

The AFP Commissioner's Order on Governance (CO1)

I, Andrew Alexander Colvin, Commissioner of the Australian Federal Police, in the exercise of my powers under:

- sections 37, 38 and 69C of the [Australian Federal Police Act 1979](#) (Cth)
- regulation 33 of the [Australian Federal Police Regulations 1979](#) (Cth)

issue this Commissioner's Order within the terms set out in the following text and in any attachments to it.

This Order may be cited as Commissioner's Order 1.

This Order takes effect from its publication on the AFP intranet.

A Colvin

15 September 2016.

1. Commissioner's introduction

Commissioner's Order on Governance (CO1) establishes a governance framework to support the effective performance of the AFP, whilst ensuring key accountability and integrity requirements are met and managed to a high standard. It also provides appropriate authority to issue and amend governance instruments in a flexible and timely manner to respond to operational priorities and ongoing legislative reform.

Compliance with the AFP Governance framework ensures:

- the AFP continues to enjoy a high level of confidence and support from government, the community and key partners
- the requirements of the [Public Governance, Performance and Accountability Act 2013](#) (Cth) are met and
- AFP appointees understand the status and importance of the wide range of instruments that apply to their day to day duties.

2. Definitions

AFP appointee – means a Deputy Commissioner, AFP employee, special member or special protective service officer and includes a person:

- engaged overseas under s. 69A of the [Australian Federal Police Act 1979](#) (Cth) (AFP Act) to perform duties as an AFP employee
- seconded to the AFP under s. 69D of the AFP Act
- engaged under s. 35 of the AFP Act as a consultant or contractor to perform services for the AFP and determined under s. 35(2) of the AFP Act to be an AFP appointee.

(See s. 4 of the AFP Act.)

AFP Glossary – means the listed terms, acronyms and explanations for terminology, acronyms and words used in the AFP and available on the AFP Hub.

AFP governance instrument – means a governance instrument issued by the Commissioner, Commissioner's delegate or AFP SES manager under this Order, and includes primary governance instruments and functional governance instruments.

AFP SES manager – means an AFP senior executive service (SES) employee and includes employees at the SES Band 1, 2 and 3.

AFP special member – means a person appointed under s. 40E of the AFP Act.

Business area – means an area of functional or managerial responsibility and expertise, not limited by command or staffing structure.

Functional governance instrument – means doctrine, investigations standards/procedures, standard operating procedures, handbooks/plans or better practice guides issued by the respective AFP SES manager in relation to operational, capability or capacity activities for which they have functional responsibility.

Governance Instrument Framework (GIF) – means the AFP Hub site that provides, or links and references all primary governance instruments and the following governance instruments which have been determined by the relevant business area as publishable on the GIF:

- functional governance instruments
- legislatively based instruments, rules and arrangements
- government policy, external and joint agency governance

except those AFP governance instruments which are unable to be published on the GIF due to their security classification.

Governance network member – means a governance practitioner appointed within an AFP business area to manage that business area's governance.

Mission commander – means the person occupying, or performing the duties of, the head of an Australian Federal Police deployment of police to a foreign country.

National Manager – means a person appointed to, or performing the role of, a SES Band 2 position and includes the Chief Police Officer for the ACT, Chief of Staff, Chief Financial Officer and Chief Counsel.

Primary governance instrument – means an AFP governance instrument issued under the AFP Act containing mandatory compliance obligations.

Strategic Risk Profile – means the AFP-wide strategic risk assessment and treatment plan.

3. Overview of AFP legislative functions

3.1 Functions and duties of the Commissioner and AFP appointees

The primary duty of the Commissioner and AFP appointees is to ensure the delivery of AFP

functions under section 8 (and 8A) of the AFP Act. Key AFP functions include:

- the provision of police services in relation to laws of the Commonwealth, property of the Commonwealth (including Commonwealth places) and property of authorities of the Commonwealth, and the safeguarding of Commonwealth interests
- the provision of police services in relation to the ACT and Australia's external territories
- the performance of protective and custodial functions
- the performance of functions under the [Witness Protection Act 1994](#) (Cth) and [Proceeds of Crimes Act 2002](#) (Cth)
- the provision of police services and police support services for the purpose of assisting, or cooperating with, an Australian or foreign law enforcement agency, intelligence security agency or government regulatory agency
- the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries
- anything incidental or conducive to the performance of the foregoing functions or services.

The Government's expectations and priorities for the AFP are set out in the [Ministerial Direction](#) issued under section 37(2) of the AFP Act.

3.2 AFP corporate governance policy

The AFP's corporate governance policy framework:

- supports the lawful, efficient and effective performance of AFP functions and duties
- assists the Commissioner meeting organisational accountability requirements set by the Commonwealth Government and Parliament on behalf of the Australian community.

The AFP's corporate governance policy framework includes:

- a statement of values, a code of conduct and a comprehensive collection of enforceable internal policies and procedures
- an [annual corporate plan](#) that sets out the AFP's purpose, environment, initiatives, activities and methods of assessing performance and managing capability and risk in a four-year timeframe
- governance measures to control documented business risks, particularly treatments identified in the [AFP Strategic Risk Profile](#)
- an effective system of [key committees](#) with clearly articulated terms of reference and accountabilities
- senior executive responsibility for reporting to key committees on business activity, decisions and outcomes
- a function-based organisational structure to command and control resources and business activity
- strong ethical and security demands of appointee conduct
- systematic approaches to strategic and [business planning](#), and managing fraud, security and other business risks, including the [AFP Fraud Control and Anti-Corruption Plan](#)
- allocating resources to internal auditing, business reviews and professional conduct investigations.

4. AFP Governance Instrument Framework

4.1 Overview

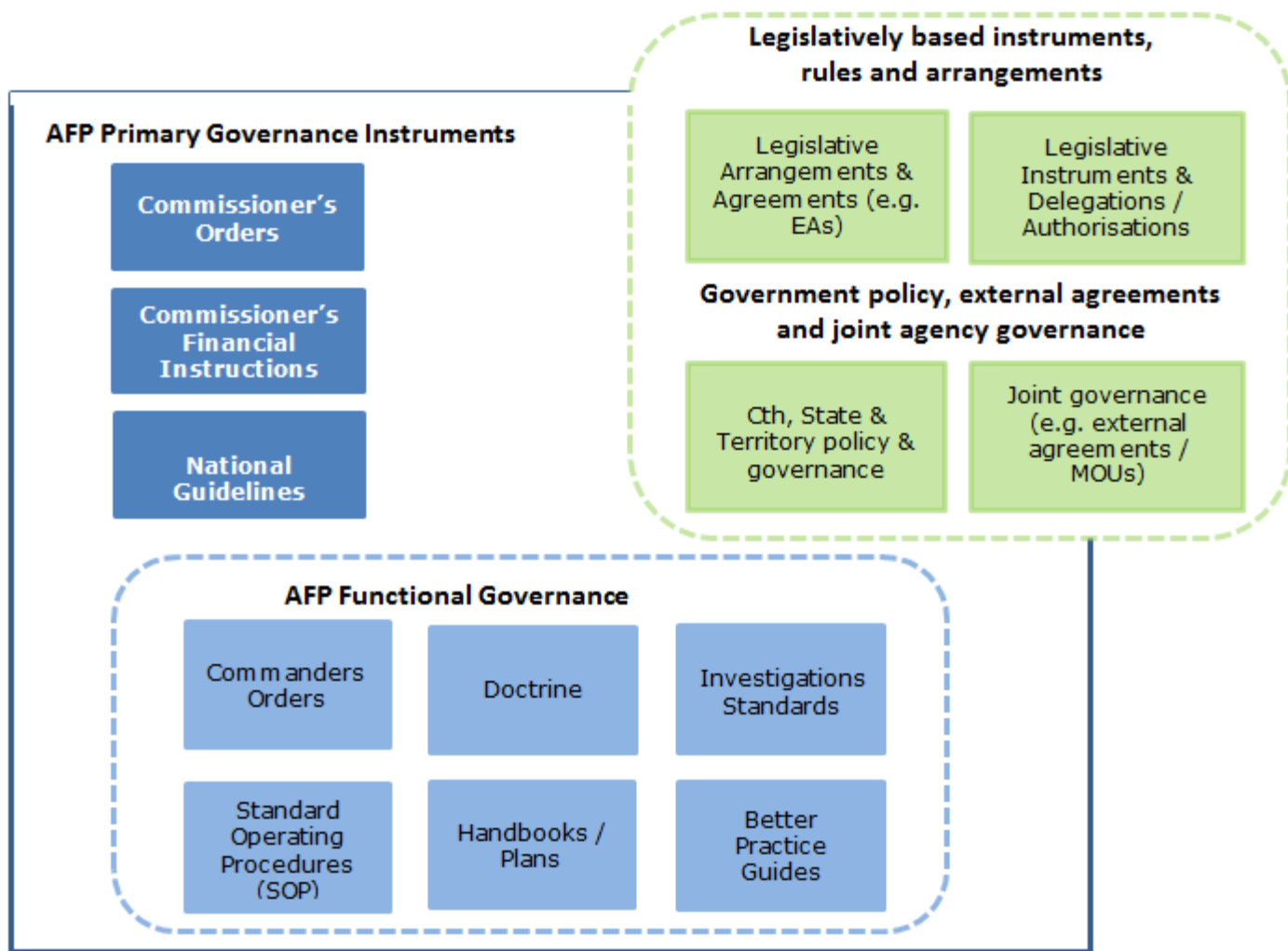
Governance instruments consist of written orders, rules, instructions, directions, delegations, authorisations, standards, doctrine, practice, procedures, agreements and arrangements. Governance instruments establish and contribute to:

- the security of the AFP, including practices and procedures for the purposes of a safe and secure environment in accordance with the Protective Security Policy Framework and the Information Security Manual
- effective administration and operations of the AFP Act
- AFP Professional Standards, including the practices and procedures of the AFP, for the purposes of Part V of the AFP Act
- legal compliance by AFP appointees in discharging their duties and accountabilities, particularly under the [Public Governance, Performance and Accountability Act 2013](#) (Cth) (PGPA Act), [Work Health and Safety Act 2011](#) (Cth) (WHS Act), [Crimes Act 1900](#) (ACT), [Crimes Act 1914](#) (Cth) and the [Privacy Act 1988](#) (Cth)
- management of risk, particularly in relation to sound decision making and treating risks identified in the AFP Strategic Risk Profile
- delegation of statutory authority and powers
- better practice guidance for AFP appointees in achieving operational outcomes, consistent with AFP values and efficient, effective, economical and ethical use of Commonwealth funds and property.

The Governance Instrument Framework (GIF) contains AFP governance instruments and other governance instruments which are determined by the relevant business area as publishable.

Governance is depicted in the following diagram:

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4.2 Categories of governance instruments

4.2.1 Primary governance instruments

The following are primary governance instruments, in order of hierarchy, that establish the rules, orders, instructions, practices and procedures, typically applicable to the whole of the AFP.

Commissioner's Orders

Commissioner's Orders are issued under section 38 of the [AFP Act](#) by the Commissioner with respect to the general administration of, and the control of, the operations of the AFP.

Commissioner's Financial Instructions (CFIs)

The CFIs are issued by the Commissioner under section 37(1) of the [AFP Act](#) and sections 16 and 20 of the [PGPA Act](#) as the AFP's Accountable Authority Instructions (AAIs).

The CFIs set out the financial, legislative and regulatory requirements for the financial management and accountability of public resources by the AFP.

National Guidelines

National Guidelines are issued by the Commissioner, or relevant delegate, under 37(1) of the AFP Act with respect to the general administration of, and the control of the operations of the

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AFP. National Guidelines typically establish mandatory compliance obligations in respect of higher risk matters relevant to the whole of the AFP or a specific function (e.g. ACT Policing).

National Guidelines also establish principles and frameworks that are given operational effect through functional governance instruments.

4.2.2 Functional governance instruments

AFP SES managers are authorised under this Commissioner's Order to issue the following categories of governance instruments relating to their operational and business areas:

Commanders orders

Commanders orders are specific policies/orders issued by a mission commander covering procedures and requirements for professional conduct and behaviour of personnel deployed by International Operations to overseas missions.

Doctrine

Doctrine provides procedural guidance on the way the AFP plans, resources and conducts business. Doctrine is authoritative but requires judgement in its application. It is derived from a mixture of observation, applied thought and practical learning. Doctrine should be adapted within the principles, legislation, governance and professional standards to suit each operational situation.

Investigations standards

Investigation standards articulate the themes and requirements of certain AFP investigation functions and current investigation practices of the AFP. Investigation standards provide guidance throughout the investigation process and are to be developed in conjunction with other relevant governance instruments.

Investigation standards are the framework that builds consistent and professional conduct across AFP investigations supporting the ongoing professionalism of investigators.

Standard operating procedures (SOPs)

SOPs articulate the steps of key processes to help ensure consistency within the AFP. SOPs are written instructions which detail and establish processes to be followed by AFP appointees for the performance of designated operations or functions in designated situations.

Handbooks /plans

Handbooks and plans provide specific guidance and information relating to a particular subject matter, area of business or operation within the AFP.

Better practice guides (BPGs)

A BPG provides a mechanism whereby better practices employed in the AFP are recognised and disseminated internally within the AFP. BPGs identify, assess and articulate good practice across the AFP. BPGs may be produced in conjunction with investigation standards or SOPs.

4.2.3 Legislatively based instruments, rules and arrangements (IPS)

The AFP operates under a broad range of Commonwealth, state and territory legislation that typically includes legislative arrangements/agreements, ministerial directions, instruments, appointments, standards, delegations and authorisations. While the Commissioner may issue some of these instruments, most are issued by government ministers and agencies, state and territory police commissioners and other authorities. Examples of legislatively based instruments include:

- AFP special member appointment instruments; and
- the [Commonwealth Procurement Rules](#) issued under the PGPA Act.

The Chief Counsel portfolio is responsible for coordinating and maintaining a collection of legislative delegations and authorisations within the GIF.

4.2.4 Government policy and external and joint agency governance

Government and external agency policy

Australian government agencies, authorities and even private sector entities (e.g. airport operators) may issue policies and procedures in a range of written governance instruments such as handbooks, guides and protocols. These policies and instruments may apply directly to AFP appointees, or may implicitly or expressly apply to AFP appointees as Commonwealth public officials.

Examples of external government and agency policies and governance that may apply to AFP appointees include:

- the [Australian Government Protective Security Policy Framework](#) (PSPF)
- the Department of Finance issued Resource Management Guides that are relevant to AFP practices and procedures in relation to efficient and effective use of Commonwealth funds and property
- partner law enforcement agencies, courts and correctional facilities issuing security procedures in relation to carriage and storage of firearms that AFP appointees need to comply with, and
- the [Information Security Manual \(ISM\)](#).

External agreements and joint agency governance

The AFP operates within an extensive framework of joint governance and external agreements with Australian and foreign government agencies, as well as private sector partners and stakeholders. Most external agreements establish frameworks for cooperation to govern information sharing. For further information, refer to the [AFP National Guideline on external agreements](#).

5. Governance compliance

5.1 Mandatory compliance

5.1.1 AFP governance instruments

AFP appointees are required to comply with AFP governance mandatory compliance requirements which are denoted by the word **must** to highlight the obligation within an AFP governance

instrument.

5.1.2 Compliance with Australian law, legislative instruments and legislative arrangements

Under the [AFP Code of Conduct](#), AFP appointees must comply with the Australian law (including state and territory law) and any instruments made under a law. In addition to compliance with Australian law, AFP appointees must comply with Commissioner's Orders pursuant to section 39 of the AFP Act.

Note: Legal instruments and obligations established under legislation prevail to the extent of inconsistency with AFP governance instruments.

5.1.3 Section 40 directions

Under section 40 of the AFP Act, the Commissioner and supervisors may issue lawful directions and orders to an individual or class of AFP appointees (referred to as "s40 directions") which must be complied with.

Section 40 written directions should only be issued on a short term basis with any ongoing requirements captured within an AFP governance instrument.

Specific lawful directions and orders will prevail over any AFP governance instrument (with the exception of Commissioner's Orders) to the extent of any inconsistency.

5.1.4 Compliance with government policy, external agreements and joint agency governance

Government policy, external agreements (including memorandums of understanding) and joint governance instruments issued by, or in agreement with, external agencies may apply directly to AFP appointees. AFP appointees need to be familiar, and comply with these instruments, including any explanatory or interpretive information within the instrument that establishes mandatory compliance obligations.

5.2 Departure from mandatory compliance obligations

An AFP appointee may only depart from a mandatory compliance obligation in circumstances where:

- they have considered the risks of departure from the rule, including legal and work health and safety risks, and security and professional standards requirements. The AFP appointee must obtain advice from relevant AFP advisory areas unless the circumstances are urgent
- they have consulted with a supervisor prior to the departure where possible
- the departure is reasonable and justified in the circumstances.

AFP appointees and their supervisors **must** record any non-compliance and consider formally reporting the matter where integrity or organisational risks might subsequently arise.

5.3 Compliance with guidance information

Best practice guidance within a section of an AFP governance instrument, legislatively based

instrument, government policy, external agreement or joint agency governance is typically denoted by the terms **'should'**, **'may'** or **'have regard to'**.

AFP appointees must still have regard to performance, risk management, legal compliance, security and professional standards obligations prior to departing from guidance information. Any decision and reasons for departing from the guidance information should be recorded.

A breach of guidance information may be taken into account in assessing the performance of an AFP appointee. A serious breach may constitute a failure to meet security obligations and/or a breach of AFP Professional Standards.

6. Procedures relevant to AFP governance instruments

6.1 Managing AFP governance instruments

6.1.1 Governance Instrument Framework (GIF)

AFP governance instruments that contribute towards the effective administration and operation of the AFP should be published, or referenced, on the GIF.

The GIF is located on the AFP Hub, and must provide a link or reference to all primary governance instruments, and the following governance instruments (which have been determined by the relevant business area as publishable on the GIF, up to and including the security classification of protected):

- functional governance instruments
- legislatively based instruments, rules and arrangements
- government policy, external and joint agency governance
- external agreements.

An AFP SES manager may determine that an AFP governance instrument is not suitable to be published, either internally or externally under the [Information Publication Scheme \(IPS\)](#), in whole or part due to information security reasons. AFP appointees may contact the instrument owner who can facilitate access or release to a restricted instrument on a need to know basis.

6.1.2 Collection of functional governance instruments

The relevant AFP SES manager within each AFP business area must establish a collection of governance instruments relevant to their business area.

AFP SES managers must ensure they have governance capacity within their business areas to properly manage the collection of governance instruments relevant to their business areas which includes the following:

- all functional governance instruments
- legislatively based instruments, rules and arrangements
- government policy, external and joint agency governance
- external agreements.

Records must be maintained in accordance with the [National Guideline on information management](#).

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6.1.3 Reviewing, amending and revoking AFP governance instruments

AFP SES managers must have processes in place to regularly review AFP governance instruments to ensure currency and relevance. Primary governance instruments or those which are considered high risk must be reviewed within two years from their date of issue or last review. Joint agency governance must be reviewed in accordance with the period specified within the instrument. A governance network member may approve minor administrative amendments to AFP governance instruments without consultation. A minor administrative amendment is an amendment that does not affect AFP appointee obligations or the intention of the document. If a governance network member determines an amendment is not minor, they must refer the amendment to the appropriate delegate or AFP SES manager for approval.

AFP SES managers must consider the extent of consultation required for substantive amendments or revocation of AFP governance instruments by having regard to:

- intended audience of the instrument (e.g. whole of AFP or specialised team)
- extent of legal, security, WHS and professional standards compliance and risk consequences
- impact upon resources of other business areas.

7. Governance roles

7.1 All AFP appointees

All AFP appointees are responsible for:

- understanding the general legislative and governance framework in which the AFP operates
- having an awareness of the AFP governance framework and specific governance instruments that apply to their area of work
- understanding the general linkages between governance, performance, accountability, security, risk and professional standards
- complying with mandatory compliance obligations.

7.2 Team leaders & coordinators

Team leaders & coordinators are responsible for:

- understanding and applying principles of good decision making
- ensuring governance induction and training is provided to AFP appointees under their supervision
- allocating resources to manage governance needs
- bringing business area governance issues to the attention of the business area's governance network member and relevant AFP SES manager.

7.3 AFP SES managers

AFP SES managers are responsible for managing governance and authorising AFP governance instruments within their business area or functions. AFP SES managers are responsible for:

- allocating personnel and resources to manage functional governance instruments and maintaining a collection of functional governance instruments

- having systems in place to induct and train AFP appointees in relation AFP governance instruments applicable to their duties
- approving, varying and revoking AFP governance instruments they own
- making decisions on the publishing, third party release and disclosure of AFP governance instruments they own, noting the AFP's obligations under [IPS](#).

7.4 Governance network members

Governance network members are a community of governance practitioners appointed by an AFP SES manager within each business area to manage the governance needs of that business area. Network members are responsible for:

- coordinating and monitoring governance development
- day-to-day management and coordination of the relevant business area's governance, including maintaining a collection of functional governance instruments
- prioritising and monitoring instrument reviews
- registering new instrument proposals with the Governance Coordination and Review (GCR) team
- quality assuring draft AFP governance instrument content for compliance with drafting guidelines
- liaising within the network on issues crossing functions
- coordinating or prompting change to instruments outside their portfolio
- ensuring all-staff emails are issued by the AFP governance instrument's owner where necessary, for example, where substantive amendments have been made to the relevant AFP governance instrument
- approving minor amendments to AFP governance instruments.

7.5 Governance Coordination and Review team

The Governance Coordination and Review (GCR) team are responsible for:

- providing advice and support to governance network members with regards to drafting, reviewing and formatting instruments and publication on the GIF
- setting internal policies for GIF development and management and publishing these on the GIF
- reviewing new and existing instrument proposals from governance network members
- managing, recording and monitoring instrument publishing progress, including the creation and maintenance of metadata
- alerting governance network members to publishing and governance issues.

7.6 AFP SES manager responsible for the GIF

The AFP SES manager is responsible for:

- setting strategic policy for governance, including the management of risk and the facilitating and promotion of performance by AFP appointees
- raising GIF management issues with the appropriate AFP senior management committee
- establishing processes to assure the quality and organisational consistency of the GIF, particularly to ensure review processes are in place for instruments within the GIF
- establishing and coordinating the AFP Glossary.

7.7 Chief Counsel portfolio

Chief Counsel portfolio is responsible for:

- providing legal advice in relation to AFP governance instruments, particularly to ensure legal compliance and management of legal risk
- establishing and maintaining an AFP wide collection of legislative delegations and authorisations within the GIF.

8. Transitional arrangements

- The commencement of section 6.1.2 (Collection of functional governance instruments) of this Order is delayed until 30 April 2017.
- AFP Policies published on the GIF prior to the commencement of this Order will continue to be in force and have the status of a primary governance instrument until 30 April 2017.
- AFP Practical Guides published on the GIF prior to the commencement of this Order will continue to be in force and have the status of a functional governance instrument until 30 April 2017.
- Aide memoires and best practice information issued within the Investigator's Toolkit are deemed to have the status of better practice guides for the purposes of this Order.
- The Schedule of Delegations issued under the AFP Act and AFP Regulations in Attachment 1 to *Commissioner's Order on Administration* continue to be in force in the legislative delegations and authorisations collection described in section 4.2.3 of this Order.

9. References

Legislation

- [Australian Federal Police Act 1979](#) (Cth)
- [Australian Federal Police Categories of Conduct Determination 2013](#) (Cth)
- [Australian Federal Police Regulations 1979](#) (Cth)
- [Crimes Act 1900](#) (ACT)
- [Crimes Act 1914](#) (Cth)
- [Privacy Act 1988](#) (Cth)
- [Public Governance, Performance and Accountability Act 2013](#) (Cth).

AFP governance instruments

- [AFP Commissioner's Order on Professional Standards \(CO2\)](#)
- [AFP Commissioner's Order on Security \(CO9\)](#)
- [AFP National Guideline on Complaint Management](#)
- [AFP National Guideline on conflicts of interest](#)
- [AFP National Guideline on information management](#)
- [AFP National Guideline on information publication scheme](#)
- [AFP National Guideline on integrity reporting](#)
- [AFP National Guideline on security reporting](#).