



Matters to be referred to the Director

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1. Matters to be referred to the Director for decision

A number of important and sensitive matters involving the performance of the Director's statutory functions must be referred to the Director for decision. These are set out in the decision-making matrices.

Certain other decisions must also be referred to the Director which may affect the overall management of the Office. These are:

- a proposal to bring a witness from overseas related to sensitive or high profile matters, where multiple overseas witnesses will be required, or where the total cost of overseas witness travel, accommodation, allowances and daily fees is greater than \$10,000 per witness or \$20,000 per matter for each phase of the prosecution.
- a proposal to extradite a person from overseas;
- a proposed prosecution which may involve matters of national financial and economic policy, such as under the *Banking Act 1959*;
- actions under the *Proceeds of Crime Act 2002*¹ or related legislation where property is sought to be confiscated or a pecuniary penalty order sought and the value of that property or pecuniary penalty order exceeds \$5,000,000;
- settlement of actions under the *Proceeds of Crime Act 2002* where the value of property to be confiscated or the pecuniary penalty order sought exceeds \$5,000,000.00;

¹ In 2012 primary responsibility for taking action under the POC Act 2002 passed to the Commissioner of the Australian Federal Police. However the CDPP remains responsible for proceeds of crime action under the POC Act 2002 where either forfeiture or a pecuniary penalty order is sought on conviction and there is no restraining order in force.

- a proposed prosecution where action could be taken under the *Crimes (Superannuation Benefits) Act 1989*;
- a proposal to conduct proceedings under section 112AH of the *Family Court Act 1975*.

2. Politically Sensitive Matters

The CDPP occasionally deals with matters of great political sensitivity, either for Australia's external relations or internal domestic politics. Examples (not an exhaustive list) include:

- 'no bill' applications;
- offences under the *Crimes (Foreign Incursions and Recruitment) Act 1978* (which also requires the consent of the Attorney-General);
- prosecutions of major taxation offences; or,
- a proposal to prosecute a politician for Commonwealth offences.

Practice Groups must inform the Director of these matters and, in appropriate matters, consideration will be given to whether the Attorney-General or his/her Department needs to be briefed.

3. Significant Cases

All cases within the different branches of the DPP are subject to supervision through the management structures in those branches. The degree of supervision required involves judgment about

- the importance;
- complexity;
- potential ramifications of a case, and
- the experience and expertise of the allocated case officer.

Experience has shown that certain types of cases often prove to be more difficult and/or to have greater ramifications than first thought. Some of these significant cases will be obvious from their size and complexity. Others may be more difficult to identify initially but will become clear as the case develops. Significant cases require closer supervision including, where necessary, appointing a review officer to look at the case in some detail, and notification to Head Office.

The following list raises factors to be taken into account in making judgements about supervision. It is not intended to provide a rigid formula. The applicability of and weight to be given to a factor will depend on the circumstances of each case.

Factors that should be considered in deciding whether cases fall into the 'significant' case category include:

- (i) the size and complexity of the case;
- (ii) cases which break new ground, for example, by being the first case brought under new and/or unusual legislative provisions;
- (iv) cases which may have an impact on our relationship with another agency;
- (v) cases involving high profile defendants, victims or witnesses; cases which are politically sensitive because of the identity of the defendant and/or the subject matter; or cases which for any other reason seem likely to attract close attention from the press, the Government and/or Parliament;
- (vi) cases where the charges require the consent of another to the institution or continuation of a prosecution, whether or not the consent power has been delegated to the DPP.

Cases which fall within the following categories must be marked as a “significant matter” in CRIMS:

- matters where there is significant media interest in the matter
- matters involving significant national security issues or potential issues
- matters that are significant because of political interest or potential interest in the matter
- test cases on a point of law, which are significant because of the nature of the test case