



## Case Study: Using risk management to improve decision making and requests for legal advice

Office of the General Counsel – Department of Communications and the Arts

### Audience

The intention of this case study is to assist Commonwealth officials at the Executive and Generalist levels understand:

- What a successful risk-based approach to decision making looks like,
- the benefits of adopting such an approach, and
- key lessons learned and practical tips from using this approach

### At a glance

After 2017-18 APS Census, the Office of the General Counsel (OGC) in the Department of Communications and the Arts identified Risk Management as one of three branch priorities. They recognised the need to adopt a risk-based approach to making informed decisions that support OGC's mission to *'provide technically excellent, strategic legal advice to the Department and the Minister in relation to the Communications and Arts portfolio'*.

This case study provides guidance to entities who are seeking to develop or formalise their approach to using a consistent, clearly communicated risk-based approach to prioritise client requests for advice.

The case study emphasises that having an engaged executive sponsor, who has a clear vision of how to use risk management and who fosters a culture of openness to change and empowerment, is key to embedding this approach into work teams.

## Background and objectives

Many entities have centralised functions which provide guidance, support and advice on questions relevant to their areas of expertise. This often includes legal, compliance, occupational health and safety, and human resourcing matters. These requests for advice often arrive:

- late in the process
- when an issue has arisen
- with tight and unrealistic timeframes
- with varying levels of detail and clarity.

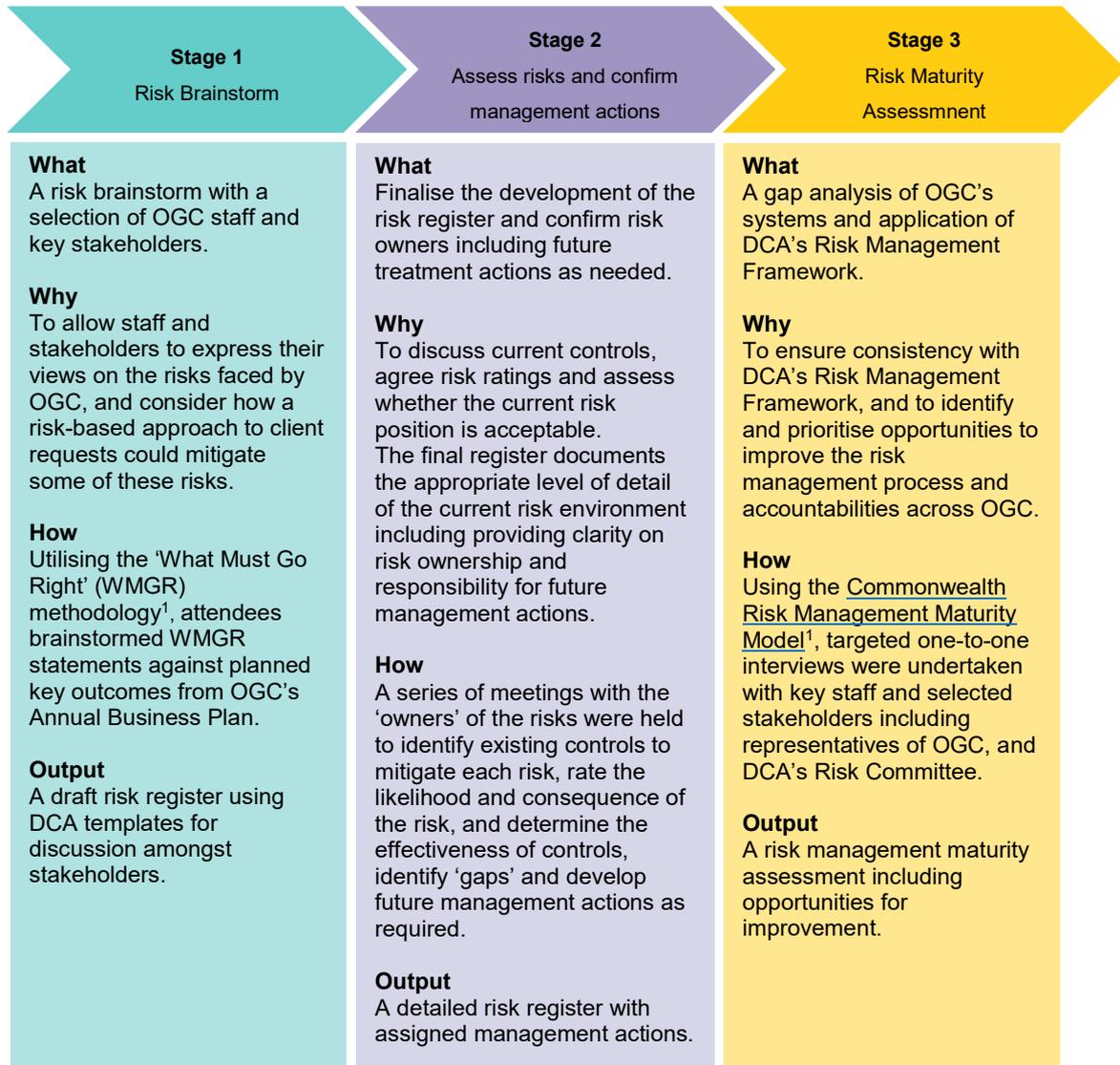
Central advisory functions may struggle to adequately triage these requests for advice, from both internal and external 'clients', which can result in:

- inconsistent application of decision-making criteria
- incorrect allocation of time and resources (i.e. whoever 'shouts the loudest' gets attention)
- an increase in the risk profile (including, but not limited to, reputational and operational risk) of the central advisory function and broader entity.

Within DCA, OGC has an objective to improve its risk culture and risk management capability. The key outcomes of the project included:

- reviewing the process around the assessment, ranking, allocation and actioning of requests for legal advice from a wide variety of stakeholders
- guiding staff to think and act strategically in their day-to-day operations
- putting in place systems to identify and manage significant shared legal risks within the DCA portfolio
- embedding risk management in the decision making of OGC at all levels
- being seen as a leader in DCA in operationalising the Department's framework for managing risk
- reinforcing the importance of strong leadership with a clear vision and focus when embarking on change initiatives – i.e. setting the 'tone at the top'
- highlighting that a positive team culture and an openness to change makes embedding change easier.

To deliver this engagement, a three-stage approach was adopted:



<sup>1</sup> The WMGR methodology focuses on identifying, against key "anchor points", what must go right if we are to achieve the agreed outcomes or objectives.

<sup>2</sup> <https://www.finance.gov.au/sites/default/files/commonwealth-risk-management-maturity-model-one-pager.pdf>

## What does a successful risk-based approach to decision making look like?

A sound risk-based approach will have three key elements:

1. Strong executive support including:
  - clarity of purpose – OGC operates in accordance with an annual business plan. This provides legitimacy to improvement initiatives, while supporting the delivery of OGC’s mission.
  - clarity in vision – OGC aspires to utilise risk management to improve their systems of work. This vision allows immediate effort to be dedicated to undertaking the necessary improvements.
  - a positive culture and openness to change – led by the General Counsel of DCA, the entire OGC team actively participated in designing innovative methods of communicating, including the use of infographics and face-to-face sessions to transfer knowledge and discuss concepts.
2. Clarity for ‘clients’ as to how their requests for support will be examined, ‘triaged’ and allocated for action within the central advisory function. This information can be provided in a number of ways including flowcharts, Frequently Asked Questions (FAQs), decision trees, lists and infographics. These guides must provide clarity on the risk-based approach used by the central advisory function.
3. Clarity for staff members of the central advisory function regarding how they should prioritise these requests. Using the same tools as above, supplemented by advice and mentoring from team leaders, staff can suitably allocate time and resources according to true priority, instead of informal relationships.

It should be noted that the processes and systems must strike the correct balance between adhering to the defined and communicated expectations, with the reality that there will always be certain requests which will need to be expedited. For example, “the Minister needs this advice by 4pm today”.

## What are the benefits of using a risk-based approach to client requests?

The benefit of using risk-based approach to client requests include:



**1. A consistent approach is developed and communicated for managing service requests**

- Risk is the effect of uncertainty on objectives. As different areas of the organisations have different individual priorities, they may view the same request (and its associated risk) very differently.
- A clear, easy to understand process will help ensure consistency in how requests are managed across the entity.



**2. There will be less ambiguity around the prioritisation of work**

- If requesting stakeholders have clarity on how requests will be prioritised, it will lead to greater efficiencies for them and the central advisory function.



**3. 'Approval' of requests will be at the appropriate level**

- In the absence of clearly defined roles, responsibilities and authorisation levels, there may be a tendency for requests to escalate to senior officials unnecessarily.
- Clarification and application of authorisation levels will help to ensure that only the highest risk issues are brought to the attention of senior officials when required.



**Translate into Risk Statements**

- KPIs can be developed to measure the effectiveness of the systems and processes.
- Results can then be used to provide an 'evidence base' for change if needed.

## Practical tips

### **Risk can be used to lead decision making**

OGC demonstrated that applying a risk-based approach is practical, effective and has many business benefits. Entities that apply a formal risk-based approach to requests for advice will be able to streamline processes, remove ambiguity, and have matters addressed at the appropriate organisational level.

### **Consider your context and legacy tools**

When embarking on a change initiative, the organisational and operating contexts must be considered – within this context, there must be the need and appetite for change. There will also be broader, entity-wide processes, guidelines, and templates that must be considered.

### **Do not be bound by history**

Do not be afraid to use new and innovative methods to gather, analyse and present your information and findings. Don't be afraid to fail, and if you are to fail, fail fast.

### **Culture is Key**

It is important to empower people to identify changes and foster a culture that is open to change. A positive culture leads to trust, which in turn, promotes autonomy and efficiency.

### **Consult and then consult some more**

Consult early, consult broadly and consult constantly. A critical success factor to change management is ongoing consultation. This will remove ambiguity, enhance information flow and improve the overall efficiency of processes and systems.

### **Use the tools**

There are many tools and templates readily available to entities through internal advisory functions (i.e. project management offices, risk advisory functions, etc.) as well as the “What must go right” risk assessment methodology, and the [Commonwealth Risk Management Maturity Model](#). These allow officials to apply a consistent, proven and documented approach to delivering change.

### **Use data**

To supplement a risk-based approach, consider what other sources of data might be relevant and available. The ‘gather once, use many times’ approach to data is a key future focus for all entities (not just the Australian Public Sector). ‘Data mining’<sup>1</sup> also has many proven benefits including predicting future trends, cost reduction, and analysing client needs.

### **Be pragmatic and reasonable**

There will always be urgent requests for advice, which may need to override established processes. Failure to acknowledge these will result in a loss of goodwill among stakeholders and may contribute to parallel processes emerging.

---

<sup>1</sup> Data mining is the practice of examining large pre-existing databases in order to generate new information.

## Related resources

Names and links to related risk information resources:

- [Commonwealth Risk Management Maturity Model](#)
- [Information Sheet: Reviewing a Risk Management Framework](#)

## Contact

If you have any questions or feedback in relation to this information sheet, please contact Comcover Member Services at [comcover@comcover.com.au](mailto:comcover@comcover.com.au).

## Use of this information sheet

Comcover's series of Risk Management Case Studies are learning resources and are not mandatory.

It is important that entities develop risk management frameworks and systems that are tailored to the needs of their organisation. Entities may choose to adopt some or all of the concepts contained in this information sheet to suit their specific needs or use alternative methodologies.