OECD Public Integrity Handbook

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Please cite this publication as:
OECD (2020), *OECD Public Integrity Handbook*, OECD Publishing, Paris, *https://doi.org/10.1787/ac8ed8e8-en*.

ISBN 978-92-64-58634-5 (print)
ISBN 978-92-64-53617-3 (pdf)

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Preface

Corruption hurts all of us. It leads to the wrong policies, wastes public resources and undermines confidence in governments' ability to serve the public interest. Many trust indicators show the complexity of this problem. For instance, the recent Edelman Trust Barometer reveals that only 30 per cent of respondents agree that government serves the interests of everyone. Such findings speak to the related problems of corruption and highlight a key governance failure that requires proactive and decisive leadership from governments.

Confronted with this reality, OECD member countries are responding with measures and tools to help governments enhance public integrity. Informed by their good practices, the OECD adopted the *Recommendation on Public Integrity*. This Recommendation sets a new standard to help prevent corruption through a holistic strategy for public integrity with emphasis on implementation. The *Recommendation* also serves as a roadmap based on thirteen principles to make sustainable change happen.

Real change, however, requires clear indications of what implementation looks like in practice. *The OECD Public Integrity Handbook* responds to this need by providing guidance to public officials and integrity practitioners, as well as to companies, civil society organisations and individuals. The *Handbook* explains the Recommendation's thirteen principles and identifies challenges to implementation.

For example, the *Handbook* provides guidance on improving co-operation among entities within government, as well as on sharing and learning between national and subnational levels. It explores how to build cultures of integrity across government and society, detailing core elements such as merit-based human resource management. It also explains how ethical, responsive and trustworthy leadership is crucial for open organisational cultures, and clarifies government's role in providing guidance to companies, civil society and citizens on upholding public integrity values. To improve accountability, the *Handbook* unveils how to use the risk management process to assess and manage integrity risks, and outlines how to use the enforcement system to ensure real accountability for integrity violations. Moreover, it also discusses measures to strengthen the policy-making process by engaging all stakeholders, managing and preventing conflicts of interest, and ensuring integrity and transparency in lobbying and in the financing of political parties and election campaigns.

Strengthening public integrity is not a goal in itself - it is the road to better policies for better lives. *The OECD Public Integrity Handbook* will help us get there.

Angel Gurría

OECD Secretary-General

Foreword

Corruption is one of the most corrosive issues of our time. It wastes public resources, widens economic and social inequalities, breeds discontent and political polarisation and reduces trust in institutions. Traditional approaches based on the creation of more rules, stricter compliance and tougher enforcement have been of limited effectiveness. A strategic and sustainable response to corruption must be public integrity.

Public integrity is, first and foremost, the responsibility of governments. But action needs to cross all jurisdictional borders – integrity is not only a concern for the national government, it must also permeate down to municipalities where individuals experience integrity first hand. Action should also go beyond government and involve companies, civil society organisations and individuals.

Recognising the need for a whole-of-government and whole-of-society approach to public integrity, the OECD adopted the *Recommendation on Public Integrity* in 2017. The *Recommendation* provides governments with a vision for a public integrity strategy, shifting the focus from *ad hoc* integrity policies to a context-dependent, risk-based approach that emphasises a culture of integrity. The *OECD Public Integrity Handbook* provides concrete guidance to implement this public integrity strategy in practice.

With guidance for governments, companies, civil society organisations and individuals, the *Handbook* is part of the OECD's ongoing commitment to support countries in implementing sustainable public integrity reforms. It is complemented by the *OECD Public Integrity Maturity Models*, which allow users to measure the maturity of public integrity systems and identify where the systems are situated in relation to good practice. The maturity models also show a way for progress by outlining what measures are needed to achieve a leading model. The *Handbook* is also accompanied by the forthcoming *OECD Public Integrity Indicators,* which enable governments to build the evidence-base and support domestic dialogue for reforms. The OECD will also prepare a *Public Integrity Toolkit,* which will feature real cases of good practice and concrete tools to support reforms.

The *Handbook* benefitted from extensive collaboration with the Working Party of Senior Public Integrity Officials, who shared their good practices and tools to drive implementation in their own countries. Delegates from the Working Group on Bribery, the Working Party on Responsible Business Conduct and the Working Party on State Ownership and Privatisation Practices were also consulted for their insights and examples on advancing integrity in the private sector.

The Handbook was approved and declassified for publication by the OECD Public Governance Committee via written procedure on 12 March 2020.

Acknowledgements

Under the leadership of the Working Party of Senior Public Integrity Officials, co-chaired by Silvia Spaeth (Germany) and Anne Rivera (Switzerland), the *OECD Public Integrity Handbook* was prepared by the Public Sector Integrity Division of the Directorate for Public Governance, under the direction of Julio Bacio Terracino. It was co-ordinated and drafted by Carissa Munro with Emilie Cazenave, under the guidance of János Bertók. Significant contributions were received by Daniel Gerson, Dawid Szescilo, Gavin Ugale, Giulio Nessi, Ina De Haan, Jael Billy, Jesper Johnson, Lisa Kilduff and Pelagia Patsoule. Editorial and administrative assistance was provided by Balazs Gyimesi, Charles Victor, Jelena Damnjanovic, Meral Gedik and Rania Haidar.

The *OECD Public Integrity Handbook* also received contributions from Alessandro Bellantoni, Alison McMeekin, Anna Pietikainen, Arturo Rivera, Barbara Ubaldi, Celine Kaufmann, Christine Uriarte, Claire Leger, Cristina Tebar Less, David Goessmann, Felicitas Neuhaus, Florentin Blanc, Frédéric Boehm, Frederic St. Martin, Frédéric Wehrle, Hans Christiansen, Israel Maranon de Pablo, Jennifer Eddie, Jeroen Michels, Katharina Zuegel, Levke Jessen-Thiesen, Mariana Prats, Patrick Moulette, Paul Davidson, Pauline Bertrand, Tatyana Teplova and Wendy Addison.

The chapter on whole-of-society also benefited from contributions of the delegates of the Working Group on Bribery, the Working Party on Responsible Business Conduct, and the Working Party on State Ownership and Privatisation Practices.

The *OECD Public Integrity Handbook* was approved by the OECD Working Party of Senior Public Integrity Officials (SPIO) on 14 February 2020 and declassified by the Public Governance Committee on 12 March 2020.

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Executive summary

Integrity is one of the pillars of political, economic and social structures, and is a cornerstone of good governance. Yet, no country is immune to violations of integrity. Across all levels and branches of government, unethical interactions between public and private actors can violate integrity at all stages of the policy process. Addressing this challenge requires a whole-of-society and whole-of-government approach.

The *OECD Recommendation on Public Integrity* is the blueprint for this approach, and the *OECD Public Integrity Handbook* provides guidance for implementing this blueprint. The *Handbook's* chapters clarify what the *Recommendation* means in practice, and identify the implementation challenges countries may face.

Commitment

This chapter clarifies the elements that demonstrate systemic political and senior management commitment to integrity. These elements include codifying standards in the legislative and institutional frameworks, such as acting with integrity, serving the public interest, and preventing and managing conflict of interest. The chapter also identifies how high-level political and managerial levels can work with key stakeholders to design targeted, evidence-based, long-term reforms.

Responsibilities

This chapter provides guidance for improving co-operation among public organisations (e.g. the anti-corruption body, the human resources office, the audit and internal control office) as well as sharing between the national and subnational levels. One example is co-ordination committees that have a visible degree of influence and include representatives from all the integrity functions. Impediments to co-operation – entrenched silos and competition among entities – are explored, and tools such as memorandums of understanding and interoperable databases are proposed to improve sharing and learning among entities.

Strategy

This chapter identifies how to develop an evidence-based, strategic approach to mitigate public integrity risks, most notably corruption. It clarifies the steps for carrying out a problem analysis (e.g. risk identification, analysis and mitigation) to inform the strategic objectives, benchmarks and indicators. It provides guidance on preparing an action plan to meet strategic objectives and ensure clarity on the responsible entities, the timeline for implementation, and the measurement of impact.

Standards

This chapter clarifies how governments can set high standards of conduct that prioritise the public interest and adherence to public sector values. To ensure coherency, it identifies the integrity standards that can be incorporated into administrative law (e.g. freedom of information, political financing and lobbying activities, and access to administrative justice); civil law (e.g. compensation for damages and whistleblower protection); and criminal law (e.g. active and passive bribery, trading in influence).

Whole-of-Society

This chapter shows how to engage companies, civil society organisations and individuals in promoting a culture of integrity. It clarifies how a balance between sanctions (e.g. monetary fines or debarment) and incentives (e.g. tax related or export credits) can help governments support public integrity in companies. It also shows how hands-on learning activities like monitoring a public procurement process can be used to help build youth's knowledge and commitment to public integrity.

Leadership

This chapter identifies measures to attract, select and promote integrity leadership within public organisations, with an emphasis on incorporating integrity as a value into competency frameworks, job descriptions, assessment tools and performance agreements. Measures covered include interview questions asking candidates to reflect on ethical role models they have previously had in the workplace. To assess integrity performance, managers could give examples of how they demonstrated ethical decision making.

Merit-based

This chapter recognises the influence of a merit-based system in ensuring public integrity across the civil service. It provides guidance on incorporating principles of transparency and objectivity into human resource management processes, such as establishing a clear organisational structure, and ensuring that the appropriate qualification and performance criteria are in place for all civil service positions.

Capacity

This chapter clarifies how providing timely and relevant information on integrity standards (e.g. through posters, screen-savers and short videos), as well as carrying out regular, tailored integrity training (e.g. lectures, ethical dilemma discussions, e-learning or simulation games), can build the knowledge, skills and commitment for public integrity. It also identifies the core components of integrity advisory functions, and demonstrates how these functions can support public officials in applying integrity standards in their daily activities.

Openness

This chapter pinpoints the measures to promote an open organisational culture, where employees can discuss ethical dilemmas and integrity concerns. It identifies tools for promoting openness, such as mandatory training for leaders on giving constructive feedback, managing conflict and holding difficult conversations. The chapter also clarifies the core elements for whistleblower protection, noting that clear rules, procedures and channels for reporting suspected integrity violations are critical for ensuring safe environments.

Risk management

This chapter clarifies how to apply a risk management approach in an integrity system. It provides concrete guidance on identifying, analysing and responding to integrity risks, using both qualitative and quantitative methods (e.g. risk registers and dashboards). The chapter also shows how to integrate integrity into the role of internal audit functions *vis-à-vis* public managers, with a focus on their added value of providing independent, objective assurance for effective internal control and integrity risk management.

Enforcement

This chapter provides guidance on ensuring a coherent approach across the disciplinary, civil and criminal enforcement regimes to enforce public integrity standards, and clarifies the core policies and tools for supporting timely, objective and fair enforcement decisions. It also identifies mechanisms for enabling co-operation among the bodies, units and officials of each enforcement regime, such as establishing electronic databases to manage cases.

Oversight

This chapter shows how external oversight bodies (e.g. supreme audit institutions, ombudsmen, administrative courts) and regulatory enforcement agencies strengthen accountability. It provides examples of tools, such as dashboards, that provide clarity on who is responsible for implementing the recommendations of oversight bodies. The chapter also provides examples of how oversight functions can encourage organisational learning, such as through conducting integrity audits.

Participation

This chapter provides insights on fostering participation in the policy-making process, with guidance on open government, access to information and stakeholder engagement. It also addresses the tools necessary to prevent policy capture, such as establishing procedures to prevent and manage conflict-of-interest situations and ensure transparency and integrity in lobbying and in the financing of political parties and election campaigns.

1 Commitment

This chapter provides a commentary on the principle of commitment contained within the OECD Recommendation of the Council on Public Integrity. It describes how the highest political and managerial levels can demonstrate commitment to public integrity systems. It focuses on commitments to define, support, control and enforce a public integrity system, and includes an analysis of the legislative and institutional arrangements necessary for enabling public integrity. In addition, the chapter addresses the two commonly faced challenges of sustaining political will and monitoring commitments to public integrity.

1.1. Why commitment?

High-level political and managerial commitment to enhancing public integrity and reducing corruption ensures that the public integrity system is embedded across the wider public management and governance framework. In particular, it enables institutions with central responsibility for implementing elements of the integrity system to be adequately staffed and equipped, so that the integrity agenda is sustainable (Brinkerhoff, 2000[1]). Furthermore, commitment from both senior political and management leaders enhances the coherence and comprehensiveness of public integrity systems. Commitment is demonstrated when integrity reforms are integrated into senior political and managerial governance agendas, and are based on in-depth analysis that recognises the complexity of integrity problems, rather than highly visible but short-term fixes (Brinkerhoff, 2000[1]).

Accordingly, the OECD Recommendation on Public Integrity states that adherents should "demonstrate commitment at the highest political and management levels within the public sector to enhance public integrity and reduce corruption, in particular through:

a. ensuring that the public integrity system defines, supports, controls and enforces public integrity, and is integrated into the wider public management and governance framework;
b. ensuring that the appropriate legislative and institutional frameworks are in place to enable public-sector organisations to take responsibility for effectively managing the integrity of their activities as well as that of the public officials who carry out those activities;
c. establishing clear expectations for the highest political and management levels that will support the public integrity system through exemplary personal behaviour, including its demonstration of a high standard of propriety in the discharge of official duties" (OECD, 2017[2]).

1.2. What is commitment?

Commitment is demonstrated when mutually supportive integrity reforms are backed by the necessary legislative and institutional frameworks that clearly delineate responsibilities. The principle on commitment advocates for commitment at the highest political and management levels as a prerequisite, with the following in place:

- The public integrity system defines, supports, controls and enforces public integrity and is integrated into wider public management and governance frameworks.
- The legislative and institutional frameworks enable public sector organisations and public officials to take responsibility for managing integrity.
- Clear expectations are established for the highest political and management levels and demonstrated when they carry out their daily functions.

1.2.1. The public integrity system defines, supports, controls and enforces public integrity and is integrated into wider public management and governance frameworks

A public integrity system, as broadly understood, is comprised of the legislation and the institutions in place to define, support, control and enforce public integrity. Establishing an effective integrity system starts with a clear definition. At the highest political and management levels, a clear understanding of the integrity risks within the public management and governance framework (for more, see Chapter 10) is a prerequisite to setting a common definition of public integrity (see Box 1.1). Political leaders and senior managers' common understanding informs the various integrity responsibilities, strategies and standards that constitute the system (for more, see Chapters 2, 3 and 4, respectively). A common definition also provides clarity to all actors within an integrity system with regard to the ultimate goal of their functions and activities and the desired future state of the integrity system.

Box 1.1. Definition of public integrity

The Recommendation on Public Integrity can serve as an inspiration, defining public integrity as the "consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector".

In other words, public integrity means:

- Doing the right thing, even when no one is watching.
- Putting the public interest ahead of your own interests.
- Carrying out your duties in a way that would withstand public scrutiny: if your actions were reported in the newspaper the next day, everyone could agree that you did the right thing, based on the information you had.

Source: (OECD, 2017[2]).

Once defined, public integrity requires high-level commitment to support, control and enforce it. Core elements that *support* public integrity aim to ensure that public officials understand their integrity roles and responsibilities, and can rely on the financial and human resources and guidance available for maintaining public integrity. Core elements also include a strategic approach to public integrity, high standards of conduct, mobilising society, leadership, a merit-based public sector, capacity building and awareness raising, and open organisational cultures (for more, see Chapters 3, 4, 5, 6, 7, 8 and 9, respectively). Core elements that *control* public integrity focus on ensuring the effective accountability of the system, by managing, monitoring and scrutinising the development, implementation and review of commitments. This includes risk management, internal controls, and internal and external oversight, as well as participation by external stakeholders (for more, see Chapters 10, 12 and 13, respectively). Finally, core elements that *enforce* public integrity focus on detecting, investigating and sanctioning public integrity violations, and include the disciplinary, administrative, civil and criminal regime (for more, see Chapter 11).

Enhancing integrity is not just the responsibility of one institution, nor is it solely focused on the core elements (for more, see Chapter 2). A wide range of actors (e.g. finance, legal, internal control, human resource management, procurement) have a role in integrating public integrity into the public management and governance framework. Although their primary purpose is not to directly support, control or enforce public integrity, without them the system could not function. To ensure effective implementation, the integrity system's core and complementary elements are integrated into the wider public management and governance framework. A number of factors can support integration, including:

- Developing and implementing a fair system for the recruitment, selection, review and promotion of civil servants at all levels, and strengthening the openness and accountability of the processes (for more, see Chapter 7). This may include specific performance mechanisms for leaders and their integration into the governance system (OECD, 2018[3]).
- Adopting a risk-based approach to public integrity, as well as internal control, inspection and audit functions and procedures (for more, see Chapter 10).
- Strengthening accountability of public organisations and officials through external oversight functions and procedures, as well as procedures to handle complaints and allegations (for more, see Chapter 12).
- Building the capacities of and supporting and training public officials at all levels to clarify expectations for high standards of conduct, and implementing those standards across the public sector and with external partners (for more, see Chapters 4 and 8).
- Creating open and safe environments, where the highest political and management levels ensure measures are in place to engage and empower employees and encourage them to voice ideas and concerns without fear of reprisals, and are responsive and credible in addressing these inputs (for more, see Chapter 9).

1.2.2. The legislative and institutional frameworks enable public sector organisations and public officials to take responsibility for managing integrity

Ensuring commitment to public integrity involves clearly stating within the legislative and/or institutional frameworks the responsibility of all public organisations for managing integrity. Chapter 2 elaborates on the specific responsibilities that encompass the elements of the integrity system, including assigning clear responsibilities and establishing mechanisms to ensure co-operation during implementation. Before responsibilities can be delineated, however, having a clearly stated principle that all public sector organisations are responsible for integrity can help to cultivate ownership and buy-in.

Some governments use legislation as the primary vehicle to make it possible for public sector organisations to assume responsibility for integrity (Box 1.2). In other cases governments use the institutional framework, such as an integrity strategy or corruption prevention plan. In the Czech Republic for example, the current anti-corruption plan identifies the role of each individual ministry, while also identifying a government council to co-ordinate the country's anti-corruption and public integrity (Office of the Government of the Czech Republic, 2018[4]).

Box 1.2. Enabling public sector organisations to take responsibility for integrity through legislation

France

In France, Law no. 2016-1691 of 9 December 2016 on transparency, the fight against corruption and modernisation of the economy provides for the implementation of procedures to prevent integrity breaches in public sector organisations, including state administrations, local authorities and related entities.

Germany

In Germany, the main measure at the federal level for managing integrity is the Federal Government Directive concerning the Prevention of Corruption. The Directive lists specific measures that all federal administrative agencies must take to prevent corruption, including establishing responsibility for identifying and analysing corruption risk areas and for designating an officer in charge of corruption prevention. The Directive also assigns additional rules to the respective offices for carrying out responsibility in their specific areas.

Korea

In Korea, Article 3 of the Act on the Prevention of Corruption and Establishment and Management of the Anti-Corruption and Civil Rights Commission (Act No. 14831) requires all public organisations to take active efforts to prevent corruption and establish a culture of social ethics.

Sweden

The Swedish Administrative Procedure Act details basic principles of good governance, notably rule of law, objectivity and proportionality. These principles are applicable to all public offices at state, regional and municipal levels.

In addition, an ordinance on internal control was drafted for all government agencies with an internal audit function (about 70 agencies). It requires these agencies to have an internal control and a "good internal environment" to foster good governance.

Sources: (G20 Anti-Corruption Working Group, 2018[5]; Federal Ministry of the Interior, Building and Community, 2014[6]); contributions from the governments of France and Sweden.

Governments can also ensure that the appropriate legislative or institutional frameworks specify the role of upholding integrity for all public officials. One way to ensure this is through the law that governs the civil service. For instance, in Australia, the Public Service Act 1999 makes all public officials responsible for abiding by the values of the public service. These include "Ethical" values – the public service should demonstrate leadership, be trustworthy, and act with integrity in all that it does. Agency heads are additionally responsible for upholding and promoting the Australian Public Service (APS) Values and Employment Principles (Australian Government, 1999[7]). Similarly, in the Slovak Republic the 2017 Law on Civil Service contains the core principles that civil servants must uphold – including that of impartiality, which requires public officials to serve the public rather than their own personal interest (Government of the Slovak Republic, 2017[8]). Institutional frameworks that clarify the integrity roles of public officials could include codes of conduct or ethics, as discussed in Chapter 4.

1.2.3. Clear expectations are established for the highest political and management levels and demonstrated when they carry out their daily functions

Political commitment to integrity involves various political leaders, who play a key role in building trust in government. This usually includes presidents, prime ministers and elected and non-elected senior officials. Their engagement and commitment to public integrity have several advantages; first, they demonstrate to public officials and society more broadly that integrity is a governance issue that the government takes seriously. Second, by ensuring that the appropriate financial, human and technical resources are in place, high-level commitment facilitates the functioning of the integrity system. To enable high-level commitment at the political and management levels, the following elements are required:

- Integrity expectations for the highest political and management leaders are codified into legislative and institutional frameworks.
- Policy tools and instruments support political and management leaders and allow them to demonstrate personal commitment to high standards when carrying out their official duties.

Integrity expectations for the highest political and management leaders are codified into legislative and institutional frameworks.

Given the high expectations that political and management leaders will serve the public interest, it follows that higher standards apply to the highest political and management levels. At a minimum, integrity-related offences such as bribery, nepotism and favouritism are generally covered in specific pieces of legislation which, taken as a whole, form a body of legal expectations for the behaviour of the highest-ranking officials, as well as all other public officials. In addition, higher standards are specifically tailored to the positions these officials occupy; they form the basis of expectations as well as exposure to corruption risks (Box 1.3).

For senior management (appointed or elected), meeting clear expectations suggests embedding the following standards into the legislative framework:

- acting with integrity
- serving the public interest
- preventing and managing conflict of interest and integrity-related offences
- being accountable for the functions carried out.

Box 1.3. Clarifying expectations for high-ranking officials in Spain

In Spain, Law 3/2015 – Regulating the Exercise of High Office in the Central Administration – establishes eligibility requirements for the appointment of high-ranking officials. In particular, it codifies good reputation (honourability), appropriate experience, and expertise in the field.

High-ranking officials are required to submit an eligibility statement prior to their appointment, which is also sent to the Office for Conflicts of Interest (OCI). The relevant eligibility requirements should be met upon recruitment, but also apply throughout service.

Candidates are automatically disqualified in cases of convictions and sanctions of various kinds, including for serious offences in accordance with Law 19/2013 on transparency, access to public information and good governance.

Source: adapted from inputs shared by the Office for Conflicts of Interest.

Tailored mechanisms can guarantee implementation of those standards and include:

- Adopting a risk-based approach to ministerial portfolios and regulating conflicts of interest. Additionally, reducing the potential occurrence of conflicts of interest may require regulating the interests of political advisors to ministers.
- Disclosing assets, interests, gifts and benefits accepted.
- Prohibiting or restricting certain secondary activities while in office.
- Regulating mobility to the private sector upon leaving public functions, notably through cooling-off periods and specific post-employment restrictions especially regarding the previous sector(s) controlled while carrying out public duties.

Specific accountability, verification and enforcement mechanisms safeguard high standards of integrity and help both to prevent potential issues and to detect and sanction violations. There are a number of mechanisms available, including for example asset declaration for senior political and management levels (Box 1.4).

Box 1.4. Asset and interest disclosures of high-ranking public officials in France

In France, the Law on Transparency in Public Life of 11 October 2013 required more than 15 800 high-ranking elected and non-elected public officials to submit both an electronic declaration of assets and a declaration of interests to the High Authority for Transparency in Public Life (Haute Autorité pour la transparence de la vie publique, HATVP), an independent administrative authority. The law covers the following public officials:

- members of the Government, Parliament, and French members of the European Parliament
- major local elected officials and their main advisors or heads of cabinet
- advisors to the President of the Republic, members of the Government, presidents of the National Assembly and Senate, and directors and heads of cabinet of major local elected officials
- candidates in presidential elections
- high-ranking public servants appointed by the Council of Ministers (ambassadors, prefects, central administration directors, secretaries-general, etc.)
- members of the Supreme Council of the Judiciary
- other high-ranking civil servants and military officials
- CEOs of publicly owned or partially publicly owned companies
- members of boards of independent administrative authorities
- chairpersons of sports federations, professional sports leagues and the organising committees of major sports events.

The High Authority ensures effective auditing of asset and interest declarations, some of which are published on line. In order to prevent conflicts of interests and ethical breaches, the agency is also tasked with monitoring post-public employment provisions for former members of Government, main locally elected officials and board members of independent administrative authorities, as well as the lobbying regulation applying to lobbyists' activities towards the aforementioned officials.

Source: (HATVP, 2018[9]).

Likewise, elected or appointed political officials (e.g. prime ministers, presidents, ministers, members of parliament, etc.) should also commit to demonstrating high standards in carrying out their mandate. These standards may be clarified in the legal and regulatory framework and/or internal documents such as the rules of procedures. They cover:

- acting with integrity
- serving the public interest and preventing and managing conflict of interest, including incompatible functions and activities, while in office and upon leaving it
- being accountable to the public.

Implementing actions to apply high standards for the highest political officials includes the following measures:

- developing, reviewing and maintaining high standards of conduct within the congress or parliament
- preventing and managing conflicts of interest and codifying incompatibilities, prohibitions and restrictions on outside secondary activities
- detailing immunities or parliamentary privilege that protect MPs from civil or criminal liability in the course of their mandate, and rules to lift immunity in the legal framework or rules of procedures, safeguarding their right to challenge the government but not aimed at protecting crimes (GRECO, 2017[10])
- regularising asset and/or interest reporting
- declaring gifts and benefits accepted
- increasing the transparency of legislative processes (e.g. impact assessments, proposals, standing or ad hoc committee meetings, amendments, votes, etc.) and functioning (e.g. budget, remuneration, benefits, gifts and hospitality, etc.) as well as regulating access to and influence on legislative processes
- supervising and monitoring implementation of these rules, standards and tools, to ensure and improve accountability, verification, enforcement, and efficiency of the system.

With higher and more politically exposed positions and responsibilities come increased scrutiny and accountability. In addition to legislative measures, codes of conduct or ethics that take into account the levels of exposure and responsibilities of political leadership can support them in adopting higher standards of behaviour (Box 1.5).

Box 1.5. The Government Ministerial Code in the United Kingdom

In the United Kingdom, each new prime minister issues their own Ministerial Code, setting out the rules and standards that the prime minister expects from their cabinet of ministers. The Seven Principles of Public Life, which apply to anyone who works as a public officeholder, whether elected or appointed, nationally and locally, are annexed to the document, balancing the rules-based approach with the values of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

Source: (Government of the United Kingdom, 2018[11]).

Policy tools and instruments support political and management leaders and allow them to demonstrate personal commitment to high standards when carrying out their official duties.

While societies can legislate clear expectations for behaviour at the highest political and management levels, implementation requires genuine political will to take integrity seriously, invest in it and maintain it on the reform agenda. Political will can be understood as "the commitment of actors to undertake actions to achieve a set of objectives – in this instance, reduced corruption – and sustain the costs of those actions over time" (Brinkerhoff, 2010[12]).

Support for the public integrity system can be demonstrated in several ways, including the degree of analytical rigour, mobilisation of support, and continuity of effort (Brinkerhoff, 2000[1]). For example, the analytical rigour of a reform strategy can indicate the extent to which high-level leaders take integrity seriously. An indicator of weak commitment to public integrity can be reforms that are not targeted, focused solely on short-term fixes, and not informed by the economic, social and institutional realities of the country or public organisation. A strong indicator of visible support, on the other hand, is when high-level political and management leaders introduce reform strategies that target both short- and long-term challenges and are based on evidence, including insights from integrity risk assessments, public opinion surveys, and international benchmarking studies.

In addition, the extent to which high-level political and management levels mobilise key stakeholders in designing and implementing the public integrity strategy can also be an indicator of commitment (for more, see Chapters 3 and 5). High-level leadership that is open to the input of others demonstrates commitment to identifying the key problem areas and developing targeted, informed strategies to address them (Brinkerhoff, 2000[1]). Working with stakeholders can also provide leadership with a support network to overcome potential resistance to the reforms. Moreover, political will can be demonstrated when stakeholders can effectively hold high-level leaders accountable for their actions and implementation of the reforms (Johnston and Kpundeh, 2002[13]; Corduneanu-Huci, Hamilton and Ferrer, 2013[14]).

Support is also demonstrated when adequate human, financial and technical resources are assigned to implement the integrity reforms, and there is regular monitoring and review of the reforms to inform updates to the integrity strategy (Brinkerhoff, 2010[12]; Brinkerhoff, 2000[1]). Ensuring that the necessary resources are in place, and that evaluation and monitoring inform further changes to the reform strategy, demonstrate that senior leaders are committed to implementing a sustainable public integrity reform agenda.

1.3. Challenges

Although challenges vary depending on the specific context, a common challenge is ensuring high-level political and management support for public integrity. Indeed, senior political and management leaders may not support public integrity at all, or may prefer short-term, reactive solutions as opposed to long-term solutions that are costly and time-consuming. Short-term changes such as drafting a piece of legislation or establishing a committee or body allow high-level leaders to rapidly react and show commitment to public integrity. However, while such changes may be necessary in some cases, many times it is the costly, time-consuming long-term reforms that are needed to address the entrenched challenges. Confronted with the reality that these reforms may not deliver immediate political gains, senior leaders may choose to exclude or delay them. Yet visible commitment to public integrity requires senior political and management leaders to implement the necessary reforms, whether they are long or short term.

Addressing a lack of support, whether total or a sole preference for short-term solutions, requires a combination of sound analysis and the engagement of key stakeholders, as well as continuous monitoring and review to inform reforms, as discussed in Section 1.2.3. Establishing accountability measures is an additional way to ensure sustainable commitment. Oversight functions such as supreme audit institutions can provide an independent assessment of the level and quality of outputs and outcomes resulting from the commitments. These bodies can make recommendations to further strengthen the public integrity system, and report to parliament or government on the quality of the reforms (for more, see Chapter 12). Other external accountability entities, such as business or civil society groups, can put pressure on leaders to implement reforms in necessary areas.

Tools can also be used to hold high-level leaders accountable in maintaining integrity. For instance, requiring senior political and management levels to disclose their personal interests and ensuring these are verified can help prevent and manage conflict of interest and support impartial decision making. Such measures can also inform public support for reforms, particularly when they indicate that integrity is not a high priority for senior leadership. These mechanisms, in addition to appropriate sanctions when provisions are not complied with, represent means for leaders' and managers' commitments to be monitored and for them to be held accountable.

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2 Responsibilities

This chapter provides a commentary on the principle of responsibilities contained within the OECD Recommendation of the Council on Public Integrity. It describes how to establish clear responsibilities at all relevant levels for designing, leading and implementing the elements of the integrity system, with appropriate capacities and resources. It includes an analysis of the types of mechanisms that can ensure horizontal and vertical co-operation within an integrity system. In addition, the chapter addresses the two commonly faced challenges of entrenched silos and competition among entities that have been assigned integrity functions.

2.1. Why responsibilities?

Assigning clear responsibilities to the actors in the integrity system is necessary to ensure co-operation, avoid overlaps and prevent fragmentation. Responsibilities include developing, implementing, monitoring and evaluating integrity standards and tools, and are carried out by actors across the whole-of-government (legislative, executive and judicial) as well as across levels of government (national and sub-national). Responsibilities for public integrity are also found within each public sector organisation. All public officials at all levels of government are expected to carry out their duties in the public interest.

To prevent fragmentation and overlap in the public integrity system, the OECD Recommendation on Public Integrity recommends that adherents "clarify institutional responsibilities across the public sector to strengthen the effectiveness of the public integrity system, in particular through:

a. establishing clear responsibilities at the relevant levels (organisational, sub-national or national) for designing, leading and implementing the elements of the integrity system for the public sector;
b. ensuring that all public officials, units or bodies (including autonomous and/or independent ones) with a central responsibility for the development, implementation, enforcement and/or monitoring of elements of the public integrity system within their jurisdiction have the appropriate mandate and capacity to fulfil their responsibilities;
c. promoting mechanisms for horizontal and vertical co-operation between such public officials, units or bodies and where possible, with and between sub-national levels of government, through formal or informal means to support coherence and avoid overlap and gaps, and to share and build on lessons learned from good practices" (OECD, 2017[1]).

2.2. What are responsibilities?

Taking a systemic approach to promoting integrity and combating corruption requires understanding the wide range of entities and actors which, when combined, make up an integrity system. Moreover, it involves understanding their mandates and capacities, as well as their functions in the overall system. In line with their relevant political and legal context, each government (national and sub-national) and public organisation should have clear roles and responsibilities across the integrity system. The following are essential for a successful exercise of responsibilities and co-operation:

- Responsibilities for designing, leading and implementing the integrity system at each level are clear.
- Appropriate resources and capacities are in place to fulfil organisational responsibilities.
- Mechanisms for horizontal and vertical co-operation are established and effective.

2.2.1. Responsibilities for designing, leading and implementing the integrity system at each level are clear

An integrity system, whether at the government (national and sub-national) or organisational level, includes different actors with responsibilities for defining, supporting, controlling and enforcing public integrity. These include the "core" actors, such as the institutions, units or individuals responsible for implementing integrity policies. The system also includes "complementary" actors, whose primary purpose is not to directly support the integrity system but without whom the system could not operate (including functions such as finance, human resource management and public procurement) (OECD, 2009[2]).

For both the core and complementary actors there are a number of integrity functions, as laid out in Table 2.1. Specific assignments of responsibility depend on the institutional and jurisdictional setup of a country. For example, some governments will place core responsibilities for integrity with a central government body or other key ministry, whereas others will make this the responsibility of an independent or autonomous body (Box 2.1). Complementary integrity functions will be assigned to the institutions responsible for education, industry, civil society and human resource management, as well as supreme audit institutions, regulatory agencies, and electoral bodies. Regardless of where the responsibilities are assigned, governments should ensure that the actors have the appropriate level of authority to carry out the functions.

Table 2.1. Integrity functions

System	Culture	Accountability
• Assigning clear responsibilities • Ensuring mechanisms to support horizontal and vertical co-operation • Designing and implementing the integrity strategy or strategies • Monitoring and evaluating the integrity strategy or strategies • Setting integrity standards	• Integrating integrity into human resource management (e.g. assessing the fairness of reward and promotion systems) and personnel management (e.g. integrity as criterion for selection, evaluation and career promotion) • Building capacity and raising the awareness of public officials • Providing advice and counselling • Implementing measures to cultivate openness • Opening channels and implementing mechanisms for complaints and whistleblower protection • Raising awareness in society • Conducting civic education programmes • Implementing measures to support integrity in companies • Implementing measures to support integrity in civil society organisations	• Assessing and managing integrity risks • Applying internal audit • Implementing enforcement mechanisms • Applying independent oversight and audit • Applying access to information and implementing open government measures • Engaging stakeholders across the policy cycle • Preventing and managing conflict of interest • Implementing integrity measures for lobbying • Implementing integrity measures in financing of political parties and election campaigns

Source: Adapted from (OECD, 2009[2]; OECD, 2017[1]).

Box 2.1. Assigning responsibility for public integrity to a central institution versus an independent body or bodies

Some countries have established an independent anti-corruption institution, assigning it responsibility for overseeing a number of integrity functions. When effective, this approach can reduce gaps and potential overlaps. For example, the National Transparency Authority (NTA) in Greece brings former institutions and agencies under one organisation, with responsibilities for enhancing integrity, transparency, and accountability in public organisations; for preventing, detecting, and responding to fraud and corruption in both the public and private sectors; for achieving measurable results in the fight against corruption; and for building capacity and raising awareness regarding these actions. The establishment of the NTA aims to end overlapping competencies, co-ordination impediments, and fragmentation.

Countries can also establish independent organisations with specific integrity functions, such as overseeing the conflict-of-interest regime, the lobbying or political finance system, or other technical areas such as fraud prevention. This enables the government to develop and concentrate expertise and resources in specific technical areas, which can lead to improved implementation. Examples of specialised bodies include the Serious Fraud Office in the United Kingdom, the Office of the Commissioner of Lobbying in Canada, or the High Authority for Transparency in Public Life (HATVP) in France. For example, the HATVP is an independent administrative authority responsible for promoting the probity and exemplarity of public officials. Its independence is guaranteed by the appointment and functioning of its college and its administrative and financial autonomy. It is responsible for monitoring as well as tracking the assets of nearly 16 000 public officials to prevent conflicts of interest and to monitor post-public employment restrictions and lobbying activities.

Experience has shown that independent anti-corruption bodies are not always the solution. In particular, while independence can protect these bodies from political pressure, they can fail to enact effective change because they are not embedded in the organisational culture. Moreover, while independent organisations can help clarify responsibilities, there is a risk that other public organisations may relinquish their own responsibilities for public integrity, relying instead on the independent body to carry out all integrity functions. In light of these challenges, some countries adopt a “mainstreamed” approach where existing public bodies, such as a central government office or the institution responsible for public administration, are assigned responsibility for overseeing different integrity functions, with each public organisation then responsible for implementing a tailored version internally. In certain countries a combination exists, with independent bodies assigned specific integrity functions while other integrity functions are mainstreamed in public organisations.

Source: For Greece, adapted from inputs shared by the National Transparency Authority. For France, adapted from inputs shared by the High Authority for Transparency in Public Life.

Assigning responsibilities for integrity functions also depends on the jurisdictional setup of the country, taking into account which level of government has competency for the specific policy area. For example, in some federal countries, education is the responsibility of sub-national governments; therefore, responsibilities for developing and implementing civic education programmes for public integrity are found at the sub-national level.

When assigning integrity responsibilities at the local level, there are several issues to take into account. On the one hand, local governments face specific integrity risks: conflict-of-interest situations for example are more likely due to proximity to the community, with family and network ties a typical characteristic of the operational environment. On the other hand, local governments can face capacity limits in human, financial and technical resources, making it difficult to assign responsibility to an institution, unit or individual for all the functions in Table 2.1. An effective approach therefore requires local governments to weigh their capacity constraints against integrity risks and assign responsibilities accordingly (Box 2.2). At a minimum, dedicated processes for managing conflict of interest and basic internal control functions should be established. As additional functions may be too resource-intensive to operate in every municipality, it may be prudent to assign some integrity functions at the regional or national level. For example, an already existing whistleblowing mechanism at the regional level could also cover local governments. Making use of formal and informal networks, both at the horizontal and vertical levels, can also help identify where responsibilities should be allocated (see Section 2.2.3). The core consideration is to ensure that regardless of the level of government, responsibilities for the integrity functions are clearly assigned.

Box 2.2. Assigning local integrity responsibilities in the Netherlands and France

The following are examples of how local governments assign integrity functions in line with their capacity and resource levels.

The Netherlands

Most cities and communities in the Netherlands develop and implement their own local integrity strategy. In the City of Amsterdam, the Integrity Office (Bureau Integriteit - BI) is responsible for promoting integrity with the local political leaders and managers, the whole city administration, and service providers and businesses. The mandate of the BI covers ethics and legal advice, training, risk assessments, disciplinary procedures and integrity investigation. This office is also the contact point for whistleblowers to report misconduct and breaches of integrity rules. The staff is specially trained to provide integrity advice, and usually has had extensive experience working for the administration of the City of Amsterdam.

France

In France, some major cities and regions have designed and implemented an integrity policy and specific functions. Since 2014, the City of Paris has an ethics commission responsible for conflict of interest and asset disclosure, gifts and gratuities, interpretation and application of the code of conduct, and counselling and advice. In 2014, the City of Strasbourg assigned a similar role to an independent ethics officer for promoting the integrity of political leaders and managers, as well as administration of the municipality. Regions that have adopted a comparable approach include Provence-Alpes-Côte d'Azur. The 2016 revision of civil service status introduced a right to access ethics counselling in public organisations for all civil servants regardless of their status. The organisations must assign this responsibility, internally or externally. However, there are close to 35 000 municipalities, among which more than 90% count below 5 000 inhabitants and have more limited financial and human resources. Consequently, some of the integrity functions listed in Table 2.1 are either the responsibility of a local management centre, general director or other designated person(s) of the administration, or they are not assigned locally and rely upon other actors in the integrity system.

Source: For the Netherlands, (City of Amsterdam, 2019[3]). For France, (Mairie de Paris, 2018[4]); (City of Strasbourg, 2019[5]); (Government of France, 2016[6]).

With regard to public sector organisations, not all the functions outlined in Table 2.1 will fall within the remit of the organisation. For example, only a few organisations will have the mandate to ensure integrity in elections and political party financing, or carry out education about public integrity in schools. However, a number of key functions are applicable to all public sector organisations, regardless of the mandate; these are identified in Table 2.2, along with the position or unit normally responsible for their implementation. It should be clear which unit or individual is responsible for what. The necessary resources should be assigned, and the appropriate co-operation mechanisms established (as discussed below).

Table 2.2. Actors and integrity roles at the organisational level

Position or unit	Integrity role
Highest officer	Ultimately responsible for the agenda, implementation and enforcement of integrity policies for the entire organisation Responsible for adhering to and demonstrating the highest levels of commitment and conduct for public integrity
Management	Responsible for implementation of integrity policies and for promoting ethical behaviour within the organisational units for which they are responsible Responsible for adhering to and demonstrating the highest levels of commitment and conduct for public integrity
Integrity officer Integrity co-ordinator Compliance officer Integrity policy staff	A wide range of different types of officers who fulfil roles relating to: design, support and advice, implementation, co-operation, and enforcement of integrity policies
Internal audit and control	Responsible for establishing an internal control system and risk management framework to reduce vulnerability to fraud and corruption and for ensuring that governments are operating optimally to deliver programmes that benefit citizens
Finance	Responsible for taking care of vulnerable actions around purchasing, tenders, and expense claims in a transparent manner
Legal	Responsible for formulating administrative-legal policy, providing advice based on relevant legislation and the drafting of delegation and mandate regulations, and applying an integrity lens to ensure policies comply with integrity standards
Human resource management	Responsible for establishing procedures and providing advice concerning recruitment and selection, job descriptions, performance and assessment interviews, disciplinary research, sanctions and organisational culture, and applying an integrity lens to ensure processes comply with integrity standards
Communication / Information	Responsible for communication concerning integrity standards and procedures
Security / ICT	Responsible for setting up physical and ICT security
Confidential advisor	Responsible for advising employees on and coaching them in the internal reporting process in the event of suspected integrity violations

Source: Adapted from (Hoekstra, 2015[7]).

2.2.2. Appropriate resources and capacities are in place to fulfil organisational responsibilities

To carry out its functions, each component of the integrity system requires sufficient financial, technical and human resources that are commensurate with its mandate, as well as the appropriate capacities to fulfil its responsibilities.

Taking a systems perspective implies that reducing the resources of one part of the system below a sufficient level for effective operations not only will hamper that particular function's ability to achieve its mandate, but also will likely have spillover effects across the entire system, affecting the overall achievement of the desired goals. A second consideration is the need to ensure that all actors have resources assigned to ensure co-operation, including partnering with others, attending committee meetings and contributing to common databases. When resources are constrained, there tends to be a bias towards concentrating them on achieving vertical operational delivery rather than horizontal collaborative working. This can reinforce silos and lead to fragmentation or gaps in the integrity system.

To effectively implement integrity policies at the organisational level, public organisations also need to ensure that their human resource management is modern and focused on bringing in the expertise that closely matches their needs. As the integrity-related skill sets become increasingly specialised, technical and digital (from legal to investigative background, IT, public management, accounting, finance, sectoral knowledge, support functions, etc.), so too must the employment frameworks that regulate the workforce. Given the scarcity of many of the skill sets required in public integrity organisations, a number of approaches can be used to make the most of them, including the following:

- *Talent pools* can be established centrally and used to help individual organisations access skills that they may be unable to bring in on a permanent basis.
- *Rotation programmes* can be established across various actors in the system, systematically trading employees for specific periods between, for example, local integrity offices. At the same time, a certain degree of labour stability and job security is important to build knowledge and expertise and reduce the learning curve regarding co-ordination among bodies.
- *Continuous and lifelong training and development* can be prioritised (for more, see Chapter 8).
- *Monitoring* the quality and quantity of human resources for integrity systems across levels of government to identify bottlenecks and areas for improvement.

2.2.3. Mechanisms for horizontal and vertical co-operation are established and effective

With regards to co-operation among different institutional actors with regard to responsibilities, the main challenge is to ensure that each, regardless of its level of independence, works towards a commonly understood and shared objective to ensure the impact of integrity policies. Moreover, co-operation among actors responsible for various integrity instruments and functions supports the identification of synergies, and therefore helps to avoid overlaps or gaps (OECD, 2009[2]). The focus is on "maximis[ing] the policy and operational advantages of multiple integrity-related bodies, while also avoiding the worst risks of 'ad hocery', jurisdictional gaps, imbalances between positive and coercive integrity strategies, potentially unhealthy competition, negative conflict, and confusion in the eyes of citizens and end-users" (Sampford, Smith and Brown, 2005[8]).

Both vertical co-operation among different levels of government and horizontal co-operation across line ministries, agencies and functional units are essential to mainstream integrity policies (Box 2.3). These co-operation mechanisms can develop in two ways (although there may be a grey area in which a tool could fall into both categories):

- Formally, through structures and procedures created for the explicit purpose of ensuring co-operation within an integrity system. This may be the case when a joint agency is created; when a commission is established to bring together the various actors in the system; or when an integrity office is established in ministries or agencies.
- Informally and voluntarily, through integrity networks, ad hoc working groups, or other bottom-up initiatives such as online platforms for knowledge management.

Box 2.3. Formal and informal co-operation mechanisms in Canada

In Canada the central agency, the Treasury Board Secretariat, hosts two communities of practice:

- the Interdepartmental Values and Ethics Network
- the Senior Officers for Internal Disclosure Group (whistleblowing)

These communities of practice meet regularly, and mutually benefit from sharing good practices and lessons learned.

The communities and their regular exchanges provide the Treasury Board Secretariat with an informal means of keeping up with emerging issues and evolving challenges. Their input can also help shape integrity policies as well as the Secretariat's awareness-raising and communications activities.

Source: Adapted from inputs shared by the Treasury Board Secretariat.

The scope and approach to co-operation will vary depending on the specific context of how governments manage public integrity and the system of governance in which integrity is embedded. A first question to answer may be "Co-operation for what?" as different functions may require different approaches. A second would be "Co-operation among whom?" – in particular when considering core versus complementary functions, which may also require varying approaches (OECD, 2009[2]). For example, co-operation among core functions may require a heavier, more formalised approach, whereas that among complementary functions may be less regular and therefore require use of informal mechanisms.

Governments can use various mechanisms to ensure co-operation:

- formal mechanisms to ensure coherent decision making and enable support, communication and information sharing.
- informal mechanisms to enable horizontal exchange and support.
- mechanisms tailored to national and sub-national levels in line with the country's governance framework.

Formal mechanisms to ensure coherent decision making and enable support, communication and information sharing

Co-operation within an integrity system will depend in part on the legal and governance arrangements in place to manage it. A particular consideration is to centralise the co-operation function. In many countries, this function is located at a visible and central place in the government to signal its importance, such as in the president's office, or under the council of ministers. In other countries, the function may be located in an independent body such as an integrity body or supreme audit institution. Regardless of the location, this role requires some degree of influence and authority as well as clear hierarchical relationships with other individual organisations.

A separate committee can also be established, supported by the appropriate resources and expertise. A committee may include officials from core anti-corruption agencies, key line ministries, other branches of government, and civil society. For example, Korea has an anti-corruption policy co-ordination body composed of representatives from ten government agencies (ministries and supervisory bodies) to ensure communication among their institutions. Another example can be found in Mexico, where the overarching National Anti-Corruption System engages a wide range of actors across government, and includes communication tools and information-sharing mechanisms (see the *OECD Integrity Review of Mexico* (OECD, 2017[9]) for a detailed overview).

In addition, co-operation requires effective communication tools and the sharing of key information across bodies. Those tasked with co-operation can implement communication strategies to ensure that all actors in the system (including the private sector and civil society) are informed of the integrity policies in place. Regular use of a communications strategy can also strengthen management's commitment and maintain ongoing co-operation. Similarly, online portals and administrative databases can be used to share information across organisations, furthering the potential for effective co-operation. Interoperable administrative databases enable public organisations to exchange up-to-date information, strengthen cross-checking and automate alerts (such as potential conflicts of interest, omissions in disclosures, risks and fraud). For example, in some countries interoperable databases may be used to cross-check tax administration data with interest and asset declarations, thereby easing detection of potential omissions in declarations or conflicts of interest.

Informal mechanisms to enable horizontal exchange and support

Across government ministries, whether at the national or sub-national level, informal co-operation mechanisms may take the form of integrity networks in which managers or employees are designated participants (see the examples from Sweden and Germany in Box 2.4). These networks rarely have decision-making capacities, but they can help enhance the effectiveness of integrity systems by sharing good practices, information, and lessons learned. Moreover, they can ensure that integrity remains on the agenda of public sector institutions. These informal mechanisms may however require some degree of formal support to ensure that they function appropriately (see the example from Austria in Box 2.4).

Box 2.4. Integrity networks in Austria, Germany, and Sweden

The Austrian Network of Integrity Officers

To mainstream integrity into the public sector, Austria has established the Network of Integrity Officers, which aims to place integrity officers in various federal institutions (e.g. ministries). Tasks performed by the officers include:

- performing advisory services for employees and senior officials
- circulating information on integrity and awareness raising
- providing training
- analysing the risk of corruption
- collaboration and experience sharing
- serving as the focal point for compliance-related issues.

The Federal Bureau of Anti-Corruption is responsible for managing the network, generating and collecting expertise on the topic of integrity, and providing basic training and training materials to the officers.

The German network of contact persons for corruption prevention

In Germany, the lead federal ministry for corruption prevention and integrity is the Federal Ministry of the Interior, Building and Community. Since preventing corruption does not involve having a supervisory role over other ministries, co-operation is essential in order to reach a common understanding of integrity policies and comprehensive standards for their implementation.

For the German federal administration, the Joint Rules of Procedure of the Federal Ministries regulates (among other issues) co-operation within the federal government. Article 19 stipulates that “in matters affecting the remits of more than one Federal Ministry, those Ministries will work together to ensure that the Federal Government speaks and acts consistently”.

In practical terms, co-operation happens through a network of contact persons for corruption prevention that meets frequently. The network also develops guidelines, handbooks and recommendations for implementing the Federal Government Directive concerning the Prevention of Corruption in the Federal Administration.

The Network against Corruption for Swedish State Agencies

The Swedish Agency for Public Management hosts the Network against Corruption for Swedish State Agencies. Delegates participating in the network include heads of administrative departments and heads of legal departments. The network meets four times a year, and each meeting usually gathers close to 100 agencies.

The purpose of the network is to share experiences, learn about good examples and take part in the production of handbooks, reports, and other publications of the Swedish Agency for Public Management on anti-corruption measures, internal control, and efficiency.

Source: (IBN, 2020[10]); Germany: information provided by the Ministry of the Interior; Sweden: information provided by the Swedish Agency for Public Management.

Formal support to these networks affords visibility, enhances the legitimacy of the function of ethical advisor, and sustains the activity of the network. For example, the Polish Civil Service Department chairs and supports the activity of a network of ethics and integrity advisors. This support has contributed to promoting and generating awareness of the ethical advisors' role (appointment of an ethical advisor is not mandatory in the Polish civil service), and has identified a need to provide ethical guidance and consultation mechanisms in public sector offices. As a result, the appointment of ethical advisors has increased in government administrations.

Other mechanisms such as workshops, forums and common communication strategies can also support informal collaboration among organisations:

- *Workshops* can develop practical tools and instruments. Where a tool can be applied in multiple organisations, it makes sense to share the development to ensure efficiency and commonality.
- *Pools* are used to gather scarce expertise that can be shared across participating organisations. For example, investigators, trainers or policy advisers for integrity matters can be shared among various smaller organisations that may lack the capacity to employ such experts on their own.
- *Forums* are venues where integrity officers from various organisations can come together and share knowledge, experience, and lessons learned. These can be held in person or in a virtual environment.
- The *"Megaphone"* is used when organisations partner to communicate with the public and/or at political levels to influence the design of integrity policy. Organisations together can speak with a louder and more persuasive voice when it comes time to influence opinion (Hoekstra, 2015[7]).

Mechanisms tailored to national and sub-national levels in line with countries' governance framework

Regions and municipalities are often diverse, with different cultures, levels of socio-economic development, and levels and issues of corruption. This diversity can result in integrity policies that differ from the national level, as well as from one region to another. While there is no need for alignment, avoiding gaps and incoherence is desirable. To overcome inconsistencies, governments can assign clear responsibilities for integrity policies, as well as ensure that open lines of communication and measures for co-operation are in place. Mechanisms for building consistency will vary depending on the governance systems established by that country.

In federal states, the federal government rarely has any jurisdiction over public integrity in sub-national governments. Here, moving towards consistency across standards may rely on voluntary co-operation and information sharing. Regular meetings through a formal or informal integrity committee or commission can be used by federal countries to promote exchange of information and support coherence among integrity standards (Box 2.5). Such co-operation mechanisms focus on ensuring that the integrity systems at the sub-national level are coherent with the national level, while responding to the specificities of the sub-national level.

Box 2.5. Co-operation mechanisms in federal countries

The following examples from Belgium and Canada provide an overview of how federal governments support informal co-operation between it and regional governments.

Belgium – Consultation Committee

In Belgium, a Consultation Committee was established in the Chancellery of the Prime Minister to discuss good governance issues requiring co-operation across different levels of government. The committee, which meets once a month, consists of the ministers from the federal government and the ministers from the governments of the communities and regions. The secretariat of the Consultation Committee is responsible for the administrative and logistical tasks of the committee, such as preparing and sending meeting agendas, organising meetings, and distributing the results of the decisions made. The secretariat also oversees the monitoring process for co-operation agreements among the different entities and publishes co-operation agreements involving the federal government.

Canada – Canadian Conflict of Interest Network

The Canadian Conflict of Interest Network (CCOIN) was established in 1992 to formalise and strengthen contact across the different areas of government regarding conflict-of-interest policy. The commissioners from each of the ten provinces and the three territories, along with two from the federal government representing the members of parliament and the senate, meet annually to disseminate policies and related materials, exchange best practices, and discuss ideas on ethics issues and the viability of policies.

Source: (FPS Chancellery of the Prime Minister, 2019[11]; Office of the Conflict of Interest and Ethics Commissioner, 2019[12]).

Some central governments develop guidelines and instruments (such as government-wide codes of conduct and conflict-of-interest regulations) that are used to support the other levels of government in interpreting these provisions and implementing them. The legal framework can also be used to explicitly designate co-operation mechanisms to address gaps that may emerge. In these cases, central governments can be mandated to provide guidance on how to establish sub-national commissions, measures to communicate between national and sub-national levels, and tools to support coherence across sub-national integrity strategies (Box 2.6). The goal of these measures is not to apply a “one-size-fits-all” approach, but rather to support sub-national levels of government in implementing integrity policies that are consistent and coherent for individuals, regardless of the region.

Box 2.6. Regional Moralisation Commissions in Colombia

Each department in Colombia has set up a Regional Moralisation Commission (Cómision Regionales de Moralización, or CRM), which is responsible for supporting implementation of the National Anti-corruption Policy as well as for sharing information and co-ordinating local initiatives among the bodies involved in the prevention, investigation and punishment of corruption.

The CRMs are composed of the regional representatives of the Attorney General's Office, the Colombian Treasury Inspector's Office, the Sectional Council of the Judiciary and the Office of the Departmental, Municipal and District Treasury Inspectors. According to Law 1474 of 2011, attending these monthly meetings is mandatory and may not be delegated. Furthermore, other entities can be called on to be a part of the Regional Moralisation Commission, if considered necessary, namely: the Ombudsman's Office, the municipal representatives, the specialised technical police forces, the governor, and the President of the Department Assembly. In order to promote citizen participation and social control over the CRMs, at least one quarterly meeting must be held with civil society organisations to address and deal with their requests, concerns, complaints and claims.

Consistency among departments is favoured by a set of guidelines elaborated by the National Moralisation Commission (Comisión Nacional de Moralización, or CNM), which are complemented by model documents the CRMs may use to carry out their Action Plans. These include the Internal Regulation, the Biannual Management Report and the Attendance List. Such guidelines also contain an overview of main challenges and good practices from the CRMs.

Source: Colombian Law 1474 of 2011; Operational guidelines for the Regional Moralisation Commissions in Colombia (in Spanish), www.anticorrupcion.gov.co/SiteAssets/Paginas/lineamientosCRM/Cartilla_CRM.pdf (accessed 3 February 2020).

2.3. Challenges

The main challenge associated with assigning clear responsibilities for integrity is to foster the overall coherence and implementation of the integrity system. Strengthening coherence requires ensuring that responsibilities do not overlap, are not fragmented, and do not remain unimplemented. Addressing that challenge entails establishing both vertical and horizontal co-operation mechanisms and assigning resources, as discussed in Sections 2.2.3 and 2.2.2, respectively. It also requires establishing oversight mechanisms to identify potential gaps, which is further discussed in Chapter 12. While co-operation mechanisms address the challenges associated with responsibilities, they themselves also present challenges – the most prominent being entrenched silos and competition among entities.

2.3.1. Entrenched silos

Operating in silos can pose a challenge for many public organisations. A number of factors can contribute to silos, including hierarchical structures, a focus on key policy areas, and mode of delivery (e.g. thinkers, planners, doers). Silos are not always problematic; they can encourage efficiencies and optimisation of processes, and contribute to building core expertise (Riberio, Giacoman and Trantham, 2016[13]). Silos however become a challenge when they inhibit units or organisations from working across functional areas to effectively address overarching policy areas, such as public integrity.

To address the challenges related to silos, governments can take a number of steps. A strategic approach that lays out the public integrity objectives of the organisation or government, with outcomes and assigned responsibilities, helps pinpoint where potential silos may exist, while providing incentives for units or organisations to co-operate as they perform activities and formulate common objectives. Moreover, the creation of formal and informal co-operation networks can help strengthen collaboration among different organisations, and increase opportunities for co-operation. Examples of formal and informal communities, networks and co-operation mechanisms are discussed in Boxes 2.3, 2.4 and 2.5, respectively. However, governments can also consider using exchange-of-information tools. These may be formal or informal, including informal discussions and exchange of experience, memorandums of understanding and interoperable databases that allow administrations to cross-check available data in the public sector. Benefits resulting from co-operation mechanisms include increasing the efficiency of procedures by pooling resources and sharing information, as well as increasing knowledge exchange.

2.3.2. Competition among entities

Competition is a second challenge that undermines co-operation. Competition can be understood as a situation where organisations compete for limited resources, or as one based on social comparison – that is, a need to surpass peers (Wang, Wang and Liu, 2018[14]). Healthy competition does have several benefits, including innovation and improved efficiency. However, it can undermine policy outcomes as well as co-operation.

Striking the right balance of competition is therefore essential for supporting public organisations in co-operating with each other, while also pursuing innovations and efficiencies. Maintaining co-operation requires a balance between costs and benefits, where organisations reap more benefits from co-operating than costs (Stewart, 2015[15]). However, effective co-operation over the long term can lead to a complacency that undermines it. While it is impossible to guarantee co-operation in the long run, finding the right benefits can greatly support it; on the other hand, if there are too many incentives to co-operate, then defection is encouraged (Stewart, 2015[15]). For some countries, reducing competition among entities relies upon strengthening administrative co-ordination. In France, the French Anti-Corruption Agency contributes to administrative co-ordination, centralising and disseminating information to help prevent and detect acts of corruption, influence peddling, extortion, unlawful taking of interest, embezzlement and favouritism. The agency concludes co-operation agreements and memoranda of understanding with other public entities involved in the fight against corruption, formalising co-operation relations among entities and clarifying their respective scopes of action. This has helped facilitate and foster exchange of information and synergies.

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3 Strategy

This chapter provides a commentary on the principle of strategy contained within the OECD Recommendation of the Council on Public Integrity. It describes how to develop a strategic approach to public integrity that is evidence-based and aimed at mitigating public integrity risks. It focuses on a risk-based approach to setting strategic objectives and priorities for the public integrity system; developing benchmarks and indicators; and collecting relevant data on the system's implementation, performance and effectiveness. In addition, it addresses the challenge of balancing rules-based and values-based approaches to integrity strategies.

3.1. Why strategy?

A strategy for public integrity is essential for supporting a coherent and comprehensive integrity system. However, it is not an end in itself but rather a means to an end. The process of strategy development is therefore as important as the resulting strategy. An inclusive and rigorous strategy development process can help select relevant strategic objectives that are meaningful to citizens and businesses; prioritise and sequence actions in an open manner to address the most crucial integrity risks; and provide the necessary evidence for the interventions that are most cost-effective and likely to have the greatest impact. Strategies are also a way of demonstrating commitment and can be used to establish institutional responsibilities. If however strategies do not lead to visible gains – for example, due to inadequate implementation – they can at best become irrelevant and at worst erode public confidence in national authorities.

The OECD Recommendation on Public Integrity states that adherents should "develop a strategic approach for the public sector that is based on evidence and aimed at mitigating public integrity risks, in particular through:

a. Setting strategic objectives and priorities for the public integrity system based on a risk-based approach to violations of public integrity standards, and that takes into account factors that contribute to effective public integrity policies;
b. Developing benchmarks and indicators and gathering credible and relevant data on the level of implementation, performance and overall effectiveness of the public integrity system" (OECD, 2017[1]).

3.2. What is a strategy?

In essence, a strategic approach for public integrity is one that is formalised and run through existing government procedures for strategy development in consultation with relevant stakeholders; is based on evidence; takes a system-wide perspective; and focuses on the key integrity risks. To foster the conditions for increasing ethical behaviour, integrity strategies increasingly balance values-based with rules-based approaches. A comprehensive approach can result in many strategic objectives aimed at reducing integrity risks that are mainstreamed into existing government strategies. Some countries opt for a single national integrity or anti-corruption strategy, though a strategic approach does not necessitate a single strategy document. Regardless of the form, a strategic approach to public integrity contains all of the following elements:

- problem analysis: risk identification, analysis and mitigation
- strategy design: prioritising the objectives, policy consultation and co-ordination
- developing indicators with baselines, milestones and targets
- drafting the action plan, distributing responsibilities and costing activities
- implementing, monitoring, evaluating, and communicating the results of monitoring and evaluation, including evaluation prior to implementation.

3.2.1. Problem analysis: Risk identification, analysis and mitigation

The risk-based approach has implications for strategy development, implementation, monitoring and evaluation. In particular, it emphasises a problem analysis stage that identifies and analyses the integrity risks that are most harmful to public integrity. Inherent in this approach is the realisation that not all problems can be tackled at once, so prioritisation is necessary. A solid evidence base allows an informed choice as to which strategic objectives should be prioritised.

As the problem analysis process includes identifying, analysing and mitigating risks, it draws on the risk assessment process covered in Chapter 10, which deals with risk management. The two processes, however, are not the same. Risk management has a technical focus; it is used to design and adapt controls to address risks to public integrity. The problem analysis phase involves using the results of the risk assessment process to inform an integrity strategy for the national, sub-national, sectoral or organisational level. A problem analysis process could also reasonably cover risks to the whole-of-government or whole-of-society, and identify relevant mitigation strategies to address these areas.

Thus the problem analysis phase can draw inspiration from key elements of risk management – namely, the risk assessment process, including risk identification, analysis, and mitigation:

- *risk identification* – identifying types of integrity risks (bribery, nepotism, absenteeism, conflict of interest violations, procurement fraud, etc.) in a given process or system, based on a risk model
- *risk analysis* – estimating the likelihood and impact of each risk, among other factors
- *risk mitigation* – based on the results of the risk analysis, implementing measures to treat the risk and monitor and evaluate the measures.

The problem analysis phase aims at identifying problems and their causes, as well as challenges and opportunities for reform. At a minimum, it identifies specific types of relevant integrity breaches, the actors likely to be involved, and the expected likelihood and impact if the risk materialises. Problem analysis is used to select the most effective risk mitigation measures (activities) later, when the strategy and its action plan are developed.

Many of the available methods and techniques for conducting problem analysis are time- and resource-intensive, and may require specialist skills. As a first step in the process, the team in charge needs to formulate a realistic plan for data collection to identify supporting evidence (UNODC, 2015[2]). A key choice at the outset is whether to outsource the problem analysis work, conduct it in-house, or combine the two approaches. There are advantages and disadvantages to each option, depending on the context, resources and skills available, and scope of the exercise (see Table 3.1). Regardless of the option chosen, a proper problem analysis takes time. Relevant data are rarely readily available, and it is also crucial to engage and consult various stakeholders – both state and non-state actors – in the design, implementation and output of the analytical work. This matters for validity, take-up and accountability.

Table 3.1. Benefits and limitations of in-house versus outsourced problem analysis

Option 1: In-house public officials in ministries and agencies carry out the analysis	A working group comprised of public officials from the key institutions with complementary skills and expertise, and potentially external experts as well, led by the main institution, can be established to steer the analysis process. Proper design of the analysis, including defining the right questions and information sources in order to have an unbiased and informative picture, is the key to success in internal analysis. *Benefits:* better internal insights of the problems or gaps, on-the-job enhancement of the expertise of public officials involved in the process. *Limitations:* more time-consuming (public officials usually have other tasks to fulfil alongside the analysis), fewer opportunities to apply sophisticated analysis methods, greater risk of bias.
Option 2: Outsourced	An external service provider is procured to carry out the analysis. The ministry or agency has to develop the terms of reference (TOR) to properly target the scope and define the methodology; this requires expertise. *Benefits:* an opportunity to use more sophisticated or complex methodological approaches to get harder evidence in cases where in-house expertise is not available; can be faster than in-house analysis. *Limitations:* less in-house ownership; limited information on acute problems not visible to an external analyst; requires additional financial resources; limitations on development of the necessary in-house skills.
Option 3: Combination (public officials in ministries and agencies do the initial analysis)	An external service provider is hired to carry out deeper (or complementary) analysis in certain areas, to collect additional data, or to take an external view to check the quality and findings of the in-house analysis. The lead institution has to develop TOR to properly target the scope and define the methodology; this requires expertise. Alternatively, a combination can mean establishing a mixed working group (public officials, experts, CSOs), with experts preparing background documents and analyses and then discussing and finalising the problem analysis at the working group meetings with public officials. *Benefits:* allows better insight and quality testing of the initial analysis to ensure that core issues have not been omitted; opportunity to use more solid methodological approaches to get harder evidence. *Limitations:* more time-consuming; requires additional financial resources; requires additional co-ordination efforts; reduced opportunity for in-house skill development; risk of limited ownership compared to a fully in-house setup.

Source: (OECD, 2018[3]).

Strategic objectives for integrity may be located in several government documents owned by various authorities. As such, and depending on the structure of the government, it is recommended to periodically provide a mandate to an inter-institutional body, such as a joint task force with members from relevant central government bodies and oversight institutions, to prepare an analytical report on public integrity risks. This report could formulate recommendations and identify priorities for the whole public integrity system (Box 3.1).

Box 3.1. Analysing risks to draft the anti-corruption strategy in the United Kingdom

The UK 2017-22 anti-corruption strategy was developed through extensive cross-government discussion, led by the Joint Anti-Corruption Unit (JACU) in the Cabinet Office. The strategy was built from directly analysing three specific threats posed by corruption to the country: national security, national prosperity, and public confidence in institutions. Analysis of each of the three threats was led both nationally and in relation to the international context. This process informed the objectives entrenched in the strategy as well as the national, transnational (e.g. improving the international business environment, and the integrity of development finance) and sub-national measures (e.g. borders, defence, police, prisons, sport, and integrity in the financial sector, the private sector and local government) to be implemented.

Source: Adapted from (Pyman and Eastwood, 2018[4]).

Before conducting a problem analysis, an additional consideration is which analytical framework(s) and data sources to use (for an overview of possibilities, see (Johnson and Soreide, 2013[5]; OECD, 2019[6]; OECD, 2009[7]; UNDP, 2015[8]; UNODC, 2013[9]). Commonly used frameworks for strategy development are for example SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis, PESTLE (Political, Economic, Sociological, Technological, Legal and Environmental factors) and problem tree analysis (for more on SWOT and PESTLE, see (OECD, 2018[3])). Such frameworks are useful to facilitate thinking within the team and with external stakeholders. However, without robust data the process may be inclusive but not evidence-based. The following sources of information can provide useful insights to identify and analyse integrity risks:

- employee, household or business surveys
- other survey data, such as user surveys or polls from local research institutions
- data from public registries (e.g. law enforcement, audit institutions, national statistics offices)
- published research documents from national or international organisations or academia (e.g. articles, reports, working papers, political economy analysis)
- commissioned research
- indicators from international organisations or research institutions
- interviews or focus groups with relevant stakeholders
- risk assessments conducted by ministries or other government entities for their own programmes.

All of the above sources can be useful for *identifying* potential integrity risks, but not all can be used to analyse the magnitude or impact of different types of risks. Administrative data from public registries and reliable survey data can be used to both identify and assess the level of risk, whereas for example focus group discussions are mainly useful to identify types of risks.

In Estonia, regular surveys on ethics, corruption and trust conducted by the Ministry of Justice informed the development of the Anti-Corruption Strategy for 2013-20 (Box 3.2).

Box 3.2. Risk identification and assessment for the integrity strategy in Estonia

In Estonia, the Ministry of Justice is responsible for general anti-corruption policy and carries out regular surveys about ethics and trust in the public service, including a regular “Survey of Corruption among Three Target Groups”, those being public officials, citizens and businesses.

Various surveys informed the country’s Anti-Corruption Strategy 2013-20. A survey of citizens conducted in 2016 revealed that 9% of Estonians have been asked for a bribe when in contact with healthcare providers, making this the most corruption-prone area of citizens’ interaction with the public sector.

The “situational analysis” that preceded the integrity strategy in Estonia also looked at corruption crime statistics and a self-assessment of existing anti-corruption activities.

Source: (Sööt, 2017[10]; Estonian Ministry of Justice, 2013[11]; Estonian Ministry of Justice, 2016[12]).

Reviews conducted by international organisations can also provide input to problem analysis and policy recommendations. Examples include the Implementation Review Mechanism of the UN Convention against Corruption (UNCAC), the Council of Europe's Group of States against Corruption (GRECO) evaluations, OECD Working Group on Bribery (WGB) evaluations and OECD Integrity Reviews.

Understanding the current context, performance and challenges within a specific country or organisation allows strategic prioritisation of areas for action and identification of realistic objectives. A thorough diagnosis of integrity risks to inform strategic planning is however often lacking in practice in the integrity and anti-corruption field (UNODC, 2015[2]; UNDP, 2014[13]; Hussmann, Hechler and Peñailillo, 2009[14]). The consequence is that priority setting in the strategic process is biased, and ultimately the effectiveness of the integrity system in mitigating risks is undermined (OECD, 2018[15]). By identifying the major integrity risks in the problem analysis phase, policy makers begin a process of reflection on the potential consequences if such risks materialise, as well as the relevant skills and equipment required to manage those consequences (OECD, 2018[16]). A meaningful and realistic strategy is hard to develop without a robust problem analysis. Equally important though is that the design process for the strategy actually takes into account the findings of the problem analysis, and that strategic objectives are prioritised systematically on the basis on evidence (OECD, 2005[17]).

3.2.2. Strategy design: Prioritising the objectives, policy consultation and co-ordination

Having conducted a thorough problem analysis, the next step is to develop the strategy for mitigating the risks identified. The key driver for choosing the strategy type – whether it be a single strategy or mainstreaming integrity into existing policy plans and strategies – is to ensure coherence among organisations, policies and objectives. A single strategy can more easily signal commitment, and the centralisation of efforts can make co-ordination and a system-wide approach easier. However, as described below, in practice single strategies face multiple challenges when it comes to implementation, and require focus and a suitable institutional setup.

On the other hand, mainstreaming integrity into existing policy plans and strategies is also challenging. To be effective, a strategic approach for public integrity that is based on mainstreaming involves establishing primary (first-level) objectives[1] for mitigating integrity risks across strategies, as well as ensuring adequate coverage to constitute a system-wide approach.

Regardless of the type of strategy document, any strategy development process benefits from taking a systematic, inclusive approach to i) identifying and prioritising objectives; and ii) consulting and co-ordinating among relevant stakeholders.

Identifying and prioritising the strategic objectives

Regardless of whether a single strategy or a mainstreamed approach is chosen, strategic objectives are the guiding stars for those responsible for executing the strategy, and are used to form indicators and targets on the basis of which the strategy will be evaluated. Objectives must be aligned with the overall vision established for public integrity, as well as specific sector policy. Strategic objectives, from the general to the specific, directly link the findings of the problem analysis and align with indicators, their baselines (i.e. those of the indicators) and targets. Major integrity risks identified in the problem analysis should be addressed through primary objectives, which then cascade down to more specific secondary objectives, actions, indicators, milestones and targets.

Generally, the following areas usually benefit from a focus on integrity risk management:

- human resource management, including violations of public integrity standards
- public financial management, including reducing fraud and financial mismanagement
- internal control and general risk management frameworks
- public procurement.

In addition to these cross-cutting areas, a system-wide strategic approach will also have primary strategic objectives aimed at mitigating integrity risks in sector strategies – for example health, education, housing, taxation, customs and infrastructure. An advanced strategic framework continues beyond the public sector and recognises the role of the private sector, civil society and individuals in respecting public integrity values in their interactions with the public sector, as stated in the principle of whole-of-society (see Chapter 5). Box 3.3 describes the cross-governmental approach in Finland to developing an anti-corruption strategy. An advanced strategic framework could have objectives to mitigate public integrity risks in the private sector, public corporations, state-owned enterprises or public-private partnerships, as well as in interactions with civil society organisations.

Box 3.3. A cross-governmental approach to strategy design in Finland

The anti-corruption strategy in Finland was developed by a cross-government group, which included police, local government and CSOs. Six strategic objectives were defined, and then further detailed into thirteen objectives and twenty-three specific reform measures.

Identifying and prioritising strategic objectives relied upon a large spectrum risk mapping and analysis of data and statistics from the police, the Office of the Parliamentary Ombudsman, the Finnish Competition and Consumer Authority, and the Tax Administration as well as from Transparency International Finland. High-risk sectors identified were construction, public contracting and competitive tendering, urban planning, political funding and decision making, foreign trade and sports.

Source: (Pyman and Eastwood, 2018[4]).

Consulting and co-ordinating among relevant stakeholders

The strategy development process should ensure the appropriate participation of actors responsible for carrying out any part of the strategy. As discussed in Chapter 2, various agencies, departments, units and individuals across different branches of power have responsibilities when it comes to implementing elements of a strategy, and their acceptance and active support will be critical for the strategy to succeed.

When drafting strategy that involves several bodies, one option is to assign to a small committee the primary responsibility for drafting the strategy document and granting it a reasonable degree of autonomy in developing the draft; the committee would be composed of representatives from the relevant public bodies. Representatives from civil society – such as business or professional associations, think tanks and academia – may also be invited to participate, either as full members or observers (Box 3.4). Including a broad range of voices in the development process can help build a common vision and increase the legitimacy of the strategy, and hence augment political support for it in the wider society (UNODC, 2015[2]). The business community, civil society organisations, the media, academics and the public in general can provide valuable inputs, not only in the drafting stage but also in the later monitoring and evaluation of the strategy (UNDP, 2014[13]).

Box 3.4. Example of civil society involvement in the drafting of an integrity strategy and its implementation in the Netherlands

The Platform for Corruption Prevention in the Netherlands provides an example of how various stakeholders, including civil society organisations (CSOs), can be involved in implementing an anti-corruption strategy, as well as in helping design future strategies. Beyond public institutions, representatives from business and civil society were invited. These representatives were from private integrity and investigation services; the corporate risk and security management services of multinationals; the Association of Chambers of Commerce; the Association of Business Enterprises; Transparency International Netherlands; journalists; and academia. The meetings allowed participants to exchange expertise and experiences with anti-corruption developments in the Netherlands, and to share contributions to policy design and implementation, identification of corruption risks, research and training.

Source: (Centre for the Study of Democracy, 2014[18]).

The drafting body can be chaired by an individual with sufficient stature, legitimacy and political influence to act as an effective "champion" for the drafting body, and ultimately for the strategy itself (UNODC, 2015[2]). As noted above, the UK Anti-corruption Strategy was drafted by the Joint Anti-Corruption Unit (JACU) in the Home Office, and the anti-corruption strategy in Finland was developed by a cross-government group that included police, local government and CSOs (Pyman and Eastwood, 2018[4]).

The body in charge of formulating any strategy containing objectives relating to public integrity should consider consulting the following bodies: the anti-corruption authority; the supreme audit institution; the central institution responsible for internal control; the ombudsman institution; the police, the public procurement authority; the tax or customs authorities; and the prosecution authority or court administration. For the public consultation process, all supporting documentation should be made available to the public, including for example the results of regulatory impact assessments or white papers. It should also be made clear how comments provided by the public and organisations have been considered in the final version of the strategy, including explanations for those comments not taken on board.

Implementing established procedures for intergovernmental and public consultations can increase public acceptance of policies and prevent policy capture (for more, see Chapter 13). Moreover, for strategies relating to public integrity, it is often recommended that participation go "above and beyond", for example with open town hall-style meetings or social media outreach. Strategies can be adopted at different levels of government; doing so is useful to encourage support for the strategy and ensure co-ordination (UNODC, 2015[2]). At both the national and subnational (regional and municipal) level, each ministry, agency or other institution would benefit from preparing their own strategies for mitigating integrity risks within their area of responsibility. However, the system-wide perspective in the principle on strategy encourages a wider, more comprehensive and co-ordinated approach. In practice, therefore, it is recommended that strategies be adopted at least at the level of the government, meaning the council of ministers or equivalent collegial body in the executive.

Aligning new strategies with existing strategies supports coherence. For example, developing the integrity strategy of a local hospital can take into account its specific context (e.g. number of staff, situations in which corruption incidences occur), as well as the sectoral integrity strategy of the ministry of health or a wider strategy for public service delivery adopted at the level of the government.

3.2.3. Developing indicators with baselines, milestones and targets

A strategic approach also requires indicators and establishment of their baselines, milestones and targets. Indicators should reflect the strategic objectives, some of which may be part of the strategy document and others part of the action plan. As such, the development of indicators is an iterative process that can help improve strategic objectives at different levels as well as activities in the action plan.

Indicators – and in particular their baselines, milestones and targets – are often neglected in the strategy design phase, and developed too late in the process to be useful. This leaves those charged with implementation of the strategy without a proper roadmap for which concrete results should be achieved and how. It also makes it difficult for the government as well as non-state actors to assess the level of success, progress towards the strategic objectives, and necessary corrections, as needed.

The goal of indicators is to support comparability over time. This allows for benchmarking that can assess the effectiveness of different interventions in the strategy and in other parts of the public integrity system. In a national context, such benchmarks can be established using a before-and-after approach, if indicators are established and data collected well in advance of implementing the strategy, or a with-and-without approach where the performance of a comparison group is measured alongside the treatment group.[2] Internally comparable indicators are scarce and benchmarking should be done with diligence and attention paid to the limitations of the methodologies used. The OECD Public Integrity Indicators can serve as the indicators monitoring implementation of the strategic approach, or can serve as inspiration for developing other indicators.

When developing indicators, it is especially necessary to consider the limitations of the "iconic indices" mentioned in Box 3.5[3] that have served as the main measures of corruption and anti-corruption. The majority of existing measures rely heavily on secondary data sources based on expert judgement, and lack a theory or normative framework defining what the indicators should be measuring (Oman and Arndt, 2006[19]).

Box 3.5. Limitations of internationally comparable indices

Since the birth of the modern anti-corruption movement in the early 1990s, governments have requested reliable measures of corruption and anti-corruption that can be compared across jurisdictions and over time. The Corruption Perceptions Index from 1995, Bribepayers Index from 1999, and Worldwide Governance Indicators from 2002 played a crucial role in raising awareness of the issue; however, their high level of aggregation, extensive use of secondary data sources mainly based on expert judgement, and lack of an underlying theory of what works (normative framework) have been criticised by experts, and governments find them less useful as performance indicators. They also focus either on corruption as a vaguely defined concept, or on the likelihood of petty bribery from the perspective of businesses.

Surveys – of public officials, businesses, the public or specific stakeholders – can provide valuable evidence to inform integrity policies. They are a measurement instrument that can be designed to reflect the culture and challenges of a particular country or organisation. For example, according to the OECD Strategic Human Resources Management Survey, 16 member countries include integrity at the workplace in their employee surveys (OECD, 2017[20]). Regardless of whether one undertakes a dedicated survey or integrates a module into an existing survey, such surveys enable insights into patterns of corrupt behaviour, satisfaction with services, trust in public institutions, and other related areas. In the Netherlands, a comprehensive staff survey is at the core of agenda setting for future integrity policies (Box 3.6). Moreover, some cross-country surveys can provide reliable data to inform national strategies and even to form a national baseline if done with care (Box 3.7). Other data inputs, such as those found in national data registers, can also prove valuable in informing indicators for integrity strategies, if the collected data meet reasonable quality standards.

Box 3.6. Integrity Monitor in the Dutch public administration

Since 2004, the Ministry of the Interior and Kingdom Relations in the Netherlands regularly observes the state of integrity in the Dutch public sector. To this end civil servants (among them political office holders, secretaries-general and directors) are surveyed in all levels of government using mixed methods (including large-sample online surveys and in-depth interviews).

The Integrity Monitor, which is a flexible system of integrity assessments, supports policy makers in the design, implementation and communication of integrity policies. The survey's results are reported to Parliament. The Ministry of the Interior and Kingdom Relations uses the Monitor to raise ethical awareness, detect implementation gaps and engage the decentralised public administration in taking responsibility for integrity regulations. Insights from past surveys have helped to identify priorities for anti-corruption efforts and shift integrity policies from prohibition to creating an organisational culture of integrity.

Source: Presentation by Marja van der Werf given at the meeting of the OECD Working Party of Senior Public Integrity Officials (28 March 2017, Paris); (Lamboo and de Jong, 2016[21]).

Box 3.7. Surveys that allow cross-country comparisons

The following are cross-country surveys which can provide reliable data to inform national strategies as well as form a national baseline:

- The Eurobarometer produced a special edition on corruption, comparing the results against a previous poll from 2013 (European Commission, 2017[22]).
- The International Crime Victims Survey (ICVS) (United Nations Interregional Crime and Justice Research Institute, n.d.[23]), an international programme for measuring direct experience of crime victimisation, also included a section to measure the experience of bribery among the population.
- The World Bank Enterprise Surveys and Business Enterprise Economic Surveys (World Bank Group, n.d.[24]) provide the largest firm-level survey data on the experience of bribery.
- Transparency International's Global Corruption Barometer uses general population surveys, and the World Justice Project Rule of Law Index mixes expert assessment (coded as QRQ) with surveys of the general population (coded as GPP).[4]

3.2.4. Drafting the action plan, distributing responsibilities and costing activities

Once the strategic objectives are established and indicators and targets are set, the next step is to plan the specific activities needed so the objectives can realistically be met. This is an action plan.

All government strategies benefit from action plans, and each country has its own set of guidelines for what constitutes a good plan. Integrity strategies do not pose any particular challenge in this respect. Nevertheless, to emphasise the need for an evidence-and risk-based approach and financial sustainability, and because integrity strategies often depend on multiple implementation agents, the following characteristics of action plans are recommended for integrity strategies (see also (Council of Europe, 2013[25])):

- outcome-level indicators, with a baseline, milestones and targets, linked to objectives and activities
- identification of at least lead organisations for each objective
- description of the monitoring, reporting and evaluation arrangements
- use of administrative data sources from existing public registries, such as human resource management information systems, procurement databases, audit reports, risk registers, court case statistics and law enforcement statistics
- use of data sources from staff, household or business surveys
- if relevant for the strategic objective, activities at the sub-national level
- estimates of capital and operational expenditures
- identification of additional costs with cost estimates
- multi-annual financial plans that are linked with the medium-term expenditure framework
- public availability of the full action plan, together with the corresponding monitoring reports (see Section 3.2.5).

Presentation of the action plan should be kept simple, and also enable readers from outside the administration to identify at first glance answers to key questions such as, “What are the actions?”, “Who will be responsible for them?”, “When will they happen?” and “How will their impact be measured?” (Hope, 2013[26]). Even in the seemingly simple case of whether a new code of conduct has to be drafted, breaking the process into a series of steps (e.g. drafting the code, consultations, submission for approval and dissemination) could be helpful.

3.2.5. Implementing, monitoring, evaluating, and communicating the results of monitoring and evaluation, including evaluation prior to implementation

An effective integrity strategy and action plan must not only lay out a comprehensive set of substantive reforms, but also indicate the means for ensuring its implementation, monitoring and evaluation. As discussed in Chapter 2, a specific body, ministry or unit under a ministry should be assigned responsibility for this task, sometimes jointly with other entities. Regardless of the specific institutional setup, each strategy needs a central co-ordination function responsible for implementation, monitoring, evaluation and reporting of the strategy and its action plan.

Implementing the strategic framework

The entities responsible for the design of the integrity strategy and the action plan are not necessarily also responsible for all (parts) of its implementation (OECD, 2017[20]). This can hamper implementation. It will not be enough for booklets on policies to be sent round while putting them into practice is left to self-initiative and judgement (U4 Anti-Corruption Resource Centre, 2007[27]). Key to implementing an integrity strategy is therefore to join different integrity actors under a common vision and co-ordinate their action towards public integrity.

Several governments require that individual line ministries or departments prepare corruption prevention plans that are tailored to their organisation’s specific internal and external risks. Every organisation is different, and integrity risks vary depending on mandate, personnel, budget, infrastructure and IT development. For example, line ministries responsible for transferring social benefits face higher risks of

fraud; likewise, departments with higher public procurement spending (such as health or defence) may face corruption risks related to that activity. Even if a strategy is implemented by multiple bodies, there needs to be a central monitoring mechanism. At a minimum, monitoring reports should:

- be published at regular intervals, on time, and made publicly available
- report on progress in relation to predefined indicators and targets in the action plan
- present the rate of implementation of activities in the action plan
- draw conclusions and provide recommendations to management
- be discussed with relevant bodies, including non-state actors.

Individual agencies are often overly optimistic when assessing how well they are doing in implementing a programme, and the monitoring arrangements of many strategies have fallen short because they rely on implementing organisations monitoring their own progress. The agency responsible for co-ordinating implementation of the strategy should therefore ensure, whenever possible, that there is independent validation of progress. In some cases, it may be advisable to request that an organisation conduct a preliminary self-evaluation and then compare the results with an independent evaluation or audit (perhaps by the co-ordinating unit, another government department or an external monitor such as a civil society group or outside consultant). Among other advantages, doing so might help the implementing organisations understand how they can better assess their own performance (UNODC, 2015[2]). An example of how this is done is given in Box 3.8.

Box 3.8. Monitoring and assessing integrity in Korea

The Anti-corruption and Civil Rights Commission (ACRC) in Korea uses two complementary assessment frameworks to monitor and assess the quality of implementation of anti-corruption efforts as well as their results: Integrity Assessment and Anti-corruption Initiative Assessment.

Integrity Assessment (IA)

Korea annually assesses integrity in all government agencies through standardised surveys. Staff from 617 organisations are asked about their experience with and perception of corruption. Furthermore, citizens who have been in contact with the respective organisations are surveyed as well as stakeholders and experts who have an interest in the work of those organisations. The answers, together with other information, are scored into a composite indicator – the Comprehensive Integrity Index.

Anti-Corruption Initiative Assessment (AIA)

The Anti-Corruption Initiative Assessment is a comparative assessment of integrity policies across government agencies in Korea. Agencies selected for assessment submit a performance report on their implementation of integrity policies. On-site visits verify the information, which is then scored by an external assessment team. This allows the ACRC to observe integrity willingness and efforts across the public sector.

Benchmarking and competition

Underperformance in the IA or the AIA does not lead to sanctions. However, the results are made public and the direct comparison of different government entities based on integrity indicators creates competition among these entities. The results also enter the Government Performance Evaluation. In addition, there are institutional and individual high-performance rewards, such as an overseas study programme for the officials presiding over outstanding integrity performance. Continuous improvement of the performance results has indicated that these incentives might be effective.

Source: Presentation by Sung-sim Min, Director, Anti-Corruption Survey & Evaluation Division, ACRC, at the meeting of the Working Party of Senior Public Integrity Officials (SPIO) at the OECD Headquarters in Paris in November 2016.

Monitoring and evaluating the strategic framework

To properly gauge the effectiveness of an integrity strategy, it is important to specify evaluation arrangements.[5] These mechanisms are often institutionalised within the policy-making process for all public policies (Jacob, Speer and Furubo, 2015[28]). Evaluation mechanisms at various stages of the policy process are defined and planned prior to implementing any actions. Having a clear idea of what data will be collected for evaluation, as well as how and when measures taken will be evaluated, informs the design and implementation of actions. It is essential to establish evaluation mechanisms before the implementation phase to ensure measurability, progress reports and accountability. Some data may overlap with what has been collected for the risk identification and assessment procedure in the ex ante stage, but the monitoring and evaluation arrangements have a different purpose: holding the implementing actors accountable for what has been achieved, and how efficiently. Similar to the problem analysis phase, the evaluation can either be done in-house or outsourced. Alternatively, it is possible to outsource only certain parts of the process. The choice depends on the purpose of the evaluation and the resources available. In short, in-house evaluations can better facilitate organisational self-reflection and learning, be less expensive, and be faster to execute; at the same time, they are also seen as less objective, and in-house staff often have neither the time nor the skills needed for a thorough evaluation. Table 3.2 details the advantages and disadvantages of each approach.

Table 3.2. Benefits and limitations of the options for evaluation setup

Option 1: In-house evaluation	Evaluation is designed and carried out internally by the lead institution staff. *Benefits:* may allow for faster evaluation, as there is no need for standard procurement procedures; availability of inside information; further enhancement of analytical skills and insight. *Limitations:* could be less objective, due to reluctance to disclose challenges and problems.
Option 2: Outsourced evaluation	Evaluation is carried out by external consultants through an outsourcing procedure. *Benefits:* objective evaluation by external and independent evaluators. *Limitations:* requires additional resources to procure the expertise; may require more time to procure the service providers.
Option 3: Mixed/combined evaluation	Only some parts of the evaluation are outsourced (e.g. data collection and some of the more sophisticated analysis), while the rest is done in-house. *Benefits:* objective evaluation due to the involvement of external and independent evaluators; faster evaluation process, as the more time-intensive evaluation steps can be outsourced. *Limitations:* requires additional resources to procure certain services.

Source: (OECD, 2018[3]).

Evaluation reports for integrity strategies should be made publicly available, and it is often useful to include non-state actors either as evaluators or as part of a formal quality assurance process.[6] Monitoring data should be used actively in the evaluation reports, and the ultimate goal is for the evaluation exercise to improve approaches and practices, for example by informing the design of follow-up initiatives.

Communicating the results of monitoring and evaluation

Aside from monitoring and measuring the benefits of the integrity strategy, communicating progress and results to internal and external stakeholders, including the wider public, not only enables accountability but also increases the credibility of integrity efforts and stimulates future anti-corruption and integrity action. In their action plan, countries may include information and communication activities, taking into account all new information media such as social media, as well as traditional and tested approaches such as town hall meetings and public hearings (UNODC, 2015[2]).

Communication should start as soon as the integrity strategy is ready, prior to implementation. Its content and envisaged implementation and the bodies responsible for its execution should be widely publicised. This will ensure transparency and help mobilise popular support, besides creating public expectation that those involved in the reform process will live up to their commitments. The public can be informed of the strategy and its implementation progress through the media, government websites and targeted public information events as well as by civil society organisations (OSCE, 2016[29]). Chapter 5 addresses factors related to developing and implementing an effective communications strategy.

3.3. Challenges

A strategic approach for public integrity may face challenges depending on whether a single national strategy is formulated or strategic objectives for integrity are mainstreamed into existing strategies. Regardless of the choice of the document, a strategic approach requires high-level commitment during the strategy design process, as well as ensuring that the approach avoids overly rigid compliance objectives and places emphasis on promoting cultural change within organisations.

3.3.1. Ensuring high level commitment and assigning the appropriate resources to support the strategic framework

Without commitment at the highest political and management levels, integrity strategies are unlikely to be effective or sustained in the long term (for more, see Chapter 1). A good practice for gathering the necessary support for the strategy and the suggested reforms throughout the administration is to ensure the appropriate participation in the strategy-drafting phase of representatives of any government agency, department or unit affected by the strategy (OSCE, 2016[29]). An advantage of involving relevant actors (responsible for implementation, enforcement and monitoring) in the strategy design process is that it can improve their co-operation in those three areas, which are all critical to the effectiveness of the integrity system (UNODC, 2015[2]). Ensuring that the process includes a representative from a high-level or central government position can also support commitment to implementation (for more, see Chapter 2).

A challenge that arises especially for single national integrity strategies relates to the need for a suitable institutional setup and political champions. Strategic objectives may be meaningful but not met if management structures, processes, information technology, data registries and staffing are inadequate, or if time and budget are insufficient to put ambitions into practice. In establishing objectives, the strategy designers need to match expectations with the implementation capacity, the time needed, and available resources of the particular public administration (Council of Europe, 2013[25]). It is crucial to avoid developing an unrealistic “wish list”. Prioritisation in strategy development can be done through establishing short-, medium- and long-term objectives, and sequencing the implementation of activities.

A strategic approach that mainstreams integrity objectives into existing strategies often faces fewer problems regarding the institutional setup, staffing and funding, as those strategies are established; however, it still needs to grapple with the challenge of a whole-of-government, collaborative approach. For example, sector ministries may be reluctant to collaborate closely with oversight institutions, anti-corruption authorities or civil society organisations in fear that the weaknesses of their integrity systems may be exposed. It is even more necessary for such approaches that an inter-institutional body is given a mandate to periodically prepare an analytical report on public integrity risks that formulates recommendations and sets priorities for the whole public integrity system, as mentioned above. Otherwise integrity risks will be identified and analysed only within specific sub-systems of government.

3.3.2. Balancing rules-based and values-based approaches

A common challenge for all types of integrity strategies is to achieve the proper balance between a rule-based or compliance-based approach and a strategy based on values. Over the years, governments have adopted legal and institutional frameworks to strengthen integrity in the public sector. However, in many countries these frameworks rely heavily on compliance and enforcement mechanisms.

The goal of any integrity strategy should be to increase integrity in the public sector, not simply to curb misconduct and corruption. Compliance-based approaches focus on adherence to administrative procedures and rules setting minimum standards. While these efforts provide the necessary enabling framework, an integrity strategy additionally based on values helps create an environment that supports positive ethical behaviour. The idea is for values to serve as a common framework that can be applied in the decision-making process across different functions, departments and teams (see Table 3.3).

Table 3.3. Balancing rules-based and values-based integrity strategies

	Rules-based strategy	Values-based strategy
Objective	Prevent misconduct	Enable responsible conduct
Ethos	Conformity with externally imposed standards	Self-governance according to chosen values and standards of conduct
Management	Lawyer/compliance officer-driven	Management-driven with the aid of integrity and ethics counsellors, and HR and legal officers
Behavioural assumptions	Autonomous beings guided by material self-interest	Social beings guided by values, standards of conduct, peers
Standards	Criminal and regulatory law	Code of ethics, code of conduct and related policies, regulations and laws
Staffing	Lawyers/HR/compliance officers	Integrity officers, HR, managers
Method	Education in existing legal framework, compliance standards and systems, reduced discretion, misconduct reporting, audit and controls, investigation processes, sanctions, etc.	Strengthen ethical competence of public officials through development of organisational values, education and training on values and standards of conduct, integrity training and ethics counselling, leadership and managerial role modelling, accountability, transparency, integrity frameworks, auditing, sanctions, mainstreaming values into the daily processes of the administration, communication and raising awareness

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Notes

[1] Primary or first-level objectives are those formally adopted by a council of ministers or similar body, and are applicable across government or across a sector.

[2] This could for example be done if an integrity programme in schools is planned as part of the strategy, and because of a lack of resources the programme is first implemented in selected municipalities (treatment group) and only later, once this pilot phase has been evaluated, in other municipalities (comparison group).

[3] For more on limitations, please see the G20 Issues Paper on Corruption and Economic Growth (G20, n.d.[32]), as well as the UNDP User's Guide to Measuring Corruption and Anti-Corruption (UNDP, 2015[8]).

[4] The Global Corruption Barometer and regional barometers provide actionable data on the prevalence of bribery in different sectors and the attitudes of citizens towards the efforts of the administration to curb corruption. However, due to funding pressures and operational limitations the samples can be biased – for example towards urban populations – and results are often not comparable over time.

[5] Monitoring is a continuous function that uses systematic collection of data on specific indicators to provide an indication of the achievement of objectives. Evaluation is the systematic and objective assessment of an ongoing or completed project, programme or policy, its design, implementation and results. It differs from monitoring in that it involves a judgement of the value of the activity and its results (OECD, 2013[31]). For more about monitoring government performance, see (OECD, 2009[30]).

[6] The European Commission's Quality of Public Administration – Toolbox 2017 edition provides examples of how to promote the active involvement of stakeholders in evaluating public policy: http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8055&type=2&furtherPubs=no.

4 Standards

This chapter provides a commentary on the principle of standards contained in the OECD Recommendation of the Council on Public Integrity. It describes how governments can set clearly defined high standards of conduct that prioritise the public interest and adherence to public sector values, and include them in legal and regulatory frameworks and strategies. It provides examples of clear and proportionate procedures to prevent violations of public integrity standards, and introduces internal and external communications mechanisms to disseminate these values and standards. In addition, the chapter addresses the three commonly faced challenges of making standards memorable and actionable, ensuring implementation, and setting clear and proportionate procedures to prevent conflicts of interest.

4.1. Why standards?

Public integrity is "the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector" (OECD, 2017[1]). In other words, it involves doing the right things, doing things for the right reasons, and doing things the right way (Heywood et al., 2017[2]). However, understanding what is meant by "right" requires clear standards. High standards set out in the legal framework clarify which behaviours are expected of public officials and provide a framework for governments to enable ethical behaviour. Setting standards of conduct that can be learned, internalised and enforced can support the creation of a shared understanding across government and among citizens.

The OECD Recommendation on Public Integrity calls on adherents to "set high standards of conduct for public officials, in particular through:

a. Going beyond minimum requirements, prioritising the public interest, adherence to public-service values, an open culture that facilitates and rewards organisational learning and encourages good governance;
b. Including integrity standards in the legal system and organisational policies (such as codes of conduct or codes of ethics) to clarify expectations and serve as a basis for disciplinary, administrative, civil and/or criminal investigation and sanctions, as appropriate;
c. Setting clear and proportionate procedures to help prevent violations of public integrity standards and to manage actual or potential conflicts of interest;
d. Communicating public sector values and standards internally in public sector organisations and externally to the private sector, civil society and individuals, and asking these partners to respect those values and standards in their interactions with public officials" (OECD, 2017[1]).

4.2. What are standards?

Standards inform and guide public officials' behaviour in carrying out their public duties. There are a number of tools and mechanisms that governments can use to set and safeguard high standards of conduct. The following components are essential elements to operationalise high standards of integrity:

- clearly defined and mandatory high standards of conduct in the legal framework that prioritise the public interest and adherence to public service values.
- legal and regulatory frameworks and strategies that embed integrity values and standards.
- clear and proportionate procedures and processes to prevent and manage issues that could violate public integrity standards if left unchecked.
- internal and external communication measures to raise awareness of public sector values and standards.

4.2.1. Clearly defined and mandatory high standards of conduct in the legal framework that prioritise the public interest and adherence to public service values

Setting high standards of conduct that must be implemented by any public official and that prioritise the public interest reflects the commitment to serving the general interest and building a public service-oriented culture. Standards of conduct express public sector values, and the values of any public service are key to guiding the behaviour of public officials. Values set out the basic principles and expectations that society deems to be of importance for public officials, and provide clarity for organisations and public officials at all levels regarding expected behaviours. These values are set out in the appropriate standards defined in

legal and/or administrative systems, such as statutes and general acts on public service, as well as in the constitution, labour laws, special service or public service regulations, and administrative procedure laws.

Values are informed not only by domestic norms, but also by international standards. For example, Article 8 of the United Nations Convention against Corruption (UNCAC) requires state parties to promote integrity, honesty and responsibility among their public officials, in accordance with the fundamental principles of their legal system. Within this context, *integrity* is defined as mentioned in the introduction to this chapter. *Honesty* refers to honour, respectability and virtue, whereas *responsibility* is the state or fact of having a duty to deal with something or be accountable for something (Bacio Terracino, 2019[3]).

The Recommendation on Public Integrity encourages adherents to go beyond minimum requirements and prioritise the public interest, and to cultivate an open culture that facilitates and rewards organisational learning and encourages good governance. These concepts are explored elsewhere (for more, see Chapters 8 and 9). Sanctions in case of non-adherence to requirements can also shape behaviour. Yet, they rarely provide motivation to go beyond minimum codified requirements (Wegner, Schöberlein and Biermann, 2013[4]). Incentive-driven approaches, such as rewarding individuals who actively promote integrity, can encourage the implementation of higher standards and ethical behaviours by appealing to individuals' sense of morality and responsibility (Zúñiga, 2018[5]). This may incrementally result in changes and in codifying higher standards.

4.2.2. Legal and regulatory frameworks and strategies that embed integrity values and standards

Standards of conduct are embedded in the legal system and organisational policies, which set out the basic principles and clarify the boundaries of acceptable behaviour. Clear standards also provide a common framework to ensure accountability, including by applying sanctions for violations of public integrity standards. Much attention has been focused on criminalisation of corruption, but strong legal and regulatory frameworks and strategies rely on combining not only criminal law but also civil and administrative laws, as well as codes of conduct or ethics, to embed integrity values and standards.

Legal and regulatory frameworks and strategies

A number of standards compose the broader integrity system. These frameworks and strategies cover bribery, fraud, trading in influence, money laundering, managing and preventing conflict of interest, managing gifts and gratuities, declaration of assets and pre- and post-public employment, as well as functions related to whistleblower protection, integrity and transparency in lobbying, and financing of political parties and campaigns. While various institutions may be responsible for designing and implementing the policies associated with these standards (for more, see Chapter 2), including these in the legal and regulatory framework and/or strategy is key.

Criminal law

OECD countries enshrine integrity standards applicable to public officials, with respective investigative procedures and sanctions, in criminal law. Domestic provisions applying to public officials establish clear jurisdiction over offences. To guarantee an effective integrity system and enforcement, they define specialised functions, effective investigative procedures and measures for inter-institutional co-operation, protection of witnesses, gathering of evidence and confiscation of proceeds when applicable, as well as proportionate sanctions for:

- active and passive bribery of public officials
- trading in influence
- embezzlement, misappropriation or other diversion of property by a public official

- abuse of functions
- illicit enrichment
- money laundering
- concealment of property resulting from corruption
- creating or using an invoice or accounting document or record containing false or incomplete information, and unlawfully omitting to make a record of payment
- obstruction of justice.

Because these core standards are essential to national public integrity systems, countries have recognised them at the international level. They have been included in international conventions such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the Council of Europe Criminal Law Convention on Corruption; and the United Nations Convention against Corruption.

Civil law

Civil law is a critical tool for ensuring the protection of individuals' rights and providing compensation for victims of violations of standards. It is a complementary tool to criminal law and allows the private sector, civil society and any legal person to take part in the fight against violations of standards.

Domestic civil law provides for effective remedies where persons have suffered damage following integrity breaches. In defining these civil law mechanisms, governments enable victims to defend their rights and interests. Victims should have the possibility to request compensation for damages, and this right should cover material damage caused to the victims and loss of profits as well as non-pecuniary losses. Civil domestic laws establish the right to initiate an action for compensation. Procedures and functions should also be clearly defined to guarantee effective implementation. Compensation or restitution may happen after the claim for damages occurs in criminal proceedings. In some instances, both criminal and civil procedures may be used to sanction and deter violations.

In addition to compensation for damages, the key integrity provisions defined in domestic civil laws are:

- liability of public officials, including the possibility, when several defendants are liable for damage for the same action, that they are jointly and severally liable, and liability of the state for violations of standards committed by public officials
- contributory negligence, providing in law that the compensation is reduced or denied considering particular circumstances, if the victim contributed to the damage or its aggravation
- validity of contracts
- whistleblower protection
- clarity and accuracy of accounts and audits
- effective procedures for acquisition of evidence in civil proceedings deriving from an act of corruption
- court orders to preserve the assets necessary for execution of the final judgement and for the maintenance of the status quo pending resolution of the points at issue.

As crucial tools for legal and natural persons to fight against integrity breaches and receive compensation or restitution (United Nations, 2010[6]), civil law procedures have also been further recognised and embedded in international conventions such as the Council of Europe Civil Law Convention on Corruption and the United Nations Convention against Corruption.

Administrative law

Domestic administrative law defines the rights and duties of public administrations in their relations with the public. In cases of violation of standards of conduct, administrative sanctions also include non-judicial penalties, such as economic sanctions or debarment.

Ethics-related administrative law aims to safeguard the integrity of individual civil servants and of the whole civil service, and encourages good governance in institutions. The core standards and processes embedded in administrative law should cover:

- *standards:* civil service statute and obligations of public service, freedom of information, transparency of public contracts, political financing and lobbying activities, and access to administrative justice
- *processes:* administrative responsibilities and sanctions, internal control and oversight mechanisms, prevention and management of conflict of interest, whistleblower protection and management of complaints, and competent authorities dealing with procedures, including reviews of decisions and appeals, and sanctions.

Considering the impact of these various standards within the national administrative, civil, and criminal legislative and regulatory frameworks, countries have promoted their significance by further committing to and embedding them at the international level in various international conventions, agreements and declarations.

Codes of conduct or ethics

Codes of conduct and codes of ethics clearly present and illustrate the diverse legal and regulatory frameworks, and are a useful tool to guide behaviour. *Codes of conduct* clarify expected standards and prohibited situations, whereas *codes of ethics* identify the principles that guide behaviour and decision making. Most national regulatory frameworks are situated between both instruments, which combine public service values with guidance on how to apply the expected standards and principles of conduct. Such combinations find a balance between formulating general core values and offering public officials a framework to support day-to-day decision making. For example, the Australian Public Service Act 1999 outlines core values for the public service, which are then expanded into a concrete code of conduct within the same document. Similarly in Canada, the Values and Ethics Code for the Public Sector combines both codes by defining values, including integrity, and then including a chapter on “expected behaviours” for each value (Government of Canada, 2012[7]). Regulations in countries have adopted codes that explain how the values can be translated in public officials’ daily conduct – for example, the Korean Code of Conduct for Maintaining the Integrity of Public Officials and the New Zealand Standards of Integrity and Conduct and its related guidance document (OECD, 2013[8]). Practical examples in the code or in associated guidance help to specify the generally formulated values, as well as further elaborate with practical examples on how the public official can act when faced with certain circumstances.

International models, such as the International Code of Conduct for Public Officials[1] or the Council of Europe Model Code of Conduct[2], provide guidance on the issues most commonly covered in codes of conduct. Such issues include conflict of interest, gifts and hospitalities, obligations to report misconduct, bribery and other forms of undue influence, the use of information held by public authorities, and leaving the public service. Table 4.1 elaborates on the most common duties and prohibitions contained in codes of conduct in OECD countries.

Table 4.1. Substantive provisions contained in codes of conduct

Due regard for the law; prohibition of bribery; duty to report suspicious activities
Integrity
Impartiality
Confidentiality
Honesty
Efficiency and effectiveness
Serving the public interest; refraining from seeking personal benefits or abusing powers granted because of the public office; proper use of public resources
Preventing and managing conflicts of interest; pre- and post-employment restrictions; declaration of assets, financial interests and outside activities; acceptance of gifts and favours
Individual and collective accountability

A code is clear and simple, logically structured, and linked to all other related documents or legislation that form part of the wider integrity system (Bacio Terracino, 2019[9]). Including an explicit reference to the formal chain of responsibility and what protection is available in cases of exposing wrongdoing is also recommended. Involving stakeholders in the drafting and validation process helps build a common understanding of expected standards of conduct, and improves the clarity and ownership of the code.

In addition to a general code of conduct, standards can be adapted to sensitive sectors and roles within the public administration through tailored codes. In particular, tailored codes of conduct can be developed for at-risk positions, such as procurement officials or those working in customs. In Canada, while it is aligned with the Values and Ethics Code for the Public Sector and the national conflict-of-interest policy, a separate and regularly updated code applies to procurement officials (Government of Canada, 2019[10]). Elected officials and judicial officials may also have specific codes adapted to their functions, duties and missions. Codes may also guide the behaviour of political advisers, given their role in shaping policies.

As the private sector may participate in decision making and delivering public services, applying standards of conduct there as well can also increase confidence in government decisions and transactions. The Supplier Code of Conduct in the United Kingdom is an example of outlining the standards and behaviours that governments should expect from their suppliers. Similarly, to strengthen confidence in the public decision-making process, some countries also require a code of conduct for lobbyists (for more, see Chapter 13).

To maintain credibility and relevance, public officials need to be accountable for complying with the standards of conduct. Chapter 11 covers the core elements of an effective disciplinary system. When designing the standards, it is necessary to consider whether the duties are legally and disciplinarily binding, or merely ethically and morally dissuasive with regard to violations. Reliable procedures and resources for reporting and investigating breaches of conduct, as well as for monitoring compliance with the code, are necessary. For standards that are legally and disciplinarily binding, assigning clear and proportionate administrative or disciplinary sanctions can help promote compliance with integrity standards. Sanctions can take different forms, including:

- warnings and reprimands (either written or oral)
- monetary disadvantages (e.g. fines, salary penalties)
- impact on current or future career (e.g. demotions, transfers)
- ban from public office, i.e. preventing offending former officials from occupying public office for specific periods
- dismissal from office.

The type of sanction may vary according to the gravity of the breach of the code. For instance, the Australian Public Service Act 1999 provides a range of administrative sanctions where public servants have breached the code of conduct, ranging from reprimand to termination of office (Australian Government, 1999[11]).

4.2.3. Clear and proportionate procedures and processes to prevent and manage issues that could violate public integrity standards if left unchecked

Both clarity and proportionality increase the fairness, acceptability and efficiency of the procedures to prevent violations of public integrity standards. Clarity of the procedures is essential for public officials to understand how they should behave; what they should report if needed and to whom and when; and the sanctions they face if they do not comply with the standards and rules. If the steps of the procedures, expectations and requirements differ for certain categories of functions (e.g. elected officials, political appointees, members of cabinet, etc.) or sectors (public procurement, tax, customs, etc.), these differences should be made explicit. Offering public officials guidance on and training and education in the procedures – whether through a hotline, booklets, websites, or a dedicated function, unit or institution – increases the clarity and diffusion of the standards and procedures.

Proportionality of the procedures ensures a tailored approach, achieved through gradually considering the functions occupied, the potential risks, and levels of seniority and exposure. In practice, this may result in additional requirements for high-ranking elected and non-elected officials and at-risk positions, for instance with regard to assets and interest disclosure or making public leaders' agendas public.

To illustrate what clear and proportionate procedures mean in practice, the example of managing and preventing conflict of interest is detailed. At the outset, the definition of a "conflict of interest" is essential to understanding the issue and how to identify, manage and resolve it (OECD, 2004[12]). A descriptive approach (defining a conflict of interest in general terms) or a prescriptive one (defining a range of situations considered as being in conflict with public duties) may be adopted.

In addition to defining conflict of interest, effective implementation relies on public officials knowing when and how to identify a potential or real conflict of interest. As conflict of interest can never be fully eliminated, a balanced approach between public service obligations and public officials' private lives and interests enables those public officials to identify and avoid unacceptable forms of conflict of interest, and to inform the relevant body, whether it be a manager or a specialised unit or body, of their existence.

Specifying the key moments throughout a public official's career where they are required to identify and report conflicts of interest, such as during the pre-employment and post-employment phases, or prior to taking part in a new project with private sector actors, can build clarity into the processes. However, as conflicts of interest can arise throughout a public official's career, it is also useful to ensure that the policy and guidance detail the applicable reporting and management procedures. The procedure to manage or resolve a conflict of interest should be proportionate to the functions occupied, and could include one or more of the following mechanisms:

- removal (temporary or permanent)
- recusal or restriction
- transfer or rearrangement
- resignation (OECD, 2004[13]).

Clear rules and guidance also need to be accompanied by awareness-raising and capacity-building measures that familiarise public officials with their responsibilities for managing conflict-of-interest situations, as well as sanctions for when public officials do not effectively manage conflict of interest (Bacio Terracino, 2019[3]).

4.2.4. Internal and external communication measures to raise awareness of public sector values and standards

Communication of the standards, both internally within the organisation and externally with stakeholders, makes them part of the organisational culture. Whichever communication method and corresponding messages are used, public organisations should emphasise that backing the message with action is critical to implementing public integrity standards (for more, see Chapters 6 and 9).

Internal communication of standards

Diffusion through diverse media is likely to increase understanding of standards of conduct and accessibility to and use of the code. At a minimum, officials, including new officials, may be given their own personal copy of the code or ready access to it. A dedicated page or section may be assigned on an organisation's intranet as a repository of information related to standards of conduct. The "Conduct and Performance" section of the Queensland Government (Australia) official portal includes relevant strategic and corporate documents, policies and procedures as well as interactive activities, feedback boxes, and frequently asked questions.

Traditional communication channels include memos, brochures, newsletters, policy manuals, annual reports and posters. Opportunities to refer to public sector values can also include formal speeches or presentations, as well as one-to-one advice. Other effective forums for discussion may include team meetings, focus groups, brown-bag lunches and social events. Standards of conduct can also be disseminated through electronic channels such as intranets, blogs, podcasts, chat rooms, video conferencing, instant messaging systems, and quiz tools. These are eye-catching formats that can target officials' electronic devices (including mobile devices), and be programmed to run and be repeated over a certain period.

External communication of standards

Communicating standards within public organisations is necessary but not sufficient. As interactions between the public sector and society are common, including individuals, civil society organisations, academia and private sector actors in awareness-raising campaigns allows governments to disseminate public values and standards. Awareness-raising efforts, education and consultation mechanisms are three essential features to communicate standards externally.

Awareness-raising campaigns are the main method used by public sector organisations to increase understanding of public integrity issues. They often highlight a specific issue and reach a designated audience. Campaigns can take various forms, ranging from traditional media (radio, television, print) to social media (YouTube, Twitter, Facebook, etc.) – or a combination, depending on the objectives and target audiences.

Education is essential for disseminating integrity standards and norms to the young. Partnering with actors in the education system is thus a way to diffuse standards among society. Education for public integrity is concerned with inspiring ethical behaviour and equipping young people in both primary and secondary schools with knowledge and the skills to prevent violations of the standards. Beyond classroom learning, learning-by-doing experiences contribute to developing young people's integrity skills and competencies. This may take the form of integrity projects in which they monitor real-life public processes (for more see Chapter 5, Box 5.4).

External diffusion of public integrity standards also relies on institutionalising stakeholder engagement. This means governments establish formal requirements to consult stakeholders on new integrity policies, whether in the development, update or implementation of the public integrity system (for more see Chapter 5, Box 5.6). Transparent stakeholder engagement involves publicly documenting who was

consulted, their input, and the government's response to the main issues. In the regulatory field, engaging stakeholders in developing regulations has improved compliance with and acceptance of the regulations. For more on the relationship between stakeholder engagement, integrity and policy making, see Chapter 13.

In their interactions with public officials, third parties and partners are key actors for diffusing and safeguarding public values and standards. Public organisations can therefore communicate that they expect the same high standards of conduct from all individuals involved in the provision of public services, including third-party providers. To achieve this, they can provide them with a clear statement of expectations prior to potential engagement. Indeed, unless the public sector values are unambiguously translated into contractual arrangements and clear guidance is provided, it is unlikely that providers of public services will know they are applicable to them or accord sufficient priority to how they are expected to behave (UK Committee on Standards in Public Life, 2014[14]). As well, laws regulating lobbying or relations between the administration and the public can call on external actors and individuals to uphold these values and standards in their interactions with public organisations and officials. In addition, codes of conduct for lobbyists or specific codes or provisions for contracted partners also enable clear communication of public standards and expected behaviours with public officials.

Adopting a whole-of-society approach and commitment to standards will help strengthen their daily implementation. Combined dissemination efforts both within and outside public organisations are key to ensuring that values and standards are understood and implemented by all. It is essential to recognise and recall that fostering a culture of integrity in the public sector is not just about public officials and organisations, but also involves individuals, academia, civil society and private sector actors. For more on these awareness-raising, education and engagement aspects, see Chapter 5.

4.3. Challenges

Although challenges depend mostly on the particularities of the local and national contexts in which organisations operate, a few common obstacles deter public administrations from effectively setting high standards of conduct. The most relevant ones are discussed below.

4.3.1. Making standards memorable and actionable

Standards and guidance for ethical conduct often derive from a commitment to overarching values (OECD, 2018[15]). These values are the basis for evaluating everyday choices and actions, yet overloading the number of values can have the opposite effect, with public officials unable to remember them. This is because the number of items that humans can store in their working memory is limited. As such, limiting the values to no more than seven elements (plus or minus two) can help improve understanding and implementation (see Box 4.1).

Box 4.1. Setting meaningful and memorable standards for integrity

The Australian Public Service (APS) Values

In 2010, the Advisory Group on Reform of the Australian Government Administration released its report, which recognised the importance of a robust values framework to a high-performing, adaptable public service, and the importance of strategic, values-based leadership in driving performance. The APS values aim to provide "a small[er] set of core values that are meaningful, memorable, and effective in driving change". The model follows the acronym "I CARE":

- Impartial
- Committed to service
- Accountable
- Respectful
- Ethical

The Colombian General Integrity Code

In 2016, the Colombian Ministry of Public Administration initiated a process to define a General Integrity Code. Through a participatory exercise involving more than 25 000 public servants through different mechanisms, five core values were selected:

- Honesty
- Respect
- Commitment
- Diligence
- Justice

In addition, each public entity has the possibility of integrating up to two additional values or principles to respond to organisational, sectoral and/or regional specificities.

The Seven Key Duties (Syv centrale pligter) in Denmark

The Danish Agency for Modernisation (MODST) under the Ministry of Finance issued the "Kodex VII" – a code of conduct for Danish civil servants. The code defines seven central duties:

- Legality
- Truthfulness
- Professionalism
- Development and co-operation
- Responsibility and management
- Openness about errors
- Party-political neutrality.

Kodex VII describes the relevance and the implications of each duty for the Danish public sector. Moreover, MODST provides fictional case studies that can be used to practice application of Kodex VII. Potential solutions for the case studies are available to public institutions, but are not published.

Source: Australian Public Service Commission, Australia, "APS Values", (www.apsc.gov.au/aps-values-1); Departamento Administrativo de la Función Pública, Colombia, (www.funcionpublica.gov.co/web/eva/codigo-integridad); Moderniseringsstyrelsen, Denmark, "Kodex VII – Seven Key Duties" (https://modst.dk/om-os/publikationer/2015/september/kodex-vii-seven-key-duties/) and "Kodex VII – Cases" (https://modst.dk/om-os/publikationer/2015/september/kodex-vii-cases/) (all links accessed 11 February 2020).

4.3.2. Making sure that standards of conduct exist beyond paper

Consistent ethical role modelling from managers is one of the main sources of promotion and diffusion of standards of conduct. Social learning theory shows that people learn from one another, via observation, imitation and modelling, and that managers' engagement in unethical acts is the biggest driver of unethical behaviour (Hanna, Crittenden and Crittenden, 2013[16]). Even the best-designed codes of conduct, processes and integrity structures fall short if public officials are not encouraged to follow visibly committed managers and leaders. For more on high-level commitment and role modelling, see Chapters 1 and 6.

4.3.3. Setting clear and proportionate procedures to manage conflict of interest

In designing standards and procedures for managing, preventing and detecting conflict of interest, governments have adopted various approaches. Some of these procedures require public officials to disclose annually their assets and/or interests to their institution or to a central unit or commission tasked with monitoring the disclosure process. When resources are limited, an annual flow of declarations submitted by all or most national civil servants is a challenge to the effective prevention of conflicts of interest. Experience over the past decades suggests that a tailored identification of categories of public officials providing such declarations that is subject to verification mechanisms; clearly defined coverage of the information disclosed; and public availability of non-confidential information are all essential in ensuring effective implementation (Bacio Terracino, 2019[9]).

When designing policies to prevent, detect and manage actual or potential conflicts of interest, setting clear and proportionate procedures is key to ensuring their effective implementation. These may include notably:

- setting clear objectives of the procedures in terms of transparency, prevention of conflicts of interest and/or verification of the accuracy of the information disclosed
- defining precisely the information that must be disclosed and to whom it must be disclosed
- identifying categories of public officials who should disclose this information considering their functions and exposure to risks
- defining the extent to which the information disclosed regarding these different categories of public officials can be made publicly available
- adapting the frequency of disclosure as well as the means and resources dedicated to monitoring the disclosure system
- providing officials with guidance on the procedure and the information to be disclosed
- setting proportionate sanctions in case of violations.

Preventing conflict-of-interest situations for the highest-ranking public officials was established in the French legal framework for the first time in 2013, based on a gradual approach to disclosure and publication of their assets and interests (Box 4.2).

Box 4.2. A proportionate approach to preventing, detecting and managing conflicts of interest in France

Since 2014, the High Authority for Transparency in Public Life (HATVP) collects declarations and verifies the exactitude and completeness of the assets and interests declared by the high-ranking public elected and non-elected officials falling within its scope as they enter and leave their functions; these officials number close to 16 000 (see Chapter 1, Box 1.4 for the categories of officials covered).

The High Authority's yearly control plan is based on risk exposure, the functions occupied and the seniority of the different categories of public officials. It is also guided by legal publication deadlines for the public officials, whose declarations must be published on the website of the authority. All declarations are checked but some are subject to more thorough review. The effectiveness of verification procedures relies notably on direct access to some of the tax administration databases, and partnerships with the tax administration, the anti-money laundering service, financial magistrates, etc. to gather and cross-check all available information.

In cases of potential conflicts of interest, this verification system allows defining of specific case-by-case proportionate measures that can be adopted by public officials to solve the situation. For the aforementioned 16 000 public officials, not following the HATVP injunction to resolve a conflict-of-interest situation may result in a one-year prison sentence and a EUR 15 000 fine.

At all stages, to clarify any step or requirement in the disclosure procedures, a dedicated hotline is available to answer public officials' questions. Beyond the questions on declarative obligations *per se*, public officials can also benefit from the ethical advice role of the HATVP. The institution must answer any question within 30 days.

Source: (HATVP, 2018[17]).

Clear and proportionate procedures to prevent conflict of interest require clear mandates and dedicated human, technical and financial resources for the public officials in charge to perform their role. Without the necessary guarantees of and proportionality to ensure effectiveness of the procedures and prevention of conflict of interest, disclosure and verification systems may lack the relevance and credibility to participate in regulating conflict of interest.

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Notes

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5 Whole-of-society

This chapter provides a commentary on the principle of whole-of-society contained within the OECD Recommendation of the Council on Public Integrity, describing how governments can partner with the private sector, civil society and individuals to help promote a culture of integrity. Particular attention is paid to how governments can support companies in implementing responsible business conduct and anti-bribery practices to uphold public integrity. Strategies are presented for ensuring that the legal environment enables civil society organisations to apply integrity practices in their organisations. The roles of awareness-raising campaigns and civic education programmes are also explored, emphasising how individuals are critical actors in supporting public integrity. In addition, the chapter addresses the challenge posed by the entrenched social norms that undermine public integrity, and provides guidance to governments on how to address these issues when engaging the whole-of-society.

5.1. Why whole-of-society?

Public integrity is not just an issue for the public sector: individuals, civil society and companies shape interactions in society, and their actions can harm or foster integrity in their communities. A whole-of-society approach asserts that as these actors interact with public officials and play a critical role in setting the public agenda and influencing public decisions, they also have a responsibility to promote public integrity. At the most basic level, individuals' choices have an impact. Witnessing the costs of corruption, they can choose to ignore them and become victims, or recognise violations and actively contribute to strengthening public integrity.

The OECD Recommendation on Public Integrity states that adherents should "promote a whole-of-society culture of public integrity, partnering with the private sector, civil society and individuals, in particular through:

a. Recognising in the public integrity system the role of the private sector, civil society and individuals in respecting public integrity values in their interactions with the public sector, in particular by encouraging the private sector, civil society and individuals to uphold those values as a shared responsibility;
b. Engaging relevant stakeholders in the development, regular update and implementation of the public integrity system;
c. Raising awareness in society of the benefits of public integrity and reducing tolerance of violations of public integrity standards and carrying out, where appropriate, campaigns to promote civic education on public integrity, among individuals and particularly in schools;
d. Engaging the private sector and civil society on the complementary benefits to public integrity that arise from upholding integrity in business and in non-profit activities, sharing and building on, lessons learned from good practices" (OECD, 2017[1]).

5.2. What is whole-of-society?

Public integrity refers to the "consistent alignment of and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector" (OECD, 2017[1]). A "whole-of-society" approach to public integrity requires companies, civil society organisations and individuals to ensure that their engagement with the public sector respects the shared ethical norms, principles and values of society. How this materialises depends on the role each actor has in society. For companies, it can involve complying with environmental and human rights standards when carrying out their business activities, paying their fair share in taxes, refraining from offering bribes, and ensuring that lobbying activities align with the long-term sustainability goals set by the company. For civil society organisations, it can include ensuring that they adhere to standards of public integrity when acting as a service provider or advocating for policy issues. For individuals, it can mean respecting the rules governing interactions with public officials and access to public monies, including respecting public property, not engaging in fraudulent social benefit schemes or avoiding taxes, and reporting corruption and fraud when they encounter it.

The following features are essential components to cultivate a whole-of-society approach:

- Public integrity standards are established and implemented in companies.
- Public integrity standards are established and implemented in civil society organisations.
- Public integrity values are established and accepted as a shared responsibility by individuals.
- Relevant stakeholders are engaged in developing, updating and implementing the public integrity system.

5.2.1. Public integrity standards are established and implemented in companies

The role of governments in working with companies to uphold public integrity is recognised at the international level through conventions, standards and related guidelines.[1] Governments can support public integrity in companies by ensuring the relevant legislation is in place. This not only covers anti-corruption measures, but also includes responsible business conduct, such as protecting human rights, the environment and consumer interests, and ensuring international labour standards, taxation standards, and corporate governance structures are in place. Moreover, public integrity in companies includes public integrity issues of how companies participate in the policy-making process through lobbying and political financing (e.g. "responsible influence").

The current approach is to establish separate legislative initiatives dealing with anti-corruption, responsible business conduct and public integrity, which then translate into separate policies and measures within companies. For example, many governments have legislation in place requiring companies to establish an anti-bribery compliance programme, which includes anti-corruption corporate policies, capacity building, reporting channels, risk management and internal control functions. The US Foreign Corrupt Practices Act and the UK Bribery Act were vanguards in this area, with other governments following suit. Most recently in France, the law Sapin II requires companies to establish an anti-corruption programme to identify and manage corruption risks, and includes sanctions for non-compliance. The law also establishes the French Anti-Corruption Agency (AFA), which can hold companies liable for failure to implement an efficient anti-corruption programme even if no corrupt activity has taken place. Likewise, governments use legislation to support companies in applying due diligence measures for other responsible business conduct issues; recent legislation passed in Australia (Modern Slavery Act, 2018), France (Duty of Vigilance Law, 2017), and the United Kingdom (Modern Slavery Act, 2015), are examples.

Responsible influence is also often considered separately in both government legislation and internal company policy. Responsible influence is concerned with ensuring that public integrity values are upheld when companies interact with government, in particular through their lobbying and political financing practices, as well as in movement between the public and private sectors (i.e. the "revolving door"). Through legislation and policy measures, governments can incentivise companies to have in place policies on lobbying, political financing and post-public employment. In Spain for example, the legal framework is used to encourage companies to comply with post-public employment legislation (Box 5.1). Similarly, the federal public procurement body in Canada uses debarment from public contracts as a sanction for companies that have violated the federal Lobbying Act (Government of Canada, 2017[2]).

Box 5.1. Using the legal framework to encourage company compliance with post-public employment in Spain

In Spain, Law 9/2017 on public sector contracts reinforces the obligation to post the employment activities of high-ranking officials in order to minimise conflicts of interest. In particular, companies that have hired any person breaching the prohibition on providing services in private companies directly related to the competencies of the position held during the two-year cooling-off period are prohibited from contracting with any public administration provided that the breach has been published in the Official State Gazette. The prohibition on contracting will remain for as long as the person is hired, with the maximum limit of two years from their termination as high-ranking official.

Source: Information provided by the Office of Conflicts of Interest, 2019.

To be effective however, public integrity requires that anti-corruption efforts, responsible business conduct and responsible influence are seen to be mutually supportive and complementary. As such, governments could consider providing policy guidance to companies on how these separate regimes complement one another, to avoid overlaps and gaps. This builds on emerging good practice from due diligence, which recognises that such functions within companies should not be isolated from one another, but should connect a number of departments and functions, including (but not limited to) human resources, operations and production, legal, compliance/ethics, procurement, sales and marketing, external affairs, risk management and audit, as well as senior management and the board/owners. As will be discussed below, governments could also consider incorporating an "integrity culture" perspective to support the effective implementation of such programmes.

Establishing a coherent legislative framework for public integrity is only part of the solution to support integrity in companies. Implementation of such measures is also key. As a starting point, governments can raise awareness of integrity standards among companies (for more, see Chapter 4). Governments can also encourage implementation through a combination of sanctions and incentive regimes. Sanctions should be effective, proportionate and dissuasive, and can include monetary fines, incarceration, confiscation of proceeds, contract remedies, suspension and debarment, denial of government benefits, and liability for damages (UNODC, 2013[3]). Incentives are used to recognise companies' commitment to good corporate citizenship, and can include preferential access to government benefits (e.g. tax or export credits) and business opportunities (e.g. white-listing companies with demonstrated good integrity practices), as well as penalty mitigation (UNODC, 2013[3]).

Beyond sanctions and incentive regimes, governments can also issue guidance for companies on establishing public integrity compliance programmes. Such programmes can be beneficial, with evidence showing a strong correlation between companies that have diligent sustainability practices and economic performance (Clark, Feiner and Viehs, 2015[4]). Such companies have been found to demonstrate better operational performance, with prudent sustainability practices having a positive influence on investment practices (Clark, Feiner and Viehs, 2015[4]).

However, looking at past experience from anti-bribery and responsible business conduct compliance programmes, there is evidence that these programmes can become legalistic, rules-based measures that do little to create a culture of integrity within companies. As noted above, compliance programmes often operate in silos, separated from the core operations of the company and seen as an add-on. There is also the view that compliance programmes are cosmetic, focused on "ticking the box" to meet government regulations and avoid strong sanctions, rather than addressing the organisational culture issues that lead to integrity violations (Langevoort, 2016[5]; Krawiec, 2003[6]). Coupled with this are findings from behavioural sciences that show that an overemphasis on control and sanctions can crowd out intrinsic motivation for integrity, leading to diminished capacity for ethical behaviour (Lambsdorff, 2015[7]).

To support companies in mainstreaming public integrity compliance programmes into core business operations, governments could incorporate an "integrity culture" perspective into their guidance. This entails moving beyond a focus on formal compliance, and encouraging companies to address the informal aspects of their organisational culture that could undermine public integrity. Such aspects include management example and commitment, rewards and bonus structures, organisational voice and silence factors, internal team dynamics, and external relationships with stakeholders (Taylor, 2017[8]). Table 5.1 provides further details on each of these factors.

Table 5.1. The five levels of an ethical culture

Level	Description
Individual	How individual employees are measured and rewarded is a key factor that sustains or undermines ethical culture. In the face of pressure to meet growth targets by any means necessary – a belief that the ends justify the means – unethical behaviour is to be expected. Therefore, the rewards system is an excellent place to start. Diversity and inclusion initiatives enable individual employees to bring their whole selves to work: employees who feel it unnecessary to hide aspects of their social identity to fit into the dominant culture will experience less conflict between personal and organisational values and will express themselves more confidently – making them more inclined to raise concerns about ethics.
Interpersonal	Organisations can also focus on how employees interact across the hierarchy. Abuse of power and authority is a key factor that degrades organisational culture. When decisions around promotions and rewards seem unfair and political, employees disregard organisational statements about values and begin pursuing their own agendas. Building an ethical culture from an interpersonal perspective requires meaningful protections that empower all employees and stakeholders, even the least powerful, to raise concerns and express grievances. Leaders must recognise the outsized role they play in setting culture and driving adherence to ethics, and they must learn to exercise influence carefully.
Group	Socialisation into group memberships and relationships is a core aspect of human culture. At work, the key determinant tends to be an employee's group or team. As organisations become more geographically diffuse and loosely aligned, it becomes harder to set and define consistent organisational culture. Focusing on team conditions can empower middle managers to feel responsible for changing culture and group dynamics to foster more effective ways of working. Similarly, while clarity in roles and tasks is key to a successful team, so is psychological safety. If employees feel secure in taking risks and expressing themselves, teams will be more creative, successful, and ethical.
Intergroup	The quality of relationships among groups is critical to consider in any attempt to build an ethical culture. Celebrating a team whose high performance may stem from questionable conduct gives it power and a mystique that is difficult to challenge, and this can undermine values across the organisation. Teams working in sustainability or compliance often need to scrape for power and resources; when members are attached to matrixed working groups, accountability can get watered down.
Inter-organisational	Most discussions of organisational culture focus on internal relationships. Still, employees are keenly conscious of how a company treats suppliers, customers, competitors, and civil society stakeholders, so building and maintaining stakeholder trust will improve organisational culture. Moreover, companies need to ensure that their values and mission statements amount to more than words on a website. Business success and core values are not contradictory concepts. That said, building an ethical culture sometimes means walking away from lucrative opportunities. Companies can be sure their employees will notice.

Source: (Taylor, 2017[8]).

Governments can support companies in adopting this perspective by making it a part of reporting requirements. For example, in the financial regulatory sector, the United Kingdom and the United States require financial services to incorporate a "cultural perspective" in their oversight measures. The FINRA (the broker-dealer regulatory organisation) in the United States requires companies to report on culture, as does the Office of the Comptroller of Currency, where bank executives and directors are required to integrate oversight on cultural commitments into their ongoing activities (Filabi and Bulgarella, 2018[9]).

A growing practice for some governments is to require external verification of a company's compliance programme before granting access to public contracts and other public goods. If requiring external verification, governments could consider including language in the prepared guidance that clarifies for companies that certification does not eliminate the risk of breaches of public integrity, nor does it have an impact on decisions to investigate and prosecute cases of corruption. For example, in the UK Adequate Procedures Guidance, the Ministry of Justice suggests that organisations consider obtaining external verification or assurance of their anti-bribery system and include a clarifying measure to remind companies that accreditation is not a magic bullet for preventing unethical behaviour (UK Ministry of Justice, 2010[10]).

This practice, however, may prove difficult for small and medium-sized enterprises (SMEs), which will likely require additional support in order to implement such programmes. Given that across the OECD, SMEs account for 99% of all businesses and provide over half of all business sector employment (OECD, 2019[11]), governments could considering stratifying reporting requirements to ensure that they are inclusive to enterprises across sectors and industries. When it comes to the above mentioned sanctions and incentive regimes, governments could consider adjusting the benefits awarded to respond to the needs of SMEs, while also providing additional guidance and capacity-building opportunities.

5.2.2. Public integrity standards are established and implemented in civil society organisations

Civil society organisations (CSOs) play a critical role in promoting the public good. Mission-oriented and purpose-driven, CSOs have traditionally addressed gaps in society where neither government nor business were active. In recent years the role of civil society has evolved, and CSOs actively demonstrate their value as facilitators, conveners and innovators, as well as service providers and advocates (World Economic Forum and KPMG International, 2013[12]). They are also a genuine actor in domestic and international affairs, collaborating with both government and business to address key challenges.

To carry out their functions, CSOs often receive special status, such as tax exemption and other benefits, as well as access to public contracts. They also receive funds from companies or private individuals. CSOs are expected by government, business and the general public to act in alignment with their mission, show integrity and be trustworthy, and display exemplary behaviour across the organisation. Public integrity is therefore not only a concern for governments and companies, but also key for ensuring the legitimacy of CSOs. Violations of public integrity and good governance can have negative impacts, jeopardising the legitimacy of CSOs in the eyes of government and the public, and undermining the sustainability of their activities and access to funding. For these organisations, an integrity system provides assurance to public and private donors, as well as the broader society, that the funds received are used in a cost-effective way.

To support public integrity standards in CSOs, governments need to ensure that a clear legal context exists for them to operate in (for more, see Chapter 13). In addition, governments can use the legislative framework to promote public integrity in CSOs, such as through subjecting them to anti-corruption laws where they constitute legal persons, and requiring them to have a sound governance structure. This structure can include clear lines of accountability, integrity standards, internal control and risk management measures, and transparency in activities and the use of funds.

Beyond legislative and policy measures to support public integrity, civil society organisations also need to have effective accountability structures. Principles under the Recommendation on Public Integrity such as strategy, leadership, capacity building, openness and risk management can also be applied to build and sustain integrity in CSOs.

One concrete tool to support their integrity is the “Global Standard for CSO Accountability”, which was developed by a group of CSOs specialised in accountability. It lays out twelve commitments and provides guidance to CSOs for improving their accountability practices (Table 5.2).

Table 5.2. The Global Accountability Standard’s 12 Commitments

Cluster A: What we want to achieve	Cluster B: Our approach to change	Cluster C: What we do internally
Justice and equality	People-driven work	Empowered, effective staff and volunteers
Women’s rights and gender equality	Strong partnerships	Well-handled resources
Healthy planet	Advocating for fundamental change	Responsive decision making
Lasting positive change	Open organisations	Responsible leadership

Source: (Global Standard for CSO Accountability, n.d.[13]).

To support implementation of each of these commitments, detailed guidance is provided (see an excerpt in Box 5.2) around the following:

1. *Processes, policies and structure* identify the internal organisational activities that enable CSOs to fulfil the accountability commitment.
2. *Stakeholder feedback* helps CSOs consider how their actions impact stakeholders; guidance is provided on how to collect and evaluate stakeholder input.
3. *Guiding questions* encourage a deeper reflection within CSOs to identify the challenges faced and solutions to address these challenges.

Box 5.2. Supporting CSOs in establishing effective accountability measures: The Global Standard for Accountability

An excerpt from the guidance dealing with "well-handled resources" is detailed below.

"10. Well-handled resources: we will handle our resources responsibly to reach our goals and serve the public good.

The efficient, effective and ethical use of financial and other resources is essential for CSOs to manage programmes, achieve results and to develop trust from stakeholders. CSOs must follow generally recognised financial accounting standards, ensure the implementation of strict financial controls and reduce the risk of misuse of funds by handling resources responsibly.

Key actions: Acquire resources in ways that align with values and goals, manage resources responsibly and comply with professional accounting standards, ensure strict financial controls to reduce the risk of corruption, bribery, misuse of funds, and conflicts of interest, report openly and transparently about who provides our resources and how they are managed.

Does your organisation…

1. … have effective guidelines and procedures for ethical fundraising, procurement, and use and management of resources, with provisions for: sourcing and allocation of funds and in-kind donations, fraud prevention, handling of suspected and proven corruption and misuse of resources, and conflicts of interest?
2. … use funds according to the budget and for the intended purposes to achieve strategic goals?
3. … ensure expenditure is monitored regularly, independent financial audits using professional accounting standards are completed and published, and recommended changes are implemented?
4. … purchase goods and services that follow competitive and transparent bidding procedures?
5. … openly provide information on the sources and allocation of funds?"

Source: (Global Standard for CSO Accountability, n.d.[13]).

5.2.3. Public integrity standards are established and accepted as a shared responsibility by individuals

In addition to companies and civil society organisations, individuals play a key role in upholding a culture of integrity in society. By setting standards for public integrity in the legislation and raising awareness of the costs of corruption and benefits of public integrity, governments can cultivate commitment among society and reduce tolerance for public integrity violations.

Setting integrity standards for individuals

Individuals' interactions with the public sector are vast, and include access to public services, receipt of social benefits and public funds, and use of public spaces and goods (such as public parks or public transportation). Recognising their responsibility within the public integrity system requires ensuring the necessary legislation is in place to prohibit taking part in corrupt acts such as bribery or trading in influence, and to govern payment of taxes, receipt of social benefits, and use of public space and services, among other things.

Awareness-raising campaigns cultivate commitment to public integrity

Awareness-raising campaigns are one of the primary methods by which governments can increase individuals' understanding of public integrity issues. Awareness-raising campaigns seek to highlight a specific issue and reach a designated audience, whether internally within an organisation or group, or externally to reach the wider society. Campaigns can take different forms, ranging from traditional media (radio, television, print) to new forms of social media (YouTube, Twitter, Facebook, etc.), sometimes a combination of both.

Raising awareness about integrity and anti-corruption efforts can have negative effects however: perceptions of rampant corruption, increasing citizen apathy and reducing motivation to uphold public integrity norms. As such, when developing campaigns it is helpful to ensure that the campaign messages are informed by an understanding of the integrity challenges facing society, and to avoid sensationalising the issue (Table 5.3). Employing credible and authentic evidence can also enable recipients to identify with the core messages (Mann, 2011[14]).

Table 5.3. Success factors for behaviour-changing campaigns

Goal	Options
Tailor the campaign to the audience	• Acknowledge existing attitudes • Make the issue publicly accessible • Make the issue culturally specific • Look at the issue from the target audience's point of view • Conduct a pilot or pre-test to monitor outcomes
Generate community responsibility	• Make the issue socially unacceptable by framing the issue in moral terms • Highlight the wider impact of the issue on society and demonstrate the impact on human life
Increase a sense of agency	• Develop a sense of self control, motivation, knowledge and skills • Offer alternative behaviour
Encourage action	• Highlight the action that needs to be taken, such as the proper procedures to report corrupt activities

Source: Adapted from (Mann, 2011[14]).

Public sector institutions may want to use awareness-raising campaigns to challenge the notion that unethical behaviour is justified, by creating a conscious link between an individual's view of his or her own integrity and the wider public benefit. While the vast majority of people do not like to harm others (Camerer, 2011[15]), in the case of unethical behaviour the damage done by the individual often remains abstract and not directly linked to another individual, thereby permitting them to justify the behaviour (Barkan, Ayal and Ariely, 2015[16]). Challenging these behaviour patterns therefore requires linking awareness raising to actual dilemmas, so that individuals understand how their actions can have a negative impact on other individuals, groups and the wider public interest of the community.

Public sector institutions may also consider using campaigns to offer tangible solutions for individuals to uphold public integrity. Small norm prompts can positively influence the actions of an individual who is faced with a corrupt scenario (Köbis et al., 2015[17]). Such prompts could include offering different solutions (such as how to report corruption or how to partner with public officials to uphold integrity) and identifying alternative behaviours to corruption (Box 5.3).

Box 5.3. Awareness-raising campaigns as a tool to inspire action for integrity

The High Level Commission Against Corruption #Peruanosdeverdad Campaign in Peru

The High Level Commission against Corruption (CAN Anticorrupción) in Peru launched the campaign #PeruviansForReal (#Peruanosdeverdad) in 2016 as part of its integrity strategy. The campaign, which includes a YouTube video, aims to counteract the norms that undermine the integrity of Peruvian society by providing new, positive norms to promote change. The video begins with a series of integrity breaches, ranging from paying bribes to breaking traffic rules, to other forms of civil disruption such as assault and petty theft. The statement, "The change that Peru needs begins with oneself" follows the images. Citizens are then seen with messages for integrity, including #PeruviansForReal: comply with the law, and #PeruviansForReal: we don't pay bribes. Citizens of all ages are included in the video, and a Peruvian footballer delivers the final message: "How can we expect the authorities to act with integrity and make the country better when we do not do those things ourselves?"

Source: (OECD, 2018[18]; CONFIEP, 2016[19]).

Policy makers can also use awareness-raising campaigns to build citizens' trust and engagement in ongoing public integrity efforts. For example, an annual "Government Open Doors Day" is held in Germany, which gives citizens the opportunity to meet with federal ministers and state secretaries, and discuss policies and issues (Berlin.de, 2018[20]). The government also uses Government Open Doors Day to raise awareness about integrity and anti-corruption policies.

Civic education programmes cultivate the knowledge, skills and behaviour to uphold public integrity

Engaging the school system is critical for inspiring norms for integrity at a young age, as the school system supports dialogue and exploration about how students, as future citizens, can protect public integrity. Education for public integrity is concerned with inspiring ethical behaviour and equipping young people in both primary and secondary schools with the knowledge and skills to resist corruption. The way in which education for public integrity is disseminated differs across countries, with factors such as curriculum preferences, stakeholder engagement (including political and financial support) and co-operation between the education and integrity bodies and other stakeholders influencing young people's experience and exposure to integrity education.

Most countries either mainstream public integrity values through the curriculum or deliver education for public integrity by the public integrity/anti-corruption body (OECD, 2018[21]). Countries that incorporate education for public integrity into the curriculum generally use two methods: i) integrating modules into existing courses and/or ii) providing support through teacher manuals and additional materials to be used at the time of the school's choosing. For example, Hungary uses the first method, integrating concepts about integrity and anti-corruption into the existing ethics curriculum (OECD, 2018[21]). In Chile, the Council for Transparency uses the second method, with a trivia game that tests the knowledge of pupils from ages 10 to 16 about transparency and democracy and promotes co-operation and competition among them. In other countries, the integrity or anti-corruption authority has responsibility for carrying out the education programmes (Box 5.4).

Box 5.4. Education for public integrity delivered by the anti-corruption authority in Portugal

In Portugal, the Council for the Prevention of Corruption (CPC) developed a set of projects for teachers, adults and students (aged 6-18). These projects aim to raise awareness of the causes and consequences of corruption, and support the development of skills and values for the fight against it. The Council provides training to teachers, school staff and students' parents to clarify concepts related to corruption and bribery, and to help them think about their role in upholding public integrity and reflect on corruption's impact on the social, economic and political development of society.

The CPC uses a series of contests for students to increase their awareness of and support their engagement in fighting corruption. One of the contests is "Images against corruption'' (Imagens contra a Corrupção). Students discuss issues related to fraud, corruption and bribery under the guidance of their teachers, and produce outputs showing the lessons they learned. The best student works are selected by a national jury, and awarded a prize.

Another project is "To prevent is better" (Mais Vale Prevenir). Each year, the CPC partners with schools in providing training to school staff on the impacts of corruption on societies, and encourages them to help young students develop knowledge and skills. Guided by their teachers, students read different kinds of texts and discuss everyday life situations related to corruption. They are then asked to produce outputs demonstrating what they have learned and understood about issues related to fraud, bribery and corruption. A national jury selects the final products and the best ones are awarded.

Source: Conselho de Prevenção da Corrupção (2018) Educational Projects (unpublished).

Regardless of how a government chooses to integrate education for public integrity, policy makers can identify and make use of synergies in the existing curriculum to avoid overload. For example, educators could link lessons on public integrity to materials about human rights, rule of law, and the structure of government. Educators could also introduce public integrity education into any language and literature class by having lessons designed around students reading and then writing about governance issues.

In addition to classroom learning, "learning by doing" helps to develop young people's skills and competencies in safeguarding public integrity, increase their participation in decision-making processes, and support their role as change-makers (Schulz et al., 2016[22]). Educators could engage students in real life integrity projects, such as submitting a request for access to information or monitoring a public works process (Box 5.5). Indeed, linking projects to existing learning outcomes; incorporating the voice of youth in the design and selection of the activities; and providing a space for students to reflect on the experiences afterwards not only raise awareness about the necessity of integrity within public life, but also enable young people to build skills through practice (Ceilo, Durlak and Dymnicki, 2011[23]).

Box 5.5. Learning public integrity by doing: Monitoring public procurement in Italy

In Italy, the Ministry of Cultural Heritage collaborated with Action Aid Italy to engage 90 local citizens, including students, to conduct civic monitoring of the two major science and cultural projects in the archaeological park of Sybaris. The project aimed at engaging citizens and helping them understand and monitor the basic features of a tender. Citizens were given the opportunity to study public contracts, monitor the public procurement process, and learn how technology can improve the quality of public investment.

Source: (Quintili, 2018[24]).

Training for educators – equipping them with the skills and knowledge to address issues such as corruption – needs to be a core component of any education for integrity programme (OECD, 2018[21]). Training can range from courses taken during teacher trainee programmes or in-service training, to seminars and resource kits prepared by government institutions or civil society actors. Training in education for public integrity could also help educators build skills to address difficult ethical and moral questions in the classroom. Improving educators' ethical and moral reasoning skills can be achieved in part through courses that incorporate abstract and theoretical content, and that encourage teachers to stretch themselves cognitively through critical reflection (Cummings, Harlow and Maddux, 2007[25]).

Beyond educating young people and educators, it is necessary to implement measures to evaluate the impact of education for public integrity. Although the full effects of such measures will not be visible immediately, it is valuable to systematically collect and analyse data to assess the short- and medium-term results, as well as long-term impact. Policy makers could design an accompanying evaluation framework, with indicators to measure student knowledge and skills relating to integrity and anti-corruption throughout their involvement in the education programme, as well as the future impact of the programme. Possible evaluation approaches include:

- Applying regression discontinuity analysis to measure differences in attitudes toward integrity and anti-corruption between students who participated in the education for public integrity programme and students who did not.
- Applying qualitative and participatory research methods for evaluating the programme's effects on the value perceptions of educators and students. This would draw on participants' experiences and perceptions to provide narrative testaments of the change participants have experienced because of the programme.
- Using behavioural insights to assess the effects of the education programme on short-term behaviour change (Gächter and Schulz, 2016[26]). This could include a measurement of students' propensity towards cheating behaviour at the beginning and end of their participation (OECD, 2018[21]).

5.2.4. Relevant stakeholders are engaged in developing, updating and implementing the public integrity system

Governments can also engage stakeholders in developing, updating and implementing the public integrity system (OECD, 2017[1]). Engaging stakeholders not only ensures policy makers have a clear, concise and grounded understanding of the integrity challenges facing society in a rapidly evolving context; it also supports up-to-date and tailored solutions. Gathering information from key stakeholders can also help to avert unintended impacts and avoid practical implementation problems associated with integrity policies.

Governments could consider ensuring that engagement is institutionalised, inclusive and transparent (see Chapter 13). Institutionalising stakeholder engagement means that governments would establish formal requirements to consult on new integrity policies, with the necessary resources (financial, human and technical) to carry out the consultations assigned (Box 5.6). For example, to support implementation of the integrity system, the French Anti-Corruption Agency (AFA) carried out a broad public consultation with companies, trade federations, consultants, audit firms, lawyers, public authorities, universities and civil society organisations. These stakeholders provided 450 contributions, which were incorporated into an anti-corruption toolkit, guidelines and solutions to support public and private legal persons in preventing and detecting integrity breaches.

Box 5.6. Engaging civil society and companies in the development of the public integrity system: The case of Mexico

In Mexico, the National Anticorruption Policy was developed through an ongoing participative process and discussion involving civil society, academia, business chambers, public institutions and experts from all over the country. First, a Consultative Council (Consejo Consultivo de la Política Nacional Anticorrupción) was established by the National Anti-Corruption System's (Sistema Nacional Anticorrupción, SNA) Citizen Committee and Executive Secretariat to collect inputs from and promote dialogue with experts from civil society organisations, academia, the business sector, public institutions (including at the sub-national level) and international organisations. Second, a parallel public consultation process collected citizens' opinions and perceptions related to the causes and effects of and possible solutions to the problem of corruption in Mexico (Consulta Ciudadana). Third, the consultation process involved the sub-national level, with eight regional forums organised throughout the country to include local needs and challenges in the development of national policy.

Source: (OECD, 2019[27]).

Engaging stakeholders in developing regulations can lead to higher compliance with and acceptance of the regulations, in particular when stakeholders feel that their views were considered; when they understand how their comments were taken into account; and when they feel they are treated with respect (Lind and Arndt, 2016[28]). For more on the relationship between stakeholder engagement, integrity and policy making, see Chapter 13.

5.3. Challenges

Building a whole-of-society culture of integrity is not without its challenges. Individual and collective expectations related to public integrity evolve. In a dynamic context, these changes redefine social norms and what is tolerated or not throughout time. This may take the form of a growing individual and collective disapproval of certain breaches and behaviours. However, social norms may also be affected when integrity breaches become common and a collective action problem emerges, in which it is considered irrational for any one person to uphold the public good, because no one else is (Persson, Rothstein and Teorell, 2013[29]). An example would be a city where most individuals avoid buying a ticket for public transport. Such an action may be legally recognised as an integrity breach, with penalties existing for those who break the rules, but there is no severe moral stigma in avoiding the fare, because everyone else is doing it. In societies where respecting integrity norms no longer benefits those who adhere to it, integrity breaches become more acceptable (OECD, 2018[30]). When surrounded by a culture that justifies integrity breaches, evidence has found that individuals are more tolerant of corruption breaches themselves (see for example (Gächter and Schulz, 2016[26]; Barr and Serra, 2010[31]) (Fisman and Miguel, 2008[32])).

Developing and implementing effective integrity policies therefore requires challenging the social norms that justify integrity breaches, and promoting public integrity norms and values. The normative role of public policy suggests that governments can draw on policy tools to invoke and sustain change. While governments cannot expect to transform entrenched social norms overnight, demonstrating commitment to addressing pressing integrity challenges has a powerful signalling role (Muers, 2018[33]). Building on this commitment, implementing policy tools such as mandatory business compliance programmes, awareness-raising campaigns and civic education programmes – and ensuring that these efforts are sustained over time – can break the collective action trap, by creating “tensions” between what was acceptable behaviour and what is now acceptable behaviour (Collier, 2016[34]). While beyond the scope of analysis for Principle 5, effective enforcement regimes are also a necessary tool to ensure that a culture of public integrity is upheld (for more, see Chapter 11).

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Note

[1] See for example the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the 2009 OECD Recommendation for Further Combating Foreign Bribery; the OECD Guidelines for Multinational Enterprises; the 2019 OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises; the United Nations Convention against Corruption; the United Nations Guiding Principles on Business and Human Rights; and the International Labour Organization's Tripartite Declaration.

6 Leadership

This chapter provides a commentary on the principle of leadership contained within the OECD Recommendation of the Council on Public Integrity. It describes how investing in integrity leadership can demonstrate a public sector organisation's commitment to public integrity, and focuses on integrity leadership as a trait and style that can be developed early in future leaders. It also details the mechanisms for attracting and selecting integrity leaders. Moreover, the chapter reflects upon the incentives and accountability frameworks that can be drawn upon to reward integrity leadership. The chapter also addresses the challenge facing bureaucratic structures in supporting integrity leadership, focusing on the need for flexibility to reward and sanction ethical leadership and to ensure human resource management structures are fit-for-purpose in recruiting and promoting ethical leaders.

6.1. Why leadership?

Leaders are expected to be effective public managers, capable of steering their teams, inspiring their workforce, and setting an organisational culture that promotes innovation while reinforcing public sector values, including high standards for integrity and ethics. In light of these responsibilities, leaders' roles in promoting and actively managing integrity in their organisations cannot be overestimated. Leaders assign resources to integrity systems, designate them as organisational priorities, oversee their co-ordination and integrate them into the core of their organisational management. Without committed leadership, integrity systems cannot deliver their intended impact. Moreover, by setting a personal example, leaders are a core ingredient for establishing and reinforcing an integrity culture in public sector organisations.

The OECD Recommendation on Public Integrity calls on adherents to "invest in integrity leadership to demonstrate a public sector organisation's commitment to integrity, in particular through:

a. including integrity leadership in the profile for managers at all levels of an organisation, as well as a requirement for selection, appointment or promotion to a management position, and assessing the performance of managers with respect to the public integrity system at all levels of the organisation;
b. supporting managers in their role as ethical leaders by establishing clear mandates, providing organisational support (such as internal control, human resources instruments and legal advice) and delivering periodic training and guidance to increase awareness of, and to develop skills concerning the exercise of appropriate judgement in matters where public integrity issues may be involved;
c. developing management frameworks that promote managerial responsibilities for identifying and mitigating public integrity risks" (OECD, 2017[1]).

6.2. What is leadership?

The Recommendation's principle of leadership focuses on administrative leadership in the public sector. Elected politicians, ministers and their direct cabinets are not the focus of this chapter, (for more, see Chapter 1), but they add an important element of context since their own leadership often constrains administrative leaders when it comes to specific activities such as setting strategic policy direction, budget and resource allocation, or engaging directly with citizens on various politically sensitive issues. The line between what is political and what is administrative is always evolving, and will differ from one national system to another.

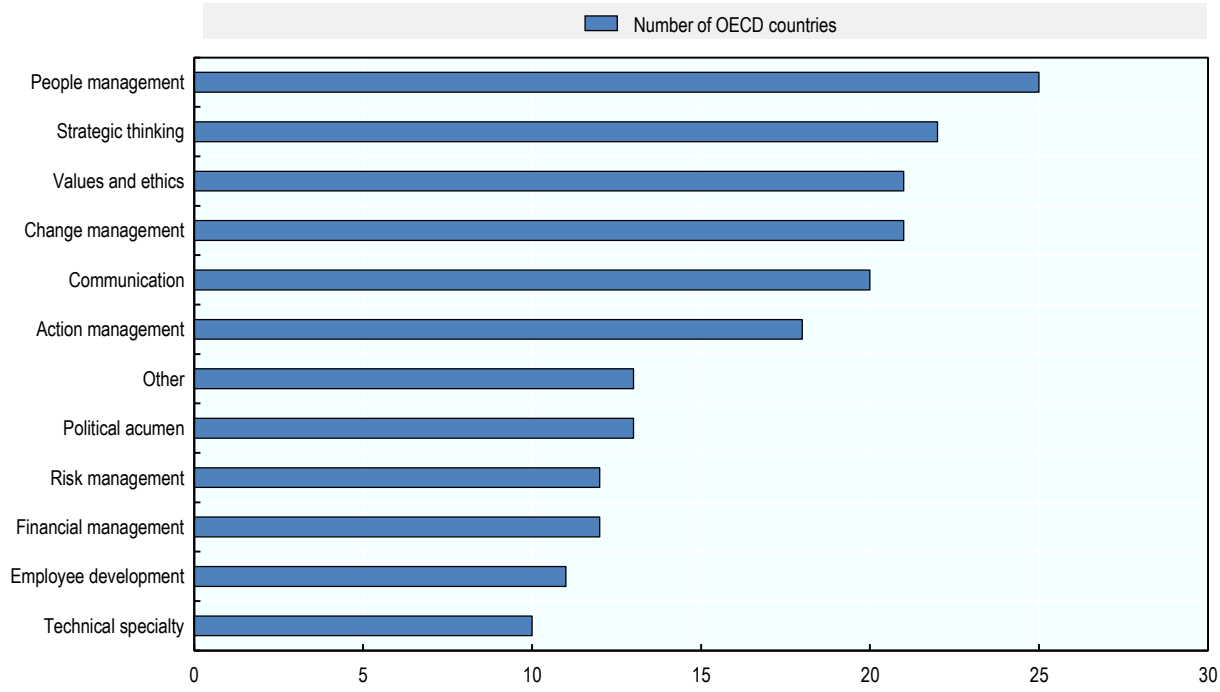
Promoting integrity leadership incorporates two broad goals: first, ensuring that the people appointed to leadership positions have an integrity profile – moral people with the skills to be moral managers; and second, supporting these leaders as they carry out their functions as integrity leaders. While there are a number of tools and mechanisms that governments can use to achieve these goals, the following are essential features to operationalise integrity leadership:

- Integrity leadership is recognised as a trait and as a style, and developed early in future leaders.
- Mechanisms are in place to attract and select integrity leaders.
- Incentives and accountability frameworks promote and reward integrity leadership.

6.2.1. Integrity leadership is a trait and a style, and developed early in future leaders

Understanding how to develop integrity leaders requires first clarifying what integrity leadership means. The most common understanding of leadership in large hierarchies is the understanding of those occupying the most senior level positions. Most OECD governments institutionalise this as a specified and separate Senior Civil Service under different terms and conditions. Those occupying positions in the SCS are usually subject to a common set of leadership competencies (see Figure 6.1) that clarify how they are expected to deliver the results outlined in their performance agreements.

Figure 6.1. Competencies prioritised to recruit and develop senior managers



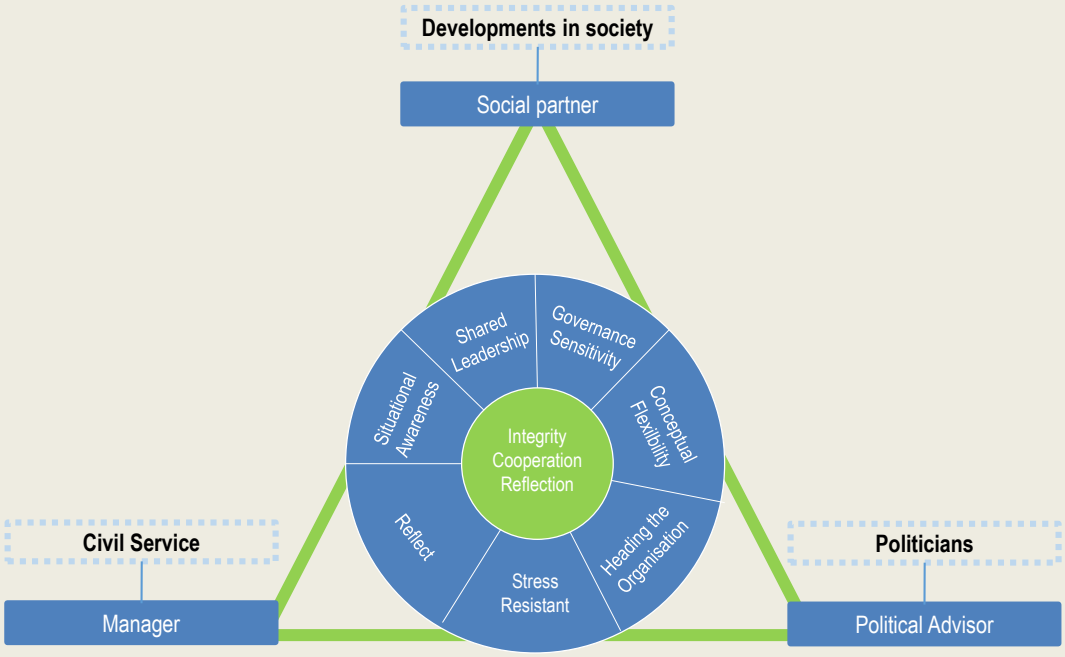
Source: (OECD, 2016[2]).

The principle of leadership is not, however, concerned solely with leadership as a position, but rather as both a *trait* and as a *style*. Leadership as a trait is understood as something that someone exhibits (e.g. “she showed great leadership on this topic”), or a skill set related to the ability to convince, motivate and guide a group towards a desired outcome. This skill set includes technical skills, conceptual skills, interpersonal skills, and emotional and social intelligence. These are skills that any member of a work team can demonstrate, and are often reflected in competency frameworks that emphasise various leadership components and apply to all civil servants (Box 6.1).

Box 6.1. Vision of public leadership in the Netherlands

The government of the Netherlands calls for leaders who are astute political advisors, connected social partners, and effective organisational managers.

Figure 6.2. Vision of public leadership in the Netherlands



Source: Information provided to the OECD by the Office for the Senior Civil Service, Netherlands.

The vision emphasises qualities that every public leader should demonstrate:

- *Integrity* – Working sincerely and consciously in the public interest, addressing social issues and demonstrating this in daily actions.
- *Co-operation* – Putting shared leadership into practice, by focusing on the broader context and not just on their immediate domain, actively seeking collaboration and co-creation and understanding various perspectives.
- *Reflection* – The public leader has self-awareness and organises reflection in the field based on knowledge and practice, asks the right questions and accordingly determines course and position.

Source: Dutch Office of the Senior Civil Service, Ministry of the Interior and Kingdom Relations.

Leadership as a *style* (e.g. "how one leads") is another critical element. Building on an analysis of the behaviours associated with leaders who are perceived to be ethical by their employees, ethical leadership can be understood as "the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships, and the promotion of such conduct to followers through two-way communication, reinforcement, and decision-making" (Brown, Treviño and Harrison, 2005[3]). Two interrelated aspects are required to be an "ethical leader": the leader must be perceived to be a *moral person*; and the leader also needs to be a *moral manager* (Treviño, Hartman and Brown, 2000[4]).

Regarding the aspect of *moral person,* ethical leaders are expected to hold themselves to high ethical standards, which guide their own decision making in clear and demonstrable ways. Ethical leaders are perceived to have specific traits (integrity, honesty, and trustworthiness) and behaviour (doing the right thing, concern for people, being open, personal morality) (Treviño, Hartman and Brown, 2000[4]). This is demonstrated in their decision making. Ethical leaders are perceived as having a high level of awareness about their own moral positions and the ability to use their personal values as a guide when confronted with ethical dilemmas. In other words, their behaviour matches their rhetoric. Moreover, ethical leaders display a high level of fairness, loyalty and trustworthiness to those they lead. This engenders a reciprocal relationship among followers who seek to emulate the ethical behaviour of their leader.

The other aspect of *moral manager* relates to a leader's responsibility to promote ethical decision making among those they lead. Table 6.1 highlights the four aspects of a moral manager (see also Chapter 9).

Table 6.1. The four aspects of a moral manager

Role modelling integrity through visible action	Ethical leaders need to be aware of how their decisions and behaviours are interpreted, avoid conduct that could be considered inconsistent with the norms and values of the organisation, and be ready to explain the reasoning behind their decisions and behaviours if needed (Heres and Lasthuizen, 2012[5]) (Treviño, Hartman and Brown, 2000[4]).
Using rewards and sanctions	Formal rewards and sanctions are necessary tools to reinforce ethical standards. This applies not only to those directly implicated, but also to the organisation as a whole and as such, this action should be seen in the open. However, care must be taken to get the balance right between appropriate retribution for ethical violations and maintaining respect/avoiding resentment. Moreover, sanctions have been shown to crowd out individuals' own moral reasoning and can result in a sense that the rules dictate morality – e.g. if it is not explicitly against the rules, it must be okay. In this sense, informal rewards (e.g. recognition, trust, status) and sanctions (e.g. ostracism by peers and leaders) are equally necessary tools (Heres and Lasthuizen, 2012[5]) (Treviño, Hartman and Brown, 2000[4]).
Communicating about values and norms	This aspect includes open discussions about integrity decision making in the workplace, clarifying norms and expectations, and providing guidance to those facing ethical dilemmas. That includes the need for an open organisational culture where employees feel supported to come forward with ethical dilemmas, and seek guidance through appropriate channels (Treviño, Hartman and Brown, 2000[4]).
Empowering employees	This aspect suggests that ethical leaders give opportunities to employees to participate in decision-making processes, and encourage employees to share their perspectives and concerns. Empowerment also includes helping to set realistic and motivating goals and providing employees with individual attention, coaching and opportunities for growth (Heres and Lasthuizen, 2012[5]).

When understood as a trait and as a style, it becomes clear that ensuring integrity leadership requires foresight. Governments can use several methods to develop the skills of integrity leadership in future leaders early to build the talent pool. Social learning theory suggests that people learn behaviours by emulating credible and attractive role models (Bandura, 1986[6]). Most ethical leaders can point to an ethical role model who made a significant impression on them early in their careers, and most were people with whom they worked closely – a direct supervisor or manager rather than a distant executive. "Having a proximate, ethically positive role model during one's career makes it more likely that an individual will become an ethical leader" (Brown and Treviño, 2006[7]).

This suggests that integrity leadership starts early and is diffuse – that "tone at the top" is essential, but that reinforcing it at every layer of leadership in an organisation is vital. Moreover, these insights show that the key venue for developing integrity leadership is the day-to-day work environment and the daily interactions between leader and follower. Being an effective moral manager requires managers to understand employee development as a core aspect of their role and to make time to have discussions of this nature with their employees. Otherwise, the demands of a fast-paced work environment tend to crowd out opportunities for developmental interaction. To build effective moral managers early in the process therefore, public entities should require "employee development" to be a core leadership competency, along with delivering results. Moreover, public entities should ensure that managers receive training on how to develop their employees and how to have ethical discussions with them.

Role models can also be identified through formal mentorship and coaching programmes, where employees are paired with a more senior manager (not their immediate superior) or a management expert,

and are encouraged to raise ethical management issues on which they would like guidance (Box 6.2 provides an overview of select, albeit not integrity-specific, mentorship programmes). Additionally, mentoring and coaching could be built into talent management programmes, where future leaders are rotated into specific roles of higher ethical intensity and work with an ethical leader for a period. In both of these cases, integrity issues should be included when assessing potential mentors, coaches, or managers for talent rotation programmes.

Box 6.2. Leadership coaching and mentorship programmes

The Flemish Public Service has set up a joint training programme with the Dutch Public Service, whereby top managers are trained in coaching colleagues. This enables cross-border peer coaching which has a number of advantages, such as allowing peers to draw on a wealth of experience from top managers of public organisations. Sometimes an external perspective is needed to challenge perceptions and to ensure a greater sense of confidential and honest sharing; coaching over the border can appeal to both of these expectations. Through the joint coaching-training, peers also become familiar with the other country's customs and governance styles.

In Germany, the Federal Academy of Public Administration has established a coaching centre that manages an external coach pool made up of academics and private coaches, and matches public leaders with appropriate coaches depending on their specific requirements. In 2018 the centre facilitated approximately 380 coaching sessions (individual and team). Some ministries (e.g. foreign affairs) run their own coach pool, and many also exist at the sub-national/municipal level.

In Belgium, the TIFA (Training Institute of the Federal Administration) offers managers a programme on lean management that combines three important modes of learning: online, face to face, and more intensive coaching for specific projects.

Source: (OECD, 2017[8]).

The emphasis on experiential learning does not mean that integrity leadership should be ignored in other leadership development modalities. Classroom or online learning modules can cover various aspects of the government's integrity standards and system to ensure that there is a common understanding of managers' integrity obligations and the mechanisms and tools available to help managers meet them (for more, see Chapter 8). This knowledge-based approach can be supplemented with case studies of real leaders facing real ethical dilemmas in context, to teach and practice moral reasoning. These should be used not only to prepare future managers and leaders for the integrity roles they will undertake, but also new managers and leaders who may have recently arrived in the organisation and be less familiar with the particular kinds of ethical dilemmas faced in their specific line of work.

Leadership training can also include modules on how to be moral managers. As discussed above, moral managers are role models who discuss ethics openly, who reward ethical behaviour, and who empower their employees to make ethical decisions. To achieve this, managers can practice discussing moral decision making with colleagues, and can learn different communication techniques to promote their efforts to be visible role models.

6.2.2. Mechanisms are in place to attract and select integrity leaders

Managers are expected to behave in ways that demonstrate integrity, and this becomes a criterion for hiring, promotion and performance assessment. However, making this competency framework actionable requires governments to think carefully about how the concept translates into demonstrable and assessable behaviour. For example, the competency framework in the New South Wales Government in Australia identifies five levels of integrity and the behaviours associated with each (Table 6.2).

Table 6.2. Act with integrity: A framework for assessment in New South Wales, Australia

Foundational	Intermediate	Adept	Advanced	Highly Advanced
• Behave in an honest, ethical and professional way • Take opportunities to clarify understanding of ethical behaviour requirements • Identify and follow legislation, rules, policies, guidelines and codes of conduct that apply to your role • Speak out against misconduct and illegal and inappropriate behaviour • Report apparent conflicts of interest	• Represent the organisation in an honest, ethical and professional way • Support a culture of integrity and professionalism • Understand and follow legislation, rules, policies, guidelines and codes of conduct • Recognise and report misconduct and illegal or inappropriate behaviour • Report and manage apparent conflicts of interest	• Represent the organisation in an honest, ethical and professional way and encourage others to do so • Demonstrate professionalism to support a culture of integrity within the team/unit • Set an example for others to follow and identify and explain ethical issues • Ensure that others understand the legislation and policy framework within which they operate • Act to prevent and report misconduct and illegal and inappropriate behaviour	• Model the highest standards of ethical behaviour and reinforce them in others • Represent the organisation in an honest, ethical and professional way and set an example for others to follow • Ensure that others have a working understanding of the legislation and policy framework within which they operate • Promote a culture of integrity and professionalism within the organisation and in dealings external to government • Monitor ethical practices, standards and systems and reinforce their use • Act on reported breaches of rules, policies and guidelines	• Champion and act as an advocate for the highest standards of ethical and professional behaviour • Drive a culture of integrity and professionalism across the organisation, and in dealings cross-government, cross-jurisdiction and outside of government • Define, communicate and evaluate ethical practices, standards and systems and reinforce their use • Create and promote a climate in which staff feel able to report apparent breaches of rules, policies and guidelines and act promptly and visibly in response to such reports

Source: Adapted from New South Wales Government Public Service Commission, *The NSW Public Sector Capability Framework* www.psc.nsw.gov.au/workforce-management/capability-framework/access-the-capability-framework/the-capability-framework (accessed 22 February 2020).

Integrity can also be incorporated into every aspect of leadership selection, beginning with the job description and advertisement. Candidates for positions seek organisations that fit with their own values. Therefore, hiring organisations that promote integrity as an organisational value at the outset are more likely to attract the right people for the job. In Chile, integrity is a core value in public managers' recruitment system. To reinforce this value, after candidates are selected they are required to attend integrity training.

In some OECD countries, background checks and pre-screening for integrity are two of the first activities used to weed out people who present high risk (Box 6.3). This can be done even before their skills and competencies are considered. Identifying effective pre-screening tools can however be a challenge, as there is little consensus on the accuracy or reliability of pre-screening tools when it comes to integrity (U4 Anti-Corruption Resource Centre, 2012[9]). For that reason, integrity should be tested at multiple stages of a selection process.

Box 6.3. The European Commission Competency Framework for Senior Managers

The European Commission Competency Framework for Senior Managers contains a specific "people management competence" which calls for "inspiring others on the long-term based on the vision; spreading and radiating the organisation's vision and values, acting as role model to others by setting an example in the organisation". The competence "inspiring" is tested as part of the selection process of senior managers during a one-day assessment centre session organised by an external HR consultant. Integrity is also assessed as an essential aspect of conduct in the context of annual appraisal exercises for all officials, which cover their "ability, efficiency and conduct in the service" (Article 43 of the staff regulations).

In 2002, the Commission launched a regular 360-degree feedback and tailored development programme for senior management development. This feedback provides senior managers with a key opportunity to understand how they are perceived by their managers, peers, and members of staff. The questionnaire covers competencies and leadership traits such as serving the public interest, embodying the organisation's values and leading by example.

Source: Information provided by the European Commission Directorate General for Human Resources and Security.

Not all management positions will face the same level of ethical decision making and therefore may not require the same degree of pre-screening. For positions of some ethical intensity, candidates could be tested in exercises that reflect the kind of ethical situations they are likely to face, so that they can demonstrate their personal values and moral reasoning skills. Positions of lower ethical intensity could be seen as steppingstones where future leaders can demonstrate their integrity leadership capabilities. In this way, leaders could begin to develop an integrity track record that can be assessed and used in future staffing decisions. Proportionate requirements for specific functions occupied by the highest political and management levels are further discussed in Chapter 1.

Testing for integrity, moral reasoning or other values is a practice used in some countries, either across civil service or within specific organisations (as is the case in Australia, in the intelligence and national security agencies). This complex discipline requires support from qualified psychological experts. Line managers and/or HR specialists are not likely to be equipped with the right skills, particularly for positions of higher ethical intensity. The following tools have been used by public organisations and provide examples of how this could be implemented:

- use of uniform curriculum vitae formats, allowing to apply integrity filters to ease identification of suitable candidates
- pre-screening integrity test (e.g. on line), personality tests or similar examinations, as a first step to be considered for the position, and/or as input into the final decision
- interview questions asking candidates to reflect on ethical role models they have had previously in the workplace, and/or to discuss ethical dilemmas they have faced and how they reacted to them
- situational judgement tests and questions that present candidates with a morally ambiguous situation and have them explain their moral reasoning
- role-play simulations and gamification to be conducted in an assessment centre
- reference checks which include questions related to ethical decision making and assessment from peers in previous positions on the ethical nature of the person and their ability to manage others ethically
- questions that enable the candidate to demonstrate awareness of and model moral management behaviour (recognising that being an integrity leader is not only about being a sound moral person, but also about actively role-modelling ethical decision making, communicating about ethics to employees, using rewards and sanctions to promote ethics, and giving employees an appropriate level of discretion and guidance to make their own ethical decisions).

6.2.3. Incentives and accountability frameworks promote and reward integrity leadership

Once leaders are developed and appointed, they require support and reinforcement to be integrity leaders. As ethical decision making is highly influenced by the specific situational and social context, ensuring the right conditions for moral people to become integrity leaders is a responsibility for senior civil servants, integrity practitioners, HRM officials and all public managers.

One tool that public entities can use is performance agreements and assessments. In order for performance systems to promote and reward integrity leadership, they need to balance an assessment of not only *what* leaders achieve, but also *how* they achieve it:

- On the "what" side, leaders could be expected to achieve specific deliverables and goals linked to integrity. This could include objectives to deliver specific reforms of or improvements to integrity systems, implementing new standards, or engaging partners in new ways that promote transparency and integrity. These could be framed as specific objectives in a performance agreement.
- On the "how" side, integrity (or a related concept) is often a competency against which leaders are assessed. Leaders should be asked to present examples of how they demonstrated integrity leadership during the previous performance cycle, in terms of both the ethical decisions they made and the moral management they displayed. Assessing this component could also include input from 360-degree reviews and staff surveys to inform leaders about how they are perceived, whether they are seen as an ethical role model for others, and whether employees under this leader feel comfortable bringing forward integrity concerns.

The integrity component of performance assessments needs to be reinforced by rewards and sanctions. Leaders who are particularly strong on integrity could be identified for career development opportunities, particularly to positions of higher ethical intensity. Those with lower assessments should be given developmental opportunities and, if necessary, removed from their position if significant risks are identified.

6.3. Challenges

The nature of the public service poses several challenges to integrity leadership, including a need to manage in the face of deep ethical dilemmas and well-defined HRM structures.

For instance, the mission, role and context of public sector organisations can often result in deep ethical dilemmas. The ability to regulate, apply coercive power, and control systems and processes that have a broad impact on society (e.g. defence, health, social welfare) suggests the magnitude of impact of ethical decision making. Increasingly blurred boundaries between public sector organisations and their complex partnerships with other sectors can pose further ethical dilemmas. This suggests that leaders in the public sector need to be ethically involved and aware, and have a greater role as moral managers.

Moreover, public employment systems tend to be well defined, which can make it difficult for leaders wishing to protect merit to build their own teams and set their own hiring and performance criteria. This could result in fewer opportunities to reward and sanction ethical behaviour, and may require greater emphasis on communication and role modelling. Public sector leaders also tend to head very large and distributed organisations that may have offices located throughout the country, a situation that raises integrity risks and makes it harder to communicate and monitor. There is thus a real need to ensure that subordinates are clear on the ethical framework and that they are supported to make the right ethical decisions.

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7 Merit

This chapter provides a commentary on the principle of a merit-based system contained within the OECD Recommendation of the Council on Public Integrity. It describes how a merit-based and professional public sector dedicated to public service values contributes to public integrity. It focuses on setting predetermined, appropriate qualification and performance criteria for all positions, along with objective and transparent personnel management processes. Moreover, it demonstrates how open application processes that give equal access to all potentially qualified candidates, and oversight and recourse mechanisms that ensure consistent and fair application, contribute to the broader public integrity system. The chapter also addresses the four commonly faced challenges related to merit-based systems: timely decision making; recruiting new skills and competencies; ensuring representation and inclusiveness; and addressing the fragmentation of public employment.

7.1. Why merit?

A civil service selected and managed based on merit, as opposed to political patronage and nepotism, presents many benefits. Hiring people with the right skills for the job generally improves performance and productivity, which translates into better policies and better services which in turn make for happier, healthier and more prosperous societies (Cortázar, Fuenzalida and Lafuente, 2016[1]). Meritocracy has also been shown to reduce corruption (Dahlström, Lapuente and Teorell, 2011[2]; Meyer-Sahling and Mikkelsen, 2016[3]). Having merit systems in place reduces opportunities for patronage and nepotism, and also provides the necessary foundations to develop a culture of integrity.

Indeed, clientelism, nepotism and patronage can be forms of corruption when they result in the use of public funds to enrich people based on their family ties, political affiliations or social status. In extreme cases, public positions can be created with the intent of providing a revenue stream to reward political allies without any real necessity for work. In other cases, positions in the public sector can be bought and sold "under the table". Merit-based systems reduce these risks significantly by making positions transparent and requiring clear justification for their existence. First, they make it more difficult to create "ghost" positions (positions that are not needed, where people do not perform essential work) for the purposes of rewarding friends and allies. Second, objective and transparent decision-making processes make it more difficult to appoint people to positions when they do not qualify for them. People may still take steps to unfairly influence the system, but recourse mechanisms and oversight functions ensure that rules are enforced and there are consequences for those who try to cheat.

While such extreme cases of job-based corruption are rare in OECD countries, a more common version of nepotism may exist in some member countries when managers or politicians appoint people to positions based on their personal ties. While that kind of nepotism can appear less critical, it threatens the values and culture of public service that public sector institutions strive to nurture. This is because a merit-based civil service is an essential foundation upon which to develop a culture of integrity. Merit provides the right kinds of incentives and accountabilities that underpin professionalisation, the public service ethos and public values.

A merit-based civil service contributes to reducing overall corruption across all areas of the public sector. There are a number of reasons for this (Charron et al., 2017[4]), including:

- Meritocratic systems bring in better-qualified professionals who may be less tempted by corruption.
- Meritocracies create an *esprit de corps* that rewards hard work and skills. When people are appointed for reasons having nothing to do with merit, they may be less likely to see the position itself as legitimate but instead as a means to achieve more personal wealth through rent-seeking behaviour. There is also a motivational quality about merit systems that reinforces public service.
- Another way that meritocracy has been shown to reduce the risk of corruption is by providing long-term employment. This tends to promote a longer-term perspective that reinforces the employee's commitment to their job and makes it less tempting to engage in short-term opportunism presented by corruption. Conversely, if people know that their job will not last long, they may be more easily encouraged to use their position for personal gain during the short time they have.
- The separation of careers between bureaucrats and politicians is also shown to provide incentives for each group to monitor the other and expose each other's conflicts of interest and corruption risks. Conversely, when the bureaucracy is mostly made up of political appointments, loyalty to the ruling party may provide disincentives for the bureaucracy to blow the whistle on political corruption (and elected officials may also be more willing to engage in corrupt acts within the bureaucracy).

At the core of this discussion is an issue of loyalty and values. When merit principles govern employment processes, civil servants will take direction from their government, but will be loyal to each other and to their shared values. In this way, merit systems and common public sector values are intrinsically linked

and provide an important countervailing force to political power, which may prioritise popularity to win elections and/or rent seeking for personal profit over serving the public good.

The OECD Recommendation on Public Integrity recommends that adherents "promote a merit-based, professional, public sector dedicated to public service values and good governance, in particular through:

a. ensuring human resource management that consistently applies basic principles, such as merit and transparency, to support the professionalism of the public service, prevents favouritism and nepotism, protects against undue political interference and mitigates risks for abuse of position and misconduct;
b. ensuring a fair and open system for recruitment, selection and promotion, based on objective criteria and a formalised procedure, and an appraisal system that supports accountability and a public service ethos" (OECD, 2017[5]).

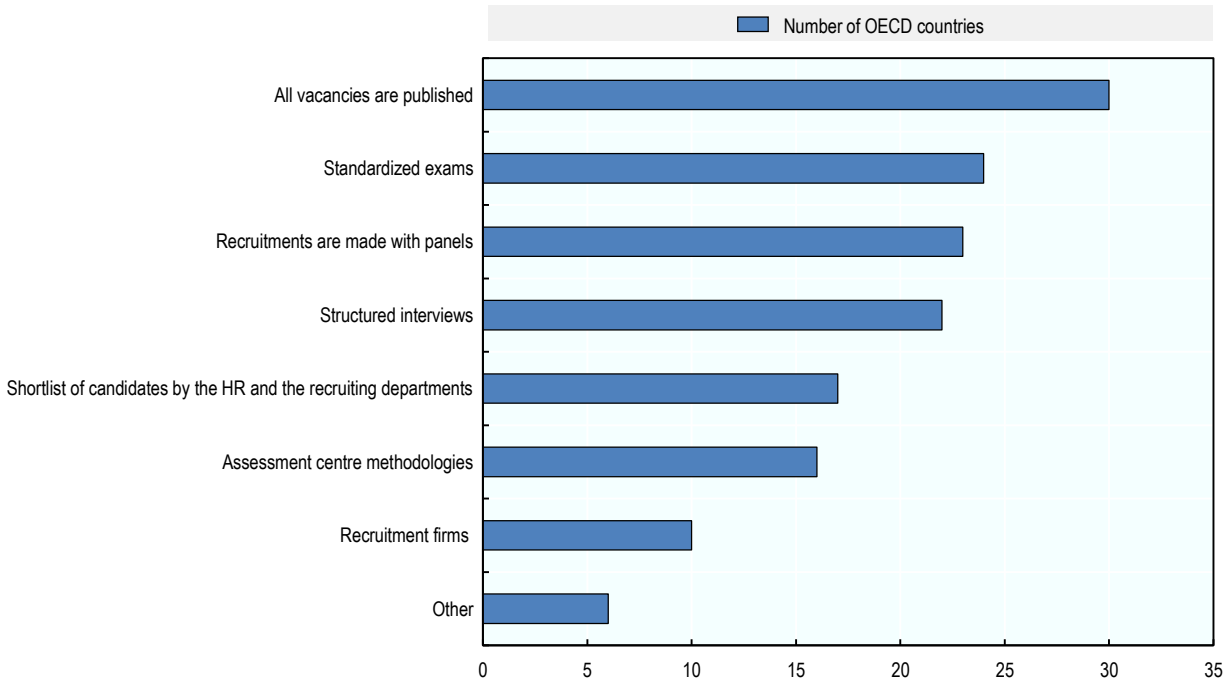
7.2. What is merit?

The Recommendation's principle of merit requires staffing processes to be based on ability (talent, skills, experience, competence) rather than social and/or political status or connections. In governance, merit is generally presented in contrast to patronage, clientelism, or nepotism, in which jobs are distributed in exchange for support, or based on social ties.

But what does merit mean in practice? Depending on the country and context, there is a wide range of tools, mechanisms and safeguards that OECD countries use to promote and protect the merit principle in their public administrations. For example, a majority of OECD countries publish all vacancies, use some form of standardised exams as well as structured interview panels (Figure 7.1).

Figure 7.1. Guaranteeing merit-based recruitment at entry level

Responses from 35 OECD countries, 2016



Notes: Bars refer to the number of OECD countries that responded positively to this question for these areas.
Source: (OECD, 2016[6]).

Regardless of the specific tools, the following features are all essential components of meritocratic policies:

- Predetermined appropriate qualification and performance criteria are in place for all positions.
- Objective and transparent personnel management processes are in place against which candidates are assessed.
- Open application processes are established and ensure opportunity for assessment to all potentially qualified candidates.
- Oversight and recourse mechanisms are established and ensure fair and consistent application of the system.

7.2.1. Predetermined appropriate qualification and performance criteria are in place for all positions

In order to have a merit-based civil service system, a transparent and logical organisational structure needs to clearly identify positions and describe the role and work to be performed in this position. This ensures that the creation of new positions is done with the right intent, based on functional needs. In systems where patronage and nepotism are high risks, it is necessary to make the full organisational chart open to public scrutiny. In systems where such behaviour is less common, clear criteria for the creation of new positions and some level of oversight – for example, a central HR authority or the ministry of finance – is usually applied, to ensure a common approach and common standards are maintained. The experience of Estonia in developing common job families presents an example of successfully integrating a common job structure across public organisations that had each developed their own systems (Box 7.1).

Box 7.1. Implementing common job families in Estonia

Estonia began to introduce the concept of job families in the civil service in 2009. The main goal was to have comparative data on the salary levels in different organisations, which were not standardised due to the highly decentralised HR management system of the Estonian civil service.

Estonia used an analytical job evaluation system where jobs with common characteristics (e.g. lawyer, IT specialist, training manager, project manager, etc.) are grouped into job families with different levels of responsibility (e.g. HR Clerk – HR Specialist – HR Manager – HR Director).

Introducing analytical job evaluation in the Estonian civil service proved difficult since the concept was alien to the mentality of civil service. However, progress was made in 2011 when the Ministry of Finance, in co-operation with a private contractor, drafted the first version of the job catalogue. Together with colleagues in HR departments, the Ministry of Finance evaluated 13 400 jobs in 24 civil service organisations (out of 22 000 jobs in civil service at the central government level).

This was done on a voluntary basis, as there was no mandate for this type of job classification in the legislation until the new Civil Service Act came into force in 2013. However, by 2012 most of the civil service organisations were using this system. One of the lessons that can be drawn here is that, if implementers understand the value of the major change, it is easy to introduce that change in work practices that require considerable effort for the implementers.

Source: Information provided by the Estonian peer for the Public Governance Review of the Slovak Republic.

Once positions are clearly identified and justified, criteria for selection linked to the specific tasks to be performed help to guide an objective selection process. Criteria may include categories such as specific abilities, skills, competencies, knowledge, expertise, experience and education. Merit systems generally strive for criteria that are specific, objective and measurable. This can be a challenge when it comes to behavioural and/or cognitive competencies, which are harder to assess and rank but which are increasingly vital as predictors of success, particularly at management and leadership levels. Linking these to classic competencies is an important step and most OECD governments do so through job profiling, which helps not only to describe the tasks, but also to focus on the outcomes of the job, and the skills and competencies needed to achieve them (Box 7.2).

Box 7.2. Job profiling

Job profiling is a way of combining a statement about what is expected from a job with a view of what the job holder must bring in terms of the skills, experience, behaviours and other attributes needed to do the job well. It is an approach that helps organisations think about the outputs and results they want from jobs as well as what they are looking for in terms of the person who will perform the corresponding duties.

Job profiles differ from traditional job descriptions in two important respects:

- They focus on the outputs or results expected from the job rather than, as in the case of traditional job descriptions, the tasks or functions to be carried out.
- They include a statement about the skills and personal attributes needed for the job.

Job profiles help to determine the criteria for both selection and performance in a post. Job profiles are best when based on objective job analysis methods, which ideally include expert input and engagement with people who do those jobs. Job profiles usually include some combination of the following:

- job title
- purpose of the post (oriented towards objectives and goals of the organisation)
- scope of the post (some sense of the range of responsibility, relationships internal and external to the organisation)
- principal duties and responsibilities (what this post will be accountable for achieving)
- skills and knowledge (can include behavioural and cognitive competencies, often oriented toward a competency framework)
- experience
- personal attributes (e.g. personal values, including integrity).

Source: (OECD, 2011[7]).

While identifying the right criteria and measuring it appropriately is an ongoing challenge even for the most advanced public employers (which will be discussed further in Section 7.3.2), Box 7.3 gives the example of the Australian Public Service's assessment of work-related qualities.

Box 7.3. Merit in the Australian Public Service

Employment decisions in the Australian Public Service (APS) are based on merit, which is one of the employment principles of the service. At a minimum, all employment decisions should be based on an assessment of a person's work-related qualities and those required to do the job. For decisions that may result in the engagement or promotion of an APS employee, the assessment must be competitive.

Under the Public Service Act 1999, a decision is based on merit if:

- It is based on the relative suitability of the candidates for the duties, using a competitive selection process.
- It is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required for the duties.
- It focuses on the relative capacity of the candidates to achieve outcomes related to the duties.
- Merit is the primary consideration in taking the decision.

For the assessment to be competitive, it must also be open to all eligible members of the community. For ongoing jobs and non-ongoing jobs of more than 12 months' duration, this is achieved by posting the job in the APS Employment Gazette on the APS jobs website.

The work-related qualities that may be taken into account when making an assessment include:

- skills and abilities
- qualifications, training and competencies
- standard of work performance
- capacity to produce outcomes from effective performance at the level required
- relevant personal qualities
- demonstrated potential for further development
- ability to contribute to team performance.

Source: Information provided by the Australian Public Service Commission.

Performance criteria are also a key feature of a meritocratic system. Performance criteria help to clarify what the person in the position is expected to achieve in a given period and how these achievements will be assessed. Performance criteria reinforce meritocracy in two interrelated ways. The first is that it contributes to an understanding of whether or not the current incumbent is appropriate for the post. Merit should not only be determined at the selection process, but also be reinforced and reassessed at regular intervals. Even the best selection processes may make mistakes, and strong performance assessment processes help to safeguard against these. Additionally, roles can change based on new political priorities or operational demands. In these cases, updated performance criteria can be used to reassess the person in the position to ensure they remain the right fit.

The second way that performance criteria and assessment contribute to meritocracy is by assessing the future potential of a particular employee. An employee's performance record is an important piece of information about the individual's abilities and competencies, and can provide insight that is hard to test in job selection processes. Provided that they are conducted against well-defined and objective performance criteria to avoid their arbitrary use against or in favour of particular staff members, performance assessments can be a valuable complementary input to inform selection processes when employees apply for a new position or a promotional opportunity.

7.2.2. Objective and transparent personnel management processes are in place against which candidates are assessed

Many discussions of merit-based public employment emphasise the process of entry into the civil service or public institutions, as this is generally the first line of defence against nepotism and patronage. That is the rationale behind for instance the competitions organised in Spain or France to enter the civil service. In Spain candidates go through a competitive recruitment process, that guarantees objectivity, neutrality, merit, capacity, publicity and transparency principles, as well as professionalism and the neutrality of the collegial selection body. There are also administrative and judicial appeal mechanisms at all phases of the process. However, in a merit-based civil service, the merit principle applies to all personnel decision-making systems, including performance management; all appointment processes whether internal (promotions/lateral mobility) or external (hiring); training and development opportunities; pay systems; discipline; and dismissal.

In general, the following principles should be applied to all of these processes:

- *Transparency* – In most merit systems, HR decisions are made openly, to limit preferential treatment accorded to specific people or groups. Decisions are generally documented in such a way that key stakeholders, including other candidates, can follow and understand the objective logic behind the decision. This enables them to challenge a decision that seems unfair. Tools and practices may include online systems that are increasingly used to track HR processes and publish the results.
- *Objectivity* – Decisions should be made against predetermined objective criteria (see Section 7.2.1 above) and measured using appropriate tools and tests that are accepted as effective and cutting-edge by the HR profession. Tools and practices may include standardised or anonymous curricula vitae, standardised testing, assessment centres, panel interviews, competency tests, personality tests, situational judgement tests, and other methods intended to inform the process. In all cases, tests are best selected in consultation with professional psychologists and used as one input among many.
- *Consensus* – Decisions should be based on more than one opinion and/or point of view. Multiple people should be involved, and efforts should be taken to strive for a balance of perspectives, particularly with regard to processes that are less standardised and open to subjective interpretation, such as interviews or written (essay) examinations. This can help to improve objectivity and limit favouritism based on personal relationships (e.g. promoting someone because they are liked by their manager) and can also help to address unconscious bias. Tools and practices may include the use of panel interviews, with a balance of gender, age, and expertise. The use of 360-degree feedback – which gives an employee the opportunity to receive performance feedback from subordinates, colleagues and supervisors, and usually includes an individual self-assessment – can also help to bring in multiple perspectives to HR decision making.

In merit systems, these principles equally apply to dismissal. A high level of job security has been a common feature of public employment systems in many countries, and was generally established to protect civil servants from politically motivated dismissals, ensure their right to provide frank and fearless policy advice, and allow them to “speak truth to power”. Today, many features of civil service personnel management are being rethought in the context of a modern labour market, and job protections are debated in the political arena in many countries. For the purposes of a merit-based system, protection from politically motivated dismissal is essential. However, dismissal in the case of significant underperformance is also part of the system in most OECD countries, although it is rarely applied except in cases of overt misconduct. The challenge is in carefully defining the line between performance and politics, and protecting against the potential for abuse. This suggests the need to actively manage performance.

Box 7.4 discusses how personnel management processes in the Polish Civil Service are managed between the head of civil service and the directors general of each government office.

Box 7.4. Poland – Balancing the centralisation and delegation of the merit system

The head of the civil service in Poland is appointed by and reports directly to the prime minister. Their role includes co-ordinating civil service personnel policy and harmonising merit-based HRM tools implemented in a decentralised manner to avoid fragmentation. Indeed, the HRM system in the Polish civil service is decentralised; each government office is responsible for its human resource policies. Therefore, the head of civil service must execute their tasks with the assistance of the directors general of offices – the highest position in the civil service system – who perform activities envisaged under the labour law in relation to persons employed in their government office and are responsible for staffing policy (they act as government employers).

There are some aspects of merit-based HRM left exclusively to the competence of the head of civil service and exercised centrally. In the field of recruitment, the head of civil service exercises substantive supervision over the database of job vacancies in the service (with the exception of senior positions). Every director general/head of office must publish vacancies on this database. The Civil Service Department, which provides support to the head of the service in carrying out their duties, monitors the compliance of job advertisements with legal requirements, including with civil service rules and ethical principles, to ensure that the recruitment process is transparent, open and based on the competition principle. In case of irregularities, the head of civil service makes recommendations to correct them and controls their implementation.

The head of civil service also chairs regular meetings with the directors general in order to share information, discuss “hot issues”, and collaborate on drafts of solutions in working teams.

Other tools which the head of civil service uses to reinforce and standardise application of the merit principle across the civil service include:

- Creation and appointment of various committees, such as opinion or advisory bodies, on issues related to the civil service. There could for example be committees on HRM standards, ethics and civil service rules, a remuneration system, job descriptions, and evaluation of the higher positions in the civil service. In general, these bodies include experts from academia and civil society, the private sector, and civil service executives.
- Use of soft law instruments such as ordinances, guidebooks and recommendations (for example on promoting the culture of integrity in the civil service).
- Use of supervision instruments, such as audit and control (performed by the minister of finance and the prime minister) of the activities conducted under the Law of Civil Service. These might be of a binding and supporting nature for the directors general.
- Development of drafts of the secondary legislation issued by the prime minister stipulated in the Law on Civil Service, e.g. on performance appraisal, ethical principles, or qualification procedures. This creates a consistent merit-based framework for the whole civil service and at the same time leaves the directors general the flexibility to adapt and implement.
- Implementation of uniform tools for the whole civil service, such as job description and evaluation, recruitment procedures, performance appraisal, and disciplinary procedure.

Source: Civil Service Department, Polish Chancellery of the Prime Minister.

7.2.3. Open application processes are established and ensure opportunity for assessment to all potentially qualified candidates

A third fundamental component of merit is the principle of open and equal access. This is key, as it helps to ensure that the best person for the job is able to come forward and be considered regardless of their location, demographic characteristics, social status, or political affiliation. To achieve this, merit-based civil services in OECD countries make efforts to ensure that job openings and relevant information are advertised and communicated, that access points for testing and interviews are geographically dispersed, and that all reasonable efforts are made to facilitate groups who may be disadvantaged, such as people with disabilities. In Spain for instance, specific provisions aim to foster diversity in recruiting public employees including people with disabilities, through specific measures such as quotas. These measures aim at eliminating discriminatory obstacles, provided the candidates passed the selection procedures indicating the same level of competencies and knowledge as other candidates. A system that limits consideration to specific segments of society cannot be considered to be fully meritocratic, regardless of the assessment criteria and tools used.

This principle calls for real reflection on the way criteria for selection are chosen and assessed. For example, do educational criteria benefit graduates from specific schools that may be known to be primarily attended by an elite class? Such criteria can perpetuate the notion of a ruling class, which is contrary to the basic principle of merit. In fact, linking merit to educational criteria requires careful consideration of whether/how the merit principle is applied in the education system. In some countries, access to education is determined more by means than merit, which by extension can result in an elitist civil service. To address this some countries, such as Belgium, enable educational criteria to be substituted with experiential criteria when a clear case can be made.

Some OECD countries analyse selection criteria and recruitment processes in terms of demographic factors to assess whether they encourage applications from women or minority groups. The United Kingdom has undertaken a thorough analysis of applicants to the Fast Stream programmes and found that the applicant pool misses some key aspects of representation (Box 7.5). If surprisingly low numbers of applications are received from certain groups, further study can be conducted to understand why they are not applying and to address barriers. Sometimes the barrier is perception – in some societies certain groups do not perceive the civil service as being a place where they would be welcome to work. This can be a powerful signal as to the level of merit, real or perceived, in the system.

Box 7.5. Open recruitment for the UK Fast Stream

The Fast Stream is one of the largest graduate development programmes among OECD countries. In 2015, 21 135 applicants competed for 967 appointments in 12 different specialist and generalist streams.

Once selected, programme participants are equipped with the knowledge, skills and experience they need to be the future leaders of the civil service. Fast Streamers' personal development is achieved through a programme of carefully managed and contrasting postings, supplemented by formal learning and other support such as coaching, mentoring and action learning.

The UK Fast Stream programme promotes diversity and inclusion, and produces an annual report with data and analysis showing the range of applicants. This is a good example of data-driven HR analysis. In 2015, a report was produced to understand the factors behind the socio-economic patterning in the Fast Stream and why applicants from lower socio-economic backgrounds are less likely to apply and less likely to succeed. The research provided insight for the wider civil service and evidence to build on for formulating recommendations to improve socio-economic diversity.

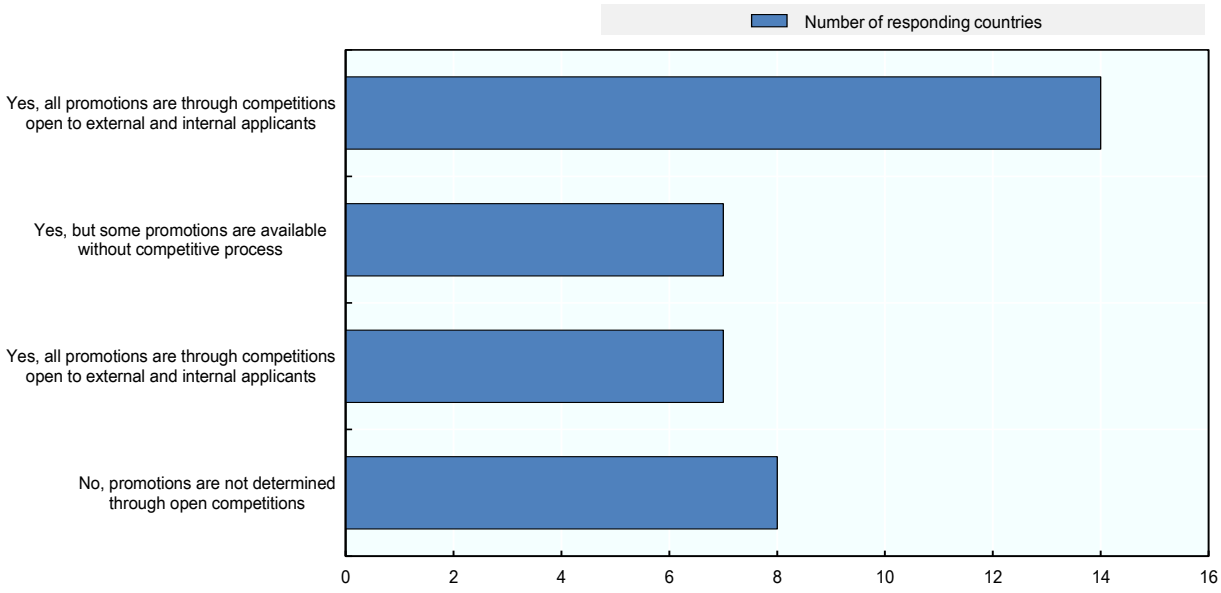
The report included recommendations to (among other things) introduce a new, enhanced approach to measuring and monitoring socio-economic diversity; establish clearer accountability for socio-economic diversity in the Fast Stream; and introduce enhanced data insights to adjust attraction and recruitment strategies.

Source: (OECD, 2017[8]) (The Bridge Group, 2016[9]).

When applied to internal HR processes, this principle should be adjusted to the particular circumstances of the civil service system in question. Not all positions need to be filled through competitions open to external candidates. Figure 7.2 suggests that only a minority of OECD countries open all recruitment to external competition. However, there should be clear and transparent criteria and reasoning behind the use of internal versus external competitions. Additionally, internal competitions should still be open to all qualified internal candidates.

Figure 7.2. Is career advancement done through open competition?

Responses from 35 OECD countries, 2016



Notes: Bars refer to the number of OECD countries that responded positively to this question for these areas.
Source: (OECD, 2016[6]).

7.2.4. Oversight and recourse mechanisms are established and ensure fair and consistent application of the system

As with any rule-based system, institutions and processes need to be in place to ensure consistent and fair application. This is particularly important when responsibility for HRM is highly distributed – as it is in most OECD countries, where individual managers have a high degree of influence in hiring, performance assessment and promotion. With so many people involved, the risk is high for irregular application, and for personal interpretations of the rules and principles that result in uneven application or even in disagreement about what the rules and principles mean. Most countries address these issues through three interrelated mechanisms.

The first is to assign authority for the oversight and protection of the merit system to an independent body with investigative powers and authority to intervene in HR processes when breaches are deemed to have happened or to be imminent. In most cases the body's primary role is to safeguard the process and correct the system when necessary (Box 7.6). For example, these authorities can monitor that job advertisements comply with legal requirements, regulations and ethical principles, as well as monitor the transparency of the recruitment process. In some countries the authorities also conduct testing and selection procedures on behalf of individual organisations.

The second is to have recourse mechanisms available to candidates who feel they have been treated unfairly. Providing candidates with access to their personal file and records is a prerequisite. Candidates need to be made aware of the recourse means, and the mechanisms should be accessible and resourced appropriately to ensure responsiveness.

The third is to ensure that all managers have a clear and consistent understanding of the system and their discretion within it. This is most often accomplished through a combination of information provision, mandatory and regular training, and advisory services.

Box 7.6. Merit protection agencies

Ireland: The Commission for Public Service Appointments is an independent body that sets and safeguards standards for recruitment and is bound by law to ensure that recruitment and selection are carried out by fair, open and merit-based means. Its primary statutory responsibility is to set standards for recruitment and selection, which it publishes as Codes of Practice. The Commission safeguards these standards through regular monitoring and auditing of recruitment and selection activities, and it investigates alleged breaches of the Codes of Practice.

Canada: The Public Service Commission (PSC) is an independent agency responsible for safeguarding the values of a professional public service: competence, non-partisanship and representativeness. The PSC safeguards the integrity of staffing in the public service and the political impartiality of public servants. The PSC can investigate external appointments; internal appointments, if not delegated to an organisation; and any appointment process involving possible political influence or suspected fraud. All external and internal appointments are made by the PSC, although authority to make appointments can be delegated to the most senior civil servants (deputy ministers). Deputy ministers must respect PSC appointment policies in exercising their delegated authority and are held accountable to the PSC for the appointment decisions they make, through mechanisms such as monitoring, reporting, studies, audits, investigations and corrective actions. The PSC may limit or remove delegated authority from a deputy minister. In turn, the PSC is accountable to parliament for the integrity of the public service appointment system.

United States: The Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency in the executive branch that serves as the guardian of federal merit systems. The MSPB is empowered to hear complaints and decide on corrective or disciplinary action when an agency is alleged to have committed a prohibited personnel practice. The MSPB carries out its statutory responsibilities and authorities primarily by adjudicating individual employee appeals and by conducting merit systems studies. In addition, the MSPB reviews the significant actions of the Office of Personnel Management (OPM) to assess the degree to which those actions may affect merit. The Office of Special Counsel (OSC) is an independent executive agency that investigates allegations of prohibited personnel practices, prosecutes violators of civil service rules and regulations, and enforces the relevant legislation.

Source: Ireland – Commission for Public Service Appointments, www.cpsa.ie/en/; Canada – Government of Canada, Public Service Commission, www.canada.ca/en/public-service-commission.html; United States – United States Merit Systems Protection Board, www.mspb.gov/ (all accessed 22 February 2020).

7.3. Challenges

While merit systems have been a constant principle in civil service management across OECD governments, application of the system needs to be renewed in order to keep up with the changing demands of civil services. In many ways, merit systems that were put in place are being reviewed in light of these changing needs and expectations.

At the core of the tensions in the merit system is the perception that meritocracies are less responsive to the desires of the political officials elected to represent their constituencies. Hiring and staffing processes, it could be argued, would be more adaptive and quicker to respond to emerging challenges in a private sector type of system that does not impose the same standards or checks and balances on merit. In these systems, transparency and fairness are traded for expedience. Whether or not this is true, and what the longer-term trade-offs are in terms of public value and democratic principles, demand public debate and analysis that look beyond the short-term views of the political cycle. Most systems have some flexibility and use exceptions to the merit rules sparingly, to ensure that they remain exceptions to the rule and do not become the rule.

What is clear is that if merit-based systems are not updated to meet the needs of a 21st century government, they will create incentives for managers to resist the meritocratic nature of the system and find ways to cut corners.

7.3.1. Speed and timely decision making

Central to this discussion is the speed of many merit systems, which can often be reduced due to the various stages required in assessing candidates, and the necessity to ensure that candidates have ample opportunity to challenge a decision they see as unfit. From a management perspective, operational demands not met by a slow merit system can create incentives to look for other kinds of staffing mechanisms, such as using temporary contracts or promoting people on a temporary basis, which can undermine the merit system.

A public sector merit-based system, which values openness and transparency, may always be slightly slower than alternative systems that can skip various steps in the process. However, many countries could speed up their staffing processes by making better use of digital technologies and investing in the skills and capacities of HR managers to conduct more strategic approaches to staffing. To assist recruiters and managers, the Australian Public Service Commission has developed guidance to increase compliance of the internal HR processes with the legal framework, and ease decision making without slowing the system (Australian Public Service Commission, 2018[10]).

A number of countries, such as Canada, have developed pooling systems that can also help speed up the process from a management perspective. In this system, candidates prequalify for certain types of positions, and hiring managers can go to this candidate “pool” to find a suitable fit without having to run an entire process from the beginning. However, from a candidate’s perspective, the process can take a long time, and good candidates may already find work elsewhere. Skills pools are also developed internally to offer a cross-governmental resource. The free agents programme in Canada creates a pool of internal civil servants with innovation skills, and assigns them to short-term projects in various departments to help meet specialised needs.

7.3.2. Keeping up with new skills and competencies

A second factor straining traditional merit systems is the kinds of skills and criteria that are being assessed. On the one hand, skill sets in the public sector are becoming increasingly specialised and technical (e.g. for detecting corruption), suggesting that the traditional standardised examination approach may be of less relevance.

On the other hand, public employers are increasingly using behavioural and cognitive competencies (e.g. teamwork, strategic thinking and management skills) and values (e.g. integrity) as selection criteria for positions. The challenges of using merit systems to detect integrity and screen out people whose values do not align are significant, for a number of reasons:

- It is less people's character traits and more the context in which they find themselves that contributes to their decision to engage in corruption or unethical behaviour;
- The few people who may approach a job with specific intent to undertake unethical activities are likely prepared to deceive and game the detection system to achieve their ends;
- There is no consensus on the benefits or reliability of integrity tests used for pre-screening candidates primarily in the private sector.

This situation requires a new set of assessment tools and expertise. Without investing in such expertise, assessment of these kinds of factors is open to subjective interpretation and unconscious bias, which can threaten the validity of the merit process and open the door to nepotism. The bottom line is that the ability of the traditional merit-based approach to select the best candidates (i.e. education, experience and standardised examinations) may no longer be appropriate for the needs of a modern public service organisation.

Given these challenges, some governments may specifically test awareness and knowledge of ethical procedures, and use situational judgement exams to get a view of the candidates' judgement capacity.

Values-based assessments can also provide insight on the values fit, which can be an important indicator of future performance. Generally, the first step is for an organisation to clarify which values are integral to its work. This should go beyond simply listing key words such as "integrity" and "accountability", and include a description of which behaviours illustrate these values in a work context. The behaviours then become part of the assessment criteria along with skills, experience and aptitude.

Testing for these behaviours is not simple and requires some degree of expertise. It can be used in interview settings, for example; some organisations may ask candidates to discuss their own values straight out. However, a better way is often to learn them indirectly – by asking, for example, about a time when the employee was forced to make an ethical decision at work, or about a time when they felt there was a value conflict, and then looking for the behaviours identified earlier. Even better is to have the candidates demonstrate their values through assessment centre methodologies such as role-playing, simulations and group exercises. Gamification is increasingly used as a way to assess behaviours and values in a more natural setting, but such approaches require careful controls in the hands of psychological experts to ensure reliability and validity.

7.3.3. The challenge of representation and inclusion

Two values that are increasingly guiding public employment and management are those of representation and inclusion. Workforce diversity in an inclusive environment can improve policy making and service delivery innovation. Having a range of employees with different backgrounds who see things from different perspectives may also contribute to a workplace culture where employees are open to questioning assumptions and identifying integrity risks. The Australian Public Service Commission developed guidance material aimed at increasing diversity and inclusion in the Australian Public Service workforce, including for instance guidance in designing affirmative measures for recruiting indigenous people or persons with disabilities (Australian Public Service Commission, 2018[10]).

Across OECD countries, the top levels of bureaucratic hierarchies are less diverse and less representative of the general population than the broader public sector workforce. This suggests that the merit systems that select and promote people for top-level positions may be biased towards certain profiles, and could be reviewed with this in mind.

Bias can be built into the system, and/or it can be part of the personal (unconscious) bias of decision makers. Biases that can be built into the system may include criteria that unnecessarily exclude certain populations, such as preference for certain education that is only accessible by upper class populations, or the location of recruitment facilities in capital cities. Mentorship programmes can also help address imbalances in the development of social networks, which often play a role in promotion, as can strong policies that aim to balance work and family life.

The unconscious bias of decision makers can be addressed and managed, beginning with mandatory awareness training for all managers. Managers need to understand their biases not only in hiring, but also in performance management (which has a significant impact on promotion) and task assignment (e.g. women may be assigned fewer opportunities to work on high-profile, demanding projects because they are assumed to prioritise family life). Making these kinds of personnel decisions in consultation with other managers, superiors or even other team members can be a way of challenging managers' personal biases (Evans et al., 2014[11]).

7.3.4. The fragmentation of public employment

When many civil service systems were established, it was on the understanding that public employment was unique and separate from private employment, and therefore warranted its own system and legal framework. Today's civil service systems tend to be much more fragmented, and civil servants find themselves increasingly working alongside private contractors and/or people on temporary contracts that may not be subject to the same meritocratic principles and protections. Furthermore, an increasing number of public services are delivered on behalf of the government through third-party contractors and not-for-profit/third-sector organisations. Traditional civil service merit rules generally do not apply.

This raises important questions about the current state and future of meritocratic systems. For example, should citizen-facing service third-party delivery organisations be subject to a minimum set of standards for merit regardless of whether they are public sector or not? Or does their distance from the political interface remove the most immediate threat of political interference, from which merit was designed to protect? Given the amount of public money that many of these organisations handle, some suggest that they should be subject to some kind of minimum capacity measures. For example, the European Commission has developed a competency framework that can be applied to managing authorities that receive EU structural funds (European Commission, n.d.[12]); the framework can guide their merit processes and help to identify strengths and gaps.

A related question is whether all public employees should be subject to the same merit criteria regardless of their employment status (e.g. civil servants, temporary employees, etc.). This would likely depend on whether the civil servants do the same job as other public employees. The level of meritocracy would likely be determined by a kind of risk assessment based on the qualities of the job, and not on the specific legal contracting mechanism in place.

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8 Capacity building

This chapter provides a commentary on the principle of capacity building contained within the OECD Recommendation of the Council on Public Integrity. It clarifies how core activities – such as providing timely and relevant information on integrity policies and standards, as well as carrying out regular, tailored integrity training – can build commitment to public integrity. It identifies the core components for effective integrity advisory functions, and discusses how these guidance and consultation mechanisms can support public officials in understanding and applying integrity standards in their daily activities. The chapter addresses commonly faced challenges, including using innovative and interactive training formats, dedicating time and resources to capacity building and guidance, and ensuring effective co-ordination of agencies responsible for training. It also discusses the challenges associated with integrity advisors, including the risk that other actors may relinquish their integrity responsibilities, or misuse the advice and guidance of advisors.

8.1. Why capacity building?

Raising awareness, building knowledge and skills, and cultivating commitment to integrity are essential public integrity elements. Raising awareness about integrity standards, practices and challenges helps public officials recognise integrity issues when they arise. Likewise, well-designed training and guidance equip public officials with the knowledge and skills to manage integrity issues appropriately, and seek out expert advice when needed. In turn, raising awareness and building capacity contributes to cultivating commitment among public officials, motivating behaviour to carry out their public duties in the public interest.

The OECD Recommendation on Public Integrity calls on adherents to "provide sufficient information, training, guidance and timely advice for public officials to apply public integrity standards in the workplace, in particular through:

a. providing public officials throughout their careers with clear and up-to-date information about the organisation's policies, rules and administrative procedures relevant to maintaining high standards of public integrity;
b. offering induction and on-the-job integrity training to public officials throughout their careers in order to raise awareness and develop essential skills for the analysis of ethical dilemmas, and to make public integrity standards applicable and meaningful in their own personal contexts;
c. providing easily accessible formal and informal guidance and consultation mechanisms to help public officials apply public integrity standards in their daily work as well as to manage conflict-of-interest situations" (OECD, 2017[1]).

8.2. What is capacity building?

There are a number of tools and mechanisms that governments can use to provide information, training and guidance to public officials. The following features are essential elements:

- Information about integrity policies, rules and administrative procedures is up-to-date and available.
- Induction and on-the-job integrity training take place regularly to raise awareness and develop skills for public integrity, and evaluation measures are in place to assess effectiveness.
- Guidance and consultation mechanisms for consistently applying integrity standards in public officials' daily work are in place, well known, and accessible.

8.2.1. Information about integrity policies, rules and administrative procedures is up-to-date and available

Making sufficient information available for public officials is key to raising awareness and understanding of integrity policies, standards, rules and administrative procedures. The methods and messages will depend on whether the aim is to raise awareness about integrity standards that are applicable across the public sector, or integrity rules applicable in specific institutions or contexts. If the focus is on raising awareness about government-wide integrity standards, governments can issue communications about values and principles in the civil service. This may include sending public officials a copy of the code of conduct or code of ethics and presenting its content when they join the public service, as well as asking them to sign, upon entry or when they change their functions, a statement that they have read, understood and agree to adhere to the code of conduct or code of ethics. The legal value of such an act is usually limited, but its symbolic meaning can be considerable if it is embedded within the broader integrity system (OECD, 2009[2]).

Public organisations may use additional means of diffusing integrity standards such as posters, computer screen savers, employee boards, banners, bookmarks and printed calendars (among other things), to raise awareness about integrity rules. For example, in Mexico the Ministry of Public Administration (Secretaría de la Función Pública [SFP]) diffused posters on the constitutional principles, explaining what each specific public service value means (legality, honesty, loyalty, impartiality and efficiency) (Figure 8.1). If the focus is on raising awareness about specific integrity rules in a specific sector, then governments may consider producing and disseminating tailored messages. The US Customs and Border Protection Agency and the Australian Department of Home Affairs have both introduced integrity videos and agency-wide emails to clarify sector-specific expectations and conduct within their agencies (OECD, 2017[3]).

Figure 8.1. Poster of constitutional principles in Mexico

Source: Unidad de ética, Integridad Pública y Prevención de Conflictos de Intereses (2018), "Principios Constitucionales", Secretaría de la Función Pública.

Using messages that contain concrete examples about what these values mean will encourage public officials to reflect on and internalise them. For example, the poster of the Standards of Integrity and Conduct of New Zealand (Figure 8.2), which is displayed both within public organisations and publicly for citizens, offers concrete examples of what the values mean.

Figure 8.2. Raising awareness of the standards of integrity & conduct in New Zealand

STATE SERVICES COMMISSION
Te Komisiana O Ngā Tari Kāwanatanga

STANDARDS OF
INTEGRITY
& CONDUCT

A code of conduct issued by the State Services Commissioner under the State Sector Act 1988, section 57

WE MUST BE FAIR, IMPARTIAL, RESPONSIBLE & TRUSTWORTHY

The State Services is made up of many organisations with powers to carry out the work of New Zealand's democratically elected governments.

Whether we work in a department or in a Crown entity, we must act with a spirit of service to the community and meet the same high standards of integrity and conduct in everything we do.

We must comply with the standards of integrity and conduct set out in this code. As part of complying with this code, our organisations must maintain policies and procedures that are consistent with it.

For further information see www.ssc.govt.nz/code

FAIR

We must:
- treat everyone fairly and with respect
- be professional and responsive
- work to make government services accessible and effective
- strive to make a difference to the well-being of New Zealand and all its people.

IMPARTIAL

We must:
- maintain the political neutrality required to enable us to work with current and future governments
- carry out the functions of our organisation, unaffected by our personal beliefs
- support our organisation to provide robust and unbiased advice
- respect the authority of the government of the day.

RESPONSIBLE

We must:
- act lawfully and objectively
- use our organisation's resources carefully and only for intended purposes
- treat information with care and use it only for proper purposes
- work to improve the performance and efficiency of our organisation.

TRUSTWORTHY

We must:
- be honest
- work to the best of our abilities
- ensure our actions are not affected by our personal interests or relationships
- never misuse our position for personal gain
- decline gifts or benefits that place us under any obligation or perceived influence
- avoid any activities, work or non-work, that may harm the reputation of our organisation or of the State Services.

newzealand.govt.nz

Published June 2007 ISBN: 978-0-478-30304-4

Source: State Services Commission Standards of Integrity & Conduct, www.nzals.co.nz/assets/Policy-Forms/Code-of-Conduct-Policy.pdf (accessed 25 February 2020).

Simply displaying integrity rules does not necessarily guarantee public officials will give due consideration to the information at their disposal. As such, whatever tools and messages are chosen, regularly promoting integrity policies, rules and procedures can help public officials remember them when facing ethical situations (OECD, 2017[4]). As noted in (OECD, 2019[5]), moral reminders have been shown to be an effective tool to counteract unethical behaviour, by reminding people of ethical standards at the moment of decision making (Mazar and Ariely, 2006[6]; Bursztyn et al., 2016[7]). Inconspicuous messages, such as "Thank you for your honesty" can have a striking impact on compliance with integrity standards (Pruckner and Sausgruber, 2013[8]), although to achieve the desired impact the interventions have to be timed closely before the moment of decision making (Gino and Mogilner, 2014[9]).

A concrete policy measure derived from these findings could involve including a sentence to be confirmed by a procurement official just before taking the decision on a procurement contract. The sentence could read: "I will take the following decision according to the highest professional and ethical standards". By signing, the procurement official implicitly links their name to ethical conduct (OECD, 2017[10]). Other concrete policy measures could include requiring signature boxes at the beginning of government reporting forms (Box 8.1).

Box 8.1. Applying behavioural insights to improve compliance

In the United States, federal vendors who make sales through federal supply schedules are required to pay the industrial funding fee, which is calculated based on the fraction of the total sales made. To calculate the fee, vendors must self-report the quantity of their total sales. To increase compliance with self-reporting, the Government Services Administration (GSA) piloted an electronic signature box at the beginning of its online reporting portal. As a result of the pilot, the median self-reported sales amount was USD 445 higher for vendors signing at the top of the form. This translated into an extra USD 1.59 million in Industrial Funding Fee (IFF) paid to the government in a single quarter.

Source: (SBST (Social and Behavioural Sciences Team), 2015[11]).

8.2.2. Induction and on-the-job integrity training take place regularly to raise awareness and develop skills for public integrity, and evaluation measures are in place to assess effectiveness

From a capacity-building perspective, a strategic approach to public integrity requires integrity training to be integrated into the wider skills development framework of any public service. Across OECD countries, skills development is a core part of public service management. The institutional oversight, as well as who is responsible for promoting, co-ordinating and administrating learning, varies based on a country's institutional framework (OECD, 2017[4]). The key structures could include a central ministry or a national public service school, or responsibility could be delegated to individual line ministries (OECD, 2016[12]). Learning and skills development plans may be built around the development of individual public officials in order to address skills gaps in public organisations, or focused on the whole-of-government level (OECD, 2017[4]).

Regardless of the approach or approaches used and in what combination, training in integrity should be a component. Governments can consider the following features when designing and implementing integrity training: the target audience, the timing and frequency of the training, the scope of the training, and the main methods to carry out the training. In addition, governments can consider measures related to co-ordinating the key actors who prepare and deliver training, as well as to monitoring and evaluating the training outcomes.

Training audience

New public officials are a key audience for integrity training, with induction training serving as the first opportunity to set the tone for integrity standards upon entry into the public service. This is a prime opportunity to raise awareness and build knowledge on rules and values. For instance, Canada, the United States, Lithuania and Turkey have made integrity training a mandatory component of induction training. Within the mandatory curriculum for new public officials, the Canada School of Public Service provides an induction course on values and ethics. In the United States, all new federal employees must follow an ethics induction training course designed and provided by their Designated Agency Ethics Official. In Lithuania, ethics training is indirectly made mandatory: all new public officials are required to take part in induction training, which includes time dedicated to integrity issues. Basic core components of these induction integrity courses include the concepts of values and ethics, but also managing and preventing conflicts of interest, ethical dilemmas and accountability issues in the workplace.

Specific integrity training opportunities can also be designed for public officials, to provide them with support and tailored, up-to-date content to perform their daily functions. In the United States, in addition to the mandatory induction training, certain categories of employees (e.g. presidential appointees, the executive office of the president, certain contracting officers, etc.) are required by the Code of Federal Regulation to follow additional annual ethics training. Many US agencies have extended this requirement to all staff. In France, while there is no legal obligation for ethics officers' training, the High Authority for Transparency in Public Life (HATVP) provides a training course specifically designed for ethics officers of the semi-public companies of the City of Paris (HATVP, 2019[13]). An ethics guide designed for them also provides guidance and tools (HATVP, 2019[14]).

Moreover, as a way to internalise training, participants can be encouraged to draft their own integrity action plan in which they identify integrity risks and challenges in their workplace. Follow-up training can then be used to discuss implementation of their personal plan, including the barriers faced in implementing specific actions, as well as to share ideas and solutions.

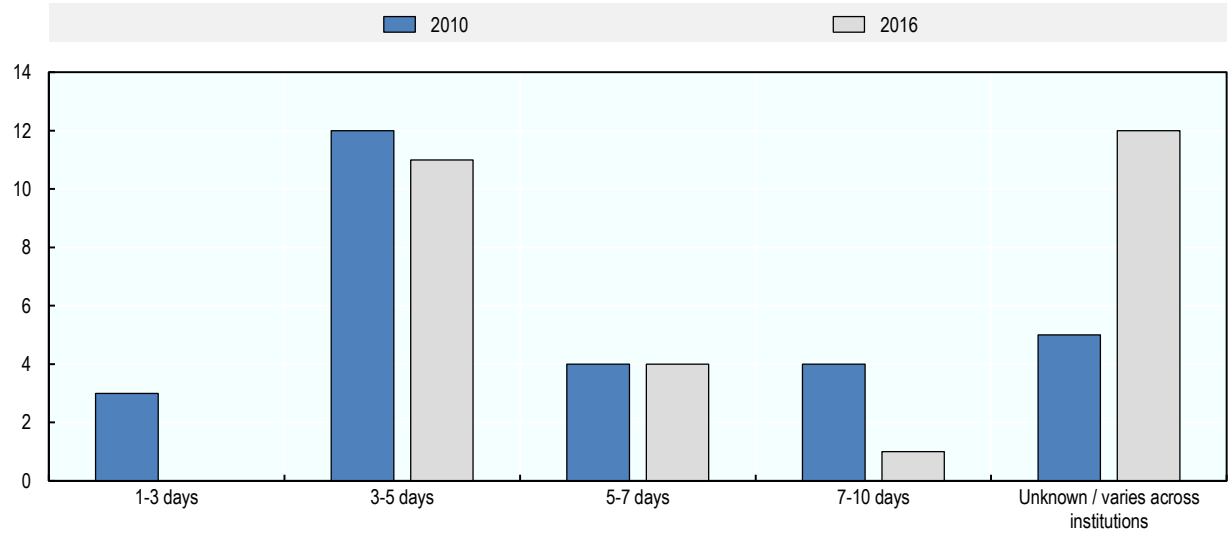
Within each public administration, there are specific categories of public officials who operate in positions exposed to higher risks of corruption. Such positions include those responsible for public contracting, those in tax and customs, and those public officials working in regulatory bodies. To ensure that these public officials have the tools to address the integrity risks that arise, training programmes can be tailored to their specific needs. For example, since 2001 the German Federal Procurement Agency requires all new staff members to participate in workshops to gain knowledge of corruption prevention, whistleblowing and ethical behaviour. The programme has since been expanded, with all public procurement officials required to take part. Between 6 and 7 workshops per year are organised to train on average 70 officials (OECD, 2016[15]). In 2017-19, 313 officials participated in relevant management training, induction training and particular corruption prevention workshops. In Estonia, in addition to the four ethics courses in the central training programme, each agency may also provide internal programmes adapted to the needs of their officials. For example, the Tax and Customs Board in Estonia has introduced its own ethics module tailored to the needs of tax and customs officials.

Timing of training

Laws, rules, codes and expectations change over time, and new forms of integrity breaches and ethical dilemmas may emerge. Regular updates on integrity rules and standards can help ensure that public officials have the required skills, knowledge and capacity to respond.

However, given all the public sector topics being considered, a limited amount of time is dedicated to training. As shown in Figure 8.3, between 2010 and 2016 more governments reported 1 to 3 days of training, with a noted decline in those offering 7 to 10 days. Given the number of topics and areas of training that public officials are expected to undertake, the time dedicated to integrity training in particular may be even more limited.

Figure 8.3. Average length of training per year per employee



Source: (OECD, 2016[12]).

The regularity of training in integrity for public officials varies and depends on the overall size of the public service, the human and financial resources dedicated to capacity building, and whether integrity training is mandatory or voluntary, or targeted at categories of public officials exposed to specific risks. Even if resources dedicated to integrity training are limited, governments can capitalise on timing opportunities for the training. These include the periods following reforms in ethics or public service acts, establishment of new rules or functions, and changes in general codes of conduct and/or in "higher-risk" functions (political appointees, procurement, tax, customs, etc.) or sectors.

Scope of training and methods used to deliver training

While content will vary based on country context, at a minimum training in integrity can include modules on integrity standards, rules and values, administrative procedures (such as financial management and public procurement), transparency and accountability instruments, and measures and controls to manage integrity risks. Training could also cover what integrity risks are and how to identify them; what ethical reasoning is and how to apply it to abstract ideas; and what ethical dilemmas are and how to manage them.

For both induction and in-service training, there are a number of methods available to support delivery of integrity training (see Table 8.1 for the types of main training trends). Methods should be tailored according to the training's objectives, as some methods may not be the most effective for every circumstance. Traditional teaching methods such as lectures but also e-learning modules, courses and massive open online courses can be used for imparting knowledge about specific integrity standards, rules and administrative procedures that exist to guide integrity in the public sector (e.g. "rules-based" training). For example, the United States Office of Government Ethics (OGE) used the first of three "train-the-trainer" sessions of a massive open online course (MOOC) to introduce the statute and regulations of post-government employment restrictions. The course was complemented by values-based scenarios and exercises for participants to perform as if they were confronted with real ethical dilemmas. Values-based training focuses on developing attitudes and behaviours in response to potential integrity issues that will occur as public officials carry out their duties. It can be delivered through more interactive forms, including case studies, simulation games, card or board games, and role-playing. For example, in Austria the Federal Ministry of Interior uses an interactive game called "Fit 4 Compliance – Find Your Values" to discuss

personal values and how public service values may guide public officials in addressing difficult situations and handling ethical dilemmas. Such interactive and situational methods are used to challenge trainees and allow them to reflect on key dilemmas, as well as on the consequences of a lack of or breaches to integrity; a debriefing follows the experience.

Table 8.1. Main training methods

Method	Approach	Description
Lecture	Rules-based	Public officials are offered lecture-format courses on integrity standards, rules, and administrative procedures to reinforce their understanding of ethical concepts and principles of public service. Trainers are mainly the ones intervening.
E-learning module / online course or massive open online course	Rules-based	Public officials are offered online courses or modules through an online platform or website on ethical standards, rules, and administrative procedures to reinforce their understanding of ethical concepts and principles of public service. Trainers are mainly the ones intervening.
Coaching and mentoring	Combined	Through peer feedback and discussions, junior public officials are given the opportunity to partner with a senior manager with proved ethical conduct, motivating ethical behaviour and helping to develop ethical awareness to foresee and resolve dilemmas.
Ethical dilemma case studies and discussions	Combined	Based on a described situation or scenario or on non-didactic support such as a video, public officials are encouraged to identify integrity and ethical issues and discuss how to address and avoid them. The trainer acts as a facilitator with the trainees, sharing views and discussing the dilemmas.
Simulation game, role-playing and scenario	Values-based	Public officials are given a scenario, an issue to deal with or a specific function and they are asked to perform it as if they were in a real case situation. The trainer acts as a facilitator only and trainees do most of the work, acting in an inductive way.

Dilemma training is an example of combined rules-based and values-based approaches, as it involves situations where there is no obvious choice among the different alternatives available. For example, the Agency for Government Employees in the Flemish Government offers dilemma training to public officials; trainees are given practical situations in which they face an ethical dilemma with no clear path to resolution with integrity. Similarly, the OGE in the United States offers in-person training with a series of scenarios aimed at fostering ethical reasoning and discussing ethical dilemmas (US Office of Government Ethics, 2016[16]). The purpose of dilemma training is to convey that such situations are inevitable, and to stress the message that public officials should seek support when they face such situations (OECD, 2009[2]). Dilemma training also runs less risk of being perceived as naïve or as a mere formal requirement; it may yield greater results if it is interactive and allows participants to be confronted with realistic situations that generate a personal commitment to integrity (Bazerman and Tenbrunsel, 2011[17]). As such, focusing dilemma training on public officials' working situations helps stimulate participants' moral awareness, contributes to their level of moral reasoning, and provides methods to help improve the moral quality of their actions.

Co-ordinating training actors

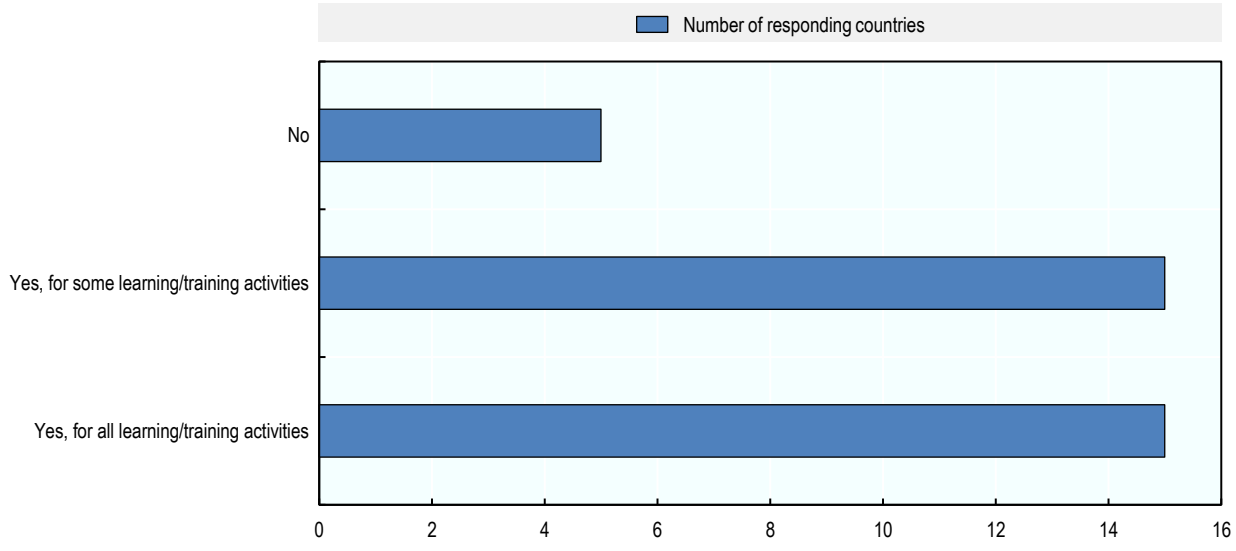
The content of integrity training programmes may be limited if it is developed exclusively by either integrity bodies without knowledge of effective teaching methods, or specialised training bodies without specific knowledge of integrity issues. As such, involving both integrity experts and training specialists in developing and implementing integrity training can support a holistic and relevant approach. It also helps define and target the right audience for each type of training. In Canada the central body, the Treasury Board Secretariat, works closely with the Canada School of Public Service to develop integrity training for public officials. Recently, based on this co-operation, the Canada School of Public Service updated the induction course for public officials on values and ethics, which as mentioned above, is part of a mandatory curriculum for new arrivals. The course is also used by federal departments as a refresher for existing employees, to ensure they understand their responsibilities under the Values and Ethics Code for the Public Sector (OECD, 2017[10]). Similarly, in Germany the Federal Ministry of Interior, Building and Community recently developed a new training concept with tailor-made modules for different target groups

(management staff, staff with jobs particularly vulnerable to corruption, contact persons for corruption prevention, staff working in corruption prevention units). The timing, content and means of training are clearly defined. Experts in the field of corruption prevention, internal audit, training and human resources management collaborated on the content. In addition the Ministry and the Federal Academy for Public Administration are jointly developing an e-learning programme, taking into account current pedagogical insights and technical trends.

Monitoring and evolution of training

As shown in Figure 8.4, most OECD countries monitor and evaluate the quality of all training activities; as a rule they do not, however, measure their impact (Pearson, 2011[18]). This can be explained by the fact that there are few methodologies that allow for measuring the effectiveness and organisational change arising from training (Van Montfort, Beck and Twijnstra, 2013[19]). Coupled with this, the many variables that can influence the integrity of public officials who participated in training activities make measuring the outcomes of training complex (Pearson, 2011[18]).

Figure 8.4. OECD countries with measures in place to monitor and assess the quality of training



Source: OECD, (2016[12]).

One of the commonly acknowledged models for assessing training is the Kirkpatrick "Four Levels Model" (Kirkpatrick, 1994[20]), outlined as follows:

- level 1 – *Reaction,* the immediate impressions of the participants and trainers, what they thought and felt about the training
- level 2 – *Learning*, the development of knowledge, skills and attitudes resulting from the training
- level 3 – *Behaviour***,** the extent of behaviour and capability improvement, and demonstrated application of the new learning within the work setting
- level 4 – *Results*, the impact on work results; the return on the training investment (Kirkpatrick, 1994[20]).

Most integrity training evaluation methods focus on the level 1 "reaction" that participants have from the training, and do not take into account levels 2, 3 or 4 of the training. To address this gap, public organisations could measure behaviour change through pre- and post-training assessments in the form of

a multi-rater assessment, such as a 360-degree assessment, along with a control group (McGivern and Bernthal, 2002[21]). Such assessments can gather useful data about whether integrity training is helping the organisation achieve its objectives, as well as justify training costs and inform adjustments to the integrity training strategy.

Measuring level 4 "results" requires assessing potential changes against a baseline established prior to initiating training activities. In the context of integrity in public organisations, potential indicators may include the following:

- number of cases where public officials have sought integrity advice on specific integrity issues (which may be accounted for separately), and the outcomes of such cases
- number of disclosures of potential conflicts of interest to the relevant authorities, and the mitigation measures implemented
- perceptions about the level of integrity and openness of the organisation
- number of reports from citizens and businesses where public officials did not behave with integrity in providing public services
- level of satisfaction of citizens and businesses about the quality of the services delivered by public officials.

However, while carrying out level 4 assessments, public organisations must bear in mind that the uncontrolled, non-laboratory setting of public organisations make it difficult to completely isolate the impact of a specific programme. Thus, it is best to track assessment results over a longer period to identify trends in the impact of integrity training provided.

8.2.3. Guidance and consultation mechanisms for consistently applying integrity standards in public officials' daily work are in place, well known, and accessible

Although integrity is ultimately the responsibility of all public officials, a dedicated integrity body or unit or dedicated personnel can support shaping integrity (OECD, 2009[2]). Institutionalisation of an integrity advisory function can take different forms: within a central government body, such as the case in Australia (discussed below); through an independent or semi-independent specialised body; or through integrity units or advisors integrated within line ministries. An example of an independent advisory function can be found in France, where the HATVP provides individual confidential advice upon request to the highest ranking elected and non-elected public officials falling within its scope, and provides guidance and support to their institution when one of these public officials requests it. An example of designating dedicated integrity units, officers or advisors within line ministries can be found in Poland, where integrity advisors may be appointed in ministries and other government administration offices. Their role is to provide advice on solving ethical dilemmas and to support public officials in understanding the rules and ethical principles of the civil service. In addition, integrity advisors support leadership in disseminating knowledge about principles and promoting a culture of integrity in the office.

Regardless of the institutional makeup, the key tasks of an integrity advisory function are providing advice on content upon request; providing integrity advice about what is acceptable in specific circumstances; and preparing guidance on what the organisation's guidelines should be on key integrity issues (OECD, 2009[2]). Using forms of written communication – such as mail, e-mail or through an online portal – to contact integrity advisors can support clarity in the response and avoid the risk of misinterpreting oral advice. Setting out clear procedures for contacting the advisory body, including contact details, hours of operation and expected response times, can help facilitate access. Moreover, specifying the limits of integrity advice (e.g. it does not necessarily equal a legal opinion) can protect both the integrity advisors and employees from misusing or misinterpreting the advice. Specific attention should be given to respecting confidentiality of the exchanges between the advisor and the public officials (e.g. a dedicated and/or encrypted email address, limited access to a specific platform or webpage, etc.). In Australia the

Ethics Advisory Service within the Australian Public Service Commission is made available to all public service employees. The website clearly indicates how employees can access the service, with options including e-mail and phone, and sets service delivery standards and privacy standards. The website also details what employees can and cannot expect in terms of advice from the Ethics Advisory Service (Australian Public Service Commission, 2019[22]).

Beyond advice, tools such as questions and answers guidance can inform public officials on values and behaviours, as well as on commonly addressed concerns. In addition, the advisory function can provide regular communication on overall conclusions and the type of guidance and support provided to public officials. This may be done through an annual activity report or by publishing on the advisory function's website summaries or conclusions drawn from advice requested over a specific period or for recurring systemic or sector-specific issues (e.g. parliamentary ethics, public procurement, etc.).

An integrity advisory function may also be tasked with other integrity, transparency and openness mandates. As identified focal points in the workplace, integrity advisors are in a position to facilitate co-ordination of integrity and transparency policies within the organisation themselves, as well as in co-operation with other organisations and jointly with other integrity actors. Given their position, they may be able to provide support to risk owners in assessing and managing risks within their organisation; diffusing integrity-related information and procedures; and designing tailor-made training sessions or awareness-raising actions in the specific context of their workplace. For example, in Germany the integrity contact persons are tasked with keeping staff members informed regarding integrity and corruption prevention (e.g. by means of regularly scheduled seminars and presentations) and with assisting them with training. Experiencing the same workplace as the colleagues they advise, and having thorough knowledge of public service standards, integrity policies and responsibilities, they may guide colleagues through appropriate reporting procedures and may also be a reporting channel (Box 8.2). What is key is that these bodies should not be responsible for investigating or applying sanctions, as this can seriously curtail their access to public officials with integrity concerns. Moreover, integrity advisors may also supervise and monitor the implementation of these policies and practices (e.g. awareness-raising campaigns, integrity training plans, availability of written resources and guidance, data related to integrity questions and requests, etc.), report on it, and be held accountable for results (OECD, 2017[23]).

Box 8.2. Integrity advisors in France

In France, the Law on Ethics and the Rights and Obligations of Civil Servants, adopted in April 2016, and its application Decree published in April 2017, created the right for every public official to have access to integrity advice, and provided for the appointment of designated ethics officers (*référent déontologue*) in every public organisation. The ethics officers have the mission to advise civil servants on questions they may have regarding their integrity obligations in the course of their duties. This requirement has also spread to other levels of government, with an increasing trend of ethics officer appointments in regions and major French cities.

The *référent déontologue* of the territorial civil service management centre of the Rhône and Lyon *métropole* published its first activity report in May 2019 highlighting trends in advice and guidance provided to public officials. Guidance recalls for instance in which cases a secondary activity can be pursued and how to proceed in such cases, and reasons why a future private function may impact the functioning of the former organisation and services if the functions are close to the ones that were performed by the public official. A selection of anonymised cases is annexed to the report. It is worth noting that this ethics officer also acts as a whistleblowing focal point for the same jurisdiction.

Source: Loi relative à la déontologie et aux droits et obligations des fonctionnaires (20 April 2016); Centre de gestion de la fonction publique territorial du Rhône et de la métropole de Lyon, *Premier rapport d'activité du référent déontologue de Centre de gestion de la fonction publique territorial du Rhône et de la métropole de Lyon, Année 2018*, Lyon, https://extranet.cdg69.fr/referent-deontologue.

It is recommended that integrity advisors have the appropriate profile, are trained to listen to staff dilemmas, set a personal example, are not rotated often, and are able to establish trust with employees. A few guiding questions can help facilitate the appointment of the appropriate individual to an integrity advisor role (OECD, 2009[2]):

- Does the individual know what behaviour is expected?
- Does the individual act with integrity?
- Does the individual have a well-defined duty of professional discretion? Specifically, do they know what their duties and rights are when they hear about forms of wrongdoing that are so serious there might be an ethical imperative to break their professional discretion?
- Are they sufficiently supported by a unit or a network?

8.3. Challenges

Although challenges may vary depending on national contexts, those most common in several countries include the following:

- fostering interest through innovative and interactive training formats
- dedicating time and resources to integrity capacity building and guidance
- ensuring effective co-ordination of agencies responsible for integrity training
- ensuring clear responsibilities for integrity and avoiding misuse of advice from integrity advisors.

8.3.1. Fostering interest through innovative and interactive training formats

Integrity training content and format matter in generating interest. An emphasis on definitional aspects, outdated or identical courses throughout time, and theoretical approaches rather than practical content

may limit interest and participation in the training. Moreover, the absence of interaction, discussion and experimentation, as well as limited feedback and evaluation, may undermine the quality and impact of training content, the interest, and potential turnout.

In order to foster interest and participation, training content and formats should allow participants to share their experiences and the specific risks they face in their workplace, to act as if in real situations, and to discuss and try to solve existing and recurrent dilemmas. This may result in designing training for specific at-risk functions or sectors, as mentioned above, and in using different formats and tools.

The availability and accessibility of training content can be addressed through online platforms and solutions, which enable public officials who cannot physically join training opportunities to access courses, practical case studies and forums to discuss ethical dilemmas and those studies. However, it should be emphasised that online training does not replace interactive in-person training, reflection, discussions or experience.

8.3.2. Dedicating time and resources to integrity capacity building and guidance

Capacity-building activities require time and resources to co-ordinate actors; design, implement and evaluate content; and adapt format based on feedback. Similarly, diffusing guidance and training materials, whether on line or through posters, leaflets, screen savers, podcasts, etc., may rely on using existing channels (websites, intranet, emails, paper-based communication), but also may require developing new systems, such as online platforms. The agencies responsible for implementing training and guidance material require the appropriate mandate, as well as the financial and human resources.

8.3.3. Ensuring effective co-ordination of agencies responsible for integrity training

Allocation of functions for oversight, promotion, co-ordination and administration of learning opportunities in the public sector varies, and can involve a myriad of actors. Lack of co-ordination of actors responsible for integrity training may arise from a preference to “work in silos” due to different institutional cultures and governance structures. Fragmentation of integrity training may result in designing programmes with diverging objectives and methodologies, leading to different interpretations and explanations of values and expected conduct across the public sector.

Co-ordination functions – such as a designated lead organisation or an online platform for all public sector training material – and inter-agency collaboration may ensure existing programmes are coherent and aligned. For instance, a designated lead organisation for integrity training can communicate all integrity training material and ensure the content is valid, updated and adapted to risks at both an organisational and individual level.

8.3.4. Ensuring clear responsibilities for integrity and avoiding misuse of advice from integrity advisors

There are several challenges associated with the role of integrity advisor:

- The function of the integrity advisor could undermine the sense of responsibility of other actors in the organisation for managing integrity.
- Conflicting guidelines that may be given by the integrity advisor and the line management within the organisation.
- Cases where previous integrity advice was sought may be used by individuals in their future decisions, even if details in the situation may differ and would have therefore resulted in different advice.

To address these challenges, measures can be set to clarify that integrity advisors can be consulted when other actors (e.g. the supervisor or senior management) are not able to provide satisfactory advice, and to ensure that their advice is shared (where appropriate) with the leadership and managers to avoid conflicting guidelines for public officials (OECD, 2009[2]).

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9 Openness

This chapter provides a commentary on the principle of openness contained within the OECD Recommendation of the Council on Public Integrity. It describes how open organisational cultures support a safe environment where employees can discuss ethical dilemmas, potential conflict-of-interest situations and integrity concerns. It identifies key levers to promote openness, including employee engagement and identification with integrity values, and responsive, credible and trustworthy management. The chapter also looks at the core elements of an effective whistleblower protection system, with a particular focus on ensuring that clear rules, procedures and channels are in place to report suspected integrity violations. In addition, the chapter discusses how hierarchical and formal civil service cultures can undermine openness, and looks at how capacity building and dedicated resources are critical to ensuring openness. It also looks at challenges related to the cultural perception of whistleblowers, and confidential and anonymous reporting mechanisms.

9.1. Why openness?

A holistic approach to public integrity includes measures aimed at fostering openness, in which public officials feel safe actively identifying, raising questions, concerns or ideas, and responding to potential violations of public integrity. Building an open organisational culture has three main benefits: first, it can build trust in the organisation; second, it can cultivate pride of ownership and motivation, thereby increasing efficiency (Martins and Terblanche, 2003[1]); and third, in an open organisational culture anyone can raise questions to resolve them before they become damaging to the organisation. Open communication and commitment to organisational values creates a safe and encouraging environment where employees voice their opinions and feel comfortable freely discussing ethical dilemmas, potential conflict-of-interest situations, and other integrity concerns.

The OECD Recommendation on Public Integrity calls on adherents to "support an open organisational culture within the public sector responsive to integrity concerns, in particular through:

a. Encouraging an open culture where ethical dilemmas, public integrity concerns, and errors can be discussed freely, and where appropriate, with employee representatives, and where leadership is responsive and committed to providing timely advice and resolving relevant issues;
b. Providing clear rules and procedures for reporting suspected violations of integrity standards, and ensure, in accordance with fundamental principles of domestic law, protection in law and practice against all types of unjustified treatments as a result of reporting in good faith and on reasonable grounds;
c. Providing alternative channels for reporting suspected violations of integrity standards, including when appropriate the possibility of confidentially reporting to a body with the mandate and capacity to conduct an independent investigation" (OECD, 2017[2]).

9.2. What is openness?

Within the context of public integrity, an open organisational culture means employees, managers and leaders can regularly engage in conversation with the aim of raising questions, concerns or ideas and preventing misconduct, fraud or corruption (Detert and Edmondson, 2011[3]; Morrison, 2014[4]; Collins, 2012[5]). This is complemented by formal reporting mechanisms, such as whistleblowing and other internal disclosure policies, which enable employees to report misconduct through an official channel when the misconduct has already taken place. An open organisational culture has the following supportive elements: leadership that is responsive and committed to providing timely advice and resolving relevant issues; and employees who are comfortable raising ethical concerns (OECD, 2017[2]). Achieving these two elements involves the following:

- Public officials identify with the organisation's values.
- Public officials are engaged and empowered to safeguard their workplace values.
- Leaders and managers are responsive, credible and trustworthy on integrity issues and concerns.
- Safe environments for voicing questions, concerns and ideas are cultivated and sustained.
- Channels and mechanisms are established to ensure misconduct is reported, investigated and appropriately sanctioned, and whistleblowers feel protected and comfortable voicing concerns.

9.2.1. Public officials identify with the organisation's values

A key element for ensuring openness requires public officials who identify with the purpose of the organisation, know the rules and procedures, and understand how they are implemented in practice. When

organisational values and norms conflict with those of the employee, their commitment and involvement to the organisation will likely suffer. On the one hand, if employees hold their personal values to a higher standard than the organisation, they will experience a conflict, resulting in decreased commitment and unwillingness to speak up against potential wrongdoing (Berry, 2004[6]). On the other hand, if an employee's personal integrity standards are lower than those of the organisation, then integrity breaches run the risk of being viewed as a necessary part of daily routine (Berry, 2004[6]).

Concrete practices to cultivate identification with the values include communicating rules and standards in plain language (for more, see Chapter 4) and hiring on ethical fit (for more, see Chapter 7). Organisations could also ensure that when new employees are brought on board, training includes discussions about the rules, standards and values of the organisation (for more, see Chapter 8). Other tools could include an integrity awards system, whereby employees can nominate their peers based on their demonstration of the organisation's values (Box 9.1).

Box 9.1. Civil Service Awards in the United Kingdom

The Civil Service Awards are articulated around the UK Civil Service core values and standards and their implementation. The nominations of outstanding teams or individuals who have innovated, impressed and made a difference in their area over the past 12 months are considered against the following elements:

- *Promotion or demonstration of the core values and behaviours set out in the Civil Service Code* – Has the nominee acted (where relevant) with integrity, honesty, objectivity and impartiality?
- *Measurable benefits* – Does the nomination provide evidence that the project or programme is having a tangible effect?
- *Working in partnership* – Has the nominee introduced effective joint working arrangements that bring together colleagues from multiple teams, departments or other internal or external organisations?
- *Sustainability* – Will the initiative/practice described leave a lasting legacy and can it be replicated across government?
- *Inclusion* – Has the nominee been inclusive, engaging the individual strengths, talents and experiences of teams, and considered all groups of customers, service users, audiences or stakeholders in developing solutions?
- *Innovative* – Has the nominee used innovative approaches and made the best use of the technology available, resulting in a step up from business as usual and real benefits to end-users?
- *Impact* – Has the nominee made an impact beyond their immediate team/business area/department?

Source: (HM Government, 2018[7]).

To cultivate identity with the organisation's values, the Whistleblowers Authority in the Netherlands suggests using a "joint storytelling" method. This includes leaders and managers asking questions like, "What is important to us, what do we value and what are we proud of?" – and, together with employees, talking about the organisation, its history, the common future and how they want to achieve this. The underlying rationale is that through sharing stories, everyone gains more insight into the existing culture. It creates a bond and cohesion between people and work, and can contribute to a safe environment within the organisation (Hoekstra, Talsma and Zweegers, 2017[8]).

9.2.2. Public officials are engaged and empowered to safeguard their workplace values

An employee whose voice is heard is more likely to feel engaged when speaking up to constructively address a problem (Holland, Cooper and Sheehan, 2017[9]; Beugré, 2010[10]; LePine and Van Dyne, 1998[11]). Engagement and openness are also mutually supportive, with open organisational cultures enhancing engagement. Indeed, when employees perceive opportunities to genuinely voice their concerns and participate in decision making, employee engagement improves (Beugré, 2010[10]).

A number of tools exist to build employee engagement and empowerment. For example, employees whose managers consult them one-on-one have a positive view of their individual influence on their work surroundings (Tangirala and Ramanujam, 2012[12]). This in turn can impact their willingness to engage and voice ideas or concerns. Leaders can also practice "leaning out" so that employees can "lean in", such as changing where leaders sit/stand (e.g. at the middle of the table rather than at the head) or the order of interventions to ensure that staff speak first or are given speaking time in meetings (Tilleard, 2018[13]).

Mechanisms should not focus solely on improving one-on-one engagement between managers and employees. Leaders may want to consider establishing group spaces to facilitate feedback, making opportunities available for those who do not feel comfortable speaking up in a one-on-one situation. These spaces could take the form of regular meetings, where the team knows in advance that issues, problems and potential solutions can be raised, or ad hoc meetings when specific issues arise. Leaders may want to thank and publicly acknowledge employees who speak up during these meetings, as well as adopt at least one idea or solve one problem mentioned, demonstrating that speaking up has results (Detert and Burris, 2016[14]). Other options may include using online tools to elucidate feedback, such as the ThinkGroup process developed by the United Kingdom Behavioural Insights Team (Box 9.2).

Box 9.2. Behavioural insights to empower employees at a collective level in the United Kingdom

In the United Kingdom, the Behavioural Insights Team (BIT) has developed a "ThinkGroup" process, where participants silently (but not anonymously) contribute to a single online document at once. The BIT instituted this tool to enable participants to both interact and pursue their own train of thought in order to make brainstorming more effective (Hallsworth et al., 2018[15]).

On the online document, contributors can choose the ideas they want to develop or respond to, based on other contributors' inputs. This tool represents a useful alternative or complement to traditional in-person brainstorming discussions. In a traditional collective brainstorming meeting, the group's attention focuses on one idea at a time, preventing individuals from pursuing their own train of thought on different aspects of the discussion.

Such a tool can also improve openness in an organisation, by enabling employees to share ideas or concerns. Being a less confrontational and less direct form of exchange, using an online document might appear less intimidating and give participants time to properly formulate ideas and concerns.

Source: (Hallsworth et al., 2018[15]).

Another possible tool is selection of "Openness Champions" who would consult staff on measures to improve work processes, well-being and general openness. The Champions could be responsible for facilitating feedback on certain issues, or assigned to specific units or directorates. Their purpose would be to identify key hotspots within the organisation that require change, or where good practices for supporting openness exist.

9.2.3. Leaders and managers are responsive, credible and trustworthy on integrity issues and concerns

An employee's willingness to speak up relates positively to perceptions that managers and leaders are transformational and ethical leaders (Avey, Wernsing and Palanski, 2012[16]; Detert and Burris, 2007[17]; Walumbwa and Schaubroeck, 2009[18]). A number of tools exist to support leaders in demonstrating their commitment to integrity, including recruitment and performance systems that include integrity, role modelling, communicating about integrity, rewarding good behaviour and sanctioning poor behaviour (for more, see Chapter 6). Other tools such as guidelines can be developed to support managers in taking concrete actions to create an open workplace (Box 9.3).

Box 9.3. Guidance for managers to strengthen an open working environment: Positive and Productive Workplace Guidelines in New South Wales, Australia

Recognising the impact that managers' behaviour can have on organisational culture and employee attitudes and behaviours, the Public Service Commission provides Guidelines for a Positive and Productive Workplace with concrete actions at the management level, including the following:

- Ensure leaders understand the importance of values and organisational culture in achieving outcomes.
- Require leaders to behave in an exemplary fashion.
- Ensure leaders implement the organisation's values in their areas of responsibility.
- Discuss behaviour and acceptable standards of ethics and conduct at regular team meetings.
- Expect leaders and managers to be alert for any signs or reports of unreasonable behaviour and to take quick, informal and discreet action to draw it to the person's attention.
- Expect leaders and managers to treat complaints as potential symptoms of systemic issues rather than seeing them as a burden or evidence of a lack of loyalty in the workplace.
- Provide development for managers in holding respectful conversations, managing workplace conflict, providing constructive feedback on work performance, and speaking candidly to employees about unreasonable behaviour.
- Use scenario-based exercises to foster discussions among employees and managers about the expected standard of behaviour and organisational culture.
- Promote an understanding of diversity and inclusion based on helping all people to participate in the workplace and make a valued contribution to the group.
- Expect managers who observe or hear about unreasonable behaviour to act quickly and fairly. They need to have a confidential, clear and direct conversation with the person(s) about the behaviour, its impact on others, the expected standards of behaviour, the need for the behaviour to stop, and how the organisation can assist the person in changing their behaviour.

Source: (NSW Government, 2019[19]).

While leaders who "walk the talk" are critical to fostering trust, managers who show candour with their own management can also cultivate credibility and trust. In other words, managers who speak up to their leadership on behalf of the concerns voiced by their employees demonstrate that they can be trusted (Knight, 2014[20]; Detert and Burris, 2016[14]). Indeed, a manager's willingness to "run issues up the food chain" improves employees' willingness to come forward to the manager in the first place (Knight, 2014[20]). While managers and leaders can capitalise on opportunities to raise issues with their management in front of employees, there are times when this will not be feasible. Leaders and managers can debrief employees' on what they discussed and what next steps (if any) are required. Doing so has three main benefits: i) it demonstrates to employees that managers are willing to speak up on their behalf; ii) it broadens employees' perspectives on the barriers leaders face; and iii) it keeps employees informed about progress, thereby eliminating feelings of futility (Detert and Burris, 2016[14]).

9.2.4. Safe environments for voicing questions, concerns and ideas are cultivated and sustained

"Psychological safety" or a safe environment is a baseline condition for openness within an organisation (Liang, Farh and Farh, 2012[21]). When making a decision about whether to speak up, employees will first assess whether it is safe to do so (Dutton et al., 2002[22]). Indeed, a key deterrent to an open organisational culture is an environment where employees fear their ideas, insights and observations will be rejected, or more worryingly, that speaking up will lead to penalties.

There are a number of practical ways to cultivate and sustain a safe environment. For example, leaders and managers could acknowledge errors and turn negatives into lessons learned for future projects. Publicly discussing what went wrong, and what can be done differently, can strengthen employees' courage to seek advice. At the core, leaders and managers should be open to suggestions and consistent in encouraging diverging views, as well as not retaliating when their own views are threatened (Saunders et al., 1992[23]).

Other options include moving beyond the "open door" policy, and speaking to employees in less formal settings, such as over a coffee or lunch. Evidence has found that an open door policy rarely achieves the desired effect of creating more openness, as it still enforces a power dynamic that is difficult to overcome (Detert and Treviño, 2010[24]). Other approaches include making leaders more accessible to employees at all levels. For example, in Victoria, Australia a "reverse mentoring" programme was piloted by the Public Sector Innovation Team: senior executives were matched with more junior staff, with the objective of learning from them and taking in different perspectives. Another solution is to implement 360-degree feedback processes that allow employees to provide feedback on their managers, as well as their skip-level leaders (that is, the manager two or three levels above them). The information can help the organisation identify the links in the upward communication chain that require repair and target resources for training accordingly (Detert and Treviño, 2010[24]).

9.2.5. Channels and mechanisms are established to ensure misconduct is reported, investigated and appropriately sanctioned, and whistleblowers feel protected and comfortable voicing concerns

Even in very open organisations, public officials may be faced with situations in which they do not feel confident reporting integrity violations to their manager. As such, establishing a clear and comprehensive whistleblower protection framework is a critical component of an open organisational culture. A robust whistleblower protection system starts with clear and effective communication. Informing both employers and employees about their rights and responsibilities and the resources available to them is crucial for fostering an environment of trust, professionalism and collegiality that supports integrity.

The following features are essential components of whistleblower protection policies that public sector entities should seek to establish to strengthen an open organisational culture:

- clear reporting channels
- prohibition of formal and informal work-related sanctions
- clear types of protection guaranteed
- effective reviews and investigation of complaints
- awareness-raising measures.

Clear reporting channels

Clearly defining channels of disclosure helps facilitate reporting, as otherwise whistleblowers may lack confidence in the system or may not be comfortable coming forward. Reporting channels generally include internal disclosures, external disclosures to a designated body, and external disclosures to the public or to the media (OECD, 2016[25]).

Offering access to both internal and external channels creates an enabling environment for reporting. Internal disclosure is encouraged to strengthen an open organisational culture; it provides relevant information to responsible functions and contributes to an early and effective resolution of cases or concerns. However, depending on the situation, whistleblowers may prefer to report externally. Requiring that reports must first be made internally may discourage individuals from voicing concerns or reporting misconduct.

To avoid confusing procedures, the disclosure process should be accompanied by an explanation of the steps to follow and the processes to abide by in order to ensure that whistleblowers are well informed not only about whom to disclose to, but also about the potential repercussions of disclosing. For example, the Whistleblowers Authority in the Netherlands has developed guidance to clarify and facilitate both the design of reporting procedures and their implementation (Box 9.4) (Whistleblowers Authority, 2017[26]).

Box 9.4. Overview of the whistleblowing reporting procedures in the Netherlands

In the Netherlands, pursuant to the Whistleblowers Authority Act (2016), reporting follows a tiered approach:

Internal disclosure

At the organisation level, the rationale is that every organisation should have an opportunity to resolve abuses themselves first. Whistleblowers must be provided one of three avenues to report alleged wrongdoings and misconduct:

1. to their manager or higher superior
2. to a specific reporting centre established within the organisation
3. to a confidential counsellor.

External reporting

After the internal report an external one is allowed, except in explicit circumstances in which the employee cannot issue this internal report and should therefore report externally directly. These circumstances are clearly provided for (e.g. leadership is involved, the report is not handled internally, etc.).

In some instances there are permanent external reporting centres, such as inspection services or supervisory authorities (e.g. the Inspectorate [Inspectie SZW], the Fiscal Intelligence and Investigation Service [FIOD] and the National Police Internal Investigations Department [Rijksrecherche]). In some sectors it is mandatory to report incidents immediately. For example, financial institutions must report incidents to De Nederlandsche Bank (DNB) and the Netherlands Authority for the Financial Markets (AFM), and similarly in care institutions to the Healthcare Inspectorate.

Reporting to the Whistleblowers Authority

When there is no suitable external reporting centre, whistleblowers can file an external report with the Whistleblowers Authority.

This approach is supported by detailed descriptions of the avenues and consequences as well as alternative channels when the reporters face exceptional situations. Moreover, the Whistleblowers Authority has an advisory role and dedicated department to orientate, technically and psychologically support, and advise whistleblowers.

Source: (Whistleblowers Authority, 2017[26]).

While the institutional arrangements of the whistleblower system depend on the country context, some countries use an external body with a defined mandate and adequate resources and capacities to receive complaints and conduct independent investigations on the misconduct reported. In Canada, the Office of the Public Sector Integrity Commissioner (PSIC) is in charge of investigations and resolutions of complaints. The PSIC is an independent body reporting, notably on its investigations, to Parliament only; with jurisdiction over nearly all federal government organisations, it is directly accessible to Canadian federal public servants for guidance or disclosure (Sulzner, 2009[27]). Summaries of cases investigated by the Commissioner's office and subsequently set before Parliament are made publicly available on its website (PSIC, 2018[28]).

Prohibiting formal and informal work-related sanctions

The absence of effective protection for whistleblowers can pose a dilemma, as employees are often expected to report wrongdoing but doing so can expose them to retaliation. Retaliation for whistleblowing usually takes the form of disciplinary action or harassment in the workplace. Therefore, whistleblower protection should provide comprehensive protection against discriminatory or retaliatory personnel action as well as against other behaviours such as exclusion, hostility and any form of harassment from managers and co-workers. Specifically, this could include protection from dismissal, suspension or demotion; transfer or reassignment; reduction of pay, benefits, education or training; and medical testing or examination (OECD, 2016[25]).

Types of protection are clear and guaranteed

When a whistleblower has experienced reprisal after disclosing misconduct, providing clarity on the measures and remedies available can further reassure potential whistleblowers to come forward. A comprehensive whistleblower protection system includes specific remedies and covers all direct, indirect, and future consequences of reprisal. Remedies range from return to employment after unfair termination, job transfers or compensation, to damages if there was harm that cannot be remedied by injunctions, such as difficulty in or the impossibility of finding a new job. Such remedies may take into account not only lost salary but also compensatory damages for suffering (Banisar, 2011[29]).

Protecting the confidentiality of public officials who report within their organisation or externally to law enforcement agencies, the media or a civil society organisation is also essential (OECD, 2017[30]). In the United States, the whistleblower protection system prohibits disclosure of identifying information of a federal sector whistleblower without consent, unless the Office of the Special Counsel (OSC) rules it is necessary because of an imminent danger to public health or safety. In these cases, the whistleblower is informed in advance. The whistleblower protection system in Australia allows anonymity as one of three options for reporting a public interest disclosure (OECD, 2016[25]).

Complaints are reviewed and investigated

Legislating and implementing clear investigative procedures and timely responses to reports strengthen the credibility of the mechanisms. Managers' responses to individual reports are a first step, ensuring the concern is addressed and misconduct or wrongdoings, when they are ascertained, are sanctioned. Additionally, in an organisational learning dynamic, when managers receive several complaints about similar situations, their overall response to adapt the system or process in place signals the impact of reports and strengthens the open organisational culture of the workplace. In its 2017-18 annual report, the PSIC of Canada emphasised such a systemic approach in three wrongdoing cases, focusing attention on working conditions of Canadian federal employees and on the responsibility to provide them with safe working environments (PSIC, 2018[31]).

As mentioned above, in addition to the responses given by managers and leaders, publishing the number and nature of cases contributes to transparency and the credibility of the reporting system. Bodies and units intending to make public such information can use a number of measures. For example, the US Office of Special Counsel publishes annual activity reports that detail the number of disclosures, the number of investigations launched or whom they were referred to, and a summary of cases with the investigations' outcomes. These reports also include an analysis of systemic issues and responses when appropriate, as well as the processing time and the number of disclosures processed and closed, with comparative data from previous fiscal years (US Office of Special Counsel, 2018[32]). Publishing this information highlights the value given to voicing concerns in the workplace, and reinforces the knowledge that reports are investigated and misconduct addressed, in turn strengthening trust in the overall reporting and complaints-handling system.

Awareness raising measures are in place

A clear and comprehensive whistleblower protection framework also includes raising awareness about the channels and protections available. Efforts to raise awareness through campaigns or training in the types of protection available and the provisions in place to prevent retaliation can reassure employees that disclosures are welcome and part of their professional duty. Some countries, such as the Slovak Republic, have integrated whistleblower protection into their ethics training, forging a strong link between protecting the public interest and integrity. Similarly, the No-FEAR Act in the United States requires that agencies provide annual notices and biannual training to federal employees regarding their rights under employment discrimination and whistleblower laws.

9.3. Challenges

Although challenges may vary depending on the local and national contexts where organisations operate, a few common ones may deter governments from effectively implementing open organisational cultures. The most relevant of these, discussed below, are:

- addressing hierarchical, formal civil service cultures
- building capacity and dedicating resources
- ensuring comprehensive and clear protection
- shifting the negative connotations associated with whistleblowing
- creating safe environments through confidential or anonymous reporting.

9.3.1. Addressing hierarchical, formal civil service cultures

A core feature of many governments is a hierarchical and formal culture that operates on a basis of "deference to superiors" (Mulgan, 2000[33]). Various chains of command are in place, with lines of authority and accountability to ensure effective policy making and service delivery. The purpose of hierarchy is twofold: to ensure greater clarity and to provide greater sanctioning authority (Jarvis, 2014[34]). Hierarchy can, however, have a chilling effect on openness.

Addressing this within the parameters of a formal structure is challenging, and requires every level to implement actions to improve openness. The necessity for leaders to act consistently with the organisation's values, as discussed in Section 9.2.3, cannot be overstated in a hierarchical organisation. The primary focus within such environments, however, should be on the immediate team, where managers implement measures to engage and empower their employees and ensure a safe environment. Practical measures can include holding regular team meetings to discuss issues, organising informal events, placing boxes in the workplace to collect complaints, feedback and ideas, and ensuring regular feedback mechanisms for employees are in place. Managers can also implement the practice of bringing concerns to upper management and communicating the results back to their employees, as discussed in Section 9.2.3. Regular open discussions and feedback can also reduce the gap that hierarchical formalism may create between leaders, managers and their employees.

9.3.2. Building capacity and dedicating resources

Lack of capacity and resources is often a main reason for slow or limited implementation of the established channels and framework. This may in turn lead individuals to believe that their complaints or reports will not be assessed, causing an additional loss of trust in the system. Moreover, a lack of resources, guidance and knowledge on how to create open and safe environments may result in even greater loss of trust and employee silence.

Organisations can strengthen both an open organisational culture and an effective whistleblower protection scheme by dedicating human and financial resources to these aspects. Capacity-building opportunities are an additional element to help managers better understand and diffuse an open culture in their team, and to increase effectiveness of whistleblowing schemes by supporting and providing dedicated staff with updated knowledge and tools (for more, see Chapter 8).

9.3.3. Ensuring comprehensive and clear protection

While the majority of OECD countries have established whistleblower protection mechanisms, provisions throughout different pieces of legislation remain the norm. This can result in less comprehensive protection, with different actors and procedures for disclosure and distinct remedies. Moreover, such laws do not always cover the reporting of all forms of misconduct. Clear and comprehensive whistleblower protection laws can elucidate the disclosure processes and remedies for victims of retaliation (OECD, 2016[25]).

The lack of standardised procedures can also make it harder to report misconduct, and the reports may not be assessed consistently across different public organisations. Establishing clear procedures and channels, practical guidelines and standardising practices for referring reports to judicial authorities is essential to ensure consistent and effective whistleblower protection, as is co-ordination among detection and reporting mechanisms to avoid overlaps or duplication.

9.3.4. Shifting the negative connotations associated with whistleblowing

The terms “whistleblowing” or “whistleblowers” can be associated with snitching or disloyalty to the organisation or country. Addressing these perceptions is essential to encourage public officials with concerns or information to come forward. Some countries have chosen to use a term that is more appropriate to the culture and role of bringing concerns forward. For example, in Dutch, the term used is *klokkenluider* or bell-ringer, which calls to mind those who in the past rang the bell to signal impending danger to the community.

Awareness-raising campaigns can also highlight the role of whistleblowers in safeguarding the public interest. Such campaigns can change the negative perceptions, both within and outside public organisations, that blowing the whistle is a lack of loyalty to the organisation. For example, the UK Civil Service Commission includes a statement in staff manuals to reassure staff that it is safe to raise concerns. In the province of Alberta, Canada, the Public Interest Commission designed a series of posters and distributed them to public entities. The posters show messages such as “Make a change by making a call. Be a hero for Alberta’s public interest”.

By expanding these communication efforts externally, the public perception of whistleblowers as important safeguards for the public interest can be improved. For example, in the United Kingdom the way the public understands the term “whistleblower” changed considerably since the adoption of the Public Interest Disclosure Act in 1998 (Box 9.5) (OECD, 2016[25]).

Box 9.5. Change of cultural connotations of "whistleblower" and "whistleblowing" in the United Kingdom

A research project in the United Kingdom commissioned by Public Concern at Work from Cardiff University examined national newspaper reporting on whistleblowing and whistleblowers covering the period from 1 January 1997 to 31 December 2009. This includes the period immediately prior to introduction of the Public Interest Disclosure Act and tracks how the culture has changed since then. The study found that whistleblowers were overwhelmingly represented in a positive light in the media. Over half (54%) of the newspaper stories represented whistleblowers in a positive light, with only 5% of stories negative. The remainder (41%) were neutral.

Source: (Public Concern at Work, 2010[35]).

9.3.5. Creating safe environments through confidential or anonymous reporting

While whistleblower protection systems should ensure that the identity of the individual is kept confidential, several challenges exist. First, the identity of the whistleblower may be deduced from the report or circumstances described, especially in small organisations or small countries, making it difficult to provide adequate protection. Disciplinary provisions for breach of confidentiality requirements can help address this challenge. In Korea for example, disclosure of a whistleblower's identity (or information helping to identify them) may be sanctioned by a three-year prison sentence or a fine of KRW 30 million.

Second, in cases where anonymous reporting is allowed, challenges can lie in following up on the information of the reporting person, or holding them accountable for false allegations. To balance this challenge the Ministry of Justice in Austria created an online portal for reporting, which allows for encrypted anonymous reporting and follow-up and feedback through a case numbering system (OECD, 2017[30]).

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10 Risk management

This chapter provides a commentary on the principle of risk management contained within the OECD Recommendation of the Council on Public Integrity. From both the government-wide and institutional perspectives, the chapter explores how public sector organisations can tailor policies and practices to effectively manage integrity risks, conduct risk assessments and sustain a control environment that safeguards public integrity. It also emphasises the need for coherent procedures to respond to potential fraud or corruption, including protocols for reporting, follow-up and investigations. The chapter also considers the critical role of internal audit functions in relation to managers in government, focusing on their added value of providing independent, objective assurance for effective internal control and integrity risk management. The chapter highlights key challenges and leading practices, such as articulating value-driven internal control policies, conducting periodic risk assessments that link to objectives, and creating feedback loops to monitor and evaluate activities.

10.1. Why risk management?

In public sector organisations, having an internal control system and risk management framework in place is essential for any public integrity strategy. Effective internal control and risk management policies and processes reduce the vulnerability of public sector organisations to fraud and corruption, while ensuring that governments are operating optimally to deliver programmes that benefit citizens. Furthermore, these policies and processes help to ensure value for money and facilitate decision making. Firmly established, they help governments balance an enforcement-focused model with more preventive, risk-based approaches.

Internal control and risk management cover a range of measures to prevent, detect and respond to fraud and corruption. These include policies, practices and procedures that guide management and staff to fulfil their roles in safeguarding integrity by adequately assessing risks and developing risk-based controls. Mechanisms for responding to cases of corruption and breaches of integrity standards are equally critical for an integrated internal control system.

In light of this, the OECD Recommendation on Public Integrity calls on adherents to "apply an internal control and risk management framework to safeguard integrity in public sector organisations, in particular through:

a. ensuring a control environment with clear objectives that demonstrate managers' commitment to public integrity and public-service values, and that provides a reasonable level of assurance of an organisation's efficiency, performance and compliance with laws and practices;
b. ensuring a strategic approach to risk management that includes assessing risks to public integrity, addressing control weaknesses (including building warning signals into critical processes) as well as establishing an efficient monitoring and quality assurance mechanism for the risk management system;
c. ensuring control mechanisms are coherent and include clear procedures for responding to credible suspicions of violations of laws and regulations, and facilitating reporting to the competent authorities without fear of reprisal" (OECD, 2017[1]).

10.2. What is risk management?

Internal control and risk management support public sector organisations in achieving a wide range of policy goals and objectives. The principle on risk management focuses on aspects of internal control and risk management in the context of preserving integrity and combating corruption in the public sector. Governments must ultimately tailor their approach to their respective legal, regulatory and cultural contexts. This involves embedding integrity objectives into existing internal control and risk management policies and practices. It also entails adapting international standards and concepts for internal control and risk management to local realities and the public sector, including standards and guidance produced by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), the International Organization for Standardization, the Institute of Internal Auditors (e.g. the "Three Lines of Defence" model) and the International Organization of Supreme Audit Institutions (INTOSAI).

An internal control system is an integrated component of a public sector organisation's operations. From the perspective of public integrity, internal control and risk management consist of the policies, processes and actions for managing risks of fraud, corruption and abuse (hereafter collectively referred to as integrity risks). The following are critical components of an internal control system designed to safeguard integrity:

- an effective control environment[1] and integrity risk management.
- a tailored approach to risk management and assessing integrity risks.

- monitoring and evaluation of integrity risk management.
- coherent and responsive procedures within the internal control and risk management framework.
- an internal audit function that provides independent, objective assurance and advice to strengthen internal control and integrity risk management.

These components rely on a range of actors at the government-wide, institutional and individual levels for effective implementation. For instance, standard-setters for public sector organisations can ensure that government-wide internal control and risk management policies are coherent and harmonised, as discussed below. At an institutional level, internal control and risk management policies and processes provide reasonable assurance to management that the organisation is achieving its integrity objectives and managing its risks effectively. The components of internal control and risk management are also present on an individual level: many standards call for public officials' personal commitment to integrity and adherence to codes of conduct.

10.2.1. An effective control environment and integrity risk management

In public sector organisations, the control environment serves a wide range of financial, budgetary and performance objectives. It consists of a set of internal control standards, processes, and structures across an entity (Committee of Sponsoring Organizations of the Treadway Commission, 2013[2]). Beyond ensuring compliance with legislation, standards and other requirements, the control environment and the processes it comprises contribute to good governance and help public sector organisations deliver results to citizens in an effective and efficient manner. In the context of the principle on risk management, the control environment reflects the objectives, policies and people that help to institutionalise a system of integrity, ethical decision making and risk management.

Government-wide considerations for an integrity-driven control environment

A variety of public sector organisations share responsibility for government-wide implementation of internal control and risk management. These organisations include the centre of government (CoG), audit institutions, central harmonisation units, and anti-corruption bodies. In particular, they: 1) set and harmonise internal control standards and policies, 2) provide guidance and tools, 3) evaluate government-wide efforts to safeguard integrity, and 4) co-ordinate and standardise practices for reporting and responding to suspected integrity breaches for the public sector as a whole. For instance, in the United States the supreme audit institution, the Government Accountability Office (GAO), leads the standard-setting process for internal control and risk management in collaboration with a council of experts, and publishes the Standards for Internal Control in the Federal Government (U.S. Government Accountability Office, 2014[3]) as well as a framework of leading practices for fraud risk management in government (U.S. Government Accountability Office, 2015[4]). The Office of Management and Budget (OMB) complements the work of the GAO with policies and guidance for implementation. This includes a document (OMB Circular No. A-123) that describes management's responsibility and requirements related to internal control and risk management in the federal government, with an explicit reference to assessing fraud risks (U.S. Office of Management of Budget (OMB), 2016[5]). In France, all public entities (state administrations, local authorities, public institutions and semi-public companies) are legally required to carry out risk assessments, regardless of their size. As such, public entities must list all the processes related to their activities, such as recruitment and public procurement, and assess the associated integrity risks (Box 10.1).

Box 10.1. Internal control in Member States of the European Union

Two fundamental principles of public internal control standards among European Member States are: 1) public internal control is based on the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and the International Organization of Supreme Audit Institutions (INTOSAI), and 2) every Member Country should have a function within government of co-ordination and harmonisation of internal control and audit for all public entities. Therefore, even though there are a variety of internal control systems in the Member States, they all have a government organisation playing the role of central internal control harmonisation.

In addition, Member States and their public institutions share consistent standards derived from the same international internal control and risk management practices. The standards have explicit provisions concerning internal control and risk management against fraud in the management of EU funds.

Source: (European Commission, 2015[6]).

Lack of clarity from the central level about how to institutionalise internal control and risk management can lead to a perception that the integrity objectives, and the internal control and risk management activities that support them, are separate from other strategic and operational objectives. The CoG, as well as other bodies with government-wide responsibilities, can play a critical role in helping public sector organisations to overcome this challenge by providing unified standards, policies and guidance. They can also help raise awareness about the value of internal control and risk management for decision making and achieving organisational goals.

Institutional and individual considerations for an integrity-driven control environment

Personnel at all levels of the organisation have roles and responsibilities in managing fraud and corruption risks (Committee of Sponsoring Organizations of the Treadway Commission, 2016[7]). This can be recognised in organisational policies, procedures and guidance for internal control and risk management, or may be articulated as a stand-alone integrity policy. Whether articulated across different policies or within a stand-alone integrity policy, such policies should not serve as a checklist to comply with minimum standards. They should be comprehensive and tailored to each organisation, with relevance to current and emerging integrity risks. Essential elements of policies to promote an effective control environment within public sector organisations can include:

- reference to the values and principles of integrity as well as standards of personal conduct that underpin the organisation, and to what they mean in practice
- statement of the organisation's anti-fraud and anti-corruption objectives, with explicit linkage to how internal control and risk management activities serve these objectives
- description of the alignment between integrity objectives and the organisation's other policies and tools (i.e. code of conduct, code of ethics)
- definition of fraud and corruption, with illustrative examples of actions that are deemed corrupt or fraudulent
- identification of staff to whom the policy applies, taking into consideration temporary staff and volunteers
- clearly defined roles and responsibilities for internal control and risk management related to fraud, corruption, waste and abuse

- communication to employees on how to report suspected wrongdoing, the internal and reporting channels available to them, and the procedures to be followed
- identification of enforcement measures, and description of how suspected forms of wrongdoing will be investigated.

Management has the primary responsibility of creating and maintaining a control environment that emphasises integrity and sets a positive tone. Moreover, high-level commitment helps raise awareness of integrity risks and helps to improve implementation of control activities. Management can include the leaders or groups of individuals (e.g. boards or committees) responsible for the design, implementation and monitoring of internal control and risk management policies and practices. Moreover, management should demonstrate its individual commitment to integrity (for more, see Chapters 1 and 6). Through codes of conduct and codes of ethics, management can communicate its expectations concerning integrity conduct, as well as the organisational values that enable individuals to personally demonstrate ethical behaviour. These codes define the basic standards of behaviour for public officials, and can be the basis for management to evaluate adherence to ethics codes and enforce them through disciplinary measures if needed (for more, see Chapter 4).

Some public sector organisations designate an entity for managing integrity risks. The dedicated entity could be a committee, a team or an individual, depending on needs. For instance, in some organisations, the entity is a committee that helps to oversee, co-ordinate, monitor and evaluate risk management activities across the organisation. In other cases, organisations nominate integrity risk managers, or establish task forces that are responsible for delivering on integrity objectives within the control environment. The mandate and size of the organisation (including the number of programmes and employees and the resources) and the complexity of risks help to determine if a dedicated entity would be beneficial. Regardless of the approach, it is essential that the entity or function has direct reporting lines to senior management, given the latter's overall responsibility for integrity risk management.

10.2.2. A tailored approach to risk management and assessing integrity risks

Tailoring involves adapting risk management activities to the unique conditions of a public sector organisation, and implementing risk assessments and controls that are fit for purpose. Integrity risks vary by sectors and organisations, and therefore it is critical that public sector organisations calibrate their guidance, tools and approaches to their specific objectives, environment and contexts. This is crucial given that many of the standards for internal control and risk management that governments have adapted were originally developed with the private sector in mind. The CoG, line ministries and individuals responsible for risk management all play a role in this tailoring process, which is reflected below in discussions from both the government-wide and institutional perspective.

Targeted government-wide support for integrity risk management and assessments

Targeted guidance and tools can support governments in orienting their internal control and risk management activities towards integrity risks, by linking those activities with broader programmatic goals. They can also support communication strategies that ensure that internal control and risk management go beyond financial control and compliance checks. For example, in 2010 the Treasury Board Secretariat in Canada developed a Framework for the Management of Risk to guide deputy heads of government departments in implementing risk management practices across all levels of their organisation. The French Anti-Corruption Agency (AFA) has published guidelines to help public and private legal entities meet certain anti-corruption and integrity requirements, including carrying out risk assessments. AFA has also developed specialised technical guides, for example for officials in charge of public procurement. In addition to these general guidelines, AFA provides tailored support to public or private actors wishing to streamline their integrity risk management procedures. Sector-specific guidance, focusing on high-risk areas like procurement or health, along with relevant co-ordination mechanisms and reporting tools, can help to overcome capacity gaps (Box 10.2).

Box 10.2. A holistic approach to integrity and targeting high-risk areas: The case of Estonia

In Estonia, the government's 2013-2020 Anti-Corruption Strategy recognises shortcomings in domain-specific corruption prevention and risk mitigation, and provides actions to remedy these challenges. It stipulates that the ministry responsible for the specific area in question (e.g. health or the environment) should also be responsible for implementing subject-specific corruption prevention measures. To target high-risk areas, the government of Estonia established domain-specific anti-corruption networks. Each ministry has a corruption prevention co-ordinator who is meant to manage the implementation of the anti-corruption policy in the relevant ministry and its area of government. The co-ordinators form the anti-corruption network – the network convenes annually around four to five times. The network also includes representatives from police, civil society, parliament, the state audit office and other stakeholders who are invited, depending on the topic chosen. There is also a network of healthcare authorities to discuss developments in their respective areas, as well as issues to resolve.

Source: (Estonian Ministry of Justice, 2013[8]).

Institutional integrity risk management and assessments

The policies, processes and tools for carrying out integrity risk assessments will vary by organisation and depend on its size, the volume of investment it receives, and whether the organisation functions within a high-risk sector (i.e. health, infrastructure). For instance, a public sector organisation may carry out a stand-alone assessment of integrity risks or incorporate integrity objectives into its organisation-wide risk assessments to promote efficiency. Nonetheless, risk management policies and assessment processes share similar features across organisations. Risk management policies should be linked to objectives and include, among other things, descriptions of proposed risk treatments, resource requirements, responsibilities, performance measures and reporting and monitoring requirements (Crime and Corruption Commission, 2018[9]). Moreover, as described below, risk management and assessments generally involve a multi-step, iterative process of establishing the context, assessing and treating risks, and ensuring ongoing monitoring, communication and consultation (International Organization for Standardization, 2018[10]).

Establishing the context for managing integrity risks

Understanding the internal and external context is a key step for public officials when first assessing the drivers and potential impediments to achieving integrity objectives. The internal context includes – but is not limited to – strategic objectives, the governance structure, roles, employee skill sets, operational tools (e.g. data and information systems), culture and internal guidelines. The external context may include legal and policy frameworks, external stakeholders, and political, social and economic realities that underline specific types of integrity risks or response mechanisms. This context forms the basis for designing and improving policies, strategies and objectives for managing and assessing integrity risks, since neither internal nor external settings are static.

Various strategic planning tools can be useful starting points for evaluating the context and defining the scope of the risk assessment process. For instance, tools such as decision tree and "fishbone" diagrams, process and influence maps, and the "PESTLE" method (Political, Economic, Social, Technological, Legal and Environmental factors) can facilitate analysis while promoting engagement among stakeholders. Government-wide or department-level risk registers can be a useful input for establishing context, as illustrated in Box 10.3.

Box 10.3. Development and management of risk registers – Example of the Irish Health Service Executive (HSE)

The Health Service Executive develops risk registers in order to manage its risks and to obtain a high-quality overview of the services' risk status at a certain point in time. A powerful tool for risk tracking, the risk register outlines the overall system of risks and the status of risk mitigation actions.

Each line manager is responsible for developing a risk register in their area of responsibility. Once completed, the register is shared with all employees of the entity in a clear and comprehensible manner, while taking into consideration their level of training, knowledge and experience. An action plan is the critical part of a risk register. This addresses the additional controls required to reduce the risk to a satisfactory level. Supplementary controls that cannot be managed at the service level should be transferred to the next level of management.

HSE acknowledges that for various reasons, not every risk can be eliminated. Consequently, at any stage of the process it may be decided to "live with" or accept a certain level of risk. When a risk cannot be entirely eliminated, it must be recorded in the risk register along with a list of controls aiming to reduce it to an acceptable level. These risks will then be monitored on a regular basis. Four elements have been identified as prerequisites for developing a sound risk register:

1. *Availability of risk expertise* – Staff supporting the process need suitable training and education.
2. *Use of approved support materials and tools* – To ensure consistency throughout the process, a number of approved documents and tools are to be used when developing a register.
3. *Commitment and ownership* – Visible commitment from senior management, which can promote buy-in among stakeholders to ensure quality and sustainability.
4. *Availability of site support* – Administrative support is required for organising workshops and overall co-ordination.

Since risk assessments involve a dynamic process, risks and their control measures should be continuously reviewed, monitored and revised where necessary.

Source: (Irish Health Service Executive, 2018[11]).

Establishing the context also requires identifying roles and responsibilities and establishing a team for assessing integrity risks across an organisation. Although there are dedicated roles and functions within public sector organisations to address integrity risks, risk management requires the involvement of a number of actors. For instance, line managers, risk managers and internal auditors (i.e. the first, second and third lines of defence[2], respectively) all play critical roles to ensure that risk management and internal control advance organisational goals and objectives.

Throughout the entire process, there should be mechanisms in place to ensure the collection of all relevant inputs and communication of findings and results. Having them, organisations can better integrate risk management into their operations and promote ownership of the risk assessment process. In Lithuania for example, the law on prevention of corruption includes a methodology for corruption risk analysis. The methodology specifies that numerous sources should be consulted when conducting the analysis, including findings from audits and staff and social surveys (OECD, 2015[12]).

The extent of integration of risk management into the organisation is another critical feature of the internal context. The policies and practices for internal control and risk management are most effective when they are part of the organisation's overall strategy and operations in support of concrete goals and objectives. Precisely how this integration occurs will vary by organisation. However, the process can include the

creation of linkages between risk management and the policies and processes for strategic planning, monitoring activities and evaluation. For instance, in the United Kingdom, HM Revenue and Customs uses its monthly Performance Report to measure progress against objectives and to identify areas of performance requiring further action. A Performance Committee, along with "Performance Hubs," discusses relevant data and considers key risks to the achievement of goals. Specifically, they review various departments' risk registers and integrate information and insights on risks into their evaluation of current and existing performance (National Audit Office, 2011[13]).

Identifying and analysing integrity risks

Risk assessments are iterative processes that allow an organisation to understand the enablers and barriers to its objectives, based on an analysis of inherent[3] and residual[4] risks. A clear linkage to objectives is key in order to guide those involved in scoping the risk assessment, and ensuring they do not overload the process and the resulting risk registers with information. Ultimately, the results of the risk assessment should be useful for decision making, and tying specific objectives to risks (as opposed to the other way round) can help organisations stay focused on the risks that matter. Corruption and fraud risk assessments can be stand-alone exercises or embedded into an organisation's risk assessment activities, recognising the interlinkages among different risk categories, such as strategic, operational, financial, compliance and reputational risks.[5]

There is no universal approach for conducting integrity risk assessments, and in fact tailoring them to the needs of an organisation is key. In general, organisations can assess specific risks, risk factors[6], or a combination of both. Specific risks are the relevant corruption or fraud schemes that can have an impact on organisational objectives. Assessing such risks is discussed in more detail below. Risk factors also link to objectives, but they refer to the characteristics of the organisation's policies, procedures or activities that, when assessed and scored, can highlight high-risk areas of operations and subsequently shape priorities. For instance, the complexity of procedures can be a risk factor that can make it harder for an organisation to conduct effective oversight and prevent fraud or corruption.

Another example of a risk factor is the extent of a contractor's reliance on subcontractors or third parties, since many governments engage contractors routinely to procure goods and services. Each risk factor can be weighted to suit the priorities of the organisation, and scored according to predetermined criteria. For example, an organisation may score the third-party reliance risk factor, as shown in Table 10.1 below. Developing criteria for other risk factors is also possible, such as budget size, extent of programme impact on stakeholders, susceptibility to fraud, or volume and type of audit recommendations received.

Table 10.1. Example of criteria for the third-party risk factor

Score	Criteria
5	Objective critical processes are completely outsourced
4	Important processes are highly dependent on third parties
3	Processes are moderately dependent on third parties
2	Third parties perform some activities that have an impact on objectives
1	Third parties are not used, or perform activities that are not critical to objectives

Note: 5 = high risk; 1 = low risk.
Source: Adapted from (Wright Jr., 2013[14]).

When assessing specific risks as opposed to risk factors, assessments commonly distinguish between inherent and residual risks. For such assessments, an organisation would first analyse inherent risks, i.e. risks assessed in the absence of control measures. For example, as an initial step, an organisation would assess the likelihood and impact of all potential fraud schemes related to employees' use of government-issued travel or credit cards. The organisation can use numeric scores (e.g. 1 to 5) to assess likelihood and impact, or they can use classifications (e.g. low, medium and high). Both likelihood and impact scores can be linked to specific criteria to facilitate the assessment. For instance, an organisation assessing procurement risks might use contract values or frequency to measure impact and categorise very high risks (score of 5) versus very low risks (score of 1). When going through the risk assessment process, organisations would repeat this scoring process to assess residual risks.

Residual risk refers to risk exposure after applying mitigation measures. In the previous example, this would include a second phase of analysis of the identified inherent risks, including a revised determination of the likelihood and impact of fraud risks given control measures, such as procedures for limits placed on the credit cards. As discussed in the next section, the organisation would then take into account its residual risk relative to risk criteria (i.e. tolerances[7]), before determining whether to make changes to control activities. When analysing both inherent and residual risks, it is important that organisations avoid the common pitfall of identifying and analysing controls or consequences instead of risks that could undermine the achievement of objectives.

To support qualitative forms of risk analysis, organisations can draw from a variety of sources. Analysing audit outcomes, interviewing employees, undertaking control risk assessments and conducting Strengths, Weaknesses, Opportunities and Threats (SWOT) gap analyses are common methods for identifying potential risks. Other techniques can include consulting the country's or the organisation's risk register, if one exists, to identify ongoing trends or schemes that are indicative of fraudulent or corrupt activity. Moreover, risk assessments are a team effort. It can be useful to engage employees across the organisation to provide different perspectives, as well as validate the results. Managers and frontline employees – those who are directly responsible for operations or service delivery, such as a contract manager in direct contact with suppliers or a health official who interacts with beneficiaries – can have different perceptions of the likelihood and impact of risks. Frontline employees can be in a better position than managers to identify emerging risks.

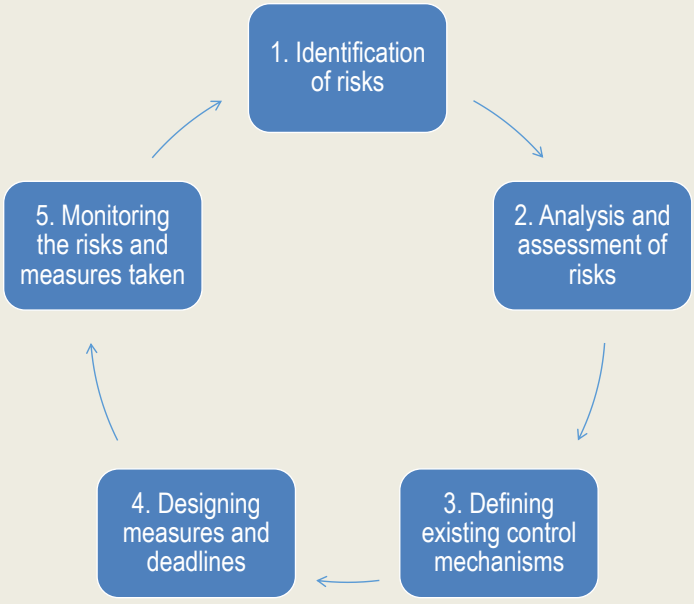
Using quantitative techniques and data analytics can also help to identify potential fraud and corruption in a range of areas where governments tend to collect reliable and valid data. This includes public works projects, procurement, payroll, social services, health benefits and employment services. However, quantitative approaches can be resource-intensive, and often require specialised skills and investments in IT infrastructure, software and training. Before heavily investing in quantitative or data-driven approaches to assessing risks, institutions can consider cost-benefit analyses and opportunities to pilot new approaches.

Organisations that effectively assess risks tailor the process to their own environment and perform assessments regularly, although the frequency with which different entities conduct risk assessments will vary. Box 10.4 illustrates how authorities in the Slovak Republic undertake fraud and corruption risk analysis.

Box 10.4. The risk assessment process for Slovak Republic authorities implementing the European Structural and Investment (ESI) Funds

In the Slovak Republic, authorities responsible for implementing operational programmes (OP) under the ESI Funds have dedicated risk management procedures that provide the basis for risk assessment. In accordance with the procedures, risk management consists of five interconnected phases, among which risk assessment is included (see Figure 10.1). An important element of this process is the feedback loop, illustrating the iterative nature of risk assessments and continuous learning from monitoring activities.

Figure 10.1. The risk assessment process in the Slovak Republic



The first phase is to identify potential risks that may negatively affect the achievement of the OP objectives; these are sorted into either a comprehensive or a selected risk catalogue. Included are fraud and corruption risks. The risks are then analysed and evaluated based on their significance and probability of occurrence using risk matrices, which help determine the overall risk level. Fraud and corruption risks with an overall risk level higher than 4 are designated by the risk assessment team as significant and critical. Subsequently, risks are sorted into their respective risk catalogues, where a shortlist is devised for critical risks. The risk management procedures for each OP set out the appropriate risk treatment following identification and assessment.

Source: Presented by representatives from the Ministry of Environment of the Slovak Republic in Bratislava, February 2019.

Risk evaluation and a strategy for mitigation

After identifying and assessing integrity risks, including inherent and residual risks, the next step is to determine whether and how to respond. This phase entails evaluating the results of the risk analysis against specific risk criteria (i.e. tolerances), and then refining the organisation's strategy for mitigating risks. "Risk criteria" refers to the level of risk an organisation is willing to accept. In effect, tolerances are criteria that act as thresholds to facilitate decision making and ensure controls are effective and proportionate.

Managers should determine these criteria upfront before conducting risk assessments. Boards, audit committees and managerial leadership can all be involved in defining the risk criteria to ensure they are defined as objectively as possible and in line with organisational policies, regulations and objectives. "Zero tolerance" for corruption and fraud is not a useful risk criterion. Admittedly, this message can serve as a guiding principle and help to promote a risk-aware culture. However, among other unintended consequences, it can also have a chilling effect on the risk assessment process if the zero tolerance culture creates a reluctance among managers to provide candid input about perceived risks in their area of operations. Unlike zero tolerance statements, context-specific risk criteria have more practical implications for assessing and adapting control activities.

Identifying and acting on all fraud and corruption risks is unrealistic. Risk criteria should be set at a level where an organisation wants to fully understand an issue and ensure mitigation measures are in place (Fountain, 2015[15]). Risk criteria help managers decide whether to accept, avoid, reduce or share the risk. If control measures are effective in keeping the risk at or below the threshold set by the risk criteria (e.g. processes where risks of internal fraud are less than a specified financial value), then accepting the residual risk could be the most effective and resource-efficient course of action. If it is determined that control activities fail to mitigate risks to the acceptable level, then managers should either avoid, reduce or share the risk.

Avoiding the risk involves ceasing the policy or operations linked to it. For instance, an institution may decide to prohibit employees from accepting small gifts from project partners, or it might terminate its relationship with a high-risk supplier, thereby removing the risk entirely. Some risks are unavoidable, such as the risk of falsified leave claims or the risk of fraudulent applications for government services. Reducing such risks involves adapting procedures and control activities to lessen their likelihood and impact. Finally, sharing the risk is more common in the business context, but it can also occur in the public sector. It typically entails taking some action to transfer the risk to a third party, like an insurance company, that can cover losses in the event the risk materialises.

Risk matrices, risk registries or simple Excel tables can be useful tools for documenting the results of risk assessments, as well as assessing interlinkages between risks and controls. For instance, Figure 10.2 illustrates one way to categorise risk scores and communicate required actions, as well as the roles and responsibilities of risk owners. Regardless of how they are documented, it is critical that the results of risk assessments reflect the acceptable level of risk based on predetermined criteria. Heat maps[8] or other tools that convey scoring of the likelihood and impact of risks without also showing the level of risk management deemed acceptable have little value for decision making or adapting mitigation measures.

Figure 10.2. Example of categories for risk criteria

Risk rating and score	Risk tolerance	Level of responsibility	Risk response
Extreme (16-20)	Unacceptable	Senior leadership	Report to senior leadership and relevant stakeholders immediately with a detailed risk response plan. Adapt controls, which can include strengthening existing measures and adding new ones. Monitor risks and controls continuously.
High (11-15)	Unacceptable	Programme or team leader	Report to supervisor and stakeholders immediately with a detailed risk response plan. Additional control activities are likely needed, considering both soft and hard controls. Monitor risks and controls regularly.
Moderate (6-10)	Acceptable	Programme or team leader	Report to supervisor immediately with a detailed response plan. Increase, maintain or reduce controls, depending on score and trends in the risk environment. Monitor risks and controls regularly.
Low (1-5)	Acceptable	Programme/project officer	Immediate action not needed. Reduce controls if deemed to be too stringent, and therefore not proportionate risk. Monitor risks and controls periodically.

Note: this is for illustrative purposes only.

Risk matrices are one of several tools for relative risk ranking. An organisation may use absolute rankings as well, whereby it prioritises risks based on their numerical scores. Whatever the approach, it is critical for organisations to be aware of the biases that can affect the risk assessment scoring process, and put in place quality control processes over the risk assessment process itself. Indeed, managers may have incentives to minimise the perception that the activities they oversee are vulnerable to corruption and fraud risks. Alternatively, they may also exaggerate the risks in order to justify more investments for control activities, tools, training and other resources. Validation processes integrated into the risk assessment can help to minimise the influence of biases.

The documentation and communication of the results of the risk assessment will vary by organisation; however, there are common considerations regardless of context. First, risk registers or similar tools can be useful for ensuring an organisation's ability to track risks over time, improve the risk assessment process and enhance integrity strategies. Web-based dashboards that visually depict and animate risks can also be powerful tools to facilitate decision making about mitigation measures. Second, while a detailed assessment can be a useful tool for managers and auditors, in the context of integrity risk assessments it can also consolidate sensitive information about institutional vulnerabilities to fraud and corruption. As part of the risk assessment planning process, organisations can consider and clearly communicate the controls over the process itself, including policies and procedures for information security, anonymity of stakeholders and use of results. This can help increase the comfort level of those involved and promote active engagement in the risk assessment process.

10.2.3. Monitoring and evaluation of integrity risk management

The monitoring and evaluation process is a key component of an overall risk management framework that can help organisations assess policies and practices for managing integrity risks and make changes as needed. This activity can take place at the government-wide level, focusing on systemic issues, or within a public sector organisation to enhance institutional risk management.

Systemic monitoring and evaluation

Evaluating government's standards, policies and procedures for internal control and risk management is a critical function for organisations with government-wide responsibilities. Internal and external audit institutions, anti-corruption bodies and regulatory bodies often carry out such reviews, but the lead institutions may vary by country. Independent and comprehensive external evaluations assess the critical features of internal control and risk management policies, including the extent to which standards, policies and procedures address integrity risks, and the harmonisation of policies and clarity of roles and responsibilities in the control environment for managing integrity risks. For example, the Austrian Court of Audit (ACA) undertakes audits of entities' corruption prevention systems, which includes assessing whether or not an entity has sufficient provisions in place to mitigate integrity risks. Such reviews can highlight system-wide deficiencies, allowing the government to improve internal control and risk management frameworks through a co-ordinated government-wide approach.

Organisation-specific monitoring and feedback

Operational, regulatory, technological, and numerous other changes can influence how effective an organisation's fraud and corruption control measures are in addressing risks. Therefore, individual internal controls, risk management activities, and the internal control system as a whole should be regularly monitored to ensure that the framework is functioning correctly and controls are optimal. In this sense, monitoring activities assist organisations in continuously improving risk management and control processes: if monitoring activities uncover deficiencies, organisational leadership can oversee the timely improvement and correction of those deficiencies (Committee of Sponsoring Organizations of the Treadway Commission, 2016[7]). In the context of public integrity, active monitoring of the internal control and risk management framework can help improve the prevention and detection of potential or suspected cases of fraud, corruption, or abuse.

In line with relevant legislation or policies, individual organisations may determine how monitoring activities are undertaken, and how frequently. Ongoing evaluations are routine processes that monitor control activities on a real-time basis, while separate assessments may be carried out periodically by internal auditors or external parties. Information gathered from risk registers about known fraud and corruption schemes and high-risk areas can inform targeted monitoring activities by applying a risk-based approach to evaluation.

Institutions should clearly outline monitoring and evaluation activities in their integrity risk management policy, including roles and responsibilities. For example, in the Netherlands the Office for the Promotion of Public Sector Integrity (BIOS), the Integrity Office of the Municipality of Amsterdam, and the Netherlands Court of Audit jointly developed the IntoSAINT. This integrity self-assessment tool enables public sector organisations to evaluate their vulnerability and resilience to integrity violations, and provides recommendations on how to improve integrity management. IntoSAINT participants select the most vulnerable processes on the basis of an inventory of the primary and support processes of the assessed organisation, identifying the most significant integrity risks within those selected. These are combined with an assessment of cultural factors – such as awareness raising and the role of management – and the adequacy of system measures, i.e. measures intended to embed and consolidate integrity policies. The results, which come in the form of a report, provide insights on how well the existing integrity system is

functioning. The results can be used by entities to update their integrity policies or as a starting point for the application of other, more in-depth risk analysis measures. Recognising the functionality of this tool, Poland has developed a similar integrity self-assessment that is distributed to line ministries.

Another example demonstrates how the Fraud and Corruption Control Policy of the Department of Justice and Attorney-General (DJAG) of Queensland, Australia assigns to a Fraud Control Officer (FCO) (placed in the Corporate Governance Unit of the Department) responsibility for actively improving the Department's fraud risk and corruption framework. The FCO chairs the Fraud Risk Operational Group, which, among other responsibilities, monitors the framework by overseeing policy reviews, audit-related issues, complaints, training and compliance, and ensures that the fraud and corruption control framework undergoes a review biennially or more frequently if required (Department of Justice and Attorney-General, 2017[16]).

10.2.4. Coherent and responsive procedures within the internal control and risk management framework

Internal control within public sector organisations should contain clear procedures for responding to suspected violations of law, of processes, or the occurrence of integrity breaches. While the action needed can vary among organisations and may depend on size, function, and governance arrangements, the government can play an essential role in co-ordinating reporting of and responses to suspected integrity breaches across public sector organisations.

Ensuring coherence in how organisations respond to integrity breaches

A central body can establish standard protocols and mechanisms for reporting and responding to suspected integrity breaches. This approach can ensure that all public sector organisations have sufficient provisions in place to respond to corruption and integrity violations within their overall integrity strategy. It also reduces duplication and minimises gaps regarding the internal control and risk management framework across public sector organisations. The CoG or another responsible body can ensure that common procedures and criteria are used so that employees across the government and the general public can report suspicions of violations without fear of reprisal. For example, the CoG may develop provisions that require public sector organisations to establish separate lines of communication, such as hotlines. Clear reporting channels and the existence of coherent reporting mechanisms are key features of an effective internal control system.

Responding to integrity breaches within an organisation

While policies and guidance provided by the CoG support coherence, they may not always reflect the institutional context of all public sector organisations. As such, clear mechanisms can support these organisations in responding to potential integrity breaches or violations of law.

A primary way potential integrity breaches or violations of law may be detected is through employees. Public sector organisations can create a culture in which employees feel safe to come forward if they know about suspected integrity breaches (for more, see Chapter 9). There should be clear internal and external reporting channels in place for public officials, and individuals should receive sufficient protection when reporting suspected corruption or fraud. Policy measures should be in place within the organisation that stipulate what procedures are to be followed in the event of an employee reporting alleged misconduct, and which options are available to them. Staff may report suspicions of breaches to their line managers, human resources personnel, the organisation's internal audit unit, or other designated personnel. Many public sector organisations have in place hotlines to facilitate anonymous reporting. Regardless of the form, clearly communicating how to report concerns facilitates implementation of reporting mechanisms.

When suspected fraud or corruption has been identified within an organisation, processes need to be in place that will trigger an appropriate response. These processes will depend on the nature and gravity of the alleged conduct. For example, minor complaints could be dealt with by management whereas more severe cases, particularly those where the alleged conduct may constitute a criminal offence, could warrant a full investigative response. The aims of any investigation need to be clearly defined in the integrity policy, and these aims should be adhered to throughout the internal investigation. Moreover, investigations should ensure that they comply with current legislation (criminal and employment) and investigative procedures.

Once an investigation has been undertaken, the findings need to be relayed to management. Organisations must then determine the action to be taken in response to the results. If an incidence of fraud or corruption has indeed taken place, corrective actions may range from disciplinary action to criminal referral. In the case of criminal referrals, any external reporting obligations should be laid out in the organisation's integrity policy. In addition, management may adopt a "lessons learned" approach to cases of fraud and corruption following an investigation.

10.2.5. An internal audit function that provides independent, objective assurance and advice to strengthen internal control and integrity risk management

The added value of internal audit

The internal audit function examines the adequacy and effectiveness of public sector organisations' internal control systems, procedures, governance arrangements, risk management processes, and performance of operations (The Institute of Internal Auditors, 2016[17]). Internal audit's role is therefore expected to extend beyond compliance-oriented, rules-based approaches to assessing controls. This contemporary view of internal audit captures the broader value that the function can add to an organisation. Internal audit can contribute not only to the achievement of financial objectives and control of resources, but also to improved decision making and risk management in support of overall strategic and operational goals.

Internal auditors in public sector organisations play an important role in providing independent, objective assessments of whether public resources are being managed effectively to achieve intended results. Their objective, value-based insights and evidence can help public sector organisations better manage and assess integrity risks. Auditors are expected to evaluate the potential for fraud and how the organisation manages fraud risk (The Institute of Internal Auditors, 2016[17]). In practice, this involves identifying integrity risk factors in the course of internal audit work and assessing whether these risks are being managed effectively, even if the public sector organisation does not have formal integrity risk management programmes in place. For example, internal auditors can red-flag high-risk areas for integrity breaches such as third-party relationships, outsourced activities or procurement. Audit recommendations to improve the control environment in these high-risk operational areas can boost the organisation's efforts to prevent and detect fraud and corruption.

However, internal auditors are not expected to be investigators. In fact, the same standards acknowledge that while internal auditors should have sufficient knowledge to evaluate fraud risk factors and the management of fraud risks within the organisation, auditors are not required to have the knowledge or expertise to take on an investigative role. Internal audit's role with regard to investigations of suspected integrity breaches depends on a number of factors, such as the structure of the organisation and the availability of resources. For example, the Government Internal Audit Agency (GIAA) in the United Kingdom provides a distinct service line that advises public sector organisations on anti-fraud strategies and how to investigate suspected internal or supplier fraud. This specialist service is in addition to the core internal audit and assurance activities that the GIAA provides. In its annual report for 2018-19, the GIAA indicated that the work of the anti-fraud and investigations unit led to GBP 1 million of fraud detected and a further GBP 1 million of losses prevented across the public sector organisations that commissioned its services.

Internal auditors should also evaluate the effectiveness of the organisation's objectives and activities relating to ethics, and the processes for promoting ethics and values. This can include, for example, assessments of the effectiveness of the governance structure in fostering a culture of integrity or audits of processes for handling whistleblowing. Internal audit's periodic, risk-based assessments of these integrity risk factors can highlight areas with greater exposure to integrity breaches, allowing management to take corrective actions promptly. The French Anti-Corruption Agency (AFA) noted in its 2018 survey on the prevention of corruption in local government that in some public sector organisations, corruption prevention activities are explicitly included in the mandate of the internal audit function.

In addition to their contributions to the evaluation of integrity risk factors, internal auditors can play a critical role by assessing whether internal controls to manage integrity risks are operating effectively and efficiently, and by identifying areas for improvement. This can take the form of auditing or evaluating the effectiveness of components of integrity risk management, such as anti-corruption or anti-bribery programmes, or evaluating how well the components are working together. Risk-based audit selection can support internal auditors in determining how best to identify risks that are the most relevant for the organisation's objectives, and in making decisions about what to audit based on predetermined risk criteria. This approach, unlike cyclical or incident-based approaches, can help auditors avoid the pitfalls of compliance-oriented approaches and overburdening managers with audits and controls.

The results of internal audit activity can therefore support managers in aligning integrity risk management processes and controls with organisational objectives, so that these processes are helping to advance strategic goals and inform decision making. A number of free and fee-based frameworks and guidance are readily available on line to support internal auditors in evaluating integrity measures or anti-fraud programmes. In general, the frameworks and guidance provide insights for recommendations to improve both "hard" controls (i.e. policies, procedures, structure, etc.) and, increasingly, "soft" controls (e.g. culture, behaviour of management, tone at the top), all the while recognising the need for auditors to account for human behaviour, motivation and attitudes.

Internal auditors can play other critical roles to promote integrity within a public sector organisation. For instance, they can provide an independent, objective view of internal and external strategic, operational and reputational risks in order to sharpen management's own risk assessments. In addition, the internal audit function can be an ally for management to advance a culture of integrity. This includes participation in awareness raising about risks, supporting capacity building (e.g. training and workshops), and contributing to value-based messages on integrity and good governance.

Drawing a line between internal audit and risk management

It is critical that internal auditors maintain their independence from the other so-called lines of defence, which include managers (first line) and risk managers (second line). These lines are often blurred when it comes to integrity risk management, in part because of the aforementioned standards that explicitly define a role for internal audit in assessing integrity risks. However, organisations should ensure that internal audit does not take on all responsibilities related to integrity risk management. "Second line" managers in functions such as financial control, quality assurance, compliance, and inspection units also have a key role to play. For example, advances in analytical techniques such as data mining and matching software can allow risk managers to monitor unusual financial transactions that could signal an integrity breach. Table 10.2 suggests ways to delineate the specific roles and responsibilities of internal auditors to avoid duplication or overlap with other lines of defence.

Table 10.2. An internal auditor's role in integrity risk management

Core internal audit roles	Providing independent assurance of the effectiveness and efficiency of risk management processes
	Evaluating risk management processes
	Evaluating the reporting of key risks
	Reviewing the management of key risks
	Making recommendations to improve risk management
Legitimate internal audit roles *with safeguards*	Facilitating identification and evaluation of risks
	Coaching management in responding to risks
	Consolidating reports on risks
	Developing and updating the risk management framework
	Championing risk management practices
Roles internal audit *should not undertake*	Setting risk criteria
	Imposing risk management processes
	Carrying out risk assessments for managers
	Deciding how to mitigate or respond to risks
	Implementing risk mitigation measures for management

Source: Adapted from (The Institute of Internal Auditors, 2009[18]).

The specific role that the internal audit function will play concerning risk management, or more generally concerning prevention of fraud and corruption, is context-specific. Table 10.2 offers some guidelines relative to standards and good practices; however, in some countries the laws or policies offer few insights about the role of internal audit with such specificity, or at worst define a role that is seemingly contradictory to international standards and good practices. This can be remedied to some extent at the institutional level. The role of internal audit with regard to fraud and corruption prevention, or integrity risk management, needs to be clearly defined in policies or in relevant strategic documents and guidance, such as an audit charter. This policy document can clearly define the role of internal audit with regard to preventing and detecting fraud and corruption, including assessing the management of integrity risks, awareness raising, investigations, and reporting to senior management. As its mandate usually covers the processes and procedures of the organisation as a whole, internal audit is well placed to provide consolidated reporting on the management of integrity risks at the institutional level.

Internal audit functions in public sector organisations often have a relatively small number of staff and limited resources; co-ordination with other assurance providers on integrity risk management is therefore vital. Auditors can draw on the work of "second line" functions such as financial controllers or inspection units as well as that of supreme audit institutions, regulators and ombudsmen or equivalents that also have a role in evaluating the effectiveness of integrity risk practices. This may involve knowledge sharing on an informal basis, co-ordination on the timing of activities to minimise the impact on the area under review, or formal criteria for reliance on each other's work. At the government level, a co-ordinated approach to reporting on integrity risk management can help to break down silos between public sector organisations, provide consistency in risk mitigation measures, and lead to better governance of integrity risks overall.

10.3. Challenges

The challenges facing governments and public sector organisations differ to some degree when it comes to implementing internal control and risk management frameworks for integrity. Governments are at different stages of maturity in this respect, and therefore encounter different issues. However, there are common challenges that arise across countries. This section provides an overview of some of the difficulties that countries face, and ways they can overcome them to better safeguard integrity. The areas of focus are:

- overcoming implementation gaps by moving beyond check-the-box approaches to risk management
- ensuring that risk assessments and controls adapt to a changing risk environment
- effectively co-ordinating with law enforcement and investigative bodies to enhance feedback loops and improve risk assessments.

10.3.1. Overcoming implementation gaps by moving beyond check-the-box approaches to risk management

A systematic approach – whereby risk management is clearly linked to organisational objectives, integrated into existing processes, and undertaken routinely – is vital for effective integrity risk governance within the public sector. This requires a strong legislative foundation accompanied by standards and policies, which provide the basis for internal control and risk management. While many countries have such provisions in place, there are often gaps in how governments and public sector organisations implement risk management processes. For example, some tend to view risk assessments as a compliance-oriented or check-the-box exercise, and as such undertake them on an ad hoc basis. Furthermore, senior management and other employees may perceive integrity risk management as a function that is beyond their role, deferring instead to internal auditors. To overcome these challenges and strengthen internal control and risk management practices across public sector entities, governments can do the following:

- *Assign clear responsibilities* – Integrity policies can assign responsibilities for corruption risk management, or these provisions may be included in existing risk management policies as part of the control environment. In line with international standards and models (e.g. the Institute of Internal Auditors' Three Lines of Defence), management should be responsible for identifying and managing risks, but each employee contributes to successful risk management within an entity. Alongside risk management functions, managers are responsible for the day-to-day managing of fraud and corruption risks – which includes ensuring that internal controls are in place and functioning – and more generally, for preventing and detecting fraud and corruption risks.
- *Increase capacity through training* – Formalised, regular and ongoing training programmes enable the development of skills and capabilities regarding risk management. If resources are limited, training priorities should primarily target staff with direct responsibility for identifying and mitigating fraud and corruption risks. Trainers can use employee surveys, internationally recognised standards and consultation groups to identify training needs. Furthermore, regular training assessments help ensure that staff trainings take into consideration the particular fraud and corruption risks that occur in different entities. For more, see Chapter 8.

10.3.2. Ensuring that risk assessments and controls adapt to a changing risk environment

Systemic integrity risks can thrive in entities that do not regularly carry out assessments, as control activities may become ineffective relative to a dynamic risk environment. Corruption and fraud schemes constantly evolve, often in response to changes in controls. Moreover, in the most egregious cases, an ad hoc effort to manage and assess integrity risks may be a result of management overriding controls and detection tools. Therefore, it is critical that policies and frameworks for evaluating integrity risks stipulate assessment at regular intervals to provide a comprehensive and current picture of the organisation's risk profile, as well as the effectiveness of controls.

Public sector organisations need to monitor and test selected controls, particularly in areas facing higher risks, to verify that they are functioning effectively and are proportionate to the risks identified. Given the fact that multiple personnel and various departments are involved in risk mitigation measures, there needs to be clear communication of how to evaluate the effectiveness of controls in the relevant procedures and guidance. The testing of control quality provides evidence of how controls mitigate risks, and should be communicated to all risk owners.

10.3.3. Effectively co-ordinating with law enforcement and investigative bodies to enhance feedback loops and improve risk assessments

Across public sector organisations, co-ordination among multiple departments and ministries is vital for the referral of suspected fraud and corruption cases to law enforcement authorities and other relevant bodies. However, organisations often face difficulties in following up with authorities regarding the outcomes of reported fraud and corruption incidents. A lack of communication around prosecuted cases presents a significant challenge for entities when reviewing their controls and taking corrective action.

Improving feedback loops regarding prosecution and correction can enhance risk assessments, reinforce fraud and corruption deterrence and allow organisations to address control vulnerabilities more effectively, reducing the risk of similar incidences occurring in the future. One way to achieve this is to set up information-sharing workshops with the participation of law enforcement and investigative bodies, aimed at helping organisations to identify fraud and corruption trends, patterns and modes of operation.

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Notes

[1] The control environment consists of the set of standards, processes and structures that provide the basis for carrying out internal control across an organisation.

[2] In the Three Lines of Defence model, the first line of defence are operational managers that own and manage risks. The second line of defence are the functions that oversee risks, typically risk management and compliance functions. The third line of defence are internal audit functions that provide independent assurance that risk management processes are effective.

[3] Inherent risks are risks that are assessed in the absence of control measures, i.e. before control measures have been applied.

[4] Residual risk is the remaining risk level after applying mitigation measures.

[5] Strategic risks are the likelihood of something happening that can affect the ability of an organisation to achieve its intended outcomes. Operational risks are the likelihood of something happening that will affect the ability of an organisation to achieve its objectives and produce outputs. Reputational risks refer to the potential for negative publicity, public perception or uncontrollable events having an adverse impact on an organisation's reputation.

[6] Risk factors are characteristics of an organisation's environment, policies, procedures or activities that are associated with a high risk.

[7] Risk tolerance is the level of risk that managers are willing to accept after implementing control activities. Defining risk tolerance helps to guide officials in their decisions to accept, reduce, avoid or share risks.

[8] A heat map is a representation of the resulting quantitative and quantitative evaluations of the probability of risk occurrence and the impact on the organisation in the event that a particular risk is experienced.

11 Enforcement

This chapter provides a commentary on the principle of enforcement contained within the OECD Recommendation of the Council on Public Integrity. It describes how enforcement mechanisms foster effective accountability, deter misconduct, and ensure compliance with public integrity standards. Supported by co-operation and exchange of information mechanisms at all levels, fairness, objectivity and timeliness are identified as key drivers for effective and transparent enforcement. In addition, the chapter addresses five commonly faced challenges related to enforcement: independence; lengthiness of procedures; complexity of procedures; fragmented collection of enforcement data; and publicity of enforcement data.

11.1. Why enforcement?

Coherent and comprehensive public integrity systems include pillars not only for defining, supporting and monitoring integrity, but also for enforcing integrity rules and standards. Enforcement mechanisms are the necessary "teeth" of any country's public integrity system, and are the principal means by which societies can ensure compliance and deter misconduct. If carried out in a fair, co-ordinated, transparent and timely manner, enforcement mechanisms can promote confidence in the government's public integrity system, serving to strengthen its legitimacy over time and helping to instil integrity values in individuals, organisations and society as cultural norms (OECD, 2017[1]). Enforcement of the laws and regulations demonstrates that government is committed to upholding, and that public officials cannot act with impunity. Enforcing integrity standards also increases confidence that others will not violate them. In that sense, enforcement has a relevant behavioural function – the wish to reward commitment to a norm (indirect reciprocity) is matched by the desire to penalise relevant violations by others (negative indirect reciprocity) (OECD, 2018[2]).

The OECD Recommendation on Public Integrity calls on adherents to "ensure that enforcement mechanisms provide appropriate responses to all suspected violations of public integrity standards by public officials and all others involved in the violations, in particular through:

a. applying fairness, objectivity and timeliness in the enforcement of public integrity standards (including detecting, investigating, sanctioning and appeal) through the disciplinary, administrative, civil, and/or criminal process;
b. promoting mechanisms for co-operation and exchange of information between the relevant bodies, units and officials (at the organisational, subnational or national level) to avoid overlap and gaps, and to increase the timeliness and proportionality of enforcement mechanisms;
c. encouraging transparency within public sector organisations and to the public about the effectiveness of the enforcement mechanisms and the outcomes of cases, in particular through developing relevant statistical data on cases, while respecting confidentiality and other relevant legal provisions" (OECD, 2017[3]).

11.2. What is enforcement?

Public officials are commonly subject to three main typologies of legal responsibilities and their corresponding enforcement mechanisms in relation to integrity breaches – disciplinary, criminal and civil:

- The grounds for disciplinary enforcement are based on the employment relationship with the public administration and the specific obligations and duties owed it. Breaching these obligations and duties leads to sanctions of an administrative nature, such as warnings or reprimands, suspensions, fines or dismissals.
- Criminal enforcement of public integrity conduct refers to detecting, investigating and sanctioning serious misconduct that undermines principles enshrined in constitutional texts such as serving the public interest or impartiality of the public administration. Criminal breaches lead to conviction, other sanctions affecting personal liberties, and administrative sanctions. While some offences such as abuse of public office can only be committed by public officials, other offences could lead to more severe punishment due to the fact that they were committed by a public official (Cardona, 2003[4]).
- Civil law mechanisms provide legal remedies for those who have suffered damage from acts of corruption, enabling them to defend their rights and interests, including the possibility of obtaining compensation for damages (Council of Europe, 1999[5]; United Nations, 2003[6]).

The scope of misconduct for the principle on enforcement includes breaches of integrity principles and duties of public officials that are usually – but not exclusively – contained in codes of conduct, as well as corrupt criminal conduct such as bribery or abuse of public function. While providing an overview of all enforcement systems, this principle emphasises disciplinary systems, whose enforcement plays an essential role within public integrity systems: it informs public officials' daily work and activities more directly, and ensures adherence to and compliance with public integrity rules and values as defined in codes of conduct and codes of ethics. As well, disciplinary systems have the potential to identify integrity risk areas where preventive efforts and mitigation measures are needed.

There are a number of different tools and mechanisms that governments can use to achieve the goals set by the principle on enforcement, but regardless of the context the following features are essential components of a comprehensive integrity enforcement system:

- Public integrity standards are enforced through disciplinary, civil, and/or criminal proceedings in line with the principles of fairness, objectivity and timeliness.
- Mechanisms for oversight, co-ordination, co-operation and exchange of information between relevant entities and institutions are in place, within and among each enforcement regime.
- Public sector organisations are transparent about the effectiveness of enforcement mechanisms and the outcomes of cases, while respecting privacy and confidentiality.

11.2.1. Public integrity standards are enforced through disciplinary, civil and/or criminal proceedings in line with the principles of fairness, objectivity and timeliness

The principle of enforcement sets fairness, objectivity and timeliness as essential components in enforcing public integrity standards, and calls on countries to apply them in all relevant enforcement regimes. Upholding fairness, objectivity and timeliness in investigations, court proceedings and rulings contributes to building or restoring the public's trust in integrity standards.

Safeguarding fairness in the enforcement of public integrity standards

Fairness is key in safeguarding citizens' trust in enforcement mechanisms and in justice generally. Adherence to fairness standards is particularly relevant in cases of integrity violations and corruption, which may have high political significance and impact. The concept of fairness is overarching, encompassing a number of general principles of law, such as access to justice, equal treatment, and independence of the judiciary. It also cuts across civil, criminal and administrative law. As a legal principle, fairness has substantive and procedural aspects. Substantive fairness encompasses the group of values and rights that should be granted at the outcome level and relate to human rights and legal equality. Procedural fairness refers to the legal guarantees provided in procedural law aiming to protect these values and rights, such as judicial independence, access to courts and timeliness of decisions (Efrat and Newman, 2016[7]). Substantive and procedural fairness are interdependent, as one cannot exist without the other (European Court of Human Rights, 2016[8]).

Various international legal instruments[1] consider fairness a fundamental human right and lay out the key principles that should inform fair legal proceedings. The principles can be grouped in one of two categories, depending on whether they apply throughout enforcement proceedings or just in one specific phase (see Table 11.1).

Table 11.1. Principles of fairness in legal proceedings

Principles applying throughout enforcement proceedings	
• Guaranteeing equal treatment before the law. • Safeguarding the defendant's rights to legal advice according to their choice and their right to defend themselves. • Respecting the defendant's right to be presumed innocent, which is an overall guarantee applying from suspicion (investigation) to the stage of conviction or acquittal (OHCHR, 2003[9]). Investigations of misconduct in the workplace should be conducted with a neutral mind-set and not to prove the allegations (Ballard and Easteal, 2018[10]).	
Principles applying in specific enforcement phases	
Pre-ruling	• Providing access to information and specifically to the documents and the evidence supporting the allegations, in order to effectively enable defendants' right to legal advice and to defend themselves. • Ensuring access to courts, which provides a person with clear and concrete possibilities to address an offending act that interferes with their rights. The right of access to a court includes not only the right to bring an action, but also the right to litigation.
Rulings	• Respecting the principle of proportionality, meaning that the gravity of the imposed sanction should depend on the seriousness of the offence.
Post-ruling	• Providing the right to appeal. Especially in disciplinary proceedings where the first instance decision-making bodies are not always judicial in nature, defendants should be granted the right to appeal a decision before a judicial court.

Source: (Council of Europe, 1950[11]; EU, 2012[12]; United Nations, 2012[13]).

The application of some aspects of fairness, such as those considered core "criminal due process guarantees" (e.g. presumption of innocence, the right to legal defence, access to information), has specific nuances in disciplinary and civil proceedings. However, fairness in civil proceedings is explicitly mentioned in article 6(1) of the European Convention on Human Rights, and the European Court of Human Rights has ruled its applicability in disciplinary cases.[2] Furthermore, some jurisdictions have established the extension of criminal procedural safeguards in disciplinary proceedings. For example, in Greece this applies to most criminal procedural safeguards as long as they do not oppose the provisions of the Civil Service Code and are aligned with the purpose of the disciplinary procedure. These include the right to remain silent, the presumption of innocence, the right to legal defence, the right to information, and the right to a hearing.[3] Similarly, the German Disciplinary Law (Bundesdisziplinargesetz, BDG) establishes the application of several criminal procedural safeguards, such as the right to remain silent, the right to legal defence, the presumption of innocence, the *in dubio pro reo* principle and the timeliness principle.

Another dimension of fairness is the accountability of all those who are responsible for a breach of integrity. In cases involving private entities, the persons responsible for misconduct may hide behind hierarchical organisational models and complex decision-making processes (G20, 2017[14]). An enforcement framework that only sanctions natural persons may lead to public perceptions of impunity. Indeed, it could be difficult to attribute responsibility to one specific person when a complex, diffuse decision-making structure is in place. To that end, it is necessary to establish mechanisms for the prevention of wrongdoings and enforcement action taken against legal persons who conduct them. Effective, proportionate and dissuasive sanctions for entities, combined with appropriate incentives to comply with the regulatory framework, can help governments promote accountability in the private sector and incentivise private entities to uphold integrity standards as a shared responsibility within society (for more, see Chapter 5).

A comprehensive and effective sanctioning regime for private entities should be clear, fair and easily enforceable. It should encompass the liability of private entities under the civil, criminal or administrative enforcement regime with sanctions that could be monetary in nature, such as disgorgement or restitution of illicit profits and confiscation. Further economic and reputational sanctions could increase the deterrence effect, such as debarment from public tenders or public disclosure of enforcement efforts. Sanctions relating to the reputation of the private entity, such as publishing the prescriptive content of the ruling, are also considered effective because stakeholders are more reluctant to engage in business transactions with entities involved in corruption cases.

The fair enforcement of a sanctioning regime – including for private entities – also depends on adequate investigative resources and skilled staff. Providing training and building the professionalism of enforcement officials helps address technical challenges, ensures a consistent approach, and reduces the rate of annulled sanctions due to procedural mistakes and poor quality of legal files. The professional profiles should reflect the mandate and tasks required to carry out the investigations. As such, specialised training is critical for investigators who may not be familiar with the organisational schemes, the complex structures or the corporate business practices applied by legal entities (OECD, 2016[15]). This can be achieved through guidance and training that builds knowledge of how different regimes function and can be used in parallel with each other, and that increases capacity to use special investigative techniques for integrity violations. Capacity-building activities can also focus on strengthening technical expertise and skills in fields such as administrative law, IT, accounting, economics and finance – which are necessary areas – to ensure effective investigations. In practice, many enforcement authorities face challenges in recruiting adequate staff and attracting specialised experts. However, capacity costs should be weighed against the costs of non-compliance, such as the decline in accountability and trust as well as the direct economic losses (OECD, 2018[16]).

Promoting the objectivity and independence of enforcement mechanisms

Enforcement actions should only be taken based on the law, and those enforcing the law should therefore act objectively. Objectivity should apply through all phases of all enforcement regimes. In disciplinary proceedings, decisions – at least at the first instance level – are usually taken by administrative bodies, which are not always judicial in nature. Since members of those disciplinary bodies are not judges but civil servants, procedural safeguards should be in place to guarantee that their actions are free from internal or external influence, as well as from any form of conflict of interest.[4] At a minimum, these procedural safeguards can include the following components:

a. outlining the mandate and responsibilities of disciplinary institutions as a clear basis for their existence
b. ensuring that personnel responsible for disciplinary proceedings are selected based on objective, merit-based criteria (particularly senior-level positions)
c. ensuring that personnel responsible for disciplinary proceedings enjoy an appropriate level of job security and competitive salaries in relation to their job requirement
d. ensuring that personnel responsible for disciplinary proceedings are protected from threats and duress so as to not fear reprisal
e. ensuring that personnel responsible for disciplinary proceedings have autonomy in the selection of cases to take forward
f. ensuring that personnel responsible for disciplinary proceedings receive timely training in conflict-of-interest situations and have clear procedures for managing them (OECD, 2016[17]).

Objectivity is closely linked to independence, an essential characteristic of judicial systems that guarantees every person the right to have their case decided in a fair trial, based on legal grounds and evidence, and free from improper influence. It includes both external independence from the other state powers, and also internal independence within the judiciary (Council of Europe, 2010[18]). A distinction is commonly made between the subjective perception of judicial independence by different sections of society (perceived independence) and the formal legal safeguards that may make the judiciary objectively independent (formal independence). While legal safeguards can make the judiciary objectively independent, it cannot be taken for granted that countries adopting best practices for formal judicial independence safeguards will achieve high levels of perceived independence (Van Dijk and Vos, 2018[19]). International legal instruments also distinguish between organisational independence of the judiciary as a whole and the individual independence of judges.[5] Organisational independence is guaranteed by its enshrinement in the

legal framework, organisational autonomy, adequate funding and the court system's self-administration. Individual independence of judges is ensured through:

a. human resource policies that encompass clear procedures for the selection, appointment, promotion and dismissal of judges
b. clear disciplinary procedures and responsibilities
c. non-transferability without the consent of the person concerned
d. internal independence, through transparent mechanisms for the allocation of cases guaranteeing the impartial and expert treatment of each case (Van Dijk and Vos, 2018[19]).

Ensuring the timeliness of the enforcement system

Excessive delays in carrying out enforcement proceedings can undermine the rule of law and ultimately prevent access to justice. As such, the fairness as well as the effectiveness of enforcement mechanisms also depends on initiating and concluding proceedings within a reasonable time. This applies to pretrial investigations and judicial court proceedings, and is equally relevant in criminal and non-criminal enforcement mechanisms. However, international legal instruments have not established specific time frames for what constitutes a "reasonable time" for enforcement. Therefore, there is no predetermined threshold establishing the timeliness for enforcing integrity standards. Timeliness needs to be balanced with the inherent complexity that often comes with enforcement proceedings and usually depends on the specific circumstances of each case.

11.2.2. Mechanisms for oversight, co-ordination, co-operation and exchange of information between relevant entities and institutions are in place, within and among each enforcement regime

Each enforcement regime consists of procedures involving several phases, actors and institutions, the oversight and co-ordination of which – in detection, investigation and case management – are essential to ensure due consideration of alleged misconduct. Poor co-ordination, co-operation and information sharing among offices and institutions with enforcement responsibilities undermine the ability to enforce the public integrity system, with broader consequences of making deterrent measures ineffective, leading to impunity and distrust.

Ensuring oversight and co-ordination within each enforcement regime

Oversight of and co-ordination among investigating entities within each regime help ensure uniform application of the integrity system in addressing common challenges and promoting the exchange of good practices. With due consideration of the different roles and functions of disciplinary and criminal enforcement, this requires establishing the legal and operational conditions for sharing relevant information and ensuring co-ordination among entities involved in each enforcement regime. Within the criminal regime, investigations and prosecutions are usually conducted, directed and supervised by the competent prosecutors, whose actions are co-ordinated by the corresponding prosecutor's office or a similar co-ordinating body. For disciplinary proceedings, a body that oversees implementation of the disciplinary system and co-ordinates the various disciplinary bodies can help support co-ordination (Box 11.1).

Box 11.1. The National Disciplinary Board and SisCor in Brazil

The National Disciplinary Board in Brazil, established under the remit of the Office of the Comptroller General of the Union (CGU), is responsible for overseeing implementation of the centralised federal executive branch's disciplinary system – the Sistemas Correcionais, SisCor. Activities under the SisCor are related to investigation of irregularities by civil servants and enforcement of applicable penalties. The SisCor is endowed with legal powers to supervise and correct any ongoing disciplinary procedures and to apply sanctions through its 150 employees across the central department and 240 sectional units located within federal agencies (*corregedorias seccionais*).

One of the pillars of the co-ordination function of the CGU is the Disciplinary Proceedings Management System (*Sistema de Gestão de Processos Disciplinares*, CGU-PAD), a software allowing to store and make available, in a fast and secure way, information about the disciplinary procedures instituted within public entities.

With the information available in the CGU-PAD, public managers can monitor and control disciplinary processes, identify critical points, construct risk maps and establish guidelines for preventing and tackling corruption and other breaches of an administrative nature.

Source: (OECD, 2017[1]); the CGU website, www.cgu.gov.br/assuntos/atividade-disciplinar (accessed 22 February 2020).

In any typology of enforcement proceedings, co-operation, co-ordination and information sharing can benefit from (electronic) case management tools such as databases or registers. For example, experience shows that providing an electronic link between the public prosecution service and police, tax and securities authorities is a factor for accelerating corruption investigation procedures and referrals and facilitating follow-up and the extraction of statistics (UNODC, 2017[20]). Electronic case management tools can also provide relevant information for statistical, transparency, and prevention purposes. To be effective, data must be accurate and proportional to the purposes for which they are collected. As well, data must be collected and handled in line with privacy and data protection regulations. The CGU Disciplinary Proceedings Management (Box 11.1) and the Court Information System in Estonia (Box 11.2) provide examples of electronic case management tools in relation to disciplinary and civil enforcement, respectively. In the criminal area, the United Kingdom has developed a similar tool for foreign bribery cases – the Foreign Bribery Register – and Slovenia has recently established a similar database that is only accessible to prosecutorial authorities (OECD, 2018[21]).

Box 11.2. The Estonian Court Information System (KIS)

When a court in Estonia uploads a document to the Estonian Court Information System (KIS), it is sent via a secure electronic layer for data exchange (the X-Road) to the e-File, a central database and case management system. The e-File allows procedural parties and their representatives to electronically submit procedural documents to courts and to observe the progress of the proceedings related to them. The document uploaded to the e-File is then visible to the relevant addressees, who are notified via email. After the addressee accesses the public e-File and opens the uploaded document, the document is considered as legally received. The KIS then receives a notification that the addressees or their representatives have viewed the document. If the document is not received in the public e-File during the predetermined time period, the court uses other methods of service.

Source: www.rik.ee/sites/www.rik.ee/files/elfinder/article_files/RIK_e_Court_Information_System%2B3mm_bleed.pdf; https://www.rik.ee/en/e-file (accessed 17 February 2020).

Promoting co-operation and exchange of information across enforcement systems and countries

Authorities under one of the enforcement regimes may become aware of facts or information relevant to another regime, in which case they should notify them to ensure that potential responsibilities are identified. Co-ordination mechanisms are thus vital to ensure that information is swiftly exchanged and enforcement mechanisms are mutually supportive. This is recognised by international instruments, which require state parties to take measures to encourage co-operation with and between their public authorities and law enforcement, both proactively (whenever an authority comes across a possible corruption offence) and upon request of the investigating and prosecuting authorities (United Nations, 2003[6]) (Council of Europe, 1999[22]). Mechanisms for co-ordination among relevant institutions also help identify common bottlenecks, ensure continuous exchange of experiences, and discuss formal or informal means to improve enforcement as a whole.

Establishing working groups – either ad hoc or in the framework of broader mechanisms to ensure co-operation across the public integrity system as a whole (for more, see Chapter 2) – creates the conditions for standardised processes, timely and continuous communication, mutual learning, and dialogue and discussions to address challenges and to propose operational or legal improvements. Working groups can also promote bilateral or multilateral protocols or memoranda of understanding to clarify responsibilities or to introduce practical co-operation tools between relevant agencies (Box 11.3). However, considering the potential sensitivity of corruption cases and the need to ensure the independence of law enforcement activity, any co-ordination mechanism between criminal investigators and other government agencies should give due consideration to the constitutional role and competence of each institution involved.

Box 11.3. Mechanisms to prevent fragmentation of efforts

Inter-agency agreements, memoranda of understanding, joint instructions, and networks of co-operation and interaction are common mechanisms to promote co-operation with and among law enforcement authorities. Examples of this include various forms of agreements between the prosecutors or the national anti-corruption authority and different ministries; between the financial intelligence unit and other stakeholders working to combat money laundering; or among the different law enforcement agencies themselves. These types of agreements are aimed at sharing intelligence on the fight against crime and corruption, or carrying out other forms of collaboration.

In some cases, countries have launched formal inter-agency implementation committees or information exchange systems (sometimes called "anti-corruption forums" or "integrity forums") among various agencies; others hold regular co-ordination meetings.

In order to foster co-operation and inter-agency co-ordination, some countries have initiated staff secondment programmes among different entities in the executive and law enforcement with an anti-corruption mandate, including the national financial intelligence unit. Similarly, other countries have placed inspection personnel from the anti-corruption authority in each ministry and at the regional level.

Source: (UNODC, 2017[20]).

To establish co-operation among foreign authorities, countries need to promote dialogue, mutual understanding and commitment. This is relevant, for example, for enforcement of foreign bribery cases, where statistics show that the exchange of information among foreign authorities is not a common source of detection in the demand-side country (OECD, 2018[23]). To improve co-operation among foreign authorities, countries need to make full use of options and tools provided for by relevant international instruments to establish international co-operation in both criminal and administrative matters.

Providing consistent guidance

Institutions in charge of co-ordinating investigative bodies or issuing overall enforcement policy usually establish channels for continuous communication and venues for regular meetings with entities, as they are often the best suited to strengthen the capacity of enforcement officials and to support them in building and sustaining cases. In particular, those co-ordinating entities can provide tools and channels to guide and support investigative bodies in preparing cases consistently. In relation to criminal enforcement, with due consideration of the principles of separation of powers and the rule of law, publicly available laws as well as general guidelines or directives by the general prosecutor's office or the competent body issuing prosecution policy can be helpful in supporting prosecutors as they exercise their autonomous powers and take action. Such guidance should avoid clauses allowing broad or unqualified discretion, such as to abstain from prosecution if the case is not "in the public interest" (UNODC, 2009[24]). As for disciplinary procedures, support may be provided through guides, manuals, or other tools to establish contact, such as dedicated hotlines or electronic help desks addressing doubts or questions related to disciplinary matters and procedures (Box 11.4).

Box 11.4. Providing guidance on disciplinary matters

The Civil Service Management Code in the United Kingdom recommends compliance with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Grievance Procedures, and notifies departments and agencies that the code is given significant weight in employment tribunal cases and will be taken into account when considering relevant cases. The ACAS, an independent body, issued the code in March 2015, which encourages:

- clear, written disciplinary procedures developed in consultation with stakeholders
- prompt, timely action
- consistency in proceedings and decisions across cases
- evidence-based decisions
- respect for rights of the accused: the right to information, legal counsel, hearing and appeal.

The Australian Public Service Commission (APSC) has also published a comprehensive Guide to Handling Misconduct, which provides clarifications of the main concepts and definitions found in the civil service code of conduct and other applicable policies/legislation as well as detailed instructions to managers on proceedings. The guide also contains various checklist tools to facilitate proceedings for managers, such as the Checklist for Initial Consideration of Suspected Misconduct; Checklist for Employee Suspension; Checklist for Making a Decision about a Breach of the Code of Conduct; and the Checklist for Sanction Decision Making.

The Comptroller General of the Union (CGU) in Brazil provides various tools for guidance to respective disciplinary offices, including manuals, questions and answers related to most recurrent issues, and an email address to clarify questions related to the disciplinary system.

Source: (ACAS, 2015[25]; APSC, 2015[26]; CGU, n.d.[27]).

11.2.3. Public sector organisations are transparent about the effectiveness of enforcement mechanisms and the outcomes of cases, while respecting privacy and confidentiality

Data on enforcement can support the integrity system in many ways. Firstly, statistical data on the enforcement of integrity standards provides insights into key risk areas, which can thus inform the focus of specific policies as well as integrity and anti-corruption strategies. Secondly, data can feed indicators within the monitoring and evaluation activity of integrity policies and strategies (for more, see Chapter 3), and support assessment of how well the disciplinary system as a whole is performing. Thirdly, data can inform institutional communications, giving account of enforcement action to other public officials and the public (OECD, 2018[16]). Lastly, consolidated, accessible and analysed statistical data on enforcement practices enables assessment of the effectiveness of existing measures and of the operational co-ordination among anti-corruption institutions (UNODC, 2017[20]).

Collecting enforcement data and making it transparent

Data collection activity on enforcement – which is often scarce and/or fragmented – should aim at providing a clear understanding of issues such as the number of investigations, typologies of breaches and sanctions, length of proceedings and intervening institutions. An advanced data collection activity would facilitate its analysis as well as its comparability through time and among jurisdictions and countries.

Although various authorities may be in charge of compiling criminal and disciplinary data and statistics, their activity could be co-ordinated at the central level. This could facilitate the elaboration of timely and risk-based strategies and policies, but also – when co-ordination is coupled with the appropriate technical and data analytics tools – identification of risk areas and anomalies that would require further preventive efforts or investigations. Co-ordination can happen, for instance, within the same working group, either ad hoc or in the framework of broader co-ordination mechanisms of the public integrity system, tasked with improving processes and information sharing among enforcement entities. Ideally, with due consideration of privacy laws and investigative confidentiality, the mechanism co-ordinating the public integrity system would centralise information from disciplinary, criminal and other databases (e.g. asset and tax declarations or procurement-related ones).

Enforcement data and statistics can further contribute to demonstrating integrity commitment, ensuring accountability, and promoting risk analysis if they are transparent and accessible to the public in an interactive and engaging way, but also when they are made available in appropriate forms for reuse and elaboration. In relation to the disciplinary system, countries such as Colombia have elaborated corruption-related sanctions indicators (Observatorio de Transparencia y Anticorrupción, n.d.[28]) while others such as Brazil periodically collect and publish data on disciplinary sanctions in pdf and xls formats (CGU, n.d.[29]).

Ensuring transparency about the effectiveness of enforcement mechanisms also includes building healthy relationships between enforcement authorities and journalists/media, and continually demonstrating transparency, accountability and openness. For example, countries' judiciaries can take a proactive media approach and ensure that the justice system is transparent for the public and society, for example by designating judicial spokespersons (Box 11.5) or press judges, making judgements public on the Internet free of charge, or developing a social media strategy (ENCJ, 2012[30]). This close co-operation with the media is particularly relevant for communicating during crisis situations, for instance when a corruption scandal arises.

Box 11.5. Communication offices in the judiciary in Spain

The communication offices of the Supreme Court, the National Court and the Superior Courts of Justice of all autonomous regions in Spain depend on the Communication Office of the General Council for the Judiciary, and they are the established channels for contact with the media. The information they provide is disseminated to all journalists at the same time on an equal basis unless that information, interviews or reports are requested through a specific channel. The information must be provided in writing, by means of an official press release and in a manner that is respectful of the rules regarding the protection of personal data. In 2018 the Office of the General Council for the Judiciary updated its communications protocol to adapt to the profound changes in and evolution of communication in recent years.

Source: Office of the General Council for the Judiciary (2018), Justice Communications Protocol, www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunal-Supremo/Oficina-de-Comunicacion/Protocolo-de-Comunicacion-de-la-Justicia/ (accessed 17 February 2020).

Assessing the integrity system and the performance of enforcement mechanisms

Enforcement-related data are additionally used to help identify challenges and areas for further improvement within the integrity system and the enforcement mechanisms themselves. Data on enforcement can be part of the broader monitoring and evaluation of the integrity system. Korea, for example, develops for consideration two indexes related to disciplinary and criminal corruption cases within the annual Integrity Assessment of public organisations. They are the Corrupt Public Official Disciplinary Index and the Corruption Case Index (Anti-Corruption and Civil Rights Commission, 2016[31]).

Data on enforcement could also help assess the effectiveness of enforcement mechanisms, as it can feed key performance indicators (KPIs) identifying bottlenecks and the most challenging areas throughout the procedures. For this purpose, performance indicators on effectiveness, efficiency, quality and fairness of justice systems developed by organisations such as the Council of Europe (e.g. share of reported alleged offences taken forward, and average length of proceedings) could also be applied with respect to disciplinary proceedings (Council of Europe, 2018[32]). Making public the results of these performance assessments demonstrates a commitment to improving accountability mechanisms and instils confidence in the enforcement system. Furthermore, the analysis of the assessments – in close co-operation with all involved institutions – is key for addressing challenges and shortcomings not only of the enforcement system, but also of the integrity system as a whole.

11.3. Challenges

11.3.1. Low levels of (perceived and formal) independence

Decreasing levels of perceived judicial independence have been cause for concern in a number of OECD countries (European Commission, 2019[33]). Indeed, judges should be free from inappropriate connections and influence, but "also appear to a reasonable observer to be free therefrom" (UNODC, 2002[34]). Perceived independence of the judiciary is also seen as a growth-enhancing factor whose lack can deter investments (European Commission, 2019[33]). Furthermore, while judicial independence is a multi-faceted issue, the perception of independence is considered a proxy for *de facto* independence, which in turn is seen to relate to factors such as public confidence in the judiciary, the degree of democratisation and press freedom, and cultural factors (Van Dijk and Vos, 2018[19]).

As far as formal independence is concerned, challenges arise in the criminal sphere such as in establishing technically independent prosecution services. Prosecutorial decision making is in some cases too intertwined with or dependent on the executive. For example, in some countries the chief law enforcement officer such as the attorney-general may be politically appointed and could be removed from office without cause. This situation creates risks for the integrity of prosecutorial bodies, making them especially vulnerable to undue influence related to political considerations. As a way to safeguard independence and enable due investigation, prosecution, processing and decision of cases in accordance with the law, judges and prosecutors could be appointed through a body predominantly composed of members of their own category (e.g. judicial councils for judges) (Council of Europe, 2010[18]). More generally, measures and mechanisms should be in place to guarantee judicial independence at the organisational level (through enshrinement in the legal framework, organisational autonomy, adequate funding and the self-administration of the court system) as well as at the level of individual judges and prosecutors (through clear human resources and disciplinary procedures, non-transferability, and objectivity and transparency in the allocation of cases).

11.3.2. Lengthiness of proceedings

The lengthiness of administrative, civil, criminal and disciplinary proceedings affects the timely imposition of sanctions, especially when considering statutes of limitations. Statutes of limitations are rules determining the maximum time within which an administrative, civil, criminal or disciplinary action can be brought against an alleged offender, aiming to protect the right to a trial within a reasonable time (Council of Europe, 1950[11]). While limitation periods are designed to promote legal certainty, fairness of proceedings and efficiency, they may hamper effective enforcement and lead to impunity.

In disciplinary proceedings, timeliness is often influenced by the fact that integrity breaches are detected as a result of other procedures, such as internal or external audits. In the meantime, the statutes of

limitation may have expired or, in other cases, the offender may have retired from public office. The latter case is particularly relevant in relation to breaches of the code of conduct, which are difficult to sanction when public officials have already left office (Cardona, 2003[4]). In these cases, alternative options can be explored to overcome challenges arising from lengthy investigations and court proceedings, such as preventing offending former officials from occupying public office for specific periods, the cancellation or refusal of contracts with the private sector employer of the offending former official, and reduction of the official's retirement pension (OECD, 2010[35]).

Similar considerations concern the criminal regime, where limitation periods for corruption offences may prove inadequate when alleged corrupt deals are discovered much after their inception or when enforcement suffers other structural weaknesses such as lack of judicial or administrative capacity. As a result, the statute of limitations may expire before the final decision is taken. For example, expiration of the statute of limitations is one of the main reasons for not prosecuting public officials in demand countries' foreign bribery cases (OECD, 2018[23]).

Lengthiness of proceedings is also a major challenge for civil law enforcement. For example, in 2010 the average number of days for a first instance judgment in the OECD area was around 240 and the length of a civil dispute going through all three instances was 788 days, whereas in some other countries the conclusion of proceedings could take up to 8 years (Palumbo et al., 2013[36]).

Timeliness depends on many factors, some related to the inherent functioning of the enforcement system, others to the complexity and circumstances of the case. As a consequence, it is not possible to establish specific time frames for what constitutes a "reasonable time" for all countries. However, efforts can be put in place to address the conditions causing lengthy enforcement proceedings, e.g. ensuring that the legal framework is efficient and does not contain redundant procedures; that enforcement authorities have adequate capacity to address all cases; and that co-ordination mechanisms are in place to ensure the swift start of investigations.

11.3.3. Complex procedures involving multiple institutions

The complexity of each enforcement procedure and the involvement of several institutions creates room for inconsistent application of the legal framework, especially if there are no formal mechanisms to share information; if interpretation differs among institutions; or if responsible entities are not provided consistent guidance and venues for dialogue and mutual learning.

In the case of disciplinary proceedings, offices in charge of building cases rely heavily on the proactive collaboration of a wide range of actors within and outside the entity, for instance in getting to know allegations of integrity breaches (e.g. audit reports, asset declarations, human resources management, whistleblowing reports). Furthermore, some countries have dedicated procedures in place depending on the alleged offence's gravity and two instances are usually provided to appeal a decision.

Similarly, proactive and continuous co-operation and co-ordination between agencies involved in criminal proceedings are essential to ensure that investigations and prosecutions run smoothly and that enforcement efforts do not become ineffective because of inaction on the part of any of these agencies. Indeed, in some countries lack of co-ordination and exchange of information jeopardises investigations and creates the risk of parallel investigations, which in turn leads to wasted resources, non-prioritisation of cases, and fragmentation of evidence and information. Criminal law enforcement officials, especially in countries with a centralised prosecution service, tend to rely on the code of criminal procedure as a sufficient framework for co-ordination of the investigation and the prosecution of criminal offences. However, experience indicates that such general rules alone are not adequate for securing a proper level of co-operation in dealing with complex corruption cases that require analysis of trends and risk areas, co-ordinated policy approaches and proactive detection measures. Furthermore, such rules do not address co-operation between law enforcement and preventive institutions (OECD, 2013[37]).

To address these challenges in any enforcement system, (electronic) case management tools such as databases or registers can support co-operation, co-ordination and information sharing among relevant bodies and authorities. With specific reference to disciplinary enforcement, the presence of an oversight body that oversees the implementation of the system and co-ordinates the various disciplinary bodies can ensure uniform application of the integrity framework, allow common challenges to be addressed, and promote the exchange of good practices. As such, the oversight body contributes to ensure accountability in the public sector and ultimately increases the overall effectiveness of the integrity system (for more, see Chapter 12).

11.3.4. Multiple responsibilities related to the same misconduct

Enforcement cross-agency co-ordination is particularly important during the investigative phase, where relevant information is often detected by agencies whose activity may be a source of both disciplinary and criminal responsibility (Martini, 2014[38]). In this context, challenges are common in many countries, where – for example – co-operation between public procurement authorities, law enforcement and anti-corruption agencies during investigations was found to be formalistic, leading to a low number of notifications about suspicions of corruption or conflict of interest submitted by public procurement authorities to law enforcement or integrity agencies (European Commission, 2014[39]).

Handling integrity-related offences under both criminal and disciplinary regimes with due consideration to the principle of *ne bis in idem* requires substantial co-ordination, whereas administrative proceedings are usually suspended until a verdict under the criminal regime is reached and an administrative decision is then taken on the basis of the criminal verdict (Box 11.6). This is why legal procedures in the majority of OECD member countries provide for the immediate notification to law enforcement authorities of an alleged criminal offence (OECD, 2017[1]).

Box 11.6. Interrelation between procedures and categories of liabilities

An ongoing disciplinary procedure is usually suspended while a criminal process for the same fact is being conducted. This suspension also interrupts the counting for the statute of limitations. The facts proved in a final criminal law judgement can be taken as evidence in the disciplinary procedure. Likewise, the criminal conviction can be considered when deciding the disciplinary sanction to impose in relation to the same conduct. If the public official is convicted as a result of a criminal process, the disciplinary sanction is usually dismissal from the civil service. However, a disciplinary sanction would still be possible even if the corresponding criminal case were dismissed. Under both the criminal and disciplinary regimes a public official is confronted with the economic or financial consequences of the offence. Usually, legislation gives rather wide discretion to the administration and the judge to take into account all the circumstances when deciding on the specific amounts of money to be paid, as compensation, by a public official.

Parallel procedures and the different procedural safeguards applying to each regime affect the investigations. Criminal investigations demand a higher level of guarantees regarding the suspect's rights, due to the intrusive nature of the investigative powers accorded law enforcement authorities. Administrative investigations, on the other hand, involve a much lower level of interference with the rights of individuals and do not require the same safeguards.

Source: (Cardona, 2003[4]).

The need to ensure co-operation in enforcement activities goes beyond national authorities and borders. Recent corruption scandals involving public officials in different countries highlighted the lack of co-operation, effective cross-border co-ordination and exchange of information among relevant jurisdictions. An OECD regional study on Latin America pointed out that this is largely due to the lack of regular and effective international co-operation (e.g. co-ordination of complex investigations in real time, consistent exchange of evidence, and regular channels of communication) that would allow authorities to address the substantive and procedural differences among legal systems (OECD, 2018[16]). Effective mechanisms that allow authorities to develop key ingredients for effective informal and formal co-operation (e.g. skills, professional contacts and mutual confidence) are thus needed.

11.3.5. Fragmented collection and publicity of enforcement data

Collection of data on enforcement (e.g. number of investigations, prosecutions and sanctions) is generally limited and often carried out through a fragmented approach without a clear strategy. Furthermore, when data are available to the public, they can be difficult to find and reuse by stakeholders (e.g. civil society, academia) for other purposes. This was observed by the OECD with respect to the data of some disciplinary systems: they are collected only in part and in broad categories; they do not match with other sets of statistics; and they are neither published nor communicated to the public. Similar findings emerge from analysis of sub-national ethics agencies' transparency policies on enforcement activity (Coalition for Integrity, 2019[40]).

Similarly, the lack of adequate statistical data or case law related to corruption offences has been identified as a cross-cutting problem for implementation of the criminal law provisions of UNCAC. In particular, although some criminal data on corruption are made available by individual authorities or for individual offences, the methodology used and the types of data collected are not consistent across institutions; the information available is not disaggregated by type of offence; and no central mechanisms exist through which such data can be accessed (UNODC, 2017[20]).

While the collection of criminal and disciplinary data and statistics related to integrity breaches is often the responsibility of specific institutions, their activity could be co-ordinated at the central level, for instance within the general co-ordination mechanism for the public integrity system. In this context, data on enforcement can also integrate the broader monitoring and evaluation of the integrity system. As for transparency, enforcement data and statistics can have the most impact for accountability and risk analysis purposes when they are accessible to the public in an interactive and engaging way, but also when they are made available in appropriate forms for reuse and elaboration.

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Notes

[1] For example, the United Nations Convention Against Corruption, the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels (United Nations, 2012[13]); the European Convention on Human Rights (Council of Europe, 1950[11]); and the European Charter of Fundamental Rights (EU, 2012[12]).

[2] See the Court's judgements on *Vathakos v. Greece 20235/11 (Final Judgement of 28/09/2018)*, *Vilho Eskelinen and others v. Finland 63235/00 (Final Judgement of 19/04/2007), Kamenos v. Cyprus 147/07 (Final judgement of 31/01/2018).*

Note by Turkey

The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

[3] See art. 108, 132, 134-136 of the Greek Civil Service Code.

[4] See relevant ECHR judgements on *Albert and Le Compte v. Belgium 7299/75, Gautrin and Others v. France 21257/93, 21258/93, 21259/93 et al., Frankowicz v. Poland 53025/99.*

[5] See, for example, the UN Basic Principles on the Independence of the Judiciary of 1985 (United Nations, 1985[44]), the Judges' Charter in Europe (European Association of Judges, 1997[42]), the Magna Carta for Judges (Consultative Council of European Judges, 2010[41]), the Universal Charter of the Judge (International Association of Judges, 1999[43]) and the Bangalore Principles about Judicial Conduct (UNODC, 2002[34]).

12 Oversight

This chapter provides a commentary on the principle of oversight contained within the OECD Recommendation of the Council on Public Integrity. It describes how external oversight and control strengthens accountability within the public integrity system. It focuses on fostering responses by public sector organisations to oversight bodies' advice, and mechanisms to strengthen oversight bodies' responsiveness to complaints and allegations. It also explores the role of oversight bodies in ensuring impartial enforcement of laws and regulations. The chapter addresses the two commonly faced challenges of timeliness of decisions to avoid creating a sense of impunity and ensure access to procedural remedies, and enforcement burden and effectiveness.

12.1. Why Oversight?

External scrutiny and oversight are essential parts of an integrity system. Public organisations and officials are accountable for their decisions, actions and expenditures. Oversight contributes to the public integrity system's effectiveness, notably by means of adequate responses of public organisations to oversight bodies' recommendations; effective handling of complaints and allegations, through both oversight bodies' own procedures and those of public organisations; and the impartial enforcement of laws and regulations throughout the public sector. Beyond creating specific mechanisms to establish and strengthen public accountability, oversight can foster learning through evaluation and highlighting bad and good practices. Moreover, oversight reporting can inform the integrity strategy, as well as policies and reforms. Some oversight bodies also exercise core integrity functions (for example, whistleblower protection or asset disclosure collection and verification).

The OECD Recommendation on Public Integrity states that adherents should "reinforce the role of external oversight and control within the public integrity system, in particular through:

a. Facilitating organisational learning and demonstrating accountability of public sector organisations by providing adequate responses (including redress, where relevant) to the sanctions, rulings and formal advice by oversight bodies (such as supreme audit institutions, ombudsmen or information commissions), regulatory enforcement agencies and administrative courts;
b. Ensuring that oversight bodies, regulatory enforcement agencies and administrative courts that reinforce public integrity are responsive to information on suspected wrongdoings or misconduct received from third parties (such as complaints or allegations submitted by businesses, employees and other individuals);
c. Ensuring the impartial enforcement of laws and regulations (which may apply to public and private organisations, and individuals) by regulatory enforcement agencies" (OECD, 2017[1]).

12.2. What is oversight?

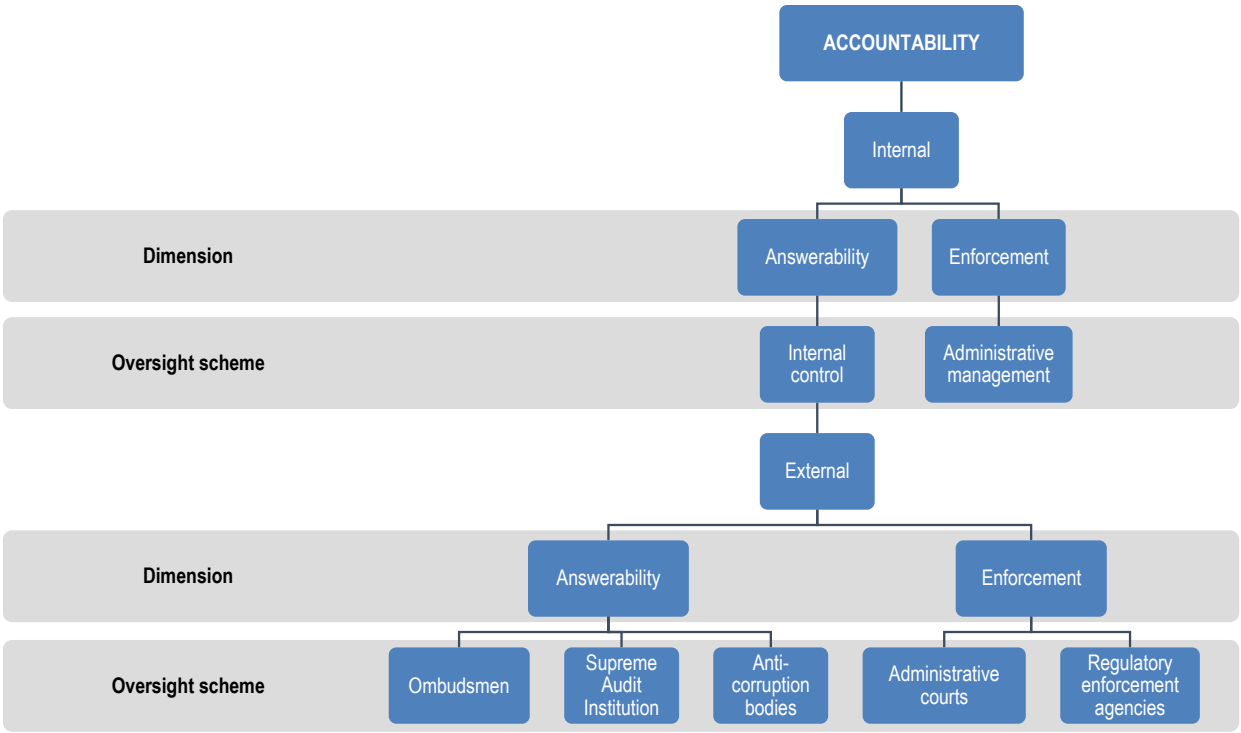
Public accountability helps to instil confidence that the public sector is being managed appropriately. It is a relationship between an actor and a forum in which the actor has an obligation to explain and to justify his or her conduct; the forum can pose questions and pass judgement, and the actor may face consequences (Bovens, 2006[2]). Thus, a comprehensive model of public accountability comprises two dimensions:

- answerability: the obligation to provide information, clarification, explanation and justification
- enforcement: formal action against illegal, incorrect, inefficient or ineffective conduct of the accountable institution or public official (Schedler, Diamond and Plattner, 1999[3]; Pelizzo and Stapenhurst, 2013[4]).

Both answerability and enforcement requires an adequate institutional setup at two levels: 1) internal mechanisms (within the bureaucratic chain of command) and 2) external oversight and control mechanisms. Internal control mechanisms, as discussed in Chapter 10, can eliminate most of the irregularities and provide information that external oversight bodies can build on. However, internal control mechanisms may lack independence and objectivity in investigating wrongdoing. Therefore, both internal and external oversight mechanisms are necessary to ensure a comprehensive oversight scheme for all public bodies.

This chapter focuses solely on external accountability mechanisms, in particular independent and specialised oversight and control institutions. Figure 12.1 details the typology and position of external oversight bodies among various mechanisms of answerability and enforcement.

Figure 12.1. Architecture of oversight mechanisms ensuring public accountability



Within the typology of external oversight, control and enforcement bodies, the following four groups of institutions are focused on**:**

- ombudsmen: general and specialised mandates
- supreme audit institutions (SAI)[1]
- administrative courts: specialised administrative courts and courts of general jurisdiction providing independent and impartial judicial review of administrative actions and omissions
- regulatory enforcement agencies: bodies responsible for enhancing compliance and reaching goals of regulation among public and private bodies.

Ombudsmen, SAIs and administrative courts are explicitly tasked with oversight of public bodies. The regulatory enforcement agencies, however, have a broader field of operations. These agencies focus primarily on inspecting relevant markets and activities of public and semi-public entities, private businesses and individuals creating particular risks to various public goods, including public health, education, safety and the environment. Though not explicitly tasked with oversight of public bodies, regulatory enforcement agencies are necessary elements of public integrity systems, as their mandate also covers supervision of public institutions and state-owned enterprises. Table 12.1 summarises the key features, similarities and differences between oversight bodies.

Table 12.1. Oversight bodies: Key features, similarities and differences

Type of body	Status	Mission	Powers
Specialised ombudsmen, information commissioners	Independent bodies accountable to the legislature, often enjoying constitutional status.	Protecting and promoting rights and freedoms.	Investigating violations of human rights and freedoms by executive bodies; issuing recommendations in such cases and in general matters.
Supreme audit institutions	Independent bodies from the executive with powers often entrenched by the constitution.	Ensuring legality, efficiency, effectiveness, and financial and performance management in the public sector.	Conducting external, independent audit of legality, regularity and performance of public bodies and policies; issuing recommendations about corrective measures. SAIs with jurisdictional activities can also enforce financial liabilities.
Administrative courts	Independent and impartial judicial bodies.	Providing independent judicial review of the legality of administrative actions.	Repealing unlawful administrative acts, requiring administration to take corrective action.
Regulatory enforcement agencies	Executive bodies enjoying special guarantees of functional independence.	Improving and promoting compliance with rules and regulations and international treaties among private and public organisations.	Conducting inspections followed by sanctions in case of non-compliance, licensing, accrediting, permitting or approving economic activities.

Although there are a number of ways in which the institutions can be configured, along with the tools and mechanisms that a country may use to achieve external oversight, the following lines of action are essential:

- fostering adequate responses by public sector entities to oversight bodies' advice
- strengthening effective complaint and allegation handling by oversight bodies
- ensuring impartial enforcement of laws and regulations by oversight bodies.

12.2.1. Fostering adequate responses by public sector organisations to oversight bodies' advice

To facilitate organisational learning and demonstrate the accountability of public sector organisations, adequate responses to oversight bodies' sanctions, rulings and formal advice is required. Moreover, good governance arrangements increase the prospect of successfully implementing the recommendations and advice of the oversight bodies (ANAO, n.d.[5]). In establishing a tracking and monitoring system, it is essential that public organisations assign clear responsibilities, connect the tracking and monitoring system to the management and control cycle, and regularly communicate on the status of implementation to the relevant internal and external bodies.

The tracking and monitoring system should include basic elements such as the advice and which body provided it, the date the advice was issued, and the date by which a response is due. If a response date is not provided by the oversight body and is not outlined in a relevant law or regulation, public sector organisations should set a reasonable time by which they will respond to every advice, recommendation and sanction they have received. To support implementation, public organisations should also designate an individual within the organisation who will be responsible for implementing and/or responding to the advice, as well as updating senior management on the status of implementation (Box 12.1). Managers responsible for implementing advice or recommendations can take various measures, depending on the severity or the complexity of said advice or recommendations. A traffic light dashboard document highlighting the more important and/or urgent matters in red may be used to set and highlight priorities.

Box 12.1. Clearly assigned responsibilities to ensure implementation of audit recommendations

In Australia, following an audit by the Australian National Audit Office (ANAO), the Department of Agriculture assigned responsibility for progress against each of the individual ANAO recommendations to a specific senior individual. Overarching management accountability was assigned to the deputy secretary responsible for the function. The senior individual was required to provide updates on the progress of implementation, with the deputy secretary providing final approval.

Source: (ANAO, n.d.[5]).

To track the recommendations from SAIs and other external oversight bodies, an audit committee similar to those commonly in place in the private sector may help oversee the implementation of recommendations. An audit committee provides advice and assurance to the head of an entity on the appropriateness of the entity's accountability and control framework and on the status of implementation of recommendations by the SAI. To be effective, audit committees are provided with a degree of autonomy or independence and meet regularly (Box 12.2).

Box 12.2. Public sector audit committees in Australia

Under the Australian Public Governance, Performance and Accountability Act 2013 (PGPA Act), every Australian Government entity is required to have an audit committee. In Australia, an audit committee must consist of at least three persons who have appropriate qualifications, knowledge, skills and experience to ensure that the committee performs its functions. The majority of members of the audit committee must be independent: they must not be officials of or employees of the entity. Further, the highest authority of the entity, the chief financial officer, and the chief executive officer are not permitted to be members of the audit committee. The committee's independence from the day-to-day activities of management helps to ensure its objectivity, impartiality, and isolation from conflict of interest, bias or undue external influence.

The functions of the audit committee need to be outlined in a charter, and must include that the committee reviews the appropriateness of the entity's financial reporting; performance reporting; systems of oversight, including internal audit and external audit; systems of risk management; and systems of internal control.

In relation to the audit function, audit committees may:

- advise the head of the entity on internal audit plans
- advise about the professional standards to be used by internal auditors in the course of carrying out audits
- review the adequacy of the entity's response to internal and external audit recommendations
- review the content of reports of internal and external audits to identify material that is relevant to the entity
- advise the accountable authority about good practices.

The Australian National Audit Office (ANAO), as the country's supreme audit institution, is invited to attend audit committee meetings as an observer. Minutes are taken at each meeting and these are provided to management and made available to the ANAO. Committee members also brief senior management on audit committee activities and discuss progress in selected areas, for example in relation to implementing audit recommendations.

Source: (Australian Government - Department of Finance, 2018[6]).

Input from oversight bodies is also useful beyond improving the legality, probity, effectiveness and efficiency of public organisations. Oversight bodies' inputs can also contribute to better government policies, including integrity policies. For example, the work of SAIs on performance audits related to government policies has great potential for supporting formulation, implementation and evaluation of the integrity system. Their external, objective analysis contributes to evidence-based reforms and public policies, and their cross-cutting view enables them to comprehensively assess the effectiveness and efficiency of government programmes, including those on integrity (OECD, 2016[7]). Specifically relevant in this context are the integrity audits carried out by SAIs. These can be audits on the organisation's integrity management or the implementation of relevant regulations, such as managing conflicts of interest. However, they can also be government-wide audits of the implementation and performance of governments' integrity policy, and even an audit of the integrity infrastructure of a country.

Moreover, by implementing core integrity functions such as conducting integrity audits, verifying asset and interest disclosure and providing ethical guidance, oversight functions can use their position in the integrity system to support organisational learning. For example, in Austria the Court of Audit (ACA) is a key player in the integrity system in carrying out integrity audits of public organisations. The ACA assesses if existing mechanisms are suitable to prevent corruption within public organisations, and publishes the recommendations to increase transparency as well as public scrutiny and awareness of these issues.[2] Input from ombudsman institutions can also inform improvements to public services or policies, in particular by learning from the results of the investigations they undertake. A particular tool that ombudsman institutions can use to suggest policy changes is the "own initiative" investigation, which enables an ombudsman to launch an investigation without first having received an individual complaint (International Ombudsman Institute, 2018[8]). Own initiative investigations are used to address the root cause of an issue that has given rise to a number of similar complaints. The findings can inform an early response to an issue before it escalates, or can allow the ombudsman to issue recommendations on a problematic issue affecting a number of public organisations. Moreover, own initiative investigations can bring attention to matters of public interest, as well as generate discussion on policy and legislative issues. Finally, such investigations can bring voices into the policy arena that seldom complain, are rarely heard, or are unable to complain, thereby contributing to improved access in policy making (International Ombudsman Institute, 2018[8]).

As SAIs and ombudsman institutions usually issue reports to their national legislature, the legislature can also support implementation of their recommendations. For instance, the legislature may set up a special committee or subcommittee to regularly monitor implementation of oversight bodies' advice and require the government bodies to report on their performance in this matter. Ensuring that oversight bodies have access to the legislature and the opportunity to present the outcomes of their work both in the relevant committees and in plenary sessions can also help support implementation.

With regards to regulatory enforcement agencies, their recommendations are primarily addressed to the regulated entities, but the relevant government departments can also monitor these recommendations. In particular, monitoring can detect areas where violations of regulations are the most serious or frequent, and indicate where there is a need for policy intervention or strengthened monitoring. Their recommendations notably include those dealing with implementation of integrity standards, principles of efficiency and transparency, and conflict-of-interest rules (OECD, 2019[9]). Whenever the recommendations of regulatory enforcement agencies relate to state-owned market operators or other public institutions, they can be analysed and monitored by the government departments supervising them (OECD, 2019[9]).

Effective execution of the administrative courts' rulings requires various mechanisms, depending on the nature and content of the ruling. For instance, if the administrative court accepts a complaint about administrative silence, it needs to set a binding deadline for the administration to resolve the case. To resolve complaints against the legality of administrative acts, the court requires extensive competencies to fully and effectively redress irregular actions and decisions of public administration, such as:

- the power not only to repeal illegal administrative decisions, but also to replace these acts with its final decision, resolving the case on merits
- the power to impose sanctions (e.g. fines) on administrative bodies or individual civil servants responsible for illegal acts causing damage to citizens or businesses.

12.2.2. Strengthening effective complaint and allegation handling by oversight bodies

The handling of complaints and allegations is another key function of oversight bodies (for more, see Chapters 9 and 10). Among them, ombudsmen are commonly required by law to record and process individual reports from all natural and legal persons about violations of their rights and freedoms by public authorities, including reports of integrity breaches by public organisations. Some ombudsman institutions are also specifically tasked with receiving whistleblower reports and providing protection to whistleblowers. For example, since 2016 the French Defender of Rights, tasked with protecting individuals' rights and freedoms and promoting equality, has been responsible for protecting reporting individuals and directing them to competent authorities considering the case. The ombudsman publishes guidance and supports whistleblowers in their referrals to other responsible authorities while protecting them, if necessary, from any sort of retaliatory measures that might be taken against them (HATVP, 2019[10]).

Regardless of whether there is a specific integrity mandate or not, effective complaint and allegation handling requires clear access and timely responses. Ombudsman institutions can facilitate filing reports by accepting various channels for submission, such as in-person submission, written reports and reports submitted via electronic channels, including social media. Similarly, while there may be no deadline for considering the cases, every complaint requires treatment in a reasonable time. Service charters could raise awareness about the right to complain, the remit of the institution, the scope of jurisdiction and service standards in terms of response.

Once the report is considered and accepted, the recommendations of the ombudsman need to be addressed to the relevant public institution and the applicant informed about actions undertaken by the ombudsman. Developing mechanisms to monitor the implementation of recommendations of ombudsman institutions is also crucial (Box 12.3).

Box 12.3. Monitoring the implementation of recommendations: The case of the Ombudsman of Ontario

The Office of the Ombudsman of Ontario established a Special Ombudsman Response Team (SORT) consisting of investigators specialised in in-depth systemic investigations. An important element of the team's work is robust post-investigation monitoring to ensure that recommendations based on its systemic investigations are properly implemented and observed by public bodies. Every SORT report contains an explicit recommendation to the relevant body to report back in writing and at specific intervals on progress in implementing the recommendations. Intervals of reporting are set individually, based on the specific circumstances of the case and the nature of recommendations. Reports submitted by these bodies are subsequently analysed by SORT, and information about progress in implementing recommendations is published in annual reports or on the website of the Ombudsman. In its assessment, SORT also relies on other sources of information (e.g. contacting special interest or advocacy groups) and engages the public via the news and social media to ensure that the recommendations are not ignored.

If the performance of public bodies in implementing the Ombudsman's recommendations is not satisfactory, the next steps may involve attempts to resolve issues informally and collaboratively or, as a last resort, initiating another investigation.

Source: (Office of the Ombudsman of Ontario, 2017[11]).

In order to improve their responsiveness and openness, oversight bodies can develop a strategy for better communication and enhancing public participation. With more visibility and trust among the citizens, oversight bodies may achieve greater impact on the administration. Recommendations can be published and disseminated through various communication channels, such as press releases, social media and public presentations. The visibility of ombudsman institutions might also be improved with greater territorial presence of the institution. For instance, the Ombudsman of Poland organises regional consultations (Box 12.4).

Box 12.4. Regional consultations run by the Ombudsman of Poland

The Ombudsman of Poland has been running a programme of regional consultations since 2016. Every year, the Ombudsman and their team visit numerous municipalities (49 in 2016; 58 in 2017; 38 in 2018). These meetings with the Ombudsman are open to all interested participants. They are accompanied by consultations with local CSOs and academia. During the visits, individual complaints may be submitted directly to the Ombudsman's team, resulting in a systematic increase in the total number of cases received and investigated by the Ombudsman over the past years. Respectively, 25 642 and 25 711 cases were examined for 2016 and 2017 alone, out of 52 551 and 52 836 applications in total. Regional meetings also enabled the Ombudsman to identify new areas of systemic violations of freedoms and rights in public organisations.

Source: (Commissioner for Human Rights, 2017[12]); (Commissioner for Human Rights, 2018[13]).

With regard to supreme audit institutions, publishing audit reports is not sufficient to strengthen public trust. The function of SAIs has evolved, with some now playing a foresight role where the results of their data collection can be used to analyse relevance, performance and alternatives to existing public processes. In turn, these results and recommendations feed into the policy formulation stage (OECD, 2016[7]). Some SAIs have notably been involved in strengthening merit-based human resource management systems and their transformation from career- to position-based systems, where corruption risks can arise from revolving doors or lobbying activities. In Austria and the United Kingdom, the assessments of SAIs contributed to increasing transparency and the integrity of public-private partnerships and public procurement, strengthening whistleblower protection, and defining safeguards against undue influence in public decision-making processes.

Traditionally, as bodies of parliamentary oversight of the executive, SAIs were not obliged to interact with the citizens, as the legislature was their main counterpart. The evolution of their role towards becoming the most prominent public watchdog can be accompanied by opening SAIs to citizens' inputs and engagement (OECD, 2017[14]). SAIs could consider enabling citizens to submit complaints and proposals for topics or public bodies to be audited. Citizens and civil society organisations may also be invited to share feedback about implementing the recommendations of SAIs (UN Department of Economic and Social Affairs, 2013[15]).

SAIs, ombudsmen and regulatory enforcement agencies can also collect information through systematic media monitoring, including not only national but also regional and local media outlets reporting on alleged wrongdoings of the administration. In such cases, oversight bodies may initiate investigations *ex officio*, without a formal request from the citizens affected. Oversight institutions may set up a team or unit tasked with collection of data from media monitoring.

The remit of the administrative courts could embrace all actions and omissions of the bodies performing public functions. The deadlines for submitting a case (appeals, complaints against administrative actions and omissions) need to be long enough to ensure that the party can prepare the submission and collect all necessary information. Accessibility to administrative justice is essential. The court fees should not prevent those in need from accessing justice and legal aid. Moreover, processing of cases by the courts in a reasonable time frame helps ensure confidence in the court system. In some countries, the legislation imposes deadlines for administrative courts to consider the cases and/or issue a decision, which can be extended under specific and complex circumstances.

Individual complaints about and allegations of wrongdoings by regulated entities can also be taken into account by regulatory enforcement agencies in planning inspection activities. These agencies can ensure that the necessary measures are in place to enable the public to submit complaints and report allegations through various channels (in person, in writing, via phone or forms available on the website), with submissions free of charge and bureaucratic burden reduced to the necessary minimum, e.g. describing the case and providing the applicant with contact details. Awareness-raising campaigns about the typologies and risks associated with wrongdoings can be used to encourage the public to report (Box 12.5). Agencies need to carefully analyse the information received from third parties to distinguish between substantiated complaints indicating infringements of regulations and complaints expressing general dissatisfaction with services provided by the regulated entities (OECD, 2014[16]). Moreover, governments can ensure that regulatory agencies adopt procedures and processes to deal with complaints and allegations that provide strong evidence of a major and imminent risk (OECD, 2014[16]).

Box 12.5. "It's bad for you, harmful for all": Increasing awareness about the right to report wrongdoings in Portugal

In 2014 the Portuguese Authority for Working Conditions (ACT) launched an awareness-raising campaign against undeclared work. It was inspired by the alleged proliferation of undeclared work due to the economic crisis. The campaign was addressed both to the employers and to workers. The major objective was to use awareness-raising measures in order to promote the transformation of undeclared work into regular employment. In addition to posters, brochures and flyers distributed among workers and businesses, awareness-raising sessions were organised for employers, but also at elementary and high schools. A telephone helpdesk and FAQ on the ACT website were also launched. The campaign was complemented by press and radio advertisements. As a result, during the period of 2014/2015 around 9 000 cases of undeclared work were identified and the status of these workers was changed to regular employment.

Source: European Platform Undeclared Work, Practice fiche: Awareness-Raising Campaign, Portugal, https://ec.europa.eu/social/main.jsp?pager.offset=5&catId=1495&langId=en.

12.2.3. Ensuring impartial enforcement of laws and regulations by oversight bodies

The principle on oversight also calls on adherents to ensure the impartial enforcement of laws and regulations, which may apply to public and private organisations or individuals, by regulatory enforcement agencies (OECD, 2017[1]). This requirement can be met if the regulatory enforcement agencies are free from undue influence of political decision makers and interest groups, and remain subject to external accountability, particularly judicial review of their decisions.

The independence of regulatory enforcement agencies has two dimensions (OECD, 2018[17]): 1) formal (*de jure*) independence requiring that regulatory agencies remain outside the bureaucratic, hierarchical chain of command within a ministry; and 2) actual (*de facto*) independence, which relates to the agency's self-determination in the use of regulatory measures (Hanretty and Koop, 2012[18]).

Preventing political decision makers from giving instructions or adopting binding guidance and directions on the regulatory enforcement agencies' measures and priorities fosters their formal independence. The agencies can be provided with extensive independence in selecting the regulated entities to be inspected and deciding on the measures to be applied, including sanctions. The managing bodies of agencies can be appointed through open and transparent procedures for a fixed term, with limited possibility for early dismissal based on grounds entrenched in legislation. Their independence also relies upon their autonomy in defining their internal organisation as well as their human resources and financial management.

Accountability and transparency are the other side of the coin of independence (OECD, 2018[17]). Indeed, these agencies are subject to oversight and control mechanisms to ensure that they effectively achieve policy objectives deemed by government and the legislator to be in the public interest. A clear definition of the regulatory agencies' objectives, comprehensive and meaningful performance indicators, and regular reporting on their performance to the legislature – such as legislative oversight committees, either directly or via their minister – can support this objective (OECD, 2014[19]).

The principle of regulatory enforcement agencies' independence does not imply lack of government supervision of their activities. For instance, respective government departments may be empowered to set performance objectives and targets for agencies operating in its policy domain, while abstaining from interfering with day-to-day management and individual administrative proceedings. Objectives and targets can reflect broader policy objectives and priorities of the government, as well as address the major risks in the relevant domains. The regulatory enforcement agencies can also provide the relevant government departments with up-to-date information from the field about major corruption risks or deficiencies of regulation.

While formal *de jure* independence may create favourable conditions for enhancing *de facto* independence, it cannot fully eliminate the risk of undue influence (OECD, 2017[20]). In order to address this risk, regulators need to build and sustain a strong and institutionally proactive culture of independence that will bolster their daily practice and behaviour (OECD, 2014[19]). An OECD review of the governance arrangements of 130 economic regulators (most of which hold enforcement powers) across 38 countries shows that there is a positive association between independence and accountability. These results confirm the findings of the 2013 OECD Product Market Regulation survey (Koske et al., 2016[21]), indicating that for economic sector regulators, greater autonomy is accompanied by stronger accountability structures. The correlation coefficients can be seen in all reviewed sectors (energy, e-communications, rail and air transport and water) and are particularly strong for regulators in the energy and e-communications sectors. (Casullo, 2019[22]).

Reducing the risk of undue influence of politicians and regulated industries on regulatory enforcement agencies requires formal guarantees of independence, and moreover actively reinforces the agencies' self-determination (OECD, 2018[17]). As such, governments can take into consideration the aspects affecting the degree of actual independence of agencies, presented in Table 12.2.

Table 12.2. Factors determining regulatory enforcement agencies' de *facto* independence

Agency – elected officials	Proportion of revolving doors[3]
	Frequency of contacts
	Influence on agencies' budgets
	Influence of agencies' internal organisation
	Weight of partisan membership in nominations
	Political vulnerability of agencies – early departure of board members
Agency - regulatees	Proportion of revolving doors
	Frequency of contacts
	Adequacy of agency budget for its tasks
	Adequacy of organisational resources
	Closeness of the professional activity of board members
	Personal affairs and relationships

Source: (Maggetti, 2012[23]).

To address aspects affecting the independence of these agencies, some countries – such as Canada and Norway – have developed policies and standards for the managers of regulatory agencies (see Box 12.6, as well as Chapter 13).

Box 12.6. Post-public employment standards for public service in Canada and Norway

Canada: In addition to standards for managing conflict of interest, the Directive on Conflict of Interest, which replaces the former Policy on Conflict of Interest and Post-Employment, imposes some post-employment obligations upon leaving staff.

Prior to leaving the public service, all public servants are required to disclose potential future employment or activities posing a risk of conflict of interest with their functions in public administration. Deputy heads of each public institution are also obliged to designate positions in the internal structure that may face specific post-employment risks of conflict of interest. With regard to these employees, a mandatory one-year cooling-off period has been introduced.

During this period, except with authorisation of their deputy head, a number of restrictions are in place, including:

- accepting appointment to managing bodies or employment offers in entities they dealt with as public servants
- representing or acting on behalf of these entities
- providing advice to clients based on information that is not public or gathered in public functions.

Under specific circumstances, the interested person may apply for a waiver or the reduction of the cooling-off period.

Norway: The Act on the Duty of Information, Quarantine and Recusal for Politicians, Civil Servants and Senior Civil Servants (The Quarantine Act), together with the Regulations on the Duty of Information, Quarantine and Recusal for Politicians, Civil Servants and Senior Civil Servants, set out two post-employment prohibitions:

- *Temporary disqualification* – In the six months after leaving the office, a civil servant or politician cannot be employed by a private organisation operating in the field of responsibilities of the said public official. This ban is compensated by the right to keep receiving their salary during the cooling-off period.
- *Abstinence from involvement in certain cases* – During one year after leaving office, former public officials cannot be involved in cases or areas that they dealt with as civil servants or politicians. Leaving officials are obliged to inform their former public employers about job offers that they receive.

There are two different systems for dealing with the individual cases:

- For issues concerning politicians (prime minister, ministers, state secretaries and political advisers) the decisions are taken by an independent board, called "The Committee on post-public employment restrictions".
- For the rest (senior civil servants and civil servants), the decisions are taken by the local appointment authority.

Source: (Government of Canada, 2012[24]; Government of Norway, 2015[25]; Government of Norway, 2015[26]).

Timely, transparent and robust mechanisms for appeals of significant regulatory decisions are also necessary (OECD, 2014[19]). In practice, this can relate both to oversight of the content of decisions (such as imposing sanctions and fines on market operators), and to procedure, notably with regard to excessive length of inspections and other proceedings conducted by these bodies. Judicial review is also one of the

instruments for measuring the quality of inspection activities. The share of the acts of regulatory enforcement agencies upheld by the courts serves as one of the major quality indicators.

Other oversight bodies, such as SAIs and ombudsman institutions, also review the activities of regulatory enforcement agencies. While ombudsmen investigate potential violations of human rights in the course of inspections, the remit of SAIs enables them to also focus on the effectiveness and efficiency of inspections. Regulatory enforcement agencies could also fall under the transparency regime for all public bodies, enabling individuals to access information about their activities and governance (for more, see Chapter 13).

12.3. Challenges

Although challenges in strengthening external oversight may vary depending on national contexts and setups, they generally include:

- delivering decisions in a timely manner, especially by administrative courts
- reducing the burden and strengthening effectiveness through risk-based reforms

12.3.1. Delivering decisions in a timely manner

Excessive length of judicial proceedings in administrative courts undermines the legal certainty of the parties, creates additional costs, and damages trust in the judiciary as an effective oversight mechanism. Long delays create a sense of impunity, especially if investigations are limited and no sanction is pronounced, or when proceedings and investigations are conducted but limitation periods expire. Delays in delivering administrative justice may result from excessive length of proceedings in one instance, or be created by recurrent consideration of the same case by various instances in the administration and/or courts.

Tackling the issue of excessive length of judicial proceedings requires continuous monitoring of the workload of courts and judges, and improving technical conditions for the court administration. However, the parties affected by the delays should also have access to effective procedural remedies. These include special types of complaints to accelerate the proceedings and a right to seek compensation for damages caused by the delays. Building on the jurisprudence of the European Court of Human Rights, some European countries developed legislation providing for both special complaints procedures and a right to compensation. For instance, Slovenia adopted such a law in 2006 (Box 12.7).

Box 12.7. Right to compensation for excessive length of judicial proceedings in Slovenia

The 2006 Act on the Protection of the Right to a Trial without Undue Delay applies to all judicial proceedings and pre-trial criminal proceedings. This law provides for three legal remedies available to the parties affected by the excessive length of the proceedings:

- supervisory appeal aimed at expediting the hearing of the case
- application to set a deadline for handling of the case
- claim for just satisfaction.

The monetary compensation can amount from EUR 300 to EUR 5 000, depending on the complexity of the case, its importance for the party, and the party's activities in the course of proceedings.

Source: (Republic of Slovenia, 2006[27]).

12.3.2. Reducing the burden and strengthening effectiveness through risk-based reforms

Regulators rely increasingly on combining compliance-based procedures and incentives-driven measures to strengthen impartial and effective enforcement of laws and regulations. Regulatory enforcement agencies are necessary to protect public goods and improve regulatory outcomes, but their activities also create burden and costs for the regulated industries and markets. Smart enforcement is less visible and less burdensome for businesses, and more effective in serving the public interest. Inspection reforms of recent decades provide an extensive catalogue of measures serving this purpose, including:

- Joint planning of inspections enhanced by joint IT systems for all or most of the inspectorates.
- Risk-based targeting enabling agencies to limit the total number of inspections, while increasing the effectiveness of the overall inspection scheme. Risk-based targeting requires advanced methodology and access to data collected by numerous public institutions.
- Providing regulated entities with clear guidance on "how to do things right", including the preparation and publishing of checklists to be used by the inspectors (Blanc, 2012[28]).

To complement traditional compliance tools, regulators increasingly use behavioural insights to shape incentives and norms (OECD, 2016[29]). In various areas ranging from public service delivery to tax collection, a number of organisations and regulatory enforcement agencies have carried out experiments to identify where behavioural insights could improve compliance and implementation. The experiments themselves have ranged from improving the effectiveness of formal rules and practices within public organisations to broadening incentives to regulated entities and citizens. For example, in the financial products and public works fields, experiments have led to solutions that could improve complaints resolution and increase civic engagement with public organisations, respectively. Beyond fostering implementation and compliance, behavioural insights can also be applied to evaluate the effectiveness of implementation, feed into policy design and reforms, and – building on lessons learned – reduce the need for correcting measures (OECD, 2017[30]).

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Notes

[1] SAIs with jurisdictional powers are also entitled to proceed with enforcement actions.

[2] For a detailed overview of auditing for integrity, including country case studies, see (EUROSAI Task Force on Audit & Ethics, n.d.[31]). For further guidance on how to audit for integrity, see (EUROSAI Task Force on Audit & Ethics, 2017[33]).

[3] There are three types of revolving door flows that should be considered: 1) Public-to-private: former public officials currently serving regulatees; 2) Private-to-public: former executives of regulatees taking over public functions; 3) Private-to-public-to-private: combination of type 1 and type 2 movements (Brezis and Cariolle, 2014[32]).

13 Participation

This chapter provides a commentary on the principle of participation contained within the OECD Recommendation of the Council on Public Integrity. Through insights on promoting transparency and open government, it offers guidance on fostering individuals' right to know and engaging stakeholders throughout the policy-making process. The chapter also looks at key components to avert policy capture, including managing conflict-of-interest situations and promoting transparency in lobbying and the financing of political parties and electoral campaigns. It explores an additional factor to foster participation and accountability, namely setting the standards and practical conditions for a society that includes "watchdog" organisations. Finally the chapter discusses several challenges to participation, including how to develop meaningful stakeholder engagement measures and implement effective revolving door regulations.

13.1. Why participation?

Public policies are at the centre of the relationship between people and governments. To a large extent, they determine the quality of people's daily lives. While in principle policy makers should pursue the public interest, in practice they also need to acknowledge the existence of diverse legitimate interest groups and consider the costs and benefits for these groups. Since policies generally entail both winners and losers, real "win-win" situations are an exception. This context creates incentives and opportunities to influence public decisions in favour of a particular stakeholder, thereby excluding others from public decision-making processes.

Enforcing the right to know through transparency and access to information, and the inclusive and fair participation of stakeholders and participation of advocacy groups, media and "watchdog" organisations, are key instruments for levelling the playing field and reaching informed public decisions. Promoting integrity and transparency in lobbying and the financing of political parties and campaigns, and managing and preventing conflict of interest, also protect the policy-making process from being dominated by particular interests.

The OECD Recommendation on Public Integrity states that adherents should "encourage transparency and stakeholders' engagement at all stages of the political process and policy cycle to promote accountability and the public interest, in particular through:

a. promoting transparency and an open government, including ensuring access to information and open data, along with timely responses to requests for information;
b. granting all stakeholders – including the private sector, civil society and individuals – access in the development and implementation of public policies;
c. averting the capture of public policies by narrow interest groups through managing conflict-of-interest situations, and instilling transparency in lobbying activities and in the financing of political parties and election campaigns;
d. encouraging a society that includes "watchdog" organisations, citizens groups, labour unions and independent media" (OECD, 2017[1]).

13.2. What is participation?

Strengthening participation in the policy-making process is a multifaceted means to foster public scrutiny, ensure accountability and provide information to individuals. Increasing participation requires the following:

- The government is open and transparent, ensuring timely and unrestricted access to information and open government data.
- Stakeholders can participate in the design, implementation and evaluation of public policies.
- Robust measures to avert the capture of public policies are in place.
- The legal, political and public environments support effective civic space and thereby a robust civil society.

13.2.1. The government is open and transparent, ensuring timely and unrestricted access to information and open government data

Transparency is necessary for public integrity, as it increases the costs of concealment and fraud associated with corrupt activities. From a behavioural perspective, transparency can also reduce unethical behaviour, because the perception that one's behaviour is visible and potentially observed introduces an element of accountability that makes justifying unethical action more difficult (OECD, 2018[2]). Open government, access to information and open government data are three critical tools that governments can use to ensure transparency and accountability.

Open government

Open government can be defined as "a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth" (OECD, 2017[3]). The key principles of an open government are detailed in the OECD Recommendation of the Council on Open Government, and include:

- transparency – the disclosure and subsequent accessibility of relevant government data and information
- integrity – the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector
- accountability – the government's responsibility and duty to inform its citizens about the decisions it makes as well as to provide an account of the activities and performance of the entire government and its public officials
- stakeholder participation – all the ways in which stakeholders can be involved in the policy cycle and in service design and delivery, including through the provision of information, consultation and engagement (OECD, 2017[4]).

Guidance as well as implementation, co-ordination and evaluation structures and mechanisms (e.g. strategies and action plans, open or digital government task forces or units, platforms or portals, databases, dashboards, toolkits, etc.) support public organisations in their daily efforts to apply open government principles (OECD, 2017[4]).

Access to information

Access to information laws, another key component of transparency, necessitates balancing access with both individual rights to privacy and the confidentiality of information which if disclosed could harm the public interest. Beyond this dual challenge, an effective access to information regime requires an enabling legal framework, clearly defined and limited exemptions and barriers, adequate resources, and timely responses.[1]

Ensuring an enabling legal environment for access to information

An enabling legal framework safeguards the right to access public information. However, provisions related to access, exemptions and restrictions may exist in different parts of the legal and regulatory framework, from access to public information acts to data protection and privacy acts, including media and defence or trade secrets regulations. Dispersed provisions may create obstacles in implementing access to information, due to overlaps or distinct definitions and frameworks. As such, ensuring consistency across provisions facilitates interpretation and implementation, and enhances effective and efficient handling of information requests and responses.

To support effective implementation, policy elements that can also complement the legislative framework include:

- institutional policies with regard to practical response times, which may be shorter than the ones prescribed by law
- access that is free or free under certain circumstances, or applicable fees that should not hinder access to information
- information management, with consideration for quality, protection and security of the information
- active dissemination of information (e.g. campaigns, printed or broadcast materials) and how it should be presented (e.g. guidelines, style manuals, etc.)
- guidance on how to handle contacts with citizens (OECD, 2001[5]).

Moreover, to support implementation, governments can assign the relevant responsibilities for implementing, controlling and enforcing access to information laws at the national, sub-national and organisational levels (for more, see Chapter 2). Oversight functions such as information commissioners or ombudsmen may also play a role in controlling, handling and investigating complaints (for more, see Chapter 12) and issuing recommendations for further reforms (OECD, 2001[5]).[2]

Limiting exemptions and barriers

Across all OECD governments, exceptions regarding certain government information are usually defined in the legal and regulatory framework to account for sensitive data and information on national security, personal data and commercial confidentiality (OECD, 2016[6]). Limiting exemptions to these specific, clearly defined areas ensures that access to public information remains the norm. Governments can clarify that these or other justifications are not to be used to unduly restrict citizens' right to access public information.

Moreover, while governments may require identification or proof of interest as a screening or prioritisation tool, a heavy process can create barriers. Ensuring that only the necessary information is required or allowing anonymous requests may reduce these risks. Yet, limitations to such provisions may apply when identity disclosure is needed to process the request. OECD governments have adopted diverse positions on the issue of anonymity. For example, anonymity is provided *de facto* in the United Kingdom and Canada, whereas in Estonia and Finland it is guaranteed by specific provisions in the respective freedom of information legislation (OECD, 2016[6]).

Another barrier to requests can include fees charged to access public information. Most fees depend on the number of pages (re-)produced or time needed to process the request. With open government data disclosure, public entities are encouraged to abandon fees in order to ensure equal and timely access and reuse of public information.

Allocating sufficient resources to guarantee access to information

Dedicating sufficient resources (human and financial) allows organisations to proactively produce or publish information, or process requests in a timely manner. Similarly, governments can invest resources in implementing tools, such as electronic instruments, registers, portals or applications that enable access to public information. Such information systems are key to guaranteeing effective access to information rights, and can also alleviate some of the aforementioned challenges by allowing anonymity or granting immediate and free access to and reuse of public information.

Ensuring timely responses to requests for access to information

Regulating response times helps ensure that information is provided in a timely manner, and is a common practice across almost all OECD governments (within 20 working days or less). For example, a response is due within 5 days in Estonia, 10 in Portugal, 15 in Finland and Poland, and 20 days in Slovenia and the United Kingdom (OECD, 2016[6]).

In addition to regulating response times, governments can also make use of digital government and digital technologies to support more timely responses to information requests. For example, a website or data portal can ease access or filing requests. Such tools should be user-friendly to improve their usage. This may require reducing the number of folders or links to reach the information, clearly labelling data bulks and pages, or including filters to sort data.

Open government data

When published proactively, in open and machine-readable formats, and if possible free of cost, open government data can contribute to improving the design and delivery of public policies and services (OECD, 2018[7]). The enhanced access to, sharing and reuse of open government data also allow better understanding and monitoring of governments' activities, spending and functioning.

Open government data rely on an "open by default" principle incorporated in the legal and regulatory framework, where exceptions related to data protection, ethics and privacy regulations are clearly listed. To strengthen their legal and regulatory framework, governments can consider the following set of principles defined by governments, civil society and experts in the International Open Data Charter (2015[8]):

- open by default
- timely and comprehensive
- accessible and usable
- comparable and interoperable
- for improved governance and citizen engagement
- for inclusive development and innovation.

Beyond committing to open government data, developing a strategy and action plan helps operationalise an open data policy, with tailored and concrete objectives and actions for delivery (OECD, 2018[7]). Some governments, such as Ireland and Poland, have developed national open data strategies. Others[3] have developed action plans that include open data, in the context of the Open Government Partnership (OGP). In the framework of the OGP, their implementation is assessed and results are recorded in progress reports to ensure accountability to civil society partners and the public. Building on open government data strategies and action plans, public organisations, businesses, individuals, civil society and investigative journalists can reuse them to create new content or partnerships for open government data initiatives.

Creating value from open government data requires making high-value datasets (e.g. fiscal, contracting, budget) publicly available, guaranteeing data quality (accuracy, consistency, comprehensiveness, timeliness) and promoting data demand and reuse (Ubaldi, 2013[9]). Bringing actors such as data-driven journalists closer to open government data initiatives also contributes to promoting the reuse of data towards the achievement of public sector integrity goals (OECD, 2017[10]).

Specific integrity-related open government data initiatives include:

- open contracting, which by opening data on public procurement allows citizens, civil society, journalists and researchers to scrutinise public resources management, to monitor decisions and public spending effectiveness, and to identify corruption risks
- open budgets, as tools to increase accountability of governments, performance budgeting or fiscal transparency
- other open data initiatives for integrity and anticorruption empowering citizens, civil society, journalists, academics and researchers to monitor the transparency and integrity of lobbying activities, political parties and electoral campaign financing, assets and interests disclosure of public officials, beneficial ownerships, etc. (OECD, 2018[7]).

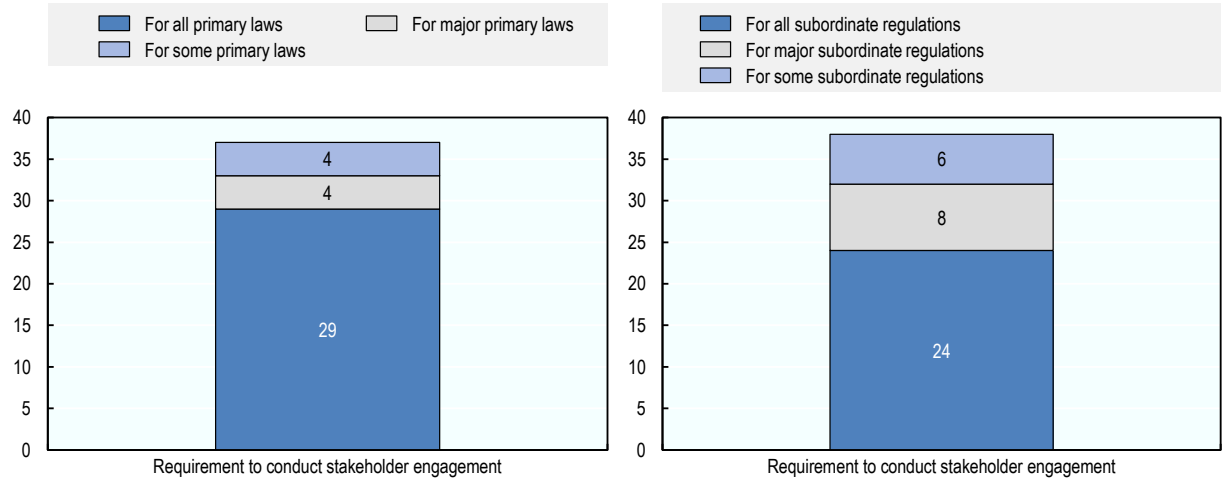
The success of open government data initiatives requires the active and proactive involvement of governments to support and understand the needs of user communities, establish partnerships, and design initiatives and events to foster the reuse of open data for integrity.

13.2.2. Stakeholders can participate in the design and implementation of public policies

Stakeholder engagement refers to involving key stakeholders (government, civil society, business and individuals) in the policy-making process, at all stages of the policy cycle as well as in service design and delivery (OECD, 2017[4]), by providing them with access to relevant material and using their input to improve the quality of policies (OECD, 2018[11]). Meaningful stakeholder engagement safeguards the public interest, enhances the inclusiveness of policies, inspires ownership over policy outcomes and can also support innovative solutions. Governments can collect and check empirical information for analytical purposes, identify policy alternatives, measure expectations and in the end gain valuable information on which to base their policy decisions (OECD, 2018[11]).

At the national level, the requirement to conduct stakeholder engagement may originate from various government instruments, including law, the constitution or mandatory guidelines. Moreover, requirements to conduct stakeholder engagement can cover both primary laws and secondary regulations, as shown in Figure 13.1. In line with less stringent formal requirements, in some countries consultation practices are less developed for subordinate regulations than for primary ones (OECD, 2018[11]).

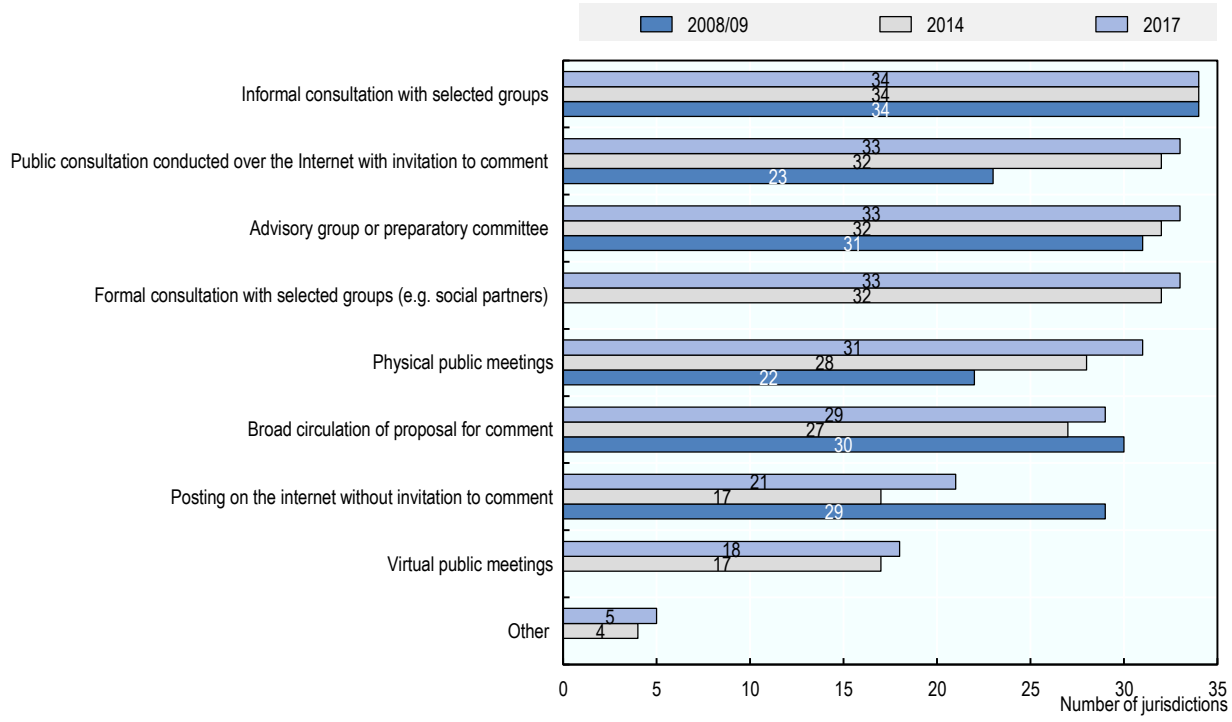
Figure 13.1. Requirements to conduct stakeholder engagement



Note: Data for OECD countries are based on the 34 countries that were OECD members in 2014 and the European Union. Data on new OECD member and accession countries in 2017 include Colombia, Costa Rica, Latvia, and Lithuania.
Source: Indicators of Regulatory Policy and Governance surveys, 2014 and 2017, http://oe.cd/ireg (accessed 19 February 2020).

Stakeholder engagement can take many forms, including focus groups, expert panels and surveys (OECD, 2016[6]). Figure 13.2 identifies different forms of stakeholder engagement practices that can be used for consultation on primary and secondary legislation, although engagement practices can extend beyond regulatory processes (OECD, 2017[12]) (OECD, 2018[11]).

Figure 13.2. Forms of stakeholder engagement



Note: Data for OECD countries are based on the 34 countries that were OECD members in 2014 and the European Union. Data on new OECD member and accession countries in 2017 include Colombia, Costa Rica, Latvia, and Lithuania.

Source: Indicators of Regulatory Policy and Governance Surveys, 2014 and 2017, http://oe.cd/ireg (accessed 19 February 2020).

Formally requiring stakeholder engagement is not sufficient to ensure effective implementation: timing and scope also matter. For instance, most engagement initiatives on legal or regulatory proposals take place late in the rule-making process, through public consultation over the Internet or consultation with selected groups (e.g. business associations and trade unions) (OECD, 2018[11]). This timing is often too late to influence the process, and may indicate that stakeholder engagement is a mere formality.

As such, to ensure that stakeholder engagement is meaningful – as well as ensuring democratic legitimacy – governments can integrate it across the policy cycle, from agenda setting to policy evaluation. Table 13.1 identifies tools that governments can use at each stage to ensure meaningful engagement.

Table 13.1. Examples of stakeholder engagement measures to ensure accountability and public integrity along the policy

Agenda setting	Policy development	Policy adoption	Policy implementation	Policy evaluation
• Promote participative platforms and channels over priorities (e.g. participative budgeting) • Conduct public consultations when appropriate • Independent media should hold political parties accountable for their electoral commitments	• Extend broad invitation to public consultations • Facilitate collective action by interests facing problems in organising and participating effectively (e.g. consumers, users of public services) • Ensure involvement of parties with relevant expertise, especially in topics involving high degrees of complexity and technicality	• Limit participation of officials who appear to be in a conflict-of-interest situation • Limit the opportunities to limit the time for legislative debates • Impose restrictions on omnibus draft legislation	• Enable interested parties to follow implementation status (e.g. through ICT tools) • Ensure appropriate accountability mechanisms for those in charge of implementation	• Invite external and independent experts • Share evaluation with broader audiences

Source: (OECD, 2017[13]).

Additionally, to prevent stakeholder engagement processes from being "hijacked" by powerful interests, governments can look beyond traditional consultation processes, targeting the "willing but unable" and the "able but unwilling". Some social groups, hampered by a lack of awareness, low participation literacy and information overload, are unlikely to engage effectively ("willing but unable") even when given the opportunity; by contrast, well-organised groups use traditional channels of communication with government more effectively. Governments can appeal to people who are "able but unwilling" to participate because of subjective barriers, such as a low interest in politics or a lack of trust in the meaningful use of popular input in the consultation process (OECD, 2009[14]). In some countries, governments are working with civil society groups to access hard-to-reach social groups. For example, organisations like Involve in the United Kingdom and MASS LBP in Canada bring together a range of different groups in society to engage with national and sub-national levels of government on specific policy issues. Table 13.2 provides a framework for managing stakeholder engagement to promote accountability and the public interest.

Table 13.2. Managing stakeholder engagement for accountability and the public

Policy objectives		Policy actions
Ensure transparency and accountability	Set a clear objective and define the scope of engagement	Identify objectives and desired outcome of the engagement: • Seek expert knowledge? • Obtain buy-in from stakeholders? • Etc. Define the roles and responsibilities of all parties and the required level of engagement Consult, collaborate and empower
	Actively disseminate balanced and objective information on the issue	Make relevant information publicly available through channels such as websites, newsletters and brochures
	Allow information disclosure	Provide access to information upon demand by stakeholders • Freedom of information law Promote media and civil society scrutiny Establish independent oversight body to ensure appropriate disclosure
Enhance quality and reliability	Target groups relevant to the issue	Find the right mix of participants and ensure that no group is inadvertently excluded: • Stakeholder mapping and analysis • No marginalisation of "usual suspects"
	Incorporate knowledge and resources beyond public administration	Consult with experts and draw upon their expertise through means such as expert group workshops and deliberative polling
	Promote co-ordination within and across governmental organisations	Ensure policy coherence, avoid duplication, and reduce the risk of consultation fatigue: • Establish a central agency or unit focused on intergovernmental co-ordination
Promote implementation and compliance	Allow adequate time	Undertake stakeholder engagement as early in the policy process as possible to allow a greater range of solutions and raise the chances of successful implementation
	Enhance confidence in the decisions taken	Build mutual understanding to increase the likelihood of compliance
	Manage expectations and mitigate risks	Identify and consider risks earlier in the process, thereby reducing future costs
Provide comprehensive support and capacity	Introduce new forums and technologies for outreach	Develop online engagement tools (e.g. web participation, social media)
	Support stakeholders	Provide support to stakeholders to help them understand their rights and responsibilities: • Raise awareness and strengthen civic education/skills • Support capacity building
	Develop internal capacity in the public sector	Provide guidance/a code of conduct to foster an organisational culture supporting stakeholder engagement Provide adequate capacity and training, i.e. • Sufficient financial, human and technical resources • Access to appropriate skills, guidance and training for public officials
	Evaluate the process together with stakeholders	Assess the effectiveness of engagement and make the necessary adjustments: • Identify new risks to the system's policy objectives • Identify mitigation strategies

Source: (OECD, 2017[13]).

13.2.3. Robust measures to avert the capture of public policies are in place

Policy capture is the process of consistently or repeatedly directing public policy decisions away from the public interest and towards the interests of a specific interest group or person. Policy capture can be achieved through diverse means such as bribery, but also through legal activities and mechanisms such as lobbying and financial support to political parties and election campaigns (OECD, 2017[13]). To avert capture of public policies by specific interests, it is essential to establish clear and proportionate measures to i) prevent and manage conflicts of interest, ii) manage asset and interest disclosures, iii) instil transparency and integrity in lobbying activities, and iv) ensure transparency and integrity in the financing of political parties and electoral campaigns.

Measures to manage conflicts of interest are in place

Managing conflicts of interest in the public sector is crucial. If they are not detected and managed appropriately, they can undermine the integrity of officials, decisions, agencies and governments, and ultimately lead to private interests capturing the policy process (OECD, 2004[15]). Managing conflicts of interest helps level the playing field and ensure stakeholders' fair and adequate access to policy makers and policy-making processes. The OECD Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service adopted a definition to support effective identification and management of such situations:

> *A "conflict of interest" involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests, which could improperly influence the performance of their official duties and responsibilities. (OECD, 2004[15])*

Governments can set clear rules on what is expected of public officials in preventing and managing conflict-of-interest situations, both when they join the public service and throughout their careers (for more, see Chapters 1 and 4). Rules should clearly note that public officials are responsible for managing and preventing conflicts of interest. Moreover, rules should provide a clear and realistic description of circumstances and relationships that can lead to a conflict-of-interest situation. The description of conflict-of-interest situations should be consistent with the idea that situations exist in which the private interests and affiliations of a public official create, or have the potential to create, conflict with the proper performance of official duties. The description should also recognise that public organisations are responsible for defining situations and activities that are incompatible with their role or public duties. Clear rules and descriptions help build a common understanding of conflict-of-interest situations within the public sector but also with external partners, enhancing transparency and integrity in public decision-making processes.

To ensure that employees understand their responsibilities under the conflict-of-interest measures, governments could involve employees and their representatives in reviewing existing conflict-of-interest policies, consulting with public officials on future prevention measures, and providing capacity building for public officials to gain knowledge of and skills for dealing with conflict of interest. Public organisations can also publish the conflict-of-interest policy, provide regular reminders, and ensure that rules and procedures are available and accessible. Furthermore, as preventing and managing conflicts of interest are responsibilities shared with the private sector, public organisations can raise awareness of standards of conduct in place to prevent and mitigate public officials' conflicts of interest (for more, see Chapter 4).

Moreover, public organisations need to ensure that specific measures are in place to address at-risk positions such as public procurement, revenue collection or licensing, as well as at-risk situations such as pre- and post-public employment, additional employment or outside appointments. Measures can include removal (temporary or permanent), recusal or restriction, transfer or rearrangement, and resignation (for more, see Chapter 4).

Furthermore, assigning clear responsibilities for the conflict-of-interest policy is critical for ensuring implementation (for more, see Chapter 2). Some governments assign responsibility to a centralised body, whereas others have a centralised body with contact points within each ministry or agency. For example, in the United States executive branch, the central supervising ethics office is the Office of Government Ethics, which is supported by contact points – known as Designated Agency Ethics Officials – in each executive agency. The key consideration is to ensure policy responsibility by identifying a function as responsible for developing and maintaining the conflict-of-interest policy and procedures.

Finally, to enable effective accountability for managing and preventing conflict-of-interest situations, public organisations can implement clear procedures for identifying a conflict-of-interest offence, and proportional consequences for non-compliance with the conflict-of-interest policy (including disciplinary sanctions). Public organisations can also develop monitoring mechanisms to detect policy breaches, which could include for example complaint mechanisms to deal with allegations of non-compliance.

Measures to manage asset and interest disclosure are in place

Asset and interest disclosure is widespread across OECD governments (OECD, 2015[16]). By promoting transparency, disclosure helps to strengthen accountability mechanisms and safeguards against undue influence on policy makers and policy-making processes. Moreover, implementation of asset and interest disclosure mechanisms helps detect and prevent unethical behaviours and abuse of power in the public service, as well as risks of money laundering and corruption (Rossi, Pop and Berger, 2017[17]). When both interests and assets are covered, governments have either chosen one single form of disclosure, as in Mexico, or two separate ones, as in France, Lithuania and Portugal. Disclosure provisions cover financial and non-financial assets and interests that public officials hold, including:

- financial: real assets and personal properties (houses, fields, boats, jewellery, works of art, etc.), financial assets and investments, securities and stocks, trusts, income, intangible assets (licences, permits, intellectual property rights), liabilities, remunerated memberships, positions and outside activities as well as government contracts
- non-financial: non-remunerated memberships, positions and outside activities, spouse or partner's functions, etc.

Governments have sometimes requested that public officials declare additional information such as beneficial ownership or control of companies, gifts and sponsored travels, expenses and transactions while in functions, pre-tenure employment work and activities, children's and other relatives' functions and activities, etc.

Clearly defined objectives pursued by asset and interest disclosure and verification processes to ensure their effective implementation are essential. Some disclosure mechanisms aim at detecting illicit enrichment, others at preventing conflicts of interest, and still others both. As such, these mechanisms foster public officials' accountability to oversight institutions and the public. They are instrumental in the detection of financial and non-financial interests that may affect their decisions. However, verification of compliance with requirements to disclose as well as checks on the accuracy and completeness of the content need to be performed for effective implementation. These processes may involve dedicated human resources with the necessary technical skills and may include cross-checking information with other publicly available data sources (real estate, public registers of companies, etc.) and administrative databases (tax administration, anti-money laundering units, procurement databases, etc.). Conducting verification procedures in order to prevent or detect conflict of interest includes:

- Compliance with restrictions to strengthen public integrity, notably on prohibited outside activities (rules on incompatibility), divestment of financial interests, post-employment restrictions, etc. Non-compliance with these restrictions and requirements can result in sanctions.
- Detection of specific interests or activities that may give rise to situations of potential, actual or apparent conflicts of interest with a public official's duties and position.

Moreover, clear objectives and corresponding verification processes help ensure the regularity of disclosure and verification. Disclosure before or upon entry into public functions and departure is often provided for. These processes are instrumental in detecting potential conflicts of interest in public functions or post-public employment. In between, governments may opt for additional disclosure, on a regular basis (annually or every two years) or when changes occur in public duties or in the public officials' assets and interests, to detect any issue that may arise from such changes. When the scope covered by disclosure requirements is large and/or the frequency is higher, adopting a risk-based approach to prioritising controls is necessary.

The legal and regulatory framework may also provide for transparency mechanisms proportionate to functions occupied and integrity risks, to foster not only management but also prevention of conflicts of interest in the public sector. Various methods to make the information public and accessible are used. They include publishing interest declarations, as in France, Latvia and Mexico; providing summaries of

declarations, as in Canada; or publishing summaries of declarations of assets in the Official State Gazette and declarations of activities upon request, as in Spain. Making an interest or a potential conflict of interest public can also rely upon public ad hoc disclosure – for instance, in the course of debate in a parliamentary committee or plenary session, as in the UK House of Commons (House of Commons, 2009[18]).

Making information available also helps inform the public about public officials' interests, links and potential biases in policy making, thereby providing an additional accountability and scrutiny mechanism. The information made public can be reused for investigative purposes by journalists and other jurisdictions, for research by academia and think tanks, or for advocacy reasons by civil society organisations. This allows holding public officials accountable and verifying if they effectively made special arrangements to manage their conflicts of interest.

Measures to instil transparency and integrity in lobbying activities are in place

Lobbying is "the oral or written communication with a public official to influence legislation, policy or administrative decisions" (OECD, 2010[19]). It provides decision makers with valuable insights and information, and can facilitate stakeholder access to policy development and implementation. Yet it is often perceived as undermining equitable access and preventing fair, impartial and effective policy making, as it might be a mechanism used by powerful groups or specific interests to influence laws and regulations at the expense of the public interest. Indeed, practices to influence public policies go beyond lobbying and can include a myriad of other actions, such as sponsorship, financing research and education, funding organisations, philanthropy, and support for advocacy networks. Undue influence can also be exercised without public decision makers' direct involvement or knowledge, by manipulating the information provided to them, or establishing close social or emotional ties with them (OECD, 2017[13]).

The OECD Recommendation of the Council on Principles for Transparency and Integrity in Lobbying sets out the following measures to ensure that lobbying is a useful tool for policy making:

- setting clear definitions for "lobbyists" and "lobbying"
- enhancing transparency in lobbying activities
- fostering a culture of integrity in the interactions between lobbyists and public officials
- ensuring effective implementation, compliance and review (OECD, 2010[19]).

Governments can ensure a clear definition of lobbying and lobbyists by determining the actors covered by lobbying rules and regulations. Some countries, such as the United Kingdom, opt for a narrow scope that includes only consultant or in-house lobbyists, while others cover wider categories such as civil society organisations, businesses and others, as is the case in both France and Ireland (Box 13.1). Indeed, including a wide range of actors under the definition of lobbying, such as in-house or consultant lobbyists, trade and business associations, trade unions, think tanks, or CSOs can help ensure clarity in terms of who has influence in the policy-making process. Coupled with this, governments can define the types of communication with public officials that are or are not considered lobbying, as in the case in the Irish Regulation of Lobbying Act (Box 13.1).

To enhance transparency in lobbying activities, governments can require disclosures by lobbyists, including their name, contact details, the employer's name and names of clients, and whether the lobbyist is a former public official, receives any government funding, or contributes to any political campaigns. Governments can also enable scrutiny of lobbying activities by providing timely, reliable, accessible and intelligible public disclosures of reports on those activities. Moreover, creating open and user-friendly registers can facilitate public access to data on lobbying activities. This may be done for example through an open online register (as is the case in Canada, France and Ireland, among other countries). To ensure a high compliance rate and that relevant information is disclosed in a timely manner by lobbyists, registering or filing declarations should be easy. This may involve providing generic menu lists for basic information to disclose, or in-context guidance to answer commonly asked questions and support lobbyists

throughout these processes, and allowing them to access, update and modify former registrations, reports and declarations when applicable. Developing these instruments requires dedicated financial and human resources, as well as capacities and skills to support both developing and implementing these tools.

Fostering a culture of integrity in the interactions between public officials and lobbyists requires clear rules of and guidelines for conduct for public officials. This includes principles, standards and procedures that give public officials clear direction on how to engage and communicate with lobbyists (OECD, 2014[20]). For example, in Ireland a code of conduct was drafted to guide their behaviour following a large-scale consultation (Box 13.1). Such a consultative process helps to involve stakeholders in the process; to understand their constraints, potential misunderstandings and demands; and to ensure higher acceptability and implementation of the rules.

Box 13.1. Regulation of Lobbying and Code of Conduct for persons carrying out lobbying activities in Ireland

The Irish regulations on lobbying were informed by a wide consultation process that gathered opinions on its design, structure and implementation, based on the OECD Recommendation on Principles for Transparency and Integrity in Lobbying.

The 2015 Regulation of Lobbying Act is simple and comprehensive: any individual, company or CSO that seeks to directly or indirectly influence officials on a policy issue must enrol on a public register and disclose any lobbying activity. The rules cover any meeting with high-level public officials, as well as letters, emails or tweets intended to influence policy.

According to the regulation, a lobbyist is anyone who employs more than 10 individuals, works for an advocacy body, is a professional paid by a client to communicate on someone else's behalf or is communicating about land development. All individuals and entities covered by this definition are required to register and disclose the lobbying activities they carry out and to comply with an established code of conduct.

On 28 November 2018, the Standards in Public Office Commission launched its Code of Conduct for persons engaged in lobbying activities. It came into effect on 1 January 2019, and will be reviewed every three years. The definition of this code was also based on a wide consultation process, involving local, national and international actors. All inputs to the consultation were made publicly available on the website of the Commission along with the code.

The code sets out the eight principles to govern lobbying activities:

- Demonstrating respect for public bodies
- Acting with honesty and integrity
- Ensuring accuracy of information
- Disclosure of identity and purpose of lobbying activities
- Preserving confidentiality
- Avoiding improper influence
- Observing the provisions of the Regulation of Lobbying Act
- Having regard to the Code of Conduct.

Source: (Parliament of Ireland, 2015[21]; Standards in Public Office Commission, 2018[22]; Standards in Public Office Commission, 2015[23]).

Moreover, lobbyists themselves can ensure integrity in the way they engage with public officials through self-regulation mechanisms, such as a code of conduct and a monitoring-and-enforcement system. A number of existing measures are in place to promote adherence to high standards of conduct in lobbying, including the Code of Venice, Code of Athens, Code of Lisbon, the Stockholm Charter and the Code of Brussels, as well as regional codes and charters within professional organisations (for a concise overview of these codes and standards, as well as other self-regulation measures, see (Transparency International Ireland, 2015[24]; OECD, 2012[25])

Ensuring integrity in lobbying also involves establishing standards for public officials leaving office to prevent conflict of interest when seeking a new position, inhibit the misuse of "confidential information" and avoid post-public service "switching sides" in specific processes in which former public officials were substantially involved (Box 13.2) (OECD, 2014[20]). Time limits, or "cooling off" periods, are a useful tool to restrict post-public employment lobbying, "switching sides", and use of insider information.

Box 13.2. Cooling-off periods in OECD member countries: Select examples

There is substantial variation between as well as within countries that use cooling-off periods according to position, when it comes to time limits adopted. For example:

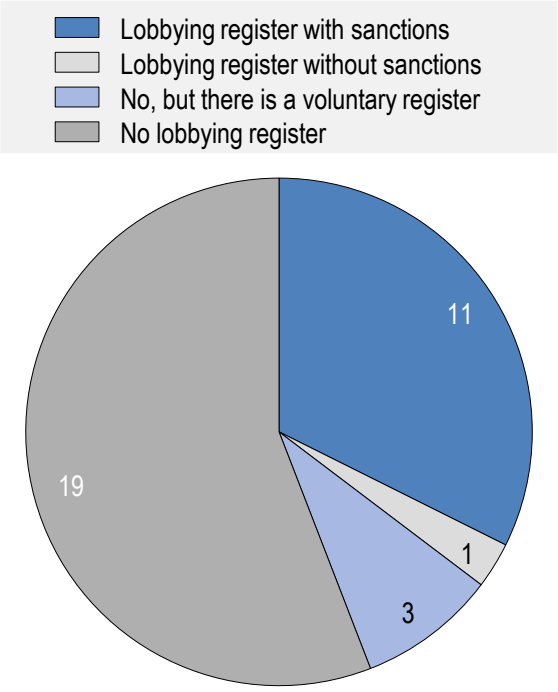
- In Australia, article 7 of the Lobbying Code of Conduct sets a cooling-off period of 18 months for ministers and parliamentary secretaries, and 12 months for ministerial staff. During those times, the former are prohibited from engaging in lobbying activities pertaining to any matter on which they worked in the last 18 months of employment, and the latter in the last 12 months.
- In Canada, the Lobbying Act prohibits "former designated public office holders" from carrying on most lobbying activities for a period of five years.
- In Italy, specific national legal provisions (d. lgs. 165/2001, art. 53, c. 16-ter, modified by the Anti-Corruption law no. 190/2012) prevent public officials who have held managerial and negotiating positions in the previous three years from performing related duties in a private sector entity.
- In the United Kingdom, the Ministerial Code does not allow ministers to lobby government for two years after they leave office. Moreover, UK ministers and senior crown servants must seek permission of the Advisory Committee on Business Appointments before taking on any new paid or unpaid appointment within two years of leaving ministerial office or crown service.
- In the United States, public procurement officials are prohibited from accepting compensation from a contractor for one year following their government employment if they served in certain decision-making roles with respect to a contract awarded to that contractor. They are also required to disclose any contacts regarding non-federal employment by an offeror on an active procurement, and either reject such offers of employment or disqualify themselves from further participation in the procurement.

When considering the length of cooling-off periods, core factors to take into account include whether the time lengths are fair, proportionate and reasonable considering the seriousness of the potential offence. Tailoring the duration of restrictions is also necessary depending on the type of problem area and level of seniority. For example, a ban on lobbying may be appropriate for a specific length of time, but restrictions on the use of insider information should be for life, or until the sensitive information is public.

Source: (OECD, 2010[26])World Bank, OECD and G20 (forthcoming), Preventing and Managing Conflicts of Interest: Good Practices Guide.

Effective implementation of the lobbying measures requires compliance with the framework as well as review. Governments can support implementation by establishing monitoring functions with the necessary capacities to detect non-compliance with registration and disclosure requirements, and errors in reported information. In addition, governments can set clear and compelling sanctions for breaching the standards or code of conduct (OECD, 2014[20]), although as shown in Figure 13.3, only a handful of countries have a lobbying registry empowered with sanctions. In France for instance, following detection of a violation of ethical rules and after formal notice to the individual or entity, any new disregard of the rules for the next three years may result in a one-year prison sentence and a EUR 15 000 fine (HATVP, 2018[27]).

Figure 13.3. Lobbying registries in OECD countries



Source: OECD 2018 PMR database, http://oe.cd/pmr.

Measures to ensure transparency and integrity in the financing of political parties and election campaigns are in place

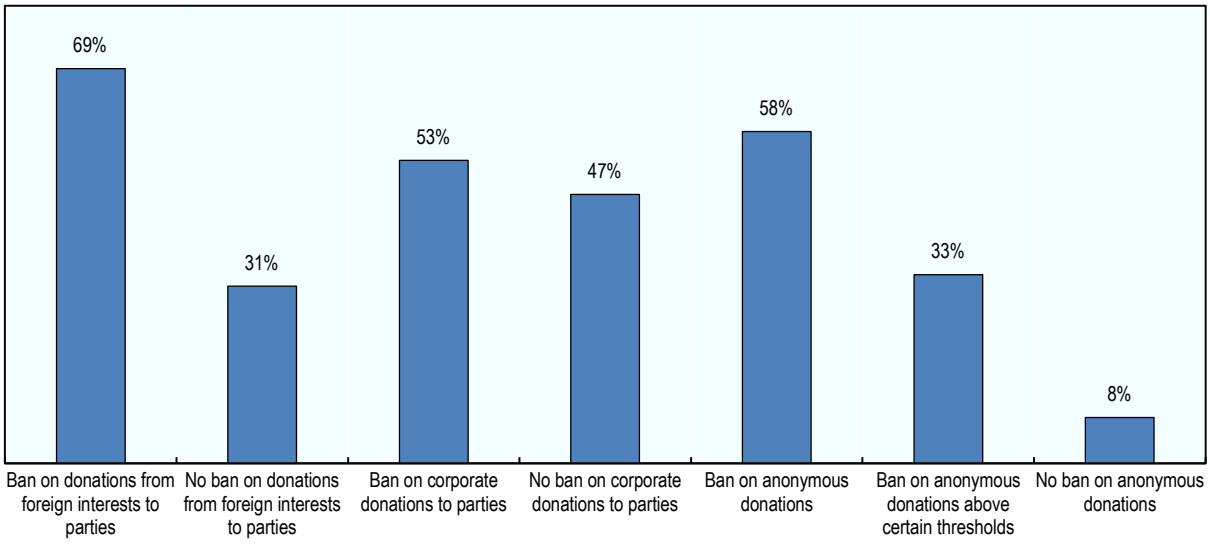
Ensuring transparency and integrity in the financing of political parties and electoral campaigns is crucial to policy making. Financial contributions allow individuals and entities to channel their support to candidates, political parties and particular issues of interest to them. They are a necessary resource for candidates and parties to run for elections and diffuse ideas and manifestos. However, the financing of political parties can also pose significant risks to the integrity of decision making. If the financing of political parties and electoral campaigns is not adequately regulated, money may become an instrument of undue influence and policy capture. Instilling transparency in the financing of political parties and election campaigns is meant to address policy capture risks (OECD, 2016[28]).

The OECD Framework on Financing Democracy sets out the key elements for a robust legal framework for transparency and integrity in the financing of political parties and electoral campaigns, and includes:

- promoting a level playing field
- ensuring transparency and accountability
- fostering a culture of integrity
- ensuring compliance and review (OECD, 2016[28]).

To promote a level playing field, a number of legal and policy options are available. For example, to balance funding from public and private sources, governments (or the relevant functions to regulate political parties and electoral campaign financing) can provide direct funding to political parties or candidates based on clear and equitable criteria, such as equal access and proportionality. Other tools can also be used, such as indirect funding – including tax exemptions – and subsidised access to media and meeting rooms. In determining the level of direct and indirect funding, a few considerations are noteworthy. If public funding is too restrictive it can prevent the creation of new parties, but if it is too permissive it could promote establishment of spurious parties. The legislative framework could therefore allow parties to compete and balance inequalities by monetary or in-kind subsidies, while also maintaining room for private contributions. However, banning certain types of private contributions, including anonymous donations, contributions from foreign states or enterprises, and publicly owned enterprises, helps ensure interests are balanced. Figure 13.4 gives an overview of the types of bans on private funding in OECD countries. As well, governments (or the relevant functions to regulate political parties and electoral campaign financing) can ban the use of public funds and resources in favour of or against political parties during an electoral campaign. They can also incorporate into the legislative framework measures requiring campaign expense limits for political parties, candidates and third parties.

Figure 13.4. Bans on private funding in OECD countries



Source: IDEA, Political Finance Database, https://www.idea.int/data-tools/data/political-finance-database.

The second element involves transparency and accountability measures. Disclosing sufficient and relevant financial information of political parties and candidates helps understand private interests behind contributions, mechanisms and sources of financing, and their potential impact on political competition and decision-making processes (OECD, 2017[13]). To that end, governments (or the relevant functions to regulate political parties and electoral campaign financing) can require that all contributions to political parties and candidates be reported and registered. In doing so, they should bear in mind the donors' right to privacy and data protection, and require political parties to make financial reports public, including all contributions that exceed a fixed ceiling (as is the case in the United States – see Box 13.3). Moreover, governments (or the relevant functions to regulate political parties and electoral campaign financing) can mandate reporting by political parties and candidates of their finances during the electoral campaign. Finally, governments (or the relevant functions to regulate political parties and electoral campaign financing) can apply beneficial ownership rules that require mandatory disclosures of company data to identify the owners of corporations, establish a central register, and make the information accessible to the public.

Box 13.3. Transparency and accessible information in the United States

The Federal Election Campaign Act of 1971 (FECA) obliges political committees to submit financial reports to the Federal Election Commission (FEC), which in turn makes them publicly available in person at the FEC offices in Washington, DC or online. The FEC has developed detailed standard forms to be used, requiring among other things precise information concerning contributions, donors, disbursements and receivers. All contributions to federal candidates are aggregated based on an election cycle, which begins on the first day following the date of the previous general election and ends on the election day, whereas contributions to political parties and other political committees are aggregated on a calendar year basis.

The intensity of the reporting may differ. For example, a national party committee is obliged to file monthly reports in both election and non-election years; a principal campaign committee of a congressional candidate must file a financial report 12 days before and another report 30 days after the election in addition to quarterly reports every year. The FECA prescribes that the financial reports are to be made public within 48 hours; however, in most cases the FEC manages to make reports available online within 24 hours.

Source: (Federal Election Commission, 2019[29]).

Regulating the financing of political parties and election campaigns cannot be effective without also fostering a culture of integrity. On their own, controls of party and election funding could merely lead to rechannelling money spent to obtain political influence through lobbying and through third-party financing. Certain elements of the integrity system are therefore particularly relevant for fostering a culture of integrity for those who are on the receiving end of political party and campaign financing. These include establishing integrity standards and conflict-of-interest policies, ensuring integrity in human resource management, providing capacity building and guidance, and implementing whistleblowing policies as well as mechanisms for control and audit (for more, see Chapters 4, 7-10 and 12).

Finally, compliance and review mechanisms are necessary to ensure transparency and integrity in the financing of political parties and campaigns. In particular, an independent body that has the mandate to oversee the financing of political parties and election campaigns ensures oversight of the whole system. The oversight body needs to have clearly defined and adequate powers, mandate, and financial and human resources. This body can be assigned a mandate to review candidates' and political parties' finance reports, carry out investigations, and refer cases for prosecution. Many institutions that are responsible for examining financial reports and/or investigating breaches of political finance regulations are also able to

impose sanctions. This is the case in Estonia, Latvia, Lithuania and Spain, for example. In other cases, once violations are investigated and ascertained, cases are referred to judicial authorities or bodies with sanctioning power, as in France, Greece, Slovenia, Ireland, and the United States for instance. Sanctions should be effective, proportionate to the violations and damages caused, and dissuasive. Across OECD governments, sanctions may range from administrative penalties to forfeiture, mandatory corrective action, loss of public funding, de-registration and/or criminal punishment.

13.2.4. The legal, political and public environments support effective civic space and thereby a robust civil society

Civil society organisations, labour unions and independent media (herein "civil society") can play a watchdog role in monitoring government. An active and engaged civil society can subject government action to public scrutiny of the performance of duties, the use of powers, and the allocation and spending of public funds. Yet the effective participation of civil society depends on several key factors. First, the existence of an enabling legal framework that allows civil society to participate in all aspects of society without political or legal (including funding) restrictions is crucial. Second, the willingness of the state to engage constructively with civil society matters. As discussed in Section 13.2.2, strengthening the relationship between government and individuals improves the quality of policies by integrating different points of views, and enhancing public trust in the government and its actions. Thirdly, civil society actors must also demonstrate a strong commitment to integrity within their own organisations (for more, see Chapter 5). The rest of this section explores the elements that should be in place to support civil society organisations and media institutions in fulfilling their watchdog role.

Measures are in place for civil society organisations to carry out their watchdog roles

The core measures to ensure civil society organisations can carry out their watchdog roles include freedom of opinion and expression, freedom of association, peaceful assembly, and the right to participate in public affairs. These principles are enshrined in international human rights law, and transposed across national legal frameworks. While countries may differ in the way each of these freedoms are realised, the following measures are crucial:

- promoting freedom of opinion and expression, including a free, uncensored and unhindered press or other media
- ensuring that freedom of association[4] is guaranteed through minimal legal and administrative provisions that favour simple notification to a neutral body and are available to all at little or no cost, with no compulsory registration requirement for basic operations
- supporting freedom of peaceful assembly[5] through a presumption established in law that assemblies will be peaceful, as well as laws that specify that everyone has the right to organise and participate in meetings and demonstrations without a permit or prior authorisation; or, where applicable, clearly defined and rational criteria for registration based on the number of participants
- encouraging the right to participate in public affairs by including legal provisions that elaborate on equal rights and opportunities for all genders and communities to participate in state institutions and political bodies, as well as provisions that enable stakeholder engagement and oversight of government actions (UN High Commissioner for Human Rights, 2016[30]).

Countries need to ensure that the legislation and institutions are in place to protect the lives, liberty, physical integrity and privacy of civil society actors from arbitrary state interference. In addition to ensuring that these freedoms are enshrined in legal text, countries can also support an enabling environment through access to justice mechanisms. This includes access to an independent and effective judiciary, national human rights institutions, and regional and international human rights mechanisms (UN High Commissioner for Human Rights, 2016[30]).

To be effective, the legal framework needs to be complemented by a political and public environment that recognises and upholds the value of an independent, engaged and active civil society. Governments have a number of tools available to show support for civil society. These include support for civic education programmes that champion student engagement with civil society; mechanisms to engage civil society actors in policy development (as discussed in Section 13.2.2) and using awards and honours to highlight the contributions of civil society to the political and public landscape (UN High Commissioner for Human Rights, 2016[30]). Furthermore, as discussed in Section 13.2.1, access to information and open data are also critical components of an enabling environment for civil society.

Measures are in place for media to fulfil their watchdog roles

An independent media is a critical tool for anti-corruption, as it can bring to light cases of fraud and abuse of power that may otherwise remain hidden. Investigating corruption can, however, be a very dangerous undertaking. Around the world, investigative journalists face threats to their safety, including death, injury, harassment or illegal detainment. It is therefore imperative that legislative measures exist to protect journalists, including ensuring appropriate intervention whenever journalists receive threats (Council of Europe, 2016[31]).

The effectiveness of independent media in the fight against corruption can be further undermined if there is not sufficient protection of journalists and their sources from potential retribution.[6] It can be dangerous for members of the public to provide journalists with information, especially if that information concerns serious misbehaviour or pertains to corruption. The legal framework should therefore protect journalists' sources (Council of Europe, 2016[31]). It is very important to clearly specify those restrictions, so that journalists can reliably inform their potential sources about the risks involved in their disclosure of information.

While libel laws may have a role to play in preventing the slander of innocent individuals, the exceptions to freedom of expression should be narrowly defined in order to protect the privacy of others. Exceptions may not be used in combination with harsh penalties (including imprisonment) that aim to deter the media from reporting on corruption cases. Even non-penal libel laws can lead to media self-censorship and therefore should be designed as carefully and clearly as possible.

A plurality of media owners also contributes to a more effective "watchdog" environment by reducing the risk of public opinion being dominated by a single actor. Relying solely on publicly owned media makes it difficult to gauge whether reporting is unbiased. Likewise, relying solely on privately owned media may result in media "moguls" who use their position to exert undue influence on news content. Therefore, opting for and promoting a mix of both public and private media can help ensure a balance (Stapenhurst, 2000[32]). Similarly, transparency in media ownership is also a crucial component. For the public to evaluate the objectivity of specific media outlets and for the government to evaluate media diversity, the business interests of media owners should be transparent and accessible to all. If the media owner does business with the government, transparency is even more relevant to prevent any form of undue political influence. Governments could consider instituting measures to require disclosure of business interests to an independent regulator or directly to the public in the form of a publicly available registry, or both. Governments could also consider establishing transparency measures to identify the beneficial owners of the media, especially in the broadcasting sector.

13.3. Challenges

Although they may vary depending on national contexts, challenges to participation include the following:

- strengthening administrative capacity to ensure meaningful engagement
- implementing "revolving door" regulations.

13.3.1. Strengthening administrative capacity to ensure meaningful engagement

Although strengthening openness, enhancing transparency and ensuring inclusive decision-making processes helps promote integrity in decision making, implementation remains a shared challenge for the majority of countries. This is largely due to the challenge of low administrative capacity – including weak mandates, planning or incentives, or a non-supportive administrative culture.

Ensuring that stakeholder engagement becomes a reality requires a cultural shift in the activities of the public service. As discussed above, stakeholder engagement should not take place only at the end of the process, but rather throughout the policy cycle, from agenda setting to policy evaluation. A government-wide policy that sets the requirements and objectives of stakeholder engagement can be an effective first step, and supported by senior management commitment to engaging individuals in the development of public policies. Ensuring that public officials have the capacities in terms of training in effective methods, as well as the resources (time and financial) to conduct meaningful stakeholder engagement is also key. Indeed, successful stakeholder engagement relies on sufficient and strategic planning to ensure that the necessary resources and capacity are in place to ensure representation, moderating, analysing and arbitrating across the community.

Finally, as discussed previously, preventing the capture of the stakeholder engagement process requires guidance for public officials on how to ensure transparency and equity in the process. While governments are not required to systematically accept all inputs received during the process, policy makers should set out openly and transparently the reasons for rejecting the inputs and maintain accountability for their decision.

13.3.2. Implementing "revolving door" regulations

Conflicts of interest can arise and present the risk of policy capture in the movement between positions in the public and private sectors. When functions cover fields that are closed or were directly controlled by the former public official, this so-called revolving door phenomenon can be perceived as granting an unfair advantage in terms of information, relations or any other type of advantage gained in the previous public functions. In some cases, public officials may be tempted to make or be perceived to have made decisions not in the public interest, but in the interest of a former or future employer. Considering the increasing mobility of individuals between the public and private sectors and the expertise developed by individuals in those sectors, the phenomenon is likely to increase and revolving door issues may arise from situations such as:

- seeking future employment outside the public service
- lobbying former public employers
- using "insider information"
- being employed in the public service to perform the same tasks performed in former private sector functions
- being re-employed by the public service, for example as a consultant, to perform tasks similar to the ones carried out in former public functions.

One of the main challenges to implementing revolving door regulations is to find an adequate balance and codify rules and restrictions to safeguard public integrity without unduly affecting either individuals' careers or public service efficiency. By setting specific and proportionate restrictions and prohibitions on public officials, depending on the functions they occupy and tasks performed, governments have tried to address these risks of potential conflict of interest (as is the case in France – see Box 13.4). However, implementing these revolving door provisions can, as noted, be challenging. Depending on the scope of functions covered by the provisions and the cooling-off time chosen, functions responsible for enforcing revolving door provisions may lack the resources to check all notifications for future employment or remunerated activity and deliver informed approval, with reserves if needed, or disapproval.

Box 13.4. Implementing and monitoring revolving door provisions in France

In France, since 2013 the High Authority for Transparency in Public Life (HATVP) has been responsible for monitoring implementation of revolving door provisions for members of the government, members of boards of independent administrative agencies and main local elected officials. During the three years following termination of their functions, these officials must request authorisation before embarking on any new private remunerated activity. Failing to do so or not abiding by the decision of the institution is a criminal offence. Decisions made by HATVP are communicated to both the former administration and future employer. After they have been communicated to the former public official, these decisions issued for former members of the government and main local elected officials are published on line, increasing public scrutiny and oversight.

From February 2020, merging with the Civil Service Ethics Commission, the authority's scope will extend to monitoring revolving door regulations for all civil servants. Any civil servant leaving for private sector functions will refer to their line managers, and if necessary, ethics officers within the administrations. If a doubt is not resolved at those two first levels, the HATVP will intervene in cases where agents are in at-risk functions as a last recourse when the hierarchical level or nature of functions requires it.

Source: (HATVP, n.d.[33]).

Moreover, senior public officials specialised in a particular field or activity who are bound by a cooling-off period face the risk of a longer inactivity time if they do not receive approval. Some governments have addressed these situations by granting an allowance involving all or part of the former salary to high-ranking public officials covered by such provisions. In France, members of the government receive an allowance for three months following termination of their public functions; the allowance is equivalent to their former monthly salary if they filed their end-of-function asset declaration to the relevant authority. However, these arrangements usually do not cover the whole cooling-off period, nor do they apply to the whole scope of functions covered by the revolving door regulations. Additional challenges may arise in the absence of notification where public officials are bound by legal requirements to provide notification of their new private positions, and in situations that the legal framework does not cover (e.g. the former public officials are no longer within the legal delays covered by this requirement but still have useful "insider information").

To address the tensions between individuals' right to pursue a career in their field of expertise, the integrity of public decisions, and limited resources to monitor all movements – including of those who have not provided notification of new private functions – governments may consider:

- establishing or strengthening the legal and regulatory framework to cover at a minimum the main risk areas (e.g. regulated sectors, fields and tasks falling within the scope of former public functions) and functions (e.g. high-level political and management leaders, regulators) for post-public employment conflicts of interest
- setting proportionate standards, restrictions (e.g. time limits, functions, arrangements that may be implemented in potentially problematic situations), oversight and accountability measures and sanctions in case of violations
- communicating these standards on a regular basis and providing guidance and support to address questions and emerging concerns through different channels and tools (e.g. through HRM processes, in-service ethical training and guidance) with regard to career options, potential restrictions and case-by-case arrangements to be taken in ongoing or future activities
- establishing digital tools to monitor movements and alert systems for oversight bodies, based for example on open available information (e.g. news media, civil society and watchdog reports, interest and asset disclosure, trade registries)
- adjusting standards, guidance and accountability mechanisms on a regular basis to adapt to the evolving social, economic and political context.

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Notes

[1] For more information on implementing strong access to information measures and related guidance and tools, see for example (Access Info, n.d.[34]).

[2] For more information on institutions that support the access to information regime, see (OECD, 2019[35]).

[3] Canada, the Czech Republic, France, Germany, Italy, Lithuania, Mexico, the Republic of Korea, Spain, the United Kingdom and the United States.

[4] The right to freedom of association protects the right to form and join associations to pursue common goals.

[5] The right to peaceful assembly protects the right of individuals and groups to meet and to engage in peaceful protest.

[6] For more information on ensuring and enabling a safe environment for media, please see the work of the Council of Europe www.coe.int/en/web/freedom-expression/safety-of-journalists (accessed 20 February 2020).

OECD Public Integrity Handbook

The *OECD Public Integrity Handbook* provides guidance to government, business and civil society on implementing the OECD Recommendation on Public Integrity. The Handbook clarifies what the Recommendation's thirteen principles mean in practice and identifies challenges in implementing them. The Handbook provides guidance on improving co-operation within government, as well between the national and subnational levels. To build cultures of integrity across government and society, the Handbook details the core elements of a merit-based human resource management system and the key ingredients of open organisational cultures. It also clarifies government's role in providing guidance to companies, civil society and citizens on upholding public integrity values. Moreover, the Handbook unpacks how to use the risk management process to assess and manage integrity risks, and highlights how to use the enforcement system to ensure real accountability for integrity violations.

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ISBN 978-92-64-58634-5

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