



Australian Government
Australian Commission for
Law Enforcement Integrity

Investigation Report

Operation Embla –

An investigation into allegations of corrupt visa processing at
the Australian High Commission in Pretoria, South Africa

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About ACLEI Reports

The Law Enforcement Integrity Commissioner Act

1. The *Law Enforcement Integrity Commissioner Act 2006* (Cth) (LEIC Act) establishes the office of Integrity Commissioner, supported by a statutory agency, the Australian Commission for Law Enforcement Integrity (ACLEI).

The role of the Integrity Commissioner and ACLEI

2. The role of the Integrity Commissioner and ACLEI is to detect and prevent corrupt conduct and deal with corruption issues in designated agencies—presently the:
 - 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); and
 - Department of Home Affairs (including the Australian Border Force).
3. Other Australian Government agencies with law enforcement functions may be prescribed by regulation as being within the jurisdiction of the Integrity Commissioner.¹ At present those agencies include prescribed aspects of the:
 - Department of Agriculture, Water and the Environment (DAWE)
 - Australian Competition and Consumer Commission (ACCC)
 - Australian Prudential Regulation Authority (APRA)
 - Australian Securities and Investment Commission (ASIC);
 - Australian Taxation Office (ATO); and
 - Office of the Special Investigator (OSI).

Corrupt conduct

4. A staff member of a law enforcement agency 'engages in corrupt conduct' if the staff member:
 - abuses his or her office
 - perverts the course of justice, or
 - having regard to his or her duties and powers, engages in corrupt conduct of any other kind.
5. The Integrity Commissioner is to give priority to dealing with serious and systemic corruption.²

¹ *Law Enforcement Integrity Commissioner Act 2006* (Cth) s 5(1) (definition of 'law enforcement agency') (LEIC Act); *Law Enforcement Integrity Commissioner Regulations 2017* (Cth) s 7.

² *Ibid* s 6(1).

Dealing with corruption issues

6. A corruption investigation can commence in different ways:
 - the Minister may refer to the Integrity Commissioner an allegation or information that raises a corruption issue.
 - the head of a law enforcement agency within ACLEI's jurisdiction must notify the Integrity Commissioner of any allegation or information that raises a corruption issue which relates to that agency.
 - any person or government agency can refer to the Integrity Commissioner an allegation or information that raises a corruption issue. A referral may be anonymous, or on behalf of another person.
 - the Integrity Commissioner can commence an investigation on his or her own initiative.³
7. The Integrity Commissioner may decide to deal with the corruption issue in a number of ways:
 - have ACLEI investigate the corruption issue either alone or jointly with another government agency or an integrity agency for a State or Territory.
 - refer the corruption issue to the law enforcement agency to conduct its own investigation.
 - decide that an investigation is not warranted.
8. The Integrity Commissioner can decide to manage or oversee any investigation that has been referred to a law enforcement agency. If the law enforcement agency were not the Australian Federal Police (AFP), the Integrity Commissioner can also refer the issue to the AFP for investigation and may manage or oversee that investigation.⁴

Reports

9. After completing a corruption investigation, the Integrity Commissioner must prepare a report setting out:
 - a) the Integrity Commissioner's findings on the corruption issue; and
 - b) the evidence and other material on which those findings are based; and
 - c) any action that the Integrity Commissioner has taken, or proposes to take, under Part 10 in relation to the investigation; and
 - d) any recommendations that the Integrity Commissioner thinks fit to make and, if recommendations are made, the reasons for those recommendations.⁵
10. The Integrity Commissioner must give the report on the investigation to the Minister who administers the LEIC Act and a copy to the head of the law enforcement agency to which the corruption issue relates.⁶

³ Ibid ss 18–24 and 38.

⁴ Ibid ss 26–30.

⁵ Ibid ss 54(1)–(2).

⁶ Ibid s 55.

Standard of proof

11. The Integrity Commissioner makes findings about whether a person has engaged in corrupt conduct, 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.
12. Before making a finding, the Integrity 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.
13. In considering whether or not the Integrity Commissioner is 'reasonably satisfied' of relevant facts, the Integrity Commissioner applies the reasoning set out in *Briginshaw v Briginshaw*,⁷ *Rejtek v McElroy*,⁸ and *Re Day*.⁹

⁷ (1938) 60 CLR 336, 361–62 (Dixon J).

⁸ (1965) 112 CLR 517, 521.

⁹ (2017) 91 ALJR 262, 268 [14]–[18].

Preface to the public version of Investigation Report

14. This Investigation Report relates to Operation Embla, a corruption investigation relating to locally engaged employees at the Australian High Commission Pretoria, South Africa.
15. Operation Embla commenced in February 2017 and considered allegations that two locally engaged employees, Officer G and Officer H, were engaging in corrupt conduct by improperly granting Australian visa applications in exchange for money.
16. The investigation resulted in one finding of corrupt conduct against Officer G.
17. Following this, I prepared my report on Operation Embla pursuant to s 54 of the LEIC Act. I consulted with the relevant parties in accordance with the procedural fairness requirements under s 51 of the LEIC Act, prior to the finalisation of my report.
18. On 9 November 2021, I provided my finalised report on Operation Embla to the Attorney-General and to the Secretary of the Department of Home Affairs (Home Affairs) in accordance with s 55 of the LEIC Act.
19. I then considered whether it was in the public interest to publish the report on Operation Embla under s 209 of the LEIC Act. I was satisfied that my report contained opinions or findings that could be considered critical of both Officer G and Officer H. As such, I provided them with a copy of the report an opportunity to be heard prior to making a decision on whether to publish this report in accordance with s 210 of the LEIC Act. This process concluded on 15 June 2022.
20. On 1 June 2022, I notified the Secretary of Home Affairs that I was considering publishing the report on Operation Embla and provided the department with the opportunity to make any submissions on the proposed publication. The process concluded on 16 June 2022.
21. Accordingly, this is the version of Investigation Report for Operation Embla I have decided is in the public interest to disclose.



Jaala Hinchcliffe
Integrity Commissioner
28 June 2022

Summary of the Investigation

Notification

22. On 15 February 2017, the Secretary of the Department of Home Affairs (Home Affairs)¹⁰ notified the then Integrity Commissioner, Mr Michael Griffin AM, under s 19(1) of the LEIC Act of a corruption issue relating to Home Affairs. The Secretary provided information suggesting that Officer G, a locally engaged employee (LEE) at the Australian High Commission in Pretoria, South Africa (Pretoria Post), was receiving bribes to grant visas.

Jurisdiction

23. On 22 February 2017, the then Integrity Commissioner decided to investigate the corruption issue jointly with Home Affairs.¹¹ The corruption investigation was named 'Operation Embla'. The then Integrity Commissioner was satisfied:

- As a person covered by paragraph (g) of the definition of 'officer' in s 5(1) of the *Migration Act 1958* (Cth) (Migration Act), being a person included in a class of persons authorised by the Minister for that purpose, Officer G was a staff member of a law enforcement agency and within the Integrity Commissioner's jurisdiction;¹² and
- The information raised a 'corruption issue' as defined by s 7 of the LEIC Act because it suggested that Officer G had abused their office as a visa processing officer by taking bribes in exchange for granting visas.¹³

24. On 7 March 2017, the Integrity Commissioner reconsidered how to deal with the corruption issue and decided to continue the joint investigation with the addition of the Australian Federal Police (AFP) and DFAT.¹⁴

Investigation

Visa processing arrangements—offshore processing

25. Home Affairs processes visa applications onshore and offshore. Offshore processing takes place at diplomatic posts operated by the Department of Foreign Affairs and Trade (DFAT). Offshore processing is undertaken by a mix of Australian-based (A-based) staff and LEEs.¹⁵

26. A-based staff have responsibility to manage the visa processing function and supervise staff, while LEEs are generally tasked with visa processing. The Minister has authorised LEEs as 'officers' under the Migration Act and delegated powers to them for this purpose.¹⁶

¹⁰ At all relevant times, the LEIC Act has prescribed the 'Department administered by the Minister administering the *Australian Border Force Act 2015*' as a 'law enforcement agency': s 5(1) (definitions of 'law enforcement agency' and 'Immigration and Border Protection Department'). At notification, that department was known as the Department of Immigration and Border Protection (DIBP). On 20 December 2017, DIBP was substantively replaced by the newly-created Department of Home Affairs. For the sake of simplicity, 'Home Affairs' is used throughout this document to refer to that Department.

¹¹ LEIC Act (n 1) ss 26(1)(a) and (2), as at 22 February 2017.

¹² Ibid s 10(2A)(e), as at 22 February 2017.

¹³ Ibid ss 6(1)(a) and 7(1)(a), as at 22 February 2017.

¹⁴ Ibid ss 26(1)(a) and (2), as at 7 March 2017.

¹⁵ Also known as Locally Engaged Staff (LES).

¹⁶ Migration Act (n 11) ss 5(1) (definition of 'officer') and 496(1).

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27. LEEs are formally engaged by DFAT at post.¹⁷ LEEs performing visa processing duties report to A-based Home Affairs staff. They are subject to various employment conditions, including a Code of Conduct.¹⁸ LEEs receive training delivered online and in-person to develop visa processing knowledge and awareness of integrity and professional standards requirements.
28. Home Affairs uses various systems to process visa applications, depending on the circumstances. The main systems used offshore are as follows:
 - **Integrated Client Services Environment (ICSE)**—Home Affairs' primary system for processing visa applications.
 - **Immigration Records and Information System (IRIS) and Central IRIS (CIRIS)**—A system pre-dating ICSE designed for use offshore. IRIS operates on a local system at post with information exported to a global version called CIRIS.
 - **ICSE Offspring**—Information from CIRIS is exported to ICSE Offspring to allow viewing of applications processed in IRIS.
 - **Work Management (WMAN)**—A workflow application used to allocate applications for processing. WMAN is used to efficiently allocate applications as well as support integrity in visa processing by facilitating random allocations. However, an application may be processed in ICSE or IRIS without having been allocated in WMAN.

Visa processing at Pretoria Post

29. At the time the allegations were received, Pretoria Post processed visa applications from countries in sub-Saharan Africa for various visa classes.¹⁹ The visa processing cohort at Pretoria Post is comprised of Case Officers, Senior Case Officers and Team Leaders. At the time of the investigation, these officers were organised into teams based on the type of visa and the applicant's country of origin. Additionally, Pretoria Post has a dedicated integrity unit to which applications are referred for further investigation or analysis. For example, a visa processing officer may refer documents provided as part of a visa application to the integrity unit for verification.
30. Pretoria Post uses both ICSE and IRIS. The system used for a particular application depends on the circumstances of that application. Team leaders allocate applications to case officers through WMAN.

Officer G

31. Officer G commenced employment at Pretoria Post in 2008. Upon commencing their employment, Officer G signed an acknowledgement that they had read and understood the LEE Code of Conduct and undertook to comply with it. Home Affairs records indicate Officer G had undertaken mandatory training inclusive of online courses relating to integrity and visa processing.
32. Since joining Pretoria Post, Officer G had worked across the visitor, student, and permanent visa teams. The corruption issue was notified following analysis of Officer

¹⁷ Subsection 74(1) of the *Public Service Act 1999* (Cth) permits an Agency Head, on behalf of the Commonwealth, to engage persons overseas to perform duties overseas as employees. Such a person is not an 'Australian Public Service (APS) employee' under that Act: s 7(1) definition of 'APS employee'. The DFAT Secretary has delegated this power to senior staff managing diplomatic posts.

¹⁸ This code of conduct outlines a general expectation that LEEs uphold the same standards of conduct, honest, and integrity as that expected of APS employees while also specifying standards relevant to their particular role.

¹⁹ The full list of applicant countries processed at Pretoria Post is available at <https://southafrica.embassy.gov.au/pret/immi_countries.html>.

Gs processing of student visa applications in 2016. In 2017, Officer G was reassigned to permanent visas. A review of their activity in ICSE suggested they were continuing to facilitate student visa grants through a colleague, Officer H.

Officer H

33. Officer H also commenced employment at Pretoria Post in 2008. On commencing employment at Pretoria Post, Officer H signed an acknowledgement that they had read and understood the LEE Code of Conduct and undertook to comply with it. Home Affairs records indicate Officer H had undertaken mandatory training inclusive of online courses relating to integrity and visa processing.
34. At the time of notification, Officer H was assigned to temporary visas. Officer H's primary duties were to process visitor visa applications from countries in Southern Africa and 'Streamlined' (low risk) student visa applications. Suspicion of Officer H arose as a result of processing student visa applications accessed by Officer G in ICSE without an apparent work purpose.

Analysis of visa grants by Officer G and Officer H

35. Two separate analyses were undertaken to determine whether Officer G and Officer H had processed student visa applications improperly:
 - In March 2017, the Principal Migration Officer (PMO) Integrity at Nairobi Post produced a report which analysed several hundred processed student visa applications at Pretoria Post (March 2017 Report). The report formed part of Pretoria Post's internal integrity controls and aimed to identify whether any visa applications had been subject to fraud. In undertaking the analysis for the March 2017 Report, the PMO identified and analysed 19 student visa applications as part of the broader analysis due to the commonalities between them.
 - In April and May 2017, a Home Affairs subject matter expert in Australia conducted detailed assessments of 20 student visa applications processed by Officer G and 15 student visa applications processed by Officer H (April–May 2017 Assessments).

March 2017 Report

36. Of the 19 applications analysed in the March 2017 report, Officer G processed 17, granting a visa for 16 and refusing one. A different officer processed the remaining 2, refusing both.
37. The analysis identified numerous red flags across the applications approved by Officer G:
 - Previous visa refusals due to suspicion of fraud;
 - Supporting documentation which appeared to be falsified;
 - Supporting documentation that was almost identical across unrelated applications with only minor differences;
 - Information provided in applications that were internally inconsistent or inconsistent with other departmental holdings; and

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- Close similarities in unrelated applications—almost all of the applicants were Nigerians living in South Africa applying to study the same courses at the same institutions and locations in Australia.
38. The report noted that some of these issues may not have been apparent if viewed in isolation but as Officer G processed 17 of the applications in 6 weeks, they should have been aware of the similarities. The officer that processed only 2 of the applications identified the similarities between them, including notes about this to justify refusal.
 39. Officer G's one refusal resulted from a bank statement referred to the integrity unit failing verification. It is not known why Officer G referred this particular bank statement and not others which appeared to have similar issues.
 40. The report concluded that it would have been highly unlikely for Officer G to have granted the visas through incompetence rather than a determined effort. PMO Integrity found that Officer G had deliberately ignored obvious red flags in order to grant visas while avoiding scrutiny.

April–May 2017 Assessments

41. The April-May 2017 assessments provided a detailed analysis of visa processing by Officer G and Officer H to identify the extent of improper processing. Applications were selected as follows:
 - Twelve suspicious applications processed by Officer G resulting in a grant, comprising 11 analysed in the March 2017 Report and one further comparable application;
 - Eight non-suspicious applications processed by Officer G resulting in a refusal as a means of contrasting this processing activity with the suspicious applications; and
 - Fifteen applications processed by Officer H which were believed to be linked to Officer G and resulted in a grant.
42. The assessments were undertaken based on the information available to the original processing officer. The assessments applied relevant legislation, policies, and procedures. Through this process, the Home Affairs subject matter expert reached a conclusion about whether an application should have been granted or refused, or whether further information was required before a decision could be made.
43. In relation to the applications for which Officer G had granted a visa, each failed one or more of the legislative criteria and Officer G granted visas without verifying the authenticity of suspicious supporting documents. Visas should not have been granted and further verification steps should have been taken.
44. In relation to the applications for which Officer G had refused a visa, each was refused on grounds that were equally applicable to the suspicious applications for which they had granted a visa and they had taken further verification steps for half of the applications.
45. In relation to the applications for which Officer H granted a visa, one was assessed as meeting the criteria, two could not be determined on the available information, and 12 did not meet the criteria. For 14 of the 15 applications, visas should not have been granted and further verification steps should have been taken. The Home Affairs subject matter expert concluded that each of these 14 applications involved clear red

flags which should have been noticed by Officer H. They each involved similar documents for unrelated applicants, supporting documents were generally poor quality, and information provided was inconsistent. Officer H had granted visas in each of these cases without referring any documents for verification.

46. The assessments concluded that Officer G and Officer H had processed visa applications improperly. On each occasion Officer G and Officer H failed to properly apply visa processing law and policy. At a minimum, further scrutiny should have been applied before deciding to grant the visas.
47. These assessments and findings were put to the PMO at Pretoria Post who agreed with them.
48. Other contextual information suggested defects in how these visa applications were processed. The processing time for suspicious applications was generally substantially shorter than for non-suspicious. For example, Officer H took on average 7 days to process the suspicious applications in comparison with 54 days for non-suspicious. This reflects a number of factors that impact processing time, including not referring documents for verification.

Analysis of ICSE activity

Background—authorised access to visa processing information

49. ICSE and IRIS contain sensitive information collected for the purposes of Home Affairs' visa processing function. Visa processing officers are granted access to these systems and information for the proper performance of their duties. They are not authorised to access, use, or disclose this information where no proper business need exists.
50. Home Affairs uses various methods to ensure staff members are aware of their obligations, including mandatory training and displaying warning messages prior to accessing ICSE to remind staff that the system must only be used for business purposes.

Analysis of Officer G's activity in ICSE

51. Officer G's ICSE activity was monitored from March to May 2017. At this time they were assigned to permanent visas. However, they continued to access student visa applications.
52. A review of these accesses identified that Officer G had accessed 15 applications subsequently granted by Officer H, the majority of which they had accessed more than once. These accesses typically occurred on or before the date the visa was granted. Officer G had not accessed supporting documents for these applications—just the application record. None of these applications appeared to have a direct link to Officer G's proper duties processing permanent visa applications.
53. A review of WMAN confirmed that none of these applications had been allocated to Officer H.

Analysis of financial transfers

54. An analysis of financial transactions indicated that Officer G received funds from a number of persons linked to visa applications processed by Officer G and Officer H at Pretoria Post. For the purposes of this report, the persons are named L, M, N, O, and P.

Interview with Officer G

55. On 3 May 2017, ACLEI interviewed Officer G at Pretoria Post.
56. Officer G provided a general overview of what was involved in visa processing, including relevant policies and procedures, demonstrating an understanding of what was expected of visa processing officers. Officer G said student applications from Nigeria are 'very high risk' and they would 'look deeper' into those applications.
57. ACLEI asked Officer G a series of questions about their colleagues. Officer G said they were close to Officer H, explaining that they came from the same part of South Africa and spoke the same language.
58. Officer G was asked about payments and gifts for visa processing. They expressed an understanding that they were not meant to receive money or gifts from visa applicants. Officer G said they had received non-monetary gifts previously but had followed policy and referred these to their supervisor.
59. Officer G denied having asked for, or received, money from visa applicants, though they said they had received offers by email.
60. During the interview, Officer G was asked to review five student visa applications. These were applications Officer G had granted that the Home Affairs subject matter expert had assessed should not have been. Officer G stated they probably would grant the visas but would have referred documents for verification before doing so. Officer G stated that they did not recognise the applicants' names.
61. Officer G was then told they had granted these visas without conducting verification and that they had been assessed as improperly granted. Officer G provided a possible excuse that these applications had been processed during the 'peak season' for student visa applications.
62. ACLEI investigators then put a spreadsheet of international financial transactions to Officer G and asked why the people listed had transferred them money. Officer G stated the following:
 - a. they were receiving money from people in exchange for providing 'advice' about visas;
 - b. they started taking payments for advice in 2012 or 2013; and
 - c. they had been receiving money from people known as 'Person 1' and 'Person 2'.
63. Over the course of the interview, Officer G provided the following statements about Person 1 and Person 2:
 - they believed they were based in South Africa with associates in Australia;
 - Person 1 was a visa agent and that Person 2 was self-employed in transport;
 - they had been introduced to them by a friend in the South African public service;
 - Officer G dealt with them, they dealt with their Australian-based associates;
 - they had given advice to them about Australian visas;
 - only Person 1 and Person 2 were paying Officer G in South Africa;

- payments were made to Officer G per advice. Officer G said they were generally paid 2,000 Rand²⁰ per advice but sometimes more depending on the advice; and
- they had never met Person 1 but had talked with them on the phone. Officer G assumed that Person 1 was in South Africa, even though they used an Australian telephone number.

64. Officer G said they did not know who was sending them money in Australia and they did not keep a record.

Relationship with L

65. Officer G was asked about L. They said:

- a. they knew the person;
- b. their contact with L began when one of L's relatives applied for a US visa and A sought advice from Officer G about that;
- c. they remained in contact with L and continued to provide advice, including in relation to Australian visas; and
- d. L had sent Officer G money.

Relationship with M

66. Officer G was asked about M. They said:

- a. they knew the person; and
- b. they had previously been in contact but the contact had ceased. They stated this was because M had asked Officer G to disclose information from ICSE.

Relationship with N

67. Officer G was asked about N. They stated that they knew N as they had both attended a social event. Officer G did not know N before this event.

68. This is inconsistent with financial records. N is first recorded as transferring money to Officer G several months before Officer G attended the event.

69. Officer G was asked whether they were being paid to improperly process visas as well as, or alternatively to, simply giving advice. They insisted the money was for advice and not to grant visas. However, Officer G conceded that they did not apply appropriate scrutiny to the applications that were shown to them earlier.

Relationship with O

70. When initially asked if they knew O, Officer G said they did not recognise the name. This was despite Officer G having granted two student visas to O, O having transferred money to Officer G, and Officer G having been in phone contact with O numerous times.

²⁰ At the date of writing, approximately \$180 AUD; at the time of the interview, approximately \$200 AUD.

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71. After having discussed Person 1 and Person 2, Officer G explained that they did know someone with the same name as O 'through [Person 1] and [Person 2]' but that they were not sure if it was the same person.
72. ACLEI investigators asked Officer G for permission to review their phone. Officer G consented to this but claimed the phone was new and did not have much on it. For example, they said the phone did not have WhatsApp on it. Officer G said that their usual phone was with their child as they had lost theirs.
73. On reviewing the phone, ACLEI found that it did have WhatsApp and contacts with the same names as Person 1 and Person 2.
74. The phone number in Officer G's phone for Person 1 is recorded on Home Affairs systems as a contact number for O. Home Affairs systems also includes an email address for O that contains the first name of Person 1. The domain name for the email address was the website of a South African company.
75. Officer G was asked why they had accessed a student visa application linked to O. On 28 March 2017, an adverse biometrics match for this applicant was recorded in ICSE. On 29 March 2017, Officer G accessed the application in ICSE. On 6 April 2017, the applicant withdrew their application. Officer G was unable to provide an explanation for this access, suggesting it may have been a mistake.

Relationship with P

76. On 28 June 2011, Officer G had granted P a student visa. In October 2012, P applied for and was granted a bridging visa while waiting for a decision on a further student visa application.
77. On 16 November 2015, P applied for a temporary partner visa (subclass 820). An audit of Officer G's ICSE activity confirmed that Officer G accessed the record for this person twice on 6 April 2017. In between these accesses, Officer G accessed an application of a person with the same surname.
78. Officer G was asked why they had been accessing student visa applications Officer H was processing. They explained that Officer H had problems at work and that they were trying to help them.
79. Officer G was asked numerous times about the propriety of their conduct. Officer G gave conflicting statements about whether they were allowed to receive payments for giving advice about visas. Officer G attempted to draw a distinction between various circumstances in which a visa processing officer might give advice about visa processing to a third party and when this would be right or wrong. Officer G at one point appeared to suggest that if their conduct involved giving advice about how to make a proper application, they were 'doing the right thing'. However, Officer G later conceded that there were problems with their conduct.
80. Officer G was asked about a text message from 16 March 2017 that was identified when reviewing their phone. The text message said: 'Hi [Officer G], how are and kids? Just checking if you had a chance to check my visa, have a good day'. Officer G replied the same day texting: 'Nothing has been done yet'. Officer G said that they did not know the person and their response indicated that they were not going to check.
81. The person named in the text was P.²¹

²¹ See 'analysis of financial transfers' above.

Interviews with Officer H

First interview—3 May 2017

82. On 3 May 2017, ACLEI interviewed Officer H at Pretoria Post.
83. Officer H provided a general overview of what was involved in visa processing, including relevant policies and procedures, demonstrating an understanding of what was expected of visa processing officers. They stated that student applications from Nigeria are 'high risk'. They stated that the standard to be applied is different from other applications and it requires an officer to 'look at the documentation much more closely'.
84. Officer H said that they liked their job but they found it very stressful due to the pressure to meet visa processing targets.
85. Officer H said that they did not have any contact with anyone from Australia. They did note that sometimes visa applicants would email them if they had granted them their visa to 'say thank you or whatever'.
86. Officer H nominated Officer G as one of the two colleagues they were close to, explaining that they were from the same province.
87. It was put to Officer H that Officer G had been checking the student visa applications they had been processing. When asked why Officer G would be doing that, Officer H stated that they had 'no idea'.
88. Officer H was asked if they had ever been paid to give someone a visa and whether they had ever been paid to provide advice about visas. Officer H said they had not and had not heard of anyone at Pretoria Post doing such things. Officer H said that, if they had been, they would have reported it to A-based staff or their team leader in accordance with policies and procedures and the training they had received.
89. When put to them, Officer H said they did not recognise the names of A and B. Officer H stated emphatically that they did not know anyone in Australia other than the A-based staff who had worked at Pretoria Post.
90. The names of applicants for five applications assessed as having been improperly processed by Officer H were put to them. Officer H said they recognised at least one of the names, saying 'I think I've processed this'. Officer H did not recognise the other names.
91. Features of the applications were put to Officer H. Officer H agreed that there were significant issues with the applications, including similar GTE statements across three applications, birth dates which do not match the passport and unverified documents. Officer H responded by stating that they always take pride in their work and that this has never happened to them.
92. Officer H was asked how they could have missed these problems. Officer H noted the pressures of the job may have resulted them being less thorough than they should have been.
93. Officer H was again asked whether they had been receiving money for processing these visas or giving advice about visas. In response to this, Officer H:
 - a. denied receiving money for visa processing or giving advice about visas;
 - b. accepted that they had not applied appropriate scrutiny to the applications that were put to them; and

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- c. insisted that on the one occasion they were asked for advice, they referred the person to the relevant website.
94. ACLEI investigators asked to review Officer H's phone. This identified a message in April 2017 suggesting that Officer G had sent Officer H money. When asked about this, Officer H explained that Officer G had sent the money to Officer H's partner who needed it urgently for transport and that Officer H had repaid Officer G in cash.

Between interviews—email on 5 May 2017

95. On 5 May 2017, Officer H sent an email to the PMO at Pretoria Post in which Officer H provided further information relating to the matters discussed in the interview. Officer H stated the following:
- They were having difficulties meeting their visa processing goals since moving to their new team and had recently received a negative performance evaluation related to this.
 - They had discussed these issues with Officer G who subsequently told them that they still received queries about student visa applications and that some of the applications were possible grants. Officer H did not find this suspicious because Officer G had previously been in the student visa team for a long time.
 - Officer H believed that Officer G was trying to help them out by referring simple applications to help their numbers. Officer H said they trusted Officer G and never had a reason to doubt their integrity—they came across as 'diligent and trustworthy' and had helped Officer H a lot.
 - Officer H went through the applications and did not scrutinise them much due to the trust they had in Officer G and because they 'seemed fine'.
 - Officer H would take full responsibility for placing trust in Officer G and granting visas when they should not have. However, Officer H was not knowingly involved in any fraudulent activity.

Second interview—10 May 2017

96. On 10 May 2017, Officer H attended another interview with ACLEI at Pretoria Post to discuss matters further in light of their email.
97. Officer H was asked how they had come to process the applications which were rated higher than Streamlined. They stated that they had been struggling with their output since moving teams, they had mentioned this to Officer G, and Officer G subsequently referred student visa applications to Officer H that were described as 'possible grants' to help their output. Officer H did not find this suspicious because they trusted Officer G.
98. Officer H was asked when this started. They said that they thought this started in January or February after discussing their workload issues with Officer G.
99. Officer H was asked more about their workplace issues. They explained that their output was the lowest in the team and they had been told to improve.
100. Officer H was asked what kind of queries Officer G was receiving from visa applicants. They said that they thought that people must have been emailing them to check the progress of their applications or that these were applicants whose applications Officer G had processed in the past. Officer H thought that Officer G was trying to help them.

101. Officer H was asked how Officer G was referring these applications to them. Officer H explained the Officer G would write the application reference on a post-it note and give it to Officer H at their desk. Officer H remarked that Officer G had not tried to hide this activity and Officer H had no reason to be suspicious.
102. Officer H was asked about the different processing times between the applications referred to them by Officer G and the rest of their caseload. Officer H explained that they had processed the referred applications quickly because they had trusted Officer G and to help their numbers.
103. Officer H denied receiving any payment from Officer G for processing these visas. Officer H was asked whether they were aware if Officer G was receiving money for processing visas or giving advice about visa processing. Officer H said they had no knowledge of this.
104. Officer H said they had not told anybody about Officer G referring applications to them because they did not think they were doing anything wrong. When asked if Officer H now felt what they had done was improper, Officer H said they thought it was.
105. Officer H was asked whether they had not followed the proper processes in processing the applications referred by Officer G and whether they had not applied appropriate scrutiny to those applications. Officer H conceded that they had not followed proper processes but maintained they had not knowingly granted visas when they should not have and had not received any money for granting the visas. Officer H maintained their earlier statements that this was a result of trying to remedy their performance issues and misplaced trust in Officer G.

Interviews with other staff

106. Interviews with other staff members at Pretoria Post confirmed a consistent understanding of proper policies and procedures relating to visa processing. Nobody interviewed reported suspicions of Officer G or Officer H accepting payments to grant visas or provide advice. Staff members interviewed confirmed Officer H's workplace issues.

Findings

107. I am required under s 54 of the LEIC Act to provide my findings on a corruption issue.
108. I am satisfied that evidence obtained in the course of Operation Embla permits me to make a finding that a staff member of Home Affairs has engaged in corrupt conduct, namely abuse of office.²²
109. 'Abuse of office' is not defined in the LEIC Act. In its broadest sense, it involves the knowing or intentional misuse of one's office, typically for personal gain.
110. In the context of criminal law, abuse of office generally involves using one's office to dishonestly benefit oneself or another, or to dishonestly cause detriment to another. While my findings concern corruption, not criminality, I consider these general elements expounded in the criminal law useful in considering whether a staff member of a law enforcement agency has engaged in conduct involving an 'abuse of their office'.

²² LEIC Act (n 1) s 6(1)(a).

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111. The LEIC Act also provides that a staff member 'engages in corrupt conduct' if, having regard to their duties and powers as a staff member, they engage in conduct that involves, or is engaged in for the purposes of, 'corruption of any other kind'.²³
112. The LEIC Act does not define 'corruption' for the purposes of this expression. In *Independent Commission Against Corruption v Cunneen*, Gageler J commented on the imprecision of that word:

[Corruption] connotes moral impropriety in, or in relation to, public administration. It has never acquired a more precise meaning in the language of the law or in ordinary speech.²⁴

113. Notwithstanding that imprecision, I am assisted by the ordinary meaning of 'corruption':

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.²⁵

Findings in relation to Officer G

114. On the basis of the evidence and material collected and analysed in the course of Operation Embla, I find the following:
- a. Officer G was providing 'advice' to visa applicants prior to lodgement. Notwithstanding some of their statements in the interview, I am satisfied Officer G understood that receiving payments in connection with their office as a visa processing officer from applicants was improper and contrary to both departmental policies and the LEE Code of conduct.
 - b. I do not accept Officer G's claims that the giving of advice for payment was the full extent of their corrupt conduct. I find Officer G engaged in further improper conduct by inappropriately granting visa applications, and in this regard, I note the number of grants in relation to clearly flawed applications linked to persons Officer G was giving advice in exchange for payment.
 - c. I am satisfied from the evidence, in particular the interviews with both Officer G and Officer H, that Officer G knowingly referred applications to Officer H to process. In doing so, they took advantage of their relationship and Officer H's performance issues, as a means of increasing the likelihood of these flawed applications being granted.
 - d. Officer G's conduct was in breach of departmental policy and their responsibilities under the LEE Code of Conduct. Officer G had a duty not to make improper use of inside information in order to gain, or seek to gain, a benefit for themselves or anyone else. As a result of Officer G's conduct, they benefited financially and the visa applicants were inappropriately granted visas or received official information they would not have been privy to had it not been for their association with them.
115. Accordingly, I am satisfied that in engaging in the aforementioned conduct, Officer G engaged in corrupt conduct by abusing their office as a staff member of Home Affairs.

²³ LEIC Act (n 1) s 6(1)(c).

²⁴ (2015) 256 CLR 1, 32.

²⁵ Encyclopaedic Australian Legal Dictionary (online) 'corruption'.

Findings in relation to Officer H

116. On the basis of the evidence and material collected and analysed in the course of Operation Embla, I find the following:
- a. Officer H improperly granted a number of visas.
 - b. Officer H breached departmental policy by processing applications which were not allocated to them by their team leader. These applications were improperly referred by Officer G and Officer H accepted that they should not have processed them.
 - c. I am satisfied that Officer H was not involved in Officer G's advice-giving scheme. The investigation did not uncover any evidence of financial transactions to Officer H or evidence of relationships or communications between Officer H and the people to whom they granted visas.
117. While the evidence obtained in the course of Operation Embla supports a conclusion that Officer H engaged in improper conduct in relation to their visa processing duties, I am not satisfied that it supports a corruption finding.

Action under Part 10 of the LEIC Act

118. Evidence concerning misconduct was made available to partner agencies involved in the investigation consistent with s 146 of the LEIC Act. Evidence of a breach of duty or misconduct by Officer G and Officer H was made available to Home Affairs and DFAT.
119. Information was also provided to Home Affairs in the course of the joint investigation to deal with those visas which were suspected as being tainted by the conduct of Officer G and Officer H.
120. DFAT commenced disciplinary proceedings against Officer G and Officer H for a potential breach of the LEE Code of Conduct and as a result of those proceedings both officers had their employment terminated.

Corruption Prevention Observation

121. This investigation formed part of ACLEI's Visa Integrity Taskforce (VITF). The VITF was established in 2017 by the then Integrity Commissioner to target corrupt conduct by staff members involved in the processing of visas in various Australian overseas posts.
122. At the time of the corrupt conduct, Home Affairs had, in cooperation with DFAT, implemented an integrity framework for visa processing at Australian overseas posts. These included a dedicated integrity unit in the region (the Africa integrity team), which had a presence in Pretoria; mandatory acknowledgments of and undertakings to comply with the LEE Code of Conduct; and mandatory training inclusive of online courses relating to integrity and visa processing.
123. The strong likelihood of LEE corruption was identified by the Africa integrity team independently of ACLEI's investigation, which demonstrates that existing mitigation measures went some way in facilitating the identification of fraud and corruption, but

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systemic and cultural vulnerabilities allowed it to continue for longer than could have been the case.

124. This Investigation identified IT, record-keeping and supervisory vulnerabilities which included:
 - a. visa processing officers having access to visa applications that were not specifically assigned to them (e.g. by visa stream or visa classification);
 - b. inadequate management oversight; and
 - c. visa applicants having access to the names and contact details of visa processing officers.
125. During the investigation a behavioural risk was identified between LEEs and migration agents where failures to identify and declare conflicts of interest enabled the LEE to provide 'advice' and facilitate the granting of visas for economic gain. One of the LEE's was planning to set up their own business providing advice, which raises additional concerns about secondary employment and reach-back.
126. This investigation also identified inadequate management oversight of accurate processing of visas and the failure of identifying risks when team members are potentially exploiting others. This can occur through 'the ideology of friendship' or even intimidation/bullying tactics. In this instance, concerns should have been raised for management when there was an increased number of applications processed by the LEE in significantly decreased processing timeframes and outside of the standard policies and procedures compared to other applications that they were tasked with..
127. ACLEI and Home Affairs officers involved in the VITF provided briefings and anti-corruption training to both Australian-based staff and LEEs in a number of overseas posts whilst on location. This training raised awareness of the integrity and corruption risks associated with visa processing and whilst highlighting the investigation capabilities of both agencies in relation to these matters, created a strong deterrent for future offenders. Senior officials were also briefed to tighten processes and procedures to ensure risks are managed appropriately at a local level.
128. Since the conclusion of the VITF, ACLEI produced a protected intelligence report which was disseminated to Home Affairs in February 2019 and identified numerous vulnerabilities in relation to LEEs and offshore visa processing. As a result of the report, Home Affairs has since implemented a number of mitigation strategies, relevantly:
 - revision of the Home Affairs Fraud and Corruption Risk Assessment to include offshore-specific controls;
 - updates to mandatory training to include specific fraud and corruption content;
 - development and implementation of an Offshore Network Security and Integrity Checklist;
 - deployment of Caseload Risk and Integrity Teams in visa processing hubs to review and analyse caseload risk indicators;
 - a comprehensive review of the Work Management tool access and operation, which has resulted in increased functionality to manage access levels;

- an enhanced management reporting to monitor staff usage of WMAN and reviewed visa processing systems to ensure that key decisions and events in these systems are logged, accessible and auditable; and
- formalised quality assurance and quality checking procedures, including random sampling and recording the method of case allocation to an officer.

129. In addition to the above, Home Affairs implemented a number of specific changes, to address some of the issues identified in this investigation in relation to the Pretoria Post. These include:

- Referral of all high-risk cases to A-based officers for decision.
- Enacting a high volume and proportion of quality assurance checks for LEE decision making.
- Increased training of LESEs including additional training on fraud detection.
- An increased rate of applications and documents being referred to the post's integrity unit for verification.

Home Affairs acknowledges that the strengthened controls now in place could have enabled the corrupt practices to have been prevented or identified earlier.

130. ACLEI has published a range of fact sheets addressing different drivers of corruption, including social standing, grooming, reach-back, conflicts of interest, and the risks that these present.²⁶ These are available on the ACLEI website and could be drawn to the attention of visa processing officers at Australian overseas posts.



Jaala Hinchcliffe
Integrity Commissioner
9 November 2021

²⁶ ACLEI website, Corruption Prevention Factsheets (<https://www.aclei.gov.au/corruption-prevention/corruption-prevention-factsheets>).