

FRAUD CONTROL IN AUSTRALIAN GOVERNMENT AGENCIES

Better Practice Guide August 2004

Attorney-General's Department

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AUDITOR-GENERAL'S FOREWORD

The Australian Public Service has a broad client base and significant levels of expenditure, making the prevention and management of fraud an important issue for sound public sector governance.

Estimates

place the level of fraud at nearly \$6 billion a year,¹ imposing a significant burden on Australian society.

Effective fraud control requires the commitment and involvement of all Commonwealth agencies, employees,

customers and external service providers.

The changing environment in which the public sector operates has increased the opportunity for fraudulent

activity. The availability, and extensive use, of information and communication technologies has provided

opportunities for fraud, particularly identity fraud. Outsourcing, and a greater focus on the contestability of services undertaken by the public sector, have increased the risk of fraud. The growing

convergence

of the public and private sectors, and the increase in cooperative, and/or strategic partnerships, have emphasised the importance of accountability and sound governance structures, including in relation to fraud.

In May 2002, the Minister for Justice and Customs issued the *Commonwealth Fraud Control Guidelines*

(the Guidelines). The Guidelines outline the Government's requirement that agencies put in place a comprehensive fraud control program that covers prevention, detection, investigation and reporting strategies. These Guidelines were issued in recognition of the 'need to update the Commonwealth's Fraud

Control Policy to take account of developments in corporate governance, modern business practices and

developments in fraud control.'²

Recent surveys³ indicate that most agencies do not fully comply with the Guidelines. Particular

problems identified are in the areas of defining and measuring fraud, performing risk assessments, fraud control planning, and fraud control operations and reporting.

This guide aims to support the Guidelines by providing additional information on how to implement them.

This guide is aimed primarily at those who have direct responsibilities for fraud control in Australian Government agencies. However, given that all employees have responsibilities for fraud control, elements of

this guide will be useful to people more generally. Guidance in this publication is not prescriptive and does

not represent legislation. It also takes account of the fact that fraud control arrangements need to be tailored

to the individual agency's circumstances.

The guide has been prepared in consultation with the Attorney-General's Department and should be read in

conjunction with the Guidelines and the APS Values and Code of Conduct.⁴ The Australian National Audit

Office (ANAO) would like to acknowledge the assistance of the Attorney-General's Department and those

agencies which provided material for the case studies and input for other aspects of the guide.

PJ Barrett

Auditor-General

¹ Australian Institute of Criminology, *Counting the Cost of Crime*, April 2003, p. 60. This covers fraud in Australia as a whole, not just against the

Commonwealth.

² Attorney-General's Department, *Commonwealth Fraud Control Guidelines*, May 2002, p. iii.

³ ANAO, Report No. 47, Survey of Fraud Control Arrangements in the APS, 1999–2000 and Report No. 14 *Survey of Fraud Control Arrangements*

in the APS, 2003–04.

⁴ The APS Values and Code of Conduct are prescribed in the *Public Service Act 1999*, (s. 10 and s. 13, respectively).

6 Fraud Control in Australian Government Agencies

ABBREVIATIONS

AFP Australian Federal Police

AGD Attorney-General's Department

AGIS Australian Government Investigation Standards

APS Australian Public Service

APSC Australian Public Service Commission

AQIS Australian Quarantine and Inspection Service

ARPANSA Australian Radiation Protection and Nuclear Safety Agency

ATO Australian Taxation Office

BPG Better Practice Guide

CAC Act *Commonwealth Authorities and Companies Act 1997*

CCPM Case Categorisation and Prioritisation Model

CDPP Commonwealth Director of Public Prosecutions

CEIs Chief Executive Instructions

CEO Chief Executive Officer

DFAT Department of Foreign Affairs and Trade

DIMIA Department of Immigration and Multicultural and Indigenous Affairs

DVA Department of Veterans' Affairs

EFIC Export Finance Industry Corporation

FMA Act *Financial Management and Accountability Act 1997*

NOHSC National Occupational Health and Safety Commission

PS Act *Public Service Act 1999*

QAR Quality Assurance Review

the Guidelines *Commonwealth Fraud Control Guidelines*

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GLOSSARY

Allegation An allegation is a statement or accusation by a person that an offence has or may have been committed. This does not require evidence of the offence or identification of suspects but there is usually some stated basis for the accusation.

Commonwealth Fraud The Guidelines outline the Government's requirement that Australian

Control Guidelines Government agencies put in place a comprehensive fraud control program.

Conflict of interest Is a situation in which the impartiality of an officer in discharging their duties could be called into question because of the potential, perceived or actual influence of personal considerations, financial or other. The conflict in question is between official duties and obligations, on the one hand, and private interests on the other.

Control Control is a process, effected by the governing body of an agency, senior management and other employees, designed to provide reasonable assurance that risks are managed to ensure the achievement of the agency's objectives.

Deterrence Strategies undertaken by an agency designed to discourage people from initiating fraudulent activity.

External fraud External fraud is that committed by someone from outside the agency, for example a customer or third party provider.

Fraud against the Commonwealth is defined, for the purposes of the Commonwealth Guidelines, as dishonestly obtaining a benefit by deception or other means.

Fraud Risk Assessment The application of risk management principles and techniques in the assessment of the risk of fraud to an entity.

Internal fraud Internal fraud is fraud committed by an employee directly against the agency for which they work.

Investigation A search or collation of evidence connecting or tending to connect a person (either a natural person or a body corporate) with conduct that infringes the criminal law or the policies and standards set by the affected entity.

Prevention Strategies that are designed to proactively reduce or eliminate fraud committed against an agency.

Whistleblower A person being a director, manager, employee or contractor of an entity who, whether anonymously or not, makes attempts to make or wishes to make a report in connection with reportable conduct and where the whistleblower wishes to avail themselves of protection against reprisal for having made the report. A whistleblower may or may not wish to remain anonymous.

1 Introduction

The Australian Government has made a coordinated and systematic commitment across the Australian

Public Service (APS) to protect its revenue, expenditure and property from fraudulent activity.

Under the *Financial Management and Accountability Act 1997* (FMA Act), Chief Executive Officers (CEOs)

are responsible for the implementation of a fraud control plan and reporting to the Portfolio Minister on fraud control.

Agencies covered by the *Commonwealth Authorities and Companies Act 1997* (CAC Act) that receive at

least 50 per cent of funding for their operating costs from the Australian Government, or from an Australian

Government agency, are also required to implement the fraud policies of the Commonwealth.⁵ While other

CAC agencies are not obliged to do so, they are strongly encouraged to implement better practice arrangements for fraud control.

Purpose of the guide

The guide examines all aspects of a sound fraud control framework and fraud control operations, that is,

those matters covered by the Guidelines. Not all matters are covered in the same depth because detailed

information is provided elsewhere for some matters.

The intention of the guide is to:

- highlight requirements to implement the Guidelines;
- explain what is involved in implementing them; and
- provide some ideas on ways to do this effectively.

The guide includes many case studies and other practical examples to assist agencies improve their fraud

control practices. The guide recognises that fraud control arrangements may vary according to agency characteristics, especially size, and potential exposures to fraud.

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The guide aims to assist CEOs, audit committees and practitioners control fraud.

•Such CAC agencies are responsible for determining their funding status to ascertain whether the Guidelines apply to them. If they are unsure, agencies should contact the Department of Finance and Administration to check whether they are subject to the Guidelines.

2 Definition of Fraud

The Guidelines define fraud against the Commonwealth as 'dishonestly obtaining a benefit by deception or other means'.⁶

Guideline No. 2 provides a list of behaviours that may be defined as fraud, such as theft, providing false and misleading information to the Commonwealth, failing to provide information when there is an obligation to do so, bribery, and corruption or abuse of office. The benefit obtained may be tangible or intangible. Figure

2.1 provides examples of tangible and intangible benefits from committing fraud.

[Figure 2.1: Examples of tangible and intangible benefits from committing fraud](#)

Tangible benefits

Using a false identity to obtain income
Charging the Australian Government for goods.
Submitting a false application for a visa or passport.

Intangible benefits

Obtaining personal information about a colleague, or others, which you are not entitled to access.
support
Making a false statement under the *Commonwealth* payments. *Electoral Act 1918*.

Using agency internet and email systems for accessing and services that are incomplete or not delivered. and distributing pornography

Source: The Guidelines and ANAO opinion.

To assess whether fraud has been committed the following questions could be asked:

- did the action result in money or benefit (including an intangible benefit) being received by a person who is not entitled to them;
- was the action unlawful;
- was deceit employed; and
- was an attempt made to do any of the above?

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Fraud is 'dishonestly obtaining a benefit by deception or other means'.

•Attorney-General's Department, op. cit., p. 4. In this guide, the mention of fraud refers to fraud against the Commonwealth.

12 2 Definition of Fraud

To appropriately apply the definition of fraud, it would be helpful for agencies to:

- ☛ examine the fraud categories provided by the Guidelines and test actions against them;
 - ☛ consider actions in the broadest possible sense, for example, fraud may encompass more than those cases which are prosecuted;
 - ☛ view potential fraud in all parts of the agency because fraud can occur in all areas not just those where payments are made; and
 - ☛ raise concerns with the Attorney-General's Department or at the Fraud Liaison Forum.⁷
- Agencies are required to report annually to the Attorney-General's Department using the above definition and the categories listed in Guideline 2.2. This means that agencies should record allegations and manage cases of fraud using those categories, in the format indicated by the Commonwealth Fraud Control Guidelines Annual Reporting Questionnaire.

Why the definition matters

The consistent application of this definition across the Australian Government provides the basic framework for identifying, recording and managing fraud. It underpins risk assessments and fraud control plans, and ensures that APS employees are aware of what constitutes fraud. The consistent use of the definition allows the Government to accurately measure fraud and allocate resources accordingly, as well as assisting the APS to treat fraud cases equitably.

What is fraud against the Commonwealth?

Fraud against the Commonwealth includes:

- ☛ fraud perpetrated by an employee against an Australian Government agency or its programs;
- ☛ fraud perpetrated by an agency client or external individual against such an agency or its programs; and
- ☛ fraud perpetrated by a contractor or service provider against an agency or its programs.

Not all fraud committed is fraud against the Commonwealth.

Third party providers undertake a significant amount of work for Australian Government agencies. Providers

include non-government organisations, the private sector, other levels of government or other Australian

Government agencies. If allegations are made in relation to third party providers, agencies will need to determine whether the fraud constitutes fraud against the Commonwealth. Two examples are given in Figure 2.2 of what constitutes fraud against a contractor and fraud against the Commonwealth.

⁷The Fraud Liaison Forum brings together people involved in fraud prevention, detection, investigation and prosecution across Commonwealth agencies.

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Figure 2.2: Fraud against the Commonwealth

Fraud against a third party provider

If a private sector contractor experiences internal fraud, this does not necessarily mean that fraud against the Commonwealth has been committed. The victim of the fraud is more likely to be the contractor and action is most likely to be considered through the application of State/Territory law.

Fraud against the Commonwealth

Where the fraud against the contractor was actually committed against an outsourced Australian Government program, the contractor should report the incident to the responsible agency. If a contractor

or customer commits a direct fraud against the Commonwealth, such as overcharging for services or using a false identity, the agency needs to address this fraud.

Source: ANAO.

Stakeholders may seek to benefit from the misuse of an agency's intangible assets, such as intellectual

property or private information about employees or customers. This involves direct fraud against the Commonwealth and should be treated accordingly. Guideline No. 5.3 states that agencies should ensure that external service providers are aware of and comply with the Guidelines. It is important that the Australian Government's position in relation to fraud control is set out in contracts and/or memoranda of understanding with the third party provider and that rights and responsibilities have been made clear to all stakeholders, including customers.

Small, medium and large agencies

Agencies will generally face different fraud control issues because of the size of the agency and potential exposure to fraud. Irrespective of size, the requirements set out in legislation and the Guidelines apply to all agencies (as discussed in Chapter 1). Agencies also need to be aware of the requirements of their own specific legislation that may impact on fraud control arrangements. Small agencies may need to seek assistance from consultants or larger related portfolio agencies to establish a fraud control framework and to make it work effectively in practice. Large agencies may have problems relating to consistency of approach because of devolved arrangements, among other things, making sound governance structures and fraud awareness-raising crucial to successfully dealing with fraud.

Internal and external fraud

Internal fraud is committed by an employee against the agency for which they work. External fraud is committed by someone from outside the agency. Fraud can also be committed jointly between an employee and someone from outside the agency. For example, employee assistance could take the form of creating or accepting a false identity, unlawfully providing the payment of monies or provision of benefits, or certifying that goods or services have been delivered when they have not. Joint fraud should be treated and reported as two frauds—one internal and one external. Customers, contractors, consultants and non-government organisations can commit fraud against the Commonwealth. Agencies should, as part of their risk assessment, examine the likelihood of external fraud by various stakeholders and implement appropriate contractual, reporting and other arrangements to prevent fraud, and deal with it effectively if it occurs.

There are many common approaches to fraud control, irrespective of the type of agency and whether it is internal or external fraud.

14.2 Definition of Fraud

Handling internal and external fraud may require different arrangements or approaches. For example, different arrangements may be needed to allow employees to report allegations of possible cases of fraud within their agency to those required for customers to report fraud. Some actions by employees may be

breaches of the Code of Conduct rather than fraud and need to be dealt with accordingly. Furthermore, some matters can be fraud but be dealt with as breach of the code (for example, access to information).

Dealing with Code of Conduct breaches promptly may prevent inappropriate behaviour from escalating into criminal activity.

Dealing with internal fraud can assist with a reduction in external fraud by reducing the opportunity for employees to assist external stakeholders to commit fraud.

Outsourcing fraud control

Some agencies, in particular smaller agencies, may need to outsource their fraud control arrangements.

If an agency outsources its fraud control arrangements, it must ensure that:

- the tasks/requirements are clearly spelt out in the contract;
- fraud control plans are based on current risk assessments;
- fraud control plans cover all aspects of the agency, such as its programs;
- the plan is not generic in nature; and
- an in-house contact point is provided for reporting and recording allegations of fraud and a manager is

appointed to be responsible for fraud control overall. While all or part of fraud control arrangements can

be outsourced, agencies remain accountable for meeting their obligations under legislation and the Guidelines.

Figure 2.3 sets out the arrangements for an Australian Government agency that has outsourced most of its

fraud control arrangements.

Figure 2.3: Outsourcing fraud control

The **National Library of Australia** has refined its fraud control requirements to better reflect its actual needs. One agency employee is designated as the main contact point for the contractor and manages the contract, consulting if necessary with in-house contract management expertise. The contact point is responsible for fraud control activity in the agency, has a detailed understanding of the operations and is also Secretary to the Audit Committee. That person closely monitors performance of the contractor against contract requirements.

The National Library of Australia has contracted a single provider. Fraud control outputs covered by the

contract include: the development of a fraud control management policy; a fraud risk assessment and accompanying fraud control plan; fraud investigative guidelines (using recently issued Australian Government Investigation Standards, but tailored to the agency's particular needs); and development and delivery of employee training. Other specifications in the contract also address the following issues:

- the quality and style of presentation of work;
- the level of contractor security clearances;
- the experience and level of qualifications of the individual personnel conducting the consultancy (for example, that employee training is delivered by personnel experienced in delivering training to adults and in investigating fraud);
- the scope of work; and
- a range of fee options, which provide both client and contractor with flexibility about the way services may be delivered.

To provide protection for both parties, a scoping document is signed off by the contractor and the contact point for each significant piece of work.

Source: Information provided by the National Library of Australia.

3 Governance and Ethics

Chief Executive Officers (CEOs) in agencies subject to the FMA Act, and board members of agencies subject

to the CAC Act,⁸ play a key role in ensuring their agencies have appropriate fraud control arrangements, and

in setting the ethical tone.

CEOs in agencies subject to the FMA Act have a number of general governance responsibilities and specific

responsibilities relating to fraud control, including: managing affairs in a way that promotes proper (the efficient, effective and ethical) use of resources;⁹ implementing a fraud control plan for their agency;¹⁰ and

establishing and maintaining an Audit Committee, with the functions and responsibilities required by the

Finance Minister's Orders.¹¹ CEOs must also ensure that their agency adheres to the Guidelines, issued

under Regulation 19 FMA Act (see Figure 3.1).

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⁹ As mentioned in Chapter 1, agencies covered by the CAC Act that receive at least 50 per cent of funding for their operating costs from the Australian Government, or from an Australian Government agency, are required to implement the fraud policies of the Commonwealth.

¹⁰ s.44 FMA Act.

¹¹ s.45 FMA Act.

¹¹ s.46 FMA Act.

CEOs have specific responsibilities for fraud control.

16 3 Governance and Ethics

Figure 3.1: CEO responsibilities for fraud control prescribed in Regulation 19 of the FMA Act.

- Develop an overall fraud control strategy.
- Report agency fraud control initiatives to their Ministers.
- Certify to their Minister/Presiding Officer in their Annual Reports to Parliament that they comply with the Guidelines.
- Complete a fraud annual report for the previous financial year and lodge it with the Attorney-General's Department by 30 September of the next financial year.
- Advise the Australian Federal Police of their high fraud risks.
- Investigate routine and minor fraud.
- Prevent and detect fraud where activity is outsourced.
- Make staff aware of their obligations under the Guidelines, and individual obligations under the *Public Service Act 1999* and APS Values and Code of Conduct.
- Train staff involved in fraud control activities to the appropriate level.

Source: Regulation 19, FMA Act.

This guide provides advice to assist CEOs in complying with these requirements, and for their agency to perform associated tasks to a high standard.

Good governance supports effective fraud control

Fundamental to sound management are governance structures that appropriately reflect the needs of the agency. Figure 3.2 sets out a governance framework for performance and conformance, which encompasses fraud control.

Figure 3.2: Governance treatments for performance and conformance

Source: ANAO, *Public Sector Governance*, Better Practice Guide, July 2003.

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The Better Practice Guide on Public Sector Governance states that:

Broadly speaking, corporate governance refers to the processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.

Public sector governance has a very broad coverage, including how an organisation is managed, its corporate and other structures, its culture, its policies and strategies and the way it deals with its various stakeholders. The concept encompasses the manner in which public sector organisations acquit their responsibilities of stewardship by being open, accountable and prudent in decision-making in providing policy advice, and delivering programs.¹²

Properly used, governance structures will help agencies to manage and reduce fraud and to meet their fraud

control responsibilities. Such structures also provide a mechanism for agency heads to reassure themselves

that their agency is compliant with all Australian Government requirements.

While agencies vary greatly in their organisational complexities, size and client base, in general, they have

a common internal structure which supports the CEO's decision-making. These essential building blocks

include structures relating to legislation, ethics, internal accountability, external accountability and reporting,

and resource management.

Sound corporate structures are particularly valuable in devolved environments or when functions have been

outsourced to ensure consistency of approach to matters such as fraud control. It is not only the structures

that will ensure sound fraud control, but also robust monitoring and reporting arrangements need to be in place. All employees must be committed to making these arrangements work in practice.

Governance structures for fraud control

CEOs have principal responsibility for fraud control within their agencies and for complying with the Guidelines. Appropriate governance structures can assist with this and should be well understood and accepted by all concerned.

The Audit Committee, as a critical element of the governance framework, plays a crucial role in ensuring

appropriate fraud control. In particular, it should oversee the process of developing and implementing a fraud

control plan. The Audit Committee also has a key role to play in establishing a corporate culture of ethics

and accountability, where unethical and fraudulent activity is not tolerated.

In larger agencies, a sub-committee of the Audit Committee may exist which has, as its sole responsibility,

fraud control. Larger agencies, or agencies with higher levels of fraud risk, may also establish a specialised

in-house fraud unit responsible for fraud prevention, detection and investigation activities.

When certain fraud control functions, such as internal audit, detection and investigation have been outsourced, it is important that the agency recognise its governance responsibilities and identify a manager

within the agency to oversight and manage the outsourced functions. All agencies need a well publicised

fraud contact point/employee to be the initial contact for all fraud matters.

¹² ANAO, *Public Sector Governance*, Volumes 1 & 2, Better Practice Guide, July 2003.

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Figure 3.3 outlines a top-level structure and the key operational elements of a fraud control governance framework.

Figure 3.3: Internal fraud control arrangements

Source: ANAO and Attorney-General's Department.

Fraud control governance frameworks are often more complicated in agencies with a high exposure to external fraud, where there is a close relationship between compliance strategies for customers and fraud control. Figure 3.4 illustrates this relationship at the Australian Taxation Office (ATO). It shows different

fraud control strategies, depending on the attitude of customers to compliance.

18 3 Governance and Ethics

Figure 3.3 outlines a top-level structure and the key operational elements of a fraud control governance framework.

Figure 3.3: Internal fraud control arrangements

Source: ANAO and Attorney-General's Department.

Fraud control governance frameworks are often more complicated in agencies with a high exposure to external fraud, where there is a close relationship between compliance strategies for customers and fraud control. Figure 3.4 illustrates this relationship at the Australian Taxation Office (ATO). It shows different

fraud control strategies, depending on the attitude of customers to compliance.

Fraud Policy

AFP High Fraud or

Risk Assessment

Outsourced Fraud

Control

Arrangements

Planning

- Risk Assessment
- Action Plans
- Procedures
- Guidelines

CEO

Audit Committee

(Fraud Sub-Committee)

Contact Point

Operations

- Whistleblowing
- Reports of Fraud
- Hotline
- Case Management
- Investigation
- Response
- Training and Awareness-raising

Agency Annual

Report to Parliament

AGD Fraud Annual

Reporting

Specialist Fraud Unit

Monitoring

- Reporting
- MIS
- Monitoring
- Feedback
- Internal Reporting
- External Reporting

Fraud control governance frameworks are often more complicated in agencies with a high exposure to external fraud, where there is a close relationship between compliance strategies for customers and

fraud control. Figure 3.4 illustrates this relationship at the Australian Taxation Office (ATO). It shows different fraud control strategies, depending on the attitude of customers to compliance.

Spelling out the roles and responsibilities of all employees will support effective fraud control. An understanding of the roles and responsibilities of other Commonwealth agencies, including the Australian Federal Police (AFP) and Commonwealth Director of Public Prosecutions (CDPP), are also fundamental to sound fraud control and these are outlined in Appendix 2.

An ethical culture

Establishing an ethical culture is a key element of sound governance and is an important factor in preventing fraud and helping to detect it once it occurs. The *Public Service Act 1999* (PS Act) highlights the need for an ethical culture. Sections 10 and 13 of the PS Act set out the APS Values and Code of Conduct—these are reproduced in Appendix 3. All APS employees are required to uphold the Values and comply with the Code, with sanctions available for breaches of the Code. Agency Heads and members of the Senior Executive Service are required to uphold and promote the Values. The Public Service Commissioner has been providing directions and practical advice¹³ on how to promote the Values and embed them in agency operations. The Commissioner has also highlighted the need for agencies to comply with the Code of Conduct. The Public Service Commissioner has stated that:¹⁴ There is now a broad interest in values-based management and recognition that, effectively implemented, it offers organisations a long-term ethical framework without unduly constraining flexibility and adaptability...leadership is crucial to the successful operation of values-based management [but that]...values need to be managed strategically and hardwired into systems and processes, to ensure consistency and coherence.

CEOs must set the 'tone at the top', to engender an ethical culture.

¹³ Australian Public Service Commission (APSC), *A Guide to Official Conduct for APS Employees and Agency Heads*, September 2003.

¹⁴ APSC, *State of the Service Report 2002–03*, p. 25.

The guidance provided by the Public Service Commissioner is not intended to be a detailed set of rules, but provides support for employees to make considered decisions consistent with the Code and Values when difficult ethical dilemmas arise. Figure 3.5 provides an example of an agency encouraging an ethical culture, including to combat fraud.

Figure 3.5: Encouraging an ethical culture

The CEO of the **National Occupational Health and Safety Commission (NOHSC)** promotes the efficient, effective and ethical use of Australian Government resources in a statement issued on fraud control. The statement emphasises that employees must behave ethically and be responsible for minimising the risk of fraud. As part of establishing an ethical culture, the CEO strongly encourages all employees to take seriously their responsibilities as APS and NOHSC employees to protect the NOHSC and Australian Government against fraud.

Source: National Occupational Health and Safety Commission, CEO Statement on Fraud.

Agencies may wish to establish their own Code of Conduct to complement that set out in the PS Act (see

Figure 3.6). Agency-specific codes can take account of the particular issues relevant to an individual agency's circumstances and challenges to ethical behaviour.

As well as ensuring that ongoing employees demonstrate ethical behaviour, agencies could use preemployment screening to ensure new employees are of good character. Appendix 4 discusses this in more detail.

Figure 3.6: Agency-specific Code of Conduct

All employees travelling overseas on long term postings and short term missions sign an undertaking that they will comply with the **Department of Foreign Affairs and Trade's** Code of Conduct for Overseas Service. Based on the APS Code of Conduct, it is designed to reinforce the messages in other material, and to provide extra guidance on the expected standards of behaviour for employees working overseas. It assists employees to understand how to adhere to APS standards of ethics and behaviour in situations likely to be encountered in other countries, where behavioural norms may be different. An employee who breaches the Code of Conduct for Overseas Service has by extension breached the APS Code of Conduct and is subject to sanctions applicable under the PS Act. The department requires Locally-Engaged Staff to observe the same standards of conduct, probity and integrity as departmental officers. Locally-Engaged Staff Codes vary from post to post to allow for local law and custom.

Source: Department of Foreign Affairs and Trade.

Conflict of interest

Dealing with conflict of interest is an integral part of establishing an ethical culture. Agencies need to address

the issue of conflict of interest—the conflict between private and public interests.¹⁵ This is a matter that concerns everyone in the APS.

Board members and independent members of agencies' Audit Committees should be required to provide

statements advising of their directorships of other organisations and disclosing any direct or indirect pecuniary interest in any matters considered by the Board or Committee.

Management and other employees also need to be conscious of any possible personal conflict of interest

with their responsibilities and have the means and procedures to declare that interest and have it appropriately addressed.

Contracts and Memoranda of Understanding with external providers should include provisions and/or clauses covering conflict of interest.¹⁶

¹⁵ APSC, 2003, *APS Values and Code of Conduct in Practice: A Guide to Official Conduct for APS Employees and Agency Heads*, op. cit., Chapter 9, pp. 72–76.

¹⁶ The following documents provide information on conflict of interest: ANAO, *Public Sector Governance*, Better Practice Guide, Guidance Paper

No.6, July 2003. Organisation for Economic Cooperation and Development, 2003, *Managing Conflict of Interest in the Public Service: OECD*

Guidelines and Country Experiences, November. APSC, *A Guide to Official Conduct for APS Employees and Agency Heads*, September 2003.

4 Fraud Prevention

There are many aspects—both at organisational and individual levels—to the effective prevention of fraud.

At the organisational level, legislation, the Guidelines and sound governance require agencies to:

- develop and circulate a statement regarding the policy and approach of the agency to fraud control;
- undertake a risk assessment every two years, or when a major change occurs;
- develop a fraud control plan, based on an up-to-date fraud risk assessment; and
- implement processes, procedures and instructions to meet the objectives of fraud control strategies.

These processes and procedures must also provide guidance on detecting and investigating fraud and the

remedies available (see Chapter 6).

Other aspects of the organisational framework, discussed in Chapters 6 and 7, are quality assurance mechanisms and performance information, monitoring and reporting.

At the individual level, there is a need for fraud control awareness-raising for employees, customers and third

party providers. In relation to employees who have direct responsibility for the many aspects of fraud control,

specific training should be provided. For investigations' employees, training must be provided to meet the

competency standards set out in the Guidelines. Awareness-raising and training are discussed in Chapter 5.

Deterrence is another important aspect of sound fraud control. This is discussed later in this chapter.

Fraud policy statement

A fraud policy statement can help employees understand what fraud is, their agency's attitude to fraud and

what to do if they suspect fraud is being perpetrated. As with every aspect of fraud control, leadership is

important—a fraud policy statement should be prepared, signed by the CEO and distributed throughout the

agency. This statement could be part of other documentation, such as Chief Executive Instructions (CEIs).

A better practice policy statement would cover the following:

- the definition of fraud;
- an outline of the agency's position on fraud;
- the protection of revenue and information;
- its commitment to investigating and prosecuting fraud;

4 Fraud Prevention 23

*It is much more
cost effective to
prevent fraud
than to punish it.*

– Joseph T.Wells.

24 4 Fraud Prevention

• a list of employee responsibilities relating to the prevention and reporting of fraud, and the means of

reporting fraud;

- the assistance employees are to provide in fraud investigations;
- assurance that allegations and investigations will be handled confidentially; and
- advice on where further information can be found.

Figure 4.1 provides examples of clear and concise fraud policy statements.

Figure 4.1: Examples of fraud policy statements

The **Australia Council for the Arts**' fraud control policy stresses that the agency considers fraud to be a serious offence and that all employees have an obligation to ensure strong and effective fraud

control. It provides assurance that all cases of fraud will be handled, investigated and dealt with in a professional and prompt manner and provides a contact number to assist employees requiring further information.

Source: Australia Council for the Arts, Fraud Control Plan, July 2002.

The CEO of **Comcare** has produced a guideline on Fraud. It includes the Commonwealth definition of fraud as well as the desired outcome of Comcare's fraud control policy—the elimination, by all possible measures, of fraud against its program. It emphasises the responsibility of all employees to report fraud

and explains processes for doing so. Employees are directed to other relevant material for further information, including the PS Act, *Crimes Act 1914* and the *Comcare Certified Agreement*.

Source: Comcare, CEO Guideline No 2, Fraud, August 2001.

Risk assessment

In accordance with the Guidelines, agencies must undertake fraud risk assessments using:

- ☛ *Australia/New Zealand Standard (AS/NZS 4360:1999) Risk Management*; and
- ☛ *Guidelines for Managing Risk in the Australian and New Zealand Public Sector (HB143-1999)*.

These documents are available from Standards Australia.

The Guidelines require agencies to do a risk assessment every two years. Agencies may use a rolling program

of risk assessment and are encouraged to integrate fraud risk assessments (discussed below) with their

overall business risk assessments.

Where an agency undergoes a substantial change in structure or function, or where there is a significant

transfer of function (for example, in the case of outsourcing) the agency must undertake a new fraud risk

assessment in relation to the changed function.

Risk assessments can be undertaken using in-house resources. It is important to ensure that employees

involved have relevant training and access to all necessary information and an understanding of the areas

to be examined. Where resources are not available in-house, external providers can undertake risk assessments. Chapter 1 discussed issues to consider when outsourcing fraud functions.

Risk management is at the heart of effective fraud control, especially developing risk criteria and implementing effective controls.

...

6 Detection, Investigation and Response

Fraud detection, investigation and response are key elements of the overall fraud control framework. Undertaking these aspects of fraud control effectively provides employees and external stakeholders with

tangible assurance that an agency's assets are protected, perpetrators of fraudulent activity are identified,

and appropriate remedies applied.

This chapter does not discuss in detail, technical aspects of detection, investigation and response since

these rely on specific legislation and procedures. These are referred to in Appendix 8.

Detection

The early detection of fraud is an essential element of an agency's fraud control. There are a number of ways

in which fraud may be detected—for example, by monitoring high risk jobs or areas, when controls are breached, during reviews or internal audits, or when employees notice changes in behaviour patterns by

other staff members.

Figure 6.1 illustrates one agency's approach to detecting fraud.

Figure 6.1: Detecting Fraud

Aboriginal Hostels Limited

This case study focuses on this small organisation's processes to detect any internal fraud, specifically related to accountability of Hostel Managers for cash.

Strong financial controls govern the collection and handling of cash, which is closely tracked. If Hostel Managers do not follow required procedures, for instance, money is missing in returns from a particular hostel, or there are delays in banking, regional office employees advise the Regional Manager. The Regional Manager delegates an employee to conduct a preliminary fact-checking exercise.

On completion of this exercise, if the anomaly is judged to be an administrative mistake, the Regional Manager will deal with the situation. The Hostel Manager will be advised of the anomaly, and of the organisation's view that non-compliance with procedures outlined in the Hostel Operations Manual is viewed as an indicator of fraud. A formal written warning may be issued, and the regional office and Internal Audit both keep records of the incident.

6 Detection, Investigation and Response 37

The Australian

Government

Investigation

Standards

prescribe

procedures for

fraud detection,

investigation and

response.

...

40 6 Detection, Investigation and Response

Figure 6.5: Whistleblowing processes and practices at the Department of Defence

Background

The Defence Whistleblower Scheme deals with allegations of fraud, misconduct or any behaviour that could jeopardise the good reputation of Defence and its members.

Description

Defence has established a whistleblower reporting hotline consisting of a secure, confidential call centre telephone system, supported by a secure automatic answering service for after hours callers.

The Director of the Investigations Unit personally answers incoming hotline calls, or, if multiple calls are received the system automatically transfers the callers to other qualified investigators.

The Investigations Unit also responds to whistleblower reports submitted by e-mail, by ordinary mail or in person. It will examine anonymous reports provided that sufficient information is provided.

The scheme provides protection for whistleblowers. For example: anonymity, identity protection; protection

from harassment and victimization; counselling, assistance or advice; and protection from threats of disciplinary action where such are used to deter the use of the scheme. Administrative, disciplinary or legal action will be taken against anyone attempting to cause detriment to a whistleblower or

a potential whistleblower.

The scheme was widely promoted across Defence, including the mailing of an information pack to all staff, and a roadshow. It has strong commitment and support from senior management.

Outcomes

Defence considers that the scheme provides a valuable safety valve for both the Defence organisation and the broader Defence community. It has enabled many matters to be resolved quickly and has also resolved matters within Defence that otherwise may have been aired with more publicity, and almost certainly with less accuracy, outside.

Source: Information provided by the Department of Defence, May 2004.

The Whistleblower Standard²⁰ provides guidance on implementing a whistleblower protection program. It states

that a whistleblower protection policy should be established and contain the following:

- a clear statement of the entity's commitment to comply with applicable laws and practices;
- a statement that the purpose of the policy is to encourage the reporting of reportable conduct;
- an explanation of the benefits and importance to the entity of having a whistleblower program;
- a clear mechanism by which whistleblower complaints can be made and a statement that all reports will be kept confidential and secure;
- a guarantee that whistleblowers will receive feedback; and
- should stipulate the entity is committed to protecting whistleblowers.

Allegations

An allegation is a statement or accusation by a person that an offence has or may have been committed.

This does not require evidence of the offence or identification of suspects but there is usually some stated

basis for the accusation.

²⁰Standards Australia, *Whistleblower Protection Programs for Entities*, AS 8004–2003.

...

Figure 6.8: Suggested streaming of cases for investigation

Source: Based on Australian Capital Territory Government Integrity Policy and Investigation Standards.

Figure 6.8 indicates that cases with high monetary loss should be referred to the AFP. While there is no unambiguous financial threshold, it is important that potential frauds involving losses in excess of \$5000, or lesser amounts if it undermines a program or service, are investigated with a view to prosecution.

Agencies need to have in place a case management system appropriate to the number and complexity of investigations undertaken. Case management systems should be designed to link with management information systems and be capable of providing statistical and reporting information as required (see Figure 6.9).

6 Detection, Investigation and Response 43

Characteristic

of case

Refer to the Australian Federal

Police

Use formally qualified

investigators

Handle in-house

Complexity Requires detailed analysis of large amounts of evidence, both paper and computer based.

Use of sophisticated technology.

Requires detailed analysis of evidence, both paper and computer based.

Analysis of relevant evidence straightforward.

Potential

damage

High monetary loss.

Significant damage to the reputation of the public service.

Harm to the economy, assets or environment.

Impact upon broader national law enforcement issues (eg, organised crime, money laundering).

Medium monetary loss.

Significant damage to the reputation of the organisation.

Minor monetary loss.

Minor damage to the reputation of the organisation.

Nature of offence

Elements of criminal conspiracy.

Serious breach of trust by an employee.

Likely to involve action before a court or tribunal.

Likely to be limited to administrative action within the agency.

Status of evidence

Preliminary analysis indicates strong possibility of proof beyond reasonable doubt.

Falls within CDPP Prosecution policy.

Preliminary analysis indicates possibility of proof to the level of proof beyond reasonable doubt or balance of probabilities.

Preliminary analysis indicates strong possibility of proof to the level of balance of probabilities.

Scope Involves known or suspected criminal activities in a number of agencies and/or jurisdictions.

Collusion between a number of parties.

More than one party suspected of being involved in the case.

Isolated incident.

Availability of evidence

Evidence is required that can only be obtained by exercise of a search warrant or surveillance.

Evidence is required

that can be obtained
within the agency.
Evidence is required
that can be obtained
within the agency.

Figure 6.8 indicates that cases with high monetary loss should be referred to the AFP. While there is no unambiguous financial threshold, it is important that potential frauds involving losses in excess of \$5000, or lesser amounts if it undermines a program or service, are investigated with a view to prosecution.

Agencies need to have in place a case management system appropriate to the number and complexity of investigations undertaken. Case management systems should be designed to link with management information systems and be capable of providing statistical and reporting information as required (see Figure 6.9).

Remedies

Any fraud control regime must include consideration of its enforcement mechanisms. The Australian Government's policy in relation to prosecution of criminal offences is set out in the Prosecution Policy of the

Commonwealth.²¹ Agencies should consider prosecution in appropriate circumstances and pursue those cases worthy of prosecution. Agencies are expected to pursue vigorously the recovery of monies or property

lost, irrespective of whether a prosecution is undertaken.

Where a prosecution is not undertaken, agencies should consider other available remedies. Agencies with

a range of legislated remedies should develop an enforcement strategy to ensure appropriate use is made

of each remedy. In appropriate circumstances, agencies may use administrative remedies. These can include

action under the PS Act (which covers Code of Conduct matters) or similar mechanisms to pursue financial

and other penalties, demotion and/or dismissal. Employees should be made aware of the remedies that will

be pursued should fraud or breaches of the Code of Conduct occur (see Figure 6.10).

44 6 Detection, Investigation and Response

Figure 6.9: Key elements of a case management system for fraud investigations

A comprehensive case management system means that agencies have complete up-to-date records that allow extensive analysis and reporting.

A case management system should record:

- all allegations to allow any systemic issues to be identified;
- details of cases of fraud so that priorities can be established for treatment;
- all action being taken so that timely and appropriate responses occur, for example evidence being collected, referral to CDPP, allegation not substantiated; and
- all decisions made and, where necessary the reasons for those decisions. This should include a case findings report.

Such a system allows monitoring to be undertaken to identify any problems such as lack of action on particular cases. It also provides the basis for choosing cases for quality assurance.

Source: ANAO.

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Figure 6.10: Types of administrative remedies for internal fraud

Suspension. Recovery action.

Transfer to another area. Counselling.

Demotion. Loss of privileges (for example, recovery allowance).

Termination. Greater scrutiny/increased controls.

Source: ANAO.

It is important that an agency's fraud control statement clearly outlines the agency's commitment to pursuing effective remedies, including prosecution. The statement should be widely publicised as an additional deterrent mechanism.

21 <http://www.cdpp.gov.au/Prosecutions/Policy/>

7 Performance Monitoring and Quality Assurance

Reliable and up-to-date information is essential to sound decision-making. Agencies should have in place systems to manage information gathered about fraud against the agency and internal operational effectiveness.

The type and level of sophistication of any management information system will depend on the size of the agency and the level of fraud it experiences.

Appropriate information provides the basis for monitoring the effectiveness of fraud control and for reporting,

both internally and externally. Agencies are required to report on fraud matters to their Portfolio Minister and

annually to the Minister for Justice and Customs. Agencies are also required to certify in their Annual Report

to Parliament that they comply with the Guidelines. An effective management information system is essential

for sound monitoring and reporting.

Establishing useful performance information is not easy—without information about all aspects of fraud control, agencies cannot be sure that it is being managed effectively and, in particular, will not be in a strong

position to prevent and deter fraud.

Figure 7.1 sets out some examples of performance indicators that aim to capture information about the effectiveness of the overall fraud control framework and its operation. This is not an exhaustive list and agencies

will need to have regard to their specific legislation, business environment and operations when establishing

performance information.

As well as this broader performance information, agencies need to have detailed information on the numbers and types of fraud cases initially reported/alleged, evaluated, investigated and prosecuted. This information should be collated and analysed to identify fraud trends. Agencies should also collect information that allows them to estimate the dollar value of fraud loss as identified through initial investigations. Agencies may also need to have specific indicators for their fraud control arrangements related to their legislative requirements and any contractual or partnership arrangements with third party providers.

46 7 Performance Monitoring and Quality Assurance

Figure 7.1: Examples of fraud control performance indicators

- Timeframes for implementation of strategies/controls are met.
- Ongoing testing of controls show that they are effective in preventing fraud.
- Quality Assurance reviews on aspects of the framework show that fraud is being controlled. For example, risk assessments meet the standard, Fraud Control Plan has been distributed, procedures cover all relevant matters.
- Numbers of reviews which met all standards.
- Allegations are dealt with within agreed timeframe.
- Investigations are undertaken in line with standards, including timeframes.
- Results of investigations and remedies are promulgated to act as a deterrent.
- Acceptance of referrals by CDPP.
- X% of amount of fraud in \$ terms is recovered.
- Awareness is tested through a staff survey and X% of employees understand fraud issues, would know how to report an allegation of fraud.
- Customer education is tested and X% of customers understand their rights and responsibilities in relation to fraud.
- The Audit Committee is satisfied with management reports and management action on fraud matters.
- Fraud trends and changes to levels of fraud within the agency.

Source: Developed by the ANAO from audits and surveys of fraud control and better practice generally.

Collecting and analysing appropriate performance information is important to sound fraud control arrangements and provides a picture of the effectiveness of fraud control. However, measuring effectiveness

is difficult because, for example, increases in the level of fraud may indicate one or more of the following:

that detection strategies are working better; that the amount of fraud has actually increased; and/or that controls have failed.

Monitoring and reporting

Monitoring is particularly important in a devolved environment and in relation to any outsourced fraud control

arrangements to ensure implementation of fraud control arrangements across the organisation and to assist

with the consistency of approach in the treatment of fraud.

Monitoring should not only focus on tracking the treatment of allegations of fraud or the handling of investigations, but should examine all aspects of fraud control. For example, the implementation of strategies to

address risks should be monitored. Feedback from such monitoring can be used to update risk assessments

and to identify new and emerging risks. The implementation of recommendations from any Quality Assurance

Reviews (QARs), fraud investigations and internal and external audits should also be monitored.

Figures 7.2 and 7.3 illustrate the approach of the Health Insurance Commission (HIC) in monitoring fraud

control. This provides a good example of an agency monitoring fraud control performance in a network environment.

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control. This provides a good example of an agency monitoring fraud control performance in a network environment.

Appendices

Appendix 1: Checklist of Better Fraud Control Practices

Definition of fraud

☒ Does the agency use the definition of fraud in the Commonwealth Fraud Control Guidelines?

Fraud prevention

☒ Is information on the Values and Code clearly explained to commencing employees?

☒ Is information on the Values and Code easily available to commencing and ongoing employees?

☒ Has a statement by the CEO been issued promoting values held by the APS and the agency?

☒ Has a Fraud Policy Statement been issued by the CEO outlining the agency's position on fraud?

☒ Has a Fraud Policy Statement been issued by the CEO containing:

– a definition of fraud and agency's position on fraud;

– a list of employees' responsibilities;

– information on obligations of employees to provide assistance during fraud investigations;

– assurance of confidentiality with regard to allegations; and

– advice on where further information can be found?

☒ Has a comprehensive risk assessment been conducted within the last two years?

☒ Did the employees involved in implementing the risk assessment have the necessary information and

understanding on areas they examined?

☒ Have fraud risks been considered in the broader context of overall agency risks?

☒ Has a Fraud Control Plan been developed to minimise identified risks?

☒ Are risk assessments undertaken after substantial changes in agency's structure or function?

☒ Have controls been tested to ensure that they do not hinder the agency's ability to deliver services?

☒ Are controls reviewed on a regular basis to ensure that they remain useful?

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- ⌘ If aspects of fraud control are outsourced:
 - Are there clear contractual arrangements between agency and contractor?
 - Has the agency ensured that the external provider has the appropriate skills and knowledge to provide a risk assessment for the agency?

- ⌘ Are procedures and instructions on dealing with fraud up-to-date and available to all employees?

Awareness-raising and training

- ⌘ Are all employees aware of the role they play in fraud control?
- ⌘ Does fraud awareness-raising cover the following issues?
 - the definition of fraud;
 - agency's Fraud Policy Statement and Fraud Control Plan and any procedures and manuals regarding fraud;
 - things to look out for that may indicate a fraud has been committed;
 - what to do if fraud is suspected;
 - who is responsible for handling allegations and cases of fraud;
 - the role of the AFP and CDPP; and
 - the remedies that are available to be applied when fraud or misconduct is proven.
- ⌘ Do customers have sufficient information to understand their rights and obligations when receiving government payments and services?
- ⌘ Have third party providers been made aware of the Commonwealth's position on fraud control?
- ⌘ Have the employees responsible for fraud investigations undertaken relevant training?
- ⌘ Are training programs and packages developed around identified risks and target the needs of the agency?
- ⌘ Do awareness-raising programs highlight signs that employees should look for that may indicate fraud?
- ⌘ Do evaluations occur after fraud control awareness-raising and training programs to ensure that the goals of courses have been achieved?

Detection, investigation and response

- ⌘ Are the fraud detecting mechanisms currently in place effective?
- ⌘ Are there a number of channels for employees to report incidents of fraud?
- ⌘ Is the reporting procedure outlined in the agency's Fraud Policy Statement and detailed in the Fraud Control Plan?
- ⌘ Is there a system for recording allegations?
- ⌘ Are the employees that conduct investigations appropriately qualified?
- ⌘ Is there a quality assurance review system in place to help identify problems in all aspects of fraud control and operations?

Performance monitoring and reporting

- ⌘ Is there a system in place to manage information gathered about fraud against the agency and internal operational effectiveness?
- ⌘ Do monitoring systems ensure appropriate accountability for fraud control?

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Appendix 2: Commonwealth Agencies with Responsibilities for Fraud Control

Overview

The diagram below outlines the main Commonwealth entities with responsibilities for fraud control in the Commonwealth, and their interactions.

Source: ANAO.

Two agencies that all Commonwealth entities must deal with for investigations are the Commonwealth Director of Public Prosecutions (CDPP) and the Australian Federal Police (AFP). Their roles are discussed below.

Commonwealth Director of Public Prosecutions

The CDPP prosecutes Commonwealth offences and takes related *Proceeds of Crime Act 2002* action. The

conduct of litigation is the visible part of the prosecution function. However, there is considerable work involved in preparing cases for hearing, providing advice and other assistance to investigators, drafting charges, and settling applications for search warrants and other warrants. A lot of work is put into cases

which, for one reason or another, do not proceed or which result in guilty pleas without a trial.

Minister for Justice and Customs

Attorney-General's Department
and Protective Security

Co-ordination Centre

Agencies Covered by Commonwealth Fraud

Control Guidelines

Australian Federal Police Commonwealth Director
of Public Prosecutions (CDPP)

State/Territory

Director of

Public Prosecutions

Fraud Trend Information

Network & Fraud

Liaison Forum

Australian National

Audit Office

Public Service Education &

Training Authority

Agency Minister/
Presiding Officer

Provides referral data and QAR Results

for AGD annual fraud report

Referrals for

prosecutions

serious/complex

fraud, according

to case categorisation

and prioritisation

model

Advice

on fraud

control

issues Annual report

by AGD

on Fraud

(with AFP)

May direct AGD

to review C/W

Fraud Control

Arrangements

in consultation

with AFP

Provides overall

fraud control

policy for C/W

issues fraud

control G/L

Quarterly case

management reports

Yearly report on fraud

information and

processes for AGD

Annual Report

Possible Service

Agreements,

Outposting of

AFP Staff

QAR of Investigations

Annual Advice of Major Fraud Risks

Clarification of Fraud

control guidelines

Can audit fraud control

in Commonwealth entities

Maintains public service training package.
Including fraud prevention, detection
and investigation competencies
Certify in annual report
to Parliament that
agency adheres to G/L
Possible
Memoranda of
Understanding
Referrals for prosecution in
accordance with Prosecution
Policy of Commonwealth
Referrals for Prosecution
Feedback: new policy (Feedback to portfolio
agencies based on annual report)

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Prosecution work requires a high level of liaison with investigators and the investigating agencies. The investigators and the prosecutors each have their own roles to perform, and it is important to ensure that

there is a proper separation of the functions. However the CDPP recognises that, particularly in complex

cases, investigators require advice and support at the investigation stage and that the support is best provided by the lawyers who are going to run any prosecution that results from the investigation.

The CDPP has regional offices in all State and Territory capital cities and sub-offices in Townsville and Cairns.

It has a Head Office in Canberra.

Each CDPP regional office and the CDPP's Head Office have a liaison officer for each Commonwealth agency

that refers briefs to the CDPP. The liaison officers are the first port of call for Commonwealth investigators

who have queries for the CDPP. The CDPP meets regularly at both the national and regional level with agencies that refer significant numbers of matters to the CDPP. The CDPP meets with agencies that refer

less matters on an as needs basis. Each CDPP office has specialist proceeds of crime lawyers.

DPP lawyers regularly participate in training courses for investigators.

The CDPP prosecute in accordance with the *Prosecution Policy of the Commonwealth*. Copies of this public

document are available from the CDPP.

For information about the many issues that arise for investigators when dealing with the CDPP, please refer

to the CDPP's document *General Guidelines in Dealings Between Investigators and the Commonwealth*

Director of Public Prosecutions. Electronic copies of this document are available from the CDPP. This useful

document sets out a wide range of practical information for investigators, covering issues such as seeking

advice from the CDPP, indemnities, attendances at court and witness costs.

Unless otherwise agreed, briefs of evidence should be prepared in accordance with the CDPP's guidelines,

which are set out in Chapter 6 of the Australian Government Investigation Standards. Copies of the CDPP

guidelines are also available from the CDPP's web page at <www.cdpp.gov.au>.

Australian Federal Police

The AFP has the primary law enforcement responsibility for investigating serious and complex fraud against

the Commonwealth. However, the number of such offences identified or reported far exceeds its investigational capacity. To ensure the AFP directs its resources to the matters of highest priority, the AFP

evaluates all matters referred for investigation in accordance with its Case Categorisation and Prioritisation

Model (CCPM).

The CCPM considers a number of factors:

Incident Type. This is a broad description of the matter being referred and relates to the types listed in the AFP's Outcome/Output Statement. The AFP is responsible for investigating a wide variety of incident types, of which 'fraud' is one incident type. The AFP uses a 'cocktail mix' based on a range of factors, including Ministerial Direction and client needs, to determine how much of its resources are directed to investigating each incident type.

Impact. This refers to the perceived impact of the matter on Australian society. With respect to fraud this can range from 'Very High—Economic crime (including money laundering) affecting the whole of government, an agency, valued at more than \$5 million or corruption by a public official' to 'Low—Impacting on an individual only'.

Priority. Priority does not mean importance of the matter, but refers to the type and timeliness of response required by the AFP. Some matters require an immediate and non-discretionary response by the AFP while others are routine.

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Client impact and priority. This is a measure of the importance to the client of the matter under consideration.

For example a 'critical' matter is one that is politically sensitive or goes to central issues of management of an agency or a program. It is most important that clients provide specific relevant information addressing these criteria. If there are multiple referrals it is useful if the agency ranks the matters in order of importance to the agency. If the client considers a new referral more important than its current referrals under investigation by the AFP this should also be highlighted.

Importance to the AFP. This is a measurement of the extent to which a particular matter matches the AFP's role as defined by its Ministerial Direction and other Government policy such as the Commonwealth Fraud Control Guidelines.

Resources, budget, expected duration and property/fraud value are also considered. However, it is largely the combination of Impact and Priority ratings which determine whether a matter is accepted for investigation.

The AFP also helps Commonwealth agencies in their fraud control by:

- the provision of forensic and technical assistance;
- the execution of search warrants;
- outposting AFP members to client agencies; and
- conducting Quality Assurance Reviews of agency investigation to ensure agency investigations comply

with the standards set out in the Australian Government Investigation Standards.

All requests for AFP assistance should be made to the local AFP Operations Monitoring Centre with the

exception of politically sensitive matters. Politically sensitive matters should in the first instance be referred

by the relevant Minister or Department to the AFP's Minister (currently the Minister for Justice and Customs).

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Appendix 3: APS Values and Code of Conduct

PUBLIC SERVICE ACT 1999

SECTION 10 APS Values

(1) The APS Values are as follows:

- (a) the APS is apolitical, performing its functions in an impartial and professional manner;
 - (b) the APS is a public service in which employment decisions are based on merit;
 - (c) the APS provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves;
 - (d) the APS has the highest ethical standards;
 - (e) the APS is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public;
 - (f) the APS is responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programs;
 - (g) the APS delivers services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public;
 - (h) the APS has leadership of the highest quality;
 - (i) the APS establishes workplace relations that value communication, consultation, co-operation and input from employees on matters that affect their workplace;
 - (j) the APS provides a fair, flexible, safe and rewarding workplace;
 - (k) the APS focuses on achieving results and managing performance;
 - (l) the APS promotes equity in employment;
 - (m) the APS provides a reasonable opportunity to all eligible members of the community to apply for APS employment;
 - (n) the APS is a career-based service to enhance the effectiveness and cohesion of Australia's democratic system of government; and
 - (o) the APS provides a fair system of review of decisions taken in respect of APS employees.
- (2) For the purposes of paragraph (1)(b), a decision relating to engagement or promotion is based on merit if:
- (a) an assessment is made of the relative suitability of the candidates for the duties, using a competitive selection process; and
 - (b) the assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required for the duties; and
 - (c) the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the duties; and
 - (d) the assessment is the primary consideration in making the decision.

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PUBLIC SERVICE ACT 1999

SECTION 13 The APS Code of Conduct

- (1) An APS employee must behave honestly and with integrity in the course of APS employment.
- (2) An APS employee must act with care and diligence in the course of APS employment.
- (3) An APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment.
- (4) An APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws. For this purpose, Australian law means:
 - (a) any Act (including this Act), or any instrument made under an Act; or
 - (b) any law of a State or Territory, including any instrument made under such a law.
- (5) An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.
- (6) An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.
- (7) An APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or

apparent) in connection with APS employment.

(8) An APS employee must use Commonwealth resources in a proper manner.

(9) An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.

(10) An APS employee must not make improper use of:

(a) inside information; or

(b) the employee's duties, status, power or authority; in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.

(11) An APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.

(12) An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.

(13) An APS employee must comply with any other conduct requirement that is prescribed by the regulations.

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Appendix 8: Legislation, Policies and Guidelines Affecting Fraud Control in the Commonwealth Legislation

Auditor-General Act 1997

Commonwealth Authorities and Companies Act 1997

Crimes Act 1914

Criminal Code Act 1995

Director of Public Prosecutions Act 1983

Evidence Act 1995

Electronic Transaction Act 1999

Financial Management and Accountability Act 1997

Freedom of Information Act 1982

Privacy Act 1989

Proceeds of Crime Act 2002

Public Service Act 1999

Telecommunications (Interception) Act 1979

Telecommunications (Interception) and Listening Device Amendment Act 1997

Policies and guidelines

Australian Government Investigation Standards Attorney-General's Department and Australian Federal Police

Commonwealth Fraud Control Guidelines Attorney-General's Department

General Guidelines in Dealings Between Commonwealth Director of Public Prosecutions

Investigators and the Commonwealth Director

of Public Prosecutions

Australian Government Information Technology Defence Signals Directorate Security Manual

Prosecution Policy of the Commonwealth Commonwealth Director of Public Prosecutions

Protective Security Manual Attorney-General's Department

Search Warrants Manual Commonwealth Director of Public Prosecutions

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Is there a system in place to manage information gathered about fraud against the agency and internal operational effectiveness?

☞ Do monitoring systems ensure appropriate accountability for fraud control?