand the nature and extent of the misconduct, including but not limited to, a full financial review of the subject officer's credit card.
2. Review procurement processes and consider implementing controls to ensure there is oversight of processes/approvals that would normally be completed by one person.
3. Review, update, and finalise all policies and procedures relating to fixed asset management.

⁸ Email to Main Roads 17 July 2023.

⁹ Email to Main Roads 20 June 2023.

CHAPTER SIX

Main Roads response to the three recommendations

- [82] Before any report is published containing matters adverse to a body, the Commission allows the affected parties a reasonable opportunity to make representations to the Commission concerning those matters. This process was undertaken for Main Roads.¹⁰
- [83] Main Roads accepted all three recommendations and made the following submissions.

Recommendation 1 - Undertake audit actions to understand the nature and extent of the misconduct, including but not limited to, a full financial review of the subject officer's credit card.

- [84] Main Roads advised that the review of Manager B's corporate credit card transactions for period June 2018 - June 2022 was complete. Due to resourcing constraints the corporate credit card audit was not completed until March 2024. It was regrettable the audit could not have been provided to the Commission earlier. Main Roads concluded all purchases made by Manager B were business related and supported by invoices. Main Roads found no evidence of impropriety.
- [85] The review of the technology equipment purchased on Manager B's corporate credit from 2019 was completed - 76 of the 78 items were located.
- [86] Improved communication and oversight practices between key internal teams such as Integrity and Human Resources were now implemented to keep abreast of potential misconduct and conflicts of interest risks.
- [87] New eLearning modules on procurement and contract management have been developed. Main Road will review completion rates of the modules quarterly.

Recommendation 2 - Review procurement processes and consider implementing controls to ensure there is oversight of processes/approvals that would normally be completed by one person.

- [88] Main Roads advised it has reduced the limit on corporate credit card purchases from \$20,000 to \$5000.

¹⁰ CCM Act s 86.

- [89] Corporate credit cards are no longer to be used for fixed asset purchases. The Corporate Credit Card Manual is being updated to reflect these changes.
- [90] The CUA processes have been reviewed and strengthened. Requests for any new temporary personnel or repeated extension of CUA positions (above 26 weeks or 6 months) must now be approved by the Executive Director Human Resources and the Executive Director Finance & Commercial Services.
- [91] Business units are to seek approvals for CUA personnel in accordance with the new Delegation of Authority Manual signed by the Commissioner of Main Roads in April 2024. Procurement forms will be reviewed and oversighted by the central Corporate Procurement team.

Recommendation 3 - Review, update and finalise all policies and procedures relating to asset management.

- [92] Main Roads advised it has reviewed and updated its Fixed Asset Manual.
- [93] All fixed assets valued \$5000 or more, or with a lesser value if considered portable, now must have relevant fixed asset acquisition forms completed and approved by Finance Services.
- [94] Fixed asset acquisition forms will be reviewed by fixed asset administrators prior to procurement.

CONCLUSION

- [95] Main Roads ensured a rigorous and independent investigation was undertaken, and the conclusions were open to be made. However, it appeared Main Roads had overlooked the broader organisational factors that enabled the wrongdoing.
- [96] The investigation highlighted the lack of oversight and the need to review the existing internal controls within Main Roads. Main Roads advised that further action was being taken in the form of a financial review and updates to policy and procedures.
- [97] Despite the Commission's requests for copies of the work conducted, no information was provided at the time.
- [98] In response to a draft of this report, Main Roads acknowledged and regretted its failure to provide the information requested by the Commission during the review.
- [99] Main Roads have subsequently outlined various actions and processes they have implemented to address the Commission's recommendations.
- [100] The actions of Main Roads are noteworthy. The Commission considers Main Roads has taken appropriate steps to address the recommendations.
- [101] The Commission considers all recommendations closed.
- [102] The initial concerns outlined in this report serve as a reminder to all WA government authorities about the importance of:
- Periodic reviews of internal capability and governance frameworks to manage and mitigate serious misconduct risks.
 - Developing a robust conflict of interest framework so that employees can manage, declare, and identify conflicts at relevant stages of the procurement process.
 - Segregating duties to avoid one person having control over multiple steps in the procurement process.