



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Mr Julian Hill MP
Chair
Joint Committee of Public Accounts and Audit
PO Box 6021
Parliament House
Canberra ACT 2600

By email: jcpaa@aph.gov.au

15 March 2024

Dear Mr Hill

Inquiry into Probity and Ethics in the Australian Public Sector

I refer to your request for answers as to how public sector entities can best build a culture that fosters integrity and probity, relevant metrics and ways by which this can be measured, and leadership accountability for an entity's culture. We provide the below response.

Introduction

ASIC is committed to meeting the high integrity and probity standards expected of Australia's integrated corporate, markets, financial services and consumer credit regulator. Demonstrating a foundation of integrity and probity in is fundamental in ASIC's ability to deliver our vision for a fair, strong and efficient financial system for all Australians.

ASIC's [values](#) are accountability, professionalism and teamwork, and we seek to be a confident, ambitious and modern regulator in delivering our vision.

ASIC's [code of conduct](#) states our commitment to act with professionalism and integrity and helps guide our people to make the right choices and decisions when performing their roles. Every ASIC team member has a part to play in maintaining ASIC's high standards of integrity and that means speaking up when they see something that isn't right through our Speak Up reporting platform, where concerns can be raised easily and confidentially.

The Commission has a commitment to ensuring our culture is consistent with our values and vision. ASIC conducted a culture and engagement survey in late 2023. Strong themes arising from that survey included that ASIC team members are deeply committed to our purpose and have a high level of personal integrity.

Question 1 - What is culture and how can entities best build a culture that fosters integrity and probity?

Culture is the shared values, norms and expectations that govern the way people approach their work and interact with each other. It includes the behaviours people think they are expected to demonstrate.

In order to foster a culture which values integrity, agencies leaders at levels need to demonstrate to their people and stakeholders that those qualities are expected of all team members across the agency.

We note with interest and recommend the ANAO's report *Lessons on Managing Probity in an Australian Government Entity*¹, which includes as its first element the need to promote a culture that supports probity through providing leadership, communicating often, modelling good behaviours, instilling a probity culture and reporting regularly.

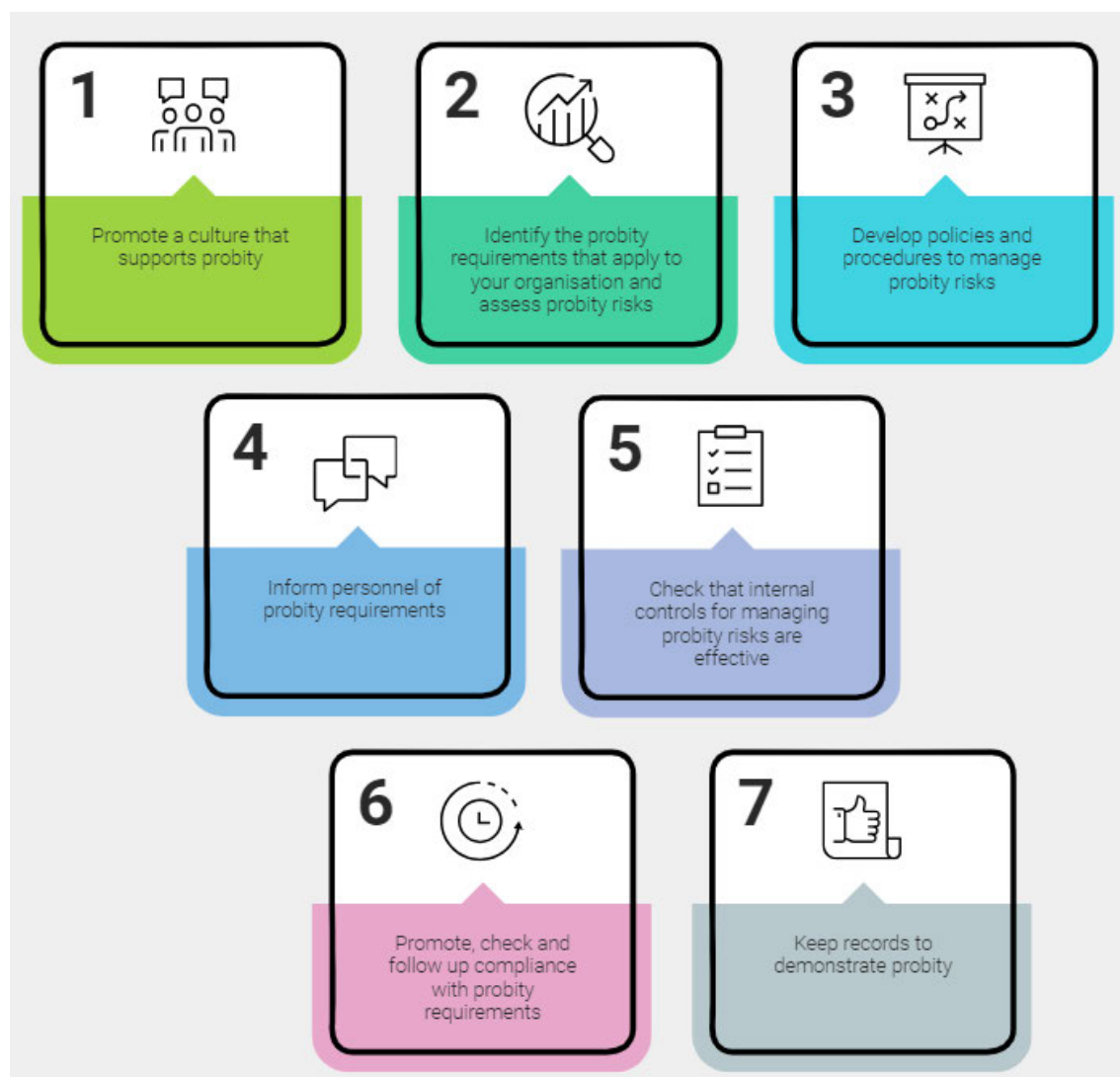


Figure 1: Lessons for managing probity (ANAO)

¹ See [Probity Management: Lessons from Audits of Financial Regulators](#)

The ANAO also noted there is both collective and individual responsibility for promoting and maintaining probity.

How ASIC builds a culture of Integrity and Probity

ASIC sets an integrity and probity expectation for all team members by:

- clearly communicating that team members must act with integrity in the code of conduct and including in all team members' performance agreement the need to demonstrate ASIC's values,
- providing clear integrity-related policies and procedures² which are regularly updated,
- requiring staff to regularly review these policies and attest that they have done so, after understanding them as part of their induction at ASIC upon commencement,
- tracking and following up on team member completion of training requirements³,
- addressing instances where team members have not complied with the code of conduct, policies or procedures,
- requiring team members to notify ASIC of behaviours which don't meet ASIC's expectations even when it doesn't directly affect them, and providing a safe and anonymous way for them to do so, and
- having robust internal audit and risk management frameworks which provide assurance to the Chair and the Commission that ASIC's control frameworks to manage integrity and probity risks are effective.

These elements sit within a broader Integrity Management Framework, overseen by an Executive Integrity Committee that makes recommendations to ASIC risk committees (at senior executive and at Commission level) in relation to material integrity risks and issues and the performance of ASIC's Speak up program.

In terms of acting according to the intent rather than just the letter of the law, ASIC's [code of conduct](#) specifically requires team members to go further than simply complying with the law and policies. As shown in Figure 2 below, when making decisions the code requires team members to consider factors broader than whether the decision complies with legislation.

² Code of conduct, conflicts of interest, management of key regulatory risks including financial trading, senior executive remuneration, probity in procurement, corporate credit card expenditure, gifts, benefits and hospitality, fraud and public interest disclosures. See the ANAO's report on [Probity Management in Financial Regulators – ASIC](#)

³ As at December 2023 mandatory training completion rates were 93% (target 90%).

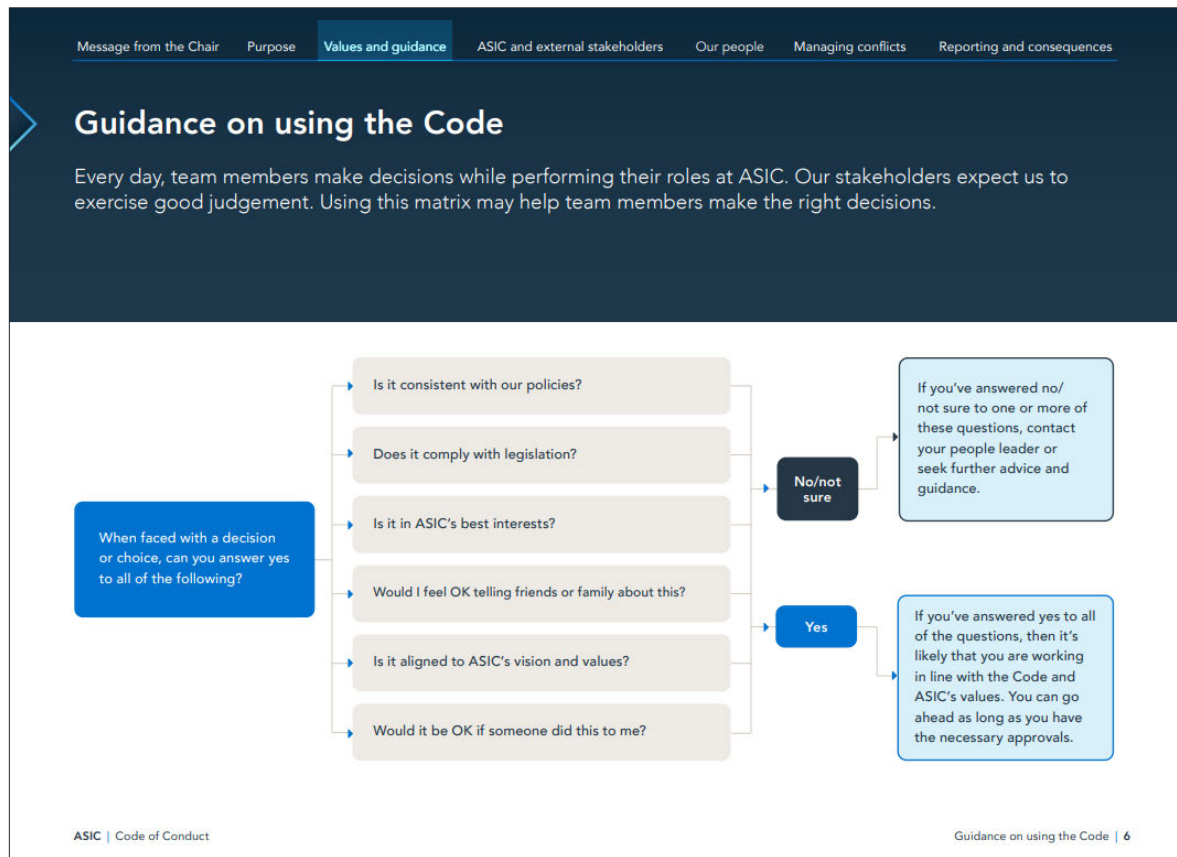


Figure 2 – Guidance on using ASIC’s Code of Conduct

ASIC team members must notify ASIC if they witness a person bullying, harassing or discriminating against another person, or acting in a way that is contrary to ASIC’s values. This can be done anonymously if preferred via ASIC’s safe and confidential Speak Up platform. People leaders must take appropriate action to address poor behaviour witnessed or reported to them at work. Figure 3 details the requirement for all team members to report suspected breaches of the code of conduct, as well as how ASIC will investigate the report and consequences of breaches. Figure 4 details ASIC’s Speak Up homepage.

Message from the Chair Purpose Values and guidance ASIC and external stakeholders Our people Managing conflicts **Reporting and consequences**

Reporting suspected breaches of the Code

All of us have a responsibility to uphold ASIC's values and the Code. Together with our Policies, the Code describes the standards of conduct we expect. A team member may have witnessed a suspected breach of the Code, may have breached the Code or be impacted by a breach of the Code. If so, the matter should be reported in writing immediately to ASIC's SpeakUp Program. The team member may also report the breach to People and Development via their People Partner, their Senior Executive Leader, or their Executive Director.

Team members should report potential breaches of this Code even if it does not directly affect them. ASIC treats all notifications with sensitivity and confidentiality.

Investigations

ASIC will consider any reports of suspected breaches of this Code and will take appropriate action such as an investigation, dispute resolution or another process. If an investigation is conducted, ASIC will provide all team members with procedural fairness.

Consequences

If ASIC finds that a team member has breached the Code, they may be subject to disciplinary action up to and including termination of employment.

A team member should report a breach of the Code of Conduct to:

- › ASIC's SpeakUp Program
- › Their People and Development People Partner
- › A Senior Executive Leader
- › An Executive Director
- › The Chief Executive Officer

People who report breaches of the Code of Conduct may be offered protection by the following laws:

- › *Fair Work Act 2009*
- › *Public Interest Disclosure Act 2013* (see Public Interest Disclosure Policy which lists the persons to whom a PID can be made)

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Figure 3 – Reporting Suspected Breaches of ASIC's Code of Conduct

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SIGN IN CREATE YOUR SAFE INBOX

"Each of us has a part to play in maintaining ASIC's high standards of integrity and accountability. That means speaking up when we see something that isn't right. I understand that this takes courage – and I want you to know that you have my full support, as ASIC Chair. Through our new Speak Up reporting platform you can raise concerns easily and confidentially, safe in the knowledge that your identity will be protected".

Joe Longo, Chair

Speak Up – safely and confidentially

Report a Concern or Grievance

Lodge a PID

Ask a Question

Download the App

WE PROTECT YOUR IDENTITY

Whispli assures your anonymity by scrubbing your IP address, so it cannot be passed on to ASIC.

[See more](#)

HOW TO REPORT

To lodge a report, you will need to **create your safe inbox**, using the button at the top right of the page.

[See more](#)

WHAT HAPPENS TO YOUR REPORT

ASIC takes all reports seriously. Your report will be assessed by a team member who will recommend the appropriate action.

[See more](#)

COULDN'T FIND THE INFORMATION YOU NEEDED?

Use the **ask a question** button above and an ASIC team member will get back to you.

You can access ASIC's Privacy Collection Notice for Speak Up [here](#).

Figure 4 – ASIC's Speak Up Homepage

Question 2 - What are relevant metrics and ways by which integrity and probity elements of an Agency's overall culture can be measured?

There are several ways integrity and probity elements of culture can be measured, and a holistic approach across these factors is likely to be relevant.

1. Key risk indicators:
 - mandatory training completion rates,
 - completion rates of annual attestations of compliance with integrity policies,
 - point in time and longitudinal monitoring of the number of declarations of conflicts of interest, gifts register entries, code of conduct investigations, reported breaches of integrity-related policies, and
 - point in time and longitudinal monitoring of the number and nature of complaints about agency team members (e.g. at ASIC this would be Professional Standards Unit work, Speak Up report and other reports by staff, and any instances of not complying with model litigant requirements).
2. Exit surveys – asking departing team members to what extent they believe the agency fosters a culture of integrity and probity.
3. Culture surveys and diagnostics including questions of team members as to what extent they believe:
 - the agency expects them to behave ethically, including acting according to the intent of the law,
 - that team members who demonstrate a commitment to integrity are recognised, rewarded or promoted,
 - they feel encouraged and safe to raise concerns formally or informally about observed behaviours which are inconsistent with integrity policies, and
 - that the agency demonstrates that it values integrity (acting according to the intent of the law) as a key component of culture, including the extent to which the agency takes action in relation to breaches of integrity related policies.
4. External views (e.g. at ASIC this might include reviews undertaken by the Financial Regulators Assessment Authority).

Question 3 - How an agency and its leaders can and should be accountable for a culture which fosters integrity and probity.

There are several ways an agency and its leaders can demonstrate accountability for a culture which fosters integrity and probity including:

- Modelling integrity and probity by upholding their agency's values and code of conduct, as well as ensuring there are operational frameworks in place to address,
- Implementing and promoting accountability statements for the agency head and senior leadership,
- Implementing an integrity framework based on the ANAO's lessons on managing probity which includes:
 - Promoting probity as a core element of the agency culture,
 - Identifying the probity requirements that apply to the agency and assessing probity risks,
 - Developing policies and procedures to manage probity risks,
 - Informing personnel of probity requirements,
 - Checking that internal controls for managing probity risks are effective,
 - Promoting, checking and following up compliance with probity requirements, and
 - Keeping records to demonstrate probity,
- Promoting integrity related achievements as part of formal and informal recognition (e.g. all staff meetings, agency or ASIC Annual Awards,
- Being transparent in publishing integrity related information – e.g. publishing information on gifts, benefits hospitality accepted by agency team members,
- Ensuring the agency executive leaders' performance metrics include culture and integrity-related metrics as part of performance arrangements, and
- Through external oversight including parliamentary committees and the National Anti-Corruption Commission.

How ASIC and its Leaders are Accountable

In their audit of ASIC's management of probity, the ANAO used ASIC's internal audit, risk management and compliance frameworks as a case study for how entities should approach assessing the effectiveness of internal controls and providing assurance to the accountable authority in relation to probity⁴ as shown in Figure 5 below.

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[Probity Management: Lessons from Audits of Financial Regulators](#) (Item 5. Check that internal controls for managing probity risks are effective)

Case study 2. ASIC's approach to assessing the effectiveness of internal controls

ASIC's framework for monitoring the effectiveness of internal controls and providing assurance to the accountable authority in relation to probity included:

- cyclical internal audits and reviews into probity related topics;
- a central compliance function which undertakes a program of control assessments, including of controls relating to probity obligations; and
- an Audit and Risk Committee that reviewed and provided advice to the accountable authority on ASIC's systems of risk oversight and management and internal control.

To read more about ASIC's approach to assessing the effectiveness of internal controls, see paragraphs 3.4 to 3.12 of [Probity Management in Financial Regulators – Australian Securities and Investments Commission | Australian National Audit Office \(ANAO\)](#)

Figure 5 – ASIC's Approach to Assessing the Effectiveness of Internal Controls (ANAO)⁵

ASIC has a Governance and Accountability Framework which is published on its public website and sets out a clear, transparent and common understanding of ASIC's governance and accountability structures and processes. The objective of the framework is to promote effective, efficient and impartial decision making at ASIC and articulate clear accountabilities, and seeks to ensure ASIC acts strategically, with integrity and effectively delivers on its statutory objectives.

ASIC has developed Commissioner and Executive Director Accountability Statements which set out individual and shared accountabilities. In relation to culture, Commissioners are accountable for determining the settings for ASIC's desired culture. The executive leadership group, led by the CEO, is responsible for ensuring ASIC's culture is monitored and reported to Commissioners, and that agreed actions to impact culture are implemented and tracked to ensure they are effective.

As detailed above, annual performance ratings for senior executives consider integrity-related metrics (team members' completion of mandatory integrity training) and modelling ASIC's values.

ASIC's Annual Awards focus on recognising and celebrating team members who exemplify our values. As part of the 2024 ASIC Awards process, the ASIC Chair recognised the importance of acknowledging team members, who through their actions, are contributing to a stronger and more effective culture at ASIC.

⁵ In the Dec 2023 quarter ASIC's Internal Audit team commenced or completed integrity-related reviews relating to the Speak Up program and senior executive remuneration, and will shortly commence a review related to conflicts of interest and trading in financial instruments.

Yours sincerely



Warren Day
Chief Executive Officer