



Computer Browsing offences under the Criminal Code

Instruction Number: 2

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1. Computer Browsing offences are included in the Criminal Code under section 478.1.
2. Where an officer in an agency such as the Centrelink or the ATO unlawfully obtains access to confidential information, the policy of the CDPP in deciding whether to prosecute is guided by the following principles, which are to be read in conjunction with the public interest criteria of the Prosecution Policy of the Commonwealth:
 - 2.1 it is not DPP policy to automatically prosecute every case where it can be shown that an employee has unlawfully accessed or used confidential information. Each case must be considered on its merits in accordance with the Prosecution Policy Statement to determine whether prosecution would be in the public interest;
 - 2.2 in determining where the public interest lies, it is relevant to have regard to the public interest in protecting confidential information and in showing that the misuse of confidential information will be treated seriously;
 - 2.3 it is also relevant to have regard to the offender's motives (whether they can be formally proved or not) and the impact (if any) on the person to whom the information relates;
 - 2.4 as a general rule prosecution will be the appropriate response in any case where the offender acted for financial, commercial or political gain; for the purpose of adversely affecting the operations of the agency; or for the purpose of causing harm, loss or prejudice to another person.
3. It is also relevant to have regard to traditional matters such as the prevalence of the alleged offences, the availability of other mechanisms to control the conduct, whether prior warnings have been ignored, and the personal circumstances of the alleged offender.

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