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# PERFORMANCE AUDIT OF THE INSTITUTIONAL FRAMEWORKS FOR FIGHTING CORRUPTION AT THE NATIONAL LEVEL AND THE INFRASTRUCTURE DEVELOPMENT SECTOR



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AUDITOR GENERAL'S OFFICE

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## Acronyms and abbreviations

ACC	Anti-Corruption Commission
AGO	Auditor General's Office
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
CPI	Corruption Perception Index
INTOSAI	International Organisation of Supreme Audit Institutions
MOF	Ministry of Finance
MONPHI	Ministry of National Planning, Housing and Infrastructure
MVR	Maldivian Rufiyaa
NGO	Non-Governmental Organisation
PAC	Public Accounts Committee
PC	Penal Code
PFR	Public Finance Regulation
PPC	Prevention and Prohibition of Corruption Act
SAP	Strategic Action Plan
SDG	Sustainable Development Goals
SOE	State-Owned Enterprises
UNCAC	United Nations Convention Against Corruption

## Executive Summary

This audit was selected as the topic for performance audit in 2017 under the INTOSAI Development Initiative's (IDI) SAI Fighting Corruption programme co-operative audit. The audit examines the institutional frameworks at the national level and the infrastructure development sector for preventing corruption, to identify the risks associated with the frameworks and to identify options for further audit actions so as to achieve the target 16.5 emphasizes to 'substantially reduce corruption and bribery in all their forms'.

The scope of this audit includes the legislative frameworks, ACC's efficiency and effectiveness, extent current practices in public finance align with the UNCAC provisions, mechanisms in place to gather information with regards to corrupt practices, measures taken by MOF and Parliament to make public institutions accountable, at the national level. At the sectoral level, the mechanisms in place for delivering services to public and awarding of projects, and transparency in the tendering process of these projects by the national tender board. The audit focused mainly on the years from 2016 to 2017.

The first part assessed whether the overall national anti-corruption system is effective to create an enabling environment to prevent corruption by looking at the appropriateness and adequacy of the legislative framework, Anti-Corruption Agency's efficiency and effectiveness and the extent to which the practices adopted by the agencies responsible for fighting corruption align with UNCAC provisions align with the current practices. The key findings include inadequacy of the existing legal framework, resource limitations faced by the ACC, the need to key factors required to comply with UNCAC requirements for preventive measures, gaps in public awareness regarding corruption – revealed through a public survey – and potential lack of public trust in accountability institutions. Nonetheless, adequate efforts are undertaken by ACC in terms of public awareness programmes conducted, carrying out its functions as per their Strategic Action Plan and enhancing efficiency and should be commended for its commitment to improve the legal framework.

The second part assessed the existence of mechanisms in place for gathering information with regards to corrupt practices and follow up mechanisms. We found that adequate mechanisms

are in place at the ACC for gathering information on corrupt practices, and measures are being taken to collaborate and co-ordinate with relevant institutions. However, the ACC's inability to enforce the law when relevant parties do not act up on the recommendations given to them has led to offenders not being made accountable. Meanwhile, the lack of effective implementation of audit recommendations by the entities have serious implications on the end result of the work being carried out by the AGO. Furthermore, the lack of prompt and regular action by the respective authorities has nullified the system of checks and balances that are supposed to exist in a system of government where there is separation of powers.

The third part assessed whether there is an effective institutional framework for preventing corruption in the infrastructure development sector. In this sector, we found that although the Ministry of National Planning, Housing and Infrastructure (MONPHI) appears to follow PFR in collecting, recording and depositing revenue, there are weaknesses in internal controls and the monitoring mechanism within departments are inadequate. Therefore, mechanisms in the ministry are not effective in preventing bribery and corruption in the delivery of services to the general public. Similarly, even though the Ministry has pre-determined rates for all the services, as per the findings, the Ministry is not efficient in its service delivery which has led to complaints by the general public about the existence of bribery and other forms of corruption. However, the beginning of digitalisation of documents in the year 2017 is a noteworthy initiative for ensuring efficient service delivery. As for the projects carried out by the Ministry in the infrastructure sector, we could not determine whether there is a mechanism to ensure transparency in awarding and implementation of projects due to limitation of scope.

In order to effectively combat corruption at the national level, the issues identified in the legal framework needs to be addressed by the Attorney General and the Parliament. The ACC should also be allowed more financial independence by the Parliament and policy makers. Other transparency and accountability aspects also need to be improved in relation to cases not investigated or rejected by the ACC, recruitment, hiring, retention, promotion and retirement of non-elected public officials, reporting of risks of corruption. In addition, there is a need to strengthen the accountability function of the MOF and the PAC. The accountability agencies are also advised to establish a mechanism for effective follow up and to take further necessary action in response to non-compliance with the recommendations given by them. We also advise the MONPHI to establish strong internal controls such as having clear guidelines and ensuring segregating of duties. The MONPHI is also advised to establish an effective filing system and set and achieve targets for processing and delivering services to the public within the established timeframes.



## Chapter 1 – Introduction

Under the Goal 16 of the SDGs ‘Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’; target 16.5 calls on countries to ‘substantially reduce corruption and bribery in all their forms’. To achieve this goal, the Maldives should have an effective institutional framework at the national level for preventing corruption.

This audit examined the institutional frameworks at the national level and the infrastructure development sector for preventing corruption, to identify the risks associated with the frameworks and to identify options for further audit actions.

### Why was the Audit performed?

The Institutional Framework for Fighting Corruption at the National Level and the Infrastructure Development Sector was selected as the topic for performance audit in 2017 under the INTOSAI Development Initiative’s (IDI) SAI Fighting Corruption programme co-operative audit.

This is a significant topic for the government and the general public due to the high level of corruption inherent in the country which is evidenced by the Corruption Perception Index (CPI) ranking of the Maldives at 112 out of the 180 countries with a score of 33 out of 100 in the year 2017.

### Audit objectives and audit questions

The objective of this audit was to examine the efficiency and effectiveness of the mechanisms in the national and infrastructure development sector in preventing corruption to facilitate developmental activities. The main audit questions were as follows:

1. Is the overall national anti-corruption system effective to create an enabling environment to prevent corruption?
2. Are there adequate mechanisms to gather information in regards to corrupt practices in the country and follow-up occurs?
3. Is there an effective framework for preventing corruption in the infrastructure development sector?

### Scope of Audit

The scope of this audit included legislative frameworks at the national level and the efficiency and effectiveness of the Anti-Corruption Commission (ACC) in preventing corruption, extent to which existing practices in public finance designed to combat corruption align with the



UNCAC provisions, the mechanisms in place to gather information with regards to corrupt practices, and the measures taken by Ministry of Finance (MOF) and Parliament to make public institutions accountable. At the sectoral level, the mechanisms in place for public service delivery and awarding projects have been explored. Moreover, the audit also looked into the transparency aspects of awarded projects that had been awarded beginning with the stage of sending the tender documents to the national tender board.

The audit focussed mainly on the activities that took place from 2016 to 2017. The audit was carried out from July 2017 to September 2018 within the capital – Male City, where the sectoral ministry’s operations are based. However, in order to obtain a better insight into the institutional framework, certain activities that were carried out before 2016 and after 2017 were considered as these had an impact on activities that took place during the period between 2016 and 2017.

### **Audit Methodology and Approach**

The audit commenced with an entrance meeting with the stakeholders where the audit scope was communicated. Similarly, audit findings were discussed with the stakeholders and their comments were taken into consideration where it did not contradict the audit evidence gathered during the audit.

The audit approach used in carrying out the audit has been a mix of the result-oriented and system-oriented approach.

The audit was conducted on the information and documents collected from the Anti-Corruption Commission (ACC), Attorney General’s Office, the then Ministry of National Planning, Housing and Infrastructure (MONPHI), Ministry of Finance (MOF), and the Auditor General’s Office. Documents and information were also acquired from enquiry and conducting interview of relevant parties, by conducting a public survey, and also based on research from the relevant websites.

Documents and information collected were reviewed, compared and analysed to identify the discrepancy between the existing situation and the audit criteria.

Refer [Appendix 1: Audit Methodology](#) for detailed information regarding audit methodology and approach.

### **Limitations to the data used**

The financial statements included in the annual report of the ACC varies from their audited financial statements as a result of the audited financial statements not being available to them prior to the publication of their annual report. There is a risk that respondents to the public



survey that we conducted may not have felt comfortable to provide honest answers; their views may have been biased; and views may not have reflected the general view of the whole population.

### **Audit criteria and source of criteria**

Audit criteria were formulated from sources relevant to the key stakeholders. The sources of criteria include;

- Constitution of the Maldives
- Anti-Corruption Laws and Regulations
- Public Finance Law and Regulation
- Strategic Action Plan
- Standard Operating Procedures
- United Nations Convention Against Corruption
- Correspondence between implementing agency and counterparts (letters, minutes, circulars, announcements and other relevant literature)

Evidences were gathered to assess the performance against the audit criteria and recommendations were issued for significant gaps to ensure further improvement.

### **Standards used for this audit**

The audit was planned, performed, and reported in accordance with the International Standards of Supreme Audit Institutions (ISSAI) 3000 in conjunction with ISSAI 100, 300, 3100, 3200 and 5700 which are aligned with the policies laid down by the Auditor General.



## Chapter 2 – Overview

The subject matter of the audit is the Institutional Frameworks for Fighting Corruption at the National Level and the Infrastructure Development Sector. The main institutions involved in this audit are the Anti-Corruption Commission, Prosecutor General’s Office, Attorney General’s Office, Ministry of Finance, and the Ministry of National Planning, Housing and Infrastructure.

### Background

The Anti-Corruption Commission was established on 16 October 2008 as an independent body, under Article 199 of the revised Constitution of Maldives – which was enacted on 7 August 2008 in order to discharge the functions of preventing and fighting corruption within the state. The ACC is governed by the Act No.: 13/2008 (Anti-Corruption Commission Act), which was ratified on 24 September 2008. The ACC’s activities are outlined in their Strategic Action Plan based on eight strategies – with the current plan running from 2015 to 2019.

The Ministry of National Planning, Housing and Infrastructure is mandated to carry out activities relating to public housing, use of and valuation of land, public works services, public sector investment programmes and maintenance of state infrastructure.

Under the Goal 16 of the Sustainable Development Goals (SDG) ‘Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’; target 16.5 emphasizes to ‘substantially reduce corruption and bribery in all their forms’.

This study was carried out to assess the institutional frameworks at the national level and the infrastructure development sector level for preventing corruption and to identify the risks associated with the frameworks and to suggest improvements.



## Chapter 3 – Effectiveness of the overall national anti-corruption system to create an enabling environment to prevent corruption

### 3.1 Is the legislative framework for preventing corruption sufficient?

Currently the legislative framework for preventing corruption includes the Constitution of the Maldives, the Act No: 13/2008 (Anti-Corruption Commission Act), Act No.2/2000 (Prevention and Prohibition of Corruption Act 2000) Regulation No: 2017/R-40, 18.04.2017 (General Regulation of ACC), Act No: 10/2014 (Prevention of Money Laundering and Financing of Terrorism Act), the Act No:9/2014 (Penal Code) and the Act No:12/2016 (Criminal Procedure Code).

While article 199 of the Constitution requires that there shall be an Anti-Corruption Commission of the Maldives, the two main laws governing the work of the ACC are the ACC Act and Prevention and Prohibition of Corruption Act (PPC). The ACC Act sets out the responsibilities, powers, mandate of the ACC and the qualifications and ethical standards of its members, whilst the PPC scopes the acts of bribery and undue advantages for prevention of corruption. The Penal Code (PC) prescribes the corruption offenses, penalties and procedures related to determining penalties, amongst others. The Criminal Procedure Code (CPC) lays out detailed processes and stringent rules for arrest, investigation and prosecution.

Various lacunae/deficiencies were identified with the current legal framework through enquiries with the ACC and the Prosecutor General's Office (PGO) as follows:

- Inconsistent and incomplete definition of 'state employees' among the regulations
- Challenges arising from the definition of 'corruption' in the Act No.2/2000 (Prevention and Prohibition of Corruption Act 2000)
- Power limitations to ACC such as halting contracts, arresting power, undertaking secret operations
- Illicit enrichment not criminalised
- Alignment over different legislations
- Absence of legislations; a comprehensive and up-to-date Witness Act, Whistle-blower Protection Act, Regulation governing Mutual Legal Assistance sought
- Limitations in the Penal Code and Anti-Corruption Act itself

These limitations have been communicated to the Attorney General, while some have been brought to the notice of the Parliament as well as the President's Office by the ACC.

The Attorney General informed that the revisions proposed to the PC had been sent to the President's Office in order to be submitted to Parliament and that the revised Evidence bill is



already submitted to the Parliament. They also informed that they are working on the revised PPC Act draft.

Additionally, Chapter 3 of the UNCAC has been used as the best practice criteria for comparison with the legal framework. Some provisions of the existing legal framework that are not met as per the convention include;

- Third party beneficiaries not included in active bribery provisions of both PPC Act and the PC
- Offence of active bribery of public officials does not cover such acts carried out by employees of state-owned enterprises
- Illicit enrichment is not criminalized. A PPC Act Amendment Bill, which contained a provision that would have made illicit enrichment an offence, was not adopted by Parliament.
- ACC mandate does not cover all corruption-related offences
- Acts of bribery of foreign public officials and officials of public international organizations are not criminalized
- Third party beneficiaries in the active offence of trading in influence is not criminalized in the existing framework
- Embezzlement is partially criminalized. It does not cover misappropriation, third party beneficiaries and requires a fiduciary or legal obligation towards the property
- Giving of testimony is not included in PC (section 530)
- The existing framework criminalizes instigation, attempt and conspiracy for all offences under PPC but mere preparation of a corruption offence is not criminalized
- There is no specific prohibition preventing a convicted official from subsequently holding a position in an enterprise owned in whole or in part by the State.
- Maldives does not have programmes for the reintegration of convicted persons.
- Appropriate measures not in place to provide effective protection of witnesses, experts and victims
- Previous convictions in other States not taken into consideration in criminal proceedings for Convention offences
- Measures to address corruption in legal proceedings not in place
- Alignment issues with PC and Prevention of Money Laundering and Financing of Terrorism Act (AML/CFT)

Many issues with the new Penal Code were identified by the ACC and notified to relevant authorities at the drafting stage as well as before implementation phase. Many other deficiencies



in the legislative framework has also been identified and communicated to respective authorities on different occasions in 2015 and 2016 as well, but only a minority of the suggestions were accommodated in the revisions that followed.

Moreover, ACC has incorporated as a policy in its Strategic Action Plan 2015 – 2019 (SAP) to strengthen the legal framework to prohibit and prevent corruption. ACC's commitment to improve laws is commendable.

Even though the ACC has initiated and communicated flaws and deficient areas of laws to respective authorities, there are delays from the respective authorities, namely the Attorney General's Office and the Parliament. There appears to be lack of strong political will from responsible parties including governmental and non-governmental leaders to effectively deal with the problem of corruption. As a result, loopholes and lacunae in laws could be exploited by the perpetrators of corruption.

With these limitations, the ACC would not be able to effectively discharge its legal mandate to curb corruption.

### **Recommendation**

The Attorney General's Office and the Parliament needs to accelerate the process of addressing issues identified in the legal framework in order to prevent corruption.

### **3.2 Is the ACC meeting its policy objectives?**

The SAP of the ACC comprises of detailed activities covering mandatory functions and responsibilities laid out in the laws and regulations of the ACC. Since the policies and strategies introduced under the SAP are designed to strategically reinforce the mandate of the ACC, elevate integrity in public sector and to reduce corrupt practices in the society, it is imperative that the ACC is put in a great of effort to carry out the activities planned and address potential resource limitations through communication and coordination with the Ministry of Finance and Parliament to meet these policy objectives.

### **How effective are the efforts undertaken by the ACC?**

To assess whether the ACC is effective in their anti-corruption efforts, a comparison was made with their SAP and the activities actually carried out. The comparison revealed that the ACC had completed majority of the activities planned for the period 2016 and 2017. However, there were some activities or sub-activities that were either not started, postponed or not completed.

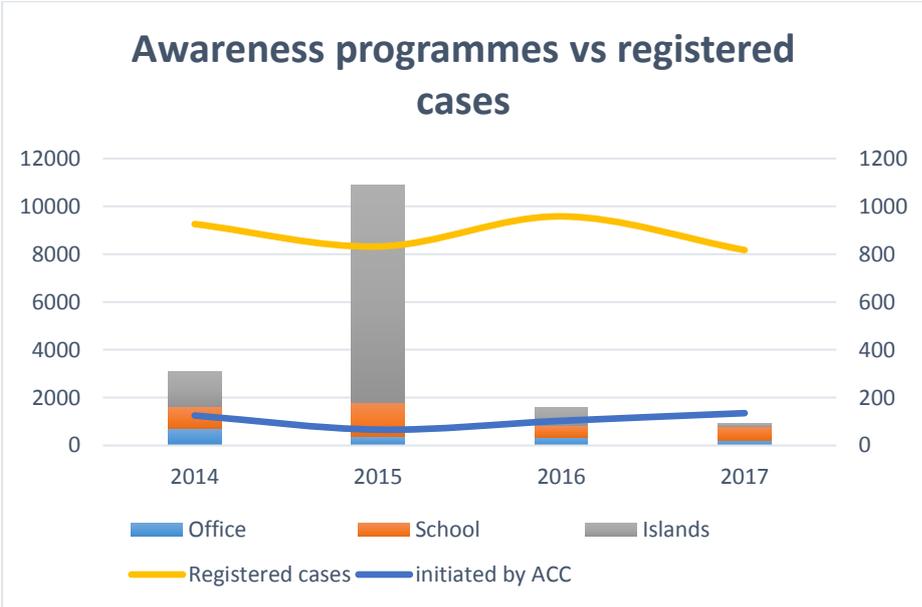


One of the main reasons for failure to achieve the SAP is the limitation of staff and budget which in turn could affect the ACC's ability to effectively carry out their main role of fighting corruption.

However, it is noteworthy that in spite of staff and budget limitations, the ACC had strived to obtain funding from international sources and held a number of awareness programmes during 2016 and 2017 as well.

In addition, an analysis of four years' data was conducted to assess whether the ACC is effective in preventing corruption when compared with its efforts towards corruption prevention in terms of awareness programmes conducted.

**Figure 1: Regression Analysis of awareness programmes and Cases registered**



Year 2016 and 2017 shows a huge reduction year-on-year in the awareness activities conducted; in 2016 there was an increase in the number of registered cases compared to 2015 whilst the number of registered cases fell to its lowest in 2017, during the period between 2014 and 2017. However, it derives at a contradictory conclusion as 2015 evidences reduction in registered cases and hence effectiveness in preventing corruption, although more awareness sessions were conducted in the year. Moreover, a period of 4 years is too short a period to assess any relation between awareness efforts and cases registered at the entity. Also analysis of this information alone cannot be measured or concluded on with regards to effectiveness of the ACC in preventing corruption.

**What is the public opinion of the ACC?**

A public survey was conducted to assess the public awareness of corruption and willingness to report cases, to which 82 responses were received. Refer to [Appendix 2](#) for details of the survey.



89% of the respondents claimed that they know corruption and the rest settled to 'to some extent'. Different types of corruption included to test their knowledge of corruption revealed that on average 16% of the respondents were not aware of some types of corruption. For instance, acts such as money laundering, illicit enrichment and misuse of resources of companies where people work were not considered corruption by an average of 30% of respondents. Similarly, 18% of the respondents were not fully aware of the impacts of corruption. Moreover, there was some confusion regarding the entity to which corruption cases must be reported. While all respondents unanimously agree that corruption cases should be reported to the ACC, some respondents were of the view that they needed to report the cases to the Maldives Police Service (41%), respective local councils (24%) and the Auditor General's Office (18%). This suggests a loophole in the legal framework as corruption has not been adequately defined in the law, as the case may fall to the jurisdiction of multiple entities, as has been stated by some respondents. The failure to educate the citizens about corruption could also be a cause behind this.

Most of the survey respondents (65%) were aware of more than three mediums of reporting cases to ACC and all of the respondents are aware of at least one medium of reporting. Based on the survey answers opted by respondents, the most effective medium for making public aware of corruption is the social media. News media and discussion talks were then marked as the means of corruption awareness amongst respondents. 68% of the respondents claim that they have never been part of any awareness sessions conducted, of which 80% claim that they were not given any opportunity to participate in any such sessions.

Of the 71 respondents who responded to the question “what would you do if you come across a corruption case?”, 52% of the respondents were willing to report any corruption case, 39% said they would ignore, 6% said that it would depend on the case and 3% were not sure. Of those unwilling to report cases, 61% believed that there would not be any outcome, and 18% believed investigation authorities to be inefficient. This is also backed by another question “How efficient are accountable institutions in handling cases?”, where 55% of the survey respondents had graded the accountable institutions as ‘very poor’, 18% has graded them as ‘poor’ and 13% has graded ‘average’. Those who opted for ‘depending on the case’ justified that depending on the person involved in the case it could pose complications for the person reporting the case.

Based on these analyses with the surrounding facts, it can be said that the ACC is effective in its efforts to perform as per their mandatory functions with the available resources. However, there is room for improvement in selecting audience for awareness programs and in enhancing the reputation of the ACC and instilling faith of the public in accountable institutions.



## **Are resources sufficient to effectively carry out Anti-Corruption preventive measures?**

Sufficient resources should be available to the ACC to meet its policy objectives. In order to assess the sufficiency of resources, the activities planned under the SAP of ACC was compared against the budget requested and budget granted. Analysis of the percentage of budget received for 2016 shows that the ACC could not secure the financial resources needed for all three activities planned to be carried out under “Policy 6: Foster integrity and anti-corruption awareness in the society”, two of which related to introducing integrity into the Maldivian education system and one activity linked with researching areas to work in collaboration with NGOs. In addition, withholding 53% and 32% of the budget requested for two other items planned to be carried out under the SAP would directly impact the ACC’s ability to conduct these activities as the total costs comprise of cost of activities under the SAP. Overall, for 2016, MVR 2,261,037 was not available to the ACC to carry out the activities planned under their SAP, which relates to 35% of the planned activities in terms of value.

Analysis of the budget received for 2017 shows that the research activity in order to work in collaboration with NGOs under Policy 6 that, for the second year running, the ACC could not obtain the financial resources to carry out the activity (100%) in 2017. In addition, 60% and 70% of the budget requested for items 225 and 221 respectively were withheld which could affect ACC’s ability to conduct SAP activities such as trainings to staff, awareness activities and investigations involving travel; the total costs comprise of cost of activities under SAP. Overall, for 2017, MVR 3,052,158 was not available to the ACC to conduct activities planned under their SAP, which relates to 42% of the planned activities in value. Moreover, staff limitations in implementing preventive measures and financial limitations posed due to Ministry of Finance’s restrictions on increasing staff numbers and budgetary restrictions have been highlighted by the ACC in enquiries as well as reported as challenges in their Annual Reports for the past 3 years (if not more).

This is bound to have an impact on the ACC's independence and their ability to effectively discharge their main function of fighting corruption as it limits activities such as investigation travels, research and fostering awareness in the society.

## **Recommendation**

- a. The MOF and the Parliament needs to reconsider the yearly budget cuts of the ACC in order for the ACC to be in a position to achieve their goals of the SAP.
- b. For the anti-corruption initiatives to be adequately implemented, the ACC needs to improve on its 'image' of being impartial and independent in exercising its duties, and



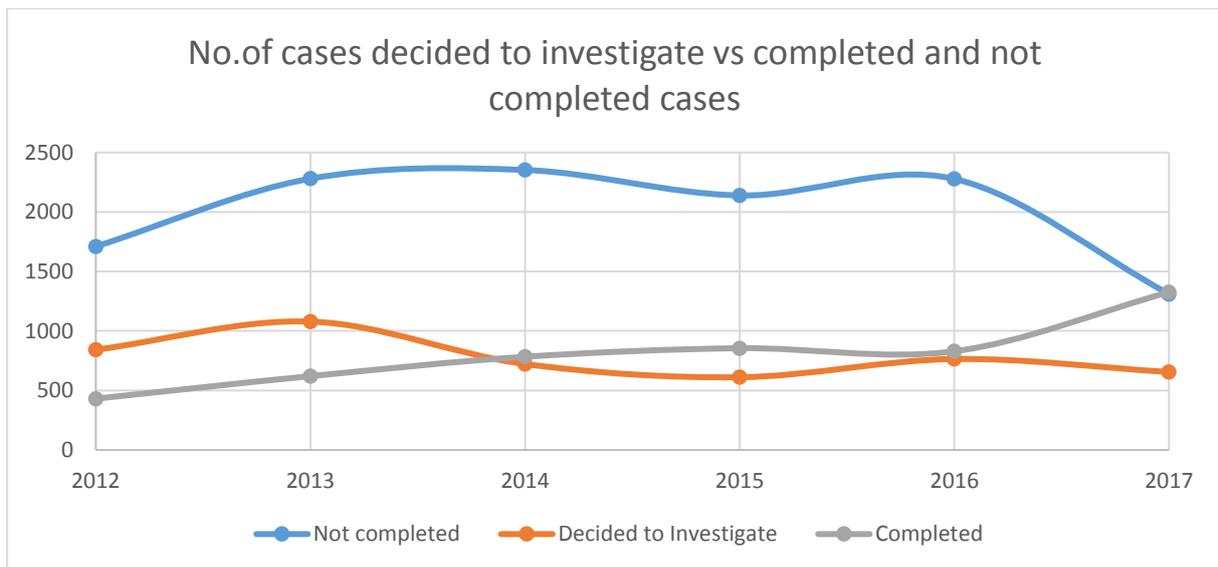
increase transparency in the process followed to decide on whether to investigate or not to investigate cases reported to them.

### 3.3 Does the ACC utilize resources efficiently in preventing corruption?

#### Status of the investigations

To assess whether resources have been utilised efficiently by the ACC in preventing corruption, the number of cases that the ACC had decided to investigate each year out of those registered at the ACC, has been compared with the completed investigation numbers and not completed number of cases, for over the past six years.

*Figure 2: Analysis of the number of cases decided to be investigated by ACC and the completed and not completed cases*



Since this analysis starts from 2012 and even during then the ACC had a huge backlog, it had been forced to carry out its work with a backlog which had remained persistently same till 2016. It was during 2017 that the ACC was able to clear a significant portion of its backlog. But due to the decline in the number of cases decided for investigations, the efficiency of ACC cannot be straight forwardly established. Moreover, the completed cases had only been achieved for 2014 – 2016, perhaps due to the decline in the number of cases decided for investigation. Although for 2012 and 2013 the number of cases decided for investigation had been 842 and 1079 respectively, on average the number of cases that the ACC decided to investigate have reduced to 688 from then on.

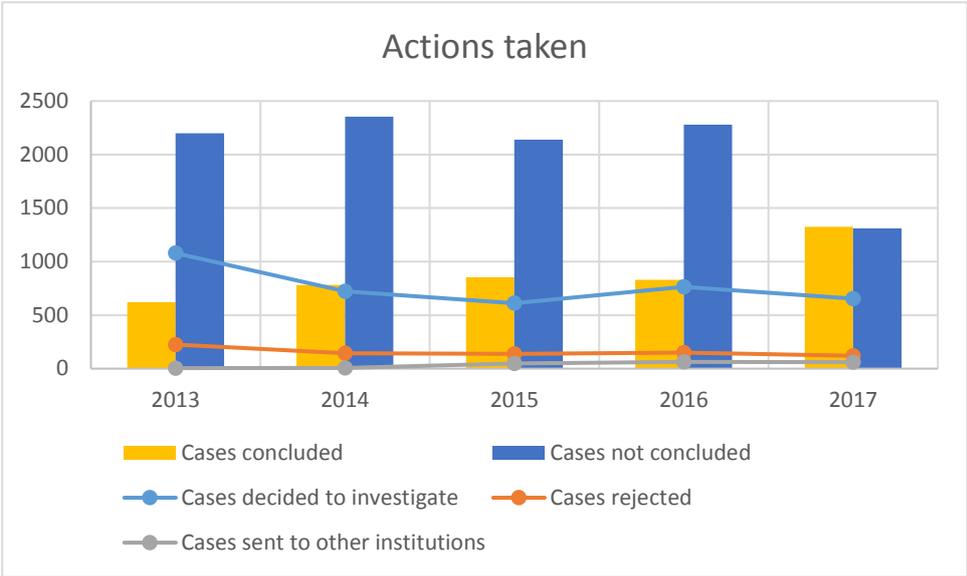
The case is different for 2017 as the cases decided for investigation had no major change but achieved both an increase in the completed cases along with a major decline in the cases completed, which resulted in the ACC being able to clear more than half of their backlog. Therefore, there is room for saying that ACC has been very efficient in using its resources in



2017. The reason behind this could be due to the case management system in place, as the new case management system has led to improved efficiency of the ACC in managing cases.

Figure 3 illustrates the details regarding the actions taken.

**Figure 3: Details regarding the actions taken**



Along with the reductions identified in the previous section, cases meriting investigation – as per the ACC – have also fallen from 1079 to between 600 and 700 in the years 2014 – 2017.

Cases rejected have more than halved from 225 in 2013 to 120 in 2017 while cases reported to other institutions have increased 12 times in 2017 when compared to 2013. This suggests that people still lack awareness about where to report cases of corruption.

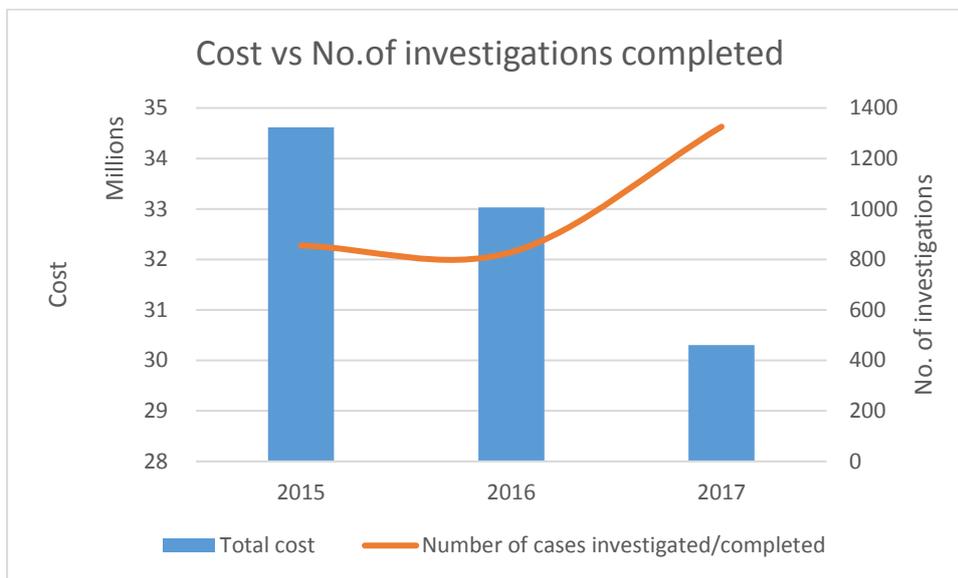
Cases concluded have been increasing at a steady pace showing that the ACC has become more efficient in investigating complaints lodged. This is also helped by the fact that starting from 2016 onwards, the ACC has introduced a preliminary evaluation procedure to fast track the investigative process.

However, the ACC is still lagging behind in terms of pending investigations with the average number of pending cases remaining around 2200 from 2013 – 2016. As at the end of 2017, this number has nearly halved to 1311 cases.

After the conclusion of the investigations, the ACC has issued a total of 1420 recommendations from 2013 – 2017 averaging 284 each year.

**Figure 4: Analysis of the expenses incurred by ACC against number of investigations completed over past 3 years**



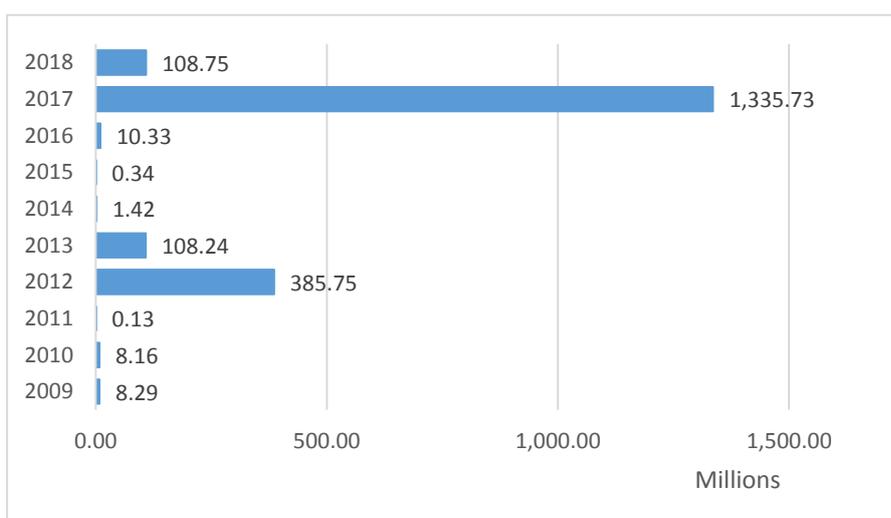


In addition, the cost incurred by the ACC has been compared over the past 3 years against the cases completed. This analysis shows that in spite of cost incurred reducing over the years due to budget restrictions, the ACC has managed to consistently increase the number of cases completed, although there was a slight reduction in 2016; this change is minor compared to the reduction in cost. This comparison also shows that during 2017, there was an inverse relationship between the cost and the number of cases investigated; while the number of cases investigated increased, the cost incurred in the investigation has fallen. As has been explained by the ACC, the introduction of the preliminary evaluation procedure has indeed made the investigation process more efficient.

### Status of recovery

Figure 5 illustrates the recoverable value from cases forwarded for prosecution.

**Figure 5: Recoverable value from cases forwarded for prosecution**



Worryingly, cases forwarded for prosecution has been falling steadily as it fell 5 times – from 38 to 7 between the years 2014 to 2018 respectively. Making matters worse, a total of 175 cases has been rejected by prosecutors between 2015 and 2017, averaging 58 cases each year.



The recoverable value of total number of cases forwarded for prosecution from 2009 to 2017 stands at MVR 1.85 billion, with the highest value coming in 2017 at MVR 1.33 billion. This coincided with the grand corruption case involving a state-owned enterprise named Maldives Marketing and Public Relations Corporation; the case was initially reported by the then Auditor General back in 2014 – who as a result was ousted by the Parliament having exposed the ties of the case to the Executive, the Parliament and the ruling party. Since the authorities failed to take action to remedy the situation, taxpayer money amounting to billions of MVR were diverted to private individuals; upon conducting a more comprehensive audit in 2015, the true magnitude of the case was revealed making it the biggest of such a case reported in the history of the Maldives.

### **Providing opinion to the public entities**

Section 12.05(a) of the Public Financial Regulation (PFR) states that a state entity shall procure or obtain a service from a party related to an employee only if there are no alternatives and after obtaining the written approval from the ACC. More than 200 letters are submitted annually to seek the opinion and the approval of the ACC in this regard.

Policy relating to provision of opinion and approval sought by public entities published in the website of the ACC was dated 11 February 2018, and hence a previous policy used was requested. The ACC admitted that there was no written policy previously but they did give a set of norms previously practiced as a guideline which stated the time period for processing such a request as mainly three working days. The guideline also stated that issues submitted would be discussed at the members’ meetings held every Monday and Wednesday. The Assistant Director of Bureau of the ACC explained that, although three days processing period is mentioned in the guideline upon Commission members will, in practice it took seven days on average to process a request.

A total of 19 requests pertaining to the years 2016 and 2017 were tested as a sample in order to ascertain the efficiency of the said process. Sample tested revealed that 42% of the requests had taken more than three days. On average, the ACC has taken two days to attend to these requests and it is usual practice to attend to all requests within seven days. We found only one case where the ACC took more than seven days – 10 days – to attend. Overall, it can be concluded that the ACC has been efficient in handling the conflict of interest opinion decisions as required by the PFR. As mentioned earlier, ACC has now published a more comprehensive guideline for opinion sought by public entities in their website and in turn has made the process more transparent.



### 3.4 To what extent are the current practices aligned with the UNCAC provisions?

For the purpose of this audit, five Articles under “Chapter 2 Preventive Measures” selected out of 10 residing Articles of the United Nations Convention Against Corruption (UNCAC) were analysed to identify issues with the current practices with regard to promoting transparency and accountability in public finance, namely Article 5, 6, 7, 9 and 10 as the benchmark. Some key current practices noted as not meeting or partly meeting the requirements are identified below:

(a) The Anti-Corruption body i.e. ACC is not granted the financial independence it needs – as stipulated in Article 6(2). Therefore, due to budget constraints which limits funds available to: (a) procure material resources; (b) recruit specialised staff; and (c) conduct trainings the staff require, this limits the effective discharge of its functions.

(b) Article 6(3) requires each State Party to inform the Secretary General of UN name and address of the authority or authorities who would assist other State Parties in developing and implementing specific measures for prevention of corruption. Although the particulars of such an authority – the Ministry of Finance (MOF) – have been informed to the UN Secretary, the authority being MOF poses challenges and many issues as it is not up to date with the status of progression to full compliance with UNCAC. The ACC has requested MOF to designate the former or the Attorney General as the focal point and to update the expert group list in the UNODC website.

(c) Although systems are in place for recruitment, hiring, retention, promotion and retirement of civil servants, there is no such system for non-elected public officials. Rather, Ministers, State Ministers and Co-ordinators are appointed by the President of the Maldives at his own discretion. Members to Independent Commissions are generally appointed by the President in consultation with the Parliament. Except for CSC (for which the Parliament makes this call), the President’s Office announces and accepts applications for membership of independent institutions. The president has the prerogative to forward the names he chooses to Parliament. Moreover, the report of Transparency Maldives “Review of Appointment and Dismissal of Members of selected Independent Institutions of Maldives 2008-2016” goes into further details on how transparency and meritocracy is not established at any of these stages; the total applicant numbers are not known, the criterion for selection by the President is not known and the criterion for selection by the Parliament is biased and inconsistent (Article 7(1)).

(d) Candidature for and election to public office currently sets out the age, citizenship, religion, state of mind and present/history of criminal conviction. It does not set out any educational qualifications or ethical standards. Further, legislative and



administrative measures could be put in place in prescribing candidature for and election to public office in order to enhance transparency and accountability in public sector (Article 7(2)):

- Require candidates for public office to demonstrate the absence of a conflict of interest or disclose certain information about relevant interests as a condition of their candidacy;
- Require candidates for public office to file asset declarations, describing the applicable scope;
- Require candidates to public office to demonstrate compliance with tax obligations, past and present;
- Set forth sanctions or other penalties for presenting false or incomplete information in any required disclosure

(e) The legislative and administrative measures are not yet enough to enhance transparency in funding of candidatures and political parties. The details of funding though submitted to the Elections Commission is not publicly available. Moreover, the legislations do not define what contributes to a donation or contribution to a political party (Article 7(3)).

(f) Article 7 (4) prescribes to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest. Currently, there is a huge gap in terms of systems that promote transparency and prevent conflicts of interest in public sector. In terms of publishing public sector information such as monthly, quarterly or yearly reports, there is no requirement as such for these information to be publicly available (except for Trust funds), rather only voluntary publishing of information is encouraged.

Asset and liability declarations of public officials are also not publicly available. As per the Constitution of the Maldives, the President of the Maldives and the Cabinet is required to submit annual statement of all property and monies owned by him, business interests and all assets and liabilities to the Auditor General. But none of the laws address what the Auditor General's responsibility is in terms of the statements submitted. Moreover, other annual statements submitted by members of specific institutions based on those respective laws submitted to the Auditor General and statements submitted by the Parliament Members to the Secretariat of the Majlis are also not publicly available for the public to be able to make informed decisions.

Moreover, there is no legal requirement to prohibit the holding by public officials of certain types of assets or official positions, such as an individual sitting on the board of a company while also holding a position in public administration.



(g) The procedures for adoption of the national budget is transparent and made public but there is no opportunity for public input and debate concerning the proposed national budget before its adoption (Article 9 (2) (a))

(h) Article 9 (2) (b) requires timely reporting of revenue and expenditure. In the PFR, public entities are required to report monthly revenues and expenses reports, reconciliations and yearly Financial Statements to the MOF, amongst others. Although legal provisions exist in the country for this provision, this is not exercised in practice

(i) Public finance can be managed with a system of accounting and auditing standards and related oversight. The oversight function includes the State Internal Audit, MOF and the Public Accounts Committee in holding parties accountable and responsible, but these functions may not be working effectively (Article 9 (2) (c))

(j) Article 9 (2) (e) requires corrective action to be taken in the case of failure to comply with the requirements established in this particular paragraph of the Article. Corrective actions are taken in respect of the audit recommendations made in the audit reports and also in terms of fining companies and their respective managing directors for failure to comply with the reporting requirements. However, government ministries and councils are not penalised for failing to meet the timely reporting requirements.

(k) While the PFR states that negligence in maintaining records is a punishable offence, it does not specify penalties or offences for falsifying official government accounting books, records, financial statements or other documents related to public expenditure and revenue.

(l) Some public entities publish information in the form of annual reports. This information does not include reports on risks of corruption in its public administration (Article 10 (c)).

Failure to meet these requirements could mean that transparency in recruitment, hiring, retention, promotion and retirement cannot be exercised. In addition, there is a possibility of not selecting the most appropriate person for the post. Failure to report in a timely manner means timely accountability cannot be ensured and this could hinder efforts towards guarding against corruption. Having MOF as a focal point to assist other state parties in developing and implementing specific measures for prevention of corruption may not be very effective. Lack of transparency in funding of candidatures for public office and political parties could lead to more corruption such as vote buying. Financial dependence on the MOF could have an adverse impact on the ACC's independence and their ability to effectively exercise their main role of fighting corruption. And most importantly, lack of punitive action or a proper accountability function would hamper efficient execution of public financial management and reporting.



## Recommendations

- a. The President's Office should consider re-assigning the role of a focal point, for assisting state parties in developing and implementing specific measures for prevention of corruption, to an entity that is not involved in making key public financial management decisions such as the ACC or the Attorney General to enhance the effectiveness of the process.
- b. The Parliament and the Executive could enhance transparency and accountability in the public sector by considering the following recommendations as revisions to the existing laws and regulations:
  - Require candidates for public office to demonstrate the absence of a conflict of interest or disclose certain information about relevant interests as a condition of their candidacy;
  - Require candidates holding public office to file asset declarations, describing the applicable scope;
  - Require candidates for public office to demonstrate compliance with tax obligations, past and present;
  - Set forth sanctions or other penalties for presenting false or incomplete information in any required disclosure
  - Establish a transparent and meritocratic system for recruitment, hiring, retention, promotion and retirement of non-elected public officials
  - Further enhance transparency in funding of candidatures and political parties
  - Prohibit the dual holding by public officials of certain types of assets or official positions
  - Provide for the legal provisions to entertain public input and debate concerning the proposed national budget before its adoption
  - Make the funding of candidatures and political parties publicly available in order to enhance transparency and prevent corruption in terms of vote buying and others
  - Consider the requirement to report risk of corruption. It can be imposed either via the Civil Service Regulation or the Public Finance Regulation and adequate trainings provided to inform of the change. For State Companies or State Participating Companies, this requirement could be imposed via the Privatisation and Corporatisation regulation, with its supervisory body as the Privatisation and Corporatisation Board



- c. Ministry of Finance and the respective committee of the Parliament needs to strengthen their accountability and oversight function and those failing to fulfil their roles need to face appropriate measures provided by the laws and regulations.



# Chapter 4 – Are there adequate mechanisms to gather information with regard to corrupt practices in the country and follow up occurs?

## 4.1 Are there adequate mechanisms in the ACC to gather information with regard to corrupt practices?

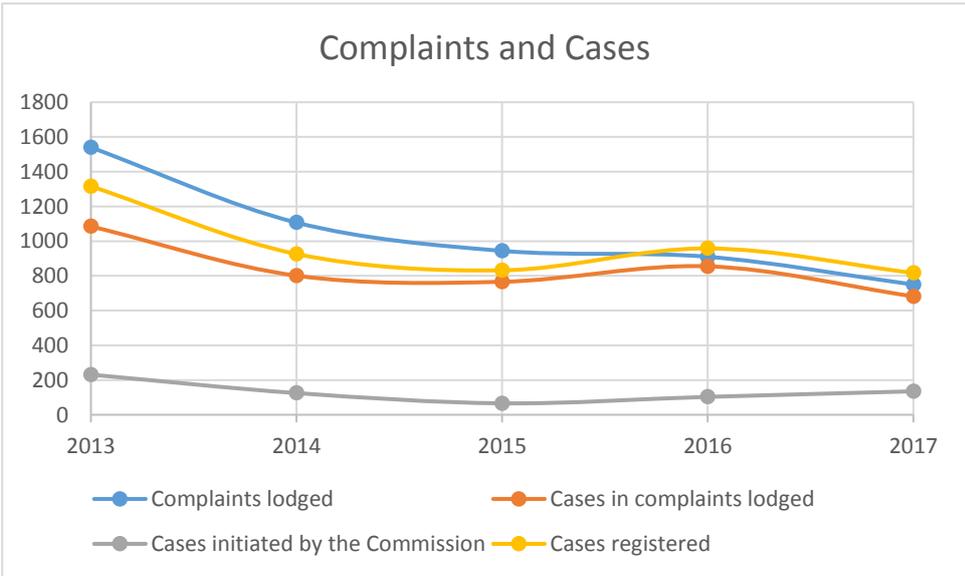
While the Constitution of the Maldives and the Act No: 13/2008 (Anti-Corruption Act) gives the broader rights to the ACC to enquire and investigate all allegations of corruption, Regulation No: 2017/R-40, 18.04.2017 (General Regulation of ACC) states that information can be submitted anonymously or vice versa – via phone, in writing, fax, form, email, in person and the website.

The ACC also investigates into areas opened up during ongoing investigations, cases forwarded by the Auditor General’s Office and money laundering cases reported by Financial Investigation Unit of Maldives Monetary Authority.

An Intelligence Unit has also been established within the ACC recently to obtain the required information in order to assist in gathering evidence to carryout investigations and to identify methods used in carrying out corrupt practices in order to be prepared in advance to address such cases.

Cases concluded has been increasing at a steady pace showing that the ACC has become more efficient in investigating complaints lodged. This is also helped by the fact that starting from 2016 onwards, the ACC has introduced a preliminary evaluation procedure to fast track the investigative process. Figure 6 illustrates the details regarding complaints and cases.

Figure 6: Details regarding complaints and cases



From 2013 onwards, complaints lodged has been decreasing steadily and has nearly halved from 1540 in 2013 to 750 in 2017.

But during 2013 – 2014, nearly a quarter of complaints lodged were deemed not to be a case of corruption. This percentage has been reducing throughout the years and during 2016 - 2017, on average 8% were deemed not to be such cases.

Cases initiated by the ACC has been falling from 2013 - 2015 and when compared to 2013, it has fallen by nearly 60% in 2017. However, this number has started to grow from 2016 onwards and has doubled in 2017 from the lowest point of 66 in 2015.

Cases registered were at its highest in 2013 with 1316 cases. Since then, it has remained steady in the 800 – 900 range.

#### **4.2 Are adequate measures taken to make public institutions accountable?**

##### **Is there are coordination of interventions and collaboration between accountability institutions in order to avoid duplication of actions?**

Anti-corruption policy or programme should pay due consideration to the coordination between institutions to avoid duplication of actions.

The ACC has MOUs with various parties to collaborate and enhance the fight against corruption. Notably; with government institutions – sharing information, collaborating to enforce law and stop corruption, enhance investigations and legal proceedings; and with law enforcement agencies – sharing information, technical assistance in investigations, and to enforce the law.

The ACC also held a National Anti-Corruption Conference in 2017. The main purpose of this conference was to facilitate a platform for discussions on existing challenges and solutions for rapid conclusion of corruption related issues between law enforcement institutions and fostering a culture of integrity to fight against corruption with stakeholder participation and engagement through research.

##### **To what extent are the ACC recommendations implemented by government institutions?**

Act No: 13/2008 (Anti-Corruption Act) Clause; 21 (c) mandates the ACC to carry out research on the prevention of corruption and to submit recommendations for improvement to relevant authorities regarding actions to be taken; 25 (a) 3- in addition to the execution of subsection (a) 1 and 2, to make recommendations to the relevant institutions stipulated in section 24, where the matter occurred is in the management of such institution; Regulation No: 2017/R-40, 18.04.2017 (General Regulation of ACC) Clause 4 states that the ACC has the right to take



legal action against any party that does not follow the instructions given; and SAP Policy 5, Strategy 1: (2) Follow ups of post-investigation recommendations given to public institutions.

After the conclusion of preliminary evaluation, investigation, and research, the ACC makes recommendations to the respective entities to take corrective actions on the issues identified, build strong controls and enhance governance, efficiency and effectiveness of their operations – which the ACC later follows up to assess the status of implementation. Table 1 illustrates the summary of the recommendations given and their status of implementation during the years 2015 – 2017.

**Table 1: Recommendations given to institutions 2015 – 2017**

	<b>Preliminary Evaluation</b>	<b>Post-Investigation</b>	<b>Total</b>
Recommendations	344	558	<b>902</b>
Implemented	25	22	<b>47</b>
To be implemented	140	380	<b>520</b>
No Response	179	201	<b>380</b>

Note: There are more than one issue identified in the recommendations given, hence, the sum of rows 2 - 4 would exceed the number of recommendations given.

The ACC has issued a total of 902 recommendations during the years 2015 to 2017. Only 5% of these have been implemented while the ACC has received no response for 73% of the recommendations from the respective institutions. After conducting researches on the Corruption Assessment in Health Sector: Recruitment of Doctors, Nurses and Other Technical Staff, and Procurement Of Medical Consumables, Reagents and Machineries, and the clearance of imported goods through Maldives Customs Service in 2015 and 2017 respectively, the ACC also issued a total of 20 recommendations to these institutions. While the ACC had conducted researches on other topics, the auditors did not receive the requested information in order for it to be included in this report. Table 2 illustrates the summary of recommendations given based on the aforementioned research topics.

**Table 2: Recommendations given based on research**

<b>Year</b>	<b>Research Topic</b>	<b>#</b>
	<b>Corruption Assessment in Health Sector: Recruitment of Doctors, Nurses and Other Technical Staff, and Procurement Of Medical Consumables, Reagents and Machineries</b>	
2015	Recommendations	12
2016	Implemented	2



2016	Ongoing (2015 to 2017)	6
2017	Postponed	4
	<b>Clearance of Imported Goods Through Maldives Customs Service</b>	
2017	Recommendations	8
Q1-2018	Implemented	2
Q1-2018	Ongoing	5
Q1-2018	To be implemented	1

Of the 12 recommendations given to the health sector in 2015, only 16% has been implemented by the third quarter of 2018 while implementation of 50% of the recommendations were deemed to be ongoing between 2015 to 2017, as the remaining 34% of the recommendations were postponed. Of the 8 recommendations given for clearance of imported goods in 2017, only 25% has been implemented by the third quarter of 2018 while 62% were deemed to be ongoing.

The ACC's failure to enforce the law when the relevant parties do not act up on the recommendations being given is having a detrimental effect on the fight against corruption as the offenders are getting away with little or no punitive action. As a result, the ACC is unable to: identify the extent to which entities have implemented changes in response to findings and recommendations; determine the impacts which can be attributed to the investigations and researches; identify areas that would be useful to follow-up in future work; and, evaluate the ACC's performance in the fight against corruption.

### **To what extent does the respective authorities monitor and take actions regarding internal control weaknesses in the government institutions?**

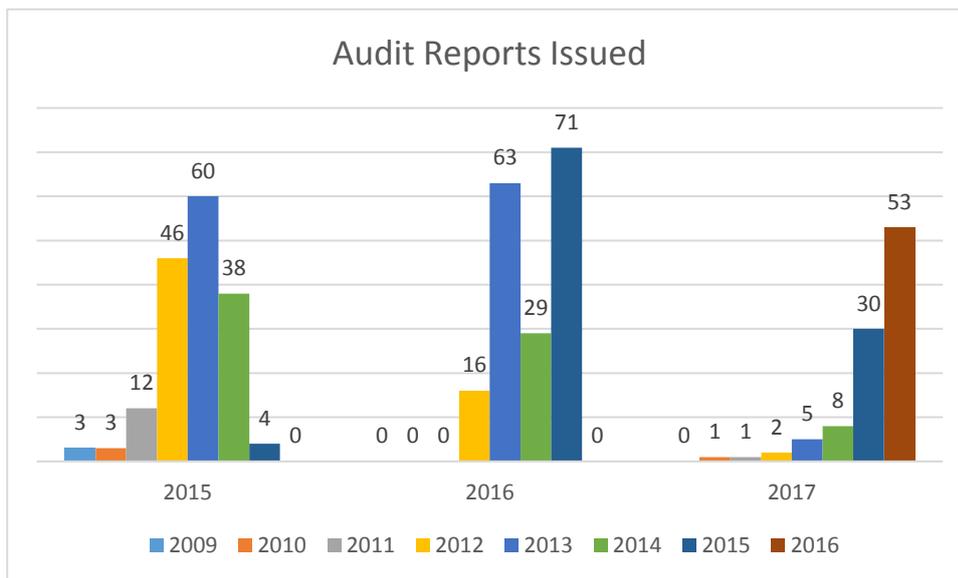
Apart from the auditee, the audit reports are forwarded to the MOF, the ACC and the parliament to take action. The Public Accounts Committee (PAC) Regulation clause 8 describes the role of the PAC with regard to public finances and SOEs' annual reports.

Initially, the audit was designed to gather information regarding actions taken, by the PAC of the Parliament, and the Ministry of Finance (MOF), on the findings communicated in the Auditor General's Audit Reports.

However, the PAC did not accept the auditors' invitation for an entrance meeting. Hence, the statistics about the Audit Reports sent to the PAC are analysed instead. Figure 7 illustrates the number of Audit Reports issued by the Auditor General during the years 2015 – 2017.

**Figure 7: Audit Reports issued by the Auditor General during 2015 – 2017**





During 2015, 2016 and 2017, the Auditor General published 166, 179 and 100 audit reports respectively – totalling 445 for the three years. However, we were unable to identify any action taken by the PAC with regard to the findings reported in those audit reports because the PAC did not respond to the auditors’ request to hold an entrance meeting at the beginning of the audit and hence, no further fieldwork could be carried out in this area. Table 2 illustrates the summary of the financial value of the identified findings from the Audit Reports during the years 2015 – 2017

**Table 3: Financial value of the findings from the Audit Reports issued during 2015 – 2017**

Description	2015	2016	2017	Total
Non-compliance with Laws and Regulations	74,009,498	34,290,216	115,117,996	<b>223,417,710</b>
Fraud	7,429,510	1,263,343	64,200,800	<b>72,893,653</b>
Wastage	195,143	-	-	<b>195,143</b>
To Recover	116,220,817	2,945,681,510	308,917,477	<b>3,370,819,804</b>
<b>Total</b>	<b>197,854,968</b>	<b>2,981,235,069</b>	<b>488,236,273</b>	<b>3,667,326,310</b>

From the 445 audit reports published during 2015 – 2017, MVR 223 million was identified as being non-compliant with the relevant laws and regulations while MVR 72 million was deemed to be fraudulent in nature. The Auditor General also recommended the relevant authorities to take appropriate actions to recover an astounding MVR 3,370 million.

While the Auditor General has been working hard to clear the audit backlogs that existed from 2012, the lack of systematic follow up on the implementation status of the recommendations given to the auditees are acting as a detriment to improve the governance of tax payer money



by those accountable parties. For example, while the financial audits do follow up on their recommendations to some extent on the following year's audit – but not consistently, hence a prompt and timely follow up mechanism needs to be established for all streams of audits especially performance, compliance and special audits.

According to the records provided by the MOF, they have reviewed 314 audit reports published by the AGO up to June 2018 – from which they had identified a total of 170 issues which needed further action to be taken to recover a sum of MVR 1,149 million. However, they had only sent notices to seven parties, amounting to MVR 3.37 million, to initiate the recovery process. From this, only one party repaid the money, amounting to MVR 46,556, while information about the rest had been sent to the Attorney General to proceed with legal action to recover the money.

Meanwhile, the ACC had sent 35 cases involving 59 parties to the MOF to recover MVR 150.32 million. Of this, the MOF had sent notices to recover MVR 95.95 million while the remaining cases amounting to MVR 54.36 million were being reviewed further by the MOF, the ACC and the Attorney General. However, the MOF had been able to recover only MVR 190,136.

The lack of prompt action by the respective authorities to recover billions of public money lost to irregularities, fraud, corruption, etc. could be an indication of how collusion existed within the branches of the government which ultimately could have led to the failure of the system of checks and balances that was supposed to have existed in a system where the powers were separated.

## **Recommendation**

- a. The ACC must ensure strict enforcement of the law while following up on the recommendations given to the institutions after the conclusion of their investigation and research, and take further action where necessary if their instructions are not being followed, in order to ensure they are being implemented by the respective institutions so that such cases do not repeat in the future.
- b. The Auditor General's Office need to reassess the effectiveness of the existing follow-up mechanism in order to be able to gain assurance that the recommendations being given to the auditees are being acted upon in a timely manner.
- c. The MOF and the parliament must take necessary action to rectify the findings being reported by the ACC and the AGO to ensure that internal control weaknesses are dealt with accordingly in a timely manner.



## Chapter 5 – Is there an effective framework for preventing corruption in the infrastructure development sector?

The legislative frameworks at the national level for preventing corruption includes the following;

- Constitution of the Maldives
- Anti-Corruption Laws and Regulations
- Public Finance Law and Regulation
- Strategic Action Plan
- Standard Operating Procedures
- United Nations Convention Against Corruption
- Correspondence between implementing agency and counterparts (letters, minutes, circulars, announcements and other relevant literature)

Out of these, legislations that directly impacts the sectors of the government are the Constitution of the Maldives and Public Finance Law and Regulation. Accordingly, as per article 120 of the Constitution, every year, the President shall submit to the Auditor General a statement of all property and monies owned by him, business interests and all assets and liabilities. Similarly, clause 138 of the Constitution requires every member of the Cabinet to annually submit to the Auditor General a statement of all property and monies owned by him, business interests and all assets and liabilities. And all government entities are required to follow Public Finance Law and Regulations in carrying out their activities. Anti-corruptions laws and regulations only apply when alleged corruption cases relating to sectors of the government are filed with the ACC.

That being the case, as the main Ministry mandated to carry out infrastructure development in the nation, the then Minister of Housing and Infrastructure should submit to the Auditor General a statement of all property and monies owned by him, business interests and all assets and liabilities annually. And all the activities mandated to the Ministry should be carried out as per the Public Finance Law and Regulation. Therefore, we look at the mechanisms in the Ministry along with the Public Finance Regulation (PFR).

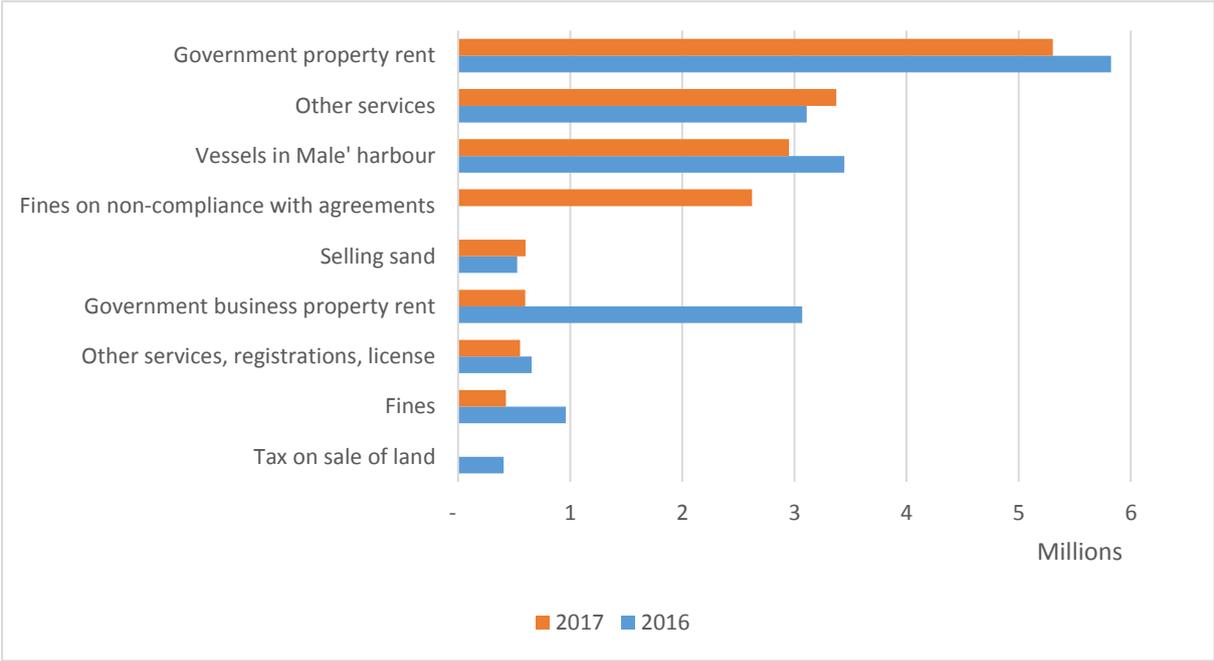
### 5.1 Are the mechanisms effective to prevent corruption in rendering services to general public?

The Ministry delivers a number of services to general public and generate income. These services include giving building permits, registering properties, handling mooring systems for ships harbouring etc.



Figure 8 gives an over view of the services provided by the Ministry and revenue generated from those services in the years 2016 & 2017.

**Figure 8: Income generated from services provided by the Ministry**



The Ministry generated a total of MVR 17,996,240 and MVR 16,434,851 through its services during 2016 and 2017 respectively.

**What mechanism does the ministry apply to prevent corruption in rendering services to the general public?**

All Government Ministries and related government entities are obliged to follow Public Finance Act 3/2006 and Public Finance Regulation 2017 made under the Act. Accordingly, the Ministry should follow chapter 5 of PFR and other related chapters in rendering services to the public. In addition to that, there is a need for strong systems of internal control that enable efficient use of public resources and service delivery thereby enhancing public trust in government institutions. Strong internal controls like adequate Standard Operating Procedures (SOP) or guidelines, pre-determined rates for services, segregation of duties, giving appropriate training to staff and adequate monitoring mechanism is essential in each department of the Ministry to prevent bribery and other forms of corruption in delivering services to general public.

Issuing permits and collecting fees related to construction industry (building permit, structural drawing approval, building use approval, registering houses etc.) are the most important services that the Ministry provide to the general public. Almost all the households across the country especially people in the booming construction industry seek this service which is delivered by the Land and Building Department in the Ministry. Hence, a written SOP or formal guidelines would facilitate policy implementation, as well as serve as an effective internal



control in and of itself. However, we have not received any such written SOP or guidelines from the Land Building Department or from the Ministry, although, we were informed that SOP/guidelines has been set as per the directions given by the Minister. Even if it exists, enquiries revealed that staff involved in providing this service has not received or seen any related SOP/ guideline indicating problems with information flow from senior management to staff who directly engage in providing services.

In addition to this, the most important aspect of internal controls relates to segregation of duties. No one person should be involved in a transaction from its initiation stage to its conclusion when the final accounting entries are made. However, while reviewing job descriptions of staff involved in income generating services, it has come to our attention that ministry lacks segregation of duties in some revenue generating departments. For instance, an administrative officer working at Aammu Hidhumaiythakaa Behey Bai (General Services Department) is responsible for collecting fees, maintaining records, preparing reports, depositing and book keeping of safe, depositing revenue to Public Bank Account and also in charge of handling and record keeping of the petty cash float. Another supervisor located in Dharubaaruge (a unit under Corporate Services Department) is responsible for collecting cash rent, depositing/record keeping of safe and depositing revenue to Public Bank Account as well. Whilst job descriptions give clear guidelines from the start, it has come to our attention that some staff do not have a job description on file. As per the Ministry, lack of segregation of duty is due to shortage of staff, and the absence of job description on file is due to the transfer of some staff to the Ministry in the year 2015 who were previously working under Male' City Council.

As per point 5 of PFR chapter 2.3 (a), the Finance Executive in each entity must ensure that all financial and accounting personnel have the right skills and qualification to carry out and maintain records of financial matters by giving appropriate training and guidelines. However, the ministry does not conduct any such training to their staff other than giving trainings conducted by Civil Service Training Institute. Furthermore, general public being the main stakeholder, the ministry should take preventive measures against corruption of all forms, especially bribery. Upon enquiring about the actions taken to prevent corruption, the Permanent Secretary (PS) revealed that they have not taken any additional action to prevent corruption other than strictly following PFR in the procurement and revenue process.

While reviewing the Ministry's structure, we noticed although there is a monitoring unit under Corporate Management Department and another monitoring unit under Construction Industry Development Department. Other major departments like Infrastructure Department, Housing Department, Aammu Hidhumaiythakaa Behey Bai (General Services Department) and Land and Building Department does not have such units. In addition to that we found that an



agreement between a client of Aammu Hidhumaiythakaa Behey Bai (General Service Department) in the Ministry does not have an authorised signature from the Ministry, indicating lack of control and supervision in the department. As per the Ministry, the absence of signature in the agreement is due to the Head of Department taking leave of absence during the time of agreement.

To do a more detail review, we requested for a structure that shows the supervisory roles in each department. However, we have not received such a document therefore we could not assure that adequate monitoring mechanisms exist in each department.

Even though the Ministry appears to follow the PFR in collecting, recording and depositing revenue, there are weakness in internal controls and the monitoring mechanism within departments are inadequate. Therefore, mechanisms in the ministry are not effective to prevent bribery and corruption in rendering services to the general public.

### **Recommendation**

The MONPHI should establish strong internal controls by communicating clear guidelines to all levels of staff through written SOPs and should ensure segregation of duties exist within revenue generating activities and preventive measures like giving adequate training to staff should be taken to prevent corruption.

### **Is the ministry efficient in delivering services in order to ensure prevention of corruption?**

Corruption distorts resource allocation and government performance. Hence, Section 5 of Prevention and Prohibition of Corruption Act 2000 (Act No.2/2000) states that a person who commits an offence of offering and accepting bribery in relation to a task undertaken by a member of the public shall be punishable with imprisonment, or banishment or house arrest not exceeding 3 years. Among the contributing factors causing corruption and bribery are policies, programs and activities that are poorly conceived and managed and failing institutions. Thus, as a preventive measure the Ministry should establish time frames along with pre-determined rates for efficient service delivery. However, we found that there is no set time frame for some services like approval of structural drawings and other forms of permits given by Land and Building Department. Due to this, different time frames were assumed and used from time to time causing inconsistencies in the process. As a result, we could not carry out the test to ensure similar services are provided equally to everyone while the processing time taken for the sample checked ranged from one to seven months.

Furthermore, the interview with approval personnel indicated issues with maintaining records at the Land and Building Department. As the Land and Building Department holds vast number



of documents like structural drawings, registration documents, clients request forms for building permits etc. which needs to be cross referred from time to time, an appropriate filing system must be in place to maintain records for efficient service delivery. However, Land and Building Department lacks such mechanisms and files are not stored in an orderly manner; as a result, department risks losing important documents which in turn could lead to delay in providing permits and approvals. Lack of sufficient resources such as manpower and space to set up an effective filing system mean that department is unable to meet a desired level of efficiency in providing services.

Although the Ministry has pre-determined rates for all the services they provide, lack of efficiency in the delivery of services to the public exposes them to risks of bribery and other forms of corruption. However, in 2017 the Ministry began to digitalise in an attempt to ensure efficient service delivery.

### **Recommendation**

The MONPHI should establish an effective filing system and must ensure target time frames are set and followed to ensure efficiency in the processing and delivery of services to the general public.

### **Is there an effective mechanism to handle complaints by the Ministry?**

A complaint mechanism plays a critical role in combating corruption. The purpose of the complaint mechanism is to ensure that members of public and other stakeholders wishing to complain or report irregularities have a simple means of doing so to enable their complaint to be handled with an open mind and in confidentiality and to ensure that incidence of mismanagement and corruption is uncovered and remedied. That being so, the Ministry should have an effective complaints and response mechanism in place to improve services delivered to the general public.

Though there is a complaint form that can be downloaded from the Ministry's website, it has come to our attention that clients are not aware of the procedure in place for filing complaints. According to the Ministry, clients mostly file complaints through a letter or telephone. After reviewing some complaints filed, we found that complaints were attended to within five days to two months. The Ministry states that the response time depends on the type of complaints received.

As we did not receive sufficient information to carry out the procedures, we cannot determine whether the efficiency of responding to complaints, and effectiveness of the complaints mechanism.



## **5.2 Is there a mechanism to ensure transparency in awarding and conducting projects?**

### **Is there a mechanism to prevent corruption in tendering process?**

Section 12 of the Prevention and Prohibition of Corruption Act 2000 (Act No.2/2000) states if a person commits the offence of obtaining undue advantage by government employees pertaining to a task or connected to a task being carried out by the agency or place of his employment shall be punishable with imprisonment, banishment or house arrest not exceeding 3 years. Similarly, section 13 of the Act states that it is an offence for any government employee to act in a manner that precludes the public or state from attaining advantage of anything the public or state could have benefited from, or to act in a manner that diminishes the benefits that could have been attained, or diverts the benefits or a part of the benefits to the employee or the employee's wife or husband and shall be punishable with imprisonment, banishment or house arrest not exceeding 5 years. For this reason, the Ministry should strictly follow chapter 9, 10 and 14 of the PFR in carrying out projects in the infrastructure development sector.

We faced challenges in obtaining documents from the ministry and the National Tender Board (NTB) which operates under the Ministry of Finance and Treasury relating to public tendering of projects. Although the NTB provided us a list of projects opened for public tender by the NTB as well as the Ministry, we did not receive any documents related to the sample we selected from the same list.

Due to lack of sufficient appropriate evidence, we could not form a conclusion as to whether mechanisms existed in the tendering process to prevent corruption.

### **Are there established controls and procedures in awarding and monitoring projects to State-Owned Enterprises?**

Chapter 10.27 of the PFR gives the power to government entities to award projects to State-Owned Enterprises (SOE) or to companies listed on the stock exchange – that government owns majority of shares without initiating a process of tendering through the NTB required under normal circumstances. At the same time, Chapter 10.27 of PFR states that before awarding projects to SOEs, entities should get the approval from the NTB. However, it has come to our attention that the Ministry awarded projects to SOEs without getting approval from the NTB.

It is a good practice to put in place the necessary controls and procedures for awarding projects to SOEs. For instance, a mechanism to evaluate the potential and competency of SOEs to successfully carry out a particular project and a strong monitoring mechanism to ensure transparency in awarding of projects and efficient and effective delivery of these projects.

However, we could not conduct further audit tests to ensure that established controls and procedures are in place due to the same limitation of scope as mentioned above.



## Chapter 6 – Conclusion

The legislative framework for preventing corruption is not sufficient as to begin with Corruption is not defined to incorporate all its types in the legal framework, and has issues with covering all corruption related offences. In addition to absence of legislations and provisions, offences and some offenders not being criminalized, other alignment and phrasing issues also contribute to reaching this conclusion.

Resources are not sufficient to effectively carry out preventive measures against corruption as the ACC has been continuously faced with financial limitation with annual budget reductions and consequent staff limitations.

Adequate efforts are undertaken by the ACC in preventing corruption in terms of carrying out majority of the activities under SAP including a great deal of efforts aimed at creating awareness in spite of the resource limitations. Although it can be concluded that the efforts of the ACC are effective to a large extent, there are some important issues that needs to be tackled by the ACC in order to improve its effectiveness. This includes working to on building its reputation and maintaining public confidence in its work. So to conclude, it can be said that ACC is meeting its policy objectives. The ACC has also improved its efficiency in terms of resources utilised and outcomes achieved.

Majority of the UNCAC provisions on preventive measures in terms of promoting transparency and accountability in public finance aligns with the current practice in public finance, although there are some functions that need improvements such as the accountability function and transparency aspects.

The ACC seems to have established various mechanisms to gather information about corrupt practices that occur within the public sector through various communication channels such as phone, in writing, fax, form, email, in person and the website. Complaints could also be lodged anonymously. The ACC also investigates into areas that open up during their ongoing investigations and matters reported by other institutions such as the AGO and the central bank. Although, even with the limited resources, the ACC urgently needs to improve the efficiency of their investigations in order to be able to clear their backlog and utilise resources to attend to current complaints or cases.

In the infrastructure development sector and especially at the level of the MONPHI, lack of strong internal controls like SOPs, segregation of duties, unclear organisation structure indicates that requisite internal control mechanisms do not exist to prevent corruption in rendering services. In addition, lack of efficiency in service delivery and lack of an efficient



and effective mechanism to handle complaints indicate that adequate mechanisms are not in place to prevent bribery and other forms of corruption in the infrastructure development sector. Due to the limitation of scope, we cannot determine whether there exists a mechanism to ensure transparency in awarding of and conducting projects in the sector.



## Chapter 7 – Recommendations

- a. The MOF and the Parliament needs to consider the yearly budget cuts of the ACC in order for the ACC to be in a position to achieve their goals of the SAP.
- b. The MOF and the Parliament needs to discuss and devise an effective strategy to address the issue of annual budget cuts experienced by the ACC in order for the ACC to be in a position to achieve their goals of the SAP.
- c. For the anti-corruption initiatives to be adequately implemented, the ACC needs to improve its 'image' of being impartial and independent in exercising its duties, and enhance transparency in the process of decision-making which leads to cases submitted being dismissed and deemed not suitable for investigation by the ACC.
- d. The focal point for assisting State Parties in developing and implementing specific measures for prevention of corruption needs to be changed to the ACC or the Attorney General to enhance the effectiveness of the process.
- d. Enhance transparency and accountability in public sector by considering following recommendations:
  - Require candidates for public office to demonstrate the absence of a conflict of interest or disclose certain information about relevant interests as a condition of their candidacy;
  - Require candidates for public office to file asset declarations, describing the applicable scope;
  - Require candidates for public office to demonstrate compliance with tax obligations, past and present;
  - Set forth sanctions or other penalties for presenting false or incomplete information in any required disclosure
  - Establish a transparent and meritocratic system for recruitment, hiring, retention, promotion and retirement of non-elected public officials
  - Further enhance transparency in funding of candidatures and political parties
  - Prohibit the dual holding by public officials of certain types of assets or official positions
  - Provide for the legal provisions to entertain public input and debate concerning the proposed national budget before its adoption
  - Make the funding of candidatures and political parties publicly available in order to enhance transparency and prevent corruption in terms of vote buying and others
  - Consider the requirement to report risk of corruption. It can be imposed either via the Civil Service Regulation or the Public Finance Regulation and adequate



trainings could be provided to inform of the change. For State Companies or State Participating Companies, this requirement could be imposed via the Privatisation and Corporatisation Regulation, with the Privatisation and Corporatisation Board as its supervisory body.

- e. The MOF and the PAC of the Parliament needs to strengthen their accountability and oversight function and ensure that those failing to fulfil their roles face appropriate measures provided by the laws and regulations
- d. The ACC must ensure strict enforcement of the law while following up on the recommendations given to the institutions after the conclusion of their investigation and research, and take further action where necessary if their instructions are not being followed, in order to ensure they are being implemented by the respective institutions so that such cases do not repeat in the future.
- e. The Auditor General’s Office need to reassess the effectiveness of the existing follow-up mechanism in order to be able to gain assurance that the recommendations being given to the auditees are being acted upon in a timely manner.
- f. The MOF and the Parliament must take necessary action to rectify the findings being reported by the ACC and the AGO to ensure that internal control weaknesses are dealt with accordingly in a timely manner.
- g. The MONPHI should establish strong internal controls by communicating clear guidelines to all levels of staff through written SOPs and should ensure that segregation of duties exists within revenue generating activities and preventive measures like giving adequate training to staff should be taken to prevent corruption.
- h. The MONPHI should establish an effective filing system and must ensure time frames are set and achieved ensuring efficiency in processing and delivering service to general public.

14 October 2020

Hassan Ziyath



Auditor General



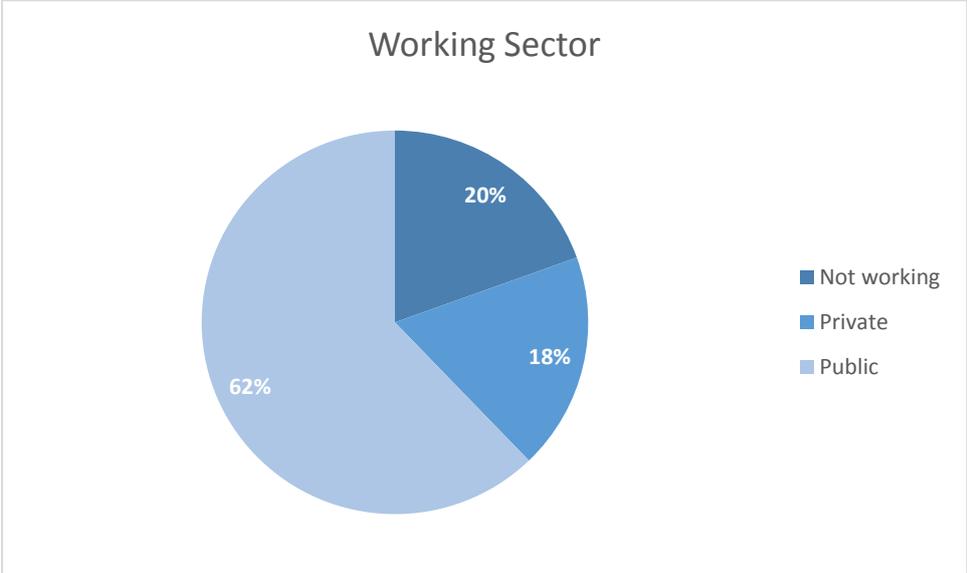
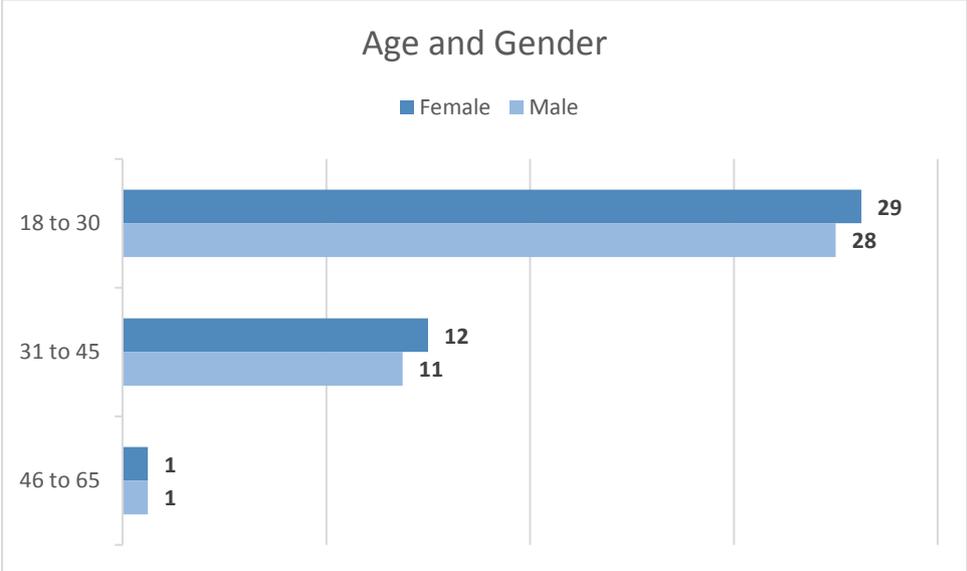
## Appendix 1: Audit Methodology

Method	Activity	Source of Data
Result-oriented approach	This approach assesses whether outcome or output objectives have been achieved as intended or programmes and services are operating as intended	N/A
System-oriented approach	This approach examines the proper functioning of management systems	N/A
Document review	We reviewed key documents from 2016 to 2017	The documents examined were drawn from the ACC, the AGO, the Attorney General's Office, the MOF and the MONPHI.
Interview	Interviewed the key staff from auditees	Staff of the ACC and the MONPHI.
Enquiry	Enquired relevant staff from auditees	Staff of the ACC, the AGO and the MONPHI.
Survey	Survey was conducted to identify the awareness level regarding corruption and the willingness to report it	Survey respondents – the general public
Research	Conventions signed by the Maldives and best practice guides were compared to the relevant local laws and regulations	<a href="http://www.unodc.org">www.unodc.org</a> <a href="http://www.transparency.org">www.transparency.org</a> <a href="http://www.transparency.mv">www.transparency.mv</a> <a href="http://www.mvlaw.gov.mv">www.mvlaw.gov.mv</a> <a href="http://www.icom.mv">www.icom.mv</a> <a href="http://www.majlis.gov.mv">www.majlis.gov.mv</a>

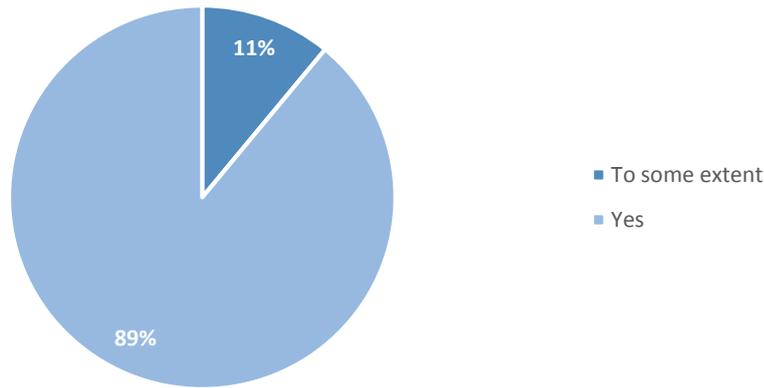


## Appendix 2: Public Survey on Corruption awareness and willingness to report cases

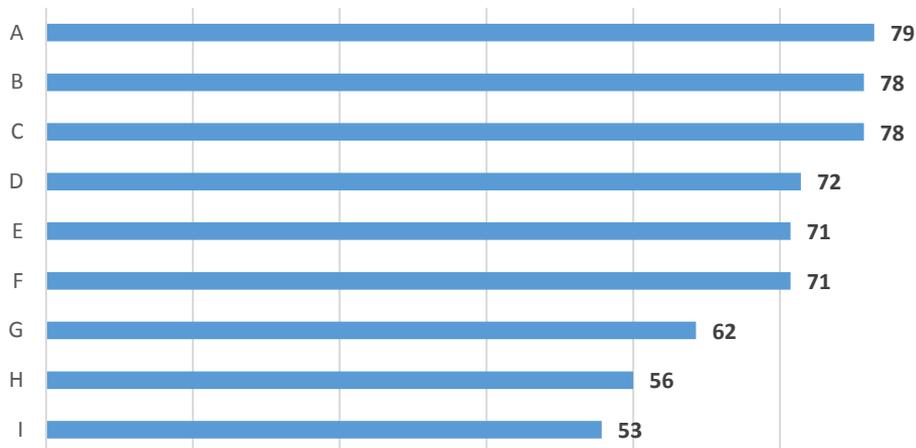
The public survey published on our social media platforms received a total of 82 responses. Some results of the survey have been filtered for unanimity where various responses were received for a given question. Survey questions which did not receive an adequate response have not been presented in this report.



### Do you know what corruption is?



### Which of these can be considered as corruption?

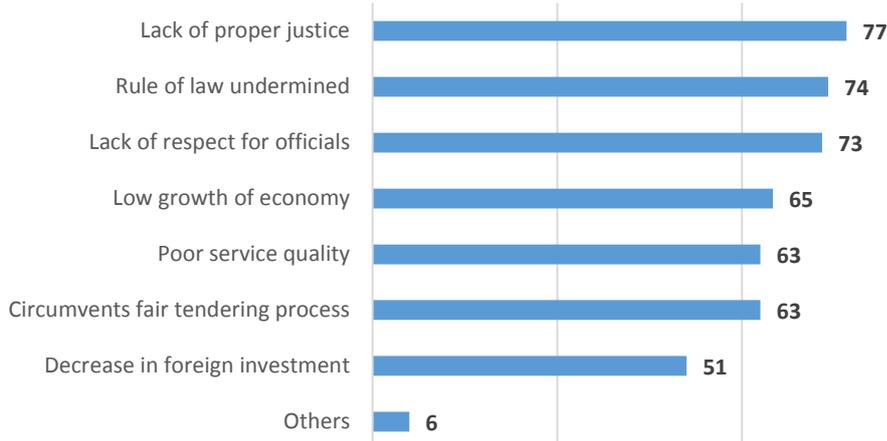


**Legend:**

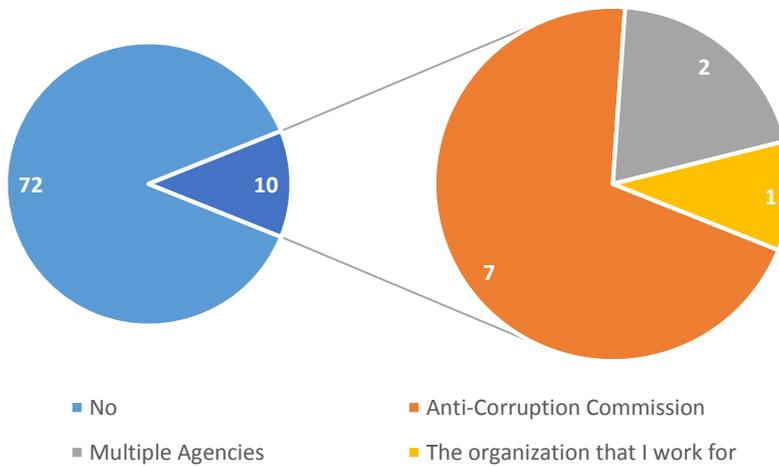
- A – Manipulation of policies by political decision makers to sustain their power, status and wealth
- B – A public official exploits his power and authority to provide a job to a friend
- C – An act committed at the high level of government that distort policies enabling leaders to benefit at the expense of public good
- D – A person holding office uses the funds entrusted with for personal enrichment
- E – A gift given on condition of casting a particular vote
- F – Bribing a low level public official in order to access a basic good or service
- G – Misuse of a company's resources where one works
- H – Illicit enrichment
- I – Money Laundering



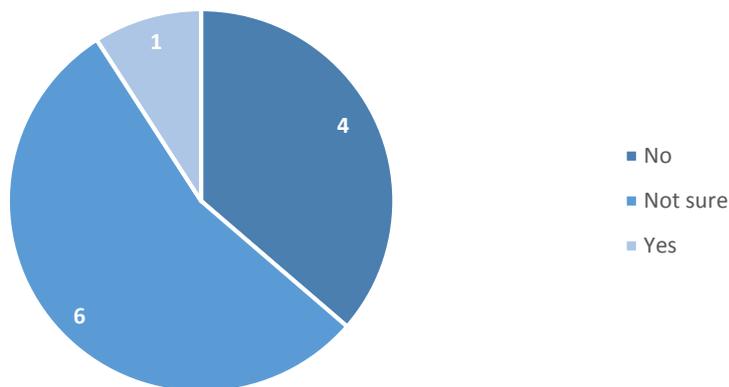
### What are the impacts of corruption?



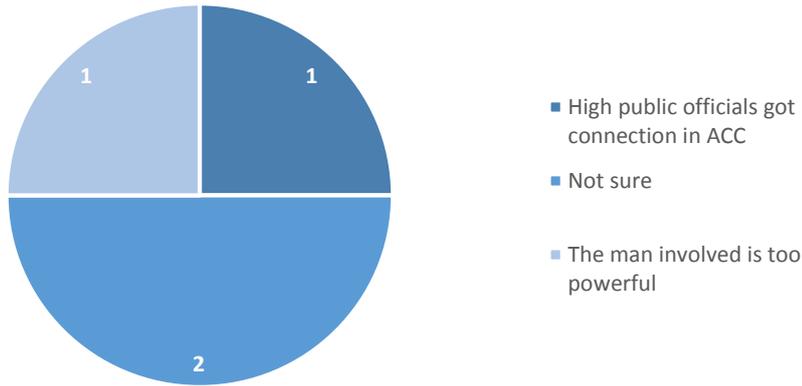
### Have you reported any case?



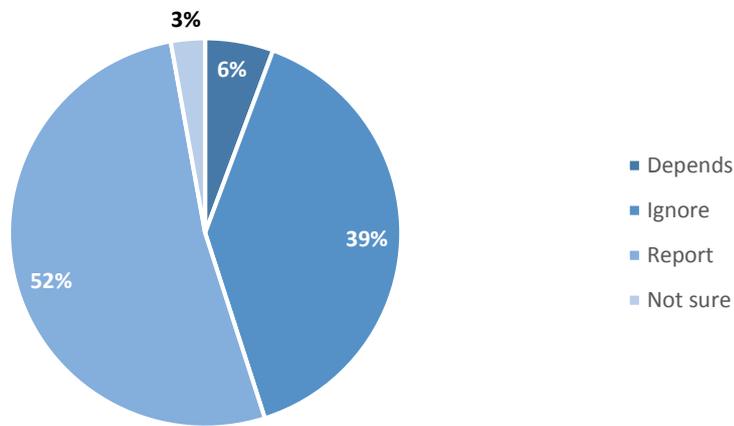
### Has the reported case been investigated?



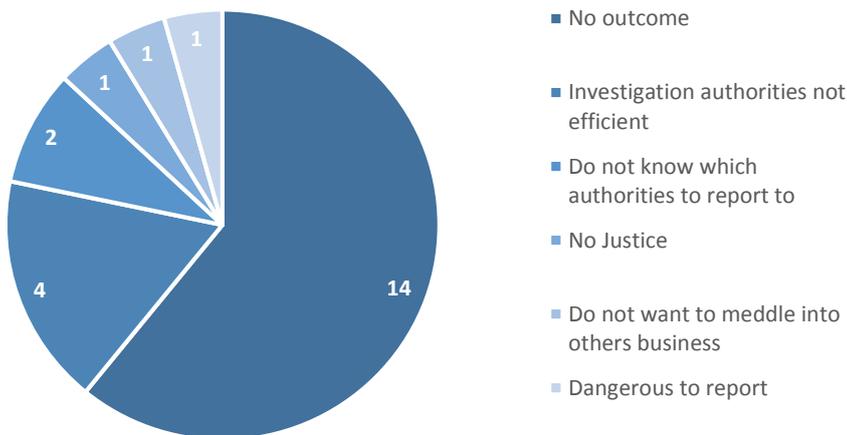
### Why was the case not investigated?



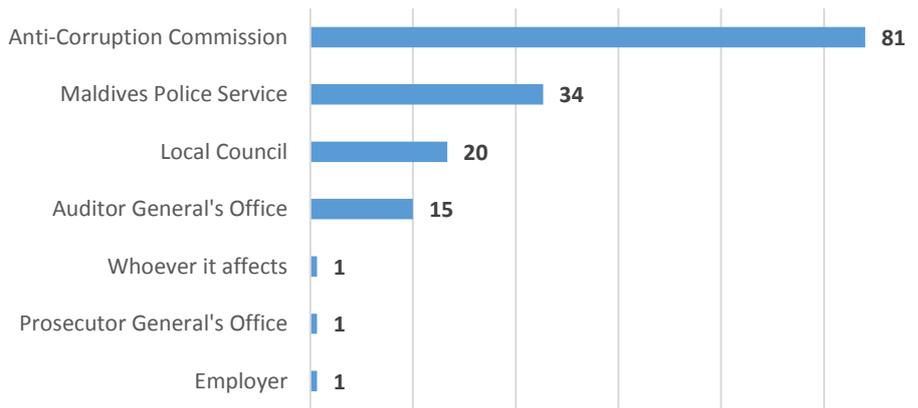
### What would you do if you come across a corruption case?



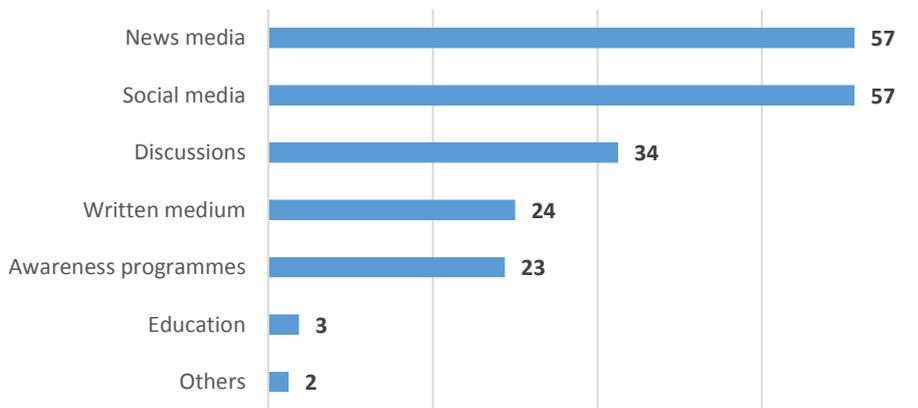
### What is the reason for not reporting such a case?



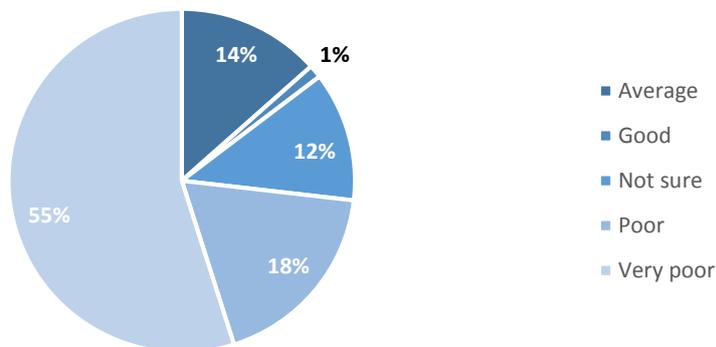
### To which entity do you need to report corruption cases?



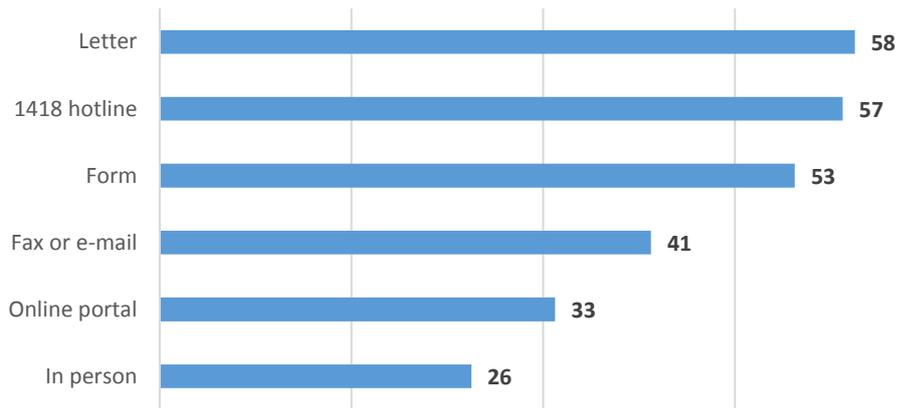
### What mediums have made you aware of corruption?



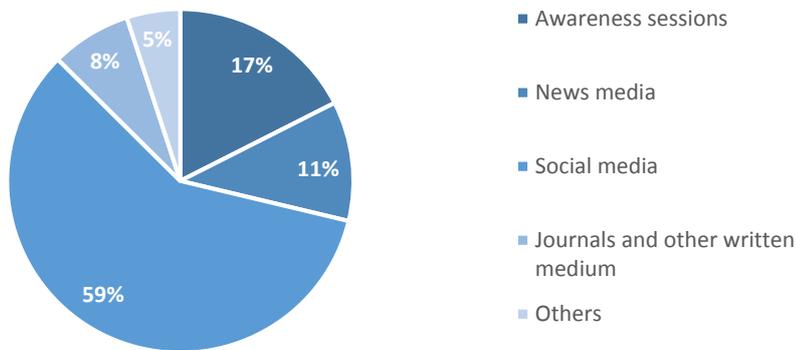
### How efficient are accountable institutions in handling cases?



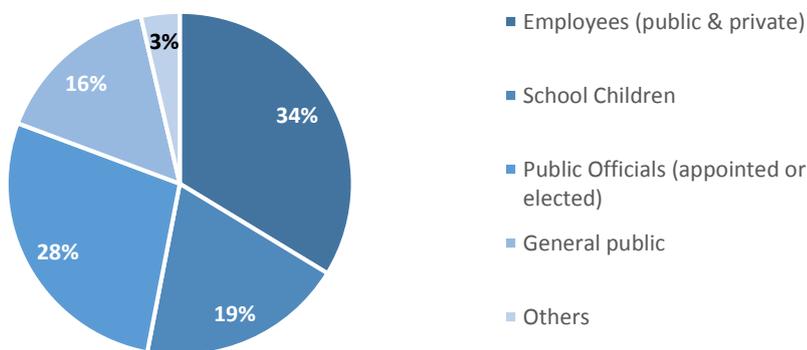
### What mediums are available to report cases to Anti-Corruption Commission?



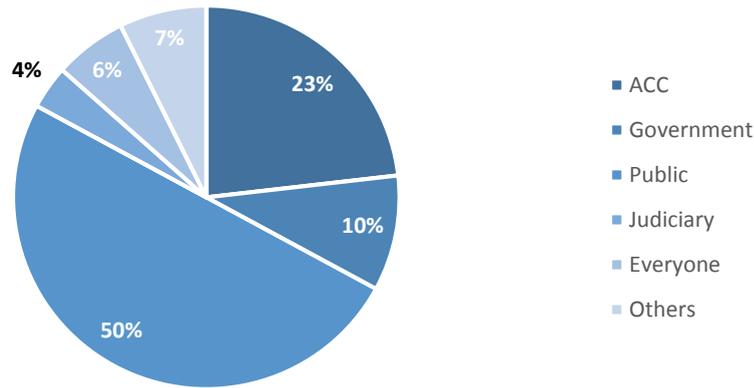
### What medium do you think is the most effective means for making public aware?



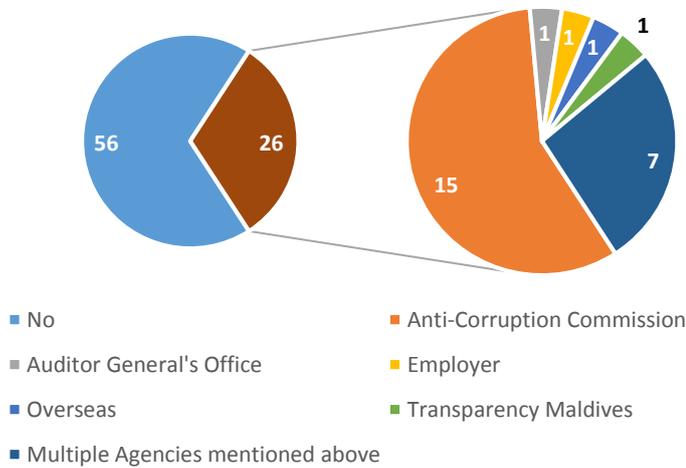
### Who do you think should be the target audience of corruption awareness programmes?



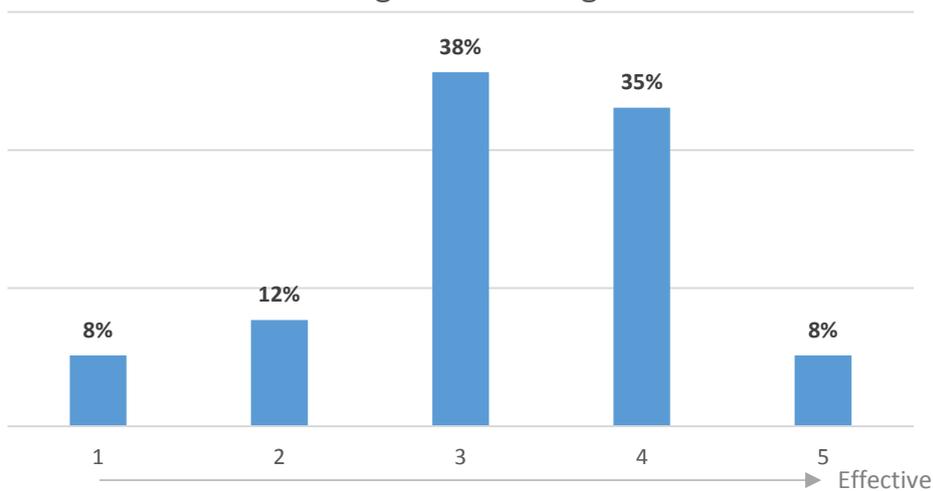
### Who plays the main role in fighting corruption?



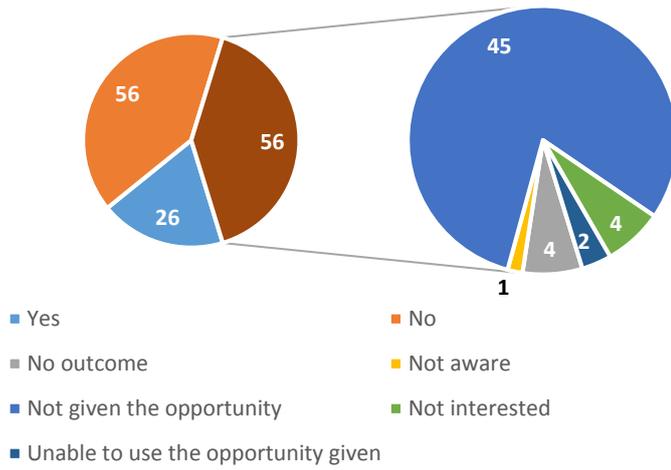
### Awareness programme conducted by

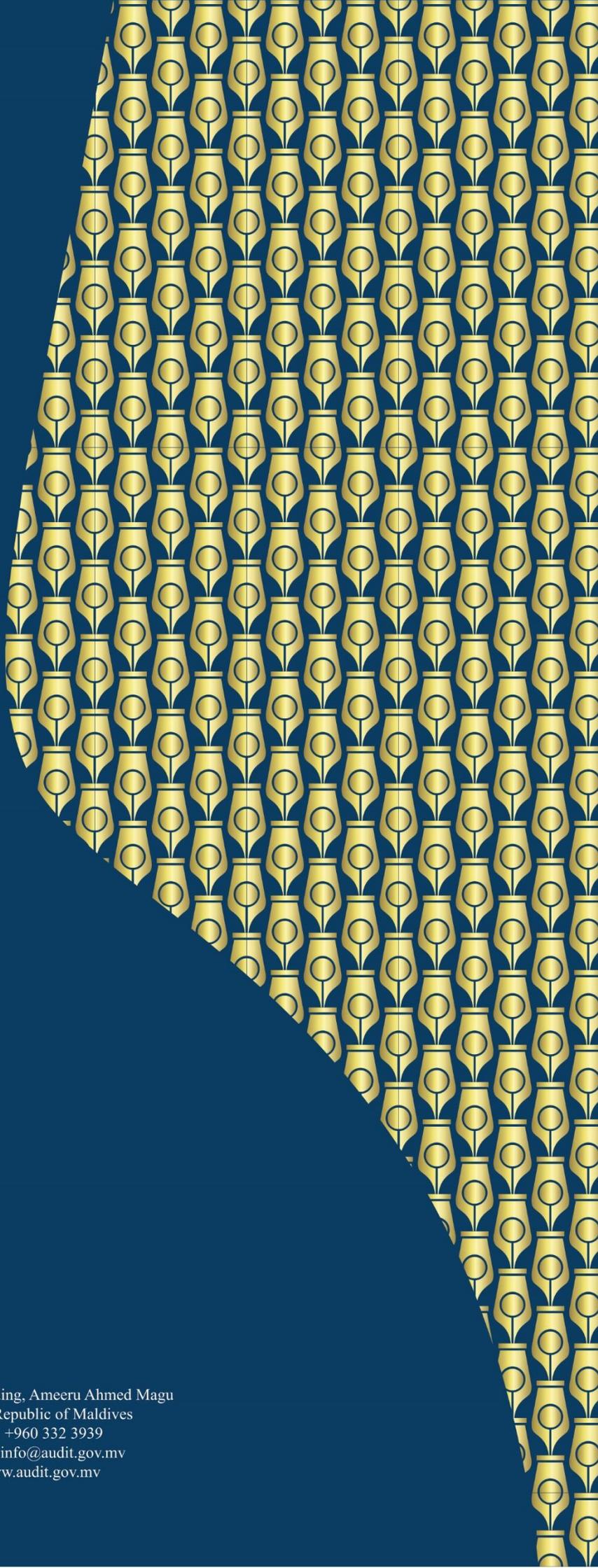


### Programme rating



### Reason for not participating





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Male', Republic of Maldives  
Tel: +960 332 3939  
Email: [info@audit.gov.mv](mailto:info@audit.gov.mv)  
[www.audit.gov.mv](http://www.audit.gov.mv)