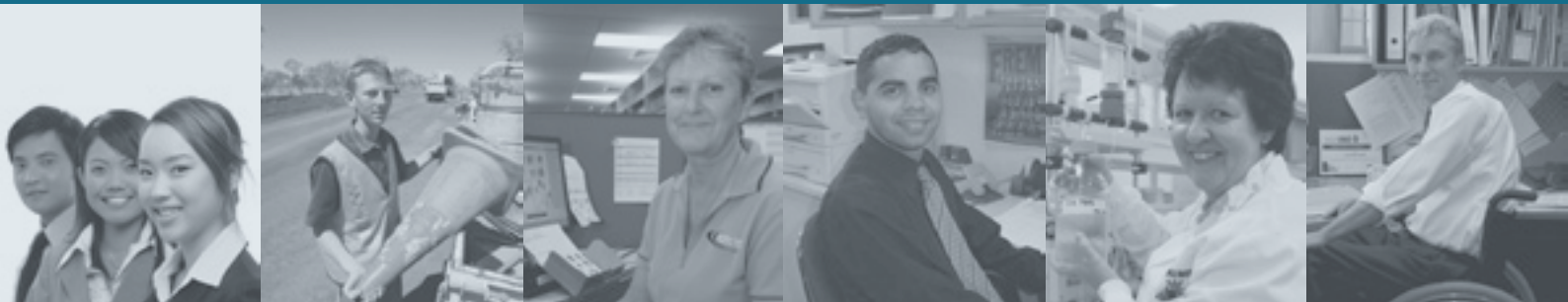




OPSSC

Office of the  
Public Sector Standards  
Commissioner



# PARLIAMENTARY SERIES REPORT FIVE



## Department of Water: Investigation of Probity Concerns

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**THE SPEAKER  
LEGISLATIVE ASSEMBLY**

**THE PRESIDENT  
LEGISLATIVE COUNCIL**

**PARLIAMENTARY SERIES REPORT FIVE - DEPARTMENT OF  
WATER: INVESTIGATION OF PROBITY CONCERNS**

I submit to Parliament the fifth report of the Office of the Public Sector Standards Commissioner's Parliamentary Series pursuant to s.21(1)(h) of the *Public Sector Management Act 1994*.

This series of reports aims to provide Parliament with timely information about the extent of compliance or non-compliance with the general principles of official conduct and the general principles of human resource management.

I seek permission to publish the report following tabling in Parliament.

**Dr Ruth Shean  
COMMISSIONER FOR  
PUBLIC SECTOR STANDARDS**

12 August 2009

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## 1. COMMISSIONER'S FOREWORD

This report is the fifth in a series for the Office of the Public Sector Standards Commissioner (OPSSC) to Parliament.

Under the *Public Sector Management Act 1994* (PSM Act), the Commissioner for Public Sector Standards is required to report annually or from time to time to each House of Parliament on compliance or non-compliance with:

- some parts of s.8 and all of s.9 of the PSM Act (these detail the general principles of human resource management and official conduct);
- the Western Australian Public Sector Code of Ethics;
- agencies' own codes of conduct; and
- public sector standards.

Under the *Public Interest Disclosure Act 2003* (PID Act), the Commissioner for Public Sector Standards is required to report annually or from time to time to each House of Parliament on:

- the performance of the Commissioner's obligations under the PID Act;
- compliance or non-compliance with the PID Act; and
- compliance or non-compliance with the code established under s.20 of the PID Act.

The Parliamentary Series reporting approach has been introduced for the following reasons.

- Reporting to Parliament as and when matters arise is within the intent of the PSM Act and the PID Act.
- Where the identity of an informant is known, it may not be unlawful to report to the informant directly. To do so while not reporting to Parliament, however, may not be in the spirit of the Acts.
- Some matters are referred to OPSSC anonymously and it is not possible to report back to the informant. If there is any substance to the matter, the Commissioner may need to report to Parliament.

## 1.1. Reporting categories

Concerns about the public sector are reported in the following ways:

- compliance inquiries about alleged breaches of standards claims;
- general compliance inquiries; and
- through provisions of the PID Act.

## 1.2. In the public interest

Matters deemed to be within the public interest are appropriately reported to Parliament. The release of information is to provide confidence in the public sector. The purpose of such reporting is to identify areas which require action to increase public confidence. Not all compliance inquiries raised with OPSSC will necessarily be reported in these reports. Most matters will be reported in summarised data in the OPSSC State of the Service Report – OPSSC’s annual compliance report.

For the most part, OPSSC reports matters by naming agencies rather than individuals. In this way, those who have lodged concerns will be able to identify the situations, while at the same time the identity of individuals will be protected. OPSSC’s position on the release of information in the public interest is available on the OPSSC website as Information Series 2009-01: In the Public Interest.

## 2. INTRODUCTION TO THIS REPORT

This report details one matter relevant to the compliance of s.8(1)(a)-(c) and s.9 of the *Public Sector Management Act 1994* (PSM Act) and the public sector standards in human resource management, and other associated requirements.

The matter relates to 21 issues regarding possible improper practice at the Department of Water (DoW).

**OPSSC reports that 11 matters as investigated are not compliant with:**

- **PSM Act s.7(f) (General principles of public administration and management);**
- **PSM Act s.8(1)(a),(b) (General principles of human resource management);**
- **PSM Act s.9 (a)-(c) (General principles of official conduct);**
- **Western Australian Public Sector Code of Ethics;**
- **Public Sector Commissioner's Circular: Guidelines for Expenditure on Official Hospitality 2009-18<sup>1</sup>;**
- **State Government Fleet Policy and Guidelines;**
- **Public Sector Recruitment, Selection and Appointment Standard;**
- **Public Sector Grievance Resolution Standard;**
- ***Public Sector Management (Breaches of Public Sector Standards) Regulations 2005;***
- ***Public Sector Management (Redeployment and Redundancy) Regulations 1994;***
- **Relevant DoW policies and guidelines, including:**
  - **DoW guidelines on recruitment and selection;**
  - **DoW Code of Conduct;**
  - **DoW policy and guidelines on grievance resolution;**
  - **DoW guidelines on the use of corporate credit cards; and**
  - **DoW policy on hospitality.**

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<sup>1</sup> Previously published as Premier's Circular

## 2.1. Implications for agency heads

This report raises a number of important issues for agency heads.

- It is essential for the reputation of government that senior staff in government agencies are people of the highest integrity. Appointment of trustworthy individuals is important to the ethical operation of government agencies. When individuals appointed to senior positions do not act with integrity, or where there is a perception that they have not acted with integrity, the reputation of the agency suffers. Further, chief executive officers (CEOs) lead a structure which depends on the delegation of duty. Delegation of duty is accompanied by delegation of trust. Where the trust which is delegated is betrayed, then the operations of the agency are under threat. Senior staff in government agencies have an obligation to honour the charge they carry of both duty and trust. To do otherwise is to damage not only their own reputation but the reputations of their colleagues, their agency, and the public sector in general.
- While agencies expect and deserve trust from all employees, agency operations are not based on trust alone. The requirements of government are specified through a range of instruments, including legislation, regulation, across-government policies and agency specific policy, procedure and guidelines. The importance of these instruments becomes apparent at times such as this. There is strong government leadership on such matters. In the case of DoW, the policies, procedures and guidelines specified requirements, and have provided a benchmark from which to consider the allegations. CEOs are reminded about the importance of being aware of government requirements, incorporating these into their operating environment, and engaging staff in their implementation.
- The role of the internal auditor is one essential check on the operations of an agency. The internal audit should have direct access to the CEO, and possess shrewd analytical capacity as well as trustworthiness. Internal audit should not only scrutinise process, but conduct sufficient checks on transactions such that scope and sample adequately tests the operating environment.

### 3. DEPARTMENT OF WATER: INVESTIGATION OF PROBITY CONCERNS

#### 3.1. Facts and circumstances

In November 2008, the Office of the Public Sector Standards Commissioner (OPSSC) received an anonymous letter making allegations against senior staff at the Department of Water (DoW). The matters, which are listed below in detail, related to one staff member in particular (Mr A). They included that Mr A had authorised inappropriate purchases on his assistant's corporate credit card, had appointed friends to positions without merit-based selection processes and favoured his friends and ex-colleagues in awarding contracts for information technology services.

The Corruption and Crime Commission (CCC) also received an anonymous letter making similar allegations. Some allegations were mentioned in the print media (*The West Australian*, December 12 2008, p2).

It was agreed that OPSSC and the CCC would undertake a joint investigation. Issues relevant to the CCC which arose during the investigation will be dealt with by the CCC in accordance with their legislative responsibilities.

This report relates to those matters within our legislative scope.

The investigation commenced in January 2009. In total 17 issues were raised in the original complaint. A further three issues were identified as a result of the investigation undertaken by OPSSC and a fourth was raised by the DoW director general. In total, 21 matters were investigated.

### 3.2. Examination

The OPSSC investigation included:

- interviews with 26 individuals;
- review of relevant documentation including DoW policies and procedures;
- investigation of 17 matters as raised in the anonymous complaint; and
- a further four matters which arose during the course of the investigation.

Of the matters investigated, 11 were substantiated and the actions are deemed non-compliant with the principles set out in *Public Sector Management Act 1994* (PSM Act) ss 8(1)(a)-(c) and 9.

There were eight matters from the original complaint where OPSSC found that the allegations were not substantiated.

The allegations relate primarily to the following people:

- Mr A – a senior staff member at DoW;
- Mr B - a project manager at DoW at the time of the alleged matter, who was previously a human resources manager at DoW and is now retired;
- Mr C – a human resources officer at DoW;
- Ms D – a human resources officer at DoW;
- Mr E – an acting Level 7 project officer at DoW, now retired;
- Mr F – a former employee at DoW, and an employee of the Department of the Premier and Cabinet (DPC) at the time of the alleged matter;
- Mr G – a former employee at DoW who was a private consultant at the time of the alleged matter;
- Mr H – a private consultant.

As is standard practice, DoW was provided with a draft copy of this report and given the opportunity to provide points of clarification and asked to correct any errors of fact. They were also invited to provide an agency response for inclusion in the final report.

### 3.3. Substantiated allegations

#### 1. DoW payment for Mr B's retirement function on a corporate credit card.

Mr A arranged for his executive assistant to pay approximately \$200 for a retirement function for Mr B on 7 August 2008 on the assistant's corporate credit card<sup>2</sup>. The function referred to in the allegations was held when Mr B completed his second six month contract in July 2008. He had retired officially on 6 July 2007 and a function was held at the time. DoW policy states that as a general rule hospitality funds should not be used for functions to farewell officers, and that approval should be obtained from the director general for intra-departmental functions.

**OPSSC reports that this action is not compliant with:**

- **PSM Act s.9 (a) and (b);**
- **DoW Code of Conduct;**
- **Western Australian Public Sector Code of Ethics;**
- **Public Sector Commissioner's Circular: Guidelines for Expenditure on Official Hospitality 2009-18; and**
- **DoW policy on gifts, benefits and hospitality.**

#### 2. The employment of Mr B on two consecutive contracts immediately after his retirement.

Mr A initially intended for Mr B to work for a 12 month period, even though he knew this would be in breach of the PSM Act. This was broken down into two six month contracts when the acting director general would not approve a 12 month contract. When the first six month contract ended, Mr B worked for two months without a contract or payment. Mr A then obtained approval from the acting director general for a second six month contract for Mr B, including retrospective payment. At this time, because there had been more than one acting director general for the department, the acting director general who approved this second six month contract was not aware that he was being asked to approve a retrospective contract. No merit selection process was undertaken, nor redeployment clearance sought as is required. Mr A was told by the human resources manager that giving a second contract without a merit selection process would not meet PSM Act requirements.

<sup>2</sup> Although OPSSC was careful to check and verify the level of expenditure through invoices, DoW has been unable to verify the amounts. We therefore present the amounts as approximations.

Mr A's memo to the human resources manager indicates this was the case and confirms he was aware he was breaching requirements. This position under question was created for Mr B as part of a transition to retirement and was to be abolished when he vacated it.

**OPSSC reports that this action is not compliant with:**

- **PSM Act s.8(1)(a) and (b);**
- **Public Sector Recruitment, Selection and Appointment Standard;**
- **PSM Act s.9(a) and (b);**
- ***Public Sector Management (Redeployment and Redundancy) Regulations 1994;***
- **DoW guidelines on recruitment and selection; and**
- **DoW Code of Conduct.**

**3. Recommendation and approval for Mr B to attend the May 2008 Australian Human Resources Institute (AHRI) Conference in Melbourne.**

Mr B paid for attendance at the May conference on his corporate credit card on 3 December 2007. Mr B's first six month contract was due to end on 8 January 2008. Mr A approved this expenditure on 21 February 2008 while Mr B was working but without a contract. The cost of Mr B's attendance at this conference on 26 May 2008 totalled approximately \$6,000 (which included three days additional pay as Mr B only worked two days a week). Mr B shortly thereafter finished his employment with DoW when his contract ended. There is no evidence that Mr B's attendance at this conference afforded a benefit to DoW. While the acting director general signed off the approval to travel, he was not aware that Mr B only had around ten days left to work with DoW when he returned from the conference.

**OPSSC reports that this action is not compliant with:**

- **Western Australian Public Sector Code of Ethics;**
- **DoW Code of Conduct; and**
- **PSM Act s.9 (a) and (b).**

**4. Payment of Mr B's AHRI 2008-09 membership fee two days<sup>3</sup> before he ceased to work for DoW. (This matter initiated by OPSSC.)**

On the 9 July 2008, the day after his written contract with DoW expired, Mr B paid for his annual subscription to AHRI with his DoW corporate credit card and Mr A approved this expenditure.

**OPSSC reports that this action is not compliant with:**

- **PSM Act s.7(f), s.9 (a) and (b);**
- **DoW Code of Conduct; and**
- **Western Australian Public Sector Code of Ethics.**

**5. Training costs for Mr B while he was on a six month, two day a week contract at the DoW. (This matter initiated by OPSSC.)**

Mr A approved, during the 2007-08 financial year, a total training cost of approximately \$9,500 for Mr B in comparison to the average employee training costs of approximately \$1,000. In addition to the AHRI conference, Mr A also approved a TAFE training course in training and assessment costing approximately \$2,000 and an online self assessment training course at approximately \$1,200 for Mr B. Mr A was unable to confirm if Mr B had successfully completed the courses. There was no documented evidence that provision of training was part of Mr B's contract, although Mr A claimed that Mr B told him this. Mr A was not Mr B's line manager and did not have delegated authority to authorise this expenditure.

**OPSSC reports that this action is not compliant with:**

- **PSM Act s.7(f), s.9 (a) and (b);**
- **DoW Code of Conduct; and**
- **Western Australian Public Sector Code of Ethics.**

**6. The management of grievances lodged against Mr B.**

Ms D and Mr C (both human resources officers) raised concerns about Mr B at a meeting in June 2005 and followed this with a written memorandum to Mr A in July 2005. Mr A said he did not progress the grievance because Ms D and Mr C did not provide sufficient information. In October 2005 Mr B lodged a complaint against Mr C. Mr C was never advised of the complaint against him. The management of this grievance was never concluded. In November 2006 Mr C lodged another grievance against Mr B. Mr A managed

<sup>3</sup> DoW has advised that the payment was technically after Mr B's contract ceased. We note, however, that Mr B had sought to extend the contract date by changing his last day of work. This resulted in Mr B working one day two days after the payment was made.

this grievance, although he was not delegated by the acting director general to carry out this role. No breach rights were given for the one grievance that was completed (Mr C's second grievance against Mr B).

**OPSSC reports that this action is not compliant with:**

- **Public Sector Grievance Resolution Standard;**
- ***Public Sector Management (Breaches of Public Sector Standards) Regulations 2005;***
- **DoW policy and guidelines on grievance resolution;**
- **PSM Act s.8(c), s.9(a) and (c);**
- **DoW Code of Conduct; and**
- **Western Australian Public Sector Code of Ethics.**

**7. The trip by Mr E (an acting Level 7 project officer) to Kununurra while he was on leave and immediately before his retirement. (This matter initiated by OPSSC.)**

On 1 June 2007 Mr E submitted notice of his intention to retire on 3 August 2007 and that he would be on leave from 3-30 July 2007. During June 2007 Mr A contacted the DoW Kimberley regional office to arrange a trip for Mr E prior to his retirement. Mr E travelled to Kununurra (while he was on leave) on 27 July 2007 and returned on 30 July 2007. Documentation indicated that the intention of the trip "was to show (Mr E) a good time". OPSSC's investigation could find no compelling operational reasons for this trip as required by DoW policy. The cost of the trip (27-30 July 2007) was approximately \$2,500. Mr A confirmed that the trip was to recognise Mr E's valuable and lengthy service. Mr E was on annual leave at the time of this trip.

**OPSSC reports that this action is not compliant with:**

- **PSM Act s.9 (a) and (b);**
- **DoW Code of Conduct; and**
- **Western Australian Public Sector Code of Ethics.**

**8. Purchase of six iPod Nanos as gifts for staff.**

Mr A suggested to three branch managers that they reward certain staff with iPods. There was some disagreement by those interviewed as part of the investigation about whether the managers were asked for their views on this, or simply asked to suggest a staff member who might receive one. One manager reports that they were of the view that if Mr A paid for the items on his corporate credit card

then there would be scrutiny by the director general and the matter would be dealt with appropriately. Mr A accompanied his executive assistant to purchase the iPods which were charged to her corporate credit card and then approved that purchase in accordance with his delegated authority. The cost was approximately \$1,000 and Mr A's executive assistant was a recipient of one of the iPods.

**OPSSC reports that this action is not compliant with:**

- **PSM Act s.9 (a) and (b);**
- **Public Sector Commissioner's Circular: Guidelines for Expenditure on Official Hospitality 2009-18;**
- **DoW Code of Conduct; and**
- **Western Australian Public Sector Code of Ethics.**

**9. Payment for chocolates, alcohol and flowers on Mr A's executive assistant's corporate credit card.**

It was established that such items were purchased by Mr A's executive assistant on her corporate credit card. It is custom and practice at DoW for catering to be purchased by Mr A's executive assistant. Events and catering paid for by Mr A's executive assistant included personal development meetings at coffee shops (an accepted practice in Mr A's branch), chocolates for staff awards, end of financial year meeting, flowers for an employee's family bereavement and alcohol. DoW policy states that corporate credit cards should be used for official purposes only and may not be used for the purchase of alcohol while on official business.

**OPSSC reports that this action is not compliant with:**

- **DoW policy;**
- **PSM Act s.7(f), s.9 (a) and (b);**
- **DoW Code of Conduct;**
- **Western Australian Public Sector Code of Ethics;**
- **Public Sector Commissioner's Circular: Guidelines for Expenditure on Official Hospitality 2009-18;**
- **DoW policy on hospitality; and**
- **DoW guidelines on the use of corporate credit cards.**

**10. Mr A's payment for accommodation and meals for Mr F (a former DoW staff member and a staff member from the Department of the Premier and Cabinet (DPC) at the time of the alleged expenditure).**

Mr A paid for Mr F's accommodation and for some meals for Mr F and other attendees at a symposium in Sydney in November 2007. Mr F did not claim travel allowance from DPC. DoW policy states that entertainment or hospitality expenses should not be incurred for intradepartmental or interdepartmental functions except in special circumstances as approved by the director general. Mr A's expenditure during this trip exceeded the daily allowance for Sydney and included alcohol purchases. When an acting director general signed off on Mr A's corporate credit card expenses he relied upon Mr A to only seek approval for costs that complied with requirements. The acting director general was not aware that Mr A had met travel costs for a non-DoW employee.

**OPSSC reports that this action is not compliant with:**

- **Public Sector Commissioner's Circular: Guidelines for Expenditure on Official Hospitality 2009-18;**
- **PSM Act s.9 (a) and (b);**
- **DoW Code of Conduct;**
- **Western Australian Public Sector Code of Ethics;**
- **DoW policy on hospitality; and**
- **DoW guidelines on the use of corporate credit cards.**

**11. Mr A's procurement of a vehicle which he was not entitled to at his Level 9 position.**

Mr A had endeavoured to lease a vehicle in January 2008 to which staff at his level were not entitled. This request was rejected by the fleet management company after it had been signed by an acting director general. The acting director general stated as part of this investigation that he was initially not aware Mr A was not entitled to the type of car requested. Subsequently, when he became aware he documented this in a memo to the next acting director general. In October 2008, Mr A approached an acting manager for assistance in leasing a Toyota Aurion Sportivo ZR6. Mr A was this acting manager's boss. The acting manager knew that Mr A was not entitled to this vehicle and declined to sign the form unless the director general signed first. The evidence indicates that Mr A also knew that he was not entitled to this type of vehicle but went to the director general, asked him to sign the approval, then returned to the acting manager to have the papers processed. The director general states that he signed the form because he relied on Mr A's advice and they

had previously had a conversation about Mr A's vehicle entitlement. The director general says that he was not aware that the acting manager had refused to sign the papers.

**OPSSC reports that this action is not compliant with:**

- **State Government Fleet Policy and Guidelines;**
- **DoW Code of Conduct;**
- **Western Australian Public Sector Code of Ethics; and**
- **PSM Act s.9 (b) and (c).**

### 3.4. Unsubstantiated allegations

#### 12. Payment of QANTAS Club membership for Mr B.

QANTAS advised that Mr B has never been a member of the QANTAS Club.

#### 13. “Cronyism” in the engagement of Mr G as a consultant.

Mr G was a previous employee of DoW who later had his own consultancy. The information obtained indicated that Mr G’s work for Office of Shared Services (OSS) as part of the agency transition team would have provided him with specific knowledge relevant to assisting agencies in the transition into OSS. OPSSC believes that the engagement of Mr G in this situation appears appropriate and that other agencies about to “roll in” to the shared services arrangement have also used this consultant’s service.

#### 14. Unnecessarily holding a seminar at the Ibis Hotel.

This venue was booked for the seminar held by Mr G. The booking of a seminar room for \$200 was in accord with accepted management practice.

#### 15. “Cronyism” in the procurement process for information services from private consultant Mr H.

Mr H was selected as a member of a panel contract through a tender process. Mr A was not on the selection panel for this tender. Mr A approved the selection panel’s recommendation.

#### 16. “Cronyism” in the procurement process for information services from a private computer company.

This company was selected as a member of a panel contract through a tender process. Mr A was not on the selection panel for this tender. Mr A approved the selection panel’s recommendation.

#### 17. The purchase of books by Mr A on his corporate credit card for his studies.

There was no information identified to indicate that Mr A had purchased books inappropriately using his corporate credit card. All the books, apart from three, are on the DoW library catalogue and these are in Mr A’s office. Mr A indicated he will have these three catalogued.

#### 18. Mr A’s expenditure on interstate and intrastate dinners.

Apart from the expenditure in Sydney at the symposium (see issue

10 above), Mr A did not exceed the allowance for meals. All such expenditure was approved by the director general or acting director general.

**19. Mr A used Mr B to side-step public service guidelines.**

This allegation refers to grievances raised by Mr C and Ms D against Mr B, a grievance raised against Mr C by Mr B and a further grievance lodged by Mr C against Mr B. Apart from being the respondent to one grievance and the complainant in another, Mr B had no influence in these processes. The issues relating to the general handling of the grievance have been dealt with above under issue 6.

**20 Four extensions of Mr E's acting to a Level 7.**

Mr E, a substantive Level 5 appointee, was appointed as acting project officer Level 7 from 19 January 2004 to 3 August 2007. Mr A arranged with human resources for four extensions of this acting between 1 April 2005 and 3 August 2007. He indicated in writing that he understood that an expression of interest process should be undertaken, but that there were extenuating circumstances and good business reasons for appointing Mr E. There was no merit based selection process undertaken, or redeployment clearance obtained. Mr A stated that he expected that human resources would ensure compliance requirements such as redeployment clearances were met. The human resources officer advised that the acting arrangements met requirements. The project undertaken by Mr E (the process of DoW moving into The Atrium, 168 St Georges Terrace, Perth) was completed in August 2008. This is a matter that has been drawn to the attention of DoW as an area of practice improvement.

**21. Mr B's take home privileges of a pool car while working part-time.**

Mr B garaged a non-GVS vehicle from 13 August 2007 to 22 January 2008. Mr B was employed at a Level 8. It is DoW custom and practice for Level 8s to have take home privileges. There is no allocation process. None of the fleet management staff was aware that Mr B was taking a car home until his second six month contract. Mr A did not authorise the arrangement. The process followed by DoW was not in accord with the State Government Fleet Guidelines and the DoW Fleet Policy. This is a matter that has been drawn to the attention of DoW as an area of practice improvement.

In summary, OPSSC reports that 11 matters as investigated are not compliant with a range of requirements. The first set of requirements is the legislative requirements from within the PSM Act:

- PSM Act s.7(f) (General principles of public administration and management);
- PSM Act s.8(1)(a),(b) (General principles of human resource management); and
- PSM Act s.9 (a)-(c) (General principles of official conduct).

The second set of requirements is specific to the role of OPSSC from within the PSM Act:

- Western Australian Public Sector Code of Ethics;
- Public Sector Recruitment, Selection and Appointment Standard;
- Public Sector Grievance Resolution Standard; and
- *Public Sector Management (Breaches of Public Sector Standards) Regulations 2005.*

The third set of requirements is across-government policies:

- Public Sector Commissioner's Circular: Guidelines for Expenditure on Official Hospitality 2009-18;
- State Government Fleet Policy and Guidelines; and
- *Public Sector Management (Redeployment and Redundancy) Regulations 1994.*

The fourth set of requirements is DoW policies, procedures and guidelines and include:

- DoW Code of Conduct;
- DoW guidelines on recruitment and selection;
- DoW policy and guidelines on grievance resolution;
- DoW guidelines on the use of corporate credit cards; and
- DoW policy on hospitality.

### 3.5. Discussion

OPSSC reports that there have been a significant number of issues at DoW which are non-compliant with the PSM Act, the Western Australian Public Sector Code of Ethics, State Government Public Sector Commissioner's Circulars, and DoW policies and procedures. These present as a litany of corporate transgressions. They include misuse of government funds on hospitality, accommodation, meals, alcohol, chocolates, flowers and gifts, unjustified travel, training and conference attendance, mismanagement of grievances within the department and procurement of a vehicle for a staff member beyond his entitlement.

A respected and trusted public sector is a vital component of a robust community. If the community is to have confidence in the public sector then public sector employees must act and be seen to act with integrity. The standards required of public sector employees assist with building respect and trust with the community.

It is of particular concern in this investigation that a senior staff member at DoW appears to have been involved in matters of non-compliance. Chief executive officers (CEOs) depend heavily on their senior staff to act with the highest possible ethical standards.

In the case of DoW, a new department established in 2006, four acting directors general led the agency until such time as a substantive director general was recruited and commenced in April 2008. The mobility of people in senior leadership positions at a time like this can result in vulnerabilities for agencies. At times such as this, continuity in documentation and strict adherence to procedure is vital. Most of the non-compliance reported here occurred prior to the appointment of the substantive CEO. It is difficult for an acting CEO to question the actions of a colleague, although our investigations show that when irregularities were identified, there were serious attempts by those acting in authority to prevent a recurrence of these.

Most importantly, however, every person who holds a senior leadership position within a public sector agency must, as a leader in the public sector, maintain the highest levels of integrity in both their professional and private activities. Trust and reputation are essential to a credible and valued public sector. CEOs can only run agencies effectively if they can delegate not only duty but trust to those who work with them. Where that trust is breached, the reputation of the agency is at risk.

In this case, it appears that the five individuals who held the position of director general or acting director general acted with propriety in relation to these matters, but were let down by a senior staff member. It is a credit to the actions and integrity of many within the agency that further potential misuse of resources did not occur. There were a number of instances where others – both senior and also more junior staff – refused to authorise the improper actions of those whose actions are listed here.

Changes in leadership do present risks for agencies. Agency policies and procedures allow for continuity which can be at risk through the loss of corporate knowledge. In the case of DoW, the existing policies, procedures and guidelines were a helpful safeguard. Further, DoW policies, procedures and guidelines provided a governance framework which allowed investigation and evaluation of the allegations which will now give DoW the capacity to hold individuals accountable. It is also highly likely that the instruments in place played an important role in preventing further transgressions against the agency. In addition to policy and procedure, internal audit provides a reassurance to those in charge that these policies and procedures are being followed.

The Western Australian Public Sector Code of Ethics specifies standards in accountability and requires that public sector employees “...use the resources of the state in a responsible and accountable manner that ensures the efficient, effective and appropriate use of human, natural, financial and physical resources, property and information”. In the case of DoW, the principle of accountability as specified within the Western Australian Public Sector Code of Ethics does not appear to have been followed.

It is now up to DoW to pursue these matters. The PSM Act requires that an employee who “contravenes.... any provision of this Act applicable to that employee; or any public sector standard or code of ethics... commits a breach of discipline”.

This report by OPSSC does not constitute a disciplinary process. OPSSC has no power to instigate disciplinary action against individuals, but is limited to reporting on compliance and non-compliance. Once a report on non-compliance is made, it is then up to the CEO of the relevant agency to follow up appropriately. OPSSC understands that DoW is now following up on this matter.

### 3.6. Agency response

Thank you for your letter of 4 June 2009 providing information in relation to the compliance inquiry undertaken by your office.

The Department of Water takes very seriously the findings of the investigation involving non-compliance with the *Public Sector Management Act 1994* (the Act). The department aims to achieve the highest standards of integrity and professionalism in undertaking all of its business.

The department has been recognised as achieving best practice by the Office of the Auditor General in its audit processes in its last two Annual Reports. Notwithstanding this, the department recognises it needs to continue to review the efficacy of its procedures and systems and to implement continuous improvements.

The department has been working hard over the last year on implementing improvements to its procedures and systems and will use the findings of this report to implement further improvements. The department will be taking appropriate action in respect to specific non-compliance; however, it is noted that only one of the acts of non-compliance occurred during the last 12 months.

In reviewing the report from your office, as Director General and the employing authority I have considered all the alleged non-compliances under the Act. At this time I have not determined that any breaches of discipline under the Act have occurred; however, I have formed a suspicion that there may have been breaches of discipline in relation to the alleged matters of non-compliance and I am therefore taking action in accordance with the discipline provisions of the Act.

Kim Taylor  
Director General  
27 July 2009





