

PARLIAMENTARY JOINT COMMITTEE ON LAW ENFORCEMENT
Australian Federal Police annual report 2016-17
FRIDAY, 22 FEBRUARY 2019

Home Affairs Portfolio
Australian Federal Police

Question number and title: AFP Code of Conduct

Senator CHAIR - KELLY asked:

1. The annual report states that while the total number of complaints about AFP employees and alleged breaches of the AFP Code of Conduct (the Code) have decreased; complaints about serious misconduct increased by 45 per cent and corruption matters by 32 per cent. The AFP has attributed this to the realignment of the definition of corruption to that under the Law Enforcement Integrity Act 2006, and credit card misuse.
 - a. What steps has the AFP taken to educate its employees about the new definition of corruption, and the consequences of such conduct?
 - b. Does the AFP consider there to be a cultural issue with respect to corruption? Has there been resistance to the change in the definition of corruption?
 - c. What actions were taken in respect of employees found to be breaching the Code?
 - d. What action has been taken in response to credit card misuse?

Answer:

- 1a. The definition of corruption set out in s.7 of the Law Enforcement Integrity Act 2006 was adopted by the Australian Federal Police in 2013. Steps taken to educate its employees about the new definition that have taken place since that time include:

The publication of the AFP Fraud Control and Anti-Corruption Plan in 2016 which articulated the awareness regime ensuring that all appointees are appropriately trained to recognise fraud and take appropriate action if and when it is required through:

- Recruitment and induction training of all new appointees
- Knowledge of integrity reporting requirements imparted to all AFP appointees
- Mandatory online Fraud and Anti-Corruption Control training to be undertaken by all appointees on iAspire
- Leadership on the Frontline training for team leaders
- Managerial awareness of fraud risk at functional and operational levels

- Reinforcement and behavioural modelling from senior management and executive levels.

In addition to training that encompasses fraud and corruption, the AFP increases appointee awareness and reinforces key messages through ongoing communication of integrity matters via email and postings on the AFP intranet (AFP Hub), as well as through early intervention strategies where an appointee is the subject of an established complaint. These strategies are designed to promote reflection and learning from misconduct.

This awareness regime has continued to be a feature of the Fraud Control and Anti-Corruption Plans published by the AFP in 2018 and 2020.

- 1b. The AFP does not currently consider there is a cultural issue with respect to corruption nor a resistance to the change of the definition for corruption. The AFP 2017-18 annual report (at Table A1 in Appendix A of the report), records a decrease of 51% for Category 3 serious misconduct and 22% decrease of Category 4 corruption matters in Outcome 1 compared to the 2016-17 financial year. Across all of the AFP in 2017-18 conduct breaches relating to Category 3 and Category 4 misconduct decreased from 2016-17 by 45% and 8% respectively.
- 1c. The AFP expects all AFP appointees to adhere to the AFP Values and the Code of Conduct at all times as well as maintain the highest ethical standards.

From time to time, appointees may fall short of the above. In instances where AFP appointees are subject to established category 3 or corrupt conduct issues, these matters are referred to the Professional Standards Panel (PRS Panel).

The Commissioner has established the Professional Standards Panel to:

- Consider the recommendation in established investigation reports made pursuant to s.40TU of the Act; and
- Advise the PRS Panel Delegate, regarding the sanction to be taken under s.40TV of the Act in relation to the issue(s).

The Professional Standards Panel comprises:

- National Manager People Safety and Security (NMPSS – Assistant Commissioner level)
- National Manager Workforce Development and Culture (NMWDC- Assistant Commissioner level); and
- At least one other additional senior executive level AFP appointee at the National Manager level on a rotating basis.

NMPSS (or the AFP appointee acting in the NMPSS role) is the Chair of the Panel and PRS Panel Delegate. If NMPSS is unavailable, and there are no acting arrangements for the NMPSS role, NMWDC Chairs the Panel.

The Panel may also request the attendance of representatives from relevant areas of the AFP as required in an advisory capacity, for example, AFP Wellbeing, Learning and Development, a representative from the relevant line area where the AFP appointee to whom the investigation relates works.

The Chief Counsel and Manager Professional Standards (MPRS – Commander level), or their delegates, will generally attend all meetings of the Panel in an advisory role.

The Chair of the Panel and PRS Panel Delegate, NMPSS, makes the final determination on sanction. Sanctions determined will be commensurate with the established behaviour and any relevant mitigating and aggravating factors.

Available sanctions include:

Training and Development (sections 40TR & 40TC of AFP Act)

Action taken to improve the appointee's performance through training and development

Remedial Action (sections 40TR & 40TD of the AFP Act)

Action taken to remedy unsatisfactory performance by the AFP appointee

Change in classification or increment (financial sanction)

(Sections 22 & 65 of AFP Enterprise Agreement 2012-2016; sections 9(6)(c) and 67 of AFP Enterprise Agreement 2017-2020. Section 39 of The AFP Executive Level Enterprise Agreement 2016-2019 (reduction in classification only)).

Termination Action (40TE of the AFP Act)

Other action the Commissioner can take in relation to AFP Appointee (can include referral to Security aftercare, referral of potential medical issues to AFP Wellbeing, referral of action to be taken by business area to mitigate risk in future).

- 1d. The AFP is committed to its members behaving at all times in a manner that upholds the AFP's core values and the organisation's reputation and integrity. The AFP has a strong integrity framework that includes effective prevention strategies and a robust Professional Standards framework. This framework is directed by Part V of the Australian Federal Police Act 1979 (the Act) and further supported by specific AFP governance. Part V of the Act provides for sanctions such as training and development, remedial action or termination of employment.

Where misuse of a corporate credit by an AFP member is detected, the misuse is reported to the AFP's Professional Standards. Misuse may be as a result of a mistake or misunderstanding. If misuse is determined to be misconduct it will be dealt with under Part V of the AFP Act 1979. If the misconduct is determined to be serious or criminal, the complaint will be subject to investigation by Professional Standards investigators and, if established, sanctions under Part V can be applied and/or addressed through a criminal prosecution. Where the misconduct is determined not to be serious, the matter will be referred to the relevant Management Team to be addressed managerially.

Over the course of 2018, Professional Standards (PRS) has utilised the Our Culture, Our Newsletter produced by the Workplace Development and Culture Portfolio to remind appointees of their obligations relating to the use and acquittal of corporate credit cards. Since June 2018, PRS has also published the deidentified outcomes of investigations referred to the PRS Panel, releasing details of sanctions applied to appointees found to have misused corporate credit cards and the sanctions applied against those appointees.

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Question title: AFP's KPI targets

Senator CHAIR - KELLY asked:

1. The annual report acknowledges that targets have not been met for KPIs 5 and 8, and sets out explanations for these outcomes. The committee notes that these explanations are the same as those provided for these KPIs in the 2015–16 reporting period.
 - a. Are the explanations provided for the failure to meet these KPIs in the 2015–16 and 2016–17 reporting periods the only reason that the AFP failed to meet these targets?
 - b. What measures has the AFP taken to address what may now be interpreted as a consistent failure to meet these two KPIs?

Answer:

- a. **Are the explanations provided for the failure to meet these KPIs in the 2015–16 and 2016–17 reporting periods the only reason that the AFP failed to meet these targets?**

Yes.

- b. **What measures has the AFP taken to address what may now be interpreted as a consistent failure to meet these two KPIs?**

In 2017-18 following a major review and restructure of the AFP's performance framework, the time for a priority 1 response was set at 10 minutes. This reflects a more realistic time scale for the AFP to receive, assess, dispatch and have officers arrive at a priority 1 incident when they may be located in one part of the airport attending to other duties and need to move across it to the higher priority incident.

In 2017-18 as part of the same review, a new measure known as 1.8 Return on investment for assets confiscated was developed to replace KPI 8 assets restrained. The new measure was seen as a more accurate reflection of the AFP's

work and impact on criminal entities from proceeds of crime, in line with the *Public Governance, Performance and Accountability Act 2013* goals of measuring outcomes and efficiency.