



**Australian Government**  
**Australian Commission for  
Law Enforcement Integrity**

# Investigation Report

Operation Unicorn –

An investigation into the approval of visa applications by  
Employees of the Department of Home Affairs

A report to the Attorney-General, prepared under section 54  
of the *Law Enforcement Integrity Commissioner Act 2006* (Cth)

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Investigation Reports published by the Integrity Commissioner  
and summaries of reports which have not been made public  
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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.<sup>1</sup> 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); and
  - Australian Taxation Office (ATO).

## 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.<sup>2</sup>

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<sup>1</sup> *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.

<sup>2</sup> *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.<sup>3</sup>
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.<sup>4</sup>

## 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.<sup>5</sup>
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.<sup>6</sup>

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<sup>3</sup> Ibid ss 18–24 and 38.

<sup>4</sup> Ibid ss 26–30.

<sup>5</sup> Ibid ss 54(1)–(2).

<sup>6</sup> 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*,<sup>7</sup> *Rejtek v McElroy*,<sup>8</sup> and *Re Day*.<sup>9</sup>

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<sup>7</sup> (1938) 60 CLR 336, 361–62 (Dixon J).

<sup>8</sup> (1965) 112 CLR 517, 521.

<sup>9</sup> (2017) 91 ALJR 262, 268 [14]–[18].

## Preface to the public version of Investigation Report

14. This is a report on Operation Unicorn, a corruption investigation relating to allegations a locally engaged employee from the Department of Home Affairs processed visa applications based on fraudulent documents in exchange for money.
15. Operation Unicorn commenced on 14 August 2017 and resulted in the allegations against the locally engaged employee not being substantiated. The investigation did find, however, that a Visa Processing Officer based in Australia (Person A) was improperly processing visa applications.
16. Following the investigation, I prepared my report on Operation Unicorn pursuant to s 54 of the LEIC Act, including undertaking a procedural fairness process as required by s 51. I made a corruption finding in relation to Person A, finding they had engaged in corruption of any other kind.
17. On 2 September 2021, I gave the Attorney-General, the Secretary of Home Affairs and the Secretary of the Department of Foreign Affairs and Trade my finalised report on Operation Unicorn in accordance with s 55 of the LEIC Act.
18. I then considered whether it was in the public interest to publish the Investigation Report on Operation Unicorn under s 209 of the LEIC Act.
19. On 20 September 2021, I notified the Secretary of Home Affairs and Person A that I was considering publishing the Investigation Report on Operation Unicorn, giving the opportunity to provide submissions on the proposed publication in accordance with s 210 of the LEIC Act. The process concluded on 20 October 2021 with both parties providing submissions.
20. This is the version of Investigation Report I have decided is in the public interest to disclose.



Jaala Hinchcliffe  
Integrity Commissioner

25 November 2021

# Summary of the Investigation

## Notification

### The February Notification

21. On 16 February 2017, the Secretary of the then Department of Immigration and Border Protection (now known as the Department of Home Affairs (Home Affairs)), notified the then Integrity Commissioner (Mr Michael Griffin AM) of an allegation of corrupt conduct, made pursuant to s 19(1) of the LEIC Act.
22. The notification alleged a Visa Processing Officer (VPO) at the Australian Embassy in Belgrade was approving Australian visa applications based on fraudulent documentation submitted by an unregistered immigration agent in Macedonia.

### The May Notification

23. On 11 May 2017, the Secretary of Home Affairs notified the then Integrity Commissioner of a further corruption issue pursuant to s 19(1) of the LEIC Act. This notification comprised of two allegations that:
  - a) a Home Affairs officer at the Australian Embassy in Belgrade rejected a visa application without properly assessing it; and
  - b) The officer was receiving a financial benefit for guaranteeing and granting applications. It was alleged this was done on 20 occasions through an unregistered migration agent in Prilep.<sup>10</sup>
24. Home Affairs confirmed the relevant visa application had been rejected, but there was no evidence it had been improperly rejected. They confirmed that the officer who processed the application was a locally engaged employee (LEE) at the Australian Embassy in Belgrade.

### Additional Information

25. On 13 June 2017, the Secretary of Home Affairs provided the former Integrity Commissioner with the following additional information about the May notification pursuant to s 21 of the LEIC Act:
  - An unregistered migration agency in Macedonia was assisting people to obtain Australian tourist visa's through fraudulent documentation in exchange for up to €10,000;
  - The tourist visas were granted by the LEE at the Australian Embassy in Belgrade; and
  - Up to 20 people had utilised this methodology to enter Australia and once in Australia an Australian based Home Affairs employees granted subsequent visa applications.

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<sup>10</sup> Prilep is a city in North Macedonia.

## Jurisdiction

26. On 28 March 2017, the then Acting Integrity Commissioner (Mr John Harris SC) decided to refer the February notification to Home Affairs for investigation, with ACLEI neither managing nor overseeing the investigation.<sup>11</sup>
27. In early June 2017, the then Integrity Commissioner (Mr Michael Griffin AM) decided to investigate the May notification, as an ACLEI only investigation.<sup>12</sup>
28. The then Integrity Commissioner was satisfied:
  - The allegations were within ACLEI’s jurisdiction as the corruption issue involved a staff member of Home Affairs, a law enforcement agency;<sup>13</sup> and
  - The allegations involved conduct that, if proved, was engaged in for the purpose of the staff member abusing their officer as a staff member of the agency.<sup>14</sup>
29. On 14 August 2017, the then Integrity Commissioner decided to investigate the February and May notifications together<sup>15</sup> after it was discovered the notifications related to the same Home Affairs officer, as an ACLEI only investigation.
30. This investigation was named ‘Operation Unicorn’ and later became a joint investigation with Home Affairs.

## Investigation

### The Student Visa Application Process

31. The Australian visa regime is provided for under the *Migration Act 1958* (Cth) (Migration Act) and the *Migration Regulations 1994* (Cth) (Migration Regulations). This regime allows foreign nationals to apply for Australian visas and outlines the rules for determining whether a visa should be granted. The legislation is accompanied by policies and procedures to ensure that applications are lawfully processed in an efficient, effective and consistent way.
32. Home Affairs is responsible for considering and processing different types of Australian visa applications. One such type of visa is a Class TU 500 visa, which is known as a student visa (‘student visa’).
33. Student visas are typically submitted electronically through an online portal and applicants are required to satisfy a number of core conditions which include:
  - Enrolment in a relevant educational course;
  - Meeting English language requirements;
  - Holding adequate health insurance;
  - Having sufficient funds to support their stay; and
  - Being a genuine temporary entrant (GTE).

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<sup>11</sup> LEIC Act, s 26(1)(b)(iii)

<sup>12</sup> LEIC Act, s 26(1)(a)

<sup>13</sup> Ibid, s 6(1)

<sup>14</sup> LEIC Act, s 6(1)

<sup>15</sup> Ibid, s 28

34. These requirements are scrutinised by visa processing officers (VPOs). A risk level (streamlined, standard or high) is assigned by an automated profiling tool based on a range of factors including the information contained within the application. These risk levels are internal facing and provide treatment advice that guide the level of scrutiny to be applied. The evidence required of the applicant to support the application are informed by the 'evidence level' attributed to the application. These are streamlined and regular. Both the risk level and the evidence level inform the level of scrutiny applied to an application.

### **The Processing Process**

35. Visa applications are processed by Home Affairs staff members both onshore and offshore. Offshore processing takes place at diplomatic posts operated by DFAT. At these diplomatic posts, visa applications are processed by a mix of Australian based staff (A-based) and LEEs.<sup>16</sup>
36. LEEs are authorised and delegated powers by the Minister of Home Affairs, and carry out most of the visa processing.
37. LEEs are formally engaged by DFAT to work at the relevant diplomatic posts, and then assigned to the Home Affairs section of the post.<sup>17</sup>

### IT Systems used to process visa applications

38. Three main IT systems are utilised by Home Affairs when they are processing applications. These are Work Manager (WMAN), Integrated Client Services Environment (ICSE) and Content Manager.
39. WMAN is a work allocation tool that is integrated with ICSE which distributes applications from the ICSE system to teams and case officers. Ordinarily when a VPO is allocated an application in WMAN they are redirected to the application in ICSE through a hyperlink.
40. In November 2017 the NSW Student Visa Section of the Temporary Visa Program, commenced using an automated queuing system to allocate visa applications to work areas. This was facilitated through WMAN and utilised a 'Get Next' function to provide VPOs with batched applications to process. This also acted as an anti-corruption mechanism as it provided for the random allocation of applications based on the date of the application. This became the standard work practice of the team. This was commonly known as the 'Get Next Function.'
41. Prior to this function being introduced, applications were allocated to VPO's in batches by allocation officers via WMAN.
42. VPOs are expected to meet statistical targets when processing visas. Time frames for processing visa applications vary depending on a number of different factors at the time including, the volume of applications, the time of the year, available resourcing, system efficiencies and priorities at the time. During the relevant time period for the investigation, applications were generally processed within two to eight weeks of being submitted.

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<sup>16</sup> LEEs are also known as locally engaged staff (LES)

<sup>17</sup> 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. However, such a person is not an 'Australian Public Service (APS) employee' under that Act: s 7(1) definition of 'APS employee'.

43. The standard work practice was that applications were only processed directly through ICSE in limited circumstances, for example to finalise an application where relevant documents were received at a later time or when a case was directly allocated to a VPO when certain expertise was required.
44. Self-allocating applications through WMAN was contrary to the SOPs except when approved by a team leader. This was rare, for example, to processes applications for family groups or urgent applications.
45. Content Manager, which is a record management system, was also used to store and review relevant documents when processing applications, as this feature was not available in ICSE. An 'audit trail' was created in Content Manager when documents relevant to the application were viewed or accessed. It was standard practice that Content Manager be used when processing an application.

### **The LEE**

46. The LEE Visa Processing Officer, 'Z', mentioned in the notifications, was employed at the APS 4 level<sup>18</sup> and was authorised to make decisions relating to visa applications.
47. Investigators used the position number and first name contained within the notifications to identify, Z, as the LEE named in the notifications. Investigators also confirmed Z approved a tourist visa application for the unregistered migration agent as well as another Macedonian national who was named in the notification, N.
48. The investigation did not obtain any evidence to link Z to the unregistered migration agent. There was no evidence that Z received any benefit for granting visa applications or that they were processed inappropriately.

### **Person A**

49. Investigators analysed the visa applications of N, who applied for a student visa while in Australia on the tourist visa granted by the LEE. The student visa application was granted by a NSW based VPO, (Person A), despite relevant checks not being conducted.<sup>19</sup> This matched the methodology alleged in one of the notifications and is how Person A came to the attention of investigators.
50. Person A was employed at an APS 4 level as a VPO working in the NSW Student Visa Section of the Temporary Visa Program.

### **Student Visa Applications**

51. Investigators identified a number of student visa applications processed by Person A, twelve of which were of specific concern. These include the application of N.
52. Eleven of the twelve applications demonstrated a pattern in Person A's behaviour:
  - The applications were made by Macedonian Nationals;
  - The applications were self-allocated contrary to the SOPs which require the use of the 'Get Next' function;

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<sup>18</sup> The LEE was employed as an LE4

<sup>19</sup> This allegation of fraud was similar to the allegation referred to the Integrity Commissioner in February and June 2017.

- The applications were processed significantly faster than average processing times for the relevant risk rating; and
- The applications appeared to not be adequately scrutinised in accordance with the SOPs.

### Team Leaders

53. Person A spoke with ACLEI investigators on 5 December 2019. They stated that during the time they were employed as a VPO<sup>20</sup> they had a number of team leaders, two of whom they named (referred to in this report as 'TL1' and 'TL2'). In explanation of why they processed self-allocated student visas, Person A told investigators that TL2 had provided them with printed lists of applications to process. To determine whether this explanation was truthful, investigators obtained printer shadow<sup>21</sup> records of TL2 relating to the day before and the day of a number of the self-allocated applications processed by Person A. These printer records did not include printed lists of applications for Person A to process.

### Application A

54. On 1 March 2017, a student visa application was submitted for Macedonian national, N. This application was allocated a standard risk level.
55. On 16 May 2017, a fraud allegation was forwarded to the visa processing area at Home Affairs by the Australian Embassy in Belgrade alleging the application had been made based on fraudulent documentation. The Belgrade Embassy had previously considered the allegation when processing the applicant's tourist visa.<sup>22</sup>
56. On 14 July 2017, Person A directly accessed the application through ICSE, despite it being allocated to another VPO. The allocated VPO had flagged the application for further investigation due to the fraud allegation, however, Person A granted the application after viewing it for 17 minutes and 45 seconds.
57. Due to the nature of the allegation, Person A was required to send the tourist visa documentation offshore to the Australian Embassy in Belgrade for verification, which they did not do.
58. On 5 December 2019 during their interview with investigators, Person A stated:
- They would have been allocated the application, but did not recall how;
  - At the time, their work area had been told they were not required to send allegations and documents to the relevant post where an allegation was not sustainable. Additionally, they would have verbally consulted their team leader, but not made a case note of the conversation;
  - They would have determined the fraud allegation was not sustainable by looking at the history of the applicant as there was no adverse history; and
  - They stated they did not know the applicant or the unregistered migration agent.

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<sup>20</sup> The terminology for VPOs has changed since 2019 and they are now referred to as Visa Decision Makers or Decision Makers.

<sup>21</sup> Printer shadow records are actual copies of printed documents by individuals retained by Home Affairs as a security and anti-corruption mechanism.

<sup>22</sup> The allegation was similar to the notification received by the Integrity Commissioner, and specifically named N and the unregistered migration agency.

59. Home Affairs employment records indicate that TL 1 was their acting team leader at the time. TL1 told investigators they did not provide Person A with the application to process.

#### Application B

60. On 3 August 2017, a student visa application was submitted for Macedonian national, 'B'. This application was allocated a standard risk level.
61. On 9 August 2017, Person A directly accessed the application through ICSE without the application being formally allocated to them or their work area. After viewing the application for four minutes and five seconds, Person A granted the application.
62. No evidence was located in Home Affairs records to explain why the application was self-allocated or expedited so that it was processed within one week of being submitted.
63. In granting the application Person A did not provide the required level of case notes and the case notes which were written indicated they were satisfied of GTE, however, Content Manager audits showed they did not access the relevant documentation.
64. On 5 December 2019 during their interview with investigators, Person A stated:
- The time they spent processing the application was appropriate;
  - The application would have been given to them to process via email;
  - The only reason why the application would have been expedited and processed so quickly was if an email enquiry had been received or there was a query from the service centre at Home Affairs;
  - They had been experiencing technical problems with WMAN and at the time they logged a job with IT. The issue meant they were receiving applications to process from everywhere and had problems with the filter; and
  - They did not need to review the GTE requirement through Content Manager as they were contained in the application.
65. Investigators did not locate any work emails sent to Person A allocating them applications to process as described.
66. Home Affairs employment records indicate at the time TL1 was their acting team leader. TL1 told investigators they did not provide Person A with applications to process.

#### Application C

67. On 11 April 2018, a student visa application was submitted for Macedonian national, 'C'. This application was allocated a streamlined risk level.
68. Person A directly accessed the application through ICSE on 2 May 2018 despite it being unallocated at the time. They granted the application after viewing it for 3 minutes and 24 seconds.
69. This application was outside the expected workload of Person A, as streamlined applications were generally the responsibility of APS3 level VPOs.

70. The application was processed approximately five weeks ahead of when applications submitted at the same time were processed. Home Affairs records did not reveal any reason why this application was expedited or directly accessed by Person A.
71. Around November 2017, the 'Get Next' function had been introduced to Person A's work area, replacing the allocations team. In self-allocating this application, Person A circumvented this function contrary to procedure and practice.
72. Home Affairs confirmed the Visa Processing SOPs were not followed in the granting of the application as identified risk factors were not actioned or case noted and Person A did not access the relevant non-compliance history.
73. On 5 December 2019, Person A participated in an interview with investigators and stated:
  - They felt the time they spent processing the application was sufficient; and
  - Their team leader would have given them the application to process.
74. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. These records did not show any printed material which matched the description provided by Person A of a printed list provided by TL2 for applications for Person A to process.

#### Application D

75. On 13 May 2018, a student visa application was submitted for Macedonian national, 'D'. The application was allocated a standard risk level.
76. On 30 May 2018, Person A self-allocated the application in WMAN despite it not being allocated to their work area or office location at the time. They granted the application after viewing it for 1 minute and 59 seconds.
77. No evidence was located to explain why Person A self-allocated the application, or why it was processed within three weeks of being made.
78. In granting the application, Person A stated that they were satisfied the financial and GTE requirements had been met, however an audit of content manager showed that Person A did not view the relevant documentation.
79. The visa was also incorrectly<sup>23</sup> granted until 16 August 2019 when it should have expired on 3 August 2019 when the overseas health clearance expired.
80. On 5 December 2019 during their interview with investigators, Person A stated:
  - Two minutes was sufficient time to assess the application as they were quick;
  - They would have been given the application to process by their team leader;
  - They had no reason to search for applications;
  - They didn't know why they stated they sighted a valid passport when they did not, other than that they were under pressure at the time and thought they sighted it and may have thought they opened it;
  - Staff were pushed almost daily in relation to meeting statistical targets and they may have made mistakes, but they were not deliberate;

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<sup>23</sup> This was contrary to the guidelines

- They did not think they took shortcuts to meet statistical targets;
  - They did not have any medical issues which affected their work; and
  - Staff were under constant pressure to do more and they were being micro managed.
81. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. These records did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.

#### Application E

82. On 13 March 2018, a student visa application was submitted for Vietnamese national, 'E'. This application was given a streamlined risk level.
83. On 31 May 2018, the application was allocated to Person A by their team leader. The application had previously been allocated to another VPO who determined the applicant had not met the GTE requirements and that the application was to be refused. This was documented in the case notes for the application.
84. Standard work practice meant Person A should have followed the decision making procedure utilised by Home Affairs and refused the application.<sup>24</sup> Person A granted the application after viewing it for 51 seconds. Person A did not view the relevant documentation prior to granting the application and there was no GTE documentation attached to the application. Additionally, Person A did not complete a case note entry explaining why they granted the application as required.
85. On 5 December 2019 during their interview with investigators, Person A stated:
- There were other considerations, such as the applicant's age that could be taken into account for a refusal and they would have verbally spoken to their team leader about the application prior to the matter being allocated to them;
  - They did not receive any sort of benefit for processing the visa and may have been under pressure after being told to do things quicker.

#### Application F

86. On 9 July 2018, a student visa application was submitted for Macedonian national, 'F'. The application was given a streamlined risk level.
87. Two days later,<sup>25</sup> on 11 July 2018, Person A directly accessed the application, despite it being outside their expected workload. After viewing it for four minutes and 35 seconds they granted it.
88. Home Affairs records did not show any reason why this application was expedited or directly accessed by Person A.

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<sup>24</sup> Home Affairs follows a process called 'Global Case Management' which follows 'above the line' processing. This means any new decision maker looking at a case should accept the previous assessment (unless there are exceptional evidence based circumstances).

<sup>25</sup> This is a short time period for the application to be processed in.

89. Home Affairs records indicated that within the Student Visa Team, applications submitted one day after this application were still awaiting processing 29 days later on 8 August 2018.
90. On 5 December 2019 during their interview with investigators, Person A stated:
  - They believed APS 4's could work on any level of application and were not restricted to the standard risk level or higher;
  - Their team leader often gave them printed lists of applications to process, which they would process without question; and
  - These lists were provided in person and were not emailed.
91. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. This did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.

#### Application G

92. On 20 June 2018, a student visa application was submitted for Macedonian national, 'G'. This application was allocated a streamlined risk level.
93. On 11 July 2018, Person A directly accessed the application through ICSE. After viewing the application for four minutes and 29 seconds they granted it. The application was not formally allocated to them or anyone else at the time.
94. This application was outside the expected workload of Person A as it was a streamlined application.
95. Investigators were unable to determine why Person A had processed or expedited the application. They also confirmed applications lodged prior to this one were still awaiting processing when this application was approved.
96. On 5 December 2019 during their interview with investigators, Person A stated:
  - They did not know why they had processed the application out of sequence; and
  - Their team leader would have given them the application to process as their team leader often gave them printed lists of applications to process which they did without question.
97. Following this interview investigators obtained printer shadow records for TL2 for the day before and of the application being processed by Person A. These records did not show that the team leader had printed off any list as described by Person A.

#### Skype Conversations

98. On 26 July 2018, Person A had a conversation with a colleague through the chat function of Skype, in which they confirmed they were both 'cherry picking' streamlined applications to process.
99. On 16 August 2018, Person A had a further conversation with the same colleague, about 'cherry picking' applications to process. Person A confirmed with a colleague how to do this in a manner to avoid detection.

### Application H

100. On 4 September 2018, a student visa application was submitted online for Macedonia national, 'C'. Person A had previously granted a visa application for 'C' on 2 May 2018.<sup>26</sup> This application was allocated a high risk/standard evidence level.
101. On 3 October 2018, Person A self-allocated the application in WMAN. After viewing the application for thirty one minutes and forty seconds they granted the application. The visa was to expire on 3 October 2018.
102. Home Affairs records did not show any reason why this application was directly accessed by Person A.
103. Records shows Person A noted in the application they were satisfied of the financial and educational requirements and had sighted the applicant's passport, however audits indicated they had not accessed the relevant documentation.
104. Person A also incorrectly noted there was no adverse study history relating to a previous student visa, when in fact there was. There were also insufficient case notes made for granting the application.
105. Home Affairs confirmed it is likely the outcome of the assessment would have been the same if Person A had followed the SOPs and guides.
106. On 5 December 2019 during their interview with investigators, Person A stated:
  - They would have been given the application to process by their team leader and they had no reason to go looking for the applications;
  - They would not have noticed they processed the previous visa for the same applicant as generally decision makers do not go into previous application unless there was something adverse that required checking;
  - They did not keep records of the applications;
  - It may have been an oversight that they failed to look at the relevant documents due to the pressure they were under at the time. They wouldn't have done it intentionally; and
  - The SOPs at the time were out of date and they were told in meetings how to process application which sometimes differed from the SOPs.
107. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. This did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.
108. Home Affairs employment records indicate at the time TL1 was their acting team leader at the time. When investigators spoke to TL1 they stated they did not provide Person A with applications to process.

### Additional Skype Conversation

109. Again, on 10 October 2018, Person A engaged in a Skype conversation with the same colleague as before. In this conversation Person A discussed a pattern they observed where people arrived in Australia on tourist visas and then applied for student visas.

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<sup>26</sup> This relates to previous 'Application C'

When asked if they were going to inform their manager they indicated it wouldn't solve anything, but would create more work. They then said 'im gong[sic] to grant everything'.

#### Application I

110. On 22 March 2019, a student visa application was submitted for Macedonian national, 'I'. This application was allocated a standard risk level.
111. On 3 June 2019, Person A self-allocated the application through WMAN. After viewing the application for four minutes and one second Person A granted the application.
112. Records did not show any reason why this application was directly accessed and processed by Person A.
113. Records revealed an inconsistency in the electronic notes Person A made in granting the application, as they stated they had sighted a copy of the applicants valid passport, however, the audit of Content Manager showed that the document had not been sighted prior to the application being granted.
114. On 5 December 2019 during their interview with investigators, Person A stated:
  - They would have allocated the application to themselves at the request of their team leader, however they did not know why they allocated it through WMAN when on other occasions they had directly accessed the application through ICSE;
  - They did not know why it had been processed out of sequence; and
  - Their team leader gave them applications to process on a printed piece of paper, which they put in the security bin when they had finished with them.
115. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. This did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.
116. Home Affairs employment records indicate at the time TL1 was their acting team leader. When investigators spoke to TL1 they stated they did not provide Person A with applications to process.

#### Application J

117. On 22 March 2019, a student visa application was submitted for Macedonian national, 'J'. This application was allocated a standard risk level.
118. On 3 June 2019, Person A self-allocated the application in WMAN and after viewing the application for four minutes and seventeen seconds granted it.
119. Records did not show any reason why this application was expedited or directly accessed by Person A.
120. Records revealed an inconsistency in the electronic notes Person A made in granting the application. They stated they had sighted a copy of the applicants valid passport, however, the audit of Content Manager showed they had not.
121. On 5 December 2019 during their interview with investigators, Person A stated:

- They “may have gone in and checked a different passport for another visa and was under pressure at the time, got confused and may have thought they opened it but didn’t;
  - They can process between seven and 15 applications a day;
  - Their team leader would have given them the application to process as it was likely it was from one of the lists their team leader gave them. They would find these lists when they started work or they were given directly by their team leader; and
  - They were not aware if their team leader gave the lists to others also.
122. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. This did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.
123. Home Affairs employment records indicate at the time TL1 was their acting team leader. When investigators spoke to TL1 they stated they did not provide Person A with applications to process.

#### Application K

124. On 17 July 2019 a student visa application was submitted for Macedonian national, ‘L’. This application was allocated a standard risk level.
125. On 6 August 2019 Person A allocated the application to themselves. After viewing the application for four minutes and 44 seconds they granted it.
126. Home Affairs records did not show any reason why this application was expedited or directly accessed contrary to procedures.
127. Records revealed an inconsistency in the electronic notes Person A made in granting the application. They had stated the English requirement had been satisfied, however records showed Person A had not accessed the relevant documentation prior to granting the application and recorded that the wrong test had been satisfied.
128. On 5 December 2019 during their interview with investigators, Person A stated:
- A team leader would have given them the application to process, as they often got printed lists or post-it notes with applications to process from their team leaders, which they would process without questioning them; and
  - Both tests sufficiently satisfied the English test and they may have made an error in not opening the English documentation and had something else open on the screen.
129. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. This did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.

#### Application L

130. On 7 July 2019, ‘N’ submitted a student visa application. Person A had previously granted a student visa for this application on 14 July 2017. This was the application that had a fraud allegation attached to it and in which Person A noted, on the next

occasion GTE should be scrutinised.<sup>27</sup> The application was allocated a standard risk level.

131. On 12 August 2019, Person A self-allocated the application in WMAN. After viewing it for eight minutes they granted it.
132. Home Affairs records did not show any reason why this application was expedited or directly accessed by Person A.
133. Records revealed inconsistencies in the electronic case notes Person A wrote in granting the application. They indicated they were satisfied of the financial, English and GTE requirements. However, the audit of Content Manager showed they did not look at the relevant documentation despite their own note from the previous application that GTE should be scrutinised on future applications.
134. The investigation raised some concerns that the financial documentation submitted with the application was fraudulent.
135. On 5 December 2019 during their interview with investigators, Person A stated:
  - They would have been given the application to process. They didn't know why they would have been allocated it, except that 'they' were always looking for 'quick wins for stats'. They said they were not looking for 'quick wins';
  - It may have been an oversight that they entered a case note that they had sighted the financial and GTE documents when they did not;
  - They could not explain why they had not specifically looked at the GTE documents when they had left a case note on the prior application to do so;
  - Regarding their comment on the applicant's previous visa that on the next occasion GTE should be scrutinised, they would not expect other VPOs to look at a prior application. They would have written it after consultation with their team leader. They didn't file note the conversation with their team leader as they were told not to by management and in their team meetings;
  - They stated they would need to check the policy at the time to see whether they were required to check the documents, but unless there were further fraud allegations they would not have checked the previous application normally; and
  - The financial documents did not look fraudulent.
136. Following this interview investigators obtained printer shadow records for TL2 for the day of and prior to the application being approved by Person A. This did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.

### 'Data Mining'

137. In their interview with investigators on 5 December 2019, Person A was asked if there was a way to search applications lodged by a specific nationality. They stated they had heard there was but didn't know how to do it. They then contradicted this claim and stated they would have done it if told by one of their team leaders. They stated they had done it before at their team leaders request on their team leaders computer, but could not explain why.

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<sup>27</sup> This prior application, was 'Application A'

138. The investigation located electronic records showing that in 2019, Person A had engaged in data mining by searching visa applications applying the nationality filter of 'Macedonian'.

#### Cherry Picking

139. The Skype records of Person A confirmed they were engaging in 'cherry picking'<sup>28</sup> and had given instruction to another team member how to avoid detection when cherry picking. Cherry picking is the deliberate circumvention of established work practices, procedures and policies to identify and choose applications to process outside the 'Get Next' function, in an attempt to increase a VPOs visa processing statistics. The applications chosen were simple and less complex.

140. During their interview with investigators Person A said that in the past VPOs were allowed to go through the batches and pick cases to process and that this was done with the knowledge of their team leader. When challenged about this, Person A asked to end the interview and investigators did not ask any further questions.

#### Additional Evidence

141. Investigators spoke to TL1, who was Person A's team leader for much of the time between 2017 and 2019. They stated:

- Visa applications are allocated a risk rating, which informed how the application was processed;
- Streamlined applications did not require case notes to be recorded, and could take only several minutes to process. The time to process an application was dependant on the application and experience of the VPO;
- Person A was an experienced VPO and had worked in that role for some time;
- Streamlined application were generally processed by APS 3 VPOs. APS 4 VPOs processed streamlined applications when there was a backlog in accordance with a roster system.
- Standard and high risk applications are more complicated to process and were generally allocated to APS 4 VPOs. These risk levels mean an aspect of the application had to be looked into or further documentation requested. They also required case notes to be made by the VPO;
- Prior to the introduction of the 'Get Next' function in mid-2017, visa applications were allocated to visa officers in groups by allocations officers via WMAN. Applications were not self-allocated. Applications were not allocated based on the nationality of the applicant. There was no reason for any particular VPO being allocated a disproportionately high number of applications from any one nationality;
- TL1 never provided Person A with visa applications to process nor did they ever provide them with lists on post-it notes or printed lists;

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<sup>28</sup> "Cherry picking" is the term used by Person A to describe the deliberate circumvention of the application allocation process. The use of the term "cherry picking" by Person A accords with the Macquarie Dictionary definition of "cherry pick" which is "to select (the best) leaving the remainder behind; to select the best on offer"

- Applications were only directly allocated to VPOs when a complaint had been made about the time it was taking for an application to be processed. This was rare and therefore would not be allocated in lists, but one or two at a time;
  - Lists of 'old matters' were sometimes compiled in excel and emailed to VPOs to process. This was usually recorded in case notes.
  - It was unusual that Person A processed such a high number of visa applications made by Macedonian nationals;
  - VPOs were expected to meet statistical targets each week. If they failed to meet these targets they would be asked to explain why; and
  - While they were Person A's team leader, they recalled that they were 'doing their job', there were no issues with their work and Person A worked from home some days during the week.
142. The investigation did not locate any evidence Person A received any financial benefit for granting the applications. Neither was any evidence located to demonstrate any links between Person A and the unregistered migration agent or N.

## Findings

143. I am required under section 54 of the LEIC Act to provide my findings on the corruption issue.

### **The LEE, Z**

144. No evidence was located during the investigation to suggest the LEE engaged in the conduct described in the notifications.

145. On the basis of the evidence and material collected and analysed in the course of Operation Unicorn, I find that the LEE:

- was the person referred to in the February and May notifications;
- was an employee of a law enforcement agency, namely, Home Affairs;
- was not associated with the unregistered migration agent; and
- did not receive any benefit, or cause a detriment, for approving or guaranteeing Australian visa applications.

146. Accordingly, I make no corruption finding relating to the LEE.

### **Person A**

147. In considering whether to make corruption findings relating to Person A, I have considered the evidence and material obtained during the investigation.

#### *The Allocation of Applications*

148. Person A told investigators they had been provided with the applications to process by their team leaders.

149. TL1 provided evidence of the limited circumstances in which and how applications would be provided to VPOs to process by team leaders and confirmed this did not

happen regularly. The circumstances and manner by which applications were allocated in these circumstances do not fit those described by Person A.

150. TL1 also confirmed they never provided Person A lists of applications to process.
151. Person A told investigators that TL2 continued to provide them with lists of applications to process when TL1 was their team leader, as TL2 was the APS 6 within the team.
152. This is contrary to Person A's Skype communications with a colleague where they clearly demonstrate they were engaging in cherry picking of applications and doing so in a way to avoid detection. This casts doubt on their assertion about the allocation of the applications.
153. It is also not supported by the printer records of TL2, which did not show any printed material which matched the description by Person A of a printed list provided by TL2 for applications for Person A to process.
154. The veracity of Person A version is also diminished by the evidence that they engaged in 'data mining' of applications by nationality.
155. I find that Person A engaged in cherry picking and data mining in identifying these applications to process.

#### Lack of adherence to the SOPs and practices

156. The evidence about the way Person A processed applications demonstrates they did not appropriately scrutinise the applications in accordance with SOPs and standard practice.
157. While Person A attributed these errors to the pressure applied to staff to reach statistical targets as well as their understanding of the SOPs and practice, the number of times this occurred lessens the reliability of this claim.
158. Person A's lack of due care and diligence in processing visas is further demonstrated in their Skype conversation with a colleague on 10 October 2018, when talking about trends in visa applications they stated, 'im gong[sic] to grant everything'.
159. A stark example of this, is 'Application E', where Person A granted a visa which should have been refused. There was no evidence they followed the SOPs or standard procedures when granting the application.
160. I find this is indicative of Person A attitude and work practice at the time, and that they were not applying the required due care and diligence required when processing visa applications and that this regularly accompanied their practice of cherry picking applications to process.

#### Motive

161. I have considered Person A's motive in cherry picking and data mining applications, processing a disproportionate number of applications made by Macedonian nationals and failing to follow SOPs and standard practices.
162. The evidence shows a high number of the applications cherry picked by Person A were for Macedonian nationals, approximately 36% of all Macedonian applications during the relevant period. While Person A was selecting applications from other nationalities as well, Macedonian nationals made up the highest percentage. However, no evidence was located during the investigation to suggest why this occurred.

163. No evidence was found to suggest Person A received any tangible benefit for processing any of the visa application or that they did so with an intention to benefit another person or cause a detriment to the Commonwealth.
164. While Person A told investigators about the pressure they were under to meet statistical targets, Person A's Skype communications with a colleague do not support this assertion. They point to a state of mind that cherry picking was a regular practice, which they undertook in a way to achieve their statistical targets with greater ease and avoid detection. They also told another employee how to do the same. It is also clear that other team members were engaging in this practice. Person A's comment 'streamlined streamlined all the way' supports the proposition that they chose applications that could be processed with less effort. This practice benefitted Person A in achieving their statistical targets with ease and avoided scrutiny by their team leader.
165. TL1 told investigators they did not have any concerns with Person A meeting statistical targets.
166. The evidence does not show what Person A's motives were, however, it seems to be related to processing applications with greater ease.

Corruption of any other kind

167. Section 6(1)(c) of the LEIC Act, states that a staff member of a law enforcement agency engages in corrupt conduct when having regard to the duties and powers of the law enforcement staff member they engage in conduct for the purpose of, corruption of any other kind.
168. While 'corruption' is not defined in the LEIC Act, the Encyclopaedic Legal Dictionary, defines it as:

*'...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.'*<sup>29</sup>

169. Similarly, Gageler J in ICAC v Cunneen found that 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.'*<sup>30</sup>

170. The evidence shows that Person A was a staff member of a law enforcement agency<sup>31</sup> as they worked for Home Affairs as an APS 4 VPO in the NSW Student Visa Section of the Temporary Visa Program. Part of their role within that team was to process Student Visa's in accordance with the legislative framework, standard operating procedures and practices. As a public service employee Person A was bound to abide by the APS Code of Conduct in accordance with s 13 of the *Public Service Act 1999* (Cth) (Public Service Act). This included:

- Behaving honestly and with integrity in connection with APS employment;
- Acting with care and diligence in connection with APS employment;
- Behaving in a way which upholds the APS Values; and

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<sup>29</sup> Encyclopaedia Legal Dictionary, online 2020

<sup>30</sup> (2015) 256 CLR 1, 32

<sup>31</sup> LEIC Act, sections 5 and 10(2A)

- Behaving in a way which upholds the integrity and good reputation of the employee's Agency and the APS.
171. Of note, the APS Values<sup>32</sup> include:
- Acting in a professional, objective, innovative, efficient and collaborative manner to achieve the best results for the Australian Community and Government; and
  - Demonstrating leadership, trustworthiness and acting with Integrity.
172. The role, duties, Public Service Principles and APS Values, all form part of the powers and duties that Person A had by virtue of their role as a VPO at Home Affairs.
173. The Skype logs and evidence relating to the allocation of visa applications make it clear that Person A engaged in regular cherry picking of applications. For example, in their Skype communications on 16 August 2018 they stated they had been cherry picking all the previous day.
174. The Skype logs also show that on 16 August 2018, Person A told their colleague how to cherry pick applications to avoid detection and reassured a colleague that by using the method of self-allocation this would assist in avoiding detection.
175. This demonstrates that Person A knew the processing applications in this way was against policy and therefore they needed to avoid detection when engaging in this conduct. This shows they were being intentionally dishonest when engaging in this conduct.
176. I find that engaging in this behaviour was contrary to s 13 of the *Public Service Act 1999* and contrary to their roles and duties as a VPO and public servant.
177. The act of cherry picking applications meant that not all visa applications were dealt with in the same way as not all applications were subject to the same rigour or processes and policies in the same way. Additionally, by being taking out of the queue of applications to be processed, some applications are expedited without reason, while others wait to be processed in the standard way.
178. Additionally, it is clear that Person A did not act with due care and diligence when processing the visa applications, and did not apply the SOPs and practices appropriately. This also created an unfairness in how the visa applications were processed.
179. I find this lack of due care and diligence, Person A's cherry picking of applications and their coaching of another staff member of how to avoid detection when cherry picking was contrary to the roles and duties of Person A and amounts to corrupt conduct because it was a deliberate act of dishonesty, which was contrary to the public trust placed in them as an APS employee. This conduct was incompatible with the impartial exercise of her powers, duties and functions.
180. I find that:
- a) Person A was an employee of a law enforcement agency, namely, Home Affairs;
  - b) Person A was not associated with the unregistered migration agent;
  - c) Person A did not receive any financial benefit in granting the visa applications;

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<sup>32</sup> Section 10, Public Service Act 1999 (Cth)

- d) Person A engaged in 'cherry picking' applications in a way that was intentionally dishonest; and
  - e) Person A's behaviour was contrary to the impartial exercise of their roles and duties as a VPO.
181. Accordingly, I make a corruption finding, that Person A engaged in corruption of any other kind pursuant to s 6(1)(c) of the LEIC Act.

## Action under Part 10 of the LEIC Act

182. On 3 October 2019, the then Integrity Commissioner provided information arising from the investigation to the Home Affairs Secretary under s 146 of the LEIC Act. This section permits disclosure of information that amounts to evidence of a breach of duty or misconduct.
183. After the interview on 5 December 2019, Person A was suspended by Home Affairs and they commenced a code of conduct investigation regarding their conduct. A breach of the code of conduct was 'determined'.
184. Person A subsequently resigned from Home Affairs.

## Corruption Prevention Observation

185. This investigation illustrates the risks that might eventuate in busy, high workload transactional environments. Where staff are under pressure to meet work measures, good governance needs to ensure that processes and expectations are clearly defined, with appropriate checks and balances. A busy environment can compound any gaps in governance, creating the opportunity for short cuts or 'work arounds' to occur. Behaviours such as cherry picking then serve to demonstrate that 'what gets measured gets done'. Opportunities for staff to deviate from expected processes can be further accentuated when remote supervision is not well governed or managed.

## Recommendations

186. The "Get Next" function was introduced by Home Affairs into the visa processing system as an anti-corruption mechanism to enable applications to be allocated randomly. The ability for VPOs to circumvent this processes diminishes the effectiveness of this mechanism. The Department should consider implementing mechanisms to prevent the circumvention of this function.
187. In February 2019, a vulnerability paper was provided to Home Affairs relating to the visa application process. This highlighted a number of vulnerabilities within the process, in particular relating to LEEs. As a result of this, Home Affairs are engaged in addressing the issues raised.
188. In response to this report, Home Affairs provided information on a number of initiatives that have been implemented to address the issues raised in this report. This information is set out in Attachment A.



Jaala Hinchcliffe  
Integrity Commissioner

2 September 2021

# Attachment A

## Submission by Home Affairs

A number of developments and changes have occurred since 2017-2019 that address the issues observed through this investigation. This includes input from ACLEI's investigation team in relation to Operation UNICORN. Actions have seen an upgrade to the procedures, processes and systems that the Department uses to manage the allocation of casework. Allocation controls have also been included in the quality assurance processes and are included in the suite of Departmental reporting available to managers. Specific measures include the following:

- A direction was issued by the First Assistant Secretary, Immigration Programs Division on 29 October 2019 regarding the use of the WMAN system's automated functions for case allocation.
  - This Direction also set out the requirements for self-allocation in extenuating circumstances with the approval of the line manager with responsibility for case allocation and documented to the program management mailbox and copied to the WMAN Business Support team. A catalogue of program management approved Business Cases is maintained.
- A WMAN Procedural Instruction was approved on 15 April 2021 and published on the intranet, setting out: procedures for allocating cases; processes for using Allocate to Self; requirements for an approved business case and the documentation and reporting requirements around the use of that function; the responsibility for managers to monitor use of the Allocate to Self-functions. Prior to approval of this PI, the program delivery network had already begun implementing the procedures outlined in the PI.
- Quality Assurance checks conducted through the EQUIP process, that applies to all caseloads, have been updated to ensure that they cover the allocation of cases to the deciding officer.
- Reporting capability has been established within Business Intelligence Reporting to allow managers to run reports on use of WMAN including the Allocate to Self-function, any manual allocation event, the Get Next function as well as case removal from the WMAN system. These new reports have been made available to all manager.
- Program delivery managers and team leaders are now able to adjust parameters in WMAN, at a Decision Maker Level, in relation to who can and cannot allocate to Self.