



Complexity Ratings

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1. Background

Prosecutions vary greatly in type and complexity. The CDPP needs to categorise prosecutions and related work into different levels of complexity in order to provide meaningful performance measures.

Routine prosecutions and those of moderate complexity should be undertaken by junior, less experienced staff, rather than more senior staff. Very difficult and extremely difficult prosecutions generally require more experienced prosecutors to be involved. Broadly speaking, the more complex and difficult a matter is, the more experienced and senior the prosecutor required. However, in determining the allocation of a matter (including new referrals) many factors, in addition to the complexity of a file, are taken into account. These factors include that:

- a) our supervisory structure positions the Prosecution Team Leader (PTL) as leading more complex prosecutions assigned to junior lawyers;
- b) teams of lawyers consisting of senior and junior lawyers will often work together on complex cases;
- c) major decisions will be escalated to the Branch Head and Practice Group Leader as mandated by the Decision Making Matrices (DMMs); and
- d) lawyers' development is optimised by exposure to complex work early in their careers.

It is important to apply the complexity levels uniformly both within and across Practice Groups. All prosecutions should have a complexity rating recorded.

Each prosecution will have an overall complexity rating. On occasion, the complexity rating may change over the course of the prosecution because the complexity of the prosecution changes. Any change to a complexity rating of a prosecution should be made by a Branch Head or Practice Group Leader.

It should be noted that a matter going to trial on indictment does not automatically lead to an increase in the complexity of the matter to a complexity 3. The trial may only add to the resourcing of the matter rather than the complexity. The additional resourcing required will be evident from the workload tool rather than the complexity rating.

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

Examples of typical cases for each complexity level are:

- **Complexity 1 - routine prosecution**

1. Straight forward Centrelink files, including minor Code matters, 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 possession of small quantities of drugs under State 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 (eg false statements in support of application for permanent residence for self or another) submitted by DIBP.
5. Australia Post minor fraud; theft of letters, hinder or tamper with mail.
6. Failing to declare currency under the AML Act.
7. Prosecutions under the Census and Statistics Act and 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 [eg. 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 investigated by the Australian Federal Police. Cases may involve search warrants, multiple identities and use of more serious Code offences. It may involve 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. May typically involve an importation through the airport or the mail system.. 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 Trade Marks and Copyright cases eg. 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, 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 access of child pornography material
15. Straightforward child exploitation prosecutions involving grooming or procuring
16. More complex medifraud prosecutions involving
 - o frauds by patients committed over several months or years, may involve large sums of money, may involve multiple false identities; or
 - o 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 Quarantine Act 1908 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 prosecutions concerning ACC, ACLEI or ACCC examinations, including giving false or misleading information or failure to answer questions
22. 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.
23. Straightforward cybercrime prosecutions, involving improper use of carriage service, usually with admissions
24. Straightforward money laundering matters, e.g. s400.9 prosecutions

- **Complexity 3 - very difficult prosecution**

1. Centrelink cases involving fraud of an extensive nature over many years; 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 arising from AFP or ACC investigations containing extensive use of TI and LD material; 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 s.21E 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 eg. false labelling/description of goods as to country of manufacture or quality.
10. The majority of air navigation prosecutions where there are difficulties in the evidence eg. 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.
15. Market manipulation.
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. More complex child exploitation prosecutions involving grooming or procuring involving complex technical issues and/or an extensive number of child victims.
19. More complex prosecutions involving access of child pornography material, lack of admissions or complex technical issues
20. Slavery, slavery like practices and human trafficking prosecutions
21. Clean energy prosecutions
22. More complex Code prosecutions
23. Insolvent trading prosecutions
24. Large scale frauds against Australia Post by licensees involving complex evidence; extensive amount of material seized by search warrant, may involve circumstantial evidence and very large amounts of money
25. More complex prosecutions under the Quarantine Act 1908 and the Environment Protection and Biodiversity Conservation Act 1995 involving large scale importations/exportations/possession or illegal commercial activity
26. More complex fisheries prosecutions including domestic fisheries prosecutions involving complex evidence concerning the regulatory scheme or utilising Code offences, may also involve large scale fishing ventures in Australia's territorial waters,
27. Prosecutions involving complex evidentiary issues, such as parliamentary privilege
28. More complex copyright or trademark prosecutions
29. More complex cybercrime prosecutions, such as interference with telecommunications, unauthorised access or modification prosecutions or denial of service attacks
30. More complex immigration detention centre disturbance matters
31. Counter-terrorism prosecutions
32. Organised crime prosecutions
33. More complex prosecutions concerning ACC, ACLEI or ACCC examinations

- **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 ongoing investigations of AFP and/or ACC over possibly several years; very extensive use of surveillance and TI and LD material; usually involves many times the commercial quantity of drugs, large organised operation and of a size and complexity that will normally involve more than one case officer.
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