



# VIGILANCE MANUAL

Hindustan Aeronautics Limited



# VIGILANCE MANUAL



## Hindustan Aeronautics Limited

Government of India Undertaking-Ministry of Defence

Registered Office: 15/1, Cubbon Road,

Bengaluru-560001, India

[www.hal-india.co.in](http://www.hal-india.co.in)



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ಅಧ್ಯಕ್ಷ एवं प्रबंध निदेशक

**C. B. ANANTHAKRISHNAN**

Chairman & Managing Director



ಹಿಂದೂಸ್ತಾನ್ ಏರೋನಾಟಿಕ್ಸ್ ಲಿಮಿಟೆಡ್

ಪ್ರಧಾನ ಕಛೇರಿ

ಹಿಂದುಸ್ತಾನ್ ಏರೋನಾಟಿಕ್ಸ್ ಲಿಮಿಟೆಡ್

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**HINDUSTAN AERONAUTICS LIMITED**

**CORPORATE OFFICE**



## FOREWORD

“Zeal without knowledge is fire without light” goes the saying. It envisages the importance of knowledge and encourages us to acquire, aspire and accomplish the desired goals with utmost dedication.

This time the Vigilance Department has made an all-out effort to accommodate latest guidelines, policies & procedures and combine them in a single volume. The Vigilance Department has, in fact, contributed a lot by updating all the latest guidelines of CVC in the Vigilance Manual.

It is seen that the Vigilance Manual not only provides the specifics of Vigilance functioning but also disseminates the intended message of the seven core values adopted by the organization.

Being a Public Sector Undertaking, it is vital to work within the framework of the rules and regulations issued by the Government of India & Central Vigilance Commission. It is possible only when the guidelines are updated in timely manner. With the values as enshrined in our organization, we can achieve self-reliance and self-sufficiency in an era of constantly changing technologies and become a strong player in the growing competitive environment.

On the occasion of release of the revised edition of the Vigilance Manual, I wish to place on record my appreciation for the meticulous compilation and initiative taken by the Vigilance Department.

(C.B. Ananthakrishnan)

15/1, ಕಬ್ಬನ್ ರೋಡ್, ಬೆಂಗಳೂರು - 560 001, ಭಾರತ, 15/1, ಕಬ್ಬನ್ ರೋಡ್, ಬೆಂಗಳೂರು - 560 001, ಭಾರತ

15/1, Cubbon Road, Bengaluru - 560 001, India

ದೂರವಾಣಿ (ದೂರವಾಣಿ) Ph. : +91-80-2232 0105, 2232 0003, ಫ್ಯಾಕ್ಸ್ (ಫ್ಯಾಕ್ಸ್) Fax : +91-80-2232 0240

ಇ ಮೇಲ್ (ಇ) Email : chairman@hal-india.co.in

CIN:L35301KA1963GOI001622





ಕಲ್ಯಾಣಿ ಸೇತುರಾಮನ್, ಐ ಆರ್ ಎ ಎಸ್

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ಕಲ್ಯಾಣಿ ಸೇತುರಾಮನ್, आईआरएस

मुख्य सतर्कता अधिकारी

**KALYANI SETHURAMAN, IRAS**

Chief Vigilance Officer



ಹಿಂದೂಸ್ತಾನ್ ಏರೋನಾಟಿಕ್ಸ್ ಲಿಮಿಟೆಡ್

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मुख्यालय

**HINDUSTAN AERONAUTICS LIMITED**

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## Foreword

At the time of constant change in technologies and latest guidelines, it is all the more important that the workforce should be in sync with the latest developments of the policies and guidelines. Awareness is of paramount importance and it promotes transparency in every dealing of a business entity.

The most important factor in the life of a Public Servant is to inculcate integrity. In our organization, integrity is one of the core values adopted by the organization. Central Vigilance Commission has emphasised highest integrity in the work culture of the Government institutions and Public Sector Units. Vigilance Department has always striven to disseminate information through awareness sessions.

It is wisely said that a good head and an industrious hand are worth gold in any land, but, in the absence of integrity and honesty the strongest organization is doomed to fall apart. Undoubtedly, Vigilance department in any institution plays a pivotal role and becomes a true sentinel of honesty, integrity and truthfulness. The revised edition of the Vigilance Manual is a result of constant hard work by Team Vigilance and upholds the values of the organization in true spirit.

  
**Kalyani Sethuraman, IRAS**  
**Chief Vigilance Officer**

15/1, ಕಬ್ಬನ್ ರೋಡ್, ಬೆಂಗಳೂರು - 560 001, ಭಾರತ, 15/1, ಕಬ್ಬನ್ ರೋಡ್, ಬೆಂಗಳೂರು - 560 001, ಭಾರತ

15/1, Cubbon Road, Bangalore - 560 001, India

ದೂರವಾಣಿ (ದೂರವಾಣಿ) Ph.: +91-80-2232 0069, ಫ್ಯಾಕ್ಸ್ (ಫ್ಯಾಕ್ಸ್) Fax : +91-80-2232 0027

ಇ ಮೇಲ್ (ಇ) Email : cvo@hal-india.co.in

CIN: L35301KA1963GOI001622



## **DISCLAIMER**

Vigilance Manual 2022 is an attempt to consolidate & compile the applicable guidelines issued by CVC, HAL and other concerned authorities from time to time. This manual will only be a ready reckoner & reference book and it cannot substitute rules, order, etc. of various authorities. It should be noted that the circulars issued from time to time will continue to be the authority for all interpretations & implementation of such rules / guidelines.





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# Chapter 1

## Concept of Vigilance

### **Evolution of Vigilance:**

The Central Vigilance Commission was set up by Government of India vide Resolution dated 11.02.1964 in pursuance of the recommendations made by the Committee on Prevention of Corruption (popularly known as Santhanam Committee). Further, it was in pursuance of the directions of the Hon'ble Supreme Court in the case of Vineet Narain vs. Union of India (CWP 340-343 of 1993-1 SCC 226) that the CVC was accorded statutory status with effect from 25.08.1998 through "The Central Vigilance Commission Ordinance, 1998". Subsequently, the CVC Bill was passed by both Houses of Parliament in 2003 and the President gave assent on 11<sup>th</sup> September 2003. Thus, the Central Vigilance Commission Act, 2003 (No. 45 of 2003) came into effect from that date.

The vigilance functions are broadly classified as under:

### **Preventive Vigilance:**

Preventive vigilance involves systemic improvements, which besides reducing corruption also leads to better operational results. It is adoption of a package of measures to improve systems and procedures to eliminate / reduce corruption, promote transparency and the ease of doing business. It is a tool for management to achieve good governance and therefore, it is the duty of the management as a whole and not of the CVO alone. Indeed, it can be said that it is the duty of every employee.

### **Punitive Vigilance:**

Punitive vigilance comes into picture when incidents of corruption have already been committed. When these incidents are investigated, enquiry is held and if charges are proved penalty is imposed against employees involved in corrupt practices in order to have a deterrent effect on others.

**Detective/Surveillance Vigilance:**

Detective vigilance deals with detection of cases by better surveillance and intelligence coverage of areas / points which are susceptible to corruption. Also employees of doubtful integrity are kept under unobtrusive close watch.

**Predictive Vigilance**

Predictive Vigilance includes the following:

- (i) Foreseeing an activity prejudicial to the interests of the organization.
- (ii) Suggesting in advance corrective measures to be taken by the management against act of misconduct, corruption, lapses which may occur in the wake of modification of rules, regulations, technology, circumstances etc.

**Participative Vigilance**

It aims at bringing stake holders in the decision making process for more transparency.



## Chapter 2

### CVC & its Jurisdiction

#### 2.1 Jurisdiction of CVC under Section 8 of CVC Act 2003

The following categories of public servants fall within the jurisdiction of the CVC in terms of sub-section (2) of section 8 of CVC Act, 2003:-

- (a) Members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;
- (b) Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1) of section 8 of CVC Act, 2003.
- (c) On a reference made by the Lokpal under proviso to sub-section (1) of section 20 of the Lokpal and Lokayukta Act, 2013, the persons referred to in clause (d) of sub-section (1) shall also include –
  - (i) Members of Group B, Group C and Group D services of the Central Government;
  - (ii) Such level of officials or staff of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued under this clause, all officials or staff of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred in clause (d) of sub-section (1) of section 8 of CVC Act, 2003.

- (d) At present, the following levels of officers have been notified by the Central Government for the purpose of clause (b) of sub-section (2) of section 8 of CVC Act, 2003 (DoPT Notifications vide S.O. 371(E) dated 18.3.2004 & S.O. 1538(E) dated 12.9.2007):-
- (i) Officers of Scale V and above of Public Sector Banks; (Scale V is in the range of Rs.59,170 - 66,070 in most banks as on 01.01.2015)
  - (ii) CMDs and Executives on the Board and other officers of E-8 and above in respect of Schedule 'A' and 'B' Public Sector Undertakings; (E-8 Scale in Sch. 'A' & 'B' CPSEs is in the range of Rs.51,300 – 73,000 effective from 01.01.2007 pursuant to pay revision after 6<sup>th</sup> CPC)
  - (iii) CMDs and Executives on the Board and other officers of E-7 and above in respect of Schedule 'C' and 'D' Public Sector Undertakings; (E-7 Scale in Sch. 'C' & 'D' CPSEs is in the range of Rs.43,200 – 54,000 effective from 01.01.2007 pursuant to pay revision after 6<sup>th</sup> CPC)
  - (iv) Officers in Grade 'D' and above in respect of RBI, NABARD and SIDBI; (As on 01.01.2015, the Grade 'D' Scale in RBI is Rs.39,850 – 46,150)
  - (v) Managers and above in General Insurance Companies;
  - (vi) Senior Divisional Managers and above in Life Insurance Corporations; and
  - (vii) Officers drawing salary of Rs.8700/- p.m. and above on Central Government D.A. pattern, as on the date of the notification (DoPT Notification dated 12.9.2007) and as may be revised from time to time in Societies and other Local Authorities.

## **2.2 Appointment and Tenure of CVO**

- (a) The posts of CVOs in CPSEs and other organizations under Central Ministries / Departments shall be filled up by DoPT on deputation basis.

- (b) The tenure of appointment of CVOs in a CPSE / Organization shall be for a period of 3 years which is extendable by another 2 years subject to the overall combined limit prescribed for central deputation and / or being away from the cadre, as issued by Department of Personnel & Training (DoPT) from time to time. The initial tenure of 3 years as CVO in a CPSE / Organization is extendable for a further period of 3 years on lateral transfer to another CPSE / Organization with prior concurrence of CVC subject to the overall combined limit prescribed for central deputation and / or being away from the cadre, as issued by DoPT from time to time. Once an officer has worked as CVO in a particular CPSE / Organization, he shall not be considered for the post of CVO in the same organization for another term.
- (c) Posting as CVO in a Public Sector Undertaking located at places other than Metropolitan Cities could be allowed in continuation of a posting with the Government of India, subject to the condition that the total period including the earlier tenure, shall not exceed 7 years. Thus, if an officer has served a post under the Central Staffing Scheme for 4 years and then proceeds on deputation to a post of CVO in a PSU located at a place other than Metropolitan Cities, he will have a tenure of three years on the post of CVO subject to an overall ceiling of seven years of combined tenure on the Central Staffing Scheme post and the post of CVO.

### **2.3 Duties and Functions of CVO**

A CVO heads the Vigilance unit of an Organisation and acts as an advisor to the CMD in all matters pertaining to vigilance. He / she is also the nodal officer of the Organisation for interaction with CVC and CBI. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed, or likely to be committed by the employees of his /her Organisation; investigating or causing an investigation to be made into allegations reported to him / her; processing investigation reports for further consideration of the disciplinary

authority concerned; referring the matters to the Commission for advice wherever necessary; taking steps to prevent improper practices and commission of misconducts, etc. Thus, the CVO's functions can broadly be divided into three categories, as under: -

- (i) Preventive vigilance
- (ii) Punitive vigilance
- (iii) Surveillance and detection.

While 'punitive action' for commission of misconduct and other malpractices is certainly important, 'surveillance' and 'preventive measures' to be taken by the CVO are equally more important as these are likely to reduce the occurrence of vigilance cases. Thus, the role of CVO should be predominantly preventive.

### **Preventive Vigilance Functions by CVO**

The CVO is expected to take following measures on preventive vigilance side: -

- (i) To undertake study of existing procedures and practices prevailing in his / her Organisation with a view to identify those procedures or practices which provide a scope for corruption and require modification;
- (ii) To find out the causes of delay, the points at which delay occurs and devise suitable steps to minimize delays at different stages;
- (iii) To review the regulatory functions to see whether all of them are strictly necessary and whether the method of discharge of those functions is capable of improvement;
- (iv) To devise adequate methods to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner; and in accordance with some laid down guidelines.
- (v) To educate the citizens about the procedures of dealing with various matters and also to simplify these as far as possible;

- (vi) To identify the areas in his / her Organisation which are prone to corruption and to ensure that officers of proven integrity only are posted in those areas;
- (vii) To identify sensitive posts in the Organisation;
- (viii) To ensure periodical rotations of staff and in particular officers holding sensitive posts;
- (ix) To ensure that well-defined internal processes as well as corresponding controls with clear responsibilities, for different kind of activities, are set out;
- (x) To ensure that the Organisation has prepared manuals on important subjects such as purchases, contracts, procurement, recruitment, etc. and that these manuals are updated from time to time and conform to the guidelines issued by the Commission and the Ministries concerned;
- (xi) To develop and implement an effective Whistle Blower mechanism;
- (xii) To leverage technology for making preventive vigilance function effective;
- (xiii) To ensure prompt observance of Conduct rules relating to integrity, covering
  - (a) Statements of assets and acquisitions
  - (b) Gifts
  - (c) relatives employed in private firms or doing private business
  - (d) To scrutinise immovable property returns of at least 20% executive employees every year and
  - (e) Keep an eye on benami transactions;
- (xiv) To ensure observance of Vigilance Awareness Week as per directions of the Commission;
- (xv) To scrutinise (a) Internal auditor's reports, (b) Statutory auditor's report (c) CAG audit report;
- (xvi) To scrutinise inspection reports;

(xvii) In order to keep a watch on the activities of public servants who are of doubtful integrity, the Ministries / Departments / Organisations are required to maintain two lists viz.,

- (a) "Agreed list" and
- (b) list of public servants of gazetted status of "doubtful integrity".

The "Agreed list" of suspected officers has its origin in the "Programme for vigilance and anti-corruption work during 1966", whereas the list of public servants of gazetted status of doubtful integrity was prescribed in 1969. The criteria for making such lists have been provided in the *Ministry of Home Affairs Letter No.130/1/66-AVD dated 05.05.1966 and letter No. 105/1/66-AVD dated 28.10.1969*. It has been provided in these instructions that the "Agreed list so prepared will remain in force for one year from the date of preparation and officials' work / activities / behavior during the period would be watched and the list would be reviewed after this period".

The list of Officers of Doubtful Integrity will remain in force for a period of three years. In the above perspective, the CVO has to perform the following functions: -

To prepare a list of 'Officers of Doubtful Integrity' which would include names of those officers who, after inquiry or during the course of inquiry, have been found to be lacking in integrity, such as:

- (i) officer convicted in a Court of Law on the charge of lack of integrity or for an offence involving moral turpitude but who has not been imposed a penalty of dismissal, removal or compulsory retirement in view of exceptional circumstances;
- (ii) awarded departmentally a major penalty on charges of lack of integrity or gross dereliction of duty in protecting the interest of Government although corrupt motive may not be capable of proof;
- (iii) against whom proceedings for a major penalty or a court trial is in progress for alleged acts involving lack of integrity or moral turpitude; and

(iv) who was prosecuted but acquitted on technical grounds as there remained a reasonable suspicion about his integrity;

To prepare the 'Agreed List' in consultation with the CBI which will include the names of officers whose honesty or integrity is doubtful or suspicious. The following action would be taken by the CVO and the CBI in respect of the officers appearing on the list:

(a) Closer and more frequent scrutiny and inspection of their work and performance by the Departments concerned, particularly in spheres where there is scope for discretion or for showing favours;

(b) Quiet check about their reputation both by the Department and the CBI;

(c) Unobtrusive watch of their contacts, style of living, etc. by the CBI;

(d) Secret enquiry by the CBI about their assets and financial resources. The Departments will make available their property returns and other relevant records to the CBI; and Collection of information by the CBI of specific instances of bribery and corruption practices.

(xviii) Adequate precautions should be taken in drawing up and maintaining the "Agreed list" and the "list of Officers of Doubtful Integrity" to ensure that they are correctly and objectively prepared and reviewed from time to time. CVO should ensure that the officers who are placed on the aforesaid lists should not be posted in sensitive positions. CBI would co-ordinate with the Ministries / Departments / Organisations so that the lists so prepared are periodically reviewed. Director of CBI and the CVOs of the Departments will keep the Commission posted about the developments from time to time.

(xix) To conduct CTE type inspection in his organisation; and

(xx) To tender advice to the Disciplinary Authority and the Appellate Authority in vigilance cases, irrespective of level of officers involved.



## **Punitive Vigilance Functions by CVO**

The CVO is expected to scrutinise reports of Parliamentary Committees such as Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings; audit reports; proceedings of both Houses of Parliament; Standing committee report for the Ministry, CAG audit report, Statutory auditor's report, internal audit reports, complaints and allegations appearing in the press; and to take appropriate action thereon.

The CVO, inter-alia, is expected to take following action on the punitive vigilance aspects:

- (i) To receive complaints from all sources and scrutinise them as per existing instructions. When he / she is in doubt on the issue of existence of vigilance angle in them, the CVO may refer the matter to his / her administrative head;
- (ii) To investigate or cause an investigation to be made into such allegations involving vigilance angle;
- (iii) To investigate or cause an investigation to be made into the allegations forwarded to him / her by the Commission or the CBI, within the prescribed time lines of 03 months;
- (iv) In case of complaints sent by Commission for investigation, if it is not possible to complete the investigations and refer the matter to Commission within three months, the CVO should seek extension of time stating the specific reasons / constraints in each case, within 15 days of receipt of reference from the Commission. Such request from the CVO should be with the approval of the Secretary / CMD / Chief Executive of the Department / Organization concerned as the case may be;
- (v) To process the investigation report expeditiously for obtaining orders of the competent authority about further course of action to be taken and also for obtaining Commission's advice on the investigation reports, where necessary;
- (vi) To prioritize the activities of conducting investigations and completion of disciplinary action in cases involving public servants due to retire shortly well in advance so as to ensure that such retirement cases for

advice should be received in the Commission 30 days before the date of retirement of the officer;

(vii) To ensure that charge-sheet, statement of imputations, lists of witness and documents, etc. are carefully drawn up; copies of all the documents relied upon and the statements of witnesses cited on behalf of the disciplinary authority are prudently prepared, issued expeditiously and supplied to the charged officer whenever possible;

(viii) To ensure that there is no delay in appointing the inquiring and presenting authorities where necessary; The CVOs are required to closely monitor the progress of inquiry proceedings including the quality of performance of Presenting Officers before the IO on a regular basis and keep the disciplinary authorities posted about it.

(ix) To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defence during the course of inquiry, and to obtain orders of the competent authority about further course of action to be taken and also obtain the Commission's second stage advice and UPSC's advice, where necessary;

(x) To ensure that the Disciplinary Authority concerned, issued a speaking order, while imposing a punishment on the delinquent employee. The order to be issued by the Disciplinary Authority should show that he had applied his mind and exercised his independent judgment;

(xi) To ensure that rules and time limits with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings vitiated;

(xii) To scrutinise on a continuous basis, complaints and grievances received by other divisions / units in the Organisation;

(xiii) To see that proper assistance is given to the CBI in the investigation of cases entrusted to them or started by them on their own source information;

(xiv) To take proper and adequate action with regard to petitions filed by delinquent officers in Courts of Law / Tribunal;

(xv) To review from time to time the existing arrangements for vigilance work in the Ministry / Department, to see if the work of subordinate officers is

adequate and to ensure expeditious and effective disposal of vigilance work;

(xvi) To ensure that the competent disciplinary authorities do not adopt a dilatory or lax attitude in processing vigilance cases, particularly in cases when officers are due for promotion or retirement. CVO shall refer such instances to the Commission;

(xvii) To ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such as misplacement of files, etc. and that the orders passed in the cases of retiring officers are implemented in time;

(xviii) To review pendency of references received from Commission;

(xix) To refer cases, within his jurisdiction, to CBI with the administrative approval of CEO. In case of difference of opinion with the CEO, the matter may be referred to the Commission;

(xx) To ensure that the cases receive due consideration of the appropriate Disciplinary Authority before these are referred to the Commission and its tentative recommendation is indicated in the references made to the Commission. The cases requiring reconsideration of the Commission's First Stage Advice (FSA) should be sent with the approval of the concerned Disciplinary Authority / Chief Executive, or the Head of the Department, as the case may be, within one month of receipt of Commission's FSA and that too only in those exceptional cases having additional / new material facts. The Commission would not entertain any reconsideration proposal / request of first stage advice received beyond the revised time limit of one month;

(xxi) Although the discretion to place a public servant under suspension, when a disciplinary proceeding is either pending or contemplated against him, is that of the disciplinary authority, the CVO is expected to assist the disciplinary authority in proper exercise of this discretion;

(xxii) To ensure that all cases, in which the officers concerned have been under suspension, are reviewed within a period of 90 days with a view to see if the suspension order could be revoked or if there was a case for increasing or decreasing the subsistence allowance;

(xxiii) To scrutinise the matter carefully, wherever the Appellate Authority

has disagreed with Commission's Advice which was earlier accepted by the Disciplinary Authority. To take up such matter with the reviewing authority and also to report such cases immediately after decision / orders issued at the Appellate / Review stage to the Commission and also indicate in the relevant column in the online QPRs submitted by the CVOs to the Commission;

(xxiv) To bring to the notice of the Board specific cases where the Disciplinary Authority has disagreed with the CVO's advice in respect of officials not under the jurisdiction of the Commission;

(xxv) To ensure that the CVO is invited and remains present at the time of review of vigilance work by the Board;

(xxvi) To monitor and to take up for necessary action any case of recruitment in violation of the laid down rules and procedure and wherever necessary to report the matter to the Commission.

(xxvii) Identify cases having vigilance angle reported in inspection reports, audit reports, media reports, reports of Parliamentary Committees, etc., carry out investigation and take misconducts, if any, to its logical conclusion.

(xxviii) Examine the decision of the DA and if they are not in tune with the advice of the Commission, bring it to the notice of the Commission for further consideration.

(xxix) Examine the orders of DA in respect of officers not within the jurisdiction of the Commission and to ensure fairness. Recommend revision of inappropriate orders by the competent authority.

### **Surveillance and Detection by CVO**

(i) The CVO should conduct regular and surprise inspections in the sensitive areas in order to detect if there have been instances of corrupt or improper practices by the public servants. He / she should carry out at least six CTE type inspections on one of the projects / works in the organisation every year.

(ii) He / she should also undertake prompt scrutiny of annual property returns and intimations given by the public servants under the conduct rules and take further necessary action, if called for.

(iii) In addition, he / she should also gather intelligence from his own sources in whatever manner he / she deems appropriate about the misconducts / malpractices having been committed or likely to be committed. He / she should also collect source material on misconducts and examine them for logical conclusion with necessary approval. He / she may also initiate suo-motu enquiries based on any prima facie information regarding misconducts. He / she shall, however, carry out enquiries with necessary approvals.

(iv) No prior approval / sanction of CVO's tour programmes is required from CMD / CEO for proceeding on tour for carrying out any surprise inspections. In the interest of transparency and accountability, whenever prior approval / intimation has not been given to the competent authority, a detailed report be submitted to the competent authority on conclusion of the tour and the outcome thereof.

#### **2.4 Association of CVO with other organisational matters**

The CVO and the vigilance functionaries should not be a party to decision-making processes, which are likely to have vigilance sensitivity, as this may result in conflict of interest. However, advice can be tendered on some policy matters especially those requiring implementation of preventive vigilance measures.

#### **2.5 Permanent absorption of CVO**

The CVO being an officer on deputation in any CPSE shall not be permanently absorbed in the same organization on expiry or in continuation of his / her tenure.

#### **2.6 Difference of opinion between CVO & CMD and between Vigilance Officers & Head of Unit**

With regard to category 'A' cases, i.e., the cases which are required to be referred to the CVC for advice, all relevant files, including the file on which the case has been examined, are required to be sent to the CVC. In such cases,

the CVC would be in a position to examine all facts and viewpoints of all the authorities concerned who might have commented on various aspects of the case. However, with regard to category 'B' cases, which are not required to be sent to the CVC for advice, if there is a difference of opinion between the vigilance officer concerned and the Head of Unit, the matter may be reported by the Head of Unit to the CVO for obtaining orders of the CMD in order to resolve the difference of opinion between the vigilance officer and the Head of office. In case of difference of opinion between the CVO and the CMD in respect of corruption case, involving below Board level appointees in public sector undertaking, it is the responsibility of the CMD to bring the case to the Board.

## **2.7 Prosecution vis-à-vis Departmental Proceedings**

i) Prosecution should be the general rule in all cases which are found fit to be sent to Court after investigation and in which the offences are of bribery, corruption or other criminal misconduct involving loss of substantial public funds. In other cases, involving less serious offences or involving malpractices of a departmental nature, departmental action only should be taken and the question of prosecution should generally not arise.

ii) There is no legal bar to the initiation of departmental disciplinary action under the rules applicable to the delinquent public servant where criminal prosecution is already in progress and generally there should be no apprehension of the outcome of the one affecting the other, because the ingredients of delinquency / misconduct in criminal prosecution and departmental proceedings, as well as the standards of proof required in both cases are not identical. In criminal cases, the proof required for conviction has to be beyond reasonable doubt, whereas in departmental proceedings, proof based on preponderance of probability is sufficient for holding the charges as proved. What might, however, affect the outcome of the subsequent proceedings may be the contradictions which the witnesses may make in their depositions in the said proceedings. It is, therefore, necessary that all relevant matters be considered in each individual case and a conscious view taken whether disciplinary proceedings may not be

started alongside criminal prosecution. In a case where the charges are serious and the evidence strong enough, simultaneous departmental proceedings should be instituted so that a speedy decision is obtained on the misconduct of the public servant and a final decision can be taken about his further continuance in employment.

iii) The Supreme Court in the case of Delhi Cloth and General Mills Ltd. vs. Kushal Bhan (AIR 1960 SC 806) observed that it cannot be said that “principles of natural justice require that an employer must wait for the decision at least of the criminal trial court before taking action against an employee”. They however, added that “if the case is of a grave nature or involves questions of fact or law, which are not simple, it would be advisable for the employer to wait the decision of the trial court, so that the defence of the employee in the criminal case may not be prejudiced”.

iv) Should the decision of the Court lead to acquittal of the accused, it may be necessary to review the decision taken earlier as a result of the departmental proceedings. A consideration to be taken into account in such review would be whether the legal proceedings and the departmental proceedings covered precisely the same grounds. If they did not, and the legal proceedings related only to one or two charges i.e., not the entire field of departmental proceedings, it may not be found necessary to alter the decisions already taken. Moreover, the Court may have held the facts of the case did not amount to an offence under the law, it may well be that the Competent Authority in the departmental proceedings might hold that the public servant was guilty of a departmental misdemeanor and he had not behaved in the manner in which a person of his position was expected to behave.

v) The most opportune time for considering the question whether departmental action should be initiated simultaneously, when the prosecution is sanctioned. At that stage, all the documents are available and taking photo copies or producing the originals before the Inquiring Authority is not a problem. Once the originals have been admitted by the Charged Officer, the photo copies duly attested by the Inquiring Officer and / or the



Charged Officer could be utilized for further processing the departmental proceedings, as the originals would be required in Court proceedings.

vi) As per the judgments of the Hon'ble Supreme Court and guidelines of DoPT issued thereon (OM No.11012/6/2007-Estt. (A-III) dated 01.08.2007 and 21.07.2016), there is no bar in conducting simultaneous criminal and departmental proceedings. Disciplinary Authorities are vested with responsibility to ensure that employees under their control against whom criminal trial is pending are proceeded against forthwith for simultaneous departmental proceedings. Further, a view as to whether simultaneous disciplinary proceedings are to be initiated need to be invariably taken by the Competent Authorities at the time of considering the request for grant of sanction for prosecution itself. However, the Disciplinary Authority may withhold departmental proceedings only in exceptional cases wherein the charge in the criminal trial is of grave nature involving questions of fact and law. If the charge in the criminal case is of grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. Further, even if stayed at one stage, the decision may require reconsideration, if the criminal case gets unduly delayed. It may be noteworthy to mention that the Hon'ble Supreme Court in State of Rajasthan vs. B.K Meena & Ors. (1996) 6 SCC 417 emphasised the need for initiating departmental proceedings and stated as below:

“It must be remembered that interests of administration demand that the undesirable elements are thrown out and any charge of misdemeanor is enquired into promptly. The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he / she is not guilty of the charges, his / her honour should be vindicated at the earliest possible moment and if he / she is guilty, he / she should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanor should be continued in office indefinitely,

i.e., for long periods awaiting the result of criminal proceedings.”

Thus, in cases where it is appropriate to initiate disciplinary proceedings along with criminal prosecution, the disciplinary proceedings must be initiated simultaneously.

## **2.8 Assistance in preparation & maintenance of Agreed List**

The Agreed List of officers of gazetted status against whose honesty or integrity there are complaints, doubts or suspicion is prepared in consultation with the CBI by the Departments / Organizations to keep a secret watch on them.

## **2.9 Assistance in preparation & maintenance of list of Officers of Doubtful Integrity (ODI)**

The list of Public Servants of Gazetted status of Doubtful Integrity is maintained by the Departments / Organizations as per the scheme laid down in Ministry of Home Affairs OM No.105/1/66-AVD-I dated 28.10.1969. The CBI assists in addition or deletion of names in the ODI List as per the procedure laid down in CBI Crime Manual.

## **2.10 Procedure for obtaining CVC's First Stage Advice**

i) The CVOs of the Ministries / Departments and all other organizations are required to seek the CVC's first stage advice after obtaining the tentative views of Disciplinary Authorities (DAs) on the reports of the preliminary inquiry / investigation of all complaints involving allegation(s) of corruption or improper motive; or if the alleged facts prima-facie indicate an element of vigilance angle which are registered in the Vigilance Complaint Register involving Category-A officers (i.e., All India Service Officers serving in connection with the affairs of the Union, Group-A officers of the Central Govt. and the levels and categories of officers of CPSUs, Public Sector Banks, Insurance companies, Financial Institutions, Societies and other local authorities as notified by the Government under section 8(2) of CVC

Act, 2003) before the competent authority takes a final decision in the matter.

ii) After enquiry / investigation by the CVO in complaints / matters relating to Category-A officers, as well as composite cases wherein, Category-B officers are also involved, if the allegations, on inquiry do not indicate prima facie vigilance angle / corruption and relate to purely non vigilance / administrative lapses, the case would be decided by the CVO and the DA concerned of the public servant at the level of Ministry / Department / Organisation concerned. The CVO's reports recommending administrative / disciplinary action in non-vigilance / administrative lapses would, therefore, be submitted to the DA and if the DA agrees to the recommendations of the CVO, the case would be finalised at the level of the Ministry / Department / Organization concerned. In all such matters, no reference would be required to be made to the CVC seeking its first stage advice. However, in case there is a difference of opinion between the CVO and the DA as to the presence of vigilance angle, the matter as also enquiry reports on complaints having vigilance angle though unsubstantiated would be referred to the CVC for first stage advice.

iii) The above consultation procedure / dispensation would not apply to the complaints received by the CVC and referred for investigation and report to the CVO of the Ministry / Department / Organisation and CVOs would continue to furnish their investigation reports in all matters for seeking first stage advice of the CVC irrespective of the outcome of inquiry / investigation. Similarly, all written complaints / disclosures (Whistle Blower complaints) received under the Public Interest Disclosure and Protection of Informers' Resolution (PIDPI), 2004 or the Whistle Blowers Protection Act, 2011 would also continue to be handled / processed by CVOs in terms of the existing prescribed procedures or as amended from time to time.

## **2.11 Information to be submitted for obtaining CVC's First Stage Advice:**

While seeking first stage advice of the CVC, following material should be submitted:

- a) A self-contained note clearly bringing out the facts and the specific point(s) on which CVC's advice is sought. The self-contained note is meant to supplement and not to substitute the sending of files and records.
- b) The bio-data of the officer concerned;
- c) Other documents required to be sent for first stage advice: -
  - (i) A copy of the complaint / source information received and investigated by the CVOs;
  - (ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
  - (iii) The version of the public servant concerned on the established allegations, the reasons why the version of the concerned public servant is not tenable / acceptable, and the conclusions of the investigating officer; Statements of witnesses and copies of the documents seized by the investigating officer;
  - (iv) Comments of the CVO and the Disciplinary Authority on the investigation report (including investigation done by the CBI and their recommendation);
  - (v) A copy of the draft charge sheet against the Suspected Public Servant (SPS) along with the list of documents and witnesses through which it is intended to prove the charges;
  - (vi) Assurance memo.

## **2.12 Timeline for submission of cases involving public servants due to retire shortly**

The CVC, from time to time, has issued guidelines that the CVOs as well as the administrative authorities needs to prioritise investigation and completion of disciplinary action against delinquent public servants well in advance so

that late references for advice are not made to the CVC, especially in respect of officers due for retirement shortly. It has now been decided that all retirement cases for advice should be received in the CVC, 30 days before the date of the retirement of the officer.

### **2.13 Composite Cases**

If a Government servant falls within the CVC's jurisdiction, the advice of CVC would be required and any decision of the Disciplinary Authority at this juncture may be treated as tentative. Such a reference would be required to be made even in respect of an officer / staff who are not within the CVC's jurisdiction if they are involved along with other officers who are within the jurisdiction of the CVC, as the case would then become a composite case and falls within the CVC's jurisdiction.

### **2.14 CVC's advice in Composite Cases**

In composite cases, Commission's advice would be necessary in respect of all officers of the Central Government or an organization under it, irrespective of their level, if they are involved in the same matter in which a Category 'A' officer is involved. A composite case should be processed as 'one' and action against every individual employee should be taken only on CVC's advice, even if there is only one official who comes within CVC's jurisdiction.

**Difference of opinion:** The CVC's advice would also be necessary in cases of difference of opinion between the Disciplinary Authority and the CVO with regard to the action to be taken against officers who are not within the jurisdiction of the CVC if these differences cannot be resolved with the intervention of the Secretary of the Ministry or Head of the Departments.

### **2.15 Reconsideration of CVCs' First Stage Advice**

Any proposal for reconsideration of CVC's first stage advice should be made to the CVC with the approval of the concerned Disciplinary Authority / Head of the Department / CMD of the Organisation concerned within one month of receipt of the CVC's first stage advice and that too only in those exceptional

individual cases having additional / new material facts. The CVC would not entertain any reconsideration proposal / request of first stage advice received beyond the time limit of one month.

## **2.16 Procedure for obtaining Second Stage Advice of the CVC**

- (a) In cases where the Disciplinary Authority, on conclusion of disciplinary proceedings, proposes to impose a penalty which is in line with the CVC's first stage advice in respect of officers falling within the jurisdiction of the CVC, second stage advice of the CVC is not required. Such cases would be dealt at the level of the CVO and the DA concerned in the Organisation / Department. However, the CVO should forward a copy of the final order issued by DA in all such cases of officers for CVC's record. All such cases, where the Disciplinary Authority proposes to take any action which is at variance with the CVC's first stage advice, would be referred to the CVC for obtaining second stage advice.
- (b) The CVO would exercise proper check and supervision over such cases and would ensure that the cases are disposed of expeditiously within the time norms stipulated by the CVC; and will ensure that the punishment awarded to the concerned officer is commensurate with the gravity of the misconduct established on his part. The CVC may depute its officers to conduct vigilance audit through onsite visits to check the compliance. If the CVC comes across any matter, which in its opinion, has not been handled properly, it may recommend its review by the appropriate authority or may give such directions as it considers appropriate.
- (c) **Advice in Composite Case:** In respect of composite cases wherein the CVC had tendered its first stage advice for all categories of officers involved, second stage advice of the CVC should be sought only if the DA's opinion is at variance with the CVC's advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the CVC wherein the CVC had rendered its advice (cases where there were differences between the CBI and the DA and which

were referred to the CVC for advice).

- (d) **Second stage Consultation with CVOs of Departments / Organizations in disciplinary cases of Category 'B' officers:** The consultation with CVO for second stage advice in respect of such cases where the Disciplinary Authority proposes to impose a penalty which is in line with the CVO's first stage advice in respect of Category 'B' officers (in non - CVC referred cases of individual cases or composite cases) may be dispensed with. However, in disciplinary cases of officers, where the DA tentatively proposes to take any action which is at variance with the CVO's first stage advice would continue to be referred to the CVO for obtaining second stage advice. The CVC vide Circular No. 08/12/14 dated 03.12.2014 prescribed the procedure on similar lines for processing CVC referable cases of Category A officers as well as composite cases involving Category B officers, wherein CVC had tendered first stage advice.
- (e) **Materials to be furnished for second stage advice:** Following materials should be furnished to the CVC while seeking its second stage advice:
- (i) A copy of the charge sheet issued to the public servant;
  - (ii) A copy of the Inquiry Report submitted by the Inquiring Authority (along with a spare copy for the CVC's records);
  - (iii) The entire case records of the inquiry, viz. copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
  - (iv) Comments of the CVO and the Disciplinary Authority on the assessment of evidence done by the Inquiring Authority and also on further course to be taken on the Inquiry Report.
- (f) **No reconsideration of Second Stage advice:** The CVC's second stage advice is tendered based on inputs received from Departments / Organisations which includes all material / information pertaining to the individual disciplinary case. Further in most of the cases, CVC had reiterated its earlier advice tendered at second stage and in almost all

such proposals, no new material / additional facts were brought out by the Departments / Organisations to justify any change. Also, in such cases or second stage advice, there is little scope for reconsideration. Such proposals also result in avoidable delays in finalization / issue of final orders by the Disciplinary Authority concerned. The CVC, therefore, has decided to dispense with consultation for reconsideration of its second stage advice. Hence, no proposal for reconsideration of the CVC's second stage advice would be entertained.

### **2.17 Disciplinary action against retired PSU Employees**

Public Sector Undertakings are non-pensionable establishments. However, departmental proceedings against PSU employee will continue after retirement and penalty can be imposed on delinquent employee on conclusion of Departmental proceedings that continued beyond the date of their superannuation, provided a provision has been incorporated in CDA Rules on following lines. "The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceeding are concluded and final order is passed in respect thereof. He will also not be entitled for the payment or retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF".



## Chapter 3

### Central Bureau of Investigation

#### 3.1 Introduction

The Special Police Establishment (SPE) was set up in 1941 to investigate bribery and corruption in transactions of the War and Supply Department of India during World War II with its Headquarters in Lahore. The Delhi Special Police Establishment Act was brought into force in 1946 which enlarged its scope to cover all departments of Government of India. Its jurisdiction extended to the Union Territories, and could be further extended to the States with the consent of the State Governments involved. The Central Bureau of Investigation (CBI) was set up through a Home Ministry Resolution No.4/31/61-T dated: 01.04.1963 & SPE became one of the constituents of CBI. The Central Government has been empowered under section 5 to extend to any area (including Railway area) in a State not being a Union Territory, the powers and jurisdiction of members of the DSPE for the investigation of any offence or classes of offences specified in a notification under section 3 of the DSPE Act subject to the consent of the Government of the concerned State, under section 6 of the Act.

#### 3.2 Agencies for conducting Preliminary Enquiry / Investigation

(i) **CBI / ACB of UTs:** As soon as a decision has been taken by the competent authority to investigate the allegations contained in a complaint, it will be necessary to decide whether the allegations should be enquired into departmentally or whether a police investigation is necessary. As a general rule, investigation into allegations of the types given below should be entrusted to the Central Bureau of Investigation or to the Anti-Corruption Branch in the Union Territories:

- a) Allegations involving offences punishable under law which the Delhi Special Police Establishment are authorised to investigate; such as offences involving bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, etc.;

- b) Possession of assets disproportionate to known sources of income;
- c) Cases in which the allegations are such that their truth cannot be ascertained without making inquiries from non-official persons; or those involving examination of non-Government records, books of accounts, etc.;
- d) Other cases of a complicated nature requiring expert police investigation.

**(ii) Local police:** In cases in which the allegations are such as to indicate prima facie that a criminal offence has been committed but the offence is one which the Delhi Special Police Establishment are not authorized to investigate, the case should be handed over to the local police authorities.

**(iii) Departmental agency:** In cases where allegations relate to a misconduct other than an offence, or to a departmental irregularity or negligence, and the alleged facts are capable of verification or inquiry within the Department / Office, the inquiry / investigation should be made departmentally.

**(iv) Allegations difficult to segregate:** If there is any difficulty in separating the allegations for separate investigation in the manner suggested above, the better course would be to entrust the whole case to the Central Bureau of Investigation.

### **3.3 Consultation with CBI**

In certain cases, the allegations may be of both types. In such cases, it should be decided in consultation with the Central Bureau of Investigation as to which of the allegations should be dealt with departmentally and which should be investigated by the Central Bureau of Investigation.

### **3.4 Resolving difference of opinion between the CBI or other investigating agency and the Competent Authority**

In terms of the DoPT guidelines issued vide OM No.372/6/2017-AVD-III dated 01.03.2019, in cases where an authority other than the President is competent to sanction prosecution under section 19 of Prevention of Corruption Act, 1988 and the authority does not propose to accord the sanction sought for by the CBI or the other investigating agency, as the case may be, the case will be reported to the CVC and the authority will take further action after considering the CVC's advice.

In cases recommended by the CBI for departmental action against such employees who do not come within the normal advisory jurisdiction of the CVC, the CVC will continue to resolve the difference of opinion, if any, between the CBI and the competent administrative authorities as to the course of action to be taken.

### **3.5 Parallel investigation by Departmental Agency and the CBI**

Once a case has been referred to and taken up by the CBI for investigation, further investigation should be left to them and a parallel investigation by the departmental agencies should be avoided. Further action by the department in such matters should be taken on completion of investigation by the CBI on the basis of their report. However, the departmental agency is not precluded from investigating the non-criminal misconducts in such matters for achieving quick results and if they decide to do so, the CBI should be informed of the non-criminal aspects which the departmental agency is investigating. Further, if the departmental proceedings have already been initiated on the basis of investigations conducted by the departmental agencies, the administrative authorities may proceed with such departmental proceedings. In such cases, it would not be necessary for the CBI to investigate those allegations, which are the subject matter of the departmental inquiry proceedings, unless the CBI apprehends criminal misconduct on the part of the official(s) concerned.

Instances have come to the notice of the CVC that while CBI is investigating allegations made in a complaint against a public servant on issues involving criminal misconduct, the concerned organization does not take up investigation into other misconducts contained either in the same complaint or in other complaints which are of departmental nature, pending investigation by CBI. It is to be clarified that the concerned organization shall enquire / investigate on issues which are not being investigated by CBI and take the matter to logical conclusion as per laid down procedure. Further, if CBI is investigating criminal misconduct by a bank employee or a borrower relating to some loan / fraud / forging of accounts, etc., the bank must not wait for CBI to complete its investigation to initiate action for recovery.

The CBI takes up cases for investigation on the basis of the information collected by them from their own sources or received from members of the public. It also investigates cases referred to them by the CVC and the administrative authorities. If the information discloses, prima - facie, commission of a cognizable offence, a regular case (RC) is registered under section 154 Cr.P.C. But if the information prima facie discloses commission of irregularities, which call for further enquiry, a preliminary enquiry (PE) is first registered. If the PE reveals commission of a cognizable offence, a regular case is registered for further investigation. As soon as a PE or a RC is registered, a copy thereof is sent to the Head of Department and / or the administrative ministry. A copy of PE / RC (i.e. FIR / Registration Report) is also sent to the CVC if the public servant concerned comes within the advisory jurisdiction of the CVC. The CBI generally does not take up inquiries into or register a case where minor procedural flaws are involved. They are also expected to take note of an individual officer's positive achievements while recommending RDA (Regular Departmental Action) so that a single procedural error does not cancel out a life time's good work.

### **3.6 Procedure for referring of cases by HAL to CBI and Police for investigation**

Keeping in view the extant Central Vigilance Commission (CVC) instructions and approval by the Management Committee at its 341<sup>st</sup> Meeting held on 29/07/2022, the following instructions / guidelines for reference of Cases to CBI and Police Authorities for Investigation are notified for compliance:

#### **(I) General Guidelines:**

(i) Investigations into criminal misconducts including financial irregularities should be entrusted to the CBI with the approval of CMD, if the allegations falls under any of the following categories:

- (a) Criminal in nature viz. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known source of income, cheating, etc.;
- (b) Requires Inquiries to be made in respect of non-official persons; or
- (c) Involves examination of private records; or
- (d) Need expert police investigation for arriving at a conclusion; or
- (e) Need investigation abroad

(ii) The Company may ordinarily refer to CBI, cases involving transactions not less than Rs.25 Lakhs or otherwise having National / International ramifications. All other cases are to be referred to the local Police Authorities.

(iii) As a general rule, investigations into criminal matters involving employees of the Company should be trusted to the Anti-Corruption Branch of CBI with the approval of CMD. If involvement of employees of the Company in the case is prima-facie not evident / established, the matter should be referred to the Economic Offences Wing of CBI. Cases cited at above, would be referred to the local police authorities only in matters wherein CBI has refused / rejected to take up Investigations or where transactions value is less than Rs.25 Lakhs.

(iv) Subject to the Administrative Approval of CMD, CVO would have complete discretion to refer the above types of Cases to the CBI or otherwise. In case of difference of opinion between CVO and CMD, the matter needs to be referred to the Commission.

(v) CVO may interact frequently and exchange information with CBI on a quarterly basis. Further, CVO may regularly report to the Commission the details of Cases / matters noticed in the Company and the action taken status thereon.

**(II) Procedure to File Complaint with CBI or Jurisdictional Police Authorities:**

The following aspects are to be taken into consideration while filing the Complaint before the Authorities concerned:

(i) In case of bribery, illegal gratification, etc., the complainant will be the person from whom the demand is made and those aggrieved persons have to lodge a complaint before the concerned investigating authorities. These type of cases will be dealt by Vigilance Dept. to facilitate the complainant to approach CBI or Police to file a formal Complaint.

(ii) In other Cases related to HAL matters, the affected party or aggrieved party will normally be the Company i.e., Department / Section concerned, where the alleged offences have occurred or have been reported.

(iii) Where the Dept. Officials concerned are prima-facie found to be involved in the offences reported in the case, filing complaint by them would prejudice the investigation as they may not provide all relevant facts of the case in the complaint. In such cases, the officer, as authorized and approved by the CMD will file a complaint with CBI. However, in all cases where the acts of criminal nature or commission of a non-cognizable offence was found during the course of preliminary / detailed investigation or upon conclusion of the same carried out by Vigilance Dept. and if it is felt necessary to refer the case to CBI or police authorities for Investigation, the complainant shall be the vigilance

officer concerned who investigated the case or any other vigilance Officer, as authorized and approved by CMD based on the recommendations of CVO. This is in consideration of the fact that the vigilance functionaries collect relevant information pertaining to the case and are well acquainted with the facts of the case; and also have better liaisoning & co-ordination with CBI over the others.

(iv) In exceptional cases, where there is no clarity on deciding about the complainant of the case, the officer / dept. as authorized & approved along with name of the complainant by CMD will file the Complaint before CBI.

(v) Instances where CBI refuse to take up the cases referred by Vigilance Dept. and advise for an investigation by the police or any other authorities, those cases will continue to be handled by the vigilance Dept. The decision for referring the case to the jurisdictional Police, etc. will be decided by CVO in consultation with CMD. The Complaint in such cases for investigation by the Police or any other authorities shall also be filed by the Vigilance Department.

**(III) Cases related to Vigilance matters:**

(i) The categories / types of cases cited above, having vigilance angle, corrupt practices and also offences under Prevention of Corruption Act, 1988 (as amended) will be handled by the Vigilance Dept.

(ii) The nature of activities which may be taken care by Vigilance Dept. includes the following:

(a) Obtaining approval from CMD to refer the Cases to CBI for Investigation.

(b) Filing a formal Complaint as above before CBI and provide authorization to initiate investigation under Section 17A of the Prevention of Corruption Act, 1988 (as amended).

(c) In cases where there is already a formal complaint filed before CBI by others, the authorization to initiate investigation under Section 17A of the Prevention of Corruption Act, 1988 (as amended) may be

processed by the Vigilance Dept. and conveyed to CBI.

d) To liaise and render assistance to CBI at the time of investigation or as and when required.

(e) To liaise and co-ordinate with the Competent Authority / HR Dept. concerned to obtain the sanction of the Competent Authority for prosecution wherever recommended by the CBI as per the provisions under Section 19 of the Prevention of Corruption Act, 1988 (as amended).

(f) To obtain the advice of CVC (1st Stage, 2nd Stage, etc.) i.r.o. the officers falling within the jurisdiction of CVC to initiate departmental action based on the CBI investigation reports.

(g) Processing the investigation report submitted by CBI viz. analysis of the report w.r.to violation of Company Rules & Procedures to initiate Departmental Action internally in the Company and provide necessary advice to the Disciplinary Authority concerned in this regard.

(h) To ensure compliance with regard to the provisions under the Prevention of Corruption Act, 1988 (as amended) and CVC & CBI Guidelines notified from time to time.

**(IV) Cases related to Non-Vigilance / Administrative matters:**

(i) The cases of administrative nature not having any vigilance angle and not coming under the categories / types of cases cited at para above are to be referred to or taken up by CBI for investigation will be handled by the concerned administrative authorities. Examples of such Cases are listed below for reference:

(a) Alleged involvement of HAL employee in a murder case, violence, etc. which are taken up or referred to CBI;

(b) Cases of domestic violence, dowry harassment, etc.;

(c) Cases related to theft, robbery, etc.

(d) Infringement of Intellectual Property Rights (IPR) related Cases;

(e) Social Media related Cases;



- (f) Cases related to Trade & Commercial Disputes, leakage of Project Information, etc.;
- (g) Cases involving National Security issues, etc.

(ii) Non-Vigilance / Administrative Cases that are to be referred to CBI for investigation will be in consultation with CVO and with the approval of CMD. Cases decided as administrative matters by the Management need to be referred to CVO to decide the existence of Vigilance Angle, examine the nature of offences in terms of the provisions under the Prevention of Corruption Act, 1988 (as amended), before the same are referred to CBI by the administrative authorities.

(iii) All the requirements of CBI / Police in terms of filing a formal complaint, approvals, sanction for prosecution, etc. to be fulfilled by the Administrative Authority concerned. However, feedback and progress of the cases referred to CBI / Police in administrative matters to be reported to Vigilance Dept. regularly.

(iv) Filing of complaint in cases of administrative nature shall generally be lodged by the HR / Security Depts. of the Division / Office concerned. However, in cases where specialized knowledge is required for deposition at a later stage by the complainant before the investigating authority or Court of Law viz. IPR, financial fraud, cyber-security, social media, etc. related cases, the complainant shall be from Department / Section concerned where the alleged offences have occurred / have been reported or from the concerned specialized functional area. In such cases, the HR / Security Depts. would guide the Dept. concerned / the complainant in filing the Complaint and w.r.to adherence / compliance of other formalities / procedures.

(v) Liaison with CBI / Police Authorities in case of Non-Vigilance / administrative cases referred for Investigation will be handled by the HR / Security Depts. of the Divisions/ Offices concerned.

(Policy on Reference of Cases to CBI and Police Authorities for Investigation, vide Letter No. HAL/HR/127(2)/Policy/2022 Dated 23<sup>rd</sup> August 2022)

## Chapter 4

### Vigilance Administration in HAL

#### 4.1 Vigilance set up

On the recommendations of Department of Public Enterprises with a view to make vigilance set up more effective, credible & prompt, the then Security & Vigilance Department was bifurcated and a separate department was established as Vigilance Department in the year 1998.

**Vigilance Units-** Vigilance units are established in all the Divisions / Complexes / Offices / Establishments of HAL and each unit is headed by a Vigilance officer & assisted by Vigilance staff. The Vigilance units are responsible for carrying out Vigilance activities under their jurisdiction. The Vigilance department in HAL is headed by CVO and assisted by a General Manager (Vigilance) and group of officers at Corporate Office to discharge Vigilance functions as mandated by CVC. HoDs of Vigilance units of HAL report to CVO-HAL through respective Complex Vigilance units.

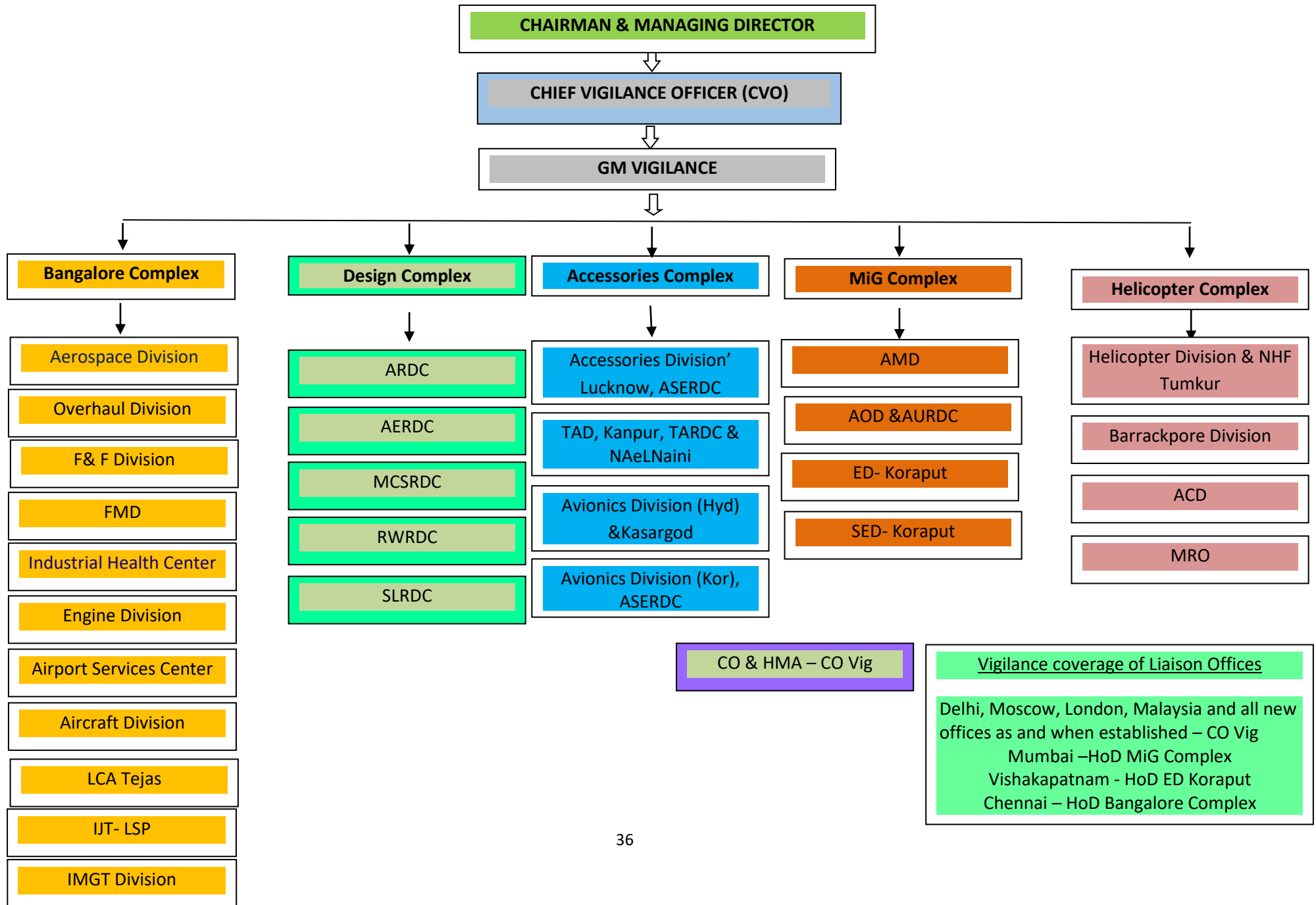
The Vigilance department plays a vital role in ensuring that the rules and laid down procedures of the Government and Company are adhered to in all circumstances and the discretionary powers vested with the individuals are exercised judiciously so that there is transparency in all official dealings. Vigilance Department pioneers the anti-corruption work of the Company.

The Vigilance Department primarily focuses on preventive and punitive role. Another role is Detective / Surveillance. Preventive Vigilance is a proactive approach, which looks at creating awareness and education on anti-corruption measure, simplification of rules and procedures, plugging loopholes in the system. Punitive Vigilance deals with disciplinary action against the employees who are involved in corrupt activities.

Vigilance Department in HAL has been instrumental in bringing far-reaching policy changes in almost every sphere of activity of the

company, like implementation of e-payments, e-tendering, computerization of annual property returns etc., to mention a few. The changes brought in due to the initiatives have not only streamlined the system but also paid rich dividends in the form of savings to the company. The department has been in the forefront, striving consistently to improve vigilance administration, by use of leveraging technology to reduce bottlenecks / delays in systems / processes and thereby bring in more transparency and expediency in handling businesses of the organization. Vigilance Department through its various preventive vigilance activities makes consistent efforts to reduce scope for corruption.

# VIGILANCE SET-UP IN HAL



#### **4.2 Scope of Vigilance work in HAL**

- (i) To meet the expectations of stakeholders by attending to all anti-corruption issues judiciously and expeditiously with professional competence and honesty by meeting all applicable regulatory requirements.
- (ii) To sustain and maintain the highest standards of anti-corruption services in conformity with the policies / guidelines of Government of India, CBI, CVC and HAL with trust, integrity, efficiency and timely completion of tasks.
- (iii) To critically examine various systems and procedures of the company to ensure their conformity to policies and norms of Government of India, CVC and HAL with a view to bringing in transparency and expeditiousness in adherence by all employees.
- (iv) To carry out preventive checks, like action plan tasks, surprise checks, CTE checks, etc., and ensure timely submission of reports & returns.
- (v) To conduct quarterly vigilance committee meetings with the divisional management for taking up vigilance related issues.
- (vi) To strive for continual improvements to achieve ultimate goal of anti-corruption services.

#### **4.3 Authority for carrying out vigilance work in HAL**

The CVO & the vigilance officials are the extended arms of the CVC and bound to implement the anti-corruption measures of GOI in HAL effectively. In order to achieve the above objectives, all vigilance officials are duly empowered by the CVO with the following authority:

- (a) All vigilance officials will have unrestricted access including their official vehicles to any location in the factories / departments / hangars / complex / divisions / office and their premises, estate including buildings / shops / establishments / welfare units / township / residential quarters /

sports & entertainment amenities, ancillary units / liaison offices / RM offices / guest houses etc. at any time for carrying out vigilance work.

(b) All vigilance officials are empowered to seize records / documents / files / information (contained in electronic storage device in any form) / articles, for the purpose of investigation.

(c) All vigilance officials are empowered to examine employees of HAL for vigilance enquiries / investigation, record their statement, obtain their signature on such statements / samples etc.

(d) All vigilance officials are empowered to conduct surprise / random / routine checks / inspections etc. of the points / places in any department / office / hangar / premises / estate / township including shops / establishments / residential quarters as part of either preventive or punitive vigilance activity.

(e) All vigilance officials are empowered to collect / obtain samples of materials (in any form) for the purpose of testing etc. during the course of inspection of civil / mechanical / electrical works and obtain photographs if required of the articles / points / places in question.

(f) All vigilance officials are empowered to draw inspection / surprise / routine check report at the points / places of check and to obtain signature of the concerned in-charge, user / operator / custodian etc. as a token of confirmation that the same was carried out in their presence and they corroborate the details recorded in it.

(g) All vigilance officials are empowered to meet their sources, or any officials of government / non-government / private / public etc. for vigilance verification / work or for liaison.

(h) All vigilance officials are empowered to carry out detective / surveillance as part of vigilance work.

A photo identity card summarizing the above is issued to all vigilance officials. Non-cooperation / obstruction to vigilance officials in discharge of

their duties by any employee of the company would be deemed as misconduct and liable for disciplinary action as per the rules of the company.

#### **4.4 Protection to Vigilance officials for acts done in good faith**

Independence of the vigilance officials is the foundation for effective vigilance administration in any organisation. They cannot function without fear or favour if they perceive any victimization, as a consequence of their working in vigilance units. The Commission views such incidents seriously as those working in vigilance units should have an assurance that good and efficient work in the vigilance units will enhance their opportunities for promotion and not become a sort of disqualification. Instances of denial of the same is to be perceived as victimisation. While Chief Executive must put in special efforts to ensure this, CVOs are expected to promptly report such instances to CVC.

The vigilance functionaries conduct enquiries / investigations on behalf of the CVO. During the course of investigations / enquiries to unearth the facts of the case or which is warranted to bring the case to a logical conclusion, the acts of the functionary should not be treated prejudicial to good order and discipline or *malafide* intention. The acts of the vigilance functionaries in discharge of bonafide duties are to be treated as done in good faith and in the best interests of the company and no disciplinary action should be initiated against the vigilance functionary.

The CVC Circular No.16/03/06 on protection against victimization of officials of the vigilance units of various Ministries / Departments / Organizations calls for the need to allow the vigilance officials to work independently and freely without any fear, which is the foundation for effective vigilance administration in any organization.

The Commission issued the following consolidated instructions vide CVC circular No. 16/03/06 dt. 28.03.2006 in exercise of its powers under sections 8(1) (h) of the CVC Act:

i) All personnel in vigilance units will be posted only in consultation with and the concurrence of the CVO. They will be for an initial tenure of three years extendable up to five years. Any premature reversion before the expiry of such tenure will be done only with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.

ii) The ACR of personnel working in the Vigilance department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case CVO has reservations about the comments made under the review, CVO shall take it up with the CMD to resolve the issue. In case CVO is unable to do this, CVO shall report the matter to the Commission who will intercede in the matter suitably.

iii) Since the problem of victimization occurs, if at all after the reversion of the personnel to their normal line departments, the Commission reiterated the following:

a) On such reversion, the Vigilance personnel shall not be posted to work under an officer against whom, while working in the Vigilance department, he / she had undertaken verification of complaints or detailed investigation thereafter. Needless to say his / her ACR shall not be written by such officer(s).

b) All such Vigilance personnel will be deemed to be under the Commission's purview for purpose of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the Vigilance department.

c) All Vigilance personnel on reversion shall be entitled to represent through the CVO and CMD of the organization to the Commission if they perceive any victimization as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection



will be extended for a period not less than five years after the reversion of such personnel from the Vigilance department.

The above instructions may be noted for strict compliance. The CVO should report promptly to the CVC, the details of any real or perceived victimization of any official who is working in the Vigilance unit. Similarly, CVO should also report such instances pertaining to the former officials of the Vigilance unit, up to a period of five years after they had completed their tenure in the Vigilance unit. CVO should also report where such deserving officials are ignored / superseded in matters of promotion.

#### **4.5 Functional and Administrative control over Vigilance Officials**

All matters pertaining to functional and administrative control over Vigilance officials like recruitment, induction, grant of leave, training, transfer / job rotation, promotion, movement / temporary duty, forwarding applications, writing of PAR, disciplinary action etc. would be exercised by the CVO.

#### **4.6 Reporting structure & assessment of Performance of Vigilance Officers**

(i) Vigilance HoD of divisions will report to complex Vigilance HoD. Complex Vigilance HoD will be the IA to assess MAT and PAR of HoD(Vig) in the division. GM(Vig)-CO will be RA to write their PAR.

(ii) Vigilance officers posted under another Vigilance officer in any of the Division, the junior officer will report to HoD (Vig) of that Division who will be IA and Complex Vigilance HoD will be RA. Such reports will be assessed by GM(Vig) and CVO under Part-G as applicable considering the grade of the officer.

(iii) Complex Vigilance HoD and Vigilance officers posted at CO (excluding office of CVO) will report to GM(Vig). The assessment of MAT and PAR will be done by GM(Vig) as IA and CVO as RA.

(iv) For all PAR reports as filled above, CVO would complete the evaluation at Part –G of the report as applicable.

(v) PAR reports of Vigilance officers in Grade – VII and above will be submitted to CMD to endorse his remarks under part – G of the format.

#### **4.7 Administrative facilities extended to Vigilance Officials**

##### **Residential Accommodation:**

Vigilance officials will be provided with accommodation under discretionary quota in the entitled/eligible type of quarters.

##### **Transport:**

The vigilance departments of the divisions/ complexes will be provided with four wheeler vehicle with a full-time driver and motor cycles / scooters. The vehicles will be used for investigations, inquiries and day to day Vigilance work.

##### **Telephones & Internet Facility:**

A telephone line with STD facility will be provided to the head of the Vigilance department of the Divisions / Complexes both at office as well as residence. The HoD of the Vigilance Department would be provided with internet facilities in office and residence for official usage. Provision of telephone & internet to Vigilance officials other than Vigilance HoDs will be approved by CVO based on operational requirements.

##### **IFS Rights**

The vigilance officers in various units must be provided with access for all the modules of IFS.

##### **Imprest Amount**

HoDs in Divisions / Complexes are authorized for imprest money as per the limits sanctioned by the CVO from time to time. Any additional requirement will be forwarded to the CVO by the HoDs. The imprest account will be utilized for the following purposes:-

- (a) Liaison with government and other outside agencies.
- (b) Handling sources related to Vigilance work.
- (c) Vigilance related enquiries and investigations.

(d) Purchase of essential Vigilance related compendiums and items of emergent nature.

(e) Miscellaneous expenditures

Imprest amount against each Complex / Division is given for expenditure to be incurred by the HOD of Vigilance in connection with the Vigilance related expenditure will be accounted and reported to the finance department of the Division / Complex as per laid down procedure.

### **Provision for Capital/ Revenue Expenditure**

The annual budget for the Vigilance units will be prepared by the HODs for both capital and revenue expenditure. It should include projections for Revised Expenditure (RE) & Budgeted Expenditure (BE). The requirements will be forwarded to the corporate office well in advance for inclusion in the company's Capital / Performance Budget. A consolidated budgetary requirement would be compiled at corporate office and put up for CVO for approval. On approval, the same would be conveyed to Vigilance units / offices to include in the divisional Capital / Revenue Budget. HODs who in turn need to take up the matter with the concerned authorities for provisioning action.

### **Reimbursement of Expenditure**

Expenditure incurred by HoD of Division / Complex Vigilance unit for urgent / occasional short term requirements like Seminars / Conferences / Hospitality / Courtesy & Entertainment (Refreshments, Working Lunch, Hosting official Lunch / Dinner for visiting dignitaries for the official purpose) to be reimbursed as per DoP, subject to budgetary provisions as approved by CVO.

### **Training & Capacity Building**

A yearly training programme will be prepared by the corporate office for vigilance functionaries. Training will be imparted to the staff centrally in the form of training capsules on regular basis. Vigilance functionaries will be deputed to various training courses conducted by government institutes

such as CBI Academy, Central Forensic Science Laboratory, National Forensic Science University (NFSU), Arun Jaitley Institute of Financial Management (AJNIFM), National productivity Council (NPC), ISTM, Leadership Development Program (LDP), India Habitat Centre, Indian Railways Institute of Logistic & Materials Management (IRILMM), CVC and other training institutes of the State / Central Govt. Besides these, officers may be deputed to attend seminars and workshops organized by universities / private establishments. Deserving officers will be given opportunity to attend international seminars / workshops / training programmes.

#### **4.8 Detailing of Vigilance staff in committees and non-Vigilance activities**

The role of the vigilance staff in the Divisions / Complexes is to study systems and procedures, which include surprise and regular inspections / checks and anti-corruption work. Vigilance staff will not be engaged in activities such as gathering information on union activities, investigation on industrial relations, verification of firms and individuals in non-Vigilance cases. The Government in consultation with the CVC has issued guidelines vide O.M. No 321/77/91-ADV.III dated 09<sup>th</sup> June 1992 that the Vigilance functionaries should not be a party to processing and decision making process or any other similar administrative transactions of such nature which are likely to have clear Vigilance sensitivity.

Vigilance officers will not be appointed as enquiry officer, presenting officer, co-officer. The vigilance officers and the vigilance staff play a vital role in the departmental enquiry committee proceedings. The onus of proving the charges is on the prosecution which is based on the investigation report prepared by the Vigilance Department. It is imperative that the vigilance officers and the vigilance staff should collect all the evidence before an investigation report is finalized and recommend the prosecution of the defaulting employees. The vigilance officers and staff must provide all assistance and evidence gathered by them to the presenting officer.

#### **4.9 Vigilance administration of Subsidiaries and Joint Venture Companies**

The CVC has jurisdiction over any organisation so long as the administrative ministry / department of the central government continue to exercise administrative control over these organisations including the appointments of the CMDs and the Board Members, etc. Accordingly, the CVOs are expected to ensure that vigilance activity is carried out in PSUs, their subsidiaries and joint venture companies in accordance with guidelines of the CVC. All important issues should be reported to the Commission.

#### **4.10 Jurisdiction over Joint Venture Companies**

Jurisdiction of CVC extends to such companies where, in a combination of the central government, one or more state government, one or more government companies and one or more corporations owned or controlled by the central government / state government, the cumulative share of the central government is not less than 51% of the paid-up share capital. (DOPT OM No.399/9/2010-AVD-III(Part-II) dated 15.01.2019)

#### **4.11 Appointment of Retired Persons in Vigilance Units**

A person, who is not a full-time employee of the government / public sector enterprise, etc., may be amenable to influence. There is also a possibility that the retired officers, appointed as consultants, may provide a convenient legal cover for going easy on corrupt practices, as they may be financially obliged to the management. It is also difficult to make them accountable for the misconduct committed by them. Therefore, the vigilance functionaries should always be full-time employees of the organisation and in no case a retired employee should be appointed as a consultant to perform vigilance functions in any vigilance unit.

#### **4.12 Vigilance Clearance**

Vigilance clearance is obtained for the following purposes:

- a. Promotion
- b. Selection & appointment of internal candidates against open selection

- c. Confirmation on first appointment
- d. Compulsory retirement / premature retirement / superannuation from service (normal retirement) / voluntary retirement / optional retirement / resignation / termination on account of continued ill health
- e. Issuance of no objection certificate for obtaining passport
- f. Posting to sensitive departments / sections / areas
- g. Deputation to other organizations within the country and for foreign assignments
- h. Training abroad including seminars / conferences
- i. Private visit to foreign countries
- j. Permanent absorption of government servants
- k. Officers who are being considered for assignment / posting as offg. GM / offg. CoP / offg. CD, before such assignment / posting.

**Note:** SOP for issuance, status report and withholding of vigilance clearance along with other relevant guidelines on vigilance clearance is issued vide HR Circular No.HAL/HR/27(1)/Policy/2019 dated 25.04.2019.

#### **4.13 Transfers / Job rotation of Employees posted in Sensitive Areas**

Due to the delegation of powers both financial and administrative, there is hardly any department now, which does not afford opportunities for corruption. However, in some departments these opportunities are greater when compared to others.

The following departments / sections / areas would be considered as sensitive.

<b>S/N</b>	<b>Departments / Areas / Sections to be considered as sensitive</b>
1	Bills payable
2	Pay Rolls
3	PF section of divisions / offices
4	<b><u>Purchase and stores:</u></b> a) Material Planning:

	<p>Material review &amp; planning and RR Generation.</p> <p>b) Purchase: All Pre Contract and Post Contract Purchase Order related activities.</p> <p>c) Stores: - Receiving Stores – RR Generation (generation of RR, Offer to inspection, move to Holding Stores) and Goods Inward Section; - Salvage Stores.</p>
5	Recruitment
6	Security including Security Guards
7	Vigilance
8	<p>Civil Engineering (Including Contract Section)</p> <p>a) Execution / Supervision of Contracts related to Construction Works, Maintenance Works &amp; Service Contracts.</p> <p>b) Tendering related activities including preparation of Tender Documents, evaluation of Tenders and acceptance of Tenders.</p>
9	<p>Plant Maintenance (Mechanical &amp; Electrical)</p> <p>a) Execution / Supervision of Contracts related to Construction Works, Maintenance Works &amp; Service Contracts.</p> <p>b) Tendering related activities like preparation of Tender Documents, evaluation of Tenders and acceptance of Tenders.</p>
10	Stores Inspection (Only inward Goods inspection)
11	<p>Sub Contract Cell / Outsourcing)</p> <p>a) Commercial Group (involved in Tendering, Ordering, PO follow up &amp; Payment activities).</p> <p>b) Quality Group (involved in PDI / Inward Inspection, Quality Audits)</p> <p>c) Outsourcing / Subcontract cell at Divisional level.</p>
12	Township Administration (Allotment of quarters and shops)
13	Systems Audit

Note: Pay Rolls and Bills Payable Section would be considered as sensitive till their activities are handed over to CPPC. Once all the activities are handed over, CPPC will be categorized as Sensitive.

The maximum tenure of posting to sensitive departments / sections / areas would henceforth be 3 (three) years and job rotation / transfer would be effected accordingly. Retention of employees in sensitive area beyond the stipulated tenure may also be permitted in exceptional circumstances only with the approval of the complex head. Extension for posting in sensitive areas beyond stipulated period cannot be granted for more than one year at a stretch. In any case, maximum tenure of posting to a sensitive area cannot be more than 5 years.

Employees handling both sensitive and non-sensitive areas in a department / section would continue to be considered as working in sensitive area for the purpose of job rotation. However, officers (department heads) who are not handling sensitive portfolios directly (i.e. there are other officers who are reporting to them), will not be considered as sensitive. In other words, department heads who are directly handling sensitive portfolios will only be considered as sensitive.

#### **4.14 Do's and Don'ts for the Vigilance Functionaries**

##### **DO's**

- (a) Be objective in collecting facts and evidence-both oral and documentary.
- (b) Develop an information channel for planning and conducting preventive check for the followings so as to cover all the departments vulnerable to corruption
- (c) Before taking up any allegation for investigation always ensure that it has a Vigilance angle.
- (d) Complete investigations within a reasonable time and in an objective manner so as to instill a sense of confidence.



- (e) Always be fair and impartial and without personal prejudices and influence while conducting an investigation.
- (f) Plan adequately before commencement of an investigation and make reasonable assessments of time required.
- (g) Investigate in detail to form a logical picture of all the facts and evidence. Link them to conclude in a fair and just manner.
- (h) Check for the authenticity of the source.
- (i) Conduct quality preventive check.
- (j) Ensure that investigation is meticulously factual, scrupulously fair and unfailingly speedy.
- (k) Be a man of absolute integrity and devotion to duty.
- (l) Always be firm in conviction and determination.
- (m) Always submit your own claims for TA, Medical Reimbursement, LTC, etc, in time.
- (n) Be polite and courteous. Give due regard to your seniors even if they are under investigation.
- (o) Do consider everyone as honest and well meaning, unless proved otherwise.
- (p) Do seek permission from your controlling officer before leaving Headquarters.
- (q) Do keep your department head informed of your movements.
- (r) Do exercise vigil on the activities of officials included in the Agreed / ODI List.
- (s) Do remain accessible to all employees.
- (t) Dispose of cases promptly and without undue haste.
- (u) Listen, you cannot afford to miss anything that is being said.
- (v) Be sensitive to the people you are dealing with and don't ask for too much.

### **DON'Ts**

- (a) Do not be instrumental in building up a false case against an employee.
- (b) Do not register a Vigilance case under local pressure or pressure out of affinity, acquaintance, etc.

- (c) Do not conclude in haste.
- (d) Do not disclose the source of your information.
- (e) Do not divulge the identity of the complainant. It could lead to acrimonious relations.
- (f) Do not be light-hearted, flippant, and irresponsible in your official conduct.
- (g) Do not allow bias or prejudice to affect objectivity.
- (h) Do not do anything with a view to settle scores.
- (i) Do not ask for any undue favour
- (j) Do not avail of any non-entitled facility.
- (k) Do not take up petty cases for registration and investigation.
- (l) Do not try to play the role of a policeman.
- (m) Do not try to bypass any instructions from superior authority even in a circuitous way.
- (n) Do not offer advice unless you are sure of its correctness and legal tenability.
- (o) Do not be extravagant in your habits.
- (p) Do not forget to submit your Annual Property Return (APR) in time.
- (q) Do not develop familiarity with any particular employee or junior otherwise, your impartiality could be questioned.
- (r) Do not accept gifts if the value is beyond the acceptable limits.
- (s) Do not act in a manner which erodes faith of an employee in the functioning of Vigilance.
- (t) Do not engage directly or indirectly in trade or business.

#### **4.15 Nine Golden Rules for Vigilance Functionaries**

- (i) Vigilance is a cerebral department, a skill based set up. Keep updating your skills.
- (ii) Personal Integrity: Walk the talk as the same rule applies to you.
- (iii) Develop local intelligence. You are the eyes and the ears of the organization.
- (iv) Listen more, talk less: Information to be shared on need-to-know basis.

- (v) Develop team spirit: be proud of the achievements of the department.  
It is your achievement.
- (vi) Don't be a part of internal group politics / dynamics in your divisions.  
Earn respect through professional conduct.
- (vii) Think creatively. Offer suggestions / viewpoints / opinions.
- (viii) Preventive Vigilance is our focus. Orient yourself.
- (ix) Develop zero tolerance to corruption in your personal and professional lives.

## Chapter 5

### Complaint Handling Policy

#### 5.1 Definition of Vigilance Angle

- (a) Vigilance angle is obvious in the following acts:
- i) Demanding and / or accepting gratification other than legal remuneration in respect of an official act or for using one's influence with any other official.
  - ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he / she has or is likely to have official dealings or his / her subordinates have official dealings or where he / she can exert influence.
  - iii) Obtaining for himself / herself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his / her position as a public servant.
  - iv) Possession of assets disproportionate to his / her known sources of income.
  - v) Cases of misappropriation, forgery or cheating or other similar criminal offences.
- (b) There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or willful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible public interest is evident; failure to keep the controlling authority / superiors informed of required transactions and issues in time; cause of undue loss or a concomitant gain to an individual or a set of individuals / a party or parties; these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

(c) Any undue / unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case.

(d) The purpose of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk-taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial / operational interests of the organisation is one possible criterion for determining the bonafides of the case. A positive response to this question may indicate the existence of bonafides. A negative reply, on the other hand, might indicate their absence.

(e) It may be quite unfair to use the benefit of hindsight to question the technical merits of a managerial decision from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organisation. Therefore, a distinction has to be made between a business loss which has arisen as a consequence of a bonafide commercial / operational decision and an extraordinary loss which has occurred due to any malafide, motivated or reckless performance of duties. While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

(f) It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion / perception or an error of judgment simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (Union of India vs. J. Ahmed AIR1979 SC 1022). Such failures may be a matter of serious concern to the organisation but not from the vigilance point of view. They have to be dealt with separately.

## 5.2 Complaints

A complaint is a piece of statement or information containing details about offences alleged to have been committed under the Prevention of Corruption Act 1988 (amended) or malpractices / misconducts under conduct rules governing specified categories of public servants.

Receipt of information about corruption, malpractice or misconduct on the part of public servants from whatever source, would be termed as a complaint. Complaints are an important source of information about the corruption, malpractice and misconduct on the part of public servants. However, before initiating any action on oral complaints, their identity should be verified. Any allegation having a scope of corruption or corrupt practices has a “vigilance angle”. Complaints can be screened as under: -

- (a) Whether the subject matter is within the executive power of the Central Government or Organisation.
- (b) Having Vigilance or non-Vigilance angle.
- (c) Pertains to misconduct having rational connection with the present employment.

## 5.3 Source of Complaints

(a) Information about corruption, malpractice or misconduct on the part of public servants may flow to the administrative authority, the CVC, the CBI or the police authorities from any of the following or other sources:-

- i. Complaints received from employee(s) of the organisation or from the public;
- ii. Departmental inspection reports and stock verification surveys;
- iii. Scrutiny of annual property statements;
- iv. Scrutiny of transactions reported under the conduct rules;
- v. Reports of irregularities in accounts detected in the routine audit of accounts e.g. tampering with records, over-payments, misappropriation of money or materials, etc.;
- vi. Audit reports on government accounts and on the accounts of public

undertakings and other corporate bodies etc.;

- vii. Reports of parliamentary committees like the estimates committee, public accounts committee and the committee on public undertakings;
- viii. Proceedings of the houses of parliament;
- ix. Complaints and allegations appearing in the press, etc.;
- x. Source information if received verbally from an identifiable source to be reduced in writing; and
- xi. Intelligence gathered by agencies like CBI, ACB, Lokayuktas, etc.

(b) In addition, the CVO concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation for collecting information about any malpractice and misconduct among the employees. Information gathered from reports, returns, news-papers, etc. will be included under the term “complaint” and will be dealt with in the same way as letters of complaint. Information received verbally will be reduced to writing and such information should be registered in the vigilance complaints register to process it.

(c) Information about corruption and malpractices on the part of public servants may also be received from their subordinates or other public servants. While normally a public servant is required to address communications through the proper official channel, there is no objection in entertaining direct complaints or communications giving information about corruption or other kinds of malpractices. While genuine complainants should be afforded protection against harassment or victimization, serious notice should be taken if a complaint is found to be false and malicious after verification.

#### **5.4 Action on Audit Reports including CAG Paras, News items, etc.**

(i) The reports of internal audit, statutory audit and C&AG are important tools of preventive vigilance as they provide an independent periodic check of the efficacy of the internal controls within the organisation and create awareness about areas at risk of fraud or weak controls. The Commission

has advised CVOs to look into all such reports with the objective of identifying vigilance issues. As a strategy of good governance, the CVC has been advising all government organisations to evolve a strong internal audit mechanism.

(ii) The audit report of the CAG many a time reveals not only administrative and financial irregularities but also actual cases of misconduct and corruption. The CAG reports are generally well documented and would be useful in bringing the corrupt public servants to book. The valuable information available through the CAG reports in the form of documented cases of misconduct or corruption call for prompt action on the part of the disciplinary authorities.

(iii) CVOs in all the organisations must scrutinise internal and external audit reports including audit report of the CAG to check whether any cases of misconduct or corruption are revealed in them. In all such cases, immediate action must be initiated against the public servants concerned through the standard practice of referring Vigilance cases to CVC.

(iv) All serious cases of malpractices reported by CAG which are perceived to have a vigilance angle would also be sent to the CVC for examination and follow up action.

## **5.5 Anonymous and Pseudonymous Complaints**

**Anonymous complaint:** Any complaint that does not bear the name and address of the complainant is an anonymous complaint. No action is to be taken on such complaints irrespective of the nature of allegations and such complaints should be filed.

**Pseudonymous Complaint:** A complaint that does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint.



No action is required to be taken on pseudonymous complaint and such complaints need to be simply filed.

## **5.6 Procedure of handling Complaints as per CVC**

### **(I) Complaint Handling Policy of Commission**

A detailed Complaint Handling Policy has been laid down by the Commission vide its Circular No. 004/VGL/020(pt.) dated 01.07.2019. Further guidelines on Complaint Handling Mechanism has been issued by CVC vide circular No. 25/12/21 dt. 24.12.2021 and amendment issued vide circular No. 24/11/22 dated 03.11.2022. The Commission on receipt of a complaint against officials covered under its jurisdiction may inquire or cause an inquiry or investigation to be made into the same, wherein it is alleged that the official concerned has committed an offence under the Prevention of Corruption Act 1988 (as modified in 2018) and an offence with which he may, under the Code of Criminal Procedure, 1973, be charged at the same trial. The salient features of the Complaint Handling Policy are given below:-

- (a) Commission deals with complaints in the matters of corruption and irregular acts having Vigilance angle. Redressal of grievances should not be the focus of complaints to the Commission.
- (b) Anonymous or Pseudonymous complaints are not entertained.
- (c) Complaints can be lodged either through written communication or through Commission's portal and Commission's website.
- (d) No fee shall be chargeable for lodging complaints with the Commission.
- (e) A mechanism has been put in place through PIDPI Resolution 2004 under which "whistle-blowers" can lodge complaints and identity is not revealed to any source. This is an effective substitute for anonymous / pseudonymous complaints. CVC has been authorised as the "Designated Agency" to receive complaints from "whistle-blowers" and act on them, on merit. The CVOs of "Ministries / Departments" of Government of India have also been authorised as

the "Designated Authorities" for receiving and acting on complaints from whistle-blowers.

**(II) Action taken on Complaints received in the Commission**

On receipt of complaints in the Commission and after initial scrutiny of the contents, the Commission may take any of the following actions: -

- (a) Get an investigation done through CBI or any other investigating agency into allegations leveled in the complaints. It may get the investigation done through the CVO of the organization concerned or any other CVO or an officer of the Commission and call for investigation report (I&R); or
- (b) Send the complaint for Factual Report (FR) or Discreet Verification and obtain report; or
- (c) Send the complaint to the respective CVO for necessary action (NA); or
- (d) File or close the complaint, without further action.
- (e) In case a view is taken to call for investigation and report (I&R) on a complaint, the Commission seeks confirmation from the complainant for owning or disowning the complaint. This step is necessary because, as per policy, the Commission does not take cognizance of anonymous or pseudonymous complaints. The complainant is also required to provide a copy of his / her identity proof. A communication in this regard is sent to the complainant and he / she is required to respond within 15 days of the receipt of the communication from the Commission. However, in case of non-receipt of response within 15 days from the complainant, a reminder is also sent to him / her, giving another opportunity. In case of no response after 15 days of reminder, the complaint would be filed treating it as a pseudonymous complaint.

**(III) Procedure for handling Complaints received against Secretaries to GOI, Chief Executives / CMDs and Functional Directors of PSEs, PSBs and FIs**

Complaints against the Chief Executives and Functional Directors of PSUs and the CMDs and Functional Directors of PSBs and FI received by

authorities other than the Commission will be placed before a group of officers headed by Secretary (Coordination) in Cabinet Secretariat.

The complaints received in the Commission against Chairman / CMDs / MDs / CEOs / Functional Directors of CPSEs / PSB, etc. would be forwarded to the CVO of the Administrative Ministry for obtaining Investigation Report or for Necessary Action.

**(IV) Action on Complaints received by Ministries / Departments / Organization**

Complaints received by the Ministries / Departments / Organization in respect of the employees under their administrative control are to be dealt with by the organization concerned.

**(V) Initial action on complaints**

Every vigilance Unit will maintain a vigilance complaints register in two separate parts for category 'A' and category 'B' employees. Category 'A' includes such employees who are covered under the jurisdiction of the Commission, whereas category 'B' includes other employees. If a complaint involves both categories of employees, it should be shown against the higher category i.e. Category 'A'.

Every complaint, irrespective of its source, would be entered in the prescribed format in the complaints register chronologically. A complaint containing allegations against several officers may be treated as one complaint for statistical purpose.

Entries of only those complaints in which there is an allegation of corruption or improper motive or if the alleged facts prima facie indicate an element or potentiality of Vigilance angle, should be made in the register. Complaints of purely administrative matters or technical lapses should not be entered in the register and should be dealt with separately under "non-Vigilance complaints".

## **(VI) Scrutiny of complaints**

Each complaint will be examined by the CVO and following actions should be taken:

If the allegations are vague, general and prima facie unverifiable, complaint may be dropped and filed by CVO. Wherever considered necessary, Head of Department may also be consulted.

A further check, a preliminary inquiry / investigation may be made to verify the allegations to decide whether or not, the public servant concerned should be proceeded against departmentally or in a court of law or both, if complaints gives definite information to do so. The information passed on by the CBI to the Ministry / Department regarding the conduct of any of its officers should also be treated in the same way.

## **(VII) Disposal of complaints**

- (i) A complaint which is registered can be dealt with as follows:
  - (a) file it (close it) without or after investigation; or
  - (b) forward it to the CBI for investigation / appropriate action; or
  - (c) forward it to the authority concerned for appropriate action if no Vigilance angle is involved; or
  - (d) to take up for detailed investigation by the Vigilance wing of the organisation. An entry to that effect would be made in the Vigilance Complaint Register with regard to "action taken" and "date of action" respectively. A complaint is to be treated as disposed of in Quarterly Performance Report (QPR) either on issue of charge-sheet or on final decision for closing or dropping the complaint. If a complaint is taken up for investigation by the Vigilance wing or in cases in which it is decided to initiate departmental proceedings or criminal prosecution, further progress would be monitored through other relevant registers. If there were previous cases / complaints against the same officer, it should be indicated in the remarks column.

(ii) Complaints received from the Commission under the provisions of PIDPI Resolution are not required to be verified for genuineness by the organisations, as the process of verification / confirmation is completed in the Commission prior to referring it for investigation or further necessary action. Therefore, such complaints should be taken up for investigation by the organisations immediately on receipt of the same from the Commission. Such complaints shall be treated as registered on receipt. The authorities concerned are required to send the report to the Commission within three months from the date of receipt of the reference.

(iii) Complaints received by the Department where the Commission has called for Investigation Report, shall be treated as a signed complaint (not required to be verified for genuineness) and taken up for investigation.

**(VIII) Action on Complaints received by CPSE, PSB, etc.**

In addition to the guidelines as defined above, the following aspects may also be taken care of by the CVOs of the above-mentioned organisations:

(a) Initially, the decision about the existence of Vigilance angle in a complaint may be taken by the CVO. The Disciplinary Authority (DA) may differ with the CVO within a period of 15 days, giving valid reasons. However, in case of difference of opinion between the CVO and the Disciplinary Authority (DA) regarding the existence of Vigilance angle, the matter along with the investigation report on complaint would continue to be referred to the Commission for its first stage advice.

(b) In exercise of its functions and powers, the Commission can call for a report in respect of any complaint having Vigilance angle relating to an organisation covered under the Commission's jurisdiction. Wherever the Commission calls for 'investigation and report' on a complaint, the report of the investigation should normally be sent to the Commission. However, after investigation, if it is found that the officials involved in the case are not covered under Commission's jurisdiction, the matter may be dealt with by the CVO of the organisation concerned himself. However, action taken by the

CVO may be intimated to the Commission in order to monitor compliance. Further, it is clarified that in so far as PIDPI complaints are concerned, the Commission has jurisdiction over all officials (irrespective of their level) of the organisation covered under the Commission's jurisdiction. Therefore, in respect of PIDPI Complaints, investigation report is to be sent to the Commission, for all categories of officials.

**(IX) Handling of Complaints against Board level officials**

A complaint involving a Board-level appointee, whether figuring alone or in association with others, is to be forwarded by the CVO of the CPSE, PSB etc, to the CVO of the administrative ministry. Under no circumstances, CVO of an organization should initiate action against the Board-level appointee of his organization.

In cases where the Commission calls for investigation and report against a Board level appointee, the CVO of the administrative ministry shall initiate investigation and furnish report to the Commission in the prescribed format.

If the CVO of an administrative ministry asks for a factual report against a Board level appointee from the CVO of the organisation concerned, the latter will send the same to the CVO of the Ministry / Department, after endorsing a copy of the report to the CMD. The CVO of the Ministry / Department may make a reference to the Commission after collecting all the relevant facts and following the prescribed procedure.

If a complaint against a Board level appointee is directly received by the CPSEs / PSBs etc., the CVO shall forward the same to the CVO of the administrative ministry for consideration.

As a rule, complaints/cases which are more than 5 years old and against which no action has been taken till then, should not be taken into cognizance. However, the limit of 5 years will not apply to cases of fraud and other criminal offences; and

No cognizance should be taken of any complaint which is received up to 6 months prior to the initiation of selection process for Board level officials.

**(X) Handling of Complaints against CVO, VO, etc.**

Any complaints against the CVO should be immediately referred to the Commission and the Commission would decide the further course of action thereon. However, the complaints against the other Vigilance functionaries shall be looked into by the CVO personally and further action would be taken as per prescribed procedure.

**5.7 Gist of Complaint Handling Policy in HAL**

In line with the CVC's directions, HAL has issued "Complaint Handling Policy" vide letter No. HAL/P&A/27(1)/Policy/2009/251 dated 13.05.2009 which has following features: -

- (a) CVO should have access to all complaints.
- (b) Vigilance department would act as the nodal agency for handling all complaints received in the organization.
- (c) All the complaints received by the divisions / offices are to be forwarded to the CVO irrespective of whether the complaint bears Vigilance angle or not.
- (d) CVO would decide whether the complaint attracts Vigilance angle or not and dispose the complaint accordingly.

**5.8 Instructions to Complainants for lodging Complaints**

**(i) Lodging of Complaints to CVC:**

- a) Complaints can be lodged by addressing the written communication / letter directly to the Vigilance Department or on CVC's portal [www.portal.cvc.gov.in](http://www.portal.cvc.gov.in) or through the CVC's website [www.cvc.gov.in](http://www.cvc.gov.in) under the link "Lodge Complaint" on home page. For lodging complaints through the portal, it is mandatory for the complainant to provide the

mobile number, so that an auto generated OTP can be sent, on the mobile number of the complainant for authentication purpose. As soon as the complaint is registered on the portal, an SMS confirming the registration of the complaint and also containing the complaint reference number would be sent to the complainant. The status of the complaints lodged through the portal can be tracked through e-mode only.

b) Complaints can be lodged with the commission by addressing a written communication / letter to the Secretary, CVC, Satarkta Bhawan, GPO Complex, Block-A, INA, New Delhi, 110023.

c) Complaints sent on any e-mail ID of officers of the CVC will not be entertained or taken cognizance of by the CVC.

**(ii) Guidelines to Complainants for lodging complaints:**

The CVC expects that the complaints lodged with the Commission are genuine and not malicious, vexatious or frivolous; are based on verifiable facts and pertain to the CVC's jurisdiction. Complainants must keep in mind that the resources at the command of the CVC and other Vigilance formations are precious; and so, it needs to be used prudently in unearthing serious issues of corruption that would serve the public interest. Apart from using the resources of the CVC, false and frivolous complaints create administrative delays in decision making like in the selection processes, project implementations apart from tarnishing personal reputations of the government functionaries. In appropriate cases where complaints are lodged with a malafide / ulterior motive to harass or harm an innocent government servant, necessary action could be taken against such complainants by applying the existing provisions.

(a) The complaint should not be anonymous or pseudonymous.

(b) If the complainant expects that the CVC should not file (take no action) their complaints on the basis of it being anonymous or pseudonymous, the complainants are expected to mention their name, correspondence address and contact details properly / correctly. It is also



expected that the complainants will be quick to respond to the verification / confirmation being sought from them by the CVC.

(c) Similarly, complaints having incomplete / vague / generic observations are difficult to inquire into or investigate and are normally filed (no action taken). Therefore, it is expected from the complainants to go through the Complaint Handling Policy of the CVC, which is available on its website [www.cvc.gov.in](http://www.cvc.gov.in) so that only those complaints are lodged which are specific and where adequate evidence is enclosed so that it can indicate a substantive Vigilance angle prima-facie.

- (1) The complaint should not be biased or based on any personal grievances, not having any Vigilance angle as such.
- (2) The complaint should be pertaining to ministries / departments / organisations falling within the normal jurisdiction of the CVC. For example, complaints against any authority or employee pertaining to state governments do not fall within the normal jurisdiction of the CVC and hence the same would be filed (no action taken).
- (3) The complainants who want to make whistle blower complaint under PIDPI resolution are also expected to familiarize themselves with the proper procedure as enumerated in the CVC's circular for complaints under PIDPI resolution. If these procedures are not followed, then the complaints made thereunder will be treated like a general complaint and the identity of the complainant may get revealed. This may put the complainant in a disadvantageous position.
- (4) The complainants are advised to raise only those issues in their complaints to CVC which may not have been raised by anyone before any authority. At times, the complainant addresses his complaint to multiple agencies; it becomes very difficult for the CVC to initiate action as it is felt that since the complaint is addressed to other agency / agencies, they may take appropriate action in the

matter. Therefore, it is expected from the complainant to address their complaints only to the CVC, in those cases where they expect action to be taken by the CVC.

- (5) It has also been the experience of the Commission that some complainants raise a large number of issues in one complaint in a way that all the issues get mixed up / intertwined with each other and it becomes difficult to discern and delineate the specific issues individually. The complainants should mention about the various specific issues one by one in a coherent manner so that any person of normal prudence can understand these issues unambiguously.
- (6) If a hand-written complaint is forwarded to the CVC, it is expected that it should be legible. The same applies to the enclosures sent along with the complaints. All types of complaints, even if printed or photocopied should be clearly legible.
- (7) The complainants are also expected to lodge complaints regarding only those issues having Vigilance angle which are not part of any litigation in any courts, tribunals, etc., i.e. the matter should not be sub-judice.

## **5.9 Lodging of Complaints in HAL**

The complaints pertaining to HAL can be lodged online under Vigilance tab through HAL website (<https://hal-india.co.in>). Complaints are to be lodged in the Vigilance complaint form only to address serious issues for which the complainant would like the intervention of the Vigilance department of the company. For faster processing of the complaint it is suggested that complainant is required to provide e-mail id in the field mentioned in the complaint form. Once a complaint is registered in the portal, further correspondence from the complainant on the outcome will not be entertained. However, Vigilance department will ensure that the complaints are investigated and action taken to its logical conclusion.

Complaints can also be lodged through post to CVO, HAL. A provision has also been made on divisional portal to lodge complaints by HAL employees. Repeated complaints will not be entertained on the same allegation.

#### **5.10 Action against persons making false Complaints**

(i) If a complaint against a public servant is found to be malicious, vexatious or unfounded, it should be considered seriously whether action should be taken against the complainant for making a false complaint.

(ii) Under Section 182 of the Indian Penal Code, 1860, a person making false complaint can be prosecuted. Section 182 reads as follows: - "Whoever gives to any public servant any information which he / she knows or believes to be false, intending thereby to cause, or knowing it to be likely that he / she will thereby cause, such public servant:

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(iii) If the person making a false complaint is a public servant, it may be considered whether departmental action should be taken against him as an alternative to prosecution.

(iv) Under section 195(1)(a) of code of criminal procedure, 1973 a person making a false complaint can be prosecuted on a complaint lodged with a court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

(v) In respect of complaints received by the CVC, while dealing with the matters if it comes across any such false complaint, the CVC may advise the

administrative authority concerned about appropriate action to be taken. Regarding complaints received by the departments / organization, the administrative authorities may also, at their discretion, seek the advice of the CVC in respect of such cases involving public servants.

(vi) HAL CDA rules and Standing Orders deems making of false complaints as misconduct and disciplinary action can be initiated thereto in such cases.

### **5.11 Withdrawal of complaints**

Some complainants, after confirming the complaint made by them, make a request for withdrawing the same or stopping the inquiry / investigation by the CVC / organization. It is to be noted that once a complainant confirms the complaint and action has been initiated for inquiry / investigation by the CVC / organization, it is not permissible to withdraw / stop such enquiry / investigation even if the complainant withdraws the complaint. The allegations contained in the complaint have to be taken to its logical conclusion irrespective of complainant's request for withdrawal of the complaint.

### **5.12 Expeditious Disposal of Complaints received against employees having bearing on Vigilance clearance**

Time limit to decide on the complaint to register a case as Vigilance / non-Vigilance case to investigate has been revised to 3 months from existing one month. Accordingly, 45 days of time will be given to HOD (Vig) to check the authenticity and submit the verification reports. Two weeks of time for Complex Vigilance to process such reports to corporate office. Request for extension of time will not be considered. However, the time limit may be reduced based on the nature of complaint and urgency of report as decided and approved by CVO on a specific complaint.

The copy of the complaint to be given to the employee against whom complaint has been received at the stage of registering a Vigilance / non-Vigilance case. However, the identity of the complainant shall not be

revealed and to be masked properly while giving a copy of the complaint to protect against victimization and vindictiveness.

### **5.13 PIDPI Resolution**

(i) In 2004, in response to a Writ Petition (Civil) No. 539/2003 filed after the murder of Shri Satyendra Dubey, the Supreme Court directed that a machinery be put in place for acting on complaints from whistleblowers till a law is enacted. Pursuant to that, the Government of India vide Gazette Notification No.371/12/2002-AVD-III dated 21.04.2004 r/w Corrigendum dated 29.04.2004 notified the Public Interest Disclosure and Protection of Informers Resolution (PIDPI), 2004 which gave the powers to the CVC to act on complaints from whistle-blowers. The PIDPI Resolution has the following main provisions: -

- (a) The CVC is authorised as the Designated Agency to receive written complaints or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government;
- (b) Any public servant or a person including an NGO can make written disclosure to the designated agency except those referred in clauses (a) to (d) of Article 33 of Constitution;
- (c) The designated agency may, if it deems fit, call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter;
- (d) Anonymous complaints shall not be acted upon;
- (e) The identity of the complainant will not be revealed unless the complainant himself has disclosed his identity;
- (f) The Head of the Department / organization to keep the identity of informant secret if he comes to know about it;
- (g) The designated agency may call the comments / explanation of the Head of Department / organization on the disclosure made;

(h) The designated agency may seek the assistance of the CBI or the police authorities to complete the investigation pursuant to the complaint received;

(i) The designated agency on finding the allegation of misuse of office or corruption substantive, shall recommend appropriate action to the concerned Department or Organization;

(j) If the informant feels he is being victimised, he may make an application before the designated agency seeking redress in the matter. The designated agency may give suitable directions to the concerned public servant or the public authority;

(k) If on an application or on the basis of information gathered, the designated agency is of the opinion that the complainant or the witness need protection, it shall issue appropriate directions to the concerned Government authorities; and

(l) In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

(ii) Pursuant to the PIDPI Resolution, 2004, the CVC vide Office Order No. 33/5/2004 dated 17.05.2004 issued guidelines and Public Notice on the procedure to be followed for filing whistle-blower complaints under the PIDPI Resolution, 2004.

(iii) Subsequent to the Resolution of 2004, the DoPT vide Notification No.371/4/2013-AVD.III dated 14.08.2013 partially amended the PIDPI Resolution. The amendment, inter alia, authorised the CVO of the Ministries or Departments of Government of India to act as the designated Authority to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or Department. The amendment also authorised the CVC to supervise and monitor the complaints

received by the designated authority. The amendments have the following provisions: -

(a) **Para 1A-** The CVO of the Ministries or Departments of the Government of India are also authorised as the designated authority to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or the Department.

(b) **Para 7A-** Either on the application of the complainant, or on the basis of the information gathered, if the designated authority is of the opinion that either the complainant or the witnesses need protection, the designated authority, shall take up the matter with the CVC, for issuing appropriate directions to the Government authorities concerned.

(c) **Para 11A-** The CVC shall supervise and monitor the complaints received by the designated authority.

#### **5.14 Handling of complaints received under PIDPI Resolution**

(i) The CVC has the responsibility of keeping the identity of the complainant secret. Hence the Public Notice was issued by the CVC, informing the general public that any complaint, which is to be made under this Resolution should comply with the following conditions: -

(a) The complaint should be in a closed / secured envelope.

(b) The envelope should be addressed to Secretary, CVC and should be super-scribed "Complaint under The Public Interest Disclosure". If the envelope is not super-scribed and closed, it will not be possible for the CVC to protect the complainant under the above Resolution and the complaint will be dealt with as per the normal complaint handling policy of the CVC. The complainant should give his / her name and address in the beginning or end of complaint or in an attached letter.

(c) The Department of Posts vide Circular No. 31-01/2021-PO dated 03.03.2021 has directed all post offices not to insist on the name and address of the complainant. It is mandatory for all post offices. The directions are reproduced as below: "Any article, addressed to the CVC as well as CVOs posted with the superscription "Complaint under The Public Interest Disclosure" or "PIDPI Complaint" on the outside of the envelope of the article, can be accepted for posting registration and speed post service, without the name and complete address including mobile number & email address of the sender."

(d) CVC will not entertain anonymous / pseudonymous complaints.

(e) The text of the complaint should be carefully drafted so as not to give any details or clue as to the complainant's identity. However, the details of the complaint should be specific and verifiable.

(f) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the CVC in their own interest. The CVC assures that, subject to the facts of the case being verifiable it will take the necessary action, as provided under the GOI Resolution mentioned above. The designated agency may, if it deems fit, call for further information or particulars from the persons making the disclosure. A reference number, generated for a particular PIDPI complaint would be communicated to the whistle blower through physical mode, in order to enable him to track the status of that particular complaint. The PIDPI complainant can track the status of the complaint by entering the reference number provided by the Commission. If the complaint is anonymous, the designated agency shall not take any action in the matter.

(g) The CVC can also take action against complainants making motivated/ vexatious complaints under this Resolution.

(ii) Certain categories of complaints received under PIDPI Resolution where it is not possible to maintain confidentiality about the identity of the complainants, are considered as Non-Public Interest Disclosure and Protection of Informers (Non PIDPI) Complaints, but before processing such



complaints, the identity of the complainant is masked, thus taking adequate safeguard in an attempt to maintain confidentiality about the complainant's identity. Some categories of complaints, which one similarly dealt with are as under:-

- (a) The complaint has been received in an open condition.
- (b) The complaint has been addressed / endorsed to several authorities.
- (c) The issues raised in the complaint had earlier been taken up with other authorities.
- (d) The information has been sought / obtained under the provisions of RTI Act, by the complainant himself.
- (e) The complainant had earlier taken up the issue with the CVC in the form of an ordinary complaint, under the CVC's Complaint Handling Policy.
- (f) The complainant makes a complaint through email or seeks status / information regarding his earlier PIDPI Complaint by sending an email, thus making his identity public, which is violation of the guidelines issued by the CVC for making complaints under the provisions of PIDPI Resolution.
- (g) The complaint has been addressed / endorsed to many authorities of the Central Vigilance Commission, thus, disclosing his identity.

(iii) At present the procedure being followed in the CVC for handling complaints received from whistle blowers under PIDPI Resolution is as follows: -

- (a) Complaints received under PIDPI Resolution are opened in the Confidential Section and parallel files (separate file for each complaint) are created after concealing the name, address and the identity of the complainant disclosed in the body of complaint.
- (b) The complaints which have been addressed to other / several authorities are not treated as complaint under PIDPI Resolution and are forwarded by the Confidential Section to the Branch concerned of the CVC for taking necessary action. Anonymous and Pseudonymous complaints received under PIDPI Resolution are also sent directly to the Branch

concerned of the Commission for taking necessary action under Complaint Handling Policy of the CVC.

(c) In respect of those complaints which are considered fit for processing under PIDPI Resolution, a letter is sent to the complainant to obtain (a) confirmation as to whether he / she has made the complaint or not and (b) a certificate that he / she has not made similar / identical allegation of corruption / misuse of office to any other authorities to qualify as a Whistle Blower complainant. Prescribed time limit for receiving the confirmation and the certificate from the Complainant is 30 days from the date of receipt of CVC's letter by the complainant. In case of no response within the prescribed time limit, a reminder is issued, giving additional two weeks' time to the complainant for sending confirmation and the certificate to the CVC. If there is still no response from the complainant, the complaint is sent to the Branch concerned of the CVC for necessary action under Complaint Handling Policy of the CVC.

(d) In case the matters are personal in nature or it is very difficult to hide the name / identity of the complainant, the complaint is filed in the Confidential Branch without any further action.

(e) After receiving necessary confirmation along with the certificate from the complainant, the complaint is placed before the Screening Committee for decision.

(f) The Screening Committee is headed by the Secretary and the Additional Secretaries of the CVC are members. The Screening Committee examines all complaints and recommends complaints for Investigation and Report (I & R) / Necessary Action (NA) / Filing (closure).

(g) The complaints, where necessary action has been recommended by the Screening Committee, are referred to the concerned Branch for further action. Complaints recommended for investigation and reports are sent to the concerned Branch for further action after approval of the CVC. The CVC vide Office Order No. 12/09/18 dated 28.09.2018, has prescribed a period of twelve weeks from the date of receipt of reference of the CVC for submitting report to it.

## **5.15 Protection to whistle blowers**

According to the PIDPI Resolution, following provisions have been made for protection of Whistle Blowers: -

- a) Paragraph 6 - If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency (CVC) seeking redress in the matter, who shall take such action as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.
- b) Paragraph 7 - Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
- c) Paragraph 11 – In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.
- d) As regards protection against victimisation or harassment within the Department, the CVC forwards such complaints of Whistle Blowers to the CVO of the concerned organisation for appropriate action.

## Chapter 6

### Functions of Vigilance

#### 6.1 Preventive Vigilance

Santhanam Committee while outlining the preventive measures, that should be taken to significantly reduce corruption had identified four major causes of corruption, viz;

- (a) Administrative delays;
- (b) Government taking upon themselves more than what they can manage by way of regulatory functions;
- (c) Scope for personal discretion in the exercise of powers vested in different categories of government servants; and
- (d) Cumbersome procedures of dealing with various matters which are of importance to citizens in their day to day affairs.

**Causes of corruption:** Preventive Vigilance is aimed at identifying, tackling / addressing the root cause of corruption within the organisation. The common causes of corruption, inter alia, could be:-

- (a) Excessive regulation & licensing.
- (b) Complicated rules and regulations.
- (c) Monopoly over delivery of goods / services.
- (d) Lack of transparency.
- (e) Lack of accountability.
- (f) Too much discretionary power.
- (g) Poor regulatory framework.
- (h) Poor grievance redressal mechanism.
- (i) Very low rate of detection of corruption.
- (j) Lack of condemnation of corrupt practices by the public.
- (k) Absence of a formal system of inculcating values, ethics & integrity.
- (l) Inadequacy of regular / periodic / surprise check.
- (m) Rigid bureaucratic framework / processes.
- (n) Lack of awareness about rights, duties, procedure to complain, rules, laws, etc.

## **Preventive Vigilance Measures:**

Preventive Vigilance measures can broadly be categorized as: -

- (a) Simplification and standardization of rules;
- (b) Leveraging technology;
- (c) Automation;
- (d) Business Process Re-engineering (BPR);
- (e) Transparency;
- (f) Accountability;
- (g) Control & Supervision;
- (h) Early detection of misconducts;
- (i) Time-bound and effective punitive action;
- (j) Providing necessary infrastructural facilities;
- (k) Training and awareness;
- (l) Conducive work environment;
- (m) Awareness among public;
- (n) Inculcating moral values;

## **Preparation of Annual Action Plan**

As per CVC guidelines, an “Action Plan” will be drawn every year as decided by the Competent Authority. In the action plan, systematic Vigilance inspections will be planned which will cover all the departments of HAL. Corporate office will draw an action plan for all the Divisions / Complexes. The Vigilance inspections will also be planned for Liaison offices and other HAL offices located at various places. Based on the Action Plan drawn by the Corporate Office, the Divisional Vigilance Departments will draw their own detailed action plan and conduct the Vigilance inspections and forward a report accordingly.

The Action Plan should essentially consist of the departments including sensitive and non-sensitive, their sections and places of interaction with public where the Vigilance inspections are intended to be conducted. Once the Action Plan is conceptualized and put on paper responsibilities should be delegated to the officers and staff to carry out Vigilance inspections

systematically and record their observations. The irregularities noticed during the inspection may be further investigated to pin point the responsibilities of the individuals for the lapses, which will be forwarded separately under the investigation reports for initiation of Disciplinary Proceedings, if warranted.

The Action Plan should include a thorough study of systems, procedures, rules & regulations, to be carried out during the period. After the systems are studied thoroughly, the loopholes / lacunae are to be pointed out which aid manipulations / malpractices and also suggest remedial measures to plug the loopholes.

Vigilance Awareness programmes should be planned in the Action Plan periodically in co-ordination with the training department of the Divisions for both executives and non-executives.

## **6.2 Punitive Vigilance**

Punitive Vigilance deals with Vigilance cases, which is investigated, enquiry is held and penalty is imposed. Following actions are to be taken on the punitive Vigilance aspects:

- (i) To receive complaints from all sources and scrutinize them with a view to finding out whether the allegations alleged in the complaint involves Vigilance angle or otherwise.
- (ii) To maintain and reflect the complaints in appropriate registers and update them from time to time. Guidelines issued by CVC are to be followed while handling complaints.
- (iii) To investigate into such specific and verifiable allegations that involve Vigilance angle;
- (iv) To investigate into the allegations forwarded by the CVC or by the CBI;
- (v) To complete investigations in a time bound manner as laid down by the CVC.
- (vi) To process the investigation reports expeditiously for obtaining orders of the competent authorities about further course of action to be taken and also obtaining CVC's advice on the investigation reports where necessary;

- (vii) To ensure that the charge sheets to the concerned employees are drafted properly and issued expeditiously;
- (viii) To ensure that there is no delay in appointing the inquiring authorities where necessary;
- (ix) To adduce required/ relevant evidence, (oral / documentary / material) in the Departmental Enquiry as and when called upon as Management Witness.
- (x) To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defence during the course of inquiry, and obtaining orders of the competent authority about further course of action to be taken and also for obtaining the CVC's second stage advice, where necessary;
- (xi) To ensure that the disciplinary authority concerned, issues a speaking order, while imposing a punishment on the delinquent employee. The order to be issued by the disciplinary authority should show that the disciplinary authority had applied its mind and exercised its independent judgment;
- (xii) To ensure that rules with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings void;
- (xiii) To ensure that the time limits prescribed for processing the Vigilance cases at various stages, are strictly adhered to:
- (xiv) To take up review of final orders of disciplinary authority wherever felt necessary;
- (xv) To be well versant with Court / Legal proceedings and their implications with respect to disciplinary matters, as there are possibilities that some employees affected by the action of Vigilance may involve the Management in litigation.

### **6.3 Detective Vigilance**

Detective Vigilance deals with detection of cases in three ways.

- (i) Better surveillance and intelligence coverage of areas / points which are susceptible to corruption.
- (ii) Unobtrusive close watch over employees of doubtful integrity.

(iii) Verification and check of moveable and immovable assets of persons of doubtful integrity.

#### **6.4 Surveillance**

(i) The CVO should conduct regular and surprise inspections in the sensitive areas in order to detect if there have been instances of corrupt or improper practices by the public servants. CVO should carry out at least six CTE type inspections on one of the projects / works in the organisation every year.

(ii) The CVO should also undertake prompt scrutiny of annual property returns and intimations given by the public servants under the conduct rules and take further necessary action, if called for.

(iii) The CVO should also gather intelligence from own sources in whatever manner deems appropriate about the misconducts / malpractices having been committed or likely to be committed. The CVO should also collect source material on misconducts and examine them for logical conclusion with necessary approval. CVO may also initiate suo-moto enquiries based on any prima facie information regarding misconducts. CVO shall, however, carry out enquiries with necessary approvals.

#### **6.5 Administrative Vigilance**

Administrative Vigilance encompasses conduct of Quarterly Vigilance Committee Meetings in the Divisions, issuance of No-Objection Certificate / Vigilance Clearance for various purposes and timely submission of Reports and Returns.

#### **6.6 Vigilance Investigation**

The majority of Vigilance investigations are concerned with the following:-

(a) Commission of criminal offences like demand and acceptance of illegal gratification, possession of disproportionate assets, forgery, cheating, and abuse of official position with a view to obtaining pecuniary advantage for self or for any other person.



- (b) Irregularities reflecting adversely on the integrity of the public servant
- (c) Lapses involving any of the following:
  - (i) Gross negligence
  - (ii) Reckless decision.
  - (iii) Failure to report to competent authorities, exercise of discretion/powers without or in excess of powers / jurisdiction
  - (iv) Cause of undue loss or a concomitant gain to an individual or a set of individuals / a party or parties; and
  - (v) Flagrant violation of systems and procedures

## **6.7 Collection, Marshaling and Presentation of Evidence**

In Departmental cases, the principle followed is of 'preponderance of probability' rather than 'proof beyond doubt' but even for this some evidence would certainly be required before a delinquent is punished. Suspicion howsoever strong, cannot take place of evidence. Evidence has as such to be collected, marshaled and then presented for taking proper action in a Vigilance case.

### **Type of evidence**

Evidence can mainly be of the following types:-

**Oral evidence** – witnesses personally aware of any facts or circumstances of the case,

**Documentary evidence** – comprising documents relating to the case,

**Physical evidence** – comprising any material exhibits relating to the case and;

**Circumstantial evidence** – a circumstance relevant or corroborative to the case.

The type of evidence that may have to be collected or be available in any Vigilance enquiry would depend on the nature of operations or allegations.

The best way is to chalk out a priority-wise plan of investigation keeping the following objectives in view:-

**That adequate evidence is collected to:**

Come to a clear finding about the allegations as far as possible:-

- a) Enable specific and clear charges being framed in subsequent departmental enquiry in case of the allegations being proved during the Vigilance investigation.
- b) That the investigation is completed without any avoidable delay under a pre-determined schedule.
- c) For the purpose of actual collection of evidence, any or all the following steps may have to be taken;
  - i. Collection and scrutiny of relevant documents / records and obtaining expert opinion in case of suspected forgery etc.;
  - ii. Collection of physical evidence / material exhibits and obtaining expert opinion where called for;
  - iii. Scrutiny of property returns and verification of assets / liabilities and sources of funds (special returns may be called for in case of need regarding moveable and immoveable assets).

**Examination of complainant / aggrieved persons and other oral witnesses**

The exact sequence in which these steps to be taken would depend on the facts and circumstances of each case, the basic principle being to avoid premature leakage and prevent tampering with the evidence. Certain precautions are necessary with regard to various types of evidence as follows:

**Oral evidence:-**

Oral evidence is becoming the least dependable type of testimony because of its vulnerability to contradictions and influence by the delinquents as also gradual loss of interest due to usual delays etc. Very often the persons

concerned are themselves abettors for corruption and as such naturally reluctant and non-cooperative. Such reluctance may also arise out of the fear of harassment from the delinquent or even his colleagues if the person has to continue dealings with the organization. It is however helpful if the aggrieved person or the witness is examined as early as possible after the event and is given requisite assurance against harassment etc. Efforts as far as possible should also be made to examine different witnesses either simultaneously or one after the other without giving opportunity to compare notes. The statements recorded could be attested by an officer not less than the rank of a Deputy Manager from HR Dept. to the effect that the statement was recorded in his presence and the person making the statement has signed only after reading and understanding the contents as correct.

**Documentary and physical evidence:-**

These evidence should be collected under proper recovery memo and under attestation by independent witnesses and even by the suspect, where possible. Care should also be taken for their safe custody to prevent subsequent tampering with or disappearance. In case of vital records / documents, it may be worthwhile keeping their photocopies.

**Marshaling of evidence:-**

Plethora of evidence is usually collected during a Vigilance investigation. Sometimes these evidences are often disjointed and some of it even sometimes irrelevant particularly in the oral evidence. Such evidence in its raw form may not serve much purpose. It has to be properly marshaled to establish co-relation between various types of evidence. The marshaling has to be done allegation wise and in a manner which would help in coming to a well-reasoned finding about the allegations, and formulating a proper enquiry report for the disciplinary authority. The defence, if any, offered by the suspected official or otherwise, the possible line of defence should also be kept in view in marshaling the evidence.

## **6.8 Qualities of an Investigator**

- (a) A controlled imagination, an acute sense of anticipation unencumbered by any tendency to romanticize.
- (b) A flair on its own is not enough. It must be supported by a good knowledge of the profession, rules & regulations.
- (c) An ability must be acquired & developed by applying oneself conscientiously to develop certain senses & the requisite mental outlook.
- (d) Coolness & firmness.
- (e) Patience.
- (f) Perseverance
- (g) Analytical & good judgment.
- (h) Courage & confidence.
- (i) A deliberate but not evident distrust of people & things, until they have been cleared. (Receptivity)
- (j) Good liaison & wide circle of contacts.
- (k) Basic knowledge of elementary human psychology & behaviour.
- (l) Effective communication skills - both verbal & written.
- (m) Reproach less integrity / character.
- (n) Sense of professionalism.

## **6.9 Pre-requisites & Formats of Investigation Report prescribed by CVC**

All facts unearthed during an investigation should be recorded in writing. Everything noted down need not be included in the final report. It will depend upon its relevance & the necessity for inclusion. It is important to remember that the person receiving the report will rely on what is contained in it may have to take action on it. The facts must be set out clearly & logically with no irrelevancies or omissions & no verbosity. The report must put the recipient clearly “in the picture” & have no confusion in his mind. A report should cover the following details: -

- (a) Source
- (b) Gist of allegations
- (c) Facts

- (d) Observations
- (e) Response of the official concerned
- (f) Counter to the response
- (g) Conclusion
- (h) Responsibility of officials
- (i) Recommendation for action
- (j) Recommendation for systemic improvement

#### **6.10 Submission of Investigation Report - Caution Note**

The investigation report should contain the following caution note-

- a) The Vigilance Investigation Report sent herewith may please be treated as confidential document and no reference of it may be made in any document to be issued to the accused.
- b) In case any applicant seeks any copy of Vigilance Investigation Report or part thereof under RTI Act 2005, view of the CVO, HAL should be ascertained as per Sec 8 read with Sec 11 of the RTI Act before deciding the matter.

#### **6.11 Consultation & Role of Vigilance Department in Disciplinary Proceedings related to Vigilance Case**

The following instruction are laid down to handle the disciplinary proceedings related to Vigilance cases

- i. Vigilance department is to be consulted in the following manner as indicated below w.r.t Vigilance cases wherein it is recommended in Vigilance detailed investigation report to initiate disciplinary action against the Officials;
- ii. Before issuance of charge-sheet pertaining to a Vigilance case, the draft charge-sheet needs to be forwarded to the CVO HAL for consultation, by the Disciplinary Authority.
- iii. The Vigilance department is to be consulted in the event the Disciplinary Authority proposes to conclude the case without instituting a Departmental Enquiry. In such cases, the Disciplinary Authority shall forward his / her

tentative findings, along with a copy of the explanation submitted by the delinquent employee against the Charge Sheet, to the Vigilance department i.e. Vigilance HoD of Divisions / Offices where Executive Directors / General Managers and below are the Disciplinary Authorities and CVO where CEOs / Directors and CMD are the Disciplinary Authorities, for scrutiny and comments regarding acceptance, non-acceptance or partial acceptance of the tentative findings of the disciplinary authority and about imposition of minor penalty, exoneration, issuance of advisory letter etc.;

- iv. On receipt of Enquiry Report in Vigilance Cases, the Disciplinary Authority will forward a copy of the same to the respective Vigilance HoD i.e. Vigilance HoD of Divisions / Offices where Executive Directors / General Managers and below are the Disciplinary Authorities and CVO where CEOs Directors and CMD are the Disciplinary Authorities, for scrutinizing the Enquiry Report for comments regarding acceptance, non-acceptance or partial acceptance of the Report and in advising the Disciplinary Authority about the imposition of a Minor / Major Penalty;
- v. In the event of the delinquent employee exercising his right of appeal against an order issued by the disciplinary authority to the appellate authority, the appellate authority is required to forward is / her tentative findings along with a copy of the appeal of the delinquent employee made to the appellate authority for scrutiny and comments regarding acceptance, non-acceptance or partial acceptance of the tentative findings of the appellate authority and about the imposition of minor / major penalty, exoneration, issuance of advisory etc. to the CVO for comments be for issuance of his / her order. The appellate authority will, in all cases refer the matter to the CVO irrespective of the scale / grade of the employee.

In supersession to all earlier internal guidelines of Vigilance Department, all proposals received by the Division & Complex Vigilance from Management/ Authorities at various stages of departmental enquiry proceedings as per HR circular No. HAL/HR/19(3)/2020 dated 25.02.2020

are required to be forwarded to Corporate Vigilance for approval of CVO in respect of all employees involved in Vigilance cases.

The proposals on vetting of charge-sheet, closing the case without an enquiry, acceptance / comments on enquiry report and appeal, etc. are to be sent to Corporate Vigilance along with comments / recommendations of the Division & Complex Vigilance for approval of the CVO before communicating with concerned authorities.

Monitoring of departmental enquiry, ensure submission of monthly report from inquiry officers: As per CVCs instructions vide circular No. 21/12/21 dt. 03.12.2021 & 08.12.2021, CVOs to closely monitor the Departmental inquiry proceedings in Vigilance case and ensure timely completion of the proceedings. Further, inquiry officers to submit the monthly progress report in the prescribed format to the Disciplinary Authority and the CVO. Subsequently, ED (HR)-Corporate office vide letter dt. 14.12.2021 & 21.12.2021 issued instructions to Disciplinary authorities & Enquiry officers for timely finalization of departmental inquiry proceedings – improving vigilance administration.

**Model time limit for investigation of Complaints & Departmental inquiries**

(a) **Model Time Limit:** The model time limit for investigation of complaints and different stages of Departmental inquiry as per CVC, as mentioned below, shall be adhered to: -

<b>Sl. No.</b>	<b>State of Investigation or inquiry</b>	<b>Time Limit</b>
<b>1.</b>	Decision as to whether the complaint Involves a Vigilance Angle.	One month from receipt of the Complaint.
<b>2.</b>	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by Departmental agency or to be sent to the Concerned	Three months

	Administrative Authority for necessary action.	
3.	Conducting investigation and submission of report.	Three months.
4.	Department's comments on the CBI reports in cases requiring CVC's advice.	One month from the date of receipt of CBI's report by the CVO / Disciplinary Authority.
5.	Referring Departmental investigation reports to the CVC for advice.	One month from the date of receipt of investigation report.
6.	Reconsideration of the CVC's advice, if required.	One month from the date of receipt of CVC's advice.
7.	Issue of charge-sheet, if required.	(i) One month from the date of receipt of CVC's advice. (ii) Two months from the date of receipt of investigation report.
8.	Submission of defence reply / statement.	Ordinarily ten days or as specified in CDA Rules.
9.	Consideration of defence reply / statement.	Within Fifteen days.
10.	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11.	Appointment of IO / PO in major penalty cases.	Within fifteen days after receipt and consideration of defence statement.
12.	Conducting Departmental inquiry and submission of report.	Six months from the date of appointment of IO / PO.
13.	Sending a copy of the IO's report to the Charged Officer for his representation.	(i) Within fifteen days of receipt of IO's report if any of the Articles of charge has been held as proved;



		(ii) Fifteen days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated.
14.	Submission by charged officer to IO's findings / DA's disagreement note.	Within fifteen days.
15.	Over all time limit for conclusion of disciplinary proceedings.	Time limit of 18 months for completion of major penalty proceedings against Government servants from the date of delivery of charge-sheet and till the date of passing of final orders.

(b) **Time limits for finalisation of Departmental Inquiry Proceedings:**

The CVC has advised to ensure prompt / timely action in disciplinary matters where major penalty proceedings have been initiated / are to be initiated and further prescribed the following time limits for finalisation of departmental inquiry proceedings:

S.N.	Stage of disciplinary action	Time Limit
1.	Issue of Charge Sheet to the stage of appointment of IO and PO.	All the required action may be completed within a period of two months from the date of issue of First Stage Advice of the CVC.
2.	Conducting departmental inquiry and submission of report by the inquiry officer (I.O).	The inquiry report should be submitted within six months from the date of appointment of inquiry officer.

3.	Overall additional time for all / any of the above stages of disciplinary proceedings due to some unavoidable / unforeseen circumstances.	In addition to the above time limit, a period of 1 more month maybe taken, if required.
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(c) Timely completion of Departmental inquiry / Departmental proceedings is the prime responsibility of the Disciplinary Authority. Therefore, the Disciplinary Authorities in each Ministry / Department / Organization may regularly monitor the progress of inquiry on regular basis and ensure that the inquiry / Departmental proceedings are completed within the time limit prescribed as laid down by Hon'ble Supreme Court in the case of Prem Nath Bali Vs Registrar, High Court of Delhi & Anr (Civil Appeal No. 958 of 2010). The CVO concerned would assist the Disciplinary Authority in monitoring the progress of Departmental proceedings. The CVC may recommend adverse action against the concerned Disciplinary / Administrative Authority who is found responsible for any unexplained delay observed in any case. In appropriate cases, wherein the IO delays the proceedings, DA may not hesitate to take necessary and appropriate action against the IO.

(d) Delay in decision-making by authorities in processing of Vigilance cases would also be construed as misconduct under the relevant Conduct Rules and would be liable to attract penal action. All administrative authorities shall take note and strictly adhere to the prescribed schedule of time limits in dealing with disciplinary cases.

(e) Subsequent to receipt of CVC's first and second stage advice, the responsibility for finalisation and award of punishment passes on from the Vigilance to the HR department. Administration may impress upon all concerned and especially the HR department that in view of the shift in responsibility from the Vigilance to the HR department, any delay over and above the prescribed time limits for finalisation of disciplinary cases will be viewed as misconduct by the Commission and will render the concerned

officials of the HR department and others concerned liable for being proceeded from the Vigilance angle with its attendant ramifications.

(f) The CVO shall pursue for implementation of the CVC's first and second stage advice within a month of the receipt of CVC's advice with the concerned Disciplinary Authority to get the orders issued on such matters.

### **Adherence to time limit in conducting departmental inquiries**

The Departmental inquiry is often delayed due to laxity on the part of IO, lack of monitoring by DA & CVO, non-availability of listed or additional documents, delay in inspection of original or certified documents, frequent adjournments, non-attendance of witnesses, especially private witnesses, faulty charge sheets and frequent change of IO / PO and non-monitoring of progress of inquiry. The following steps may be ensured and complied strictly by the IOs / administrative authorities to avoid delay in the conduct of Departmental inquiries.

(a) In cases where investigation has been conducted by the CBI / other investigating agency and the documents have been seized by them for prosecution in courts and RDA is also contemplated, it is the responsibility of the CVO / DA to procure from the CBI / investigating agency legible certified copies of seized documents required for RDA. In cases investigated by CVOs it must be ensured that certified legible photocopies of all documents are made available at the time of preparation of draft charge sheet itself.

(b) While drafting the charge sheet it may be ensured that all the relied upon documents as well as copies of relevant rules / instructions are in the custody of CVO. After issue of charge sheet and submission of defence statement, the DA is required to take a decision within 15 days for appointment of IO / PO in major penalty cases.

(c) As far as practicable, the IO should be chosen from amongst the serving officers / retired officers in the same station where the charged officer is posted, who is likely to continue till the conclusion of inquiry.

- (d) It may be ensured that the PO is appointed simultaneously. Changes in IO / PO to be resorted to only in exceptional cases under intimation to the CVC (in respect of officers within the jurisdiction of the CVC).
- (e) In cases involving more than one charged officer, it may be ensured that, as far as practicable, same IO / PO is appointed in all cases.
- (f) The PO must keep copies of relevant Rules / Regulations / Instructions, etc. readily available with him. Departments / Organizations should also ensure online availability of all their Rules / Regulations/ Instructions, etc. so that it can be downloaded during the inquiry proceedings without any loss of time.
- (g) It may be ensured that the defence documents are made available within the time allowed by the IO. Responsibility should be fixed on the custodian of such documents for any undue delay / not producing it in time or loss of these documents.
- (h) The IO should normally conduct Regular Hearing on a day-to-day basis and not grant more than one adjournment for appearance of witnesses. It may be ensured that all the prosecution or defence witnesses are summoned and examined in separate but simultaneous batches expeditiously.
- (i) If witnesses do not appear in response to notices or are not produced by PO / CO as the case may be, powers conferred under the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 be exercised to request the Competent Court to pass orders for production of the witness through summons issued by the Court.
- (j) The request for admission of additional documents during the Inquiry, be allowed by IO only after due application of mind, making sure that such request is not delaying the process.
- (k) The time-limit for various stages of inquiry, as prescribed by the CVC it to be complied with strictly by the Disciplinary Authorities and the Inquiry Officers.

(l) Where the CO or PO do not co-operate in the manner of attendance, production of documents, witnesses, etc., IO may after affording reasonable opportunity, proceed to give a report ex-parte based on facts, documents, witnesses produced before him.

## **Chapter 7**

### **Intensive Examination**

#### **7.1 Chief Technical Examiners' Organization**

The Chief Technical Examiners' Organization (CTEO) of the CVC advises CVC in technical matters besides conducting intensive examination of procurement contracts of various organizations covered under the jurisdiction of the CVC. CTEO is the technical wing of the CVC and jurisdiction is coterminous with that of the CVC.

#### **7.2 Quarterly Progress Report**

CVC Act 2003 empowers the CVC to call for reports, returns and statements from all Ministries / Departments / Central Corporate Undertakings so as to enable the CVC to exercise general check and supervision over the Vigilance and anti-corruption work in the Ministries/ Departments / Undertakings. CVOs of various organisations covered under the jurisdiction of the CVC are required to furnish quarterly progress reports (QPRs) in respect of ongoing contracts for the quarter by 15<sup>th</sup> day of the month following the quarter. Even though, CTEO may examine contracts of any magnitude, yet considering limitation of resources, it generally undertakes examination of contracts of larger value only.

#### **7.3 Selection of Contracts for Intensive Examination**

CTEO conducts intensive examination of some of the contracts under different categories reported in QPRs. Selection of contracts for intensive examination is generally undertaken from the QPRs received from various organisations, keeping in view the following factors:

- a) Complaints received from various sources.
- b) Works specifically recommended by CVOs for inspection.
- c) Works of organisations with substantial workload as compared to others.
- d) Large value contracts.

- e) Works of organisations, which do not have their own engineering departments for supervision and quality control.
- f) Works of organisations, which have not been inspected at all.

#### **7.4 Purpose of Intensive Examination**

- i) System Improvements based on lessons learnt from the examined contracts.
- ii) Detection / Recoveries of over-payments.
- iii) Tax compliance and follow up action.
- iv) Quality deficiencies and the remedial action; and
- v) Penal action in cases involving gross inaction / oversight and cases involving Vigilance Angle.

#### **7.5 Intensive Examination of Contracts**

Intensive Examination of Procurement Contracts is generally conducted in two parts: -

- a) The first part covers the examination of the records and documents. Issues, arising out of examination of the records at this stage, can be discussed with the officials concerned for clarity.
- b) The second part covers the physical inspection of the works / materials / services including checking of measurements and quality of materials, works and services, collection of samples of materials for testing, wherever possible/required, etc.

The intensive examinations are mostly undertaken with prior intimation so that the officials concerned may be present at site and well prepared to offer clarification on issues arising during intensive examination. However, in specific cases, surprise inspections can also be carried out. In cases of planned inspections, officials concerned from the departments pertaining to planning, design, tender processing, acceptance of tenders and contract management are required to be present.

The representatives of the contractor / supplier / service provider, if required and the consultant may also be present to clarify any issue arising out of their activities. The presence of CVO or his / her representative is essential to act as a nodal officer. While collecting samples, officials concerned, representatives of the contractor, project management consultant, if any and CVO or his / her representative shall be associated and are required to sign the proforma containing details, such as nature of material, location of sample collection, date and time of collection etc. Sample(s) collected shall be handed over to the representative of CVO for sending the same to the laboratory. In exceptional cases, samples can be handed over to a responsible person of the organization.

## **7.6 Sample Collection**

A letter addressed to the laboratory (National Test House, IITs or other reputed NABL accredited laboratories) having details of samples collected, tests to be conducted, codes to be referred, etc. along with the impression of CVC's seal used for sealing the samples shall be issued by the Technical Examiner with a copy to the CVO of the organization concerned. CVO of the organization concerned will ensure timely submission of the above said samples to the laboratory for testing and also expeditious payment to the Laboratory towards testing charges.

## **7.7 Preparation and processing of Intensive Examination Report**

- a) Within one month of the completion of the intensive examination exercise, a draft report containing various observations / para(s) will be prepared by the Technical Examiner and shall be put up to the CTE for approval.
- b) After approval of the Intensive Examination Report by the CTE, a synopsis will be prepared. Synopsis along with intensive examination report shall be put up to CVC.



- c) Based on the gravity / complexity of the issues brought out in the intensive examination report, CTE may propose for a presentation on observations in the intensive examination report before the CVC.
- d) During the presentation, CVC may order for another presentation to be made by the CVO after submission of the Action Taken Report. Based on the examination of the Action Taken Report submitted by the CVO, the CTEO may also propose for a presentation by the CVO before the CVC.
- e) Comments of the Secretary, CVC and / or Commission made during presentation or on perusal of the synopsis shall be incorporated in the intensive examination report and thereafter final intensive examination report shall be issued and forwarded to the CVO of the organization by the technical examiner, with the approval of CTE.
- f) Where intensive examination is conducted on the orders of the CVC, based on the complaint or otherwise, the intensive examination report along with the synopsis shall be put up to the CVC through Secretary, CVC for perusal and orders.
- g) CVOs shall be required to submit the action taken report in respect of observations in the intensive examination report to the CTEO within two months from the date of issue of the report. The CVO shall be required to send his / her categorical and comprehensive recommendations on each observation so as to avoid repeated correspondence on the observations.
- h) On examination of the action taken report / clarification from the CVO, para / observation(s) with Prima Facie Vigilance Angle shall be converted into Vigilance Para. The CTE will put up proposal for converting the Para / observation(s) in the intensive examination report into a Vigilance para for CVC's approval through the Secretary, CVC. In some cases, where lapses / irregularities are of serious nature and Prima-Facie have Vigilance Angle; such Para/observation(s) can also be converted into Vigilance para, at the time of finalization of the Intensive Examination Report itself.

i) Para / observation(s) contained in the Vigilance reference shall be required to be investigated by the CVO of the organization and investigation report shall be submitted to the Secretary, CVC within three months of the receipt of the reference from the CVC. The comments of the CTEO will be taken by the branch officer through Additional Secretary while dealing with the investigation report received from CVO. Copy of OM conveying first stage advice of the CVC shall also be endorsed to the CTEO by the branch officer for record of the CTEO.

### **7.8 Aspects to be covered in the Intensive Examination Report**

- (i) Availability of Procurement Manual(s) to the organization updated in line with the Manuals for Procurement of Goods, Works and Consultancy & Other Services (of June 2022 or as updated) as well as General Financial Rules 2017 (or updated version) issued by Department of Expenditure, Finance Ministry, GOI.
- (ii) Feasibility report, preliminary estimate, administrative approval and expenditure sanction, vetting of demands etc.
- (iii) Detailed project report, detailed estimate, analysis of rates and technical sanction by the competent authority.
- (iv) Appointment of consultant and operation of consultancy contract.
- (v) Tender document and adequacy of provisions as well as technical specifications.
- (vi) Pre-bid meeting and clarifications on the issue raised by bidders.
- (vii) Invitation of tenders and award of work.
- (viii) In case of e-tenders / e-procurement, all the records, including audit trail.
- (ix) Compliance of contract conditions.

- (x) Appropriateness / adequacy / genuineness of performance bank guarantee or any other type of guarantees or any other financial instrument to be submitted by the contractor / supplier / service providers.
- (xi) Appropriateness / adequacy / genuineness of the insurance policies.
- (xii) Enforcement of liabilities of contractors / suppliers / manufacturers within warranty / guarantee / defect liability period
- (xiii) Reconciliation of departmentally issued materials
- (xiv) Compliances of provisions related to various type of taxes
- (xv) Inspection, dispatch and acceptance of materials or works
- (xvi) Compliance of conditions in the service
- (xvii) Scrutiny of bills
- (xviii) Scrutiny of site records
- (xix) Compliance of statutory obligations
- (xx) Site inspection
- (xxi) Any other issue felt necessary to be examined

The intensive examination report brings out instances of lapses / irregularities in awarding contracts, defective contract conditions, non-compliance of contract conditions, over-payments made to contractors, execution of sub-standard work or not matching with the specifications, 'time & cost overrun', in fructuous and avoidable expenditure etc.

## **7.9 Role of CVO in Intensive Examinations**

The CVO of the organisation plays a vital role in intensive examination process. With the limited staff available, CTEO can only undertake intensive examination of few of the contracts of organizations covered under the jurisdiction of the CVC. Therefore, it was felt necessary by the CVC that the CVOs should also undertake similar intensive examination of

contracts pertaining to the goods, works, consultancy and other services in their respective organisations. Other important functions of CVO in respect of the intensive examination are listed below for timely action to enable the organization to effect immediate recovery from the contractors / suppliers as well as to ensure accountability of officials responsible for the lapses.

- a) Timely submission of
  - (i) Quarterly Progress Report (QPR)
  - (ii) Documents required for intensive examination.
  - (iii) Preliminary examination of the impugned contract and sub mission of report to CTEO before Intensive Examination is carried out by Technical Examiner.
  - (iv) Replies to intensive examination reports / rejoinders.
  - (v) Investigation report with the assistance of an independent engineer.
- b) Ensuring:
  - (i) Presence of engineers responsible for planning, design, tender scrutiny, award of work and construction during inspection.
  - (ii) Presence of representatives of CVO during inspection.
  - (iii) Rectification of defects in the project/supplies.
  - (iv) Recoveries from the contractors for the over-payments.
  - (v) Implementation of necessary directions issued by the CVC / CTEO.
- c) Carrying out periodical inspection of works with the assistance of the technical staff of CVO in line with CTE's inspection.
- d) Pursuing, preparation and issue of Procurement Manual.
- e) Implementation of guidelines / circulars issued by the CVC / CTEO.

## 7.10 Time Schedule

Following time schedule shall be adhered by all concerned:-

<b>S.NO.</b>	<b>Activity</b>	<b>Schedule</b>
1.	Issue of Intensive Examination Reports by CTEO including submission of synopsis / presentation before CVC	Two months from the date of inspection.
2.	Action Taken Report / Reply by the CVO to the observations in the intensive examination Report.	Within two months from the date of issue of I/E report
3.	Rejoinder to CVO's reply	One month from the date of reply
4.	Final Action Taken Report / Reply to CTEO's rejoinder by CVO	One month from the date of issue of rejoinder
5.	Final examination / Scrutiny by CTEO	Within one months from the date of receipt of Final Action Taken Report / Reply from the CVO
6.	Submission of Investigation Report in respect of Vigilance Para / Observation(s) by CVO	Three months from the date of Vigilance reference from the Commission.

## **Chapter 8**

### **E-Platforms and Leveraging of Technology**

#### **8.1 Complaint Handling System**

An online Vigilance file register has been introduced in Online Vigilance Clearance portal (OLIV) wherein all the complaints received from the complainants are scanned and uploaded by the Vigilance Units. Further, processing and disposal of the complaint till its logical conclusion is carried out through OLIV.

#### **8.2 Vigilance Clearance**

In HAL, all Vigilance clearances are processed online using OLIV platform. In order to reduce the processing time, OLIV was initiated as a part of leveraging of technology. Processing of Vigilance Clearance mandated for various purposes are being done online by using HR employee database. The system being eco-friendly also ensures transparency, accuracy, minimum time for processing and provides real time information online.

#### **8.3 Action Plan**

Annual action plan tasks to enforce regular preventive inspections, surprise checks for detecting deviations in the procedure/guidelines, failures in quality or speed of work are processed online through OLIV platform. Details of action plan reports are uploaded in OLIV along with observations & recommendations and processed till its final disposal. This platform also serves as Centralized Vigilance Data Depository.

#### **8.4 Vigilance Information Management System (VIMS)**

To enhance leveraging of technology, in the field of administrative Vigilance, VIMS has been introduced through which online submission of periodical reports and returns through LAN / WAN has been enabled. Timely submission of the periodic reports and returns has to be ensured as per the time schedule prescribed in SOP.

## **8.5 Punishment Records**

A database has been created on OLIV platform to upload punishment records of the employees as and when such punishment orders are issued. This facility has been provided to HR Dept. so that records are updated in real-time which will facilitate in deciding issuance / withholding of Vigilance Clearance.

## **8.6 Vigilance Gallery**

A database has been created on OLIV platform to upload photographs of important events / Awareness Sessions / CVO visits / VAW activities / Integrity Circle activities etc.

## **Chapter 9**

### **Periodical Meetings**

#### **9.1 Sectoral Meeting**

Under the aegis of CVC, Sectoral Meeting will be held on specific sectors like banking sector, defence sector, insurance sector etc. HAL, being a DPSU, will participate in the Sectoral Meeting of defence sector.

The sectoral meeting will be chaired by the CVC with the attendance of all the CVOs of the sector (along with the CMDs based on the discretion of CVC). The venue of the Sectoral Meeting would be decided by CVC and the participants would be in attendance for the same.

The Sectoral Meeting would cover all areas of Vigilance administration, specific initiatives undertaken during the preceding year and proposed for the next year. Complaint handling mechanism, punitive and preventive Vigilance measures are undertaken in terms of timelines and effectiveness. Review of pending Vigilance practices in place, systemic / procedural improvements made, steps for strengthening core functional areas of operations, and identification of areas prone to corruption. Briefing CVC on the review consisting of the existing systems & improvements / modifications introduced to minimize scope for corrupt practices, improve transparency and governance along with efforts made for outreach activities and participative Vigilance. Further, review of the action taken report of the previous Sectoral Meeting too would be done.

#### **9.2 Quarterly Structured Meeting between CVO and CMD**

Structured meeting between CVO & CMD will be held quarterly at CO. The meeting is attended by GM(V) and desk officers from Vigilance Dept., Corporate Office. The agenda points are prepared by the office of CVO in advance. Presentation is made by CVO to review the following aspects:

- (i) Previous structured meeting / action taken points.
- (ii) Investigation Reports pending with DAs.



- (iii) Pending Disciplinary Cases.
- (iv) Ongoing CBI cases.
- (v) Systemic improvements suggested by Vigilance.
- (vi) Any other matter as Chairman of the Committee desires.

The minutes of the meeting is prepared by CO-Vigilance and after approval of CMD, the actionable points are forwarded to departments concerned for further necessary action.

### **9.3 Quarterly Review meeting with CO-HR**

A quarterly meeting between Corporate HR and Vigilance is held to review ongoing Disciplinary Proceedings & status of Complaints.

### **9.4 Bi-annual Vigilance Officers' Conference**

Vigilance Officers' Conference is scheduled bi-annually in any one of the divisions of HAL. The divisions / offices of HAL are spread across the country. Therefore, in order to have regular interaction with all the Vigilance Officers, Vigilance Conference is organized on a regular basis. The main focus of the conference includes the following:-

Review of Vigilance work done in the divisions/offices

Capacity building

Discuss and draw action plan

Discussion on quality cases

Experience sharing

Promote the spirit of camaraderie and team work

Sharing of knowledge

Conference is chaired by CVO and attended by all Vigilance Officers from Corporate / Complex / Divisions. The Vigilance Conference is held keeping in view the various effective modes available for real-time interaction amongst the Vigilance fraternity. The aim of the meeting is to deliberate, discuss and delve on various subjects that are important from Vigilance and Organizational perspective with the thrust on Preventive Vigilance.

## **9.5 Monthly Review Meeting**

Monthly Review Meeting is scheduled at CO in 1<sup>st</sup> week of every month to review the preceding month's Vigilance activities. The agenda points of the meeting cover the following:

- i. Action taken report on last meeting
- ii. Details of complaints / FR / VR / DI
- iii. Status of ongoing / pending DEC
- iv. System improvement recommendations
- v. Other issues, if any

## **9.6 Quarterly Vigilance Committee Meeting**

Vigilance Committee will be constituted in each Division to discuss & follow up vigilance related issues / matters pertaining to the respective divisions. Head of the Division will be the chairman & the Divisional Vigilance HoD will be the Member-Secretary and other HoDs of the Division are to be appointed as members. The Committee constituted as above will meet once in three months.

### **General guidelines for Quarterly Vigilance Committee Meeting**

The Vigilance Committee constituted should strictly adhere to the time schedule with reference to the periodicity fixed for the Meeting, draw out agenda points well before the meeting / decide the same for the next meeting before conclusion of the current meeting so that fruitful purpose is served by holding such important meetings.

The HOD of Vigilance department of the complex / divisions will co-ordinate the dates and timings for the Quarterly Committee Meetings and forward the same to the Corporate Office. The dates of meetings decided in consultation with the chairman of the Vigilance Committee, will be conveyed to the Corporate Office well in advance.

In case, a member of the Vigilance Committee is involved in any Vigilance case, he will not be allowed to attend the Vigilance Committee Meeting till the case is finally disposed of.

The committee is chaired by divisional head and constitutes the following members:

1	ED / General Manager	Chairman
2	Senior Most Officer (To be nominated by the ED / GM)	Member
3	HOD - HR	Member
4	HOD - Finance	Member
5	HOD - Civil Engg	Member
6	HOD - Maintenance	Member
7	HOD - IMM	Member
8	HOD - IT	Member
9	HOD - Vigilance	Member Secretary
10	Representative of CO (1 <sup>st</sup> & 3 <sup>rd</sup> quarter)	Member
11	HOD - Complex Vigilance	Member
12	VO other than HOD -Vig	Member

**Agenda Points:**

**Review of Pending Vigilance Cases** - The committee should identify the problem areas in various Vigilance cases, find a solution for speedy disposal and if required may call the Enquiry Officer to attend such meeting with a view to ensuring that the Disciplinary proceedings are finalized within the stipulated time frame viz six months from the date of appointment of Inquiry Officer.

**Scrutiny of Annual property Returns-** Subsequent to the issue of instructions from the CVC, Corporate Office has issued a communication vide No HAL/P&A/19(2)/98/99 dated 17.10.98 to the Vigilance officers to scrutinize the property returns which the committee can discuss particularly non-filing of Property Returns and make such suggestion / comments on the issue which would improve the functioning of the existing system.

**Streamlining of Procedures** – The cases pertaining to false LTC, TA/DA, Medical Claims and lapses / irregularities observed in procurements & Contracts etc., could be discussed by the Vigilance Committee during the meeting. The chairman of the Committee can also suggest the member(s) to study problem areas for improving effectiveness through the laid down procedures and suggest remedial measures to plug the loopholes in the procedures. This will go a long way in improving the effectiveness of work being carried out in the Company.

**CTE's Observations** - CVC (CTE's Organisation) carry out intensive examination of various works under execution / executed in HAL and they forward observations / irregularities noticed by the team for rectification. It has been noted that undue time is taken by the divisions concerned to settle these observations which does not speak well of the Company. Vigilance Committee could therefore discuss such issues and find solution to such observations so that the matter could be settled well in time which will not only bring about necessary improvement in our functioning in all important matters concerning the organization but also enhance the prestige of the Company in the eyes of Central Vigilance Authorities. The Committee may also go into details of irregularities pointed out which may be incorporated in the respective procedures for future implementation by the Civil / Works Engineering Department.

**Job Rotation** - This is an important aspect and requires particular attention because non-implementation of job rotation policy not only increase chances of malpractices but also acts as a hindrance to individual employee's growth & Organisational development. Annual job rotation should therefore be drawn by each Division / Complex which should also be monitored / reviewed during the Vigilance Committee Meeting.

**Vigilance Inspection / Surprise Checks** - Observations made by VOs during the Vigilance Inspections / Checks, if discussed comprehensively will ensure that the concerned departments follow the laid down procedure more scrupulously; and also act as an effective feedback mechanism for carrying out necessary corrections.

**Progress in CBI Cases** - It is noticed that cases taken up for investigations by CBI are generally left to be handled/finalized by the Agency. There are therefore cases which are pending for more than two-three years and concerned division should make an all-out effort to get it finalized by adhering to the stipulated time table.

## Chapter 10

### Miscellaneous

#### 10.1 HAL Vigilance Logo



The logo consists of three eyes. The left eye denotes a view thesis while the right eye speaks of different or contrary view i.e., the antithesis. The resultant eye, (the inner eye or third eye) is the eye of Vigilance.

The third eye, as per our mythology, symbolises a state of enlightenment juxtaposed with vision and precognition. Traditionally it is gyanachakshu, the eye of knowledge enabling the functionary to have both microscopic and telescopic vision.

The motto 'Satyameva Jayate' owes its origin from mantra 3.1.6 from the Mandokya Upanishad signifying that it is truth alone that triumphs.

Blue colour signifies calmness, objectivity as well as relates with aviation, which is the core area of the Company we belong to. The tricolour enshrined within the logo connotes the pan Indian characteristic of our job profile.

The ethos of the logo is completely in alignment with alertness and watchfulness as well as envisaging inquisitiveness towards learning. We do believe that our logo will continue to shine brightly, keeping our hopes for a bright future.

#### 10.2 ISO certification

With a view to codifying all the work processes of Vigilance department and to adopt and execute high standards of professionalism in every sphere of anti-corruption activity, Vigilance Department of HAL has adopted Quality Policy and Quality Objectives. Vigilance Department was accredited with ISO

9001-2000 Certification in the year 2003 which is being reviewed periodically by the Certifying Agencies for continual improvement and commitment to Quality Standards. Presently Vigilance Department in HAL is ISO 9001-2015 compliant and accredited with certification.

### **10.3 Integrity Circle**

With an objective to create awareness amongst the students on the importance of imbibing Integrity, Ethics and Moral values in life at tender age, Vigilance department of HAL introduced Integrity Circle in HAL Schools in the year 2014.

Integrity Circle was introduced in HAL based on the recommendations of Central Board of Secondary Education (CBSE). Integrity Circle in HAL was inaugurated on 02/09/2014 at Ghatge Convention Hall by the then Chairman and CVO-HAL. From the year 2014 onwards, following activities of Integrity Circle are being conducted throughout the year in HAL schools:

- a) **Day to day activities:** Narration of quotation and proverb related to integrity. Two minutes time in regular school assemblies has been allotted for this activity.
- b) **Monthly & Quarterly activity:** Presentation on integrity, moral values, ethics to students by officials of Vigilance Department. Inviting eminent speakers/guests to address students of IC, Distribution of books on integrity, moral values, ethics & social harmony to the students of IC.
- c) **Special Events:** Organize march past / cultural programme by IC students during Independence Day & Republic Day at Sports ground.

### **10.4 Vigilance Study Circle: Bengaluru Chapter**

Vigilance Study Circle-Bengaluru Chapter (VSC-B) is a registered society which started its activities in 2008. VSC-B is a vibrant organisation involved in sharing of information & knowledge, enhancing Vigilance awareness and capacity building of as many as 16 Central Public Sector Organizations & Banks as its members viz., BEML, HAL, BEL, KIOCL, HMT, CPRI, MRPL,

ITI, Canara Bank, SBI, Vijaya Bank (presently Bank of Baroda), Syndicate Bank, Corporation Bank, BRBNMPL, SWR & NMPT.

VSC-Bis a not-for-profit society. Its members are the CVOs and Vigilance functionaries of the member organisations. It is set up with the objective of spreading Vigilance awareness among Vigilance professionals and for sharing of information on Vigilance matters. The objectives of VSC-B are as follows:

- To organize Workshops, Symposia, Seminars and Consultations for transfer of knowledge and sharing of experiences in relation to of Vigilance / Anti-Corruption work.
- To Assist, Co-operate and Coordinate with organization(s), Institution(s) and / or like-minded person(s) that/who strive for the promotion of Vigilance and elimination of Corruption in the Society.
- To Publish Journals, professional literature etc.
- To assist Vigilance professionals.
- Educate College(s) and School(s) students about ethics and the evil effects of Corruption while preparing them to fight against corruption.
- Assist organization(s) by undertaking turnkey project(s) to enhance the utility and efficacy of Vigilance Personnel and Organizations.
- Assist Whistle Blowers' in exposing Corruption.
- Undertake all other activities for the furtherance of the basic aim of promoting the growth of Vigilance and elimination of Corruption.



## VIGILANCE CIRCULARS

### Important Circulars issued by CVC

S.No.	Subject	Circular
1	Action on anonymous / pseudonymous complaint	CVC Circular No. 98/DSP/09 dated 24.09.2020
2	Amendment to Comprehensive guidelines for Complaint Handling Mechanism	CVC Circular No. 24/11/22 dated 03.11.2022
3	Appointment Of Retired Persons in Vigilance Unit	CVC Circular No. 3(V)/99/12 dated 14.08.2000
4	Comprehensive guidelines on Complaint Handling Mechanism	CVC Circular No. 25/12/21 dated 24.12.2021
5	Detailing Of Vigilance Staff In Committees And Non-Vigilance Activities	CVC O.M. No 321/77/91-ADV.III dated 09.06.1992
6	Disposal of old pending cases	CVC Circular No. 20/12/20 dated 30.12.2020
7	Expeditious disposal of complaints received against employees, having bearing on Vigilance Clearance – Suitable monitoring mechanism	CVC Office Memorandum No. 021-AIS-1(2) dated 19.04.2021
8	Guidelines and Public Notice on the procedure to be followed for filing whistle-blower complaints under the PIDPI Resolution, 2004	CVC Office Order No. 33/5/2004 dated 17.05.2004
9	Guidelines regarding engagement of Consultants.	CVC Circular No. 01/01/17 dated 23.01.2017
10	Implementation of final penalty orders by the Competent Authority and submission of compliance report	CVC Circular No. 11/03/22 dated 21.03.2022

11	Intimation to CVC & CBI in cases pending for sanction for prosecution	CVC Circular No. 15/07/22 dated 29.07.2022
12	Obtaining documents from CBI for the purpose of departmental inquiry proceedings	CVC Circular No. 03/01/22 dated 12.01.2022
13	Parallel investigation by departmental agency and the CBI	Office order No.52/08/05 dated 13.09.2005
14	Pre-requisites & Formats of Investigation Report prescribed by CVC	CVC Circular No.21/08/09 dated 06.08.2009
15	Procedure for Handling of complaints sent for necessary action to the organizations concerned	CVC Circular No. 08/02/22 dated 11.02.2022
16	Procedure for handling references received from Lokpal of India	CVC Circular No. 08/06/21 dated 18.06.2021
17	Protection against victimization of Vigilance officials	CVC Circular No. 16/03/2006
18	Reporting of cases of deviations from the Central Vigilance Commission's advice	CVC Circular No. 10/06/21 dated 23.06.2021
19	Revised Standard Operating Procedure to deal with Intensive Examination carried out by Chief Technical Examiners' Organization	CVC Circular No. 05/05/21 dated 06.05.2021
20	Revised guidelines on Intensive Examination of Public Procurement Contracts – 2022	Circular No. 19/09/22 dated 05.09.2022
21	Rotation of officials working in sensitive posts	CVC Circular No. 22/10/22 dated 25.10.2022
22	Rotation of Vigilance Officials	CVC Circular No. 020/VGL/054 dated 05.04.2021
23	Tenure of CVO	DoPT O.M No. 372/7/2016-AVD-III dated 28.04.2017

24	Time Extension for providing further information / clarification by the Chief Vigilance Officer, as sought by the CVC	CVC Circular No. 13/04/22 dated 12.04.2022
25	Time limit and procedure for seeking reconsideration of Central Vigilance Commission's First Stage Advice	CVC Circular No. 20/11/21 dated 25.11.2021
26	Timely finalisation of Departmental Inquiry Proceedings – improving Vigilance administration	CVC Circular No. 18/12/20 dated 14.12.2020
27	Timely finalization of Departmental Inquiry Proceedings – improving Vigilance administration	CVC Circular No. 22/12/21 dated 08.12.2021
28	Timely finalization of Departmental Inquiry Proceedings – improving Vigilance administration	CVC Circular No. 21/12/21 dated 03.12.2021
29	Timely finalization of Departmental Inquiry Proceedings – improving Vigilance administration	CVC Circular No. 19/09/21 dated 06.10.2021
30	Timely finalization of Departmental Inquiry Proceedings – improving Vigilance administration	CVC Circular No. 18/12/20 dated 14.12.2020
31	Transfer / Posting of officers / officials working in Vigilance Unit of the organization	CVC Circular No. 07/02/22 dated 03.02.2022
32	Transfer of officers / officials working in Vigilance Unit of the organization	CVC Circular No. 03/04/21 dated 05.04.2021

Note: please visit CVC website [www.cvc.nic.in](http://www.cvc.nic.in) for above circulars.

## VIGILANCE REPORTS & RETURNS

<b>Monthly Reports</b>		
1	M/01-1	"Store Purchase Contracts" for Rs 1.00 crore & above
2	M/01-2	Civil Works for Rs 1.00 crore & above
3	M/01-3	Horticulture Works for Rs.1.00 Crore & above
4	M/01-4	Electrical Engineering Works for Rs. 1.00 crore & above
5	M/01-5	Mechanical Engineering for Rs.1.00 crore & above
6	M/01-6	Other Contracts for Rs.1.00 Crore & above
7	M/02-1	Anti-corruption and Vigilance cases
8	M/02-2	Action plan for the month
9	M/03-A	Pendency of Investigation
10	M/03-B	Pending With DA For Issuance Of Charge Sheet
11	M/03-C	Pending Disciplinary Proceedings
12	M/03-D	Pending With DA For Issuance of Final Order
13	M/05	Status of Verification Report
14	M/06	Submission of Monthly Report by the CVOs
15	M/08	Departmental Enquiries
16	M/10	Banned Agency
17	M/14	Handling of Anonymous / Pseudonymous Complaints
18	M/17	Integrity Pact for Rs.5.00 crores & above
19	M/18	Details of Pending Prosecution Sanction Requests by CBI
20	M/19	Scrutiny of APRs
21	M/21	Submission of information pertaining to review of CPSEs employees on lines of 56 (J)
22	M/23	Monthly Progress Report of Disciplinary Proceedings / Departmental Inquiry Proceedings under the purview of MoD/DDP
23	M/24	Vigilance Status of Board Level Executives of CPSEs-reg
24	M/25	Status of Disciplinary cases of Class-1 & Board Level Officials of DPSUs

<b>Quarterly Reports</b>		
1	Q/01	Action Plan on Anti-corruption Measures
2	Q/03	Preventive Vigilance Inspection Works
3	Q/04	Civil Works of Rs 5.00 crores & above and if no works as per prescribed threshold limit, than two highest value contracts for the quarter ending
4	Q/05	Progress report of Electrical / Mechanical and other allied works of Rs 1.00 crore & above and if no works as per prescribed threshold limit, than two highest value contracts for the quarter ending
5	Q/06	CTE Horticultural Works of Rs 10.00 lakhs & above and if no works as per prescribed threshold limit, than two highest value contracts for the quarter ending
6	Q/08	Store & purchase more than Rs 5.00 crores & above and if no purchase as per prescribed threshold limit, than two highest value contracts / purchase order for the quarter ending
7	Q/10	Pending CBI Cases to MoD
8	Q/15	Quarterly Report on Employees deputed for training programs within the country
9	Q/16	QPR on purchase of medical equipment of Rs. 50.00 lakhs & above and if no purchase as per prescribed threshold limit, than two highest value purchase orders for the quarter ending
10	Q/17	Consultancy Contracts of Rs 1.00 crore & above and if no consultancy contracts as per prescribed threshold limit, than two highest value contracts for the quarter ending
11	Q/18	Turnkey works contracts of Rs 5.00 crores & above and if no works as per prescribed threshold limit, than two highest value contracts for the quarter ending
12	Q/19	Supply of Medicine - Four highest value contracts / purchase order for the quarter ending
13	Q/20A	PPP-Public Private Partnership (IMM) Rs 5.00 crores &

		above and if no contracts as per prescribed threshold limit, than two highest value contracts for the quarter ending
14	Q/20B	PPP-Public Private Partnership (Works) Rs 5.00 crores & above and if no works as per prescribed threshold limit, than two highest value contracts for the quarter ending
15	Q21	Quarterly progressive report on sale of goods / scraps / land of Rs. 5.00 crores & above and if no sale of goods as per prescribed threshold limit, than two highest value contracts/orders for the quarter ending
16	Q/22 (Works)	Public Procurement Order – 2017 (PPP-MII) of Rs. 5.00 crores & above
17	Q/23	Quarterly Performance Report
18	Q/24	Actionable Points for Preventive Vigilance (related to Inter-Organization Audit)
19	Q/25	Progressive use of Official Language
20	Q/26	Quarterly Report of Vigilance cases to Board
21	Q/27	Quarterly report on Single Tender Basis

<b>Annual Report</b>		
1	A/01	ODI List
2	A/02	Agreed List
3	A/03	Submission of Annual Report by CVO
4	A/04	Activities and Achievements of Vigilance Department.
5	A/06	Acceptance of Gifts by Government Servants
6	A/08	Foreign visit by Government Employees
7	A/09	Implementation of final penalty orders issued competent authority and submission of compliance report

## GLOSSARY OF TERMS

ACB	Anti-Corruption Bureau
AP	Action Plan
CBI	Central Bureau of Investigation
CDA Rules	Conduct, Discipline & Appeal Rules
CMD	Chairman & Managing Director
CO	Corporate Office
CPSE	Central Public Sector Enterprise
CSO	Charge sheeted Officer
CTE	Chief Technical Examiner
CTEO	Chief Technical Examiner Organisation
CVC	Central Vigilance Commission
CVO	Chief Vigilance Officer
DEC	Departmental Enquiry Committee
DI	Detailed investigation
DoPT	Department of Personnel & Training
DPSU	Defence Public Sector Undertaking
DSPE	Delhi Special Police Establishment
ED	Enforcement Directorate
EO	Enquiry Officer
FR	Factual Report
FI	Financial Institution
GM	General Manager
Gol	Government of India
HAL	Hindustan Aeronautics Limited

HoD	Head of the Department
HR	Human Resources
IER	Intensive Examination Report
ISO	International Standards for Organisation
ISTM	Institute of Secretariat Training & Management
JV	Joint Venture
MHA	Ministry of Home Affairs
MoD	Ministry of Defence
NABARD	National Bank for Agriculture and Rural Development
NIT	Notice Inviting Tender
NPC	National Productivity Council
ODI	Officer of Doubtful Integrity
OLIV	Online Vigilance Clearance
OM	Office Memorandum
PAR	Performance Appraisal Report
PIDPI	Public Interest Disclosure and Protection of informer
PO	Presenting Officer
PO	Purchase Order
PSU	Public Sector Undertaking
QPR	Quarterly Progress Report
QVCM	Quarterly Vigilance Committee Meeting
RBI	Reserve Bank of India
RDA	Regular Departmental Action
RTI	Right to Information
SC	Surprise Check
SIDBI	Small Industries Development Bank of India



SOP	Standard Operating Procedure
SPS	Suspected Public Servant
VAW	Vigilance Awareness Week
VC	Vigilance Clearance
VIMS	Vigilance Information Management System
VR	Verification Report
VSC	Vigilance Study Circle
WO	Work Order





# Hindustan Aeronautics Limited

Government of India Undertaking  
Ministry of Defence  
Registered Office: 15/1, Cubbon Road,  
Bengaluru-560001, India  
[www.hal-india.co.in](http://www.hal-india.co.in)