



Pacific Judicial
Integrity Program

Advanced Managing and Reporting on Fraud and Corruption Cases Online Course

Via Zoom – 1, 8, 15 & 22 August 2024



**FEDERAL COURT
OF AUSTRALIA**



Papua New Guinea
Centre for Judicial Excellence



Pacific Judicial
Integrity Program

Session 4: Advanced Ethics

*Presented by: Jo Wilson
Judicial Registrar, Federal Court of Australia*



**FEDERAL COURT
OF AUSTRALIA**



Papua New Guinea
Centre for Judicial Excellence



Overview

- Recap: the difference between ethics and integrity
- Advanced ethics – soft or “grey” corruption
- Scenario + activity



Definitions

- **Ethics** are qualities that describe a common understanding of the proper way to behave. In their simplest form they include such qualities as respect and trustworthiness. They are the principles that guide our behaviour.



Definitions

- **Ethics** are qualities that describe a common understanding of the proper way to behave. In their simplest form they include such qualities as respect and trustworthiness. They are the principles that guide our behaviour.
- **Integrity** is the alignment between ethical standards and our actions. When integrity is compromised, it undermines confidence in our ability to do the right thing.



Understanding Ethics and Corruption

Ethical standards and integrity guide how we act and make decisions.



Corruption can occur when our integrity is compromised.



Ways in which integrity can be compromised

Conflicts of Interest

Examples:

- Awarding a contract to a business you have an interest in
- Giving jobs to relatives



Ways in which integrity can be compromised

Undeclared relationships/associations

Examples:

- Awarding contracts to relatives or friends
- Failing to declare an association



Ways in which integrity can be compromised

Donations/gifts/benefits

Examples:

- Where gift giver has a matter before recipient
- Can be used to generate relationship or association
- Part of a grooming operation - later exploited



Ways in which integrity can be compromised

Unauthorised disclosure of information

Examples:

- For monetary/commercial value
- Out of loyalty to family/friends
- Perceived injustice



Is all corruption illegal?

- Grey corruption is characterized by questionable behaviour and decision making involving a breach of integrity standards that does not necessarily amount to criminal conduct.
- A culture, condoned or even actively encouraged by senior figures, of ends justifying means and of bending and breaking rules.

What is “grey corruption”?



Distinct from “black corruption”

What is “grey corruption”?



Distinct from “black corruption”

- Where decisions are made and rules are bent or broken for the benefit of a decision maker’s friends, political organisation or networks



What is “grey corruption”?

Distinct from “black corruption”

- Where decisions are made and rules are bent or broken for the benefit of a decision maker’s friends, political organisation or networks.
- Is characterised by questionable behaviour and decision making that benefits a person’s associates or networks without amounting to criminal conduct.



What is “grey corruption”?

Distinct from “black corruption”

- Where decisions are made and rules are bent or broken for the benefit of a decision maker’s friends, political organisation or networks.
- Is characterised by questionable behaviour and decision making that benefits a person’s associates or networks without amounting to criminal conduct.

The effect on public confidence in democracy and its institutions is deeply damaging.

What is “grey corruption”?



“[Grey corruption] It is characterised by questionable behaviour and decision making that benefits a person’s associates or networks without amounting to criminal conduct or being sufficiently blatant to justify criminal prosecution. However, its effect on public confidence in democracy and its institutions is deeply damaging.”

Operation Watts: Special Report, State of Victoria (Independent Broad-based Anti-corruption Commission and Victorian Ombudsman), July 2022



Operation Watts: Investigation

Arose from an investigation into allegations of misuse of public funds by some Victorian government ministers and members of parliament (MPs).

Allegations primarily focused on the possible use of ministerial advisers, MPs' electorate officers and related public resources to pursue factional agendas in the Victorian branch of the Australian Labor Party (ALP).

The investigation also explored the various underlying factors that may have contributed to the alleged misuse of public resources in this case.

Findings:

- Misuse of staff for political work (including “branch stacking”)
- Publicly funded jobs given to factional allies and operatives



Operation Watts: Outcomes

“A recurring theme in grey corruption investigations is the question of how to design and implement processes that hold public officeholders to account for actions that might fall short of the criminal threshold but nevertheless breach the ethical standards that the community expects them to uphold. For politicians, such standards might be articulated in legislation and codes of conduct.”

Operation Watts: Special Report, State of Victoria (Independent Broad-based Anti-corruption Commission and Victorian Ombudsman), July 2022

Preventing Grey Corruption



1. Ethical Standards must be clear and helpful

Preventing Grey Corruption



1. Ethical Standards must be clear and helpful
2. Breaches of those standards must be fairly investigated and sanctioned

Preventing Grey Corruption



1. Ethical Standards must be clear and helpful
2. Breaches of those standards must be fairly investigated and sanctioned
3. Standards are supported by a culture of integrity and respect

Scenario



The corruption iceberg...



Reflection

Final thoughts...

