



Complexity Ratings

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1. Background

Prosecutions vary greatly in type and complexity. The CDPP categorises prosecutions and related work into different levels of complexity in order to provide meaningful performance measures and support appropriate file allocation.

Complexity 1 and 2 matters are generally those which may be undertaken by less experienced staff with little supervision. Complexity 3 matters are generally those which will require the involvement of a more experienced prosecutor and external counsel from the private bar. Complexity 4 matters are generally those which will require the support of a team of prosecutors, usually made up of a mix of senior and less experienced prosecutors, together with external counsel from the private bar.

Broadly speaking, Complexity 3 and 4 matters will require a greater level of management oversight by an experienced Senior Federal Prosecutor (SFP) or Prosecution Team Leader (PTL).

It is important to apply the complexity levels uniformly both within and across Practice Groups.

All matters referred to the CDPP for advice or consideration of prosecution must a complexity rating recorded.

On occasion, the complexity rating may change over the course of the prosecution because circumstances relevant to the complexity of the prosecution changes. Any change to a complexity rating of a prosecution should be approved by a Branch Head or Practice Group Leader.

2. The four complexity levels

The four complexity levels are defined as:

- Complexity 1 - routine prosecution
- Complexity 2 - more difficult prosecution
- Complexity 3 - very difficult prosecution
- Complexity 4 - extremely difficult prosecution

3. Examples of typical cases for each complexity level

This document provides examples of typical cases for each complexity level. These examples are intended to provide general guidance and are not exhaustive. Additional factors, irrespective of crime type, that may be taken into account when assigning a complexity level include:

- the size and volume of the evidence
- the volume and complexity of technical or forensic evidence
- the form in which the evidence is provided in the brief (electronic or paper based)
- the number of charges and the duration of the offending
- the number of accused
- the number of witnesses (including expert witnesses)
- the number of victims and whether they have special needs (vulnerable, require interpreters)
- whether the offence is novel or not commonly prosecuted
- whether the matter raises complex legal issues

These additional factors may justify increasing the complexity level of a matter.

- **Complexity 1 - routine prosecution**

1. Straight forward Centrelink files, including minor Criminal Code matters, often with admissions and a strong prosecution case.
2. Less complex taxation matters of a regulatory nature, such as failure to lodge returns, including summary hearings.
3. Drug prosecutions involving the possession of small quantities of drugs under state or territory legislation and less complex importation cases of the "airport bust" kind involving a small quantity of drugs, usually with full admissions and a strong prosecution case.
4. Regulatory migration matters (e.g. false statements in support of application for permanent residence for self or another) referred by ABF.
5. Australia Post minor fraud; theft of letters, hinder or tamper with mail.
6. Failing to declare currency under the AML/CTF Act.
7. Prosecutions under the Census and Statistics Act and prosecutions for a failure to vote under the Electoral Act.
8. Counterfeit currency matters involving admissions and/or a strong case and small amounts of currency.
9. Minor medifraud prosecutions involving false claims by a patient.
10. Minor Civil Aviation Act prosecutions.
11. Regulatory Office of Registrar of Indigenous Corporations (ORIC) prosecutions.
12. Simple browsing offences involving Tax and Centrelink officers with admissions and strong crown case.

13. Breach of recognisance proceedings in a court of summary jurisdiction.
14. Routine AFSA prosecutions [e.g. s.54 and s.267B].
15. Minor National Measurements prosecutions.
16. Straight forward Federal community policing prosecutions with admissions.

- **Complexity 2 - more difficult prosecution**

1. More complex Centrelink matters. These may involve circumstantial evidence, without admissions, or may be matters investigated by the Australian Federal Police. Cases may involve the use of search warrants, multiple identities and use of more serious Criminal Code offences. These may be member of couple cases.
2. Fraud matters involving Government departments which may involve search warrants, substantial document management, moderate numbers of witnesses and a quantum usually \$50,000 or above.
3. More complex drug matters, usually involving marketable or commercial quantities of drugs. Typically, these matters may involve an importation through the airport or the mail system. Such matters may involve some reliance upon telephone intercept or listening device material.
4. More complex migration matters, involving sham marriages; usually involving low level participants and intermediaries.; Harboursing; working in breach of a visa condition (particularly when investigated by AFP following a human trafficking investigation).
5. Straight forward immigration detention disturbance matters.
6. Straight forward Trademark and Copyright cases e.g. commercial sale of T-shirts, shoes, DVDs, CDs or games.
7. Taxation prosecutions involving unregistered tax agents or registration fraud or false statements in returns.
8. Fisheries Act prosecutions, excluding boat/catch forfeiture cases.
9. Prosecutions under the Great Barrier Reef Marine Park legislation involving multiple defendants, joint enterprise issues or commercial fishing.
10. Bankruptcy cases involving obtaining credit and failing to disclose bankruptcy, failing to disclose property to a trustee or a false declaration in the Statement of Affairs.
11. Failing to keep proper accounts.
12. Straight forward investor frauds, Ponzi schemes and other less complex matters referred by ASIC. These matters would include, for example, managing a corporation whilst disqualified, providing false statements to ASIC and referrals for offences against the National Consumer Credit Protection Act 2009.
13. Straight forward breaches of directors' duty cases, usually involving a moderate number of witnesses and more than \$50,000 including cases with ASIC examination of witnesses.
14. Straight forward matters involving child abuse material.

15. Straight forward Commonwealth child sex offence prosecutions involving transmit indecent communications to person under 16, grooming or procuring and straightforward isolated offending of using carriage service for sexual activity with a person under 16.
16. More complex medifraud prosecutions involving
 - frauds by patients committed over several months or years, may involve large sums of money, may involve multiple false identities; or
 - frauds by employees of Medicare or health care service providers involving multiple false claims, may involve false identities.
17. More complex Australia Post frauds, usually involving post office licensees, may involve large sums of money.
18. Straightforward prosecutions under the Biosecurity Act 2015 and the Environment Protection and Biodiversity Conservation Act 1995.
19. Prosecutions involving theft or unauthorised disposal of property belonging to the Commonwealth.
20. Straightforward prosecutions from TGA, Departments of Environment, Health, Industry, Employment and Education.
21. Straightforward GBRMPA, AMFA, AMSA and ORIC matters.
22. Straightforward prosecutions concerning ACIC, ACLEI or ACCC examinations, including giving false or misleading information or failure to answer questions.
23. More complex Federal community policing prosecutions, including assaults on a person, serious property damage, compromise to the safety of a crew, passengers or the public.
24. Straightforward cybercrime prosecutions, involving improper use of carriage service, usually with admissions.
25. Straightforward money laundering matters, e.g. s400.9 prosecutions.
26. Straightforward tobacco prosecutions
27. Straightforward firearms prosecutions

- **Complexity 3 - very difficult prosecution**

1. Centrelink cases involving frauds of an extensive nature which may occur over many years; involve multiple identities and circumstantial evidence; more complex member of couple cases; matters involving identity fraud; dead beneficiary cases; assets matters; or very large - scale internal fraud.
2. Fraud on Government departments involving complex evidence; extensive amount of material seized by search warrant, may involve circumstantial evidence and very large amounts of money.
3. Drug matters referred from AFP, ACIC or state and territory police services involving extensive use of telephone intercepts and surveillance devices; may involve a significant number of defendants and a large quantity of narcotics; may involve accomplices and circumstantial

evidence; may involve more complex precursor matters involving extensions of liability; may involve multiple importations.

4. Involved Migration cases usually having multiple co-offenders and multiple marriage scams; may involve indemnities and undertaking under s16AC Crimes Act. Prosecution aimed at principals such as marriage celebrants, migration consultants or solicitors.
5. People smuggling cases, usually involving masters, crew and intermediaries. More involved people smuggling cases, usually involving organisers.
6. More complex money laundering prosecutions.
7. Nursing Home fraud involving large amount of documentation and usually involving indemnified witnesses.
8. Official corruption prosecutions.
9. Prosecutions under the Competition and Consumer Act 2010 e.g. false labelling/description of goods as to country of manufacture or quality.
10. The majority of air navigation prosecutions where there is complex technical evidence such as in cases of low flying aerobatics or dangerous flying.
11. More complex Medifraud cases, usually involving prosecution of doctors, dentists or other health care professionals.
12. Work health and safety prosecutions.
13. Prosecutions relating to internationally protected persons or property.
14. Insider trading matters.
15. Market manipulation matters.
16. Breaches of directors' duties cases involving significant volume of examination transcripts, complex accounting evidence, indemnified witnesses, circumstantial evidence and often involving very large amounts of money.
17. More complex investor frauds involving over \$1,000,000.
18. Commonwealth child sex offence prosecutions involving mandatory sentences
19. More complex Commonwealth child sex offence prosecutions, usually involving using carriage service for sexual activity with a person under 16, complex grooming or procuring activity, child sex offences outside Australia, or offending involving complex technical issues and/or an extensive number of child victims.
20. More complex prosecutions involving child abuse material where there may be a large number of charges and victims, lack of or limited admissions, complex forensic evidence or technical issues, such as those arising from changes in legislation.
21. Slavery, slavery like offences and human trafficking prosecutions.
22. Clean energy prosecutions.
23. More complex Criminal Code prosecutions.

24. Insolvent trading prosecutions.
25. Large scale frauds against Australia Post by licensees, usually involving complex evidence, extensive amount of material seized by search warrant, circumstantial evidence and very large amounts of money.
26. More complex prosecutions under the Biosecurity Act 2015 and the Environment Protection and Biodiversity Conservation Act 1995 involving large scale import, export, possession or illegal commercial activity.
27. More complex fisheries prosecutions, including domestic fisheries prosecutions involving complex evidence concerning the regulatory scheme or utilising Criminal Code offences. These matters may also involve large scale fishing ventures in Australia's territorial waters.
28. More complex AMSA, AFSA and ORIC matters
29. Prosecutions involving complex evidentiary issues, such as parliamentary privilege.
30. More complex copyright or trademark prosecutions.
31. More complex cybercrime prosecutions, such as interference with telecommunications systems, unauthorised access or modification prosecutions or denial of service attacks.
32. More complex immigration detention centre disturbance matters.
33. Counter-terrorism prosecutions.
34. Organised crime prosecutions involving criminal activity by members of criminal groups or syndicates for commercial gain.
35. More complex prosecutions concerning ACIC, ACLEI or ACCC examinations.
36. War crimes prosecutions.
37. More complex tobacco prosecutions.
38. More complex firearms prosecutions.

- **Complexity 4 - extremely difficult prosecution**

1. Major tax or other Commonwealth fraud or commercial fraud involving execution of search warrants and gathering of evidence overseas and within Australia; huge volumes of material, complex factual and legal issues, often involving millions of dollars; normally requiring more than one case officer.
2. Drug matters involving investigations by of AFP, ACIC or state or territory police possibly over several years; very extensive use of surveillance and TI and SD material; usually involves many times the commercial quantity of drugs, large, organised operation and of a size and complexity that will normally involve the use of a prosecution team.
3. More complex counter-terrorism prosecutions.
4. Cartel cases.

5. More complex insider trading cases and more complex insolvent trading cases, usually involving multiple accused.
6. More complex breaches of directors' duties cases involving millions of dollars and multiple accused.
7. More complex market manipulation matters, involving multiple accused
8. Foreign bribery prosecutions.
9. More complex organised crime prosecutions.
10. Significant Commonwealth child sex offence prosecutions involving complex factual and/or legal issues, or complex forensic evidence, including administrator offences and matters involving a significant number of charges and/or child victims.
11. More complex slavery, slavery like offences and human trafficking prosecutions.
12. More complex war crimes prosecutions.