National Anti-Corruption Commission

Investigation Report
Operation Bannister

An ACLEI investigation into a former Home Affairs employee's familial links to a contracted service provider

nacc.gov.au

Further information

Enquiries about this report should be directed to the National Anti-Corruption Commission.

Phone 1300 489 844

Website nacc.gov.au

Post GPO Box 605, Canberra ACT 2601

Address 5 Constitution Avenue, Canberra ACT 2601

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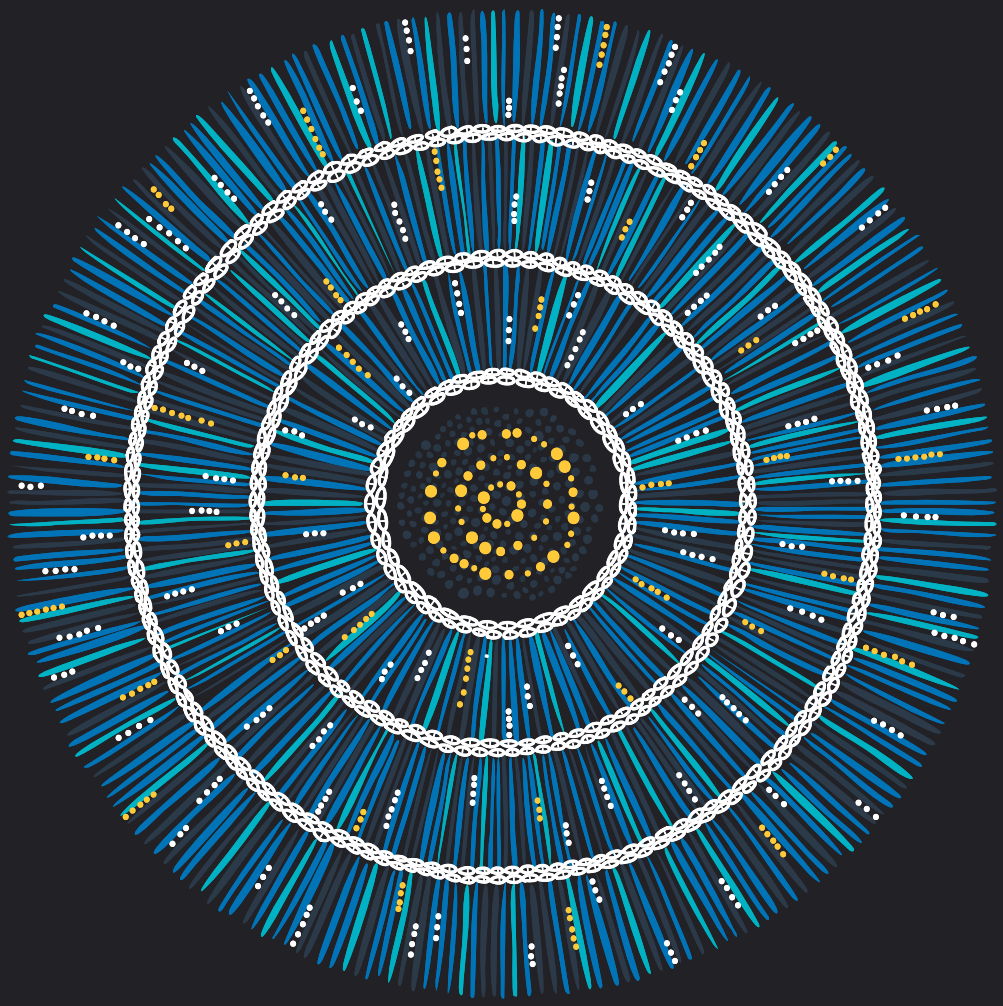
National Anti-Corruption Commission
Investigation Report – Operation Bannister

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In the spirit of reconciliation, the National Anti-Corruption Commission acknowledges the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

This artwork tells the story of the National Anti-Corruption Commission's mission to enhance integrity within the Commonwealth public sector.

It is made up of many multicoloured strokes, depicting our team's many weaving histories. At the core of the artwork are three white patterned rings, representing detecting, deterring, and preventing corruption. Our approach is fearless but fair and we work towards our goals with integrity, determination, and courage. We are on a journey to build a culture of unity, inclusion, and trust as we grow.

Our people working together are represented by white dots between each of the lines. At the heart of the artwork is the central element, encapsulating our commitment to contributing to reconciliation as we work to create a culturally safe environment where First Nations staff and partners feel respected and included.

Integrity at Our Heart

The artwork concept and narrative were developed by Navada Currie. Navada is a Mununjali and Kabi Kabi artist at Gilimbaa.

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Executive summary

This is a public report of an Australian Commission for Law Enforcement Integrity (ACLEI) corruption investigation known as Operation Bannister, which was a joint investigation with the Department of Home Affairs into whether a Home Affairs employee had been involved in corrupt conduct through familial links with a contracted service provider, Paladin Holdings.

> The investigation did not uncover any evidence of corrupt conduct.

ACLEI's investigation began on 5 March 2020. There followed a thorough investigation, which was deemed by the then Integrity Commissioner to be concluded on 22 March 2022.

On 1 July 2023, ACLEI was subsumed into the National Anti-Corruption Commission. Under the transitional arrangements, the National Anti-Corruption Commissioner is required to complete the investigation report as though the *Law Enforcement Integrity Commission Act 2006* (Cth) (LEIC Act) had not been repealed.

On 6 October 2023, procedural fairness processes commenced.

On 16 January 2024, the final report was provided to the Attorney-General and the Secretary of the Department of Home Affairs, as required under s 55 of the LEIC Act.

On 18 April 2024, there was further consultation in relation to the public version of the report.

Home Affairs' engagement of Paladin Holdings has been the subject of media attention and this public report will assist in 'clearing the air' in relation to this aspect of the engagement.

LEIC Act investigation report

The LEIC Act established the Office of Integrity Commissioner, supported by a statutory agency, ACLEI.

The role of the Integrity Commissioner and ACLEI was to detect, investigate and prevent corrupt conduct and deal with corruption issues in the following agencies:

- Australian Criminal Intelligence Commission (including the former Australian Crime Commission, the former National Crime Authority and the former CrimTrac Agency)
- Australian Federal Police (including ACT Policing)
- Australian Transaction Reports and Analysis Centre (AUSTRAC)
- Department of Home Affairs (including the Australian Border Force).

Other Australian Government agencies with law enforcement functions were prescribed by regulation as being within the jurisdiction of the Integrity Commissioner. These were:

- Department of Agriculture, Fisheries and Forestry (DAFF)
- Australian Competition and Consumer Commission (ACCC)
- Australian Prudential Regulation Authority (APRA)
- Australian Securities and Investment Commission (ASIC)
- Australian Taxation Office (ATO)
- Office of the Special Investigator (OSI).

The LEIC Act provided that a staff member of a law enforcement agency 'engages in corrupt conduct' if the staff member:[1]

- abuses his or her office
- perverts the course of justice
- having regard to his or her duties and powers
- engages in corrupt conduct of any other kind.

After the Integrity Commissioner completed a corruption investigation, the LEIC Act provided that a report must be prepared setting out:[2]

- findings on the corruption issue
- the evidence and other material on which those findings are based
- any action that has been taken, or proposed to be taken, under Part 10 in relation to the investigation
- any recommendations and, if recommendations are made, the reasons for those recommendations.

The report on the investigation, prepared under the LEIC Act, was required to be given to the Attorney-General, and a copy to the head of the law enforcement agency to which the corruption issue relates.[3]

Findings made about whether a person has engaged in corrupt conduct are made based on the balance of probabilities. Those findings may not be the same as those that would be made by a court deciding on criminal guilt beyond a reasonable doubt.

1 See s 5 of the *Law Enforcement Integrity Commissioner Act 2006* (Cth) (definition of 'law enforcement agency') and reg 7 of the *Law Enforcement Integrity Commissioner Regulations 2017* (Cth).

2 *Law Enforcement Integrity Commissioner Act 2006* (Cth), subss 54(1)–(2).

3 *Law Enforcement Integrity Commissioner Act 2006* (Cth), s 55.

Before making a finding, the Commissioner is required to be 'reasonably satisfied', based on relevant facts, that the corrupt conduct occurred and that the corrupt conduct was within the meaning of the LEIC Act.

In considering whether or not the Commissioner is 'reasonably satisfied' of relevant facts, the Commissioner applies the reasoning set out in *Briginshaw v Briginshaw,*[4] *Rejfek v McElroy*[5] and *Re Day*.[6]

On 1 July 2023, ACLEI ceased operations and the National Anti-Corruption Commission was established. Under Schedule 2, Item 38 of the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022* (Cth), for ACLEI investigations completed, but not yet reported on before the transition, the National Anti-Corruption Commissioner must prepare an investigation report as if the LEIC Act had not been repealed.

This investigation report for Operation Bannister has been prepared in accordance with Schedule 2, Item 38 of the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022* (Cth).

4 (1938) 60 CLR 336, 361–62 (Dixon J).

5 (1965) 112 CLR 517, 521.

6 (2017) 91 ALJR 262, 268 [14]–[18].

Summary of the investigation

Notification

The September information

On 12 September 2019, the Secretary of the Department of Home Affairs (Home Affairs) informed the former Integrity Commissioner Mr Michael Griffin AM, of media reporting by the Australian Financial Review which alleged that a former Senior Executive Service (SES) member of the then Department of Immigration and Citizenship (now Home Affairs) had assisted Paladin Holdings PTE Ltd (Paladin Holdings) to secure a contract with Home Affairs to manage refugee garrison services on Manus Island. Home Affairs indicated that an internal review had not identified any corrupt conduct associated with the tender, procurement or contract management processes of the garrison services contract with Paladin Holdings.

Home Affairs also stated that records had been located relating to a former employee, Ms Anne Brown (a pseudonym), which connected her to Paladin Holdings as a close relative of one of its directors, Mr Craig Thrupp. Home Affairs indicated that no records had been located to suggest Ms Brown had declared any potential conflict of interest associated with Mr Thrupp.

The January information

On 30 January 2020, the Secretary of Home Affairs further informed ACLEI that during a Home Affairs investigation into Ms Brown's undisclosed conflicts of interest, they discovered payments, totalling $223,000, made to Ms Brown through the online payment platform PayPal by Paladin Holdings between May and July 2017. The notification stated that the purpose of the payments was unknown.

Jurisdiction

The September information

On 29 October 2019, the Integrity Commissioner decided to commence an own initiative investigation pursuant to subs 38(1) of the LEIC Act in relation to the allegations relating to Ms Brown's undeclared potential conflicts of interest. The Integrity Commissioner was satisfied that the allegations were within:

- ACLEI's jurisdiction, as Ms Brown was an employee of Home Affairs, being 'a staff member of a law enforcement agency' as defined in subs 10(2A) of the LEIC Act
- the meaning of 'corruption issue' as defined by s 7 of the LEIC Act, because they suggested that Ms Brown may have abused her office as a Home Affairs employee by assisting Paladin Holdings to obtain their contract with Home Affairs.

The Integrity Commissioner referred the corruption issue to Home Affairs to investigate, without management or oversight by ACLEI, pursuant to subpar 26(2)(b)(iii) of the LEIC Act. This was communicated to Home Affairs the same day.

The January information

As a result of additional information received from Home Affairs in January 2020, on 5 March 2020, the former Integrity Commissioner, Ms Jaala Hinchcliffe, reconsidered the matter pursuant to s 42 of the LEIC Act. She decided to conduct a joint investigation with Home Affairs into the allegation that Ms Brown may have abused her office as a Home Affairs employee by assisting Paladin Holdings to obtain a contract with Home Affairs, pursuant to para 26(1)(a) and subs 26(2) of the LEIC Act.

The investigation was designated Operation Bannister.

Investigation

Focus of the investigation

The investigation focused on the issue of whether the receipt by Ms Brown of payments made to her through the PayPal online payment platform by Paladin Holdings between May and July 2017, totalling $223,000, involved an abuse by Ms Brown of her office as a Home Affairs employee.

During the course of the investigation, information also emerged about the role of a former Home Affairs SES officer, Mr Carl Delaney (a pseudonym), in assisting Paladin Holdings with the tender and procurement process.

The Paladin Group

Paladin Holdings was the holding company of a group of companies in the Paladin Group, which provided security and project services in Australia, the South Pacific and Southeast Asia. They are most prominently known for their work as a contractor for Home Affairs, managing refugee garrison services on Manus Island in Papua New Guinea (PNG) between 2017 and 2019.

The Group comprised the holding company Paladin Holdings PTE Ltd (the parent, Singapore-based company), and a number of subsidiaries, including Paladin Solutions Pty Ltd (based in PNG), Paladin Group Limited (based in Hong Kong), and Paladin Aus Pty Ltd (based in Australia). In this report, 'Paladin' refers to the Paladin Group of companies collectively.

While its corporate website stated that Paladin was Australian owned, its main operational domain was offshore, with most of its bank accounts held in PNG, Hong Kong and Singapore, and most of its financial transactions passing through those countries.

The directors of Paladin included Mr Craig Thrupp at all relevant times, and Mr Carl Delaney from May 2019.

Contract with Home Affairs

Home Affairs commenced engaging with Paladin to take over the provision of garrison and welfare services to the East Lorengau Refugee Transit Centre (ELRTC) on Manus Island from about late August or early September 2017. Prior to the procurement being finalised, Home Affairs executed four letters of intent with Paladin of significant value on the following dates:

- 21 September 2017
- 8 November 2017
- 5 December 2017
- 7 February 2018.

These letters of intent were for the establishment, transition and standard service costs associated with the provision of the garrison services and were intended to make immediate cash-flow available to Paladin to ensure the smooth transition and continuity of services in a short timeframe while the final contract terms and conditions were settled.

Home Affairs first entered a contract with Paladin Solutions PNG Ltd (the PNG company) for the provision of garrison services for the period 21 September 2017 to 28 February 2018. On 28 February 2018, Home Affairs entered into a contract with Paladin Holdings PTE Ltd (the Singapore holding company) for the provision of garrison services for the period 28 February 2018 to 30 November 2019.

This was a direct procurement, in circumstances where the previous service provider had withdrawn its services with effect from no later than 31 October 2017, and there was perceived to be an urgent requirement to maintain services on the island. The direct procurement has been reviewed by the Australian National Audit Office and its propriety was not the subject of this investigation.[7]

During the tender process, Paladin declared a conflict of interest to Home Affairs, insofar as a close relative of Mr Thrupp, Ms Anne Brown, was an employee of Home Affairs.

7 Australian National Audit Office (2020) Procurement of Garrison Support and Welfare Services.

Key protagonists

Ms Anne Brown

Ms Brown is a close relative of Mr Craig Thrupp, and the partner of Mr Carl Delaney.

Ms Brown was a Home Affairs employee from 3 January 2006 until 10 January 2019, when she retired as an Executive Level 1 employee. From April 2018 until her retirement, Ms Brown was on long service leave and did not attend the workplace.

During her career at Home Affairs, Ms Brown worked in areas relating to intelligence analysis, immigration detention, governance, and policy. From December 2016 to April 2017, Ms Brown worked in a policy development team. From about April 2017 until late November 2017, Ms Brown worked in performance evaluation. From late November 2017 until April 2018, Ms Brown worked in a governance and policy area of the department mainly focused on preparing the Departmental Annual Report. She took long service leave from about April 2018 until 10 January 2019, when she retired.

Home Affairs records revealed no application by Ms Brown for secondary employment with Paladin. Nor was there any conflict of interest declaration in relation to Paladin or Mr Thrupp in her Home Affairs records.

Ms Brown gave evidence that she had discussed with Mr Thrupp how important it was for him and Paladin to disclose his relationship to her in the procurement process. She said she assumed that the disclosure of his family relationship with her would be part of the tender process.

Mr Craig Thrupp

Mr Craig Thrupp was the founding director of and (originally) sole shareholder in Paladin. Between around 2014 and 2016, he transferred 20 per cent of his shareholding to a fellow director (who retained their interest until 2021). Mr Thrupp was the primary decision-maker and effectively controlled the group.

Mr Thrupp, with another director and shareholder, developed the Paladin tender proposal and participated in the negotiations with Home Affairs which culminated in Paladin securing the Manus Island garrison services contract.

Former director

A former director of Paladin gave evidence that in 2017, Mr Thrupp discussed with him making payments to Ms Brown, through a Paladin PayPal account, of approximately $215,000 to cover her mortgage. The director agreed that Paladin funds could be used to make this payment from Mr Thrupp's loan account, to be repaid when dividends were paid.

The director said that payments were often made through PayPal to allow for instant currency transfer and to avoid currency restrictions in countries where Paladin was operating. Typically, the director's PayPal account was used for purchases in PNG, and Mr Thrupp's for purchases in Australia. They had access to each other's accounts to ensure they could move money as required.

The director also said that he was aware that Mr Thrupp paid for renovations to a one bedroom unit which he understood was owned by Ms Brown, and that he had purchased a second property in Ms Brown's name, as staff accommodation to save on hotel expenditure which was about $20,000 a year.

Former officer

A former senior officer of Paladin who was engaged to facilitate the transition of garrison services from the previous service provider did not recall seeing any invoices to Paladin from family members of employees. He was not aware of Ms Brown providing any information to Paladin to assist in securing the contract for garrison services with Home Affairs, and he was not aware of Ms Brown having a Paladin email account, nor of her providing any consultancy services to Paladin during his period of employment.

Mr Carl Delaney

Mr Delaney was a SES Band 1 employee with Home Affairs. He retired in March 2013. Mr Delaney met Ms Brown at the Department of Home Affairs in 2011 and they commenced a personal relationship around late 2011 or early 2012.

Evidence obtained during the investigation suggested that Mr Delaney mentored and guided Paladin through the tender and procurement process for the contact for garrison services on Manus Island. This occurred more than four years after he had retired from Home Affairs. There is no evidence that he provided any sensitive information, but he used his experience to assist with interpreting publicly available information. When the tender was secured, Mr Delaney was paid a bonus of $5,000 for his assistance, as were other employees. The evidence indicates Mr Delaney did not have a formal relationship with Paladin until he joined the board of directors in about May 2019.

Transactions involving Paladin accounts

Paladin PayPal accounts

In 2017, Paladin opened PayPal accounts that were linked to corporate credit cards. The PayPal accounts were used to transfer money from PNG to Australia, as there were limits on the amount of money which could be transferred out of PNG. This led to large amounts being transferred in multiple transactions.

Paladin email accounts

The Paladin PayPal accounts were established using Paladin email accounts. Paladin employees and consultants had Paladin email accounts. There was no policy in place restricting who could be issued with Paladin email accounts. Mr Thrupp, another director, and Paladin's Chief Information Officer could create Paladin email addresses.

PayPal transactions between Paladin and Ms Brown

From 31 May 2017, payments were made from Paladin to a PayPal account in Ms Brown's name (that account was linked to a Paladin email address) totalling $215,386.50, as follows:

Date	Amount
31 May 2017	$7,931.35
31 May 2017	$7,931.35
1 June 2017	$7,938.54
1 June 2017	$6,350.76
9 June 2017	$6,169.30
9 June 2017	$7,808.10
28 June 2017	$9,157.70
28 June 2017	$8,482.90
28 June 2017	$9,157.70
28 June 2017	$8,675.70
28 June 2017	$6,747.70
3 July 2017	$9,639.70
3 July 2017	$9,639.70
3 July 2017	$9,446.90
3 July 2017	$9,446.90
6 July 2017	$9,639.70
6 July 2017	$5,012.50
6 July 2017	$9,639.70
6 July 2017	$9,600.00
20 July 2017	$9,157.70
20 July 2017	$9,157.70
20 July 2017	$9,157.70
20 July 2017	$9,157.70
22 July 2017	$7,229.70
22 July 2017	$7,229.70
22 July 2017	$5,880.10
Total	**$215,386.50**

Between May 2017 and July 2017, 4 invoices were issued from the same PayPal account in Ms Brown's name to Paladin's PayPal account, for 'Management and Consulting Services':

No.	Date	Description	Amount
Invoice 1	20 May 2017	Management and Consulting Services – 2017	$85,000
Invoice 2	20 May 2017	Management and Consulting Services – 2016	$91,800
Invoice 3	22 July 2017	Management and Consulting Services – 2017	$7,500
Invoice 4	22 July 2017	Management and Consulting Services – 2017	$7,500
Total			**$191,800**

Invoices 3 and 4 correlated with payments made from Paladin to the account in Ms Brown's name on 22 July 2017. There were no payments that directly correlated with invoices 1 and 2.

$194,701.10 was transferred from the PayPal account in Ms Brown's name into her Macquarie Bank cash management account, as follows:

Date transferred	Date cleared	Amount
22 June 2017	23 June 2017	$44,129.40
28 June 2017	30 June 2017	$17,640.60
28 June 2017	30 June 2017	$24,581.10
3 July 2017	7 July 2017	$38,173.20
6 July 2017	10 July 2017	$33,546.00
20 July 2017	21 July 2017	$36,630.80
Total		**$194,701.10**

The discrepancy between what Paladin paid to the PayPal account in Ms Brown's name and what Ms Brown received into her Macquarie Bank account is likely due to several transactions being reversed by Paladin prior to being paid. It remains unclear why these reversals might have occurred.

Ms Brown gave evidence that she was not aware that she had a Paladin email address, or a PayPal account linked to a Paladin email address. She said that it was possible Mr Thrupp had been responsible for establishing these to facilitate the transfer of money to her through PayPal. Another director also thought it was likely Mr Thrupp was responsible for creating the Paladin email address and PayPal account in Ms Brown's name.

Ms Brown agreed that she had received approximately $200,000 from Mr Thrupp via PayPal, and that this money was transferred to her Macquarie Bank home loan account and assisted her in fully repaying her home loan.

She denied having undertaken any work for Paladin or assisting them with the tender to Home Affairs or otherwise with securing the contract.

The 1997 purchase

In 1997, Ms Brown purchased a one bedroom unit in Canberra. The property was refinanced on a number of occasions. By late 2017, the mortgage on the property secured $219,048.87.

In November and December 2017, Ms Brown used money paid via Paladin to make the following payments in full discharge of the mortgage:

Date	Amount
16 November 2017	$120,000
19 December 2017	$57,914
22 December 2017	$40,000
Total	**$217,914**

According to Ms Brown, from about July 2016 until February 2018, a friend of her sister boarded at the property. Ms Brown gave evidence that this was not a rental arrangement, but a boarding arrangement, as although it was a one bedroom apartment and she did not sleep there, she could come and go. She gave evidence that she was paid board of $250 per week.

During this time, Ms Brown resided elsewhere with Mr Delaney.

Ms Brown's evidence was that notwithstanding these arrangements and that she was not residing there, the unit remained her primary residence because she had an attachment to the property and it was her home. She also submitted that her personal possessions remained at the property.

During 2018, Ms Brown and Mr Thrupp engaged interior designers to renovate the property. Most of the cost was paid by Mr Thrupp.

The 2018 purchase

In May 2018, Mr Thrupp funded the purchase, in the names of Ms Brown and Mr Delaney, of a three bedroom unit in the same complex as the unit that she had purchased in 1997. This unit cost $920,000. Mr Thrupp, personally or through Paladin, provided the purchase money, and the conveyancing and legal fees and stamp duty totalling $40,409. Mr Thrupp also funded the furnishing of the property.

Ms Brown's evidence was that Mr Thrupp had originally wanted to purchase the property through a trust, but due to complexities did so in the joint names of Ms Brown and Mr Delaney.

On 12 July 2018, Ms Brown and Mr Delaney leased the property to Paladin from 1 July 2018 to 30 June 2019 for rent of $1,000 per week paid quarterly. This was said to be for Paladin personnel to use the property for business trips to Canberra, as an alternative to staying in hotels which was expensive. It was claimed that Paladin had been spending $20,000 a year on accommodation, which was an excessive cost to the company (although it is significantly less than the rent agreed to under the terms of the 12 July 2018 lease, which equated to $52,000 per annum).

In April 2019, Paladin requested a 6-month extension of the lease to December 2019, at the same rent of $1,000 per week.

Between 27 July 2018 and 2 March 2020, Paladin made the following bank transfers, totalling $96,282.18 to Ms Brown and Mr Delaney:

Date	Amount
27 July 2018	$13,000
30 August 2018	$782.18
2 October 2018	$13,000
10 January 2019	$13,000
29 March 2019	$13,000
27 June 2019	$13,000
26 September 2019	$13,000
19 December 2019	$3,250
13 January 2019	$7,650
4 February 2019	$2,700
2 March 2020	$2,700
2 March 2020	$1,200
Total	**$96,282.18**

During the period Ms Brown and Mr Delaney owned the property, they undertook its maintenance and upkeep. Paladin paid utilities under the lease and Ms Brown and Mr Delaney paid other outgoings.

The property was sold in 2020. Ms Brown and Mr Delaney retained the proceeds of the sale. Ms Brown was unable to say whether or not there was any expectation that the proceeds of the sale would be repaid to Mr Thrupp.

Reporting obligations as a Home Affairs employee

Conflicts of interest

As an employee of Home Affairs, Ms Brown was a member of the Australian Public Service (APS) and subject to the APS Code of Conduct, including obligations to take reasonable steps to avoid any conflict of interest and to disclose details of any material personal interest in connection with her employment.[8]

A resource on the Home Affairs intranet page in 2018 explained that conflicts of interest can take the following three forms:

1. real or actual – where existing private interests directly conflict with current duties and responsibilities
2. potential – where private interests exist that could potentially conflict with official duties in the future
3. perceived – where it could appear that private interests improperly influence the performance of duties, whether or not they actually do.

The Home Affairs conflict of interest policy also required all staff to declare conflicts of interest using a provided Conflict of Interest Declaration Form, and to discuss any possible conflict of interest with a supervisor as soon as practicable.

Additionally, during her employment at Home Affairs, Ms Brown undertook security training, which covered topics including values and integrity.

Ms Brown's conduct in reporting conflicts of interest

Ms Brown's evidence was that she had orally declared her relationship with Mr Thrupp to her supervisor in the middle of 2017. She said that she told her supervisor that Mr Thrupp, a close relation, was undergoing a contract negotiation with the Australian Border Force. She was unsure whether she informed her supervisor that the company was called Paladin or whether her supervisor provided any response or advice.

Investigators spoke to Ms Brown's supervisor, who recalled:

a. Ms Brown's close relation had an affiliation with a company who provided services to Home Affairs. They vaguely recalled becoming aware of this through Ms Brown. Their advice to Ms Brown "would have been" to declare this and they would not have advised her that she did not have to do anything about it.
b. The conversation with Ms Brown was casual with limited detail. They could not recall if Ms Brown had stated the name of the company or the nature of the work of the company.
c. They had no knowledge of Ms Brown receiving financial payments from the company, or that Ms Brown's relative was a director and owner of the company.
d. If the company purchased a property for Ms Brown, they would expect that to be declared as a change in circumstance to Home Affairs.
e. At that time, the Employee Suitability Clearance process was being rolled out in the department, and there was a lot of messaging around reporting, integrity, and transparency. This messaging was being 'drummed into' staff.

8 *Public Service Act 1999* (Cth), s 13.

Notwithstanding the vagueness of the supervisor's recollection and the speculation as to what advice Ms Brown would have been given, it is clear that there was a conversation in which Ms Brown disclosed the relationship to the supervisor, as she claimed she had.

Ms Brown acknowledged that the Home Affairs policy required conflict of interest declarations be made in writing and could not recall making a declaration in relation to Paladin in writing, stating, "*probably I was just too busy...*" or that she didn't think about it.

The investigation did not find any record of Ms Brown having made a conflict of interest declaration in writing relating to:

a. Mr Thrupp's position or involvement with Paladin
b. the payments made to her by Mr Thrupp or Paladin
c. the acquisition of the three bedroom unit in 2018
d. her relationship with Mr Delaney
e. her change in residential address.

Ms Brown said that in her mind, while she did not retire until January 2019, she had finished at Home Affairs in April 2018 when she went on long service leave, and no longer had the obligation to report changes in circumstances.

Security clearance

As part of her employment, Ms Brown applied for and was granted Australian Government Security Vetting Agency (AGSVA) security clearances at various levels. The holder of a security clearance has ongoing reporting requirements in relation to changes in personal circumstances.

Under the heading "Reportable changes", the AGSVA website states (emphasis added):

You should report only those events that may affect your suitability to hold a security clearance. Reportable changes include:

- change of name or identity including gender
- **changes in significant relationships**
- **changes of address or share-housing arrangements**
- **entering into, or ceasing, a marriage, domestic partnership or significant personal relationship**
- changes in citizenship or nationality
- **changes in financial circumstances, like entering into a mortgage, incurring a significant debt, significant change to household income, receiving a lump sum payment or other financial windfall**
- changes in health or medical circumstances
- changes in criminal history, police involvement and association with criminal activity
- involvement or association with any group, society or organisation
- involvement with any individual that may be a security concern
- disciplinary procedures
- illicit or illegal drug use or alcohol problems
- residence in a foreign country
- relatives residing in a foreign country
- suspicious, unusual, persistent, regular or ongoing contact with foreign nationals
- changes in religious beliefs
- security incidents
- external business interests, including business activities with overseas individuals and entities
- overseas travel
- identity document replacement following a cyber-hack (such as driver's licence, passport, Medicare card).

Ms Brown acknowledged that she was the holder of a security clearance, with the level changing over time; she was not aware of the level she held in 2017. She acknowledged that as the holder of a security clearance she was under an obligation to report changes in her personal circumstances, including changes in her relationship and financial status.

AGSVA records contained a single change of circumstances form submitted by Ms Brown on 9 May 2014. The form reported Ms Brown's:

- permanent residential address as being the property that she purchased in 1997 (from 1 May 2014)
- primary phone number, secondary phone number and email address
- relationship status had changed (the end of a relationship with a previous partner).

Ms Brown stated that she was unable to recall whether she declared her relationship with Mr Delaney to AGSVA. The investigation did not find any record to suggest Ms Brown made such a declaration.

Ms Brown accepted that between July 2016 and February 2018 she did not report a change in her residential address to Home Affairs or AGSVA. Ms Brown accepted that she did not report a change of circumstances to AGSVA regarding the:

- receipt of money from Mr Thrupp in 2017 that was used to pay off the mortgage on the unit she had purchased in 1997
- purchase of the unit in 2018 with money from Mr Thrupp
- receipt of rental income or board from either unit.

She stated this was because she did not think to do it.

Consideration

Abuse of office

'Abuse of office' is not defined in the LEIC Act. It is a concept primarily used in the context of criminal law. It generally involves using one's office to dishonestly benefit oneself or another, or to dishonestly cause detriment to another.[9]

While the issue here concerns corruption and not criminality, these notions from the criminal law inform the concept of 'abuse of office' in the present context, which is whether a staff member of a law enforcement agency has engaged in conduct involving an 'abuse of their office'.

'Corruption of any other kind' concerns improper conduct connected with official duties that involves dishonesty or personal benefit. This category is a catch-all for corrupt conduct that does not fit into the other categories, but there may also be some overlap. It includes where a staff member has engaged in conduct that was:

- 'a deliberate act of dishonesty, breach of the law, or abuse of public trust or power that undermines or is incompatible with the impartial exercise of an official's powers, authorities, duties or functions'[10]
- 'a moral impropriety in, or in relation to, public administration'.[11]

Payments from Paladin to Ms Brown

Between May and July 2017, 4 invoices were issued ostensibly from Ms Brown's Paladin PayPal account to Paladin for consulting services and Paladin made payments totalling just under $200,000 to Ms Brown. This preceded the beginning of Home Affairs' engagement with Paladin to procure garrison services, which did not commence until about late August or early September 2017.

However, Ms Brown was unaware of the PayPal account created in her name. The evidence was that the account had been created by someone in Paladin, likely Mr Thrupp, to facilitate the payment of money to Ms Brown. The evidence also indicated that Ms Brown did not generate the PayPal invoices ostensibly issued in her name.

Mr Thrupp had communicated to a director his intention to pay Ms Brown's mortgage for the property she had purchased in 1997. This was also Ms Brown's understanding of why the payments were made to her. Ms Brown used the money to discharge her mortgage. The amounts paid into Ms Brown's PayPal account were not for any work she completed for Paladin, but payments by or on behalf of her close relative Mr Thrupp to assist her in paying her mortgage, and she understood them to be paid on that basis.

9 See e.g. *Criminal Code* (Cth) s 142.2(1).

10 LexisNexis, Encyclopaedic Australian Legal Dictionary (online at 15 March 2021) Corruption.

11 *Independent Commission Against Corruption v Cunneen* (2015) 256 CLR 1, 32 (Gageler J).

During the tender and procurement process, Ms Brown was employed in a work area within Home Affairs which had responsibility for the Department's Annual Reporting requirements. While there was evidence that Ms Brown had in the past worked in areas which dealt with reviews relating to detention centres and immigration, there was no evidence that she had any knowledge that would assist Paladin in the tender, was in any position to influence decision-making about it, or had any involvement whatsoever in it. Nor was there any evidence that she had provided any information to Paladin relevant to the tender.

The allegation that Ms Brown used her position as an employee of the Department of Home Affairs to dishonestly obtain a benefit for herself or to assist Paladin to secure the garrison services contract is unsubstantiated. Indeed, the timeline and the nature of her duties at the time renders it practically impossible that she did so.

However, the investigation raises issues whether:

a. Ms Brown failed to disclose a potential conflict of interest arising from her relationship with both her close relative Mr Thrupp, and her partner Mr Delaney and their connection to Paladin, in accordance with Home Affairs procedures
b. Ms Brown failed to disclose the following changes in her circumstances, as required of a holder of an AGSVA security clearance and a staff member of the Department of Home Affairs:
    - the commencement of her relationship with Mr Delaney
    - the change in her primary residence
    - money received from Mr Thrupp via Paladin accounts
    - the acquisition in her name of the three bedroom unit in 2018
    - rental income received from the leasing of both of the properties.

Failure to declare potential conflict of interest

Ms Brown did not formally declare to Home Affairs her relationship with Mr Thrupp, who was a director of Paladin which was negotiating a contract with Home Affairs, or with Mr Delaney, who was assisting Paladin to do so.

As has been noted, from December 2016 to April 2017, Ms Brown worked in a policy development team; from about April 2017 until late November 2017, in performance evaluation; from late November 2017 until April 2018, in a governance and policy area of the department, focused mainly on preparing the Home Affairs Annual Report; and from about April 2018, she took long service leave until 10 January 2019, when she retired.

In none of those positions did Ms Brown have responsibilities relevant to the award of the garrison services contract, nor was she in a position to influence it. Her personal relationships with Mr Thrupp and Mr Delaney and their interest in Paladin did not create even a potential conflict of interest, in circumstances where her duties were in a different domain and she had no capacity to influence the award of a contract to Paladin. In other words, if those relationships gave her a relevant "interest" in the award of a contract to Paladin, she had no relevant duty that conflicted with it. Moreover, she informally declared the relationships to her supervisor; she emphasised to Mr Thrupp the need for Paladin to disclose the relationship, and Paladin in fact did so.

Failure to disclose changes in circumstances

It appears that while an employee of Home Affairs, Ms Brown did not report changes in her circumstances to Home Affairs or to AGSVA, in respect of:

- changes in her relationship status (to a personal relationship with Mr Delaney) and living arrangements (in residing with him) (by about 2016)
- changes in her financial circumstances, by receipt of board from the one bedroom unit that she had purchased in 1997 (from about July 2016 until February 2018)
- changes in her financial circumstances, by receipt of gifts of money (in June and July 2017) and property (in May 2018) from Mr Thrupp
- changes in her financial circumstances, by entry into a lease with Paladin in July 2018 in respect of the unit that was purchased earlier that year.

Although the reporting obligation is limited to "events that may affect your suitability to hold a security clearance", at least the change in her relationship status and cohabitation with Mr Delaney, and the receipt of substantial gifts of money and property from a family member, were arguably reportable changes of circumstances. However, as Ms Brown stated, from April 2018 she was on long service leave pending retirement and according to her considered that she had no further obligation to make declarations of interest or changes in her circumstances.

In all the circumstances – including that her new partner was himself a SES Band 1 officer; that the changes in her financial circumstances were not adverse, but improved her financial position; and that the donor was a close relative (not a stranger, nor a foreign national) – while, given her notified change of circumstances that she was no longer in a previous relationship suggests she should have known that at least her relationship with Mr Delaney ought to have been reported, Ms Brown's explanation that she did not advert to the need to notify these changes in circumstances is understandable. In any event, the non-disclosure does not appear to have been intentional, let alone dishonest or corrupt.

Findings and conclusion

The allegation that Ms Brown abused her office as an employee of the Department of Home Affairs to dishonestly obtain a benefit for herself or to assist Paladin to secure the garrison services contract is unsubstantiated. Indeed, the evidence establishes that she did not do so.

Ms Brown did not fail to disclose a potential conflict of interest arising from her relationship with both Mr Thrupp, a close relative, and Mr Delaney, her partner, and their connection to Paladin, in accordance with Home Affairs procedures, as given her position and duties at the relevant time, there was no potential conflict.

Although strictly Ms Brown may have failed to notify reportable changes of her circumstances to Home Affairs and AGSVA, given the nature and timing of those changes her explanation that she did not advert to the need to notify them is understandable. In any event, the non-disclosure does not appear to have been intentional, let alone dishonest or corrupt.

To the extent that there is evidence of any failure to report a change of circumstances, it is not such as to engage the obligation in s 146 of the LEIC Act to bring it to the notice of the head of the relevant agency.



The Hon Paul Brereton AM RFD SC
National Anti-Corruption Commissioner

9 October 2024



National Anti-Corruption Commissior

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